

**PUBLICATION UPDATE**

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# Bender's Immigration Regulations Service

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Publication 695    Release 229

July 2015

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## HIGHLIGHTS

### **New H-2B Rules Jointly Published by DHS & DOL on April 29, 2015**

- Release 229 includes the new H-2B Rules jointly published in the Federal Register on April 29, 2015 (effective same date) by the Department of Homeland Security and the Department of Labor. Publication of the new rules was divided into two separate rule documents, each jointly published by DHS and DOL. See below for more information.

### **Other Regulatory Changes**

- In addition to the new H-2B Rules mentioned above, Release 229 also includes other regulatory changes published in the Federal Register through May 18, 2015. See below for information concerning the changes.

April 29, 2015, effective the same day, DHS and DOL jointly published new rules governing the H-2B process. The H-2B promulgation was accomplished by means of two separate Federal Register rule documents:

**DHS/DOL Rule Document # 1:** DHS/DOL Interim Final Rule, Temporary Non-Agricultural Employment of H-2B Aliens in the United States, 80 FR 24042, April 29, 2015, effective same date—

**►DHS Component of Rule Document # 1:**

- Amended 8 CFR § 214.1(k), relating to denial of petitions under INA § 214(c) based on finding by Department of Labor;
- Amended 8 CFR § 214.2(h)(9)(iii)(B), relating to validity period of the approval of the H-2B Petition.

**►DOL Component of Rule Document # 1:** Completely revised 20 CFR Part 655, Subpart A, Labor Certification Process for Temporary Non-Agricultural Employment

## **8 CFR Regulations (Volume 1)**

**NEW H-2B RULES: Jointly Published  
DHS/DOL Rule Documents # 1 and # 2  
(April 29, 2015).** In the Federal Register of

in the United States (H-2B Workers).

**DHS/DOL Rule Document # 2:** DHS/DOL Final Rule, Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program, 80 FR 24146, April 29, 2015, effective same date —

►**DHS Component of Rule Document # 2:** Adopted as final without change the amendments to 8 CFR § 214(h)(6)(iii)(D) which constituted the DHS component of the interim final rule on Wage Methodology published at 78 FR 24047 on April 24, 2013. These amendments provided separately as to the Governor of Guam and the Secretary of Labor, as follows:

- **Governor of Guam.** Governor to establish procedures for administering the temporary labor program under his/her jurisdiction
- **Secretary of Labor.** Secretary to establish, for the temporary labor program under his/her jurisdiction, by regulation at 20 CFR 655: (i) procedures for administering that temporary labor program under his/her jurisdiction, and (ii) determine the prevailing wage applicable to an application for temporary labor certification for that temporary labor program in accordance with the Secretary’s regulation at 20 CFR 655.10.

►**DOL Component of Rule Document # 2:** Inserted 20 CFR § 655.10(b) & (f). These two paragraphs were reserved in Rule Document # 1 described above.

- 20 CFR § 655.10(b) relates to the procedure for determining prevailing wage, and
- 20 CFR § 655.10(f) relates to employer provided surveys.

**Text of 2012 H-2B Rules Preserved for Historical Reference.** For historical refer-

ence, the 2012 H-2B Rules have been transferred to DOL Regulations Special Unit, pages SU-1 et seq, where they now follow the Pre-2012 Rules.

**F-2 AND M-2: Adjustments to Limitations on Designated School Official Assignment and Study by F-2 and M-2 Nonimmigrants.** Amendments to 8 C.F.R. § 214.2(f)(15)(ii), (m)(17)(ii), and 8 CFR § 214.3(l)(1)(iii), were made by DHS final rule published at 80 FR 23680, April 29, 2015, effective May 29, 2015. As stated in the preamble to the final rule, the amendments were made to improve management of international student programs and increase opportunities for study by spouses and children of nonimmigrant students. The rule grants school officials more flexibility in determining the number of designated school officials to nominate for the oversight of campuses. The rule also provides greater incentive for international students to study in the United States by permitting accompanying spouses and children of academic and vocational nonimmigrant students with F-1 or M-1 nonimmigrant status to enroll in study at an SEVP-certified school so long as any study remains less than a full course of study.

### **Department of State (Volume 2)**

**Official Passports.** DOS interim rule published at 80 FR 27857, May 15, 2015, amended 22 CFR § 51.3(b), so that the regulation as amended now separately specifies official passports according to those issued to (1) U.S. government officials or employees, and family members; (2) U.S. government contractors; and (3) officials or employees of a state, local, tribal, or territorial government.

### **Department of Labor (Volume 2)**

**NEW H-2B RULES: Jointly Published DHS/DOL Rule Documents # 1 and # 2 (April 29, 2015).** See above under “8 CFR

Regulations (Volume 1)”.

**CFR Correction to 20 CFR Part 655 (CFR April 1, 2014 Edition).** A correction was published at 80 FR 23443, April 28, 2015, removing second paragraphs (h) and (i) from 20 CFR § 655.10 that appear in the April 1, 2014, print edition of Title 20 CFR. Although the second paragraphs (h) and (i) did not appear in Bender’s Immigration Regulations Service, the correction is part of the official history of 20 CFR 655.10 and therefore an entry documenting the correction has been inserted into the history for 20 CFR § 655.10, Version 1, in the “2010 Rules” set forth in the “DOL Regulations Special Unit”, pages SU-1 et seq., following the “DOL Regulations” tab in Volume 2.

### **Department of Justice (Volume 2)**

**28 CFR Part 16, Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act.** These regulations were completely revised by Department of Justice final rule published at 80 FR 18099, April 3, 2015,

effective May 4, 2015. New sections 28 CFR 16.1 through 16.11 are set forth in the pages behind the “DOJ Regulations” tab in Volume 2. As noted in the preamble to the final rule, the regulations were revised to update and streamline the language of procedural provisions and to incorporate changes brought about by the amendments to the FOIA under the OPEN Government Act of 2007. Additionally, the regulations were updated to reflect developments in the case law and to include current cost figures to be used in calculating and charging fees.

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Publication 695, Release 229, July 2015

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Publication 695 Release 229

July 2015

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