

Employment and Training Administration, Labor

§ 655.2

workers rather than aliens be employed wherever possible. *Elton Orchards, Inc. v. Brennan*, 508 F. 2d 493, 500 (1st Cir. 1974), *Flecha v. Quiros*, 567 F. 2d 1154 (1st Cir. 1977). Where temporary alien workers are admitted, the terms and conditions of their employment must not result in a lowering of the terms and conditions of domestic workers similarly employed, *Williams v. Usery*, 531 F. 2d 305 (5th Cir. 1976); *Florida Sugar Cane League, Inc. v. Usery*, 531 F. 2d 299 (5th Cir. 1976), and the job benefits extended to any U.S. workers shall be at least those extended to the alien workers.

(b) *Subparts D and E.* Subparts D and E of this part set forth the process by which health care facilities can file attestations with the Department of Labor for the purpose of employing or otherwise using nonimmigrant registered nurses under H-1A visas.

(c) *Subparts F and G.* Subparts F and G of this part set forth the process by which employers can file attestations with the Department of Labor for the purpose of employing alien crewmembers in longshore work under D-visas and enforcement provisions relating thereto.

(d) *Subparts H and I of this part.* Subpart H of this part sets forth the process by which employers can file labor condition applications (LCAs) with, and the requirements for obtaining approval from, the Department of Labor to temporarily employ the following three categories of nonimmigrants in the United States: (1) H-1B visas for temporary employment in specialty occupations or as fashion models of distinguished merit and ability; (2) H-1B1 visas for temporary employment in specialty occupations of nonimmigrant professionals from countries with which the United States has entered into certain agreements identified in section 214(g)(8)(A) of the INA; and (3) E-3 visas for nationals of the Commonwealth of Australia for temporary employment in specialty occupations. Subpart I of this part establishes the enforcement provisions that apply to the H-1B, H-1B1, and E-3 visa programs.

(e) *Subparts J and K of this part.* Subparts J and K of this part set forth the process by which employers can file at-

testations with the Department of Labor for the purpose of employing nonimmigrant alien students on F-visas in off-campus employment and enforcement provisions relating thereto.

[43 FR 10312, Mar. 10, 1978, as amended at 52 FR 20507, June 1, 1987; 55 FR 50510, Dec. 6, 1990; 56 FR 24667, May 30, 1991; 56 FR 54738, Oct. 22, 1991; 56 FR 56875, Nov. 6, 1991; 57 FR 1337, Jan. 13, 1992; 57 FR 40989, Sept. 8, 1992; 69 FR 68226, Nov. 23, 2004; 73 FR 19947, Apr. 11, 2008]

§ 655.00 Authority of the Office of Foreign Labor Certification (OFLC) Administrator under subparts A, B, and C.

Pursuant to the regulations under this part, temporary labor certification determinations under subparts A, B, and C of this part are ordinarily made by the Office of Foreign Labor Certification (OFLC) Administrator (OFLC Administrator) of the Employment and Training Administration. The OFLC Administrator will informally advise the employer or agent of the name of the official who will make determinations with respect to the application.

[71 FR 35518, June 21, 2006]

Subpart A—Labor Certification Process and Enforcement of Attestations for Temporary Employment in Occupations Other Than Agriculture or Registered Nursing in the United States (H-2B Workers)

SOURCE: 73 FR 78052, Dec. 19, 2008, unless otherwise noted.

§ 655.1 Purpose and scope of subpart A.

This subpart sets forth the procedures governing the labor certification process for the temporary employment of nonimmigrant foreign workers in the United States (U.S.) in occupations other than agriculture or registered nursing.

[75 FR 6959, Feb. 12, 2010]

§ 655.2 Territory of Guam.

Subpart A of this part does not apply to temporary employment in the Territory of Guam, and the Department of