

Original adoption of Labor Dept. Regulations at 29 CFR 60. No comments here or at 30 FR. 14494. Agencies were not required to publish comments in 1965.

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[AR 920-20, Sept. 17, 1965] (Sec. 4308, 70A Stat. 236; 10 U.S.C. 4308)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

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Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 60—IMMIGRATION; AVAILABILITY OF, AND ADVERSE EFFECT UPON, AMERICAN WORKERS

In the November 19, 1965, issue of the FEDERAL REGISTER (30 F.R. 14494), there was published a proposal to amend Subtitle A of Title 29 of the Code of Federal Regulations by adding thereto a new Part 60. Interested persons were given 10 days in which to file written statements of data, views, or arguments in regard to this proposal. After consideration of all such relevant matter as was presented regarding the rules proposed, I have decided to and do hereby adopt them without change.

These rules implement provisions of the Immigration and Nationality Act which become effective on December 1, 1965. Under these provisions certain classes of persons cannot be admitted to the United States until determinations of the kind made in these rules have been made. This circumstance is hereby found to be good cause to provide no delay in effective date of these rules. The new 29 CFR Part 60 will become effective immediately.

Signed at Washington, D.C., this 29th day of November 1965.

W. WILLARD WIRTZ,
Secretary of Labor.

- Sec. 60.1 Purpose and scope.
- 60.2 Certification and noncertification schedules.
- 60.3 Requests for certification not covered by schedules.
- 60.4 Reconsideration of review by the Secretary of Labor.

AUTHORITY: The provisions of this Part 60 issued under sec. 212(a)(14) of the Immigration and Nationality Act of 1952, as amended by Public Law 89-236 (79 Stat. 911).

§ 60.1 Purpose and scope.

Sections 101(a)(27)(A) and 203 of the Immigration and Nationality Act were amended on October 3, 1965, to require as a condition to the admission of any "special immigrant", any nonpreference immigrant under paragraph 203(a)(8), and any preference immigrants under paragraphs 203(a)(3) or 203(a)(6) that the Consular Officer be in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14) of the Act. Accordingly, the immigrants for whom the

212(a)(14) certification is made a condition precedent to admission to the United States are as follows:

(a) Third preference immigrants who are described as "qualified immigrants who are members of the professions, or who because of their exceptional ability in the science or in the arts, will substantially benefit prospectively the national economy, cultural interest, or welfare of the United States." (Section 203(a)(3).)

(b) Sixth preference immigrants who are described as "qualified immigrants who are capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States." (Section 203(a)(6).)

(c) Nonpreference immigrants who are described as "other qualified immigrants strictly in the chronological order in which they qualify." (Section 203(a)(8).)

(d) Special immigrants who are described as "an immigrant[s] who was born in any independent foreign country in the Western Hemisphere or in the Canal Zone and the spouse and children of any such immigrant, if accompanying or following to join him." (Section 101(a)(27)(A).)

The determination and certification required to be made by the Secretary of Labor is described in section 212(a)(14) of the Act as follows:

Except as otherwise provided in this Act, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified to the Secretary of State and to the Attorney General that (A) there are not sufficient workers in the United States who are able, willing, qualified, and available at the time of application for a visa and admission to the United States and at the place to which the alien is destined to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to special immigrants defined in section 101(a)(27)(A) (other than the parents, spouses, or children of United States citizens or of aliens lawfully admitted to the United States for permanent residence), to preference immigrant aliens described in section 203(a)(3) and (6), and to nonpreference immigrant aliens described in section 203(a)(8);

§ 60.2 Certification and noncertification schedules.

(a) **Determination.** To reduce the delay in processing an alien's request for visa, the determination has been made by the Secretary of Labor pursuant to section 212(a)(14) that:

(1) For the categories of employment described in Schedule A and in the geographic areas therein set forth, there are not sufficient workers who are able, willing, qualified, and available for employment in such categories, and the employment of aliens in such categories and in such areas will not adversely affect the

wages and working conditions of workers in the United States similarly employed.

(2) For the categories of employment described in Schedule B, the determination and certification required by section 212(a)(14) cannot now be made.

(b) **Applicability.** The determinations set forth in paragraph (a) of this section above shall apply to all visa petitions made or pending after November 30, 1965, and shall remain in effect until the Schedules are amended. Unless otherwise indicated in the Schedules their geographic applicability is the United States, which means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands.

(c) **Modification.** The Secretary may amend the Schedules described in paragraph (a) of this section, at any time upon his own initiative or upon written petition of any person requesting the inclusion or omission of any occupation or the modification of the application of the Schedules to any geographical area and setting forth reasonable grounds therefor. Such petition should be filed by mail with the Secretary of Labor, U.S. Department of Labor, Washington, D.C. 20210.

§ 60.3 Request for certification not covered by schedules.

Any alien, or person in his behalf, seeking admission to the United States under sections 101(a)(27)(A) (other than the parents, spouses, or children of United States citizens or aliens lawfully admitted to the United States for permanent residence), 203(a)(3), 203(a)(6) or 203(a)(8) whose employment is not included in the certification or noncertification schedules described in § 60.1 may request a 212(a)(14) certification by filing a Form ES-575 describing the alien's qualifications and prospective employment in the United States. The Form ES-575 may be obtained from any consular office, and instructions concerning its use, completion and transmission may be obtained from any office of the Immigration and Naturalization Service, any consular office or any local office of the State Employment Service.

§ 60.4 Reconsideration or review by the Secretary of Labor.

Any alien denied a certification pursuant to § 60.3 may request reconsideration or review by the Secretary of Labor. Requests for reconsideration or review should be made in writing to the Secretary of Labor, U.S. Department of Labor, Washington, D.C., 20210, and should set forth reasonable grounds therefor.

SCHEDULE A

Group I: Persons upon whom an advance degree has been conferred at least equivalent to the Master's degree conferred by accredited U.S. colleges and universities and who have been gainfully employed for at least two years in an occupation related to and dependent upon their area of academic specialization. Among physicians and surgeons certification by the Educational Council for Foreign Medical Graduates may be substituted for two years of gainful employment.

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Group II: Persons whose education or experience is equivalent to the baccalaureate degree conferred by accredited U.S. colleges and universities in the following specialties:

Aeronautical Engineering.
Chemical Engineering.
Electrical Engineering.
Electronic Engineering.
Library Science.
Mathematics.
Mechanical Engineering.
Metallurgical Engineering.
Metallurgy.
Nuclear Engineering.
Organic Chemistry.
Pharmacology.
Physical Chemistry.
Physics.

Group III: Professional Nurses presenting the education or experience required for licensure in the State or territory of intended residence. Evidence that the qualifications necessary for licensure have been met must include a Letter of Evaluation from the Board of Nursing in the State of intended residence certifying that the Professional Nurse has met the minimum requirements of education, training, and experience for licensure in the State.

SCHEDULE B

OCCUPATIONAL TITLES

Attendants, Parking Lot.
Attendants (Service Workers such as Personal Service Attendants, Amusement and Recreation Service Attendants).
Automobile Service Station Attendants.
Bakers' Helpers.
Bartenders.
Bookkeepers II.
Bus Boys.
Carpenters' Helpers.
Cashiers II.
Chauffeurs and Taxicab Drivers.
Charwomen and Cleaners.
Clerks (general office).
Clerks, Hotel.
Clerks and Checkers, Grocery Store.
Cook's Helpers.
Counter and Fountain Workers.
Domestic Day Workers.
Electric Truck Operators.
Elevator Operators.
Fishermen and Oystermen.
Floor Man, Floor Boy and Floor Girl.
Groundskeepers.
Guards and Watchmen.
Housekeepers.
Housemen and Yardmen.
Janitors.
Kitchen Workers and Helpers.
Laborers, Farm.
Laborers, Mine.
Laborers, Common.
Launderers, Cleaners, Dyers and Pressers.
Library Assistants.
Loopers and Toppers, Textile.
Maids, Hotel.
Material Handlers.
Packers, Markers, Bottlers, and related.
Painters' Helpers.
Porters.
Routeman Helpers.
Sailors and Deck Hands.
Sales Clerk, General.
Sewing Machine Operators and Hand-Stitchers.
Street Railway and Bus Conductors.
Telephone Operators.
Truck Drivers and Tractor Drivers.
Truck Driver's Helpers.
Typists, lesser skilled.
Ushers, Recreation and Amusement.
Waiters and Waitresses.
Warehousemen.
Welder's Helpers.

OCCUPATIONAL DEFINITIONS

Attendants, Parking Lot

Park Automobiles for customers in parking lots or garages and collect fees based on time span of parking.

Attendants (Service Workers such as Personal Service Attendants, Amusement and Recreation Service Attendants).

Perform a variety of routine tasks attending to the personal needs of customers at such places as amusement parks, bath houses, clothing checkrooms, and dressing rooms. Includes such tasks as taking and issuing tickets, checking and issuing clothing and supplies, cleaning premises and equipment, answering inquiries, checking lists, and maintaining simple records.

Automobile Service Station Attendants

Service automotive vehicles with fuel, lubricants, and automotive accessories at drive-in service facilities. Also compute charges and collect fees from customers.

Bakers' Helpers

Perform routine tasks to assist bakers in the production of baked goods. Involves such activities as greasing pans, moving and distributing ingredients and supplies, and weighing and measuring ingredients according to instructions.

Bartenders

Prepare, mix, and dispense alcoholic beverages for consumption by bar customers. Also compute and collect charges for drinks.

Bookkeepers II

Keep records of one facet of an establishment's financial transactions. Responsible for maintaining one set of books, and specialize in such areas as accounts-payable, accounts-receivable, or interest-accrued.

Busboys

Facilitate food service in an eating place by performing such tasks as removing dirty dishes, replenishing linen and silver supplies, serving water and butter to patrons, and cleaning and polishing equipment.

Carpenters' Helpers

Perform routine tasks to assist carpenters in building wooden structures. Involves such activities as conveying tools and materials about work site, sawing lumber to specified size, holding lumber for nailing, and oiling and cleaning tools and equipment.

Cashiers II

Receive cash in payment for goods or services rendered, compute and make change, and record amount received. Usually employed in retail trade environment, such as stores or restaurants.

Chauffeurs and Taxicab Drivers

Drive automobiles to convey passengers according to their instructions.

Charwomen and Cleaners

Keep premises of commercial establishments, office buildings, or apartment houses in clean and orderly condition by performing such tasks as mopping and sweeping floors, dusting and polishing furniture and fixtures, and vacuuming rugs. Work according to set routines.

Clerks (General Office)

Perform a variety of routine clerical tasks in an office to relieve others of detail work. Involves such activities as copying and posting data, recording orders, routing correspondence, and taking stock inventory.

Clerks, Hotel

Perform a variety of routine tasks to accommodate hotel guests. Involves such activities as registering guests, dispensing keys, distributing mail, collecting payments, and adjusting complaints.

Clerks and Checkers, Grocery Stores

Itemize, total, and receive payment for purchases in grocery stores, usually using cash register. Often assist customer in locating items, stock shelves, and keep stock-control and sales-transaction records.

Cooks' Helpers

Perform a variety of routine tasks to assist workers engaged in preparing food. Involves such activities as cleaning and cutting food, weighing and measuring ingredients, carrying and distributing equipment about work area, and cleaning equipment.

Counter and Fountain Workers

Serve food to patrons at lunchroom counters, cafeterias, soda fountains, or similar public eating places. Take orders from customers and frequently prepare simple items, such as dessert dishes; itemize and total checks; receive payment and make change; and clean work area and equipment.

Domestic Day Workers

Perform a variety of routine domestic duties in a household according to employer's instructions. Involves such activities as cleaning and dusting, making beds, and washing and ironing clothing. Usually work on a day-to-day contract basis.

Electric Truck Operators

Drive gasoline or electric-powered industrial trucks or tractors equipped with fork-lift, elevating platform, or trailer hitch to move and stack equipment and materials in a warehouse, storage yard, or factory.

Elevator Operators

Operate elevators to transport passengers and freight between building floors.

Fishermen and Oystermen

Hunt, catch, and/or trap fish, using such equipment as lines, nets, and pots; work shellfish beds and harvest shellfish.

Floor Men, Floor Boy and Floor Girl

Perform a variety of routine tasks in support of other workers in and around such work sites as factory floors and service areas, frequently at the beck and call of others. Involves such tasks as cleaning floors, materials, and equipment; distributing materials and tools to workers; running errands; delivering messages; emptying containers; and removing materials from work area to storage or shipping areas.

Groundskeepers

Maintain grounds of industrial, commercial, or public property in good condition. Involves such tasks as cutting lawns, trimming hedges, pruning trees, repairing fences, planting flowers, and shoveling snow.

Guards and Watchmen

Guard and patrol premises of industrial or business establishments or similar types of property to prevent theft and other crimes and prevent possible injury to others.

Housekeepers

Supervise workers engaged in maintaining interiors of residential buildings in a clean and orderly fashion. They assign duties to maids, charwomen, and housemen; inspect

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finished work, and maintain supply of equipment and materials.

Housemen and Yardmen

1. Perform routine tasks to keep hotel premises neat and clean. Involves such tasks as cleaning rugs; washing walls, ceilings, and windows, moving furniture, mopping and waxing floors, and polishing metalwork.
2. Maintain the grounds of private residences in good order. Typical tasks are mowing and watering lawns, planting flowers and shrubs, and repairing and painting fences. Work on instructions of private employer.

Janitors

Keep hotel, office building, apartment house, or similar building in clean and orderly condition, and tend furnaces and boilers to provide heat and hot water. Typical tasks are sweeping and mopping floors, emptying trash containers, and doing minor painting and plumbing repairs. Often maintain residence at place of work.

Kitchen Workers and Helpers

Perform routine tasks in kitchen of restaurant. Primary responsibility is to maintain work areas and equipment in a clean and orderly fashion. Involves such tasks as mopping floors, removing trash, washing pots and pans, transferring supplies and equipment, and washing and peeling vegetables.

Laborers, Farm

Plant, cultivate, and harvest farm products, following instructions of supervisors, often working as members of a team. Typical tasks are watering and feeding livestock, picking fruit and vegetables, and cleaning storage areas and equipment.

Laborers, Mine

Perform routine tasks in underground or surface mine, pit, or quarry, or at tipple, mill or preparation plant. Involves such tasks as cleaning work areas, shoveling coal onto conveyors, pushing mine cars from working face to haulage road, and loading or sorting material onto wheelbarrow.

Laborers, Common

Perform routine tasks in an industrial construction or manufacturing environment. Typical tasks are loading and moving equipment and supplies, cleaning work areas, and distributing tools. Work upon instructions, according to set routine.

Launderers, Cleaners, Dyers, and Pressers

Wash, clean, dye, and press soiled and wrinkled garments, usually in a commercial or industrial laundry. Occasionally work in a private household.

Library Assistants

Keep library records; sort and shelve books; issue and receive such library materials as books, films, and phonograph records; and perform a variety of routine clerical tasks to relieve librarians of detail work. Answer routine inquiries and refer matters requiring professional assistance to librarians.

Loopers and Toppers, Textile

1. Tend machines that shear nap, loose threads, and knots from cloth surfaces to give uniform finish and texture.
2. Operate looping machines to close openings in toe of seamless hoses or join knitted garment parts.
3. Loop stitches of ribbed garment [parts on points of transfer bar to facilitate transfer of garment] parts to needles of knitting machine.

Maids, Hotel

Clean hotel rooms and halls; sweep and mop floors, dust furniture, empty wastebaskets, make beds.

Material Handlers

Load, unload, and convey materials within or near plant, yard, or worksite, under specific instructions.

Packers, Markers, Bottlers, and Related

Pack products into containers, such as cartons or crates; mark identifying information on articles; insure filled bottles are properly sealed and marked; often working with team on or at end of assembly line.

Painters' Helpers

Assist painters in preparing and applying protective and decorative coats of paint to surfaces. Typical tasks are arranging and assembling scaffolding, preparing surfaces for painting, and cleaning equipment and work areas.

Porters

1. Carry baggage for passengers of airline, railroad, or motor-bus by hand or handtruck. Perform related personal services in and around public transportation environment.
2. Keep building premises, working areas in production departments of industrial organizations, or similar sites in clean and orderly condition.

Routemen Helpers

Aid routemen in providing sales, services, or deliveries of goods to customers over an established route. Involves such tasks as loading and unloading trucks, carrying merchandise to and from trucks, and collecting payments.

Sailors and Deck Hands

Stand deck watches and perform a variety of tasks to preserve painted surfaces of ship, and maintain lines, running gear, and cargo handling gear in safe operating condition. Involves such tasks as mopping decks, chipping rust, painting chipped areas, and splicing rope.

Sales Clerks, General

Receive payment for merchandise in a retail establishment, wrap or bag merchandise, and keep shelves stocked.

Sewing-Machine Operators and Hand-Stitchers

1. Operate single- or multiple-needle sewing machines to join parts in the manufacture of such products as awnings, carpets, and gloves. Specialize in one type of sewing machine limited to joining operations.
2. Join and reinforce parts of such articles as garments, and curtains, sew buttonholes and attach fasteners to articles, or sew decorative trimmings to articles, using needle and thread.

Street Railway and Bus Conductors

Collect fares or tickets from passengers, issue transfers, open and close doors, announce stops, answer questions, and signal operator to start or stop.

Telephone Operators

Operate telephone switchboards to relay incoming and internal calls to phones in an establishment, and make connections with external lines for outgoing calls. Taking messages, supplying information, and keeping records of calls and charges is often involved. Some situations primarily involve establishing or aiding telephone users in establishing local or long distance telephone connections.

Truck Drivers and Tractor Drivers

1. Drive trucks to transport materials, merchandise, equipment, or people to and from specified destinations, such as plants, railroad stations, and offices.
2. Drive tractors to move materials, draw implements, pull out objects imbedded in

ground, or pull cable of winch to raise, lower, or load heavy materials or equipment.

Truck Drivers' Helpers

Assist truck drivers by loading and unloading vehicles, securing items in position on truck to prevent damage, delivering and stacking merchandise on customers premises and collecting payment or obtaining receipt.

Typists, Lesser skilled

Type straight-copy material, such as letters, reports, stencils, and addresses, from draft or corrected copy. Not required to prepare materials involving the understanding of complicated technical terminology, the arrangement and setting of complex tabular detail, or similar problems. Typing speed in English does not exceed 52 words per minute on a manual typewriter and/or 60 words per minute on an electric typewriter and the error rate reaches 12 or more for a five minute typing period on representative business correspondence.

Ushers (Recreation and Amusement)

Assists patrons at entertainment events in finding seats, searching for lost articles, and locating facilities.

Waiters and Waitresses

Serve food to patrons of eating establishments. Present menus, take orders, relay orders to kitchen, and prepare and present bills.

Warehousemen

Receive, store, ship, and distribute materials, tools, equipment, and products within establishments as directed by others.

Welders' Helpers

Assist workers in welding, brazing, and flame and arc cutting activities by performing such routine tasks as moving equipment and supplies; cleaning work area, equipment, and materials; connecting hoses; starting engines; and setting workpiece in place.

[F.R. Doc. 65-12976; Filed, Dec. 2, 1965; 8:48 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

MISCELLANEOUS AMENDMENTS

1. In § 3.57(a), subparagraph (4) is amended to read as follows:

§ 3.57 Child.

(a) *General*. The term "child" of the veteran means an unmarried person:

(4) Who, after reaching the age of 18 years and until completion of education or training (but not after reaching the age of 23 years) is pursuing a course of instruction at an approved educational institution. (Public Law 89-311)

2. In § 3.350, that portion of paragraphs (a), (c), (e), and (f) preceding subparagraph (1) and paragraphs (b), (d), (f), and (h) are amended to read as follows: