DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Parts 504, 506, 507, and 508

RIN 1205–AB–13

Removal of Duplicative Immigration Regulations

AGENCIES: Wage and Hour Division, Employment Standards Administration, and Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is removing duplicative immigration regulations from the Code of Federal Regulations. These regulations will continue to appear in the Employment and Training Administration's regulations. This rulemaking is in response to the National Performance Review, which calls for the removal of obsolete and unnecessary regulations.

EFFECTIVE DATE: October 30, 1996.

FOR FURTHER INFORMATION CONTACT: Terence Finegan, Director, Division of Policy, Legislation, and Dissemination, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room N5637, Washington, DC 20210; tel. (202) 219–7669 x126 (this is not a toll-free call); or Tom Shierling, Acting Team Leader, U.S Department of Labor, Employment Standards Administration, Wage and Hour Division, 200 Constitution Avenue, NW., Room S3510, Washington, DC 20210; tel. (202) 501–3884 (this is not a toll-free call).

SUPPLEMENTARY INFORMATION: In March 1995, the President issued a new directive to federal agencies regarding their responsibilities under his Regulatory Reinvention Initiative. This initiative is part of the National Performance Review and calls for comprehensive regulatory reform. The President directed all agencies to undertake a page-by-page review of their regulations with a goal of eliminating or modifying those that are obsolete or which are otherwise in need of reform. This notice removes duplicative regulations from the CFR as part of DOL's response to this directive. The Employment Standards Administration, Wage and Hour Division's regulations removed from Title 29, CFR, are duplicated in the Employment and Training Administration's regulations in 20 CFR Part 655, and reflect the two agencies' joint operation of various worker protection provisions related to the temporary admission to the United States of nonimmigrant foreign workers.

Removal of the duplicate regulations for the H–1A nurses labor attestation program, the D–1 foreign maritime crewmembers program, the H–1B nonimmigrant labor condition application program, and the F–1 students labor attestation program from title 29 is clearly in the Department's interest, and a savings to the public. Since their inception, the Secretary has implemented the aforementioned temporary nonimmigrant programs by delegating the administrative functions to the Employment and Training Administration (ETA) and the enforcement functions to the Wage and Hour Division of the Employment Standards Administration (ESA). ETA and ESA jointly issued the duplicative regulations governing their respective functions. Despite this division of authority, each agency published in its own program regulations *both* the administrative and enforcement provisions for the H–1A, D–1, H–1B and F–1 programs in their entirety. Thus, the ETA regulations at 20 CFR part 655, subparts D through K, and the ESA regulations at 29 CFR parts 504, 506, 507 and 508, contain duplicative provisions governing the administration and enforcement of the H–1A, D–1, H–1B and F–1 temporary nonimmigrant programs. Because this duplication is inefficient and unnecessary, the Department has elected to remove the duplicative provisions from its regulations at 29 CFR.

Additionally, ETA and ESA have explored other possibilities for eliminating the duplication of these regulations, including a proposal that each agency attempt to remove the provisions pertaining to the other's delegated functions. Under that alternative, ETA would have removed the enforcement-related provisions pertaining to the H–1A, D–1, H–1B and F–1 programs from its regulations at 20 CFR part 655, and ESA would have removed the administration-related provisions pertaining to those same temporary nonimmigrant programs from its regulations at 29 CFR parts 504, 506, 507 and 508. Upon closer scrutiny of the program provisions, the Department determined that the administration and enforcement provisions were sufficiently integrated that any attempt to separate the provisions would require substantially rewriting the regulations. Thus, removal of the duplicative administration and enforcement provisions from ESA's regulations at 29 CFR, parts 504, 506, 507 and 508, and adding a cross-reference to the still-effective joint regulations at 20 CFR part 655, subparts D through K, is the most efficient action.

Elimination of this duplication will also save the Department and the public a substantial amount in printing costs. Copies of title 20, CFR, are available widely in libraries and from the Government Printing Office, as well as on the Internet.

Accordingly, this rule revises parts 504, 506, 507, and 508, governing the administration and enforcement of the H–1A, D–1, H–1B and F–1 temporary nonimmigrant programs in title 29 of the CFR, to include only cross-references to the relevant regulations published at 20 CFR part 655, subparts D through K.

Publication in Final

The Department of Labor has determined, pursuant to 5 U.S.C. 553(b)(B), that good cause exists for waiving the public comment on this rule. Publication of a proposed rule and solicitation of comments would be neither necessary nor fruitful, since this final rule affects only duplicative regulations governing the H–1A, D–1, H–1B and F–1 temporary nonimmigrant programs. Further, this is a rule of agency organization and procedure which requires no notice, pursuant to 5 U.S.C. 553(b)(A). Current regulations governing these programs remain in effect in title 20, part 655, subparts D through K of the CFR.

EFFECTIVE DATE: This regulation is effective October 30, 1996.

Regulatory Procedures—Executive Order 12866

This final rule has been reviewed by DOL pursuant to Executive Order 12866. Executive Order 12866 requires that regulations be reviewed for consistency with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with and furthers these priorities and principles. Specifically, it responds directly to the President's Regulatory Reinvention Initiative by eliminating duplicative regulations. It entails no increase in cost or burden on State and local governments or other entities. It is not a significant regulatory action under the Executive Order.

Small Business Regulatory Enforcement Fairness Act

The Department has determined that this final rule is not a ''major rule'' requiring prior approval by the Congress and the President pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), because it is not likely to result in

(1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

This final rule is effective 30 days after publication.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal Government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities. This rule has no significant effect on a substantial number of small entities. The Final Rule removes duplicative regulations governing the H–1A, D–1, H–1B and F–1 temporary nonimmigrant programs from title 29 of the CFR, and cross-references title 20 CFR, part 655, subparts D through K, where the relevant regulations remain in effect. This Final Rule addresses issues of agency administration which do not affect the obligations of the regulated public. Thus, the Final rule does not have a significant economic impact on a substantial number of small entities. Further, since this Final Rule was not preceded by a proposed rule, it is not a regulation subject to the provisions of the Regulatory Flexibility Act. Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This regulation contains no information collection requirements which are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3500 et seq.).

List of Subjects

29 CFR Part 504

Administrative practice and procedure, Aliens, Employment, Enforcement, Health professions, Labor, Nurse, Penalties, Registered nurse, Reporting and recordkeeping requirements, Wages.

29 CFR Part 506

Administrative practice and procedure, Aliens, Crewmembers, Employment, Enforcement, Immigration, Labor, Longshore work, Penalties, Reporting and recordkeeping requirements.

29 CFR Part 507

Administrative practice and procedure, Aliens, Employment, Enforcement, Fashion models, Immigration, Labor, Penalties, Reporting and recordkeeping requirements, Specialty occupations, Wages, Working conditions.

29 CFR Part 508

Administrative practice and procedure, Aliens, Employment, Enforcement, Immigration, Labor, Penalties, Reporting and recordkeeping requirements.

Signed at Washington, DC, this 23rd day of *September,* 1996.

Robert B. Reich,

Secretary of Labor.

For the reasons set forth in the preamble, 29 CFR chapter V is amended as set forth below:

1. Part 504 is revised to read as follows:

PART 504—ATTESTATIONS BY FACILITIES USING NONIMMIGRANT ALIENS AS REGISTERED NURSES

Authority: 8 U.S.C. 1101(a)(15)(H)(i)(a) and 1182(m); sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103; and sec. 341 (a) and (b), Pub. L. 103–182, 107 Stat. 2057.

§ 504.1 Cross-reference.

Regulations governing labor condition attestations by facilities using nonimmigrant aliens as registered nurses are found at 20 CFR part 655, subparts D and E.

2. Part 506 is revised to read as follows:

PART 506—ATTESTATIONS BY EMPLOYERS USING ALIEN CREWMEMBERS FOR LONGSHORE ACTIVITIES IN U.S. PORTS

Authority: 8 U.S.C. 1288 (c) and (d).

§ 506.1 Cross-reference.

Regulations governing attestations by employers using alien crewmembers for longshore activities in U.S. ports are found at 20 CFR part 655, subparts F and G.

3. Part 507 is revised to read as follows:

PART 507—LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H–1B SPECIALTY VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Authority: 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; 29 U.S.C. 49 *et seq.*; Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1182 note); and sec. 341 (a) and (b), Pub. L. 103–182, 107 Stat. 2057.

§ 507.1 Cross-reference.

Regulations governing labor condition applications requirements for employers using nonimmigrants on H–1B specialty visas in specialty occupations and as fashion models are found at 20 CFR part 655, subparts H and I.

4. Part 508 is revised to read as follows:

PART 508—ATTESTATIONS FILED BY EMPLOYERS UTILIZING F–1 STUDENTS FOR OFF-CAMPUS WORK

Authority: 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

§ 508.1 Cross-reference.

Regulations governing attestations by employers using F–1 students in off-campus work are found at 20 CFR part 655, subparts J and K.

[FR Doc. 96–24820 Filed 9–27–96; 8:45 am]

BILLING CODE 4510–30–P; 4510–27–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MT26–7–6874a; FRL–5609–8]

Clean Air Act Approval and Promulgation of State Implementation Plan for Montana; Libby Moderate PM_{10} Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action, EPA approves the State implementation plan (SIP) revisions submitted by the State of Montana on March 15, 1995 to satisfy the Federal Clean Air Act requirement to submit contingency measures for the Libby moderate PM_{10} (particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers) nonattainment area. The March 15, 1995 submittal also recodified the Lincoln County regulations. In addition, EPA is approving a SIP revision submitted by the Governor of Montana on May 13,