

ECCN 0E502. For the reference for 0E502, this correction removes this ECCN from footnote 9 because none of the technology under this ECCN formerly required a license to Australia or the United Kingdom for NS1 or RS1 reasons for control.

ECCN 0E505. For the reference for 0E505, this correction specifies that the license requirement in footnote 9 for 0E505 is limited to “technology” for “development,” “production,” operation, installation, maintenance, repair, overhaul, or refurbishing commodities in 0A505.a and .x; for “equipment” for those commodities in 0B505; and for “software” for that equipment and those commodities in 0D505.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA), 50 U.S.C. 4801–4852. ECRA, as amended, provides the legal basis for BIS’s principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. This correction has not been designated a “significant regulatory action” under Executive Order 12866.

2. Notwithstanding any other provision of law, no person may be required to respond to, or be subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves a collection currently approved by OMB under control number 0694–0088, Simplified Network Application Processing System.

3. This rule does not contain policies with federalism implications as that term is defined under Executive Order 13132.

4. Pursuant to Section 1762 of ECRA (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation and delay in effective date. Additionally, this rule is exempt from the ordinary rulemaking requirements of the APA pursuant to 5 U.S.C. 553(a)(1) as a military or foreign affairs function of the United States Government.

5. Because neither the APA nor any other law requires that notice of

proposed rulemaking and an opportunity for public comment be given for this rule, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no Final Regulatory Flexibility Analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 738

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

Accordingly, part 738 of the Export Administration Regulations (15 CFR parts 730 through 774) is amended as follows:

PART 738—COMMERCE CONTROL LIST OVERVIEW AND THE COUNTRY CHART

■ 1. The authority citation for 15 CFR part 738 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c; 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 2. In supplement no. 1 to part 738, revise footnote 9 to read as follows:

Supplement No. 1 to Part 738—Commerce Country Chart

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⁹ A license is required to these destinations for items in the following ECCNs: 0A501 (except 0A501.y), 0A502 for shotguns with a barrel length less than 18 inches (45.72 cm), 0A503, 0A504.i, 0A505.a, and .x, 0D501 (except “software” for commodities in ECCN 0A501.y or “equipment” in ECCN 0B501 for commodities in ECCN 0A501.y), 0D505 for “software” for commodities in ECCN 0A505.a and .x and “equipment” in ECCN 0B505.a and .x, 0E501, 0E504, and 0E505 for “technology” for “development,” “production,” operation, installation, maintenance, repair, overhaul, or refurbishing commodities in 0A505.a and .x; for “equipment” for those commodities in 0B505; and for “software” for that “equipment” and those commodities in 0D505.

Thea D. Rozman Kendler,
Assistant Secretary for Export Administration.

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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

[DOL Docket No. ETA–2021–0006]

Adverse Effect Wage Rate Methodology for the Temporary Employment of H–2A Nonimmigrants in Non-Range Occupations in the United States; Ratification of Department’s Actions

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Ratification.

SUMMARY: The Department of Labor is publishing notification of the Assistant Secretary for Employment and Training’s ratification of the rule published February 28, 2023, titled *Adverse Effect Wage Rate Methodology for the Temporary Employment of H–2A Nonimmigrants in the Non-Range Occupations in the United States.*

DATES: This ratification was signed on May 3, 2024.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5311, Washington, DC 20210, telephone: (202) 693–8200 (this is not a toll-free number). For persons with a hearing or speech disability who need assistance to use the telephone system, please dial 711 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Background

On December 1, 2021, the Department of Labor (“DOL” or “Department”) issued a notice of proposed rulemaking (“NPRM”) in the **Federal Register** to amend the regulations governing the methodology to determine the Adverse Effect Wage Rate (“AEWR”) for H–2A occupations other than herding and production of livestock on the range (*i.e.*, non-range occupations). See *Adverse Effect Wage Rate Methodology for the Temporary Employment of H–2A Nonimmigrants in the United States*, 86 FR 68174 (Dec. 1, 2021) (“NPRM”). The NPRM was open for public comment for 60 days from December 1, 2021 until January 31, 2022. See *id.* at 68174, 68185.

On February 28, 2023, after having considered the public comments, DOL published a final rule in the **Federal**

Register that amended the methodology to establish the AEW, largely adopting the proposals from the NPRM with some technical changes. *Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in the Non-Range Occupations in the United States*, 88 FR 12760 (Feb. 28, 2023) (“Final Rule”). The Final Rule went into effect on March 30, 2023.

The Final Rule has become the subject of litigation in which it has been asserted that the Final Rule was improperly issued. Specifically, a question has been raised in litigation concerning whether the Final Rule was approved by the Attorney General in consultation with the Secretary of Labor and the Secretary of Agriculture. 8 U.S.C. 1188, Statutory Note.¹ On April 29, 2024, the Secretary of Homeland Security, in consultation with the Secretary of Labor and Secretary of Agriculture, approved the Final Rule. Prior to its issuance in February 2023, the Final Rule was provided to the Departments of Homeland Security and Agriculture through the interagency review process prescribed by Executive Order 12866.

To resolve any possible uncertainty, the Department, through its Assistant Secretary for Employment and Training, is ratifying the Final Rule. Under established case law, an agency may, through ratification, “purge[] any residual taint or prejudice left over from” a potential defect in a prior governmental action.² The Department is issuing this ratification out of an abundance of caution, and this ratification is not a statement that the Final Rule is invalid absent this ratification.

II. Ratification

By virtue of the authority vested in Secretary of Labor by law, including by the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101 *et seq.* (“INA”), and as delegated to the Assistant Secretary for Employment and Training, 75 FR 66268, I am affirming and ratifying a prior action by Brent Parton, Principal Deputy Assistant Secretary, who was then serving as Acting Assistant Secretary for Employment and Training before the current Assistant Secretary of Labor for Employment and Training assumed office. On February 28, 2023, the Employment and Training

Administration published in the FR the Final Rule codifying amendments to the regulations governing the methodology to determine the AEW for non-range H-2A occupations (all H-2A occupations other than herding and production of livestock on the range). 88 FR 12760 (Feb. 28, 2023).

The Final Rule was signed by Acting Assistant Secretary Parton. I have full and complete knowledge of the Final Rule action taken by former Acting Assistant Secretary Parton. Subsequent to the Secretary of Homeland Security’s documented approval of the Final Rule dated April 29, 2024, and out of an abundance of caution and to avoid any doubt as to its validity, I have independently evaluated the Final Rule and the basis for adopting it. I have determined that the amendments to the AEW methodology in the Final Rule are consistent with the Secretary of Labor’s statutory responsibility to certify that the employment of H-2A workers will not adversely affect the wages and working conditions of workers in the United States similarly employed, and that the changes adopted in the Final Rule best strike the balance between the statute’s competing goals of providing employers with an adequate supply of legal agricultural labor and protecting the wages of workers in the United States similarly employed. I also agree with the Department’s certification that the Final Rule does not have a significant economic impact on a substantial number of small entities. *See* 88 FR 12760, 12799, 12802.

Therefore, pursuant to my authority as the Assistant Secretary for Employment and Training and based on my independent review of the action and the reasons for taking it, I hereby affirm and ratify the Final Rule, as of May 3, 2024, including all regulatory analysis certifications contained therein. This action is taken without prejudice to any right to litigate the validity of the Final Rule as approved and published on February 28, 2023. Nothing in this action is intended to suggest any legal defect or infirmity in the approval or publication of the Final Rule.

José Javier Rodríguez,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2024-10013 Filed 5-3-24; 4:15 pm]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2024-0194]

Safety Zone; Fireworks Display; Elizabeth River, Town Point Reach, Norfolk, VA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone regulation for Norfolk’s 42nd Annual Independence Day Fireworks on July 4th, 2024, to provide for the safety of life on navigable waterways of the Elizabeth River, at Town Point Reach during this event. Our regulation for marine events within the Fifth Coast Guard District identifies the regulated area for this event in Norfolk, VA. During the enforcement period, entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Virginia.

DATES: The regulations in 33 CFR 165.506 will be enforced for the location identified as item 13 in table 3 to paragraph (h)(3) from 9 p.m. until 10 p.m. on July 4th, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email LCDR Ashley Holm, Chief, Waterways Management Division, Sector Virginia, U.S. Coast Guard; telephone 757-668-5580 email Ashley.E.Holm@uscg.mil.

SUPPLEMENTARY INFORMATION: As noted in paragraph (c) of § 165.506, the enforcement period(s) for each safety zone identified in paragraph (h) of this section is subject to change, and the enforcement period announced here differs from the enforcement period noted in item 13 of table 3 to paragraph (h). The Coast Guard will enforce the safety zone in 33 CFR 165.506 for Norfolk’s 42nd Annual Independence Day Fireworks regulated area from 9 p.m. to 10 p.m. on Thursday, July 4th, 2024, rather than on one of the days of the first or second weekend of July. This action is being taken to provide for the safety of life on navigable waterways during this event. Section 165.506, specifies the location of the regulated area, which encompasses portions of the Elizabeth River and Town Point Reach. During the enforcement period, the entry of vessels or persons into this zone is prohibited unless specifically

¹ Although this provision vests approval authority in the “Attorney General,” the Secretary of Homeland Security now may exercise this authority. *See* 6 U.S.C. 202(3)-(4), 251, 271(b), 291, 551(d)(2), 557; 8 U.S.C. 1103(c) (2000).

² *Guedes v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 920 F.3d 1, 13 (D.C. Cir. 2019).