

§ 655.145

(b) *Length of posting on electronic job registry.* Unless otherwise provided, the Department will keep the job order posted on the Electronic Job Registry until the end of 50 percent of the contract period as set forth in § 655.135(d).

§ 655.145 Amendments to applications for temporary employment certification.

(a) *Increases in number of workers.* The *Application for Temporary Employment Certification* may be amended at any time before the CO's certification determination to increase the number of workers requested in the initial *Application for Temporary Employment Certification* by not more than 20 percent (50 percent for employers requesting less than 10 workers) without requiring an additional recruitment period for U.S. workers. Requests for increases above the percent prescribed, without additional recruitment, may be approved by the CO only when the employer demonstrates that the need for additional workers could not have been foreseen, and the crops or commodities will be in jeopardy prior to the expiration of an additional recruitment period. All requests for increasing the number of workers must be made in writing.

(b) *Minor changes to the period of employment.* The *Application for Temporary Employment Certification* may be amended to make minor changes in the total period of employment. Changes will not be effective until submitted in writing and approved by the CO. In considering whether to approve the request, the CO will review the reason(s) for the request, determine whether the reason(s) are on the whole justified, and take into account the effect any change(s) would have on the adequacy of the underlying test of the domestic labor market for the job opportunity. An employer must demonstrate that the change to the period of employment could not have been foreseen, and the crops or commodities will be in jeopardy prior to the expiration of an additional recruitment period. If the request is for a delay in the start date and is made after workers have departed for the employer's place of work, the CO may only approve the change if the employer includes with

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the request a written assurance signed and dated by the employer that all workers who are already traveling to the job site will be provided housing and subsistence, without cost to the workers, until work commences. Upon acceptance of an amendment, the CO will submit to the SWA any necessary modification to the job order.

POST-ACCEPTANCE REQUIREMENTS

§ 655.150 Interstate clearance of job order.

(a) *SWA posts in interstate clearance system.* The SWA must promptly place the job order in interstate clearance to all States designated by the CO. At a minimum, the CO will instruct the SWA to transmit a copy of its active job order to all States listed in the job order as anticipated worksites covering the area of intended employment.

(b) *Duration of posting.* Each of the SWAs to which the job order was transmitted must keep the job order on its active file until 50 percent of the contract term has elapsed, and must refer each qualified U.S. worker who applies (or on whose behalf an application is made) for the job opportunity.

§§ 655.151-655.152 [Reserved]

§ 655.153 Contact with former U.S. employees.

The employer must contact, by mail or other effective means, its former U.S. workers (except those who were dismissed for cause or who abandoned the worksite) employed by the employer in the occupation at the place of employment during the previous year and solicit their return to the job. This contact must occur during the period of time that the job order is being circulated by the SWA(s) for interstate clearance and documentation sufficient to prove contact must be maintained in the event of an audit.

§ 655.154 Additional positive recruitment.

(a) *Where to conduct additional positive recruitment.* The employer must conduct positive recruitment within a multistate region of traditional or expected labor supply where the CO finds that there are a significant number of