

**DEPARTMENT OF HOMELAND SECURITY****8 CFR Parts 204, 214 and 215**

[CIS No. 2432-07; DHS Docket No. USCIS-2007-0058]

RIN 1615-AB67

**Changes to Requirements Affecting H-2B Nonimmigrants and Their Employers; Correction**

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Final rule; correction.

**SUMMARY:** With this amendment, the Department of Homeland Security (DHS) corrects an inadvertent error that was made to the Final Rule titled "Changes to Requirements Affecting H-2B Nonimmigrants and Their Employers" that was published in the *Federal Register* on December 19, 2008, at 73 FR 78104.

**DATES:** This rule is effective January 18, 2009.

**FOR FURTHER INFORMATION CONTACT:** Hiroko Witherow, Business and Trade Services Division, Service Center Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Second Floor, Washington, DC 20529-2140, telephone (202) 272-9135.

**SUPPLEMENTARY INFORMATION:****Need for Correction**

On December 19, 2008, the Department of Homeland Security published a final rule in the *Federal Register* at 73 FR 78104 changing requirements affecting H-2B nonimmigrants and their employers. At 8 CFR 214.2, DHS inadvertently:

- Stated in amendment 5.aa that a new sentence would be added at the end of paragraph (h)(11)(i)(A) instead of saying that the last sentence of the paragraph was being revised;
- Omitted a period after the paragraph heading for paragraph (h)(6)(C); and
- Ended the sentence in paragraph (h)(11)(iii)(A)(2) with a ":" instead of a ";

**Correction of Publication**

■ Accordingly, the publication on December 19, 2008, at 73 FR 78104 of the interim final rule that was the subject of FR Doc. E8-30094 is corrected as follows:

**PART 214—NONIMMIGRANT CLASSES****§ 214.2 [Corrected]**

- 1. On page 78127, third column, amendment 5.aa., revise the amendatory language from "Adding a new sentence to the end of paragraph (h)(11)(i)(A)" to "Revising the last sentence of paragraph (h)(11)(i)(A)".
- 2. On page 78128, second column, add a period immediately after the word "revocation" in the heading to paragraph (h)(6)(C).
- 3. On page 78130, in the second column, at the end of paragraph (h)(11)(iii)(A)(2), revise ": or" to read ";

Dated: January 13, 2009.

Michael Aytes,

Acting Deputy Director, U.S. Citizenship and Immigration Services.

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**DEPARTMENT OF HOMELAND SECURITY****8 CFR Part 235**

[DHS-2005-0037]

RIN 1601-AA35; RIN 1600-AA00

**United States Visitor and Immigrant Status Indicator Technology Program ("US-VISIT"); Enrollment of Additional Aliens in US-VISIT; Authority To Collect Biometric Data from Additional Travelers and Expansion to the 50 Most Highly Trafficked Land Border Ports of Entry**

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Final rule; correction.

**SUMMARY:** This document contains corrections to the final rule which was published in the *Federal Register* on December 19, 2008. 73 FR 77473. The pertinent regulations relate to the collection of biometric identifiers during the inspection of aliens at United States ports of entry.

**DATES:** Effective on January 18, 2009.

**FOR FURTHER INFORMATION, CONTACT:** Helen deThomas, Senior Policy Analyst, US-VISIT, Department of Homeland Security, 1616 Fort Myer Drive, 18th Floor, Arlington, Virginia 22209, (202) 298-5200.

**SUPPLEMENTARY INFORMATION:** On December 19, 2008, the Department of Homeland Security (DHS) published a final rule amending 8 CFR 235.1(f)(1)(ii) to expand the population of aliens subject to US-VISIT requirements to include, among others, lawful

permanent residents. That final rule becomes effective January 18, 2009. 73 FR 77473.

As discussed in the preamble to the final rule, DHS will require additional aliens to provide fingerprints "at the time of inspection" at the United States border ports of entry, including lawful permanent residents. 73 FR at 77474-75.

As discussed in the preamble to the final rule,

LPRs are still subject to entry, documentation, and removability requirements to the United States. LPRs are aliens. See sections 101, 212, 237 of the INA (8 U.S.C. 1101, 1182, 1227) and 8 CFR 235.1(b), (f)(1)(i). Although LPRs are not technically regarded as seeking admission to the United States if they are returning from a stay of less than 180 days under section 101(a)(13)(C)(ii) of the INA (8 U.S.C. 1101(a)(13)(C)(ii)), they remain subject to the admissibility requirements of section 212 of the INA (8 U.S.C. 1182) because of their status as an alien and not a United States citizen. Accordingly, DHS must determine whether an LPR is admissible to the United States whenever the LPR arrives at a port of entry, as well as determine whether an LPR is removable from the United States based on intervening facts since the time LPR status was granted, and initial background checks conducted, which may have been many years ago.

73 FR at 77475.

Through technical drafting oversight, DHS did not amend the regulatory text of section 235.1(f)(1)(ii) in the final rule to remove references to aliens seeking admission. This correction is intended to ensure that the regulatory language mirrors the intent of the preamble—that DHS may require lawful permanent residents to provide biometrics in order to determine, among other things, that alien's identity and whether he or she has properly maintained his or her permanent resident status while in the United States.

Accordingly, in FR Doc. E8-30095, published on December 19, 2008, make the following correction. On page 77491, in the second column, revise the regulatory text under instruction 4 to read:

**§ 235.1 Scope of examination.**

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(ii) The Secretary of Homeland Security or his designee may require any alien, other than aliens exempted under paragraph (iv) of this section or Canadian citizens under section 101(a)(15)(B) of the Act who are not otherwise required to present a visa or be issued Form I-94 or Form I-95 for admission or parole into the United