

(b) *Inadmissible alien.* An applicant who is not admissible to the United States as described in 8 CFR 209.2(a)(1)(v), may, under section 209(c) of the Act, have the grounds of inadmissibility waived by USCIS except for those grounds under sections 212(a)(2)(C) and 212(a)(3)(A), (B), (C), or (E) of the Act for humanitarian purposes, to ensure family unity, or when it is otherwise in the public interest. An application for the waiver may be requested with the application for adjustment, in accordance with the form instructions. An applicant for adjustment under this part who has had the status of an exchange alien nonimmigrant under section 101(a)(15)(J) of the Act, and who is subject to the foreign resident requirement of section 212(e) of the Act, shall be eligible for adjustment without regard to the foreign residence requirement if otherwise eligible for adjustment.

(c) *Application.* An application for the benefits of section 209(b) of the Act may be filed in accordance with the form instructions. If an alien has been placed in removal, deportation, or exclusion proceedings, the application can be filed and considered only in proceedings under section 240 of the Act.

(d) *Medical examination.* For an alien seeking adjustment of status under section 209(b) of the Act, the alien shall submit a medical examination to determine whether any grounds of inadmissibility described under section 212(a)(1)(A) of the Act apply. The asylee is also required to establish compliance with the vaccination requirements described under section 212(a)(1)(A)(ii) of the Act.

(e) *Interview.* USCIS will determine, on a case-by-case basis, whether an interview by an immigration officer is necessary to determine the applicant's admissibility for permanent resident status under this part.

(f) *Decision.* USCIS will notify the applicant in writing of the decision on his or her application. There is no appeal of a denial, but USCIS will notify an applicant of the right to renew the request in removal proceedings under section 240 of the Act. If the application is approved, USCIS will record the alien's admission for lawful permanent residence as of the date one year before the date of the approval of the application, but not earlier than the date of the approval for asylum in the case of an applicant approved under paragraph (a)(2) of this section.

[FR Doc. 2012-31271 Filed 12-27-12; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

Nonimmigrant Classes

CFR Correction

In Title 8 of the Code of Federal Regulations, revised as of January 1, 2012, in § 214.2, make the following corrections:

- a. On page 289, reinstate paragraph (h)(2)(v);
- b. On page 310, following paragraph (h)(9)(i)(B), reinstate paragraphs (h)(9)(ii)(A) and (B); and
- c. On page 311, revise the third sentence of paragraph (h)(11)(i)(A).

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(2) * * *

(v) *H-2A Petitions.* Special criteria for admission, extension, and maintenance of status apply to H-2A petitions and are specified in paragraph (h)(5) of this section. The other provisions of § 214.2(h) apply to H-2A only to the extent that they do not conflict with the special agricultural provisions in paragraph (h)(5) of this section.

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(9) * * *

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(ii) *Recording the validity of petitions.* Procedures for recording the validity period of petitions are:

(A) If a new H petition is approved before the date the petitioner indicates that the services or training will begin, the approved petition and approval notice shall show the actual dates requested by the petitioner as the validity period, not to exceed the limits specified by paragraph (h)(9)(iii) of this section or other Service policy.

(B) If a new H petition is approved after the date the petitioner indicates that the services or training will begin, the approved petition and approval notice shall show a validity period commencing with the date of approval and ending with the date requested by the petitioner, as long as that date does not exceed either the limits specified by paragraph (h)(9)(iii) of this section or other Service policy.

* * * * *

(11) * * *

(i) * * *

(A) * * * If the petitioner no longer employs the beneficiary, the petitioner shall send a letter explaining the

change(s) to the director who approved the petition. * * *

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[FR Doc. 2012-31272 Filed 12-27-12; 8:45 am]

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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1074

[Docket No. CFPB-2012-0051]

Procedure Relating to Rulemaking

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is adopting a procedural rule (Final Rule) that specifies how the Bureau issues rules and when rules are considered issued.

DATES: The Final Rule is effective on December 28, 2012.

FOR FURTHER INFORMATION CONTACT: Lea Mosena and Martha Fulford, Attorneys, Legal Division, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552, at (202) 435-7152.

SUPPLEMENTARY INFORMATION:

I. Background and Summary

The Final Rule specifies how the Bureau issues rules and when rules are considered issued. In the future, the Bureau may issue further rules on procedures for rulemaking.

Part 1074.1 establishes that the Bureau's rules are deemed issued upon the earlier of: (1) When the final rule is posted on the Bureau's Web site, or (2) when the final rule is published in the **Federal Register**. The Bureau's Web site is www.consumerfinance.gov.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) ¹ and other statutes authorize the Bureau to issue rules. Ordinarily, a rule may be considered issued at least when the rulemaking document containing the final rule has been placed on public inspection by the Office of the Federal Register or published in the **Federal Register**. However, an agency may treat other events as constituting the issuance of a rule.² The key prerequisite for issuing a

¹ Public Law 111-203.

² See *Nat'l Grain & Feed Ass'n v. OSHA*, 845 F.2d 345, 346 (D.C. Cir. 1988); *United Techs. Corp. v. OSHA*, 836 F.2d 52, 53 (2d Cir. 1987); *Indus. Union Dep't, AFL-CIO v. Bingham*, 570 F.2d 965, 970 (D.C. Cir. 1977) (Leventhal, J., concurring).

rule appears to be providing public notice of the rule's content.

It is beneficial for regulated entities to know what constitutes issuance of an agency's rules.³ Pursuant to a commitment to using modern technology to facilitate the Bureau's performance of its functions, the Bureau regularly posts final rules on its Web site. Typically on the same day, the Bureau will submit the document to the Office of the Federal Register. After a period of time that depends on the length of the document and other factors, the Office of the Federal Register will then make the document available for public inspection and then publish it in the **Federal Register**. The Bureau does not believe that delaying issuance until the rule is published in the **Federal Register** is necessary or in the public interest. Accordingly, today's rule provides that when a final rule⁴ is posted on the Bureau's Web site before it is published in the **Federal Register**, the posting on the Web site shall constitute the official issuance of the rule.

Clarifying what constitutes issuance of a rule is beneficial because in some cases the date of issuance of a rule has legal consequences.⁵ For example, under section 1400(c)(3) of the Dodd-Frank Act, certain provisions of title XIV will go into effect on the date that is 18 months after the designated transfer date,⁶ unless relevant regulations are "issued" by that date. Given the Bureau's practice of posting rules on its Web site before the Office of the Federal Register makes the rules available for public inspection or publishes the rules in the **Federal Register**, uncertainty could arise regarding the date on which such rules were issued. The Final Rule eliminates uncertainty by clarifying when the Bureau's rules are deemed issued.

The Bureau generally intends to issue rules by posting them on its Web site, but, as a precaution, the Final Rule provides that a rule will be considered issued upon publication in the **Federal Register** if by inadvertence or for some other reason the rule is not posted on the Web site or is published in the **Federal Register** before it is posted on the Web site.

³ It is important to note that the date of issuance of a rule and the effective date of a rule are distinct.

⁴ For the purposes of this rule, the Bureau intends "final rule" to encompass an interim final rule.

⁵ Clarity about what constitutes issuance may be of practical moment for regulated entities, potentially assisting in planning for implementation of a rule.

⁶ Pursuant to section 1062 of the Dodd-Frank Act, 12 U.S.C. 5582, the Secretary of the Treasury designated July 21, 2011 as the transfer date. 75 FR 57252.

II. Legal Authority and Effective Date

Section 1022(b) of the Dodd-Frank Act authorizes the Bureau to prescribe rules as may be necessary and appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions of those laws. In addition, section 1012(a) of the Dodd-Frank Act authorizes the Bureau "to establish the general policies of the Bureau with respect to all executive and administrative functions, including—(1) the establishment of rules for conducting the general business of the Bureau, in a manner not inconsistent with this title * * *."

The Final Rule is procedural and not substantive and, thus, is not subject to the 30-day delay in effective date required by 5 U.S.C. 553(d). The Bureau is making the Final Rule effective immediately upon publication in the **Federal Register**.

III. Section 1022(b)(2) of the Dodd-Frank Act

In developing the Final Rule, the Bureau has considered the potential benefits, costs, and impacts, and the Bureau has consulted or offered to consult with the prudential regulators and the Federal Trade Commission, including with regard to consistency with any prudential, market, or systemic objectives administered by such agencies.⁷

Certainty about the timing of issuance of the Bureau's rules will likely benefit consumers and covered persons. The Bureau is not aware of costs to consumers or covered persons, including the potential reduction of access by consumers to consumer financial products or services, that can be predicted to result from treating rules as issued when the Bureau has posted them on its Web site.

Further, the Bureau is not aware of any unique impact the Final Rule might

⁷ Section 1022(b)(2)(A) of the Dodd-Frank Act calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with \$10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas. Section 1022(b)(2)(B) directs the Bureau to consult with the appropriate prudential regulators or other Federal agencies regarding consistency with objectives those agencies administer. The manner and extent to which these provisions apply to a rulemaking of this kind, which establishes Bureau procedures and imposes no standards of conduct, is unclear. Nevertheless, to inform this rulemaking more fully, the Bureau performed the analyses and consultations described in those provisions of the Dodd-Frank Act.

have on insured depository institutions or insured credit unions with total assets of \$10 billion or less as described in section 1026(a) of the Dodd-Frank Act, or on rural consumers.

IV. Regulatory Requirements

The Final Rule relates solely to agency procedure and practice and, thus, is not subject to the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(b). Because no notice of proposed rulemaking is required, this rule does not require an initial or a final regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*

List of Subjects in 12 CFR Part 1074

Administrative practice and procedure.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau adds part 1074 to Chapter X in Title 12 of the Code of Federal Regulations to read as follows:

PART 1074—PROCEDURE RELATING TO RULEMAKING

Sec.

§ 1074.1 Date of issuance of Bureau rules.

Authority: 12 U.S.C. 5492(a)(1), 5512(b).

§ 1074.1 Date of issuance of Bureau rules.

■ A final Bureau of Consumer Financial Protection (Bureau) rule is deemed issued upon the earlier of the following:

- (a) When the final rule is posted on the Bureau's Web site; or
- (b) When the final rule is published in the **Federal Register**.

Dated: December 21, 2012.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 19 and 109

[Docket ID OCC–2012–0011]

RIN 1557-AD61

Rules of Practice and Procedure; Rules of Practice and Procedure in Adjudicatory Proceedings; Civil Money Penalty Inflation Adjustments

AGENCY: Office of the Comptroller of the Currency, Treasury.