

David Muusz

From: David Muusz
Sent: Wednesday, October 07, 2020 4:21 PM
To: 'ICINSZoomUsers@umich.edu'
Subject: H-1B regulatory changes

Dear all-

On 10/6/2020, the Department of Homeland Security (DHS) announced a new, interim final rule that, according to the [DHS press release](#) “strengthens the H-1B nonimmigrant visa program to protect U.S. workers, restores integrity to the H-1B program and better guarantees that H-1B petitions are approved only for qualified beneficiaries and petitioners.” The new rule is set to be formally released on 10/8/2020 and will take effect 60 days later.

Also on 10/6/2020, the [Department of Labor \(DOL\) announced](#) a new, interim final rule that is intended to “improve the accuracy of prevailing wages paid to foreign workers by bringing them in line with the wages paid to similarly employed U.S. workers.” The DOL regulation is set to be formally released on 10/8/2020 and will take effect immediately.

The DHS rule alters certain key regulatory definitions in an effort to limit H-1B eligibility and to limit H-1B sponsorship for 3rd party placements. The DOL rule would result in higher prevailing wage determinations unless employers rely on external wage data. We are still reviewing and analyzing these regulations, but believe that, as written, they contain substantial ambiguities that will need to be clarified.

While both regulations are classified as “interim final regulations,” and as such may take effect immediately, or in 60 days in the case of the DHS rule, both regulatory changes are subject to a notice and comment period. We will review and analyze the new regulatory language for its impact on U-M and intend to work with U-M’s Office of the General Counsel and with U-M Government Relations to provide formal comments to DHS and DOL.

As has been reported in various media, it is likely that both the new, interim final rules will be challenged in court due to their content as well as the way in which the regulations were promulgated and released. We will continue to monitor these developments and will provide updates to the U-M community as additional information becomes available.

Please do let me know if I can provide any additional information at this point.

Best,
David

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