

Employment and Training Administration, Labor

§ 656.11

Aliens (except for aliens in the performing arts) of exceptional ability in the sciences or arts including college and university teachers of exceptional ability who have been practicing their science or art during the year prior to application and who intend to practice the same science or art in the United States. For purposes of this group, the term "science or art" means any field of knowledge and/or skill with respect to which colleges and universities commonly offer specialized courses leading to a degree in the knowledge and/or skill. An alien, however, need not have studied at a college or university in order to qualify for the Group II occupation.

[45 FR 83933, Dec. 19, 1980, as amended at 52 FR 20596, June 2, 1987; 56 FR 54927, Oct. 23, 1991]

§ 656.11 Schedule B.

(a) The Director has determined that there generally are sufficient United States workers who are able, willing, qualified and available for the occupations listed below on *Schedule B* and that the wages and working conditions of United States workers similarly employed will generally be adversely affected by the employment in the United States of aliens in *Schedule B* occupations. An employer seeking a labor certification for an occupation listed on *Schedule B* may petition for a waiver pursuant to § 656.23.

SCHEDULE B

- (1) Assemblers
- (2) Attendants, Parking Lot
- (3) Attendants (Service Workers such as Personal Service Attendants, Amusement and Recreation Service Attendants)
- (4) Automobile Service Station Attendants
- (5) Bartenders
- (6) Bookkeepers II
- (7) Caretakers
- (8) Cashiers
- (9) Charworkers and Cleaners
- (10) Chauffeurs and Taxicab Drivers
- (11) Cleaners, Hotel and Motel
- (12) Clerks, General
- (13) Clerks, Hotel
- (14) Clerks and Checkers, Grocery Stores
- (15) Clerk Typists
- (16) Cooks, Short Order
- (17) Counter and Fountain Workers
- (18) Dining Room Attendants
- (19) Electric Truck Operators
- (20) Elevator Operators
- (21) Floorworkers
- (22) Groundskeepers
- (23) Guards
- (24) Helpers, any industry
- (25) Hotel Cleaners

- (26) Household Domestic Service Workers
- (27) Housekeepers
- (28) Janitors
- (29) Key Punch Operators
- (30) Kitchen Workers
- (31) Laborers, Common
- (32) Laborers, Farm
- (33) Laborers, Mine
- (34) Loopers and Toppers
- (35) Material Handlers
- (36) Nurses' Aides and Orderlies
- (37) Packers, Markers, Bottlers and Related
- (38) Porters
- (39) Receptionists
- (40) Sailors and Deck Hands
- (41) Sales Clerks, General
- (42) Sewing Machine Operators and Handstitchers
- (43) Stock Room and Warehouse Workers
- (44) Streetcar and Bus Conductors
- (45) Telephone Operators
- (46) Truck Drivers and Tractor Drivers
- (47) Typists, Lesser Skilled
- (48) Ushers, Recreation and Amusement
- (49) Yard Workers

(b) *Descriptions of Schedule B occupations*—(1) *Assemblers* perform one or more repetitive tasks to assemble components and subassemblies using hand or power tools to mass produce a variety of components, products or equipment. They perform such activities as riveting, drilling, filing, bolting, soldering, spot welding, cementing, gluing, cutting and fitting. They may use clamps or other work aids to hold parts during assembly, inspect or test components, or tend previously set-up or automatic machines.

(2) *Attendants, Parking Lot* park automobiles for customers in parking lots or garages and may collect fees based on time span of parking.

(3) *Attendants (Service Workers such as Personal Service Attendants, Amusement and Recreation Service Attendants)* perform a variety of routine tasks attending to the personal needs of customers at such places as amusement parks, bath houses, clothing check-rooms, and dressing rooms, including such tasks as taking and issuing tickets, checking and issuing clothing and supplies, cleaning premises and equipment, answering inquiries, checking lists, and maintaining simple records.

(4) *Automobile Service Station Attendants* service automotive vehicles with fuel, lubricants, and automotive accessories at drive-in service facilities; may also compute charges and collect fees from customers.

(5) *Bartenders* prepare, mix, and dispense alcoholic beverages for consumption by bar customers, and compute and collect charges for drinks.

(6) *Bookkeepers II* keep records of one facet of an establishment's financial transactions by maintaining one set of books; specialize in such areas as accounts-payable, accounts-receivable, or interest accrued rather than a complete set of records.

(7) *Caretakers* perform a combination of duties to keep a private home clean and in good condition such as cleaning and dusting furniture and furnishings, hallways and lavatories; beating, vacuuming, and scrubbing rugs; washing windows, waxing and polishing floors; removing and hanging draperies; cleaning and oiling furnaces and other equipment; repairing mechanical and electrical appliances; and painting.

(8) *Cashiers* receive payments made by customers for goods or services, make change, give receipts, operate cash registers, balance cash accounts, prepare bank deposits and perform other related duties.

(9) *Charworkers and Cleaners* keep the premises of commercial establishments, office buildings, or apartment houses in clean and orderly condition by performing, according to a set routine, such tasks as mopping and sweeping floors, dusting and polishing furniture and fixtures, and vacuuming rugs.

(10) *Chauffeurs and Taxicab Drivers* drive automobiles to convey passengers according to the passengers' instructions.

(11) *Cleaners, Hotel and Motel* clean hotel rooms and halls, sweep and mop floors, dust furniture, empty wastebaskets, and make beds.

(12) *Clerks, General* perform a variety of routine clerical tasks not requiring knowledge of systems or procedures such as copying and posting data, proofreading records or forms, counting, weighing, or measuring material, routing correspondence, answering telephones, conveying messages, and running errands.

(13) *Clerks, Hotel* perform a variety of routine tasks to serve hotel guests such as registering guests, dispensing keys, distributing mail, collecting payments, and adjusting complaints.

(14) *Clerks and Checkers, Grocery Stores* itemize, total, and receive payments for purchases in grocery stores, usually using cash registers; often assist customers in locating items, stock shelves, and keep stock-control and sales-transaction records.

(15) *Clerk Typists* perform general clerical work which, for the majority of duties, requires the use of typewriters: perform such activities as typing reports, bills, application forms, shipping tickets, and other matters from clerical records, filing records and reports, posting information to records, sorting and distributing mail, answering phones and similar duties.

(16) *Cooks—Short Order* prepare and cook to order all kinds of short-preparation-time foods; may perform such activities as carving meats, filling orders from a steamtable, preparing sandwiches, salads and beverages, and serving meals over a counter.

(17) *Counter and Fountain Workers* serve food to patrons at lunchroom counters, cafeterias, soda fountains, or similar public eating places; take orders from customers and frequently prepare simple items, such as desert dishes; itemize and total checks; receive payment and make change; clean work areas and equipment.

(18) *Dining Room Attendants* facilitate food service in eating places by performing such tasks as removing dirty dishes, replenishing linen and silver supplies, serving water and butter to patrons, and cleaning and polishing equipment.

(19) *Electric Truck Operators* drive gasoline- or electric-powered industrial trucks or tractors equipped with forklift, elevating platform, or trailer hitch to move and stack equipment and materials in a warehouse, storage yard, or factory.

(20) *Elevator Operators* operate elevators to transport passengers and freight between building floors.

(21) *Floorworkers* perform a variety of routine tasks in support of other workers in and around such work sites as factory floors and service areas, frequently at the beck and call of others; perform such tasks as cleaning floors, materials and equipment, distributing materials and tools to workers, running errands, delivering messages,

emptying containers, and removing materials from work areas to storage or shipping areas.

(22) *Groundskeepers* maintain grounds of industrial, commercial, or public property in good condition by performing such tasks as cutting lawns, trimming hedges, pruning trees, repairing fences, planting flowers, and shoveling snow.

(23) *Guards* guard and patrol premises of industrial or business establishments or similar types of property to prevent theft and other crimes and prevent possible injury to others.

(24) *Helpers (any industry)* perform a variety of duties to assist other workers who are usually of a higher level of competency of expertness by furnishing such workers with materials, tools, and supplies, cleaning work areas, machines and equipment, feeding or offbearing machines, and/or holding materials or tools.

(25) *Hotel Cleaners* perform routine tasks to keep hotel premises neat and clean such as cleaning rugs, washing walls, ceilings and windows, moving furniture, mopping and waxing floors, and polishing metalwork.

(26) *Household Domestic Service Workers* perform a variety of tasks in private households, such as cleaning, dusting, washing, ironing, making beds, maintaining clothes, marketing, cooking, serving food, and caring for children or disabled persons. This definition, however, applies only to workers who have had less than one year of documented full-time paid experience in the tasks to be performed, working on a live-in or live-out basis in private households or in public or private institutions or establishments where the worker has performed tasks equivalent to tasks normally associated with the maintenance of a private household. This definition does not include household workers who primarily provide health or instructional services.

(27) *Housekeepers* supervise workers engaged in maintaining interiors of commercial residential buildings in a clean and orderly fashion, assign duties to cleaners (hotel and motel), charworkers, and hotel cleaners, inspect finished work, and maintain supplies of equipment and materials.

(28) *Janitors* keep hotels, office buildings, apartment houses, or similar buildings in clean and orderly condition, and tend furnaces and boilers to provide heat and hot water; perform such tasks as sweeping and mopping floors, emptying trash containers, and doing minor painting and plumbing repairs; often maintain their residence at their places of work.

(29) *Keypunch Operators*, using machines similar in action to typewriters, punch holes in cards in such a position that each hole can be identified as representing a specific item of information. These punched cards may be used with electronic computers or tabulating machines.

(30) *Kitchen Workers* perform routine tasks in the kitchens of restaurants. Their primary responsibility is to maintain work areas and equipment in a clean and orderly fashion by performing such tasks as mopping floors, removing trash, washing pots and pans, transferring supplies and equipment, and washing and peeling vegetables.

(31) *Laborers, Common* perform routine tasks, upon instructions and according to set routine, in an industrial, construction or manufacturing environment such as loading and moving equipment and supplies, cleaning work areas, and distributing tools.

(32) *Laborers, Farm* plant, cultivate, and harvest farm products, following the instructions of supervisors, often working as members of a team. Their typical tasks are watering and feeding livestock, picking fruit and vegetables, and cleaning storage areas and equipment.

(33) *Laborers, Mine* perform routine tasks in underground or surface mines, pits, or quarries, or at tipples, mills, or preparation plants such as cleaning work areas, shoveling coal onto conveyors, pushing mine cars from working faces to haulage roads, and loading or sorting material onto wheelbarrows.

(34) *Loopers and Toppers* (i) tend machines that shear nap, loose threads, and knots from cloth surfaces to give uniform finish and texture, (ii) operate looping machines to close openings in the toes of seamless hose or join knitted garment parts, (iii) loop stitches or ribbed garment parts on the points of transfer bars to facilitate the transfer

of garment parts to the needles of knitting machines.

(35) *Material Handlers* load, unload, and convey materials within or near plants, yards, or worksites under specific instructions.

(36) *Nurses' Aides and Orderlies* assist in the care of hospital patients by performing such activities as bathing, dressing and undressing patients and giving alcohol rubs, serving and collecting food trays, cleaning and shaving hair from the skin areas of operative cases, lifting patients onto and from beds, transporting patients to treatment units, changing bed linens, running errands, and directing visitors.

(37) *Packers, Markers, Bottlers, and Related* pack products into containers, such as cartons or crates, mark identifying information on articles, insure that filled bottles are properly sealed and marked, often working in teams on or at end of assembly lines.

(38) *Porters* (i) carry baggage by hand or handtruck for airline, railroad or bus passengers, and perform related personal services in and around public transportation environments.

(ii) Keep building premises, working areas in production departments of industrial organizations, or similar sites in clean and orderly condition.

(39) *Receptionists* receive clients or customers coming into establishments, ascertain their wants, and direct them accordingly; perform such activities as arranging appointments, directing callers to their destinations, recording names, times, nature of business and persons seen and answering phones.

(40) *Sailors and Deck Hands* stand deck watches and perform a variety of tasks to preserve painted surfaces of ships and to maintain lines, running gear, and cargo handling gear in safe operating condition; perform such tasks as mopping decks, chipping rust, painting chipped areas, and splicing rope.

(41) *Sales Clerks, General* receive payment for merchandise in retail establishments, wrap or bag merchandise, and keep shelves stocked.

(42) *Sewing Machine Operators and Hand-Stitchers* (i) operate single- or multiple-needle sewing machines to join parts in the manufacture of such products as awnings, carpets, and

gloves; specialize in one type of sewing machine limited to joining operations.

(ii) Join and reinforce parts of articles such as garments and curtains, sew button-holes and attach fasteners to such articles, or sew decorative trimmings on such articles, using needles and threads.

(43) *Stock Room and Warehouse Workers* receive, store, ship, and distribute materials, tools, equipment, and products within establishments as directed by others.

(44) *Streetcar and Bus Conductors* collect fares or tickets from passengers, issue transfers, open and close doors, announce stops, answer questions, and signal operators to start or stop.

(45) *Telephone Operators* operate telephone switchboards to relay incoming and internal calls to phones in an establishment, and make connections with external lines for outgoing calls; often take messages, supply information and keep records of calls and charges; often are involved primarily in establishing, or aiding telephone users in establishing, local or long distance telephone connections.

(46) *Truck Drivers and Tractor Drivers* (i) drive trucks to transport materials, merchandise, equipment or people to and from specified destinations, such as plants, railroad stations, and offices.

(ii) Drive tractors to move materials, draw implements, pull out objects imbedded in the ground, or pull cables of winches to raise, lower, or load heavy materials or equipment.

(47) *Typists, Lesser Skilled* type straight-copy material, such as letters, reports, stencils, and addresses, from drafts or corrected copies. They are not required to prepare materials involving the understanding of complicated technical terminology, the arrangement and setting of complex tabular detail or similar items. Their typing speed in English does not exceed 52 words per minute on a manual typewriter and/or 60 words per minute on an electric typewriter and their error rate is 12 or more errors per 5 minute typing period on representative business correspondence.

(48) "*Ushers (Recreation and Amusement)*" assist patrons at entertainment events to find seats, search for lost articles, and locate facilities.

(49) *Yard Workers* maintain the grounds of private residences in good order by performing such tasks as mowing and watering lawns, planting flowers and shrubs, and repairing and painting fences. They work on the instructions of private employers.

(c) *Requests for waivers from Schedule B.* Any employer who desires a labor certification involving a *Schedule B* occupation may request such a waiver by submitting a written request along with the *Application for Alien Employment Certification* form at the appropriate local employment service office pursuant to § 656.23.

(d) The Administrator may revise *Schedule B* from time to time on the Administrator's own initiative, upon the request of a Regional Administrator, Employment and Training Administration, or upon the written request of any other person which sets forth reasonable grounds therefor. Such requests should be mailed to the Administrator, United States Employment Service, room 8000, Patrick Henry Building, 601 D Street, NW., Washington, DC 20213.

[45 FR 83933, Dec. 19, 1980, as amended at 56 FR 54927, Oct. 23, 1991]

Subpart C—Labor Certification Process

§ 656.20 General filing instructions.

(a) A request for a labor certification on behalf of any alien who is required by the Act to become a beneficiary of a labor certification in order to obtain permanent resident status in the United States may be filed as follows:

(1) Except as provided in paragraphs (a)(2) through (4) of this section, an application for a labor certification shall be filed pursuant to this section and § 656.21.

(2) An employer seeking a labor certification for an occupation designated for special handling shall apply for a labor certification pursuant to this section and § 656.21a.

(3) An alien seeking labor certification for an occupation listed on *Schedule A* may apply for a labor certification pursuant to this section and § 656.22.

(4) An employer seeking a labor certification for an occupation listed on *Schedule B* shall apply for a waiver and a labor certification pursuant to this section and §§ 656.21 and 656.23.

(b) (1) Aliens and employers may have agents represent them throughout the labor certification process. If an alien and/or an employer intends to be represented by an agent, the alien and/or the employer shall sign the statement set forth on the *Application for Alien Employment Certification* form: That the agent is representing the alien and/or employer and that the alien and/or employer takes full responsibility for the accuracy of any representations made by the agent.

(2) Aliens and employers may have attorneys represent them. Each attorney shall file a notice of appearance on Immigration and Naturalization Service (INS) Form G-28, naming the attorney's client or clients. Whenever, under this part, any notice or other document is required to be sent to an employer or alien, the document shall be sent to their attorney or attorneys who have filed notices of appearance on INS Form G-28, if they have such an attorney or attorneys.

(3) (i) It is contrary to the best interests of U.S. workers to have the alien and/or agents or attorneys for the alien participate in interviewing or considering U.S. workers for the job offered to the alien. As the beneficiary of a labor certification application, the alien cannot represent the best interests of U.S. workers in the job opportunity. The alien's agent and/or attorney cannot represent the alien effectively and at the same time truly be seeking U.S. workers for the job opportunity. Therefore, the alien and/or the alien's agent and/or attorney may not interview or consider U.S. workers for the job offered to the alien, unless the agent and/or attorney is the employer's representative as described in paragraph (b)(3)(ii) of this section.

(ii) The employer's representative who interviews or considers U.S. workers for the job offered to the alien shall be the person who normally interviews or considers, on behalf of the employer, applicants for job opportunities such as that offered to the alien, but which do not involve labor certifications.