

29 C.F.R. § 503.1

Scope and purpose.

(a) *Consultation standard.* Section 214(c)(1) of the INA, 8 U.S.C. 1184(c)(1), requires the Secretary of Homeland Security to consult with appropriate agencies before authorizing the classification of aliens as H-2B workers. Department of Homeland Security (DHS) regulations at 8 CFR 214.2(h)(6)(iii)(D) recognize the Secretary of Labor as the appropriate authority with whom DHS consults regarding the H-2B program, and recognize the Secretary of Labor's authority in carrying out the Secretary of Labor's consultative function to issue regulations regarding the issuance of temporary labor certifications. DHS regulations at 8 CFR 214.2(h)(6)(iv) provide that an employer's petition to employ nonimmigrant workers on H-2B visas for temporary non-agricultural employment in the United States (U.S.), except for Guam, must be accompanied by an approved temporary labor certification from the Secretary of Labor. The temporary labor certification reflects a determination by the Secretary that:

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