



## Immigration Insider

---

### News from the Alliance of Business Immigration Lawyers Vol. 6, No. 3B · March 15, 2010

#### Headlines:

- **1. USCIS Stops Allowing H-1B Filings With Uncertified LCAs** - USCIS will not extend the period in which it temporarily accepted H-1B petitions filed with uncertified labor condition applications.
- **2. DOS Proposes Increase in Passport Fees** - A first-time U.S. passport book for adults (age 16 and over) will increase from \$100 to \$135.
- **3. DOS Provides Information on 'Frequently Misunderstood Points'** - Topics include fluctuations in demand for visa numbers; per-country limits; and oversubscription.
- **4. Dep't of State Eliminates Nonimmigrant Visa Reciprocity Fees for Mexicans, Updates Schedule** - The Department of State has eliminated all nonimmigrant visa reciprocity fees for Mexican citizens and updated the reciprocity schedule; TN and TD visa validity is now limited to 12 months.
- **5. DOL Reopens H-2A Regulations E-Mailbox** - The Department of Labor's Office of Foreign Labor Certification has reopened its H-2A regulations e-mailbox for public inquiries.
- **6. DOL Implements Nursing Relief Act** - This legislation allows certain health care facilities to file, and authorizes the Department to review, approve, and enforce, attestation applications to employ foreign workers as registered nurses in health professional shortage areas on a temporary basis under the H-1C visa.
- **7. USCIS Releases Q&A on Northern Marianas Employment Authorization, Verification** - The Q&A addresses employment authorization and verification under Federal immigration law, particularly with respect to "umbrella permits."

#### Also in this issue:

[Recent News from ABIL Members](#)

[Government Agency Links](#)

## Details...

### 1. USCIS Stops Allowing H-1B Filings With Uncertified LCAs

U.S. Citizenship and Immigration Services (USCIS) announced on March 10, 2010, that it will not extend the period in which it temporarily accepted H-1B petitions filed with uncertified labor condition applications (LCAs). USCIS explained that due to processing delays associated with the Department of Labor's (DOL) "iCERT" online filing system, USCIS had responded to requests from the public by temporarily allowing H-1B petitions to be filed with uncertified LCAs. This temporary measure went into effect on November 5, 2009, and expired on March 9, 2010.

USCIS said that as of March 10, 2010, it is rejecting any H-1B petition filed without an LCA certified by the DOL.

The announcement is available at

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=f73a042a31a47210VgnVCM100000082ca60aRCRD&vgnnextchannel=c94e6d26d17df110VgnVCM1000004718190aRCRD>.

[Back to Top](#)

---

### 2. DOS Proposes Increase in Passport Fees

The Department of State has proposed an increase in fees for passport application services:

- From \$100 to \$135 for a first-time U.S. passport book for adults (age 16 and over)
- From \$75 to \$110 for passport renewal (age 16 and over only)
- From \$85 to \$105 for a passport for minors (under age 16)

The fee for expedited service will remain \$60.

Over the last five years, the Department noted, demand for passports has increased to an average of 15 million per year. In fiscal year (FY) 2005, the Department issued 10.1 million passports; issuances peaked at 18.4 million in FY 2007.

The U.S. Passport Book and U.S. Passport Card for adults are valid for 10 years. Passports for minors under age 16 are valid for five years.

The proposed rule is available at  
<http://edocket.access.gpo.gov/2010/pdf/2010-2816.pdf>.

[Back to Top](#)

---

### **3. DOS Provides Information on 'Frequently Misunderstood Points'**

The Department of State's April 2010 Visa Bulletin, section D, contains information on "frequently misunderstood points." Topics include the reasons behind fluctuations in demand for visa numbers; per-country limits; and oversubscription.

Among other things, the bulletin notes that there is a significant amount of demand each month from applicants who have priority dates earlier than the applicable cut-off dates. In addition, fluctuations in demand can cause cut-off date movement to slow, stop, or even retrogress. Retrogression is particularly possible near the end of the fiscal year as visa issuances approach the annual limitations.

Further, the bulletin notes, the annual per-country limitation of 7 percent is a cap that visa issuances to any single country may not exceed. Applicants compete for visas primarily on a worldwide basis. The country limitation, the bulletin states, "serves to avoid monopolization of virtually all the annual limitation by applicants from only a few countries," but notes that "[t]his limitation is not a quota to which any particular country is entitled, however."

The April 2010 Visa Bulletin is available at  
[http://www.travel.state.gov/visa/frvi/bulletin/bulletin\\_4747.html](http://www.travel.state.gov/visa/frvi/bulletin/bulletin_4747.html).

[Back to Top](#)

---

### **4. Dep't of State Eliminates Nonimmigrant Visa Reciprocity Fees for Mexicans, Updates Schedule**

As of February 22, 2010, the Department of State eliminated all nonimmigrant visa reciprocity fees for Mexican citizens and updated the reciprocity schedule. Under the previous schedule, a provision for Mexican TN and TD visa holders allowed them to pay for up to three years of visa validity at the time of the first issuance. The new schedule no longer includes that provision, and TN and TD visa validity is now limited to 12 months, the same period of time permitted U.S. citizens working in Mexico before they must renew their FM3 work permits. There is no fee for the TN and TD visas. All applicants must still pay the application fee, however.

The visa reciprocity table is available at [http://travel.state.gov/visa/frvi/reciprocity/reciprocity\\_3733.html](http://travel.state.gov/visa/frvi/reciprocity/reciprocity_3733.html).

[Back to Top](#)

---

## **5. DOL Reopens H-2A Regulations E-Mailbox**

After publication of the H-2A final rule addressing temporary agricultural employment in the U.S., the Department of Labor's Office of Foreign Labor Certification has reopened its H-2A regulations e-mailbox for public inquiries. General queries regarding the H-2A program should be e-mailed to [H-2A.Regulations@dol.gov](mailto:H-2A.Regulations@dol.gov). Case-specific inquiries should be e-mailed to the Chicago National Processing Center e-mailbox, [TLC.Chicago@dol.gov](mailto:TLC.Chicago@dol.gov). The Foreign Labor Certification Contacts List is available at <http://www.foreignlaborcert.doleta.gov/contacts.cfm>.

[Back to Top](#)

---

## **6. DOL Implements Nursing Relief Act**

The Department of Labor's Employment and Training Administration (ETA) and Wage and Hour Division have published a final rule, effective April 5, 2010, to implement the Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005 (NRDARA), which reauthorized the Nursing Relief for Disadvantaged Areas Act of 1999 (NRDAA), finalizing these rules "for enforcement purposes." This legislation allows certain health care facilities to file, and authorizes the Department to review, approve, and enforce, attestation applications to employ foreign workers as registered nurses in health professional shortage areas on a temporary basis under the H-1C visa. Facilities filed these forms with the Department as a condition for petitioning U.S. Citizenship and Immigration Services for H-1C nurses.

The NRDAA created a new temporary visa program for nonimmigrant foreign workers to work as registered nurses for up to three years in certain facilities that serve Health Professional Shortage Areas (HPSAs). Although the application period for H-1C visa petitions has now expired, H-1C nurses are allowed to work in the U.S. until the expiration of their authorized stay, which may be as much as three years after the petition was authorized. The Department said the final rule is intended to ensure that worker protections are in place for nurses currently employed in H-1C status, whose stays may extend beyond December 20, 2009.

The final rule is available at <http://edocket.access.gpo.gov/2010/pdf/2010-4475.pdf>.

[Back to Top](#)

---

## **7. USCIS Releases Q&A on Northern Marianas Employment Authorization, Verification**

During the last weeks of immigration control by the Commonwealth of the Northern Mariana Islands (CNMI) government, the CNMI government issued two-year transition conditional permits, commonly referred to as "umbrella permits," to many people holding CNMI alien permits. U.S. Citizenship and Immigration Services has released questions and answers on employment authorization and verification under Federal immigration law, particularly with respect to these umbrella permits.

The employment authorization of workers in the CNMI is now under Federal law. For a two-year transition period starting on November 28, 2009, however, Federal law authorizes workers based on the employment authorization they had received under CNMI law as of the transition date.

The Q&A is available at

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=3621788503457210VgnVCM100000082ca60aRCRD&vgnnextchannel=6abe6d26d17df110VgnVCM1000004718190aRCRD>.

[Back to Top](#)

---

## **Recent News from ABIL Members**

H. Ronald Klasko (bio: <http://www.abil.com/lawyers/lawyers-klasko.cfm>) spoke at a congressional briefing on March 4, 2010, on the EB-5 immigrant investor program and American job creation.

Francis Chin (bio: <http://www.abil.com/lawyers/lawyers-chin.cfm>) moderated an advanced panel, "Protecting Your Client in the New Era of Government Enforcement," at the 7th Annual AILA New England Immigration Law Conference, co-sponsored by Suffolk University Law School. Additional information is available at <http://www.law.suffolk.edu/academic/als/coursedetail.cfm?cid=671>.

[Back to Top](#)

---

## **Government Agency Links**

*Follow these links to access current processing times of the USCIS Service Centers and the Department of Labor, or the Department of State's latest Visa Bulletin with the most recent cut-off dates for visa numbers:*

USCIS Service Center processing times online:  
<https://egov.uscis.gov/cris/processTimesDisplay.do>

Department of Labor processing times and information on backlogs:  
<http://www.foreignlaborcert.doleta.gov/times.cfm>

Department of State Visa Bulletin:  
[http://travel.state.gov/visa/frvi/bulletin/bulletin\\_1360.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html)

[Back to Top](#)

---

*The Alliance of Business Immigration Lawyers (ABIL) is an entity that offers a single point of contact for customer needs, news alerts, staff training and other programs that benefit the client through the collaboration of the 140 member attorneys and their 460 staff. Corporate counsel, human resource professionals, in-house immigration managers and other corporate decision-makers turn to ABIL attorneys for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.*

*The Alliance of Business Immigration Lawyers' Web site is:*  
<http://www.abil.com/>.

### **Disclaimer/Reminder**

*This e-mail does not constitute direct legal advice and is for informational purposes only. The information provided should never replace informed counsel when specific immigration-related guidance is needed.*

*Copyright © 2010 Alliance of Business Immigration Lawyers. All rights reserved.*

[Back to Top](#)

---