

# IMMIGRATION INSIDER

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## Headlines:

**DHS, DOL Announce Additional 35,000 H-2B Nonagricultural Visas for Second Half of FY 2022** – The Departments of Homeland Security and Labor announced a forthcoming joint temporary final rule to make available an additional 35,000 H-2B temporary nonagricultural worker visas for the second half of FY 2022. The visas will be set aside for U.S. employers seeking to employ additional workers on or after April 1, 2022, through September 30, 2022.

**USCIS Announces 'Trio' of Backlog Relief Actions, Expansion of Premium Processing, Relief for Work Permit Holders** – USCIS announced a "trio" of efforts, including setting new agency-wide backlog reduction goals, expanding premium processing, and working to improve timely access to employment authorization documents.

**USCIS Announces FY 2023 H-1B Cap Season Updates** – USCIS released several updates related to the FY 2023 H-1B cap season.

**USCIS Again Extends Flexibilities for Responding to Certain Agency Requests** – In response to the COVID-19 pandemic, USCIS is once again extending certain flexibilities through July 25, 2022, to assist applicants, petitioners, and requestors.

**DHS Secretary Issues Statement on CDC's 'Title 42' Public Health Order Termination** – Effective May 23, 2022, the CDC will terminate its Title 42 public health order requiring the expulsion of unauthorized single adults and family units arriving at land borders to protect against the spread of the virus that causes COVID-19.

**DHS Extends Public Comment Period for Form I-9 Extension/Revisions** – The Department of Homeland Security invites public comments on its proposed extension and revisions to Form I-9, Employment Eligibility Verification, before it expires on October 31, 2022. DHS extended the comment period to May 31, 2022.

**E-Verify Records Disposal Date Extended to May 6, 2022** – USCIS will dispose of E-Verify records that are more than 10 years old, which are those dated on or before December 31, 2011. E-Verify employers have until May 5, 2022, to download case information from the Historic Records Report.

**CBP Announces Reopening of U.S. NEXUS/FAST Enrollment Centers** – The NEXUS and U.S./Canada FAST enrollment centers in the United States will reopen April 19, 2022.

**'X' Gender Marker Available on U.S. Passports Starting April 11, 2022; State Dept. Updates LGBTQI+ Traveler Advice** – Starting April 11, 2022, U.S. citizens will be able to select "X" as their gender marker on their U.S. passport applications.

**Breaking News: Putin Surprises World by Applying for Asylum in the United States** – Mr. Putin applied for asylum on April 1, 2022, based on fear of persecution as a member of a newly defined particular social group.

**Biden Administration Announces Relief Measures for Ukrainians** – President Biden announced that the United States will accept up to 100,000 Ukrainians and other displaced people fleeing the Russian invasion in Ukraine.

**DHS, DOJ Issue Interim Final Rule to 'Improve and Expedite' Asylum Claims Processing for Noncitizens Subject to Expedited Removal** – The rule authorizes asylum officers to consider the asylum applications of individuals subject to expedited removal who assert a fear of persecution or torture and pass the required credible fear screening, USCIS noted. Currently, the agency said, such cases are decided only by immigration judges.

**USCIS Updates Guidance on Qualifying Published Material and Scope of Leading or Critical Role in Extraordinary Ability and Outstanding Professor or Researcher Visa Classifications** – USCIS is updating its guidance about two evidentiary criteria relating to immigrants of extraordinary ability and one relating to outstanding professors and researchers "to more closely align with recently issued nonimmigrant guidance pertaining to O-1A nonimmigrants of extraordinary ability."

**USCIS Updates Guidance on Employment Authorization Class of Admission Codes for E and L Nonimmigrant Spouses** – USCIS announced new Class of Admission (COA) codes for certain E and L nonimmigrant dependent spouses who are employment authorized based on their status. Forms I-94 containing these code designations are acceptable as a List C, #7 Employment Authorization Document issued by the Department of Homeland Security.

**E-Verify Releases New Case Features** – Users can now close a case from the document upload page in E-Verify by providing one of several reasons. E-Verify also added a requirement to download the Further Action Notice before referring a case. E-Verify said this will ensure that users correctly process Tentative Nonconfirmation cases.

**DHS to End COVID-19 Temporary Policy for I-9 List B Documents on May 1** – The Department of Homeland Security announced that beginning May 1, 2022, it is ending the COVID-19 temporary policy for List B identity documents. As of that date, employers will no longer be able to accept expired List B documents.

**USCIS Urges Eligible Individuals to Consider Applying for Adjustment in the E-2 Category Based on April Visa Bulletin Date for Filing for India** – U.S. Citizenship and Immigration Services encourages noncitizens who have approved immigrant visa petitions in the EB-2 category chargeable to India and a priority date earlier than September 1, 2014, to consider applying for adjustment of status in April.

**State Dept. Warns About Upcoming Availability of Employment Third Preference "Other Workers" Numbers** – High number use in the employment third preference "Other Workers" (EW) category may necessitate the establishment of a worldwide final action date as early as June.

**USCIS Prepares to Resume Public Services on June 4** – U.S. Citizenship and Immigration Services announced on March 15, 2022, that it is preparing some domestic offices to reopen and resume non-emergency public services on or after June 4, 2022.

**DHS Designates Afghanistan for Temporary Protected Status** – The Department of Homeland Security announced the designation of Afghanistan for temporary protected status for 18 months, effective on the publication date of a forthcoming Federal Register notice. Only those who were already residing in the United States as of March 15, 2022, and who meet all other requirements, including undergoing security and background checks, will be eligible.

**USCIS Issues Asylum-Based EAD Update Following Decision re *Rosario* Class Action** – Those who applied for initial employment authorization documents (EADs) based on a pending asylum application may be eligible to have their EADs processed within 30 days. If certain conditions apply, USCIS said it may consider such applicants *Rosario* class members.

**USCIS Updates Guidance on Employment Authorization for E and L Nonimmigrant Spouses** – U.S. Citizenship and Immigration Services is updating guidance to address the documentation that certain E and L nonimmigrant spouses may use as evidence of employment authorization based on their nonimmigrant status.

**CBP Announces Electronic I-94 Issuance at Land Ports of Entry** – For land arrivals, CBP is no longer issuing paper forms to nonimmigrants upon arrival except in limited circumstances and upon nonimmigrant request if feasible.

**Attorney General Announces New FOIA Policy at EOIR, Other Agencies** – Among other changes, the Department of Justice's Executive Office for Immigration Review will no longer require individuals to file

Freedom of Information Act requests to obtain official copies of their own records of immigration court proceedings.

**Omnibus Spending Bill Signed; EB-5 Regional Center Program Reauthorized** – The Consolidated Appropriations Act, 2022, an omnibus spending bill passed by Congress and signed by President Biden, reauthorizes the EB-5 regional center program for five years and includes some changes.

**State Dept. Releases Info for Nationals of Ukraine, U.S. Citizens in Ukraine** – The Department of State released information on March 11, 2022, for nationals of Ukraine to "further clarify visa options and outline alternatives to visas that Ukrainians may consider."

**State Dept. Holds Passport Acceptance Fairs** – The Department of State announced that it will hold special passport acceptance fairs across the United States. Most of the events are for first-time applicants and children using Form DS-11 to apply.

**ABIL Global: United Kingdom** – The adjusted right-to-work check process has been extended until September 30, 2022.

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## **DHS, DOL Announce Additional 35,000 H-2B Nonagricultural Visas for Second Half of FY 2022**

On March 31, 2022, the Departments of Homeland Security (DHS) and Labor (DOL) announced a forthcoming joint temporary final rule to make available an additional 35,000 H-2B temporary nonagricultural worker visas for the second half of fiscal year (FY) 2022. The visas will be set aside for U.S. employers seeking to employ additional workers on or after April 1, 2022, through September 30, 2022.

The agencies said the supplemental H-2B visa allocation includes 23,500 visas available to returning workers who received an H-2B visa or were otherwise granted H-2B status during one of the last three fiscal years. The remaining 11,500 visas, which are exempt from the returning worker requirement, are reserved for nationals of Haiti, Honduras, Guatemala, and El Salvador.

The measure follows an announcement in January by DHS and DOL of the availability of 20,000 additional H-2B temporary nonagricultural worker visas for the first half of FY 2022.

### Details:

- DHS news release, Mar. 31, 2022, <https://www.uscis.gov/newsroom/all-news/dhs-and-dol-to-supplement-the-h-2b-cap-with-additional-visas-for-second-half-of-fiscal-year-2022>

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## **USCIS Announces 'Trio' of Backlog Relief Actions, Expansion of Premium Processing, Relief for Work Permit Holders**

U.S. Citizenship and Immigration Services (USCIS) announced on March 29, 2022, a "trio" of efforts, including setting new agency-wide backlog reduction goals, expanding premium processing, and working to improve timely access to employment authorization documents (EADs).

### **Reducing Backlogs**

USCIS is establishing new internal goals to guide backlog reduction efforts and case processing. As part of these efforts, USCIS plans to increase capacity, expand staffing, and improve technology by the end of FY 2023. USCIS said it expects that once these measures are in place, "applicants and petitioners will receive decisions on their cases more quickly."

### **Expanding Premium Processing**

The Department of Homeland Security announced a final rule that codifies premium processing fees and adjudication timeframes. In FY 2022, USCIS intends to begin implementing, through a phased approach, premium processing availability for Forms I-539, I-765, and I-140. USCIS said it "will also adhere to the congressional requirement that the expansion of premium processing must not cause an increase in processing times for regular immigration benefit requests."

USCIS plans to begin phased implementation by expanding premium processing eligibility to Form I-140 filers requesting EB-1 immigrant classification as a multinational executive or manager, or EB-2 immigrant classification as a member of a profession with advanced degrees or exceptional ability seeking a national interest waiver.

Under the new rule, premium processing will be available to the following categories:

- I-140 petitions for multinational managers and National Interest Waivers (NIWs). Fee: \$2,500 for adjudication within 45 days.
- I-539 applications for F-1, F-2, J-1, J-2, M-1, and M-2 will begin this fiscal year. Premium processing for E-1, E-2, E-3, L-2, H-4, O-3, P-4, or R-2 will not go into effect until FY 2025. Fee: \$1,750 for adjudication within 30 days.
- I-765 applications for Optional Practical Training and Js will begin this fiscal year. Premium processing for EADs based on adjustment of status, H-4, or L-2 filings is not available. Fee: \$1,500 for adjudication within 30 days.

## **Extending Work Authorization**

USCIS said it continues to make progress toward a temporary final rule to increase the automatic extension period of employment authorization and documentation for certain renewal applicants. USCIS said this will build on progress made in recent months in streamlining many EAD processes, including extending validity periods for certain EADs and providing expedited work authorization renewals for healthcare and childcare workers. USCIS said the goal is to ensure that certain individuals will not lose their work authorization while their applications are pending.

### Details:

- USCIS news release, Mar. 29, 2022, <https://www.uscis.gov/newsroom/news-releases/uscis-announces-new-actions-to-reduce-backlogs-expand-premium-processing-and-provide-relief-to-work>

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## **USCIS Announces FY 2023 H-1B Cap Season Updates**

U.S. Citizenship and Immigration Services (USCIS) released several updates related to the fiscal year (FY) 2023 H-1B cap season:

- USCIS has received enough electronic registrations during the initial registration period to reach the FY 2023 H-1B numerical allocations (H-1B cap), including the advanced degree exemption (master's cap). Registrants accounts will now reflect one of the following statuses for each registration: submitted, selected, denied, or invalidated-failed payment.
- FY 2023 H-1B cap petitions may be filed with USCIS starting April 1, 2022, including those petitions eligible for the advanced degree exemption, if based on a valid, selected registration.

### Details:

- USCIS FY 2023, H-1B Cap Season Updates, <https://www.uscis.gov/newsroom/alerts/fy-2023-h-1b-cap-season-updates>
- USCIS H-1B Electronic Registration Process page, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-electronic-registration-process>

- USCIS H-1B Cap Season page, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-cap-season>

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## **USCIS Again Extends Flexibilities for Responding to Certain Agency Requests**

In response to the COVID-19 pandemic, U.S. Citizenship and Immigration Services (USCIS) is once again extending certain flexibilities through July 25, 2022, to assist applicants, petitioners, and requestors. USCIS said this may be the final extension of the flexibilities. The agency will consider a response received within 60 calendar days after the due date set forth in the following requests or notices before taking any action, if the issuance date listed on the request or notice is between March 1, 2020, and July 25, 2022, inclusive:

- Requests for Evidence
- Continuations to Request Evidence (N-14)
- Notices of Intent to Deny
- Notices of Intent to Revoke
- Notices of Intent to Rescind
- Notices of Intent to Terminate regional centers
- Motions to Reopen an N-400 Pursuant to 8 CFR 335.5, Receipt of Derogatory Information After Grant

In addition, USCIS will consider a Form I-290B, Notice of Appeal or Motion, or Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings (Under Section 336 of the INA), if:

- The form was filed up to 90 calendar days from the issuance of a decision USCIS made; and
- The agency made that decision between November 1, 2021, and July 25, 2022, inclusive.

Details:

- USCIS alert, Mar. 30, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-extends-flexibility-for-responding-to-agency-requests-1>

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## **DHS Secretary Issues Statement on CDC's 'Title 42' Public Health Order Termination**

Department of Homeland Security Secretary Alejandro Mayorkas released a statement on April 1, 2022, in response to the Centers for Disease Control and Prevention's (CDC) determination that effective May 23, 2022, it will terminate its Title 42 public health order requiring the expulsion of unauthorized single adults and family units arriving at land borders to protect against the spread of the virus that causes COVID-19.

According to reports, a migrant surge is possible once Title 42 is lifted, and misinformation is a possibility. "Title 42 remains in place until May 23 and, until then, DHS will continue to expel single adults and families encountered at the southwest border," he warned. Once the Title 42 order is no longer in place, he said, DHS will process individuals encountered at the border "pursuant to Title 8, which is the standard procedure we use to place individuals in removal proceedings. Nonetheless, we know that smugglers will spread misinformation to take

advantage of vulnerable migrants. Let me be clear: those unable to establish a legal basis to remain in the United States will be removed."

Secretary Mayorkas said DHS is increasing its capacity to process new arrivals, evaluate asylum requests, and quickly remove those who do not qualify. DHS will increase personnel and resources as needed and has redeployed more than 600 law enforcement officers to the southwest border, he said. The CDC said, "With CDC's assistance and guidance, DHS has and will implement additional COVID-19 mitigation procedures." CDC said that the termination "will be implemented on May 23, 2022, to enable DHS time to implement appropriate COVID-19 mitigation protocols, such as scaling up a program to provide COVID-19 vaccinations to migrants and prepare for resumption of regular migration under Title 8."

Details:

- "Statement by Secretary Mayorkas on CDC's Title 42 Order Termination," Apr. 1, 2022, <https://www.dhs.gov/news/2022/04/01/statement-secretary-mayorkas-cdcs-title-42-order-termination>
- "CDC Public Health Determination and Termination of Title 42 Order," Media Statement, Apr. 1, 2022, <https://www.cdc.gov/media/releases/2022/s0401-title-42.html>

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### **DHS Extends Public Comment Period for Form I-9 Extension/Revisions**

The Department of Homeland Security (DHS) invites public comments on its proposed extension and revisions to Form I-9, Employment Eligibility Verification, before it expires on October 31, 2022. DHS extended the comment period to May 31, 2022.

Details:

- Federal Register notice, 87 Fed. Reg. 18377 (Mar. 30, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-03-30/pdf/2022-06687.pdf>

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### **E-Verify Records Disposal Date Extended to May 6, 2022**

U.S. Citizenship and Immigration Services (USCIS) announced on April 1, 2022, that it will dispose of E-Verify records that are more than 10 years old, which are those dated on or before December 31, 2011. E-Verify employers have until May 5, 2022, to download case information from the Historic Records Report, USCIS said.

Employers must record the E-Verify case verification number on the corresponding Form I-9 Employment Eligibility Verification, or attach a copy of the case details page to the Form I-9. Employers should retain the Historic Records Report with the Forms I-9, the agency said.

Details:

- E-Verify announcement, Apr. 1, 2022, <https://bit.ly/3qXb7gG>
- "E-Verify Records Retention and Disposal," USCIS Fact Sheet, Jan. 20, 2021, <https://www.e-verify.gov/sites/default/files/everify/factsheets/E-VerifyNARAFactSheet.pdf>



- "Instructions to Download Historic Records Reports in E-Verify," USCIS, <https://www.e-verify.gov/sites/default/files/everify/infosheets/DownloadNARAREportsinE-Verify.pdf>

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## **CBP Announces Reopening of U.S. NEXUS/FAST Enrollment Centers**

U.S. Customs and Border Protection (CBP) announced on March 31, 2022, that the NEXUS and U.S./Canada FAST enrollment centers in the United States will reopen April 19, 2022. NEXUS allows expedited clearance for pre-approved, low-risk Canadian travelers upon arrival in the United States, and FAST allows expedited clearance into the United States for pre-approved, low-risk commercial drivers from Mexico and Canada.

Starting April 5, 2022, conditionally approved applicants may schedule interviews at U.S. NEXUS and U.S./Canada FAST enrollment centers in the United States on the Trusted Traveler portal. NEXUS and FAST enrollment centers in Canada remain closed until further notice. Applicants may enter the United States to complete their interview, but must meet all applicable travel requirements, CBP said.

CBP noted that there is a backlog of applications to be processed by a limited number of open enrollment centers.

### Details:

- CBP release, Mar. 31, 2022, <https://www.cbp.gov/newsroom/national-media-release/cbp-announces-reopening-us-nexusfast-enrollment-centers>
- Trusted Traveler portal, <https://ttp.dhs.gov/>
- "Fact Sheet: Guidance for Travelers to Enter the U.S. at Land Ports of Entry and Ferry Terminals," Dept. of Homeland Security, <https://www.dhs.gov/news/2021/10/29/fact-sheet-guidance-travelers-enter-us-land-ports-entry-and-ferry-terminals>

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## **'X' Gender Marker Available on U.S. Passports Starting April 11, 2022; State Dept. Updates LGBTQI+ Traveler Advice**

Starting April 11, 2022, U.S. citizens will be able to select "X" as their gender marker on their U.S. passport applications. The option will become available for other forms of documentation next year, Secretary of State Antony Blinken said in a statement released March 31, 2022.

Secretary Blinken said the Department of State (DOS) "is setting a precedent as the first federal government agency to offer the X gender marker on an identity document." In addition to male and female, the third gender marker is intended for "nonbinary, intersex, and gender nonconforming individuals"—"unspecified or another gender identity," he said.

DOS has also updated its advice for LGBTQI+ travelers.

### Details:

- Dept. of State release, Mar. 31, 2022, <https://www.state.gov/x-gender-marker-available-on-u-s-passports-starting-april-11/>



- Dept. of State advice for LGBTQI+ travelers, <https://travel.state.gov/content/travel/en/international-travel/before-you-go/travelers-with-special-considerations/lgbtqi.html>

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## Breaking News: Putin Surprises World by Applying for Asylum in the United States

In a stunning development after reports that Russian President Vladimir Putin was "self-isolating" with little communication in recent days, he surfaced at the U.S.-Mexico border and announced on April 1, 2022, that he has applied for asylum in the United States.

In a wide-ranging "60 Minutes" interview, Mr. Putin said:

People may be surprised to hear news. But when people say I am liar, they are not kidding. Was lying for years about my hatred of West, and especially of United States. Is all gaslighting. Really I love you guys and am jealous. I want America to be my forever home. My bad reputation bugs me. I tire of sneering and smirking and poisoning my way through life. I suffer from existential dread. I live in prison of my own making. My dead eyes reveal my despair. My advisers all hate me. I ask you: Do I look happy? Incident in Ukraine is blown out of proportion. Is all big misunderstanding, but meanwhile I'm not safe. My prospects in Russia are dim. So I now apply for asylum in USA, surprise! Your worst nightmare now begs for your mercy!

Reaction was swift. President Biden, seeming to speak for many world leaders, said, "I am gobsmacked. No, I mean it. No joke, folks!" A European Union spokesperson said, "Well, thank goodness all of that unpleasantness is finally over! Pass the moscato." When asked, the U.S. Department of Justice would only say that the Attorney General is handling Mr. Putin's case "with rubber gloves." In the unlikely event that Mr. Putin is granted U.S. asylum, it is unclear where the unpopular tyrant would be able to live. Rumors are that Madame Tussauds Wax Museum has an opening for a despised mannequin.

Mr. Putin has applied for asylum based on fear of persecution as a member of a newly defined particular social group, "dictators in imminent danger of being toppled in a situation of their own making due to escalating insane, brutal, murderous, and repressive behavior with little or no attention paid to logistics." Dr. Hedwig Bierhals, a professor of history and an expert on dictatorial downfalls at the University of Snicketshire, said Mr. Putin's asylum claim was unique and unprecedented. "It'll be an interesting one to watch," she told the Daily Blabber. "We'll see if he can make a case for it. It's historic, regardless of the outcome. Perhaps Kim Jong-un will be next."

Mr. Putin will be representing himself. According to reports, many attorneys who were approached to represent him scattered like roaches in sunlight. One attorney, who wishes to remain anonymous, said from his undisclosed location, "I wouldn't defend Mr. Putin's *borscht*, let alone represent him in an asylum case." Responding to rumors that Rudy Giuliani was being considered, a spokesperson said he was out of town kissing Mr. Putin's assets and was unavailable for comment.

Mr. Putin had a final remark: "See how I tell you West is gullible and weak. This whole thing is one more gaslight. In reality, I hold you all in utter contempt. You are as insects and tiniest bugs I will crush under my imperial feet. Asylum, I spit on you! Make Russia Great Again! And one more thing: How do you say it? 'Happy Fools of the April Day!' "

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## **Biden Administration Announces Relief Measures for Ukrainians**

On March 24, 2022, President Biden announced that the United States will accept up to 100,000 Ukrainians and other displaced people fleeing the Russian invasion in Ukraine, in addition to providing an additional \$1 billion in humanitarian aid. "This is not something that Poland or Romania or Germany should carry on their own. This is an international responsibility," he said.

U.S. officials acknowledged that many displaced Ukrainians will want to remain in Europe, closer to their homes and family members, but some may need to find refuge elsewhere. A Biden administration official told reporters traveling with President Biden on March 24, 2022, that admissions of Ukrainians into the United States will be accomplished through a combination of refugee admissions, parole, and immigrant and nonimmigrant visas, with a focus on Ukrainians with family members in the United States. The official said that the United States will prioritize vulnerable people, including those with medical needs, journalists, dissidents, and LGBTQI.

The new measures are in addition to temporary protected status (TPS), for which Ukraine has been designated for 18 months. Individuals eligible for TPS under the Ukraine designation must have continuously resided in the United States since March 1, 2022. Up to an estimated 75,000 Ukrainians in the United States could be eligible for TPS.

According to reports, the Biden administration still struggles with processing issues, including for tens of thousands of Afghans evacuated following the U.S. military withdrawal from Afghanistan, along with other immigration and refugee-related backlogs. Although about 75,000 Afghans have entered the United States via humanitarian parole, many others wait overseas in U.S.-run centers for their cases to be processed.

### Details:

- "The U.S. Will Take In Up to 100,000 Ukrainian Refugees Fleeing the War," National Public Radio, Mar. 24, 2022, <https://www.npr.org/2022/03/24/1088506487/us-ukraine-refugees>
- "United States Will Welcome Up to 100,000 Ukrainian Refugees," New York Times, Mar. 24, 2022, <https://www.nytimes.com/2022/03/24/us/ukrainian-refugees-biden.html>
- Remarks by President Biden, Mar. 24, 2022, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/03/24/remarks-by-president-biden-in-press-conference-7/>
- USCIS news release (Ukrainian TPS), Mar. 3, 2022, <https://www.uscis.gov/newsroom/news-releases/secretary-mayorkas-designates-ukraine-for-temporary-protected-status-for-18-months>

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## **DHS, DOJ Issue Interim Final Rule to 'Improve and Expedite' Asylum Claims Processing for Noncitizens Subject to Expedited Removal**

On March 24, 2022, the Departments of Homeland Security and Justice announced an interim final rule to "improve and expedite processing of asylum claims made by noncitizens subject to expedited removal, ensuring that those who are eligible for asylum are granted relief quickly, and those who are not are promptly removed."

The rule authorizes asylum officers to consider the asylum applications of individuals subject to expedited removal who assert a fear of persecution or torture and pass the required credible fear screening, USCIS noted. Currently, the agency said, such cases are decided only by immigration judges.

Due to existing court backlogs, USCIS said, the process for hearing and deciding these asylum cases takes several years on average. "When fully implemented, the reforms and new efficiencies will shorten the process to several months for most asylum applicants covered by this rule," the agency said.

Advocates expressed concerns that asylum seekers whose cases are denied could be hindered in obtaining legal representation. Jennifer Ibañez Whitlock, an immigration attorney and policy counsel for the American Immigration Lawyers Association (AILA), said, "If somebody is not approved in the first instance, they're going to be required to go through a pretty fast process to appeal. I firmly believe it's going to affect people's ability to get a lawyer." In a statement released on March 24, 2022, AILA said that while the rule includes some positive changes, the organization is "gravely concerned about the tight deadlines and rapid scheduling of hearings which will curtail due process and interfere with the ability to obtain legal representation. Missing from the announcement is any reference to legal orientation, funded legal representation, or even basic know-your-rights presentations for individuals placed through these hearings or language access plans."

The interim final rule modifies a notice of proposed rulemaking (NPRM) in response to public comments received following the NPRM issued by the two departments in August 2021. The rule will take effect 60 days after publication in the Federal Register, which is expected to occur on March 29, 2022. The departments said they encourage further public comment on the rule during the 60-day comment period.

#### Details:

- "DHS and DOJ Issue Rule to Efficiently and Fairly Process Asylum Claims," USCIS, Mar. 24, 2022, <https://www.uscis.gov/newsroom/news-releases/dhs-and-doj-issue-rule-to-efficiently-and-fairly-process-asylum-claims>
- "New Process for Asylum Cases at the Border Unveiled by Biden Administration," Louisiana Illuminator, Mar. 24, 2022, <https://lailluminator.com/2022/03/24/new-process-for-asylum-cases-at-the-border-unveiled-by-biden-administration/>
- "Asylum Changes from the Biden Administration Will Not Ensure Due Process as Required by U.S. Asylum Law," AILA, Mar. 24, 2022, <https://www.aila.org/advo-media/press-releases/2022/asylum-changes-from-the-biden-administration>
- "Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers" (advance copy), Dept. of Homeland Security, <https://public-inspection.federalregister.gov/2022-06148.pdf>

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#### **USCIS Updates Guidance on Qualifying Published Material and Scope of Leading or Critical Role in Extraordinary Ability and Outstanding Professor or Researcher Visa Classifications**

U.S. Citizenship and Immigration Services (USCIS) announced on March 23, 2022, that it has updated its policy manual, effective immediately, to align existing guidance on certain first preference immigrants with a recent manual update relating to nonimmigrants of extraordinary

ability. Specifically, USCIS is updating its guidance about two evidentiary criteria relating to immigrants of extraordinary ability and one relating to outstanding professors and researchers "to more closely align with recently issued nonimmigrant guidance pertaining to O-1A nonimmigrants of extraordinary ability," the agency said.

The updated guidance clarifies that:

- For the extraordinary ability and outstanding professor or researcher classifications, "published material" about the person (or the person's work in the case of an outstanding professor or researcher) in professional or major trade publications or other major media need not be a printed article; rather, a petitioner may submit more varied forms of evidence including a transcript of audio or video coverage.
- In the extraordinary ability classification, a person may satisfy the leading or critical role criterion through a qualifying role for a distinguished department or division in addition to an entire organization or establishment.

Details:

- "Qualifying Published Material and Scope of Leading or Critical Role in Extraordinary Ability and Outstanding Professor or Researcher Visa Classifications," USCIS Policy Alert, Mar. 23, 2022, <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220323-ExtraordinaryAbility.pdf>

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## **USCIS Updates Guidance on Employment Authorization Class of Admission Codes for E and L Nonimmigrant Spouses**

Following an announcement by U.S. Citizenship and Immigration Services (USCIS) on March 18, 2022, that it is updating guidance to address the documentation that certain E and L nonimmigrant spouses may use as evidence of employment authorization based on their nonimmigrant status, the agency announced on March 24, 2022, that as of January 30, 2022, USCIS and U.S. Customs and Border Protection began issuing Form I-94, Arrival-Departure records, with new Class of Admission (COA) codes for certain E and L nonimmigrant dependent spouses who are employment authorized based on their status.

USCIS said the COA designations for E nonimmigrant spouses are E-1S, E-2S, E-3S, and L-2S for nonimmigrant L spouses. Forms I-94 containing these code designations are acceptable as a List C, #7 Employment Authorization Document issued by the Department of Homeland Security, USCIS said.

Details:

- "Documentation of Employment Authorization for Certain E and L Nonimmigrant Dependent Spouses," USCIS, Mar. 24, 2022, <https://www.uscis.gov/i-9-central/covid-19-form-i-9-related-news/documentation-of-employment-authorization-for-certain-e-and-l-nonimmigrant-dependent-spouses>
- USCIS policy alert, Mar. 18, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-updates-guidance-on-employment-authorization-for-e-and-l-nonimmigrant-spouses>

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## **E-Verify Releases New Case Features**

E-Verify announced in an email sent March 21, 2022, that users can now close a case from the document upload page in E-Verify by providing one of the following reasons:

- The information entered was not correct;
- The employee voluntarily quit working for the employer; or
- Other (full explanation required in text box).

E-Verify also added a requirement to download the Further Action Notice before referring a case. E-Verify said this will ensure that users correctly process Tentative Nonconfirmation cases.

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## **DHS to End COVID-19 Temporary Policy for I-9 List B Documents on May 1**

The Department of Homeland Security (DHS) announced that beginning May 1, 2022, it is ending the COVID-19 temporary policy for List B identity documents. As of that date, employers will no longer be able to accept expired List B documents.

If an employee presented an expired List B document between May 1, 2020, and April 30, 2022, employers must update their I-9 employment authorization verification forms by July 31, 2022. DHS provided the following table with details:

<b>If the employee's Form I-9 was completed between May 1, 2020 and April 30, 2022 with an expired List B document and that document expired on or after March 1, 2020, and the employee:</b>	<b>Then:</b>
Is still employed.	<ul style="list-style-type: none"> <li>Have the employee provide an unexpired document that establishes identity. Employees may present the renewed <u>List B</u> document, a different List B document or a document from <u>List A</u>.</li> <li>In the "Additional Information" field of Section 2, the employer enters the document: <ul style="list-style-type: none"> <li>Title;</li> <li>Issuing authority;</li> <li>Number; and</li> <li>Expiration date.</li> </ul> </li> <li>The employer initials and dates the change. <u>See Form I-9 example</u>.</li> </ul>
Is no longer employed.	No action is required.
The List B document was auto extended by the issuing authority, so it was unexpired when presented.	No action is required because the document was unexpired when presented.

#### Details:

- E-Verify notice, Mar. 17, 2022, <https://www.e-verify.gov/about-e-verify/whats-new/dhs-to-end-covid-19-temporary-policy-for-expired-list-b-identity-documents>

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### **USCIS Urges Eligible Individuals to Consider Applying for Adjustment in the E-2 Category Based on April Visa Bulletin Date for Filing for India**

The Department of State's Visa Bulletin for April 2022 advances the date for filing applications for an immigrant visa or adjustment of status in the EB-2 category for India from September 1, 2013, to September 1, 2014. U.S. Citizenship and Immigration Services (USCIS) encourages noncitizens who have approved immigrant visa petitions in the EB-2 category chargeable to India and a priority date earlier than September 1, 2014, to consider applying for adjustment of status in April.

USCIS noted that applicants should include Form I-693, Report of Medical Examination and Vaccination Record, with Form I-485, Application to Register Permanent Residence or Adjust

Status, to save time. Concurrently filing these two forms is not required, "but filing both forms at the same time may eliminate the need for USCIS to issue a Request for Evidence to obtain your Form I-693. This may also help avoid adjudication delays if we decide that you do not need to be interviewed," USCIS said.

USCIS continues to encourage eligible applicants to consider requesting to transfer the underlying basis of their pending adjustment of status applications in the EB-3 category to the EB-1 or EB-2 category if they meet the following criteria: a visa is unavailable to them in the EB-3 category; they have a pending or approved I-140, Immigrant Petition for Alien Workers; and a visa is available in the EB-1 or EB-2 category.

Details:

- USCIS alert, Mar. 17, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-urges-eligible-individuals-to-consider-applying-for-adjustment-of-status-in-the-eb-2-category>
- Visa Bulletin for April 2022, Dept. of State, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2022/visa-bulletin-for-april-2022.html>

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### **State Dept. Warns About Upcoming Availability of Employment Third Preference "Other Workers" Numbers**

The Department of State (DOS) notes in its Visa Bulletin for April 2022 that high number use in the employment third preference "Other Workers" (EW) category may necessitate the establishment of a worldwide final action date as early as June to hold number use within the maximum allowed under the fiscal year 2022 annual limit. "This situation will be continually monitored, and any necessary adjustments will be made accordingly," DOS said.

Details:

- Visa Bulletin for April 2022, Dept. of State, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2022/visa-bulletin-for-april-2022.html>

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### **USCIS Prepares to Resume Public Services on June 4**

U.S. Citizenship and Immigration Services (USCIS) announced on March 15, 2022, that it is preparing some domestic offices to reopen and resume non-emergency public services on or after June 4, 2022. USCIS said it is following the Centers for Disease Control and Prevention's guidelines.

While certain offices are temporarily closed, USCIS continues to provide limited emergency in-person services. As services begin to reopen, offices will reduce the number of appointments and interviews "to ensure social distancing, allow time for cleaning and reduce waiting room occupancy." USCIS said, "If you are feeling sick, please do not go to your appointment. Follow the instructions on your appointment notice to reschedule your appointment for when you are healthy. There is no penalty for rescheduling your appointment if you are sick."



Details:

- USCIS alert, Mar. 15, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-preparing-to-resume-public-services-on-june-4>

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### **DHS Designates Afghanistan for Temporary Protected Status**

On March 16, 2022, the Department of Homeland Security (DHS) announced the designation of Afghanistan for temporary protected status (TPS) for 18 months, effective on the publication date of a forthcoming Federal Register notice. Only those who were already residing in the United States as of March 15, 2022, and who meet all other requirements, including undergoing security and background checks, will be eligible for TPS. Under the designation, TPS will also provide "additional protections and assurances to trusted partners and vulnerable Afghans who supported the U.S. military, diplomatic, and humanitarian missions in Afghanistan over the last 20 years," DHS Secretary Alejandro Mayorkas said.

Through Operation Allies Welcome, DHS said, most Afghan nationals who arrived as part of the evacuation effort were paroled into the United States on a case-by-case basis, for humanitarian reasons, for a period of two years and received work authorization. These individuals may also be eligible for TPS, the agency noted.

Details:

- DHS press release, Mar. 16, 2022, <https://www.dhs.gov/news/2022/03/16/secretary-mayorkas-designates-afghanistan-temporary-protected-status>

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### **USCIS Issues Asylum-Based EAD Update Following Decision re *Rosario* Class Action**

U.S. Citizenship and Immigration Services (USCIS) announced on March 17, 2022, that those who applied for initial employment authorization documents (EADs) based on a pending asylum application may be eligible to have their EADs processed within 30 days, based on a February 7, 2022, court decision in *Asylumworks v. Mayorkas*. If certain conditions apply, USCIS said it may consider such applicants *Rosario* class members (referring to *Rosario v. USCIS*, 365 F. Supp. 3d 1156 (W.D. Wash. 2018)).

Details:

- USCIS notice, <https://www.uscis.gov/laws-and-policy/other-resources/class-action-settlement-notices-and-agreements/rosario-class-action>

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### **USCIS Updates Guidance on Employment Authorization for E and L Nonimmigrant Spouses**

U.S. Citizenship and Immigration Services (USCIS) announced on March 18, 2022, that it is updating guidance to address the documentation that certain E and L nonimmigrant spouses may use as evidence of employment authorization based on their nonimmigrant status. USCIS noted:

- On November 12, 2021, USCIS issued a policy announcement to clarify that it would consider E and L spouses to be employment-authorized based on their valid E or L nonimmigrant status. Since the November 2021 announcement, the Department of Homeland Security added new Class of Admission (COA) codes to distinguish between E and L spouses and children.
- As of January 30, 2022, USCIS and U.S. Customs and Border Protection (CBP) began issuing Forms I-94 with the following new COA codes for certain E and L spouses: E-1S, E-2S, E-3S, and L-2S. An unexpired Form I-94 reflecting one of these new codes is acceptable as evidence of employment authorization for spouses under List C of Form I-9.
- An E or L spouse age 21 or over who has an unexpired Form I-94 that USCIS issued before January 30, 2022, will receive a notice from USCIS beginning on or about April 1, 2022. This notice, along with an unexpired Form I-94 reflecting E-1, E-2, E-3, E-3D, E-3R, or L-2 nonimmigrant status, will serve as evidence of employment authorization. An E or L spouse who is under 21, or has not received the notice by April 30, can email [E-L-married-U21@uscis.dhs.gov](mailto:E-L-married-U21@uscis.dhs.gov) to request a notice.
- USCIS will only send notices to individuals identified as qualifying spouses based on a Form I-539 approved by USCIS. Individuals who received their Form I-94 from CBP should visit [www.cbp.gov](http://www.cbp.gov).

#### Details:

- USCIS alert, Mar. 18, 2022, <https://www.uscis.gov/newsroom/alerts/uscis-updates-guidance-on-employment-authorization-for-e-and-l-nonimmigrant-spouses>

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### **CBP Announces Electronic I-94 Issuance at Land Ports of Entry**

U.S. Customs and Border Protection (CBP) is now issuing the Form I-94 (Arrival/Departure Record) electronically at land ports of entry. The Form I-94 documents nonimmigrants' status in the United States, the approved length of stay, and departure information.

CBP has automated the Form I-94 process for most nonimmigrants arriving by air and sea. However, CBP previously issued paper Form I-94s to nonimmigrants arriving by land. For land arrivals, CBP is no longer issuing paper forms to nonimmigrants upon arrival except in limited circumstances and upon nonimmigrant request if feasible, CBP said, noting that nonimmigrants can access the Form I-94 online or via mobile application.

#### Details:

- CBP notice, 87 Fed. Reg. 15446 (Mar. 18, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-03-18/pdf/2022-05758.pdf>

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### **Attorney General Announces New FOIA Policy at EOIR, Other Agencies**

As part of efforts to strengthen public access to government documents, Attorney General Merrick Garland announced in a memorandum that the Department of Justice's Executive Office for Immigration Review (EOIR) will no longer require individuals to file Freedom of Information

Act (FOIA) requests to obtain official copies of their own records of immigration court proceedings.

Attorney General Garland said he encourages all agencies "to examine whether they have similar or other categories of records that they could make more readily accessible without requiring individuals to file FOIA requests." In addition, he said that records should be posted online "quickly and systematically, agency FOIA websites should be easily navigable, and records should be presented in the most useful, searchable, and open formats possible." The memo also calls for efficiency and timeliness in responding to FOIA requests "in a spirit of cooperation," and calls on agency heads to review backlogs and provide training on FOIA. In general, the memo notes nine exemptions from fulfilling a FOIA request (e.g., national security, personal privacy, privileged records, law enforcement interests, and others) but notes that the burden is on the agency to sustain a decision to withhold records, and that agencies may not withhold information "based merely on speculative or abstract fears or fears of embarrassment."

The memo notes that FOIA.gov continues to serve as the federal government's central website for FOIA administration.

#### Details:

- "Attorney General Merrick B. Garland Issues New FOIA Guidelines to Favor Disclosure and Transparency," Dept. of Justice, Mar. 15, 2022, <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-issues-new-foia-guidelines-favor-disclosure-and>

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### **Omnibus Spending Bill Signed; EB-5 Regional Center Program Reauthorized**

The Consolidated Appropriations Act, 2022, an omnibus spending bill passed by Congress and signed by President Biden, reauthorizes the EB-5 regional center program for five years, among other things. The bill includes some changes to the program. Selected highlights are below:

- The EB-5 regional center program is reauthorized until September 30, 2027.
- For targeted employment areas (TEAs) or infrastructure projects, the investment will increase to \$800,000. For other projects, the required investment is \$1,050,000. Existing investors' petitions will be grandfathered under existing rules. TEA letters are valid for two years.
- As long as an EB-5 petition is filed by September 30, 2026, U.S. Citizenship and Immigration Services (USCIS) must continue to process it even if the program lapses in the future.
- Immigrant investor petitions can include concurrent adjustment of status filings.
- Projects can be changed if a regional center or new commercial enterprise is terminated.
- USCIS will audit regional centers at least every five years.
- Third-party agent fees and involvement must be disclosed.

The bill also reauthorizes the Violence Against Women Act. It does not include visa recapture provisions.

### Details:

- "Investor Immigrants Greet Imminent Revival of the EB-5 Program," Forbes, Mar. 9, 2022, <https://www.forbes.com/sites/andysemotiuk/2022/03/09/investor-immigrants-greet-imminent-revival-of-the-eb-5-program/?sh=7223bbff7436>
- Consolidated Appropriations Act, 2022, Congress.gov, <https://www.congress.gov/bill/117th-congress/house-bill/2471?r=7&s=1>
- "Violence Against Women Act Renewed as Part of Omnibus Spending Package," The Hill, Mar. 9, 2022, <https://thehill.com/policy/finance/597473-violence-against-women-act-renewed-as-part-of-omnibus-spending-package>
- "Green Card Backlog Fix Dropped From Lawmakers' Budget Deal," Bloomberg Government, Mar. 9, 2022, <https://about.bgov.com/news/green-card-backlog-fix-in-doubt-as-lawmakers-prep-spending-deal/>
- "Biden Signs Spending Bill That Includes \$13.6 Billion in Ukraine Aid," CBS News, Mar. 11, 2022, <https://www.cbsnews.com/news/ukraine-aid-biden-signs-omnibus-bill/>

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### **State Dept. Releases Info for Nationals of Ukraine, U.S. Citizens in Ukraine**

The Department of State (DOS) released information on March 11, 2022, for nationals of Ukraine to "further clarify visa options and outline alternatives to visas that Ukrainians may consider." DOS noted that "a visa is not a viable way to achieve refugee resettlement in the United States." DOS also recently released information for U.S. citizens in Ukraine. Highlights are below:

- Among other things, certain persons from Ukraine can travel to the United States without a pre-departure COVID-19 test until April 1, 2022, under a national interest exception.
- Humanitarian parole allows a person who may be inadmissible or otherwise ineligible for admission to be in the United States temporarily for urgent humanitarian reasons or significant public benefit. "It is not meant to replace a visa process," DOS said. Those wishing to apply should contact [USCIS](#).
- Almost all refugee cases in countries abroad are processed by local authorities or the United Nations Refugee Agency (UNHCR). "Ukrainians should not attempt to apply for visas in order to travel to the United States as refugees. Instead, they should contact local authorities or [UNHCR](#) for refugee processing," DOS said. [USAID](#) also has information for Ukrainian refugees.
- DOS said that the International Organization for Migration (IOM)'s Resettlement Support Center (RSC) Eurasia is continuing limited operations from Kyiv and from the sub-office in Chisinau, Moldova. At present, RSC Eurasia is not conducting any in-person activities or scheduling any departures from Kyiv. The sub-office in Chisinau can arrange departures for approved Ukrainian Lautenberg applicants who have completed all U.S. Refugee Admissions Program (USRAP) processing requirements and are physically outside of Ukraine, DOS said.
- U.S. citizens seeking to leave Ukraine can call 1-833-741-2777 (in the United States) or 1-606-260-4379 (from overseas) for immediate assistance. An online form is at <https://cacms.state.gov/s/crisis-intake>

#### Details:

- "Information for Nationals of Ukraine," Dept. of State, Mar. 11, 2022, <https://travel.state.gov/content/travel/en/News/visas-news/information-for-nationals-of-Ukraine.html>
- "Information for U.S. Citizens in Ukraine," which includes border-crossing advice, <https://bit.ly/3pG4mil>

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### **State Dept. Holds Passport Acceptance Fairs**

The Department of State (DOS) announced on March 9, 2022, that it will hold special passport acceptance fairs across the United States. Most of the events are for first-time applicants and children using Form DS-11 to apply. Those eligible for renewal should renew by mail, DOS said.

Those applying for routine service can expect to receive a passport in 8 to 11 weeks, DOS said. Those who need their passports in the next 5 to 7 weeks can pay an additional \$60 fee to expedite processing. Acceptance facilities do not offer appointments for urgent travel in less than 5 weeks.

The March fairs were held in various locations in California, Georgia, Florida, New Jersey, and Texas. The April fairs will be held in several locations in California. DOS said that new events are added weekly.

#### Details:

- "Special Passport Acceptance Fairs," Dept. of State, Mar. 9, 2022, <https://travel.state.gov/content/travel/en/News/passports/special-passport-acceptance-fairs.html>

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### **ABIL Global: United Kingdom**

*The adjusted right-to-work check process has been extended until September 30, 2022.*

The COVID-19 pandemic-related video call temporary adjusted right-to-work check process was scheduled to end on April 5, 2022. However, in a welcome development, it has been extended until September 30, 2022. This means that employers can continue to use the adjusted process to check copies of right-to-work documents over a video call.

The extension is mainly to give employers more time to become comfortable with the new digital Identification Document Validation Technology (IDVT) checking process for British and Irish citizens due to launch on April 6, 2022. This means that employers who do not wish to start using the new IDVT process now will benefit longer from the adjusted process for checking British and Irish citizen employees. Beginning October 1, 2022, if they wish, employers will still be able to check original documents from British and Irish citizens without using the IDVT.

Beginning April 6, 2022, employers must perform an online check if the person has a biometric residence permit. It will not be possible to carry out an original document (manual) check or an adjusted check (over video) if the person has a biometric residence permit.

#### Details:

- Right-to-Work Checks: What Employers Need to Know, Kingsley-Napley, <https://www.kingsleynapley.co.uk/services/department/immigration/slp/right-to-work-checks>
- Right-to-Work Checks: An Employer's Guide, UK Home Office, <https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>

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### New Publications and Items of Interest

USCIS fact sheet on efforts to assist Ukrainian nationals. USCIS has released a fact sheet, "DHS Efforts to Assist Ukrainian Nationals." The fact sheet includes information on legal pathways for eligible Ukrainians, temporary protected status, asylum, the U.S. Refugee Admissions Program, humanitarian parole, and special situations and expedited processing. <https://bit.ly/3DC0K76>

OFLC presentation materials. The Department of Labor's Office of Foreign Labor Certification hosted webinars in March for stakeholders in the CW-1 Temporary Certification program and for stakeholders interested in H-2B prevailing wages and surveys. Webinar recordings and presentation materials are available as indicated below:

- March 22, 2022: CW-1 Common Issues and Filing Tips  
See "Webinar" on the CW-1 Program page at <https://www.dol.gov/agencies/eta/foreign-labor/programs/cw-1>
- March 23, 2022: H-2B Prevailing Wage Determination General Filing Tips and Survey 101 for Surveyors  
See "Webinar" on the Prevailing Wage Information and Resources page at <https://www.dol.gov/agencies/eta/foreign-labor/wages>

Resources for assisting Afghan clients. The American Immigration Lawyers Association's webpage, "Find Resources for Assisting Afghan Clients," provides a list of resources and links to information related to relief for Afghans, such as temporary protected status, asylum and refugee status, special immigrant visas, diversity visas, the proposed Afghan Adjustment Act, and employment authorization documents, along with practice information for immigration attorneys. <https://www.aila.org/advo-media/issues/all/resources-assisting-afghan-clients>

E-Verify will no longer support Internet Explorer 11. E-Verify announced that it will no longer support the Internet Explorer 11 web browser as of April 30, 2022. Users can access E-Verify using Apple Safari, Google Chrome, Microsoft Edge, and Mozilla Firefox. <https://www.e-verify.gov/about-e-verify/whats-new>

#### Agency Twitter accounts:

- EOIR: @DOJ\_EOIR
- ICE: @ICEgov
- Study in the States: @StudyinStates
- USCIS: @USCIS

Immigrant and employee rights webinars. The Department of Justice's Immigrant and Employee Rights Section (IER), of the Civil Rights Division, is offering a number of free webinars for workers, employers, and advocates. For more information, see <https://www.justice.gov/crt/webinars>.



E-Verify webinar schedule. E-Verify has released its calendar of webinars at [https://www.e-verify.gov/calendar-field\\_date\\_and\\_time/month](https://www.e-verify.gov/calendar-field_date_and_time/month).

Alliance of Business Immigration Lawyers:

- ABIL is available on Twitter: @ABILImmigration
- Recent ABIL member blogs are at <http://www.abilblog.com/>

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## ABIL Member/Firm News

**Klasko Immigration Law Partners, LLP**, published a new blog post: "FAQs for Temporary Protected Status (TPS) for Ukraine." <https://bit.ly/36tjTLM>

**Robert Loughran** (bio: <http://www.abil.com/lawyers/lawyers-loughran.cfm>) announced:

- **Foster** partners **Avalyn Langemeier**, **Layla Panjwani**, and **Sandra Dorsthorst**, and guest speaker **Cindy Ellis**, program specialist at the Texas Primary Care Office, presented for a Foster webinar, "Immigration Options for J-1s, Physicians & Researchers," on March 23, 2022. The webinar covered how J-1 exchange visitors and foreign national residents, physicians, and researchers can navigate the various immigration options available to them.  
<https://attendee.gotowebinar.com/register/8568147091005058827>
- **Charles Foster** spoke on a panel, "Locally and Nationally: Where We Have Been, Where Are We Today?," at the Moving Forward: Challenging Racism Conference at the Holocaust Museum Houston on February 26, 2022.
- **Mr. Foster** gave opening remarks as Honorary Chair of the 2022 Born Global Summit at the University of Houston-Downtown Auditorium and online at the Tech Rodeo platform on March 4, 2022.
- **Mr. Foster** spoke on immigration policy at a luncheon for the Bay Area Rotary Club on March 7, 2022.
- Foster partner **Oxana Bowman** and attorney **Diana Dominguez** discussed immigration strategies and planning for online businesses in a webinar, "Immigration Planning and Strategies with Foster," hosted by the Texas French American Chamber of Commerce on March 9, 2022.

**Cyrus D. Mehta & Partners PLLC**, has published several new blog posts: "Immigration Relief for Ukrainian Refugees: What the United States Is Currently Offering," "Using U.S. Immigration Law to Undermine Putin," "Some Highlights of the EB-5 Reauthorization: CSPA Protection and How 245(k) and Concurrent Filing Combine to Create a New Option for Some Applicants Who Have Recently Dropped Out of Status," "USCIS Contact Center is More a Source of Frustration Than Assistance," "In Addition to Granting TPS to Ukrainians, the U.S. Must Do More to Help Ukrainians and Others Outside the U.S. Who Are in Trouble." <http://blog.cyrusmehta.com/>

**Cyrus Mehta** (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) authored a new blog post: "In Addition to Granting TPS, the US Must Do More to Help Ukrainians and Others Outside the US Who Are In Trouble." <http://blog.cyrusmehta.com/2022/03/dhs-designates-ukraine-for-temporary-protected-status-immigration-help-in-special-situations-available-on-case-by-case-basis.html>



**Mr. Mehta, Kaitlyn Box, and Jessica Paszko** authored a new blog post: "USCIS Contact Center is More a Source of Frustration Than Assistance."

<http://blog.cyrusmehta.com/2022/03/uscis-contact-center-is-more-a-source-of-frustration-than-assistance.html>

**David Isaacson**, of **Cyrus D. Mehta & Partners PLLC**, authored a new blog post: "Some Highlights of the EB-5 Reauthorization: CSPA Protection and How 245(k) and Concurrent Filing Combine to Create a New Option for Some Applicants Who Have Recently Dropped Out of Status." <https://bit.ly/3Ij8lw7>

**Wolfsdorf Rosenthal LLP** has published several new blog posts: "My Immigration Story With Partner Vivian Zhu: Courageous Moves," "WR Immigration Expands Its Global and Southern California Practices, Announces WRapid Global," "April 2022 Visa Bulletin Update," "Afghanistan: Tips and Resources for HR Professionals, Employees and Others," "Ukraine: Ways You Can Help," "Ukraine: News Updates," "Ukrainian Resource Page."

<https://wolfsdorf.com/news-and-resources/>

**Dagmar Butte** (bio: <http://www.abil.com/lawyers/lawyers-butte.cfm?c=US>) was quoted by *Forbes* in "USCIS Issues Immigration Rule to Expand Premium Processing." She said, "While the stakeholder community is grateful for the relatively quick expansion of premium processing to additional I-140 categories, the delayed implementation for Forms I-539 and I-765 is disappointing. Since, generally speaking, I-140 filers already have status and work permission while they wait for their applications to be adjudicated, the individuals most impacted by the continued delays are those who cannot work until the I-539 (application to change/extend status) and I-765 (application for employment authorization) are adjudicated."

<https://www.forbes.com/sites/stuartanderson/2022/03/30/uscis-issues-immigration-rule-to-expand-premium-processing/>

**Stephen Yale-Loehr** (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted by *Law360* in "Pandemic Order Speeding Migrant Removals to End in May." The article notes that opposition to the Biden administration's ending of the two-year-old "Title 42" policy allowing the quick expulsion of migrants at U.S. land borders for pandemic-related reasons could lead to lawsuits. "If the lawsuits are successful, Title 42 may continue for some time," Mr. Yale-Loehr said. <https://www.law360.com/health/articles/1480088/pandemic-order-speeding-migrant-removals-to-end-in-may> (registration required)

**Mr. Yale-Loehr** moderated a continuing legal education webinar, "Navigating Trauma: Tips for Attorneys and Their Clients," on March 30, 2022. The presenters, two Cornell medical school professors (JoAnn Difede and Michelle Pelcovitz) discussed how to deal with trauma in sensitive cases like asylum, domestic violence, and those involving violent crimes. They also discussed how to deal with traumatized clients and attorneys' own vicarious trauma. The webinar was sponsored by the New York State Bar Association.

<https://nysba.org/events/navigating-trauma-tips-for-attorneys-and-their-clients/>

**Mr. Yale-Loehr** was quoted by the *New York Times* in "Facing Demand for Labor, U.S. to Provide 35,000 More Seasonal Worker Visas." He said, "Even with these additional visas, there's not nearly enough visas for all of the types of workers that employers want to hire on the H-2B program. But in the short term, at least, this is something the administration can do to help immediately." <https://www.nytimes.com/2022/03/31/us/politics/us-seasonal-worker-visas.html>

**Mr. Yale-Loehr** was quoted by *Bloomberg Law* in "Narrow Immigration Fixes Sought by Employers, Religious Groups." He cautioned that passing any immigration bill will likely be a long fight, even with commitments to work across the aisle: "Congress will enact immigration reform only through bipartisan efforts. In that regard, the Alliance for a New Immigration

Consensus is a good first step. However, I fear that nothing will happen in Congress this year, both because of the midterm elections and the general controversy about immigration in America." <https://news.bloomberglaw.com/daily-labor-report/narrow-immigration-fixes-sought-by-employers-religious-groups>

**Mr. Yale-Loehr** was quoted by the *Cornell Chronicle* in "Migrations Project Helps Refugees Claim Health Care Rights." Commenting on refugees in the United States, he said, "Many of them believe—wrongly—that if they take any public benefits they will become deportable or not be able to get a green card. They lack clear and accurate information about what public benefits they are entitled to in the United States." <https://news.cornell.edu/stories/2022/03/migrations-project-helps-refugees-claim-health-care-rights>

**Mr. Yale-Loehr** was quoted by Voice of America in "Immigration Experts Contrast U.S. Support for Ukrainian, Afghan Refugees." He agreed that the United States was quick to announce temporary protected status for Ukrainian refugees but noted that both Ukrainians and Afghans have to go through the normal immigration system. "And we don't have a good system for allowing people to come to the United States quickly," he said, noting that for Afghan refugees, the humanitarian parole process has been overwhelmed by more than 40,000 applicants, many of whom have been waiting for six months for a decision on their cases. "I don't see how the administration is going to be able to speed up processing with the expected flood of humanitarian parole applications from Ukrainians. And if the administration does speed it up for Ukrainians, I think there will be legitimate complaints about why they were able to do it for Ukrainians so much more quickly than for Afghans and people from other countries," he said. <https://www.voanews.com/a/immigration-experts-contrast-us-support-for-ukrainian-afghan-refugees/6502093.html>

**Mr. Yale-Loehr** was quoted by the *Wall Street Journal* in "Muslim U.S. Citizens Questioned About Faith at Border, ACLU Lawsuit Alleges." The question of whether a person is still fully protected by the First Amendment at the U.S. border has rarely been addressed by courts, he noted: "U.S. citizens have constitutional rights when they enter the United States. But the government also has an interest in protecting the country from terrorists. Courts need to weigh these competing interests." [https://www.wsj.com/articles/muslim-u-s-citizens-questioned-about-faith-at-border-aclu-lawsuit-alleges-11648130400?mod=business\\_minor\\_pos4](https://www.wsj.com/articles/muslim-u-s-citizens-questioned-about-faith-at-border-aclu-lawsuit-alleges-11648130400?mod=business_minor_pos4)

**Mr. Yale-Loehr** was quoted by *Univision* in "Government Issues a New Asylum Rule for Foreigners Subject to Accelerated Deportation." He said, "The new rule is likely to be challenged in court. The Department of Homeland Security is about to publish a final rule that revises the nation's asylum procedures. In general, it would allow USCIS asylum officers to initially hear asylum claims instead of people appearing before an immigration judge. The goal is to have a more streamlined asylum system so that people get a decision in months instead of years in our backlogged immigration courts." However, he noted, "conservative states, like Texas, are likely to challenge the new rule in court for encouraging more asylum claims. So the new rule may not come into effect for some time. But if implemented, it would help alleviate immigration court backlogs and could provide a fairer and faster system for asylum seekers." <https://www.univision.com/noticias/inmigracion/nueva-regla-asilo-deportacion-acelerada> [Spanish, with English translation available]

**Mr. Yale-Loehr** was quoted by the *Los Angeles Times* in "Hollywood Hotels Scrutinized for Financing Under Visa Program: 'Not Fair,' Say Critics." He noted that the EB-5 immigrant investor green card program has sparked controversy because some developers have fraudulently taken the foreign investments and failed to develop the projects and the jobs that were promised. It is also a complicated program that "is somewhat opaque to the average person because they don't see any direct jobs created," he added.

<https://www.latimes.com/business/story/2022-03-14/eb5-hollywood-hotels-unite-here-local-relevant-group-financing-dispute>

**Mr. Yale-Loehr** was quoted by *Forbes* in "Investor Immigrants Greet Imminent Revival of the EB-5 Program." The article discusses the March 15, 2022, revival of the EB-5 regional center program under the omnibus bill passed by Congress. The article includes a summary of the bill co-authored by Mr. Yale-Loehr, **Kristal Ozmun**, and **Nick Hinrichsen (Miller Mayer, LLP)**. <https://www.forbes.com/sites/andyjsemotiuk/2022/03/09/investor-immigrants-greet-imminent-revival-of-the-eb-5-program/?sh=7223bbff7436>  
(see also <https://millermayer.com/2022/breaking-congress-reauthorizes-eb-5-regional-center-program-through-2027/>)

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## Government Agency Links

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

**USCIS case processing times online:** <https://egov.uscis.gov/processing-times/>

**Department of State Visa Bulletin:** <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>

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## About ABIL

*The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 425 member lawyers and their more than 1,400 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers 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' website is at <http://www.abil.com/>. ABIL is also on Twitter: @ABILImmigration.*

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