

IMMIGRATION INSIDER

Vol. 18, No. 8C • August 21, 2022

Headlines:

DHS Proposes to Allow for Alternatives to Physical Document Examination for I-9 Verification – The proposed rule would create a framework under which the Secretary of Homeland Security could authorize alternative options for document examination procedures for some or all employers.

Reports: Visa Delays and Unprecedented Wait Times Cause Problems for Workers, Employers – Visa delays, backlogs, and unprecedented wait times at U.S. embassies and consulates are causing disruptions for workers and companies, particularly those employing workers in temporary statuses who need to renew their visas outside the United States.

USCIS Clarifies Eligibility Determinations for L-1 Nonimmigrant Managers, Executives, and Specialized Knowledge Workers – U.S. Citizenship and Immigration Services issued a policy alert to clarify how the agency determines eligibility for L-1 nonimmigrants seeking classification as managers or executives (L-1A) and specialized knowledge workers (L-1B).

OFLC Releases Public Disclosure Data, Statistics, Foreign Labor Recruiter List and FAQ – The Department of Labor's Office of Foreign Labor Certification has released new information.

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DHS Proposes to Allow for Alternatives to Physical Document Examination for I-9 Verification

On August 18, 2022, the Department of Homeland Security (DHS) proposed a rule to allow for alternative document verification procedures for Form I-9, Employment Eligibility Verification. The proposed rule would create a framework under which the Secretary of Homeland Security could authorize alternative options for document examination procedures for some or all employers.

According to the notice of proposed rulemaking (NPRM), such procedures could be implemented as part of a pilot program; upon the Secretary's determination that such procedures offer an equivalent level of security; or as a temporary measure to address a public health emergency declared by the Secretary of Health and Human Services under the Public Health Service Act, or a national emergency declared by the President under the National Emergencies Act.

The NPRM notes that in light of advances in technology and remote work arrangements, the Department of Homeland Security (DHS) is exploring alternative options, including making permanent some of the COVID-19 pandemic-related flexibilities to examine employees' identity and employment authorization documents for the Form I-9. The rule would not create such alternatives but would instead formalize the authority for the DHS Secretary "to extend flexibilities, provide alternative options, or conduct a pilot program to further evaluate an alternative procedure option (in addition to the procedures set forth in regulations) for some or all employers, regardless of whether their employees physically report to work at a company location." DHS said it would introduce any such alternative procedure in a future Federal Register notice.

Details:

- 87 Fed. Reg. 50786 (Aug. 18, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-08-18/pdf/2022-17737.pdf>

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Reports: Visa Delays and Unprecedented Wait Times Cause Problems for Workers, Employers

According to reports, visa delays, backlogs, and unprecedented wait times at U.S. embassies and consulates are causing disruptions for workers and companies, particularly those employing workers in temporary statuses who need to renew their visas outside the United States.

For example, excluding student and visitor visas, wait times for visas in Istanbul, Turkey, exceed 16 months; in New Delhi, India, wait times hover at nine months for the thousands of highly skilled temporary workers coming to the United States on H-1B and L-1 visas. Business visa processing in Chile can take up to three years.

The delays are thought to be at least partly the result of increased travel demand related to the COVID-19 pandemic, staffing issues at embassies and consulates, and a two-year shutdown of processing guestworker visas by the Trump administration. Some business groups and immigration attorneys advocate measures such as allowing remote interviews or permitting those with expiring visas to renew in the United States rather than requiring them to leave the country as a way of relieving backlogs. Reportedly, the Department of State (DOS) is considering such options. Meanwhile, DOS said it has doubled hiring of consular staff in fiscal year (FY) 2022 over FY 2021, and noted that "[n]early all U.S. embassies and consulates have resumed full visa services."

Details:

- "Visa Bottlenecks Are Creating Headaches for Employers, Workers," Aug. 16, 2022, <https://news.bloomberglaw.com/daily-labor-report/visa-bottlenecks-are-creating-headaches-for-employers-workers>
- "U.S. Visa Processing Delays Called Worst Since 9/11," Voice of America, Aug. 3, 2022, <https://www.voanews.com/a/us-visa-processing-delays-called-worst-since-9-11-/6685941.html>

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USCIS Clarifies Eligibility Determinations for L-1 Nonimmigrant Managers, Executives, and Specialized Knowledge Workers

On August 16, 2022, U.S. Citizenship and Immigration Services (USCIS) issued a policy alert to clarify how the agency determines eligibility for L-1 nonimmigrants seeking classification as managers or executives (L-1A) and specialized knowledge workers (L-1B).

The update does not make changes to existing policy or create new policy. The update consolidates and updates guidance previously included in the Adjudicator's Field Manual, Chapter 32, as well as related appendices and policy memoranda.

Details:

- USCIS Policy Alert (Aug. 16, 2022), <https://bit.ly/3pB8Wy9>
- Part L—Intracompany Transferees, USCIS Policy Manual, <https://www.uscis.gov/policy-manual/volume-2-part-l>

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OFLC Releases Public Disclosure Data, Statistics, Foreign Labor Recruiter List and FAQ

The Department of Labor's Office of Foreign Labor Certification has released:

- Public disclosure data and selected program statistics for Q3 of fiscal year (FY) 2022. <https://www.dol.gov/agencies/eta/foreign-labor/performance>
- H-2B Foreign Labor Recruiter List for Q3 of FY 2022. <https://www.dol.gov/agencies/eta/foreign-labor/recruiter-list>
- FAQ on the Foreign Labor Recruiter List. https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/Round-16_Foreign_Labor_Recruiter.pdf

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New Publications and Items of Interest

Webinar on international student issues. The Office of the Citizenship and Immigration Services Ombudsman invites designated school officials and responsible officers to join the "Interagency Engagement on International Student Issues," to be held Thursday, August 25, 2022, from 1 pm

to 2:15 pm ET. <https://bit.ly/3Ad3c2v>

Webinar on support of Afghans. U.S. Citizenship and Immigration Services invites stakeholders to a webinar on Operation Allies Welcome and lawful immigration pathways available to Afghan nationals in the United States, to be held Thursday, September 1, 2022, from 3 pm to 4 pm ET. To register, visit the [registration page](#) and submit your email address.

Immigrant and Employee Rights Section free webinars. The Department of Justice's Immigrant and Employee Rights Section is offering free webinars for the public.
<https://www.justice.gov/crt/webinars>

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 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 released its calendar of webinars at 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

Cyrus Mehta (bio: <https://www.abil.com/abil-lawyers/cyrus-d-mehta/>) and **Kaitlyn Box** co-authored a new blog post: "Justice Barrett and the Fate of the Mayorkas Prosecutorial Discretion Memo." <http://blog.cyrusmehta.com/2022/08/justice-barrett-and-the-fate-of-the-mayorkas-prosecutorial-discretion-memo.html>

Wolfsdorf Rosenthal Immigration and Baniyas Law filed a complaint in the U.S. District Court for the District of Columbia on August 5, 2022, on behalf of hundreds of Chinese foreign national plaintiffs. The complaint asks the court to compel the Department of State to authorize FY 2022 EB-5 immigrant visa numbers to be allocated to all plaintiffs and their families by September 30, 2022, and to process their immigrant visa applications promptly.

<https://wolfsdorf.com/press-release-wr-immigration-files-lawsuit-to-stop-wastage-of-eb-5-investor-visas/>

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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.

Disclaimer/Reminder

This email 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.

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