

IMMIGRATION INSIDER

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Headlines:

USCIS Conducts Second Random Selection From Previously Submitted FY 2022 H-1B Cap Registrations

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Consent Order Provides Interim Relief to Certain Applicants Filing I-765s for OPT and STEM OPT

– Under a court order, USCIS extended flexibilities for certain foreign students affected by delayed receipt notices for work authorization applications. The extension includes applications received on or after October 1, 2020, through October 31, 2021.

DHS Announces Registration Process for Haitian TPS – The 18-month initial registration period runs from August 3, 2021, through February 3, 2023. To be eligible, individuals must demonstrate that they have continuously resided in the United States since July 29, 2021.

USCIS Issues Reminder About Immigration Services That May Help Those Affected by Natural Disasters and Other Unforeseen Circumstances – Immigration services may be available on a case-by-case basis to help people "affected by unforeseen circumstances such as natural disasters." Examples include "the wildfires in the western United States and the recent building collapse in Surfside, Florida."

Biometrics Processing Unit Closes in Alexandria, VA – USCIS has closed the Biometrics Processing Unit in Alexandria, Virginia, which no longer receives mail.

New Asylum Office Opens in Tampa – USCIS will open a new asylum office in Tampa on August 2, 2021, "in response to an increasing asylum workload in Florida."

New Credentialing Organization Approved for Healthcare Workers in Nursing – Josef Silny Associates, Inc., is approved as a credentialing organization for individuals seeking to enter the United States to work as a nurse.

Mass Afghan Evacuations Begin in Operation Fraught With Risk – In a complex operation fraught with delays, difficulties, and risk, the U.S. government is evacuating groups of Afghans eligible for Special Immigrant Visas based on their work for the United States, such as serving as translators and interpreters for U.S. forces in Afghanistan.

USCIS Updates Policy Manual – USCIS made several updates to its *USCIS Policy Manual*.

U.S. Extends Nonessential Travel Restrictions at Canada, Mexico Land Borders; Canada Opens to U.S. Citizens/Permanent Residents August 9 – Canadians and many other U.S.-bound international travelers can fly into the United States if they receive a negative COVID-19 test.

Applicants for Change of Status to F-1 Student No Longer Need to Submit Subsequent Applications to 'Bridge the Gap' – New USCIS policy guidance eliminates the need for individuals who have applied for a change of status to F-1 student to apply to change or extend their nonimmigrant status while their initial F-1 change of status application is pending.

Employers May File H-2B Petitions for Returning Workers for FY 2021, USCIS Says – Employers may file H-2B petitions for returning workers under the FY 2021 H-2B supplemental visa temporary final rule if they are likely to suffer irreparable harm without these additional workers, USCIS said.

USCIS Updates Addresses for Filing Locations for Certain Forms I-131 – USCIS did not change any filing locations but "refined attention lines and ZIP codes to improve internal processes at our lockboxes."

Credit Card Payment Pilot Program Expanded for Certain Premium Processing Applicants –

USCIS is expanding a pilot program at the Nebraska Service Center for accepting credit card payments from certain applicants applying for premium processing.

Temporary Protected Status Updates: Somalia, Burma, Syria, Venezuela, Yemen –

DHS announced the extension and redesignation of Somalia for TPS through March 17, 2023. Also, TPS applicants who are eligible nationals of Burma, Somalia, Syria, Venezuela, or Yemen, or individuals without nationality who last habitually resided in one of those countries, can now file their TPS applications online if they are applying for TPS for the first time.

Justice Dept. Issues Reminder for DACA Recipients and Employers –

Among other tips, DOJ noted that "existing DACA recipients are allowed to retain their grant of DACA and apply for renewal" and that employers are not expected to know which employees, if any, have DACA.

New DACA Applications Blocked by Federal Judge –

New Deferred Action for Childhood Arrivals applications will not be allowed under a ruling by a U.S. district judge. The judge temporarily stayed his ruling for nearly 650,000 current DACA recipients.

No Surprise: Ombudsman's Annual Report Says USCIS Faces 'Unprecedented Challenges' Due to Pandemic, Backlogs, Financial Issues –

The Covid-19 pandemic "created unique challenges for USCIS," the report notes, including temporary office closures and a lack of the ability for "end-to-end electronic processing."

USCIS Reminds Employers to Take Action Within 10 Federal Government Working Days on Tentative Nonconfirmation Cases –

Although most Social Security Administration offices are currently closed, this does not affect the 10-day requirement.

USCIS Updates Guidance on Acceptable I-9 Documents for Refugees and Asylees –

Refugees and asylees are eligible for employment due to their status "and are authorized to work indefinitely because their immigration status does not expire."

OFLC Releases FAQ on Implementation of Revised ETA-9141 –

OFLC released Round 3 of frequently asked questions from the National Prevailing Wage Center on implementing the revised Application for Prevailing Wage Determination.

OFLC's Atlanta Processing Center to Move in August –

The mailing address for the Atlanta National Processing Center will change on August 25, 2021, with the exception of mail associated with the processing of applications requesting permanent labor certification subject to supervised recruitment.

Justice Dept. Settles Retaliation Claim –

The settlement resolves DOJ's finding that the company violated the law by retaliating against a worker because he asked for the agency's help in addressing his concerns about an immigration-related employment practice.

USCIS Announces Updated Receipt Guidance for I-9 Process –

USCIS announced updated guidance on receipts for the I-9 employment authorization verification process.

OFLC Implements District Court Order Requiring Backpay for Qualifying H-2A Workers –

Certain H-2A employers must make wage adjustment payments to qualifying workers and certify compliance by September 4, 2021.

OFLC Completes Randomization Process, Publishes List of Randomized H-2B Applications for Employers Seeking H-2B Workers Starting October 1, 2021 –

OFLC completed the randomization process to randomly assign to analysts for review and processing all H-2B applications submitted during a three-day filing window requesting an October 1, 2021, work start date. OFLC published the Assignment Group(s) for 873 H-2B applications covering 21,116 worker positions with a work start date of October 1, 2021.

National Interest Exceptions Extended to One Year, Embassies Report –

U.S. Embassies in London and Berlin have reported that "all National Interest Exceptions (NIE) are now valid for 12 months and multiple entries as long as you are traveling for the same purpose for which you originally received an NIE." The guidance does not apply to CBP requests and NIEs previously issued by CBP.

USCIS Extends and Redesignates Yemen for TPS, Suspends Certain Requirements for Yemeni F-1 Students –

DHS announced the extension and redesignation of Yemen for temporary protected status through March 3, 2023. The agency also announced the suspension of certain regulatory requirements for Yemeni F-1 nonimmigrant students.

D.C. Court of Appeals Issues Decision in *Wang v. Blinken* – On July 9, 2021, the D.C. Court of Appeals issued its opinion in *Wang v. Blinken*, interpreting INA § 203(d) to include the counting of derivatives toward the EB-5 investor cap.

ABIL Global: Canada – This article updates border measures for travelers entering Canada.

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USCIS Conducts Second Random Selection From Previously Submitted FY 2022 H-1B Cap Registrations

U.S. Citizenship and Immigration Services (USCIS) announced on July 29, 2021, that it needed to select additional H-1B registrations to reach the fiscal year (FY) 2022 quota. On July 28, 2021, the agency selected additional previously submitted electronic registrations using a random selection process. The petition filing period based on registrations selected on July 28 will begin on August 2 and close on November 3, 2021. Individuals with selected registrations will have their myUSCIS accounts updated to include a selection notice, which includes details of when and where to file. Registration selection only indicates that petitioners are eligible to file H-1B cap-subject petitions; it does not indicate that the petition will be approved.

USCIS conducted an initial random selection in March 2021 of electronic registrations submitted for the FY 2022 H-1B cap and of beneficiaries eligible for the advanced degree exemption. The initial filing period for those selected for FY 2022 was April 1, 2021, through June 30, 2021.

On July 27, 2021, a group of plaintiffs in *Liu v. Mayorkas* filed a motion seeking to preliminarily enjoin the defendants from implementing, applying, or enforcing the H-1B cap registration rules (8 CFR § 214.2(h)(8)(iii)). They alleged that the Department of Homeland Security exceeded its authority and argued that implementation of the rules is arbitrary, capricious, an abuse of discretion, and not in accordance with the law. This was because there was evidence and data indicating that the FY 2022 registration process, if implemented, would lead to fraud, abuse, and a likely second lottery. Arguments regarding the injunction request will be heard on August 27, 2021.

Details:

- USCIS alert, July 29, 2021, <https://www.uscis.gov/news/alerts/uscis-conducts-second-random-selection-from-previously-submitted-fy-2022-h-1b-cap-registrations>
- Motion for preliminary injunction in *Liu v. Mayorkas*, <https://www.dropbox.com/s/j7dk2asy52yp7y3/Liu%20Motion%20for%20PI.pdf?dl=0>
- Amended complaint, <https://aboutblaw.com/Ymz>
- "Suit Seeks to Halt H-1B Visa System Called 'Rife' With Abuse," Bloomberg Law, July 28, 2021, <https://news.bloomberglaw.com/daily-labor-report/suit-seeks-to-halt-h-1b-visa-system-said-to-be-rife-with-abuse>

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Consent Order Provides Interim Relief to Certain Applicants Filing I-765s for OPT and STEM OPT

Under a court order, U.S. Citizenship and Immigration Services (USCIS) extended flexibilities for certain foreign students affected by delayed receipt notices for Form I-765, Application for Employment Authorization. USCIS said the extension includes applications received on or after October 1, 2020, through October 31, 2021. Applicants can file Form I-765 up to 120 days before the program end date if the application is received by October 31, 2021.

For applicants who timely filed Form I-765 for Optional Practical Training (OPT) and Science, Technology, Engineering, and Mathematics (STEM) OPT and whose applications were later rejected, USCIS will accept a refiled Form I-765 as filed on the original filing date if:

- The original, timely filed application was received on or after October 1, 2020, through October 31, 2021; and
- USCIS subsequently rejected it.

For USCIS to treat the application as though filed on the original received date, refiled applications must be received by November 30, 2021.

Details:

- USCIS notice, July 29, 2021, <https://bit.ly/3yjS4P3>
- Li v. USCIS, consent order, July 23, 2021, <https://www.uscis.gov/sites/default/files/document/legal-docs/ECF%20No.%2013%20Signed%20Consent%20Order.pdf>

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DHS Announces Registration Process for Haitian TPS

The registration process for Haitian Temporary Protected Status (TPS) will open on August 3, 2021, when the Federal Register notice is published. The 18-month initial registration period runs from August 3, 2021, through February 3, 2023.

Those who wish to request TPS under the Haiti designation must file an application, including approximately 55,000 current TPS Haiti beneficiaries whose TPS-related documentation was automatically extended at least through October 4, 2021, in compliance with court orders who must file a new TPS application under this designation to retain their status. An estimated 100,000 additional individuals can file initial applications for TPS if otherwise eligible.

To be eligible, individuals must demonstrate that they have continuously resided in the United States since July 29, 2021. Department of Homeland Security (DHS) Secretary Alejandro Mayorkas modified the date from what was previously announced "in light of recent events in Haiti, including the July assassination of President Jovenel Moïse." DHS said that those "who attempt to travel to the United States after July 29, 2021, will not be eligible for TPS and may be subject to expulsion or removal."

Details:

- Haiti TPS designation, Federal Register notice (unpublished), DHS, <https://public-inspection.federalregister.gov/2021-16481.pdf>
- DHS announcement, July 30, 2021, <https://www.uscis.gov/news/news-releases/dhs-announces-registration-process-for-temporary-protected-status-for-haiti>

- Initial Haiti TPS announcement, DHS, May 22, 2021, <https://www.dhs.gov/news/2021/05/22/secretary-mayorkas-designates-haiti-temporary-protected-status-18-months>

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USCIS Issues Reminder About Immigration Services for Those Affected by Natural Disasters and Other Unforeseen Circumstances

U.S. Citizenship and Immigration Services (USCIS) issued a reminder on July 28, 2021, that immigration services may be available on a case-by-case basis to help people "affected by unforeseen circumstances such as natural disasters." Examples the agency listed include "the wildfires in the western United States and the recent building collapse in Surfside, Florida." USCIS suggested the following measures:

- Changing a nonimmigrant status or extending a nonimmigrant stay for an individual currently in the United States. Failure to apply for the extension or change before expiration of an authorized period of admission may be excused if the delay was due to extraordinary circumstances beyond the individual's control;
- Re-parole of individuals previously granted parole by USCIS;
- Expedited processing of advance parole requests;
- Expedited adjudication of requests for off-campus employment authorization for F-1 students experiencing severe economic hardship;
- Expedited adjudication of employment authorization applications, where appropriate;
- Consideration of fee waiver requests due to an inability to pay;
- Flexibility for those who received a Request for Evidence or a Notice of Intent to Deny but were unable to submit evidence or otherwise respond in a timely manner;
- Flexibility if an individual was unable to appear for a scheduled interview with USCIS;
- Expedited replacement of lost or damaged immigration or travel documents issued by USCIS, such as a Permanent Resident Card (Green Card), Employment Authorization Documents, and Arrival/Departure Record (Form I-94); and
- Rescheduling a biometrics appointment.

Those making such a request "should explain how the impact of unforeseen circumstances, such as a natural disaster, created a need for the requested relief. If you lost all forms of evidence in an unforeseen circumstance, include an explanation in your description and a copy of a police report, insurance claim, or other report, if available, to support your request."

Details:

- USCIS alert, July 28, 2021, <https://www.uscis.gov/news/alerts/immigration-help-available-to-those-affected-by-natural-disasters-and-other-unforeseen-circumstances>

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Biometrics Processing Unit Closes in Alexandria, VA

U.S. Citizenship and Immigration Services (USCIS) has closed the Biometrics Processing Unit in Alexandria, Virginia. Those who need to reschedule an appointment for biometric services must call the USCIS Contact Center at 800-375-5283 before the date of the original appointment and "establish good cause for rescheduling." The unit in Alexandria no longer receives mail.

Details:

- USCIS guidance, July 28, 2021, <https://www.uscis.gov/forms/filing-guidance/preparing-for-your-biometric-services-appointment>

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New Asylum Office Opens in Tampa

U.S. Citizenship and Immigration Services (USCIS) will open a new asylum office in Tampa on August 2, 2021, "in response to an increasing asylum workload in Florida." The agency reported that the new office becomes the 11th asylum office in the United States and the second in Florida, joining the existing Miami Asylum Office.

According to USCIS, Florida currently leads the country in asylum applications filed with the agency, and more than a quarter of the national pending caseload is from Florida residents. The addition of the Tampa Asylum Office "will help USCIS resolve urgent cases quickly and better address the large number of asylum applications pending with USCIS in the state," the agency said.

The Tampa Asylum Office will adjudicate asylum claims filed by individuals residing in western and northern Florida as well as portions of central Florida. The Miami Asylum Office will continue to adjudicate asylum claims filed by individuals residing in south Florida and portions of central Florida. Asylum interviews are by appointment only.

Details:

- USCIS release, July 30, 2021, <https://www.uscis.gov/news/news-releases/new-uscis-asylum-office-to-open-in-tampa-on-aug-2>

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New Credentialing Organization Approved for Healthcare Workers in Nursing

U.S. Citizenship and Immigration Services (USCIS) announced that Josef Silny Associates, Inc., is approved as of July 22, 2021, as a credentialing organization for individuals seeking to enter the United States to work as a nurse.

Details:

- Federal Register notice, July 29, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-07-29/pdf/2021-16181.pdf>

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Mass Afghan Evacuations Begin in Operation Fraught With Risk

In a complex operation fraught with delays, difficulties, and risk, the U.S. government is evacuating groups of Afghans eligible for Special Immigrant Visas based on their work for the United States, such as serving as translators and interpreters for U.S. forces in Afghanistan. Among other obstacles, the Taliban have been expanding across the country and setting up checkpoints on various roads, and airport operations are threatened by violence. Although the situation is fluid and the numbers are somewhat unclear, below are reported highlights of the evacuations under "Operation Allies Refuge":

- About 200 Afghans were flown to Fort Lee, Virginia, for processing before resettlement in the United States. They are among a larger group of about 2,500 eligible for Special Immigrant Visas who are further along in processing.
- About 4,000 Afghans and their relatives who are earlier in the visa application process will be flown to other countries for lengthier processing.
- There are roughly 20,000 applicants in the pipeline, along with family members. It is unclear whether all of them will be evacuated safely or what will happen to applicants who were deemed not qualified. The Department of State and the Pentagon reportedly are working together on relocation options at U.S. military installations in the country and elsewhere, possibly to include Qatar and Kuwait, with a goal of evacuating eligible Afghans by August 31, 2021, when the U.S. combat presence is targeted to end.
- Approximately 74,000 Afghans under the program have already been resettled since 2008.
- A bill passed the U.S. Senate and House of Representatives last week to provide more than \$1 billion to pay for the evacuations, related transportation and housing, and resettlement costs. The bill also provides 8,000 additional visas over the 26,500 allocated currently. President Biden said he will sign the bill.

Details:

- "About 200 Afghan Interpreters and Family Members Arrive in U.S., in First Wave of Evacuations," Washington Post, July 30, 2021, <https://www.washingtonpost.com/world/2021/07/30/afghan-interpreters-evacuations/>
- 'Complete Disaster': Inside the Biden Team's Chaotic Bid to Evacuate Afghan Interpreters," Politico, July 30, 2021, <https://www.politico.com/news/2021/07/30/biden-evacuate-afghan-interpreters-501773>

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USCIS Updates Policy Manual

U.S. Citizenship and Immigration Services (USCIS) made several updates to its *USCIS Policy Manual*. Highlights include:

- Policy guidance to address the urgent need for additional civil surgeons to conduct immigration medical examinations in support of Operation Allies Refuge (for certain Afghan Special Immigrant Visa applicants)
- Technical update adding references to the EB-5 visa program in Child Status Protection Act guidance
- Revised policy guidance to comply with a recent court order involving immigrant investors and investment of loan proceeds
- Policy guidance on change of status to nonimmigrant student (F-1) visa classification

Details:

- USCIS Policy Manual updates, <https://www.uscis.gov/policy-manual/updates>

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U.S. Extends Nonessential Travel Restrictions at Canada, Mexico Land Borders; Canada Opens to U.S. Citizens/Permanent Residents August 9

The United States has once again extended travel restrictions at its borders with Canada and Mexico for nonessential travel into the United States at least through August 21, 2021. The United States has done so monthly since March 2020 in response to the pandemic.

Canadians and many other U.S.-bound international travelers can fly into the United States if they receive a negative COVID-19 test. Canada announced on July 19, 2021, that fully vaccinated U.S. citizens and permanent residents can enter the country as of August 9, 2021. U.S. travelers to Canada must submit information electronically through ArriveCAN, meet eligibility and testing requirements, and bring vaccination documentation.

Canada plans to open its borders for discretionary travelers from any country, traveling by any means, on September 7, 2021, if they have been fully vaccinated with Canadian government-accepted vaccines at least 14 days before entering Canada and meet specific entry requirements, "provided that Canada's COVID-19 epidemiology remains favourable," the government announced on July 19, 2021.

U.S. and Mexican officials "have mutually determined that non-essential travel between the United States and Mexico currently poses additional risk of transmission and spread of the virus associated with COVID-19 and places the populace of both nations at increased risk of contracting the virus associated with COVID-19," the Federal Register notice for Mexico states. "Moreover, given the sustained human-to-human transmission of the virus, coupled with risks posed by new variants, returning to previous levels of travel between the two nations places the personnel staffing land ports of entry between the United States and Mexico, as well as the individuals traveling through these ports of entry, at increased risk of exposure to the virus associated with COVID-19." The Federal Register notice for Canada makes similar statements.

Details:

- Federal Register notice (Canada), July 22, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-07-22/pdf/2021-15573.pdf>
- Federal Register notice (Mexico), July 22, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-07-22/pdf/2021-15574.pdf>
- COVID-19 Information—Canada, U.S. Embassy & Consulates in Canada, July 21, 2021, <https://ca.usembassy.gov/covid-19-information-canada-3/>
- "U.S. Extends Travel Curbs at Canada, Mexico Land Borders Through Aug. 21," Reuters, July 21, 2021, <https://www.reuters.com/world/us/us-extends-travel-restrictions-canada-mexico-land-borders-through-aug-21-2021-07-21/>
- "U.S. Border Closure Makes 'No Sense' as Canada Starts to Reopen for Fully Vaccinated Americans: Critics," Vancouver Sun, July 21, 2021, <https://vancouversun.com/news/politics/u-s-border-closure-makes-no-sense-as-canada-starts-to-reopen-for-fully-vaccinated-americans-critics>
- "Easing Border Measures for Fully Vaccinated Travellers Entering Canada – Permitting Discretionary Travel for Citizens and Permanent Residents of the United States," Govt. of Canada, July 19, 2021, <https://bit.ly/3eR1Twn>
- "Canada to Reopen Its Borders to Fully Vaccinated Americans Starting Aug. 9," USA Today, July 20, 2021, <https://www.usatoday.com/story/travel/news/2021/07/19/canada-border-reopening-fully-vaccinated-us-citizens-aug-9/8016368002/>
- "White House Won't Commit to Reopening Northern Border, Despite Announcement From Canada," CNN, July 20, 2021, <https://www.cnn.com/2021/07/19/politics/us-canada-border-white-house/index.html>

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Applicants for Change of Status to F-1 Student No Longer Need to Submit Subsequent Applications to 'Bridge the Gap'

U.S. Citizenship and Immigration (USCIS) announced on July 20, 2021, new policy guidance that eliminates the need for individuals who have applied for a change of status to F-1 student to apply to change or extend their nonimmigrant status while their initial F-1 change of status application is pending.

Under the previous policy, applicants needed to maintain status up to 30 days before the program start date listed on their Form I-20, Certificate for Eligibility for Nonimmigrant Student Status, which required them to file extensions, or an initial change of status and subsequent extensions ensuring that they would not have a "gap" in status, USCIS explained.

To prevent a gap in status, USCIS said it will grant the change of status to F-1 effective the day the agency approves an applicant's Form I-539, Application to Extend/Change Nonimmigrant Status. If USCIS approves an application more than 30 days before the student's program start date, the student must not violate F-1 status during that time. An example of a violation, USCIS said, "would be engaging in employment, including on-campus employment, more than 30 days before the program start date as listed on their Form I-20."

USCIS said it is revising the Form I-539 instructions to reflect these changes.

Details:

- USCIS alert, July 20, 2021, <https://www.uscis.gov/news/alerts/applicants-for-change-of-status-to-f-1-student-no-longer-need-to-submit-subsequent-applications-to>
- "Policy Change to Benefit Children of H-1B Visa Holders in the U.S.," Economic Times, July 22, 2021, <https://economictimes.indiatimes.com/nri/migrate/policy-change-to-benefit-children-of-h-1b-visa-holders-in-the-us/articleshow/84607555.cms?from=mdr>

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Employers May File H-2B Petitions for Returning Workers for FY 2021, USCIS Says

U.S. Citizenship and Immigration Services (USCIS) announced on July 23, 2021, that employers may file H-2B petitions for returning workers under the fiscal year (FY) 2021 H-2B supplemental visa temporary final rule. "Employers may take this action if they are likely to suffer irreparable harm without these additional workers," USCIS said. Petitions will be accepted until September 15, 2021, or until the remainder of the cap is reached, whichever occurs first.

The agency noted that a petitioner must file a new Form I-129, Petition for a Nonimmigrant Worker, together with an approved and valid temporary labor certification that states an employment start date for the second half of the fiscal year, and attest that these noncitizens will be returning workers. USCIS defines returning workers as "workers who were issued an H-2B visa or otherwise granted H-2B status in FY 2018, 2019, or 2020."

USCIS received requests for an unspecified "significant number" of Northern Triangle (El Salvador, Guatemala, and Honduras) workers, "nearly enough to reach the 6,000 allocation," but did not receive enough petitions by the July 8, 2021, deadline. According to the temporary final rule, "the few remaining visas are now available to eligible H-2B returning workers, regardless of their country of origin."

Details:

- USCIS release, July 23, 2021, <https://www.uscis.gov/news/alerts/employers-may-file-h-2b-petitions-for-returning-workers-for-fy-2021>
- FY 2021 H-2B supplemental visa temporary final rule, <https://www.uscis.gov/news/alerts/employers-may-file-h-2b-petitions-for-returning-workers-for-fy-2021>
- "Temporary Increase in H-2B Nonimmigrant Visas for FY 2021," USCIS, updated July 23, 2021, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2b-non-agricultural-workers/temporary-increase-in-h-2b-nonimmigrant-visas-for-fy-2021>

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USCIS Updates Addresses for Filing Locations for Certain Forms I-131

U.S. Citizenship and Immigration Services (USCIS) has adjusted the addresses for certain applicants filing Form I-131, Application for Travel Document. USCIS did not change any filing locations but "refined attention lines and ZIP codes to improve internal processes at our lockboxes." The address update affects:

- Applicants with a pending Form I-485, Application to Register Permanent Residence or Adjust Status, who are filing Form I-131 alone with a Form I-485 receipt notice;
- Haitian family members filing for advance parole under the Haitian Family Reunification Parole program;
- Cuban family members filing under the Cuban Family Reunification Parole program;
- Deferred Action for Childhood Arrivals recipients;
- Humanitarian parole applicants;
- Refugee travel document applicants;
- Temporary Protected Status applicants; and
- All other applicants as noted on the Direct Filing Addresses for Form I-131 page.

USCIS said that it will still process any I-131 applications that were already mailed to the previous lockbox address.

Details:

- USCIS release, July 22, 2021, <https://www.uscis.gov/news/alerts/filing-location-updates-for-certain-forms-i-131>
- Direct Filing Addresses for Form I-131, updated July 22, 2021, <https://www.uscis.gov/i-131-addresses>

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Credit Card Payment Pilot Program Expanded for Certain Premium Processing Applicants

U.S. Citizenship and Immigration Services (USCIS) announced on July 20, 2021, the expansion of a pilot program at the Nebraska Service Center (NSC) for accepting credit card payments using Form G-1450, Authorization for Credit Card Transactions, from certain applicants applying for premium processing.

On July 19, 2021, the NSC started accepting credit card payments using Form G-1450 for petitioners filing Form I-140, Immigrant Petition for Alien Workers, with Form I-907, Request for Premium Processing Service, or when filing Form I-907 to upgrade a pending Form I-140 to premium processing. The pilot continues to be limited to the NSC. At the end of the pilot, USCIS

said, it "will evaluate the results and determine the next steps for expanding this payment option for other forms or other service centers. The goal of this pilot is to bring USCIS one step closer to accepting digital payments using a credit card at all service centers."

Details:

- USCIS notice, July 20, 2021, <https://www.uscis.gov/news/alerts/uscis-expands-credit-card-payment-pilot-program-to-form-i-140-when-requesting-premium-processing>

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Temporary Protected Status Updates: Somalia, Burma, Syria, Venezuela, Yemen

On July 21, 2021, the Department of Homeland Security announced the extension and redesignation of Somalia for Temporary Protected Status (TPS) for 18 months, from September 18, 2021, through March 17, 2023, due to "the ongoing armed conflict and extraordinary and temporary conditions in Somalia."

Also, TPS applicants who are eligible nationals of Burma, Somalia, Syria, Venezuela, or Yemen, or individuals without nationality who last habitually resided in one of those countries, can now file Form I-821, Application for Temporary Protected Status, online if they are applying for TPS for the first time. The option to file Form I-821 online is only available to initial TPS applicants from these five countries. USCIS said it is starting with these countries because they are either new designations or recently announced re-designations.

All other TPS applicants and current beneficiaries who are re-registering under the extension of a TPS designation must continue to file a paper Form I-821. If an initial TPS applicant from a country other than Burma, Somalia, Syria, Venezuela, or Yemen or a re-registrant files Form I-821 online, USCIS "will deny the application and retain the fee. USCIS is working to make online filing available for re-registrants and initial applicants for all TPS designations in the future."

Details:

- DHS announcement re Somalia TPS, July 21, 2021, <https://www.uscis.gov/news/news-releases/dhs-announces-extension-and-redesignation-of-somalia-for-temporary-protected-status>
- Extension and Redesignation of Somalia for Temporary Protected Status, DHS/USCIS, July 22, 2021 (Federal Register notice), <https://www.govinfo.gov/content/pkg/FR-2021-07-22/pdf/2021-15595.pdf>
- "TPS Applicants From Five Designated Countries Can Now File Initial Applications Online," USCIS, July 21, 2021, <https://www.uscis.gov/news/news-releases/tps-applicants-from-five-designated-countries-can-now-file-initial-applications-online>

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Justice Dept. Issues Reminder for DACA Recipients and Employers

The Department of Justice (DOJ) released a reminder for Deferred Action for Childhood Arrivals (DACA) recipients and employers on July 21, 2021. The reminder notes that on July 16, 2021, a federal court found DACA unlawful, which means that the government cannot grant new DACA applications. But existing DACA recipients are allowed to retain their grant of DACA and apply for renewal, DOJ noted. "The district court ruling does not affect ICE's [U.S. Immigration and Customs Enforcement] existing enforcement guidelines. The ruling made clear that it did not 'require DHS or the Department of Justice to take any immigration, deportation, or criminal action against any DACA recipient, applicant, or any other individual that it would not otherwise

take.' In light of the court decision, DOJ said, "we are issuing these reminders about employment discrimination and immigrant employee rights."

The reminders include these and other points:

- DACA recipients with current, unexpired Employment Authorization Documents (EADs) continue to be authorized to work.
- For the time being, workers who already have DACA can continue to renew their DACA EADs.
- USCIS will provide additional guidance for DACA requestors and recipients in the coming days.
- DACA recipients are not required to tell employers they have DACA.
- Employers are not expected to know which employees, if any, have DACA, and the court's decision does not require employers to review Forms I-9, reverify employment authorization, or take any action at all.
- Employers are not required or encouraged to ask their employees or job applicants about their immigration status or whether they have DACA.
- When hiring a new employee, employers are required to verify the employee's identity and authorization to work, not their immigration status.
- The court decision does not require employers to review or audit their Forms I-9. If an employer decides to review its Forms I-9, it should do so in a non-discriminatory way.

Details:

- "Reminders for DACA Recipients and Employers," Dept. of Justice, July 21, 2021, <https://www.justice.gov/crt/reminders-daca-recipients-and-employers> (English), <https://www.justice.gov/crt-espanol/recordatorios-para-beneficiarios-de-daca-y-empleadores> (Spanish)
- Statement from USCIS Acting Director Tracy Renaud on Deferred Action for Childhood Arrivals (DACA) Court Decision, July 19,, 2021, <https://www.uscis.gov/news/news-releases/statement-from-uscis-acting-director-tracy-renaud-on-deferred-action-for-childhood-arrivals-daca>

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New DACA Applications Blocked by Federal Judge

New Deferred Action for Childhood Arrivals (DACA) applications will not be allowed under a ruling by a U.S. district judge in Texas on July 16, 2021. The judge ruled that DACA violated the Administrative Procedure Act but temporarily stayed his ruling for the nearly 650,000 current DACA recipients, referred to as "Dreamers." Current DACA recipients may seek renewal of their authorization to remain and work in the United States.

Tech companies, including Twitter, Google, Microsoft, and Adobe, expressed their disappointment with the ruling and urged Congress to protect the program. President Biden echoed those comments and said the U.S. will appeal the ruling, noting that it "relegates hundreds of thousands of young immigrants to an uncertain future." He said it was his "fervent hope" that Congress would pass legislation to provide a permanent status for DACA recipients.

Details:

- Texas v. United States, July 16, 2021, <https://s3.documentcloud.org/documents/21010983/7-16-21-texas-v-us-opinion.pdf>

- U.S. Tech Companies Disappointed With DACA Ruling, Urge Congress to Act," July 17, 2021, <https://www.reuters.com/world/us/us-tech-companies-disappointed-with-daca-ruling-urge-congress-act-2021-07-17/>
- "Biden Pledges Appeal of 'Deeply Disappointing' DACA Ruling," NBC News, July 17, 2021, <https://www.nbcnews.com/politics/politics-news/biden-pledges-appeal-deeply-disappointing-daca-ruling-n1274280>
- "U.S. Judge Blocks New Applicants to Program That Protects Undocumented 'Dreamers' Who Arrived as Children," Washington Post, July 17, 2021, https://www.washingtonpost.com/immigration/daca-court-decision/2021/07/16/6c9a35be-e677-11eb-a41e-c8442c213fa8_story.html
- "Federal Judge Declares DACA Program Illegal, But Halts Only New Applications," NBC News, July 16, 2021, <https://www.nbcnews.com/politics/immigration/federal-judge-declares-daca-program-illegal-halts-only-new-applications-n1274247>
- Statement by DHS Secretary Mayorkas on DACA Ruling, July 17, 2021, <https://www.dhs.gov/news/2021/07/17/statement-secretary-mayorkas-daca-ruling>

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No Surprise: Ombudsman's Annual Report Says USCIS Faces 'Unprecedented Challenges' Due to Pandemic, Backlogs, Financial Issues

The Citizenship and Immigration Services (CIS) Ombudsman's Annual Report for 2021 states that U.S. Citizenship and Immigration Services (USCIS) "faces unprecedented challenges this year on virtually every front—from financial pressures to substantial backlogs across applications and petitions of all types." The Covid-19 pandemic "created unique challenges for USCIS," the report notes, including temporary office closures and a lack of the ability for "end-to-end electronic processing." Once USCIS returned to operations at a reduced capacity, the agency had substantial backlogs of in-person appointments that needed rescheduling. The pandemic also exacerbated the agency's preexisting financial issues and "decimated carryover funding needed to maintain its operations." The problems began in 2020 and persisted into 2021: "The lingering effects of temporary office closures, insufficient revenue, and budget cuts continue to impact processing time and customer service functions."

The report also identified other key areas of focus, including persistent problems with the issuance of Notices to Appear; challenges in the medical disability test waiver process; continuing complications in USCIS's digital strategy; and issues in international student programs, among others.

The report identifies several key objectives, including expanded electronic filing and processing capabilities, increased outreach with stakeholders, and improved coordination between USCIS and other government agencies.

Details:

- Annual Report 2021, Citizenship and Immigration Services Ombudsman, June 30, 2021, Dept. of Homeland Security, https://www.dhs.gov/sites/default/files/publications/dhs_2021_ombudsman_report_med_verified.pdf

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USCIS Reminds Employers to Take Action Within 10 Federal Government Working Days on Tentative Nonconfirmation Cases

U.S. Citizenship and Immigration Services (USCIS) reminded employers that they must take action on Tentative Nonconfirmation (TNC) cases for their employees within 10 federal government working days. USCIS noted that although most Social Security Administration offices are currently closed, this does not affect the 10-day requirement.

The reminder sets forth specific steps employers should take in E-Verify within the timeframe after issuance of a TNC result.

Details:

- USCIS reminder, <https://bit.ly/3ktSOgt>

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USCIS Updates Guidance on Acceptable I-9 Documents for Refugees and Asylees

U.S. Citizenship and Immigration (USCIS) updated its *Handbook for Employers* (M-274) to remind employers that refugees and asylees may present any acceptable documents in their possession to fulfill I-9 employment authorization verification requirements.

USCIS noted that refugees and asylees are eligible for employment due to their status "and are authorized to work indefinitely because their immigration status does not expire." They may present any List A document or combination of List B and List C documents from the Form I-9 lists. They may also present an "acceptable receipt" instead of the List A, B, or C document. The handbook includes additional details.

Details:

- USCIS Handbook for Employers (M-274), Section 6.3, Refugees and Asylees, updated July 13, 2021, <https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/60-evidence-of-status-for-certain-categories/63-refugees-and-asylees>

OFLC Releases FAQ on Implementation of Revised ETA-9141

On July 16, 2021, the Department of Labor's Office of Foreign Labor Certification (OFLC) released Round 3 of frequently asked questions (FAQs) from the National Prevailing Wage Center (NPWC) to respond to inquiries from a webinar on implementing the revised Form ETA-9141, Application for Prevailing Wage Determination. The revised form provides a separate section to be completed by employers who accept alternative job requirements in addition to the minimum job requirements.

OFLC said the new alternative job requirements section (1) improves NPWC's ability to ensure that prevailing wages provided to employers and listed on the Form ETA-9089 do not adversely affect U.S. workers and support a valid labor market test in instances where the alternative requirements would result in a higher wage; and (2) reduces employers' burden of completing a separate Form ETA-9141 for each set of requirements.

Details:

- OFLC notice, <https://www.dol.gov/agencies/eta/foreign-labor>

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OFLC's Atlanta Processing Center to Move in August

The Department of Labor's Office of Foreign Labor Certification (OFLC) mailing address for its Atlanta National Processing Center (ANPC) will change on August 25, 2021, with the exception of mail associated with the processing of applications requesting permanent labor certification subject to supervised recruitment.

Effective August 25, 2021, any mail, including U.S. Postal Service and other courier mail or parcel delivery packages, sent to ANPC must be submitted to the following new mailing address, according to an OFLC notice: U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, 200 Constitution Avenue, NW, Room N-5311, Washington, DC 20210. One exception is mail associated with Supervised Recruitment under 20 CFR 656.21, which must continue to be submitted to: U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, Atlanta National Processing Center, Attn: Supervised Recruitment, P.O. Box 56625, Atlanta, GA 30343.

OFLC said employers must provide ANPC's correct new mailing address on the Notice of Filing (NOF) posted when employers file a Form ETA-9089, Application for Permanent Employment Certification. "If the required 10-day posting period for a NOF commences after September 5, 2021, employers must include the new mailing address contained in the notice," OFLC said.

Details:

- OFLC notice, <https://www.dol.gov/agencies/eta/foreign-labor>
- Federal Register notice, Employment and Training Administration, July 16, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-07-16/pdf/2021-15112.pdf>

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Justice Dept. Settles Retaliation Claim

The Department of Justice (DOJ) announced on July 15, 2021, that it reached a settlement agreement with Around the Clock Dispatch Inc., a freight and delivery services company in Queens Village, New York. The settlement resolves DOJ's finding that the company violated the law by retaliating against a worker because he asked for the agency's help in addressing his concerns about an immigration-related employment practice.

The worker filed a charge and the company suspended the worker for three days without pay. Under the settlement, the company will pay \$3,600 in civil penalties to the United States and nearly \$900 in back pay to the worker. The settlement also requires the company to train employees on the Immigration and Nationality Act's anti-discrimination provision and be subject to DOJ monitoring and reporting requirements.

Details:

- Press Release, Dept. of Justice, July 15, 2021, <https://bit.ly/2UIbOmJ>

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USCIS Announces Updated Receipt Guidance for I-9 Process

U.S. Citizenship and Immigration Services (USCIS) announced updated guidance on receipts for the I-9 employment authorization verification process:

- When employees present a receipt showing that they applied to replace a List A, B, or C document that was lost, stolen, or damaged, they should show their employer the replacement document for which the receipt was given. However, USCIS acknowledged

that this is not always possible due to document delays, changes in status, or other factors.

- If the employee does not present the original document for which the previously provided receipt was issued but presents, within the 90-day period, another acceptable document (or documents) to demonstrate his or her identity and/or employment authorization, employers may now accept such documentation.

In cases where an employee presents a document (or documents) other than the actual replacement document, the employer should complete a new Section 2 and attach it to the original Form I-9, USCIS said. In addition, the employer should provide a note of explanation either in the Additional Information box included on page 2 of the Form I-9 or as a separate attachment.

Details:

- USCIS guidance, June 25, 2021, <https://www.uscis.gov/i-9-central/form-i-9-acceptable-documents/updated-receipts-guidance>

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OFLC Implements District Court Order Requiring Backpay for Qualifying H-2A Workers

Under a court order in *United Farm Workers v. DOL*, the Department of Labor's Office of Foreign Labor Certification (OFLC) announced on July 6, 2021, that H-2A employers that submitted job orders (Form ETA-790/790A) to state workforce agencies or applications for H-2A temporary labor certification (Form ETA-9142A) to DOL between December 21, 2020, and February 23, 2021, must make wage adjustment payments to qualifying workers and certify compliance by September 4, 2021.

The payments must be made to qualifying H-2A workers and U.S. farmworkers in corresponding employment who worked during the period from January 15, 2021, to February 23, 2021, and received an hourly wage below the geographically applicable 2021 Adverse Effect Wage Rate (AEWR). Each wage adjustment payment must equal the total number of hours a farmworker worked from January 15, 2021, to February 23, 2021, multiplied by the difference between the wage received and the geographically applicable 2021 AEWR.

Details:

- OFLC notice, July 6, 2021, <https://www.dol.gov/agencies/eta/foreign-labor>
- Court order, <https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/ECF%2074%20-%20Modification%20to%20Backpay%20Order.pdf>

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OFLC Completes Randomization Process, Publishes List of Randomized H-2B Applications for Employers Seeking H-2B Workers Starting October 1, 2021

The Department of Labor's Office of Foreign Labor Certification (OFLC) completed the process to randomly assign to analysts for review and processing all H-2B applications submitted during the three-day filing window (July 3-5, 2021) requesting an October 1, 2021, work start date. OFLC published the Assignment Group(s) for 873 H-2B applications covering 21,116 worker positions with a work start date of October 1, 2021.

Since the number of H-2B applications received during the three-day filing window collectively requested fewer worker positions for certification than the number of visas available under the

semi-annual visa allotment for the first half of fiscal year 2022, all H-2B applications filed within that time period that requested workers starting October 1, 2021, were randomly given a unique number in accordance with OFLC's randomization process and were placed into the same group for assignment to analysts for review and processing.

Details:

- OFLC notice, July 9, 2021, <https://www.dol.gov/agencies/eta/foreign-labor>
- Assignment groups for H-2B applications submitted July 3-5, 2021, <https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H2B%20Randomization%20List%20July%202021.pdf>

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National Interest Exceptions Extended to One Year, Embassies Report

U.S. embassies in London and Berlin have reported that "all National Interest Exceptions (NIE) are now valid for 12 months and multiple entries as long as you are traveling for the same purpose for which you originally received [a National Interest Exception (NIE)]." According to the U.S. embassy in Berlin, this new policy was effective July 5, 2021.

Presidential Proclamation 10143 allows the entry of any noncitizen whose entry would be in the national interest. Previously, all NIEs were only valid for 30 days and only approved for a single entry into the United States. Those already issued NIEs now may enter the country multiple times, provided they are traveling for the same pre-approved purpose stated in their original NIE.

U.S. Customs and Border Protection (CBP) confirmed that the above guidance does not apply to CBP requests and NIEs previously issued by CBP.

Details:

- Klasko Client Alert, July 6, 2021, <https://bit.ly/36rX7Rh>
- Dept. of State announcement, updated July 6, 2021, <https://travel.state.gov/content/travel/en/News/visas-news/extension-validity-for-nies-for-china-iran-brazil-south-africa-schengen-uk-ireland-india.html>

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USCIS Extends and Redesignates Yemen for TPS, Suspends Certain Requirements for Yemeni F-1 Students

On July 9, 2021, the Department of Homeland Security (DHS) announced the extension and redesignation of Yemen for temporary protected status (TPS). On the same date, DHS announced the suspension of certain regulatory requirements for Yemeni F-1 nonimmigrant students who are experiencing severe economic hardship because of the current crisis in Yemen.

TPS extended and redesignated. TPS for Yemen is extended and redesignated for 18 months, from September 4, 2021, through March 3, 2023. The extension allows currently eligible TPS beneficiaries to retain TPS through March 3, 2023, so long as they otherwise continue to meet the eligibility requirements for TPS. The redesignation allows additional individuals who have been continuously residing in the United States since July 5, 2021, to obtain TPS, if otherwise eligible.

The notice sets forth procedures necessary for Yemeni nationals (or individuals having no nationality who last habitually resided in Yemen) either to submit an initial registration application under the redesignation and apply for an employment authorization document (EAD) or, if they already have TPS, to re-register under the extension and to apply for renewal of their EADs with U.S. Citizenship and Immigration Services (USCIS). USCIS will issue new EADs with a March 3, 2023, expiration date to eligible beneficiaries under Yemen's TPS designation who timely reregister and apply for EADs under the extension, or who timely register and apply for EADs under the redesignation.

Requirements suspended for Yemeni students. Effective September 4, 2021, through March 3, 2023, Yemeni citizens (regardless of country of birth) who are lawful F-1 nonimmigrant students can request employment authorization, work an increased number of hours while school is in session, and reduce their course loads while continuing to maintain F-1 status. DHS said it will deem an F-1 nonimmigrant student who receives employment authorization "by means of this notice to be engaged in a 'full course of study' for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in this notice."

Details:

- DHS/USCIS notice extending/redesignating Yemen TPS, July 9, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-07-09/pdf/2021-14670.pdf>
- DHS/ICE notice suspending certain requirements for Yemeni F-1 students, July 9, 2021, <https://www.govinfo.gov/content/pkg/FR-2021-07-09/pdf/2021-14676.pdf>
- USCIS release, July 7, 2021, <https://www.uscis.gov/news/news-releases/dhs-publishes-federal-register-notice-extending-and-re-designating-yemen-for-temporary-protected>
- Secretary Mayorkas announcement, July 6, 2021, <https://www.uscis.gov/news/news-releases/secretary-mayorkas-announces-extension-and-re-designation-of-yemen-for-temporary-protected-status>

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D.C. Court of Appeals Issues Decision in *Wang v. Blinken*

On July 9, 2021, the D.C. Court of Appeals issued its opinion in *Wang v. Blinken*, interpreting INA § 203(d) to include the counting of derivatives toward the EB-5 investor cap. Plaintiffs had argued that INA § 203(d) is ambiguous and could also be interpreted as not including the counting of family members. Judge Walker, who authored the opinion, interpreted the key phrase "same status" at 8 U.S.C. § 1153(d) to mean that because an EB-5 investor's family members get the same type of visa, they must also be counted against the cap, and reasoned that "same order of consideration provided in the respective subsection," which refers to the worldwide cap on employment-based visas, further indicates that spouses and children of EB-5 investors are subject to the cap.

Details:

- Opinion: [https://www.cadc.uscourts.gov/internet/opinions.nsf/A556BEBE1606BBA08525870D0050CBCF/\\$file/20-5076-1905648.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/A556BEBE1606BBA08525870D0050CBCF/$file/20-5076-1905648.pdf)

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ABIL Global: Canada

This article updates border measures for travelers entering Canada.

On July 19, 2021, the government of Canada announced the details of the next phase of its approach to easing border measures for travelers entering Canada. As a result of increased vaccination rates, declining COVID-19 cases, and reduced pressure on health care capacity in Canada, the government plans a number of changes.

Beginning August 9, 2021, fully vaccinated U.S. citizens and permanent residents, currently residing in the United States, will be permitted to enter Canada for discretionary (non-essential) travel. On September 7, 2021, provided that the domestic epidemiologic situation remains favorable, the government will open Canada's borders to all fully vaccinated travelers.

As of July 5, 2021, fully vaccinated travelers who are permitted to enter Canada are not subject to the federal requirement to quarantine or to take a Covid-19 test. In addition, fully vaccinated travelers arriving by air will not be required to stay at a government-authorized hotel. Pre-and on-arrival Covid-19 testing requirements for travelers arriving by air or land to Canada continue to apply.

Below are questions and answers on selected highlights of these developments:

What will change on August 9, 2021?

Entry to Canada

As noted above, fully vaccinated U.S. citizens and permanent residents, currently residing in the United States, can travel to Canada for discretionary (non-essential) purposes. Additionally, unvaccinated children under 12 years of age, or unvaccinated dependent children (due to a mental or physical condition), who are U.S. citizens or permanent residents currently residing in the United States may also enter Canada. To be allowed entry, such children must be accompanying a fully vaccinated parent, step-parent, guardian, or tutor who is permitted to enter Canada.

To be considered fully vaccinated, travelers must have received two doses or a combination of the Pfizer, Moderna, or AstraZeneca/COVISHIELD vaccines or a single dose of the Janssen (Johnson & Johnson) vaccine, at least 14 days before their entry to Canada.

Also, Transport Canada will expand the scope of the existing Notice to Airmen that currently directs scheduled international commercial passenger flights into the four major Canadian airports. Effective August 9, 2021, international flights carrying passengers will be permitted to land at the following five additional Canadian airports: Halifax Stanfield International Airport; Québec City Jean Lesage International Airport; Ottawa Macdonald-Cartier International Airport; Winnipeg James Armstrong Richardson International Airport; and Edmonton International Airport.

Testing and Temperature Screening Requirements

Canada will begin a new border testing surveillance program at airports and land border crossings. Beginning August 9, 2021, fully vaccinated travelers will not need a post-arrival test unless they have been randomly selected to complete a Day 1 COVID-19 molecular test. Transport Canada will also remove the requirement for the Canadian Air Transport Security Authority to perform pre-board temperature screening of passengers and airport workers on all domestic flights and international departures.

In a positive development for Canadians, Canadian citizens and permanent residents traveling to the United States for less than 72 hours will now be permitted to do their pre-entry test in

Canada. Therefore, such individuals will no longer be required to receive a second COVID-19 molecular test result in the United States before returning to Canada.

Quarantine Requirements

As of August 9, 2021, the three-night government-authorized hotel stay requirement for all travelers arriving by air will be eliminated. Additionally, unvaccinated children under 12 years of age and dependent children (due to a mental or physical condition) of fully vaccinated travelers will no longer have to complete a 14-day quarantine but must follow strict public health measures. This means they can move around with their parents, but must avoid group settings—such as camps, daycares, or schools—during the first 14 days after their arrival. Unvaccinated children will remain subject to the Day 1 and Day 8 testing requirements.

Provinces and territories may have more stringent rules regarding people who have recently returned from travel.

What will change on September 7, 2021?

As of July 22, 2021, the government of Canada plans to open Canada's borders to all fully vaccinated travelers as of September 7, 2021. This plan is contingent on the domestic epidemiologic situation remaining favorable in Canada. The preliminary step of permitting U.S. travelers' entry into Canada for discretionary (non-essential) purposes will allow the government to fully operationalize the adjusted border measures ahead of September 7, 2021.

What requirements are still in place?

For travelers who are not fully vaccinated, there are no changes to Canada's current mandatory testing requirements. Such travelers must still complete a mandatory 14-day quarantine requirement, subject to limited exceptions. However, as mentioned above, the three-night government-authorized hotel stay requirement for all travelers arriving by air will be eliminated.

Fully vaccinated travelers must also be asymptomatic, have a paper or digital copy of their vaccination documentation in English or French (or certified translation, along with the original), and provide COVID-19-related information electronically through the ArriveCAN app before arriving in Canada. They must still present a suitable quarantine plan and be prepared to quarantine if it is determined at the border that they do not meet all of the conditions required to be exempt from quarantine. As with all other exempt travelers, they must follow public health measures in place, such as wearing a mask when in public and keeping a copy of their vaccine and test results available, as well as a list of close contacts for 14 days after entry to Canada.

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New Publications and Items of Interest

[Webinar on TPS for Somalia](#). USCIS will hold a webinar on Temporary Protected Status (TPS) for Somalia on Wednesday, August 11, 2021, from 2 to 3 pm ET. The webinar will include an explanation of eligibility requirements and filing tips. For more information or to register, see <https://www.uscis.gov/outreach/upcoming-national-engagements/temporary-protected-status-tps-for-somalia>

[E-Verify podcast](#). Tammy Meckley, Associate Director, Immigration Records and Identity Services Directorate, U.S. Citizenship and Immigration Services, explains key aspects of E-Verify in this podcast from Equifax Workforce Solutions, "E-Verify and I-9 News: Straight From the Top, Part 1." <https://workforce.equifax.com/e-verify-and-i-9-news-straight-from-the-top-part-1>

[E-Verify redesigns web pages](#). E-Verify launched redesigned webpages for the Employer and Employer Agent Profile, and the Corporate Administrator Profile. Functionality remains the

same. E-Verify said the redesign enhances usability, makes it easier to update company information, and updates the look and feel. <https://www.e-verify.gov/employers>

Immigrant and Employee Rights Section webinars. The Immigrant and Employee Rights Section of the Department of Justice's Civil Rights Division is offering free webinars for the public. There are webinars for workers, employers, and advocates. <https://www.justice.gov/crt/webinars>

COVID-19 resources. The response of the U.S. immigration agencies to the coronavirus (COVID-19) pandemic is constantly evolving, making it difficult to report relevant, up-to-date information. The list of online resources below is intended to serve as a quick reference to the most current available agency information.

General Information

- [Coronavirus.gov](https://www.coronavirus.gov): Primary federal site for general coronavirus information
- [USA.gov/coronavirus](https://www.usa.gov/coronavirus): Catalog of U.S. government's response to coronavirus
- [CDC.gov/coronavirus](https://www.cdc.gov/coronavirus): Centers for Disease Control and Prevention information
- American Immigration Lawyers Association: <https://www.aila.org/advo-media/issues/all/covid-19> (links to practice alerts on this site are restricted to members)
- NAFSA: <https://www.nafsa.org/regulatory-information/coronavirus-critical-resources>

Immigration Agency Information

Department of Homeland Security: [DHS.gov/coronavirus](https://www.dhs.gov/coronavirus)

- <https://www.dhs.gov/coronavirus-news-updates>
- <https://www.dhs.gov/news/2020/03/17/fact-sheet-dhs-notice-arrival-restrictions-china-iran-and-certain-countries-europe>
- USCIS: [USCIS.gov/coronavirus](https://www.uscis.gov/coronavirus)
- ICE:
 - Overview and FAQs: <https://www.ice.gov/coronavirus>
 - Requirements for ICE Detention Facilities: <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities.pdf>
- CBP:
 - Updates and Announcements: <https://www.cbp.gov/newsroom/coronavirus>
 - Accessing I-94 Information: <https://i94.cbp.dhs.gov/i94/#/home>

Department of Labor:

- Office of Foreign Labor Certification:
 - OFLC Announcements (COVID-19 announcements included here): <https://www.foreignlaborcert.doleta.gov/>
 - COVID-19 FAQs:
 - Round 1 (Mar. 20, 2020): https://www.foreignlaborcert.doleta.gov/pdf/DOL-OFLC_COVID-19_FAQs_Round%201_03.20.2020.pdf
 - Round 2 (Apr. 1, 2020): https://www.foreignlaborcert.doleta.gov/pdf/DOL-OFLC_COVID-19_FAQs_Round%202_04.01.2020.pdf
 - Round 3 (Apr. 9, 2020): https://www.foreignlaborcert.doleta.gov/pdf/DOL-OFLC_COVID-19_FAQs_Round%203.pdf

State Department: <https://www.state.gov/coronavirus/>

- Travel advisories: <https://travel.state.gov/content/travel/en/traveladvisories/ea/covid-19-information.html>
- Country-specific information: <https://travel.state.gov/content/travel/en/traveladvisories/COVID-19-Country-Specific-Information.html>
- J-1 exchange visitor information: <https://j1visa.state.gov/covid-19/>

Justice Department

- Executive Office for Immigration Review: <https://www.justice.gov/eoir/eoir-operational-status-during-coronavirus-pandemic>

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.

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, has published a new blog entry: "Moving the Goalposts: Name, Image, and Likeness Compensation for Foreign Student Athletes." <https://www.klaskolaw.com/news-politics/foreign-student-athletes-name-image-and-likeness-compensation/>

Sophia Genovese, formerly of **Cyrus D. Mehta and Partners, PLLC**, has authored a new blog post: "The Fight for Immigration Justice Is Not Over: SCOTUS Rules Mandatory Detention of Certain Immigrants Seeking Safety in the United States." <https://bit.ly/2V8GcRG>

Cyrus D. Mehta and Partners, PLLC, has published a new blog post by guest author **Stacy Caplow**: "The Sinking Immigration Court: Change Course, Save the Ship." http://blog.cyrusmehta.com/2021/08/the-sinking-immigration-court-change-course-save-the-ship.html#_edn2

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) was quoted by the *Economic Times of India* in "Policy Change to Benefit Children of H-1B Visa Holders in the U.S." The article quoted Mr. Mehta's tweet, "USCIS does away with burdensome 'gap' status applications when one changes to F-1. This will provide some relief to children of backlogged skilled immigrants who age out, although the optimum solution is to get rid of per country limits and add more visas." <https://economictimes.indiatimes.com/nri/migrate/policy-change-to-benefit-children-of-h-1b-visa-holders-in-the-us/articleshow/84607555.cms?from=mdr> (article); <https://twitter.com/cyrusmehta/status/1417628691241349121> (Twitter)

Mr. Mehta co-authored a blog post with **Isabel Rajabzadeh**: "No Longer in Use: How Changes in SOC Systems Affect Employment-Based Immigration." <http://blog.cyrusmehta.com/2021/07/no-longer-in-use-how-changes-in-soc-systems-affect-employment-based-immigration.html>

Mr. Mehta and **Kaitlyn Box** co-authored several blog posts: "Wang v. Blinken Nixes Any Hope for Excluding the Counting of Family Members in the Green Card Caps," <https://bit.ly/2VIIMxB>, and "Requesting Premium Processing on a Downgraded I-140 Petition," <http://blog.cyrusmehta.com/2021/07/requesting-premium-processing-on-a-downgraded-i-140-petition.html>

Mr. Mehta was quoted by the *Times of India* in "U.S. Court Quashes Plea to Exclude Family Members From EB-5 Annual Visa Quota." He said that a provision in the Immigration and Nationality Act "could be interpreted to not count family members. Although the case involved plaintiffs who limited their argument to the EB-5 cap for investor green cards, this case will cast a pall on additional lawsuits by plaintiffs making the same argument under other employment or family visa categories." <https://bit.ly/3kvAi7C>

Wolfsdorf Rosenthal LLP has published a new blog post: "A 'Giant Sucking Sound': Why Are We Losing Top Talent?" <https://wolfsdorf.com/a-giant-sucking-sound-why-are-we-losing-top-talent/>

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) co-authored an op-ed published in *The Hill*, "Vaccine Xenophobia Against Immigrants and Refugees Must End." The op-ed suggests, among other things, that "[b]uilding immigrant-citizen collaborations in high-income countries to advocate for the rights of those who have no voice or are fearful of repercussions is one way to improve vaccine equity, especially among forcibly displaced populations. This can be in the form of working with nongovernmental organizations, voicing concerns to Congress about sharing superfluous vaccines with other countries, eliminating unnecessary visa exclusions, investing in humanitarian border operations, and engaging in community outreach programs to empower displaced individuals by compiling reliable and accessible resources about their eligibility for healthcare benefits, including vaccines." <https://thehill.com/opinion/immigration/564663-vaccine-xenophobia-against-immigrants-and-refugees-must-end>

Mr. Yale-Loehr was quoted by the *Ritz Herald* in "CDC Immigration Order Lifted for Children, Should Expand for Adults." He said the Centers for Disease Control and Prevention (CDC) order is a good first step, but more needs to be done. "The Title 42 order has been heavily criticized, and properly so. Immigrant advocates claim that the public health order has put migrants in harm's way by forcing them to remain in Mexico. For example, on June 30, over 100 groups urged the Biden administration to fully rescind Title 42 expulsions. Unaccompanied noncitizen children had been temporarily exempted from the Title 42 order. Today's announcement makes that exemption official, based on the CDC's assessment that it can properly assess the risk of COVID-19 transmission among children and provide vaccinations to children ages 12 and over. The CDC should go further by rescinding its Title 42 order for everyone. There is no valid public health rationale for expelling people fleeing persecution, when millions of other people enter the United States on visas every year." <https://ritzherald.com/cdc-immigration-order-lifted-for-children-should-expand-for-adults/>

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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 390 member lawyers and their more than 1,100 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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