



Business Immigration Reporter

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When to File For Adjustment of Status

In September 2015, the USCIS announced it is improving adjustment of status application procedures for applicants who are subject to visa quota numbers. We reported on this issue [here](#).

However, USCIS is not abiding by its own rules. Rather than adhering to “Dates of Filing Application” announcements in the Visa Bulletin, it rejected such applications and only accepted adjustment of status applications announced in the Visa bulletin under “Application Final Action Dates.”

For January 2016, the USCIS announced it will honor the “Dates of Filing Application” dates published in the January 2016 Visa Bulletin, but only for family-based immigration applications. All employment-based applicants must file under the “Application Final Action Date,” which is the actual priority date.

You can find the January 2016 Visa Bulletin [here](#)

Proposed Changes to Form I-9

On November 24, 2015 the USCIS posted notice in the Federal Register seeking comments for changes the agency proposes to Form I-9 Employment Eligibility Verification.

If you wish to comment on proposed changes to Form I-9 you may access the information collection instrument with instructions, or additional information, by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS-2006-0068 in the search box.

“Same” or “Similar” Occupational Classification Update



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Under the American Competitiveness in the 21st Century Act of 2000 (AC21) Congress provided for more job flexibility for employment-based immigrants who experience delays and backlogs in their immigrant visa process.

Specifically, AC21 allows such immigrants to port to a new job without the new employer having to file new petitions or having to test the labor market, so long as the new job is in the “same” or “similar” job classification as the originally petitioned for position.

In the almost 15 years since enactment of AC21, USCIS has published five guidance memoranda. The current draft memorandum will likely supersede all previous memoranda and the USCIS is inviting the public to listen in and for stakeholders to provide feedback on Thursday, December 17, from 3:00PM to 4:00PM EST.

If you wish to participate, register [here](#) today.

New Countries Added to H-2A and H-2B Eligible Country List

The H-2A and H-2B Visa programs allow U.S. employers to bring foreign nationals to the United States to fill temporary agricultural and nonagricultural jobs, respectively.

In addition to many others, nationals of Andorra, Belgium, Brunei, Colombia, Finland, France, Germany, Greece, Lichtenstein, Luxembourg, Malta, Monaco, San Marino, Singapore, Taiwan, and Timor-Leste are now eligible for H-2A and H-2B visas.

You can find a complete list of eligible countries and nationals and USCIS’ latest announcement [here](#)

Internal I-9 Audit Guidance

The Department of Justice and the Department of Homeland Security announced the publication of a joint “Guidance for Employers Conducting Internal Employment Eligibility Verification Form I-9 Audits” protocol. The intent of the guidance is to provide employers information to assure that internal I-9 audits are conducted fairly, accurately and without discrimination or retaliation against their employees.

The guidance is available at <http://www.justice.gov/crt/file/798276/download>. Notwithstanding that all HR professionals should read the guidance memorandum, if your company has a written I-9 compliance protocol / program, and although your company is likely in compliance already, I recommend including this good faith compliance guidance by reference.

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This is the last edition of the Business Immigration Reporter for this year. I take this opportunity to thank all our readers for their loyalty and support. I wish you a very Happy Holidays and I look forward to reporting business immigration news to you in 2016.

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