

Immigration News

February 2012

USCIS announces expansion of E-Verify service

U.S. Citizenship and Immigration Services (USCIS) has announced an expansion of the E-Verify program with a free online service called Self Check. Self Check allows workers to check their own employment eligibility status and is now available in all 50 states, Washington, D.C., Guam, Puerto Rico, the U.S. Virgin Islands and the Commonwealth of Northern Mariana Islands.

Full validity L Visas now being issued to qualified applicants

A final rule has been published by the Department of State which now permits the L visas to be issued with validity periods that are based on the visa reciprocity schedule rather than the L petition validity period which currently cannot exceed three years. New L visas will now have the validity period prescribed in schedules provided to consular officers by the Department of State, which reflect the reciprocal treatment the applicant's country allows for U.S. nationals, U.S. permanent residents, or aliens granted refugee status in the United States. For clarification of this final rule, please contact your attorney at Fong & Associates.

Benefits reforms proposed by DHS

The Department of Homeland Security (DHS) has proposed several reforms designed to retain highly-skilled foreign nationals and attract new investment to the United States. Included in these proposals are plans to:

- make a 17-month extension of optional practical training (OPT) available to F-1 students with U.S. science, technology, engineering or math (STEM) degrees
- grant work authorization (EAD) to certain H-4 applicants whose H-1B spouses have pending applications for a labor certification or immigrant worker petition and have been in the U.S. as an H-1B for a minimum period of time. Currently, an H-4 spouse has to wait until he or she is the beneficiary of a pending application for adjustment of status – the last stage of the green card process.
- accept more types of evidence to establish that outstanding professors and researchers sponsored for permanent residence in the EB-1(b) subcategory are internationally recognized as outstanding in their field.

The DHS proposals must proceed through the federal regulatory approval process before being implemented, which could take several months. Look for updates in Immigration NewsFlash and contact Fong & Associates with any questions.

January 2012

Filing new H-1B petitions for FY2013

The USCIS will accept new H-1B cap subject non-immigrant applications for FY2013 **in 2 months** on April 1, 2012. H-1B status authorizes employment of professional or specialty occupation employees for positions requiring a minimum of a bachelor's degree. Fong & Associates encourages employers to begin preparations now for new H-1B worker applications for the October 1, 2012 work start date. USCIS issues 65,000 regular and 20,000 advanced-degree H-1B visas yearly. Employers with plans to hire eligible H-1B workers should contact your attorney at Fong & Associates immediately.

President signs executive order to speed visa processing

President Obama has signed an executive order with the intent of speeding visa processing and promoting travel to the United States. The executive order calls on the State Department to interview 80 percent of all visa applicants within three weeks. It also includes a pilot program to increase nonimmigrant visa processing in China and Brazil by 40 percent. In addition, the government has begun to expand the Visa Waiver Program by nominating Taiwan for membership. Look for further developments as they occur in upcoming editions of Immigration NewsFlash.

Continued jumps for EB2 China and India categories

The February 2012 visa bulletin reflects the continuation of significant advancements in green card priority dates for Indian and Chinese nationals in the employment-based second preference (EB-2) category. Priority dates for EB-2 foreign nationals advanced by one year, to January 1, 2010. A general strike in Nigeria has prompted the government to stop accepting new immigration applications. Click the link to view the 2012 visa bulletins and contact your attorney at Fong & Associates for further details. http://www.travel.state.gov/visa/bulletin/bulletin_1360.html

December, 2011

Significant jump for EB2 China and India categories

A significant 10 month jump from 03/15/2008 to 01/01/2009 is reflected on the January 2012 Visa Bulletin for the employment-based 2nd Preference categories for China and India. All other employment and family based categories show only modest movement. Foreign nationals in these categories with approved I-140's are now eligible to file their I-485 Adjustment of Status petitions, if not previously filed with the I-140. Adjustment of Status petitions that were filed concurrently with the I-140's should be adjudicated by USCIS in the coming months. Click the link to view the December 2011 and January 2012 visa bulletins and contact your attorney at Fong & Associates for further details. http://www.travel.state.gov/visa/bulletin/bulletin_1360.html

No H-1B cap lottery for FY2012 to be conducted

USCIS has announced that it will not conduct an H-1B cap lottery for FY 2012. Only properly completed H-1B cap petitions received by the "final receipt date" of November 22, 2011 will be considered for processing. All other cap-subject H-1B petitions received after this final receipt date will be rejected and returned along with their fees. Although regulations do not require that the USCIS conduct an H-1B lottery, this will be the first time since the process was started in 2005 that a lottery will not be conducted. The H-1B computerized lottery system was used in the past to randomly select a sufficient number of cases to fulfill the cap from the surplus of petitions received.