



IMMIGRATION UPDATE - JULY 15, 2022

Posted on July 15, 2022 by Cyrus Mehta

Headlines:

[SSA To Resume Normal E-Verify Timeframes](#) – Starting July 15, 2022, employees whose E-Verify cases are referred to the Social Security Administration (SSA) on or after that date will have the normal eight federal working days to contact their local SSA office to begin resolving the mismatch.

[Labor Dept. Releases FAQ on Process for Requesting Support for Immigration-Related Prosecutorial Discretion for Workers Involved in Labor Disputes](#) – The Department of Labor (DOL) released frequently asked questions on the process for requesting DOL support for requests to the Department of Homeland Security for immigration-related prosecutorial discretion during labor disputes.

[USCIS Rescinds Decision on Agency Interpretation of Authorized Travel by TPS Beneficiaries](#) – Among other things, USCIS will no longer use the advance parole mechanism to authorize travel for TPS beneficiaries but will instead provide a new TPS travel authorization document.

[USCIS Releases New I-9 Guidance for Employers of E and L Nonimmigrants](#) – USCIS has published new guidance on Form I-9, Employment Authorization Verification, related to employees with E and L nonimmigrant status in its Handbook for Employers (M-274, Section 6.9, Other Temporary Workers).

[DHS Issues Final Rule Changing NAFTA to USMCA](#) – The Department of Homeland Security issued a final rule relating to the temporary entry of Canadian and Mexican citizen business persons into the United States. The final rule replaces references to the North American Free Trade Agreement with references to the Agreement Between the United States of America, the United Mexican States, and Canada.

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Details:

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SSA To Resume Normal E-Verify Timeframes

E-Verify announced that starting July 15, 2022, employees whose E-Verify cases are referred to the Social Security Administration (SSA) will have the normal eight federal working days to contact their local SSA office to begin resolving the mismatch.

At the onset of the COVID-19 pandemic in March 2020, E-Verify extended the timeframe for an employee to take action to resolve a Tentative Nonconfirmation (mismatch). For E-Verify cases referred on or after July 15, 2022, E-Verify will **no longer provide extended timeframes** for employees to visit SSA to resolve these mismatches. However, E-Verify cases referred between March 2, 2020, to July 14, 2022, with an SSA mismatch will still have an extended timeframe to be resolved, E-Verify said.

Details:

- E-Verify announcement, July 5, 2022, <https://bit.ly/3Rj1HHI>

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Labor Dept. Releases FAQ on Process for Requesting Support for Immigration-Related Prosecutorial Discretion for Workers Involved in Labor Disputes

On July 6, 2022, the Department of Labor (DOL) released frequently asked questions (FAQ) on the process for requesting DOL support for requests to the Department of Homeland Security (DHS) for immigration-related prosecutorial discretion during labor disputes.

The FAQ states that DOL considers such requests on a case-by-case basis. DOL remains open to requests from workers to express DOL support for their requests to DHS seeking immigration-related prosecutorial discretion. The FAQ notes:

Workers must feel free to participate in the Department's investigations and proceedings without fear of retaliation or immigration-related consequences. DOL's mission and effective enforcement depends on the cooperation of workers. However, vulnerable workers who lack work authorization or sufficiently 'portable' immigration status are often reluctant to report

violations, engage with government enforcement agencies, or otherwise exercise their rights. For example, undocumented workers who experience labor law violations may fear that cooperating with an investigation will result in the disclosure of their immigration status or that of family members, or that it will result in immigration-based retaliation from their employers and adverse immigration consequences for themselves or their family. As a result, both workers and the Department face barriers to equitable and effective enforcement of workplace rights and protections, and the many employers that adhere to labor and employment laws face unfair competition.

DOL has long supported prosecutorial discretion on a case-by-case basis, to further enforcement of laws within DOL's jurisdiction.

Details:

- FAQ, Dept. of Labor, July 6, 2022, <https://bit.ly/3nOSNEa>

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USCIS Rescinds Decision on Agency Interpretation of Authorized Travel by TPS Beneficiaries

On July 1, 2022, U.S. Citizenship and Immigration Services (USCIS) announced that it has rescinded its designation of the Administrative Appeals Office (AAO) decision in *Matter of Z-R-Z-C-2* as an Adopted Decision and updated its interpretation of the effects of authorized travel by temporary protected status (TPS) beneficiaries. The memorandum notes, among other things:

- USCIS will no longer use the advance parole mechanism to authorize travel for TPS beneficiaries, but will instead provide a new TPS travel authorization document. This document will serve as evidence that the bearer may be inspected and admitted into TPS pursuant to the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (MTINA) if all other requirements are met.
- TPS beneficiaries whom DHS has inspected and admitted into TPS under MTINA, subsequent to that inspection and admission, will have been "inspected and admitted" and are "present in the United States pursuant to a lawful admission," including for purposes of adjustment of status under INA § 245 for a green card. This is true even if the TPS beneficiary was present without admission or parole when initially granted TPS.

- In adjudicating an application for adjustment of status, or any other benefit request where relevant, USCIS will consider whether to apply this guidance to travel undertaken by the applicant before the issuance of this memorandum. This consideration will include a case-by-case review of any reliance on the prior policy, applicable law, and any other relevant factors. Additionally, to be eligible for consideration under this guidance, past travel must meet each of the following requirements:
- The noncitizen obtained prior authorization to travel abroad temporarily on the basis of being a TPS beneficiary;
- The noncitizen's TPS was not withdrawn or the designation for their foreign state (or part of a foreign state) was not terminated or did not expire during their travel;
- The noncitizen returned to the United States in accordance with the authorization to travel; and
- Upon return, the noncitizen was inspected by DHS or the former Immigration and Naturalization Service (INS) at a designated port of entry and paroled or otherwise permitted to pass into the territorial boundaries of the United States in accordance with the TPS-based travel authorization.

Details:

- USCIS Policy Memorandum, PM-602-0188, July 1, 2022, <https://www.uscis.gov/sites/default/files/document/memos/PM-602-0188-RescissionofMatterofZ-R-Z-C-.pdf>

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USCIS Releases New I-9 Guidance for Employers of E and L Nonimmigrants

U.S. Citizenship and Immigration Services has published new guidance on Form I-9, Employment Authorization Verification, related to employees with E and L nonimmigrant status in its Handbook for Employers (M-274, Section 6.9, Other Temporary Workers).

Details:

- "M-274 Update: New Section Added for Other Temporary Workers," July 5, 2022, <https://www.uscis.gov/i-9-central/form-i-9-related-news/m-274-update-ne>

[w-section-added-for-other-temporary-workers-0](#)

- Handbook for Employers, Section 6.9, Other Temporary Workers, <https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/60-evidence-of-status-for-certain-categories/69-other-temporary-workers>

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DHS Issues Final Rule Changing NAFTA to USMCA

The Department of Homeland Security (DHS) issued a final rule relating to the temporary entry of Canadian and Mexican citizen business persons into the United States. The final rule replaces references to the North American Free Trade Agreement (NAFTA) with references to the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA).

The USMCA superseded NAFTA and its related provisions on July 1, 2020. Chapter 16 of the USMCA "generally maintains the same treatment as provided under NAFTA with respect to the temporary entry of Canadian and Mexican citizen business persons," DHS said. The final rule "makes other minor, non-substantive conforming amendments and stylistic changes and corrects typographical errors."

Details:

- U.S. Customs and Border Protection, Final Rule, 87 Fed. Reg. 41027 (July 11, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-07-11/pdf/2022-14728.pdf>

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Cyrus Mehta has been named Editor-in-Chief of the *American Immigration Lawyers Association Law Journal*. Mr. Mehta is Managing Partner of Cyrus D. Mehta & Partners PLLC in New York City and is a graduate of Cambridge University and Columbia Law School. He has served in varied national roles with AILA, currently continuing his long-time service with AILA's Ethics Committee as Vice Chair. Mr. Mehta is a board member of the New York Immigration Coalition and is a board member of Volunteers of Legal Services. He is also special counsel on immigration matters to the Departmental

Disciplinary Committee, Appellate Division, First Department, New York.

<https://www.aila.org/advo-media/press-releases/2022/aila-law-journal-welcomes-new-editor>

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