



## IMMIGRATION UPDATE - OCTOBER 03, 2022

*Posted on October 3, 2022 by Cyrus Mehta*

### Headlines:

[Agencies Release Hurricane Ian-Related Guidance](#) – The Department of Labor's Office of Foreign Labor Certification and the Department of Homeland Security, including U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection, released guidance related to the effects of Hurricane Ian.

[USCIS Extends Green Card Validity to 24 Months for Renewals](#) – Lawful permanent residents who properly file Form I-90, Application to Replace Permanent Resident Card, to renew an expiring or expired green card may receive this extension.

[Draft FAQs Released on H-2A Temporary or Seasonal Need Assessments, Comments Requested](#) – The draft guidance pertains to the Office of Foreign Labor Certification's assessment of the temporary or seasonal nature of an employer's need for agricultural labor or services during review of the Form ETA-9142A, H-2A Application for Temporary Employment Certification.

[Temporary Protected Status Extended and Redesignated for Burma \(Myanmar\)](#) – The Department of Homeland Security is extending TPS for Burma (Myanmar) for an additional 18 months, from November 26, 2022, through May 25, 2024. DHS also redesignated Burma for TPS for the same reason, granting eligibility to Burmese nationals (and individuals having no nationality who last habitually resided in Burma) residing in the United States as of September 25, 2022.

[Temporary Waiver of 60-Day Rule Extended for Civil Surgeon Signatures on Form I-693](#) – The waiver, which was effective until September 30, 2022, has been extended to March 31, 2023.

[USCIS Stops Accepting CW-1 Petitions From Employers Under Disaster Recovery Workforce Act](#) – Starting October 1, 2022, construction and extraction

occupations are prohibited under the CW-1 program, except for long-term workers. USCIS said it continues to accept CW-1 petitions other than those seeking approval under the Disaster Recovery Workforce Act.

[Biden Plans Executive Action to Protect DACA Recipients](#) – According to reports, President Biden plans to take executive action to protect Deferred Action for Childhood Arrivals (DACA) "Dreamers" from removal if the Fifth Circuit Court of Appeals rules against DACA, which appears imminent.

[USCIS Director, CIS Ombudsman Hold 'Fireside Chat'](#) – The conversation included discussion of processing times; backlog reduction efforts; customer service; funding and congressional appropriations; the Ombudsman's 2022 Annual Report to Congress; recommendations on USCIS's fee-for-service funding model; and types of assistance the Ombudsman's office provides to the public.

[Problems Reported With Emergency 'Satisfactory Departure' Requests](#) – According to reports, U.S. Citizenship and Immigration Services (USCIS) has told some practitioners that their ability to grant multiple satisfactory departure requests ended in April, but the agency has acknowledged that their public website has not yet been updated.

[E-Verify Restores Client Company Enrollments](#) – E-Verify employer agents can once again create and submit client enrollments.

[ABIL Global: Peru](#) – This article discusses the Artist visa for foreigners coming to perform artistic activities in Peru.

### **Details:**

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## **Agencies Release Hurricane Ian-Related Guidance**

The Department of Labor's Office of Foreign Labor Certification (OFLC) and the Department of Homeland Security (DHS), including U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP), released guidance related to the effects of Hurricane Ian.

### **OFLC**

OFLC issued disaster guidance on September 29, 2022, regarding reasonable case accommodations in light of the damage done by Hurricane Ian.

Among other things, the guidance notes that the most effective means of communicating with OFLC is through the Foreign Labor Application Gateway (FLAG) or PERM Case Management System for each OFLC program. For employers or authorized attorneys or agents who are unable to communicate with OFLC through FLAG or the PERM system, the guidance provides alternative methods of contacting OFLC.

## **DHS**

DHS issued guidance on September 28, 2022, reminding the public that ICE and CBP provide emergency assistance to individuals regardless of immigration status, and that DHS officials do not pose as individuals providing emergency-related information as part of any enforcement activity. Further, sites providing emergency response and relief are considered "protected areas." DHS said that to the fullest extent possible, ICE and CBP "do not conduct immigration enforcement activities at protected areas such as along evacuation routes, sites used for sheltering or the distribution of emergency supplies, food or water, or registration sites for disaster-related assistance or the reunification of families and loved ones."

### Details:

- OFLC guidance, Sept. 29, 2022, <https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/Hurricane%20Ian%20Disaster%20Guidance%20-%2009-29-2022.pdf>
- DHS guidance, Sept. 28, 2022, <https://www.dhs.gov/news/2022/09/28/dhs-statement-safety-and-enforcement-during-hurricane-ian>

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## **USCIS Extends Green Card Validity to 24 Months for Renewals**

Effective September 26, 2022, U.S. Citizenship and Immigration Services (USCIS) is automatically extending the validity of permanent resident cards (green cards) to 24 months for lawful permanent residents who file Form I-90, Application to Replace Permanent Resident Card.

Lawful permanent residents who properly file Form I-90 to renew an expiring or expired green card may receive this extension. Form I-90 receipt notices had previously provided a 12-month extension of the validity of a green card. USCIS

said it has updated the language on Form I-90 receipt notices to extend this validity to 24 months for individuals with a newly filed Form I-90.

On September 26, 2022, USCIS began printing amended receipt notices for individuals with a pending Form I-90. These receipt notices can be presented with an expired green card as evidence of continued status, USCIS said.

Details:

- USCIS release, Sept. 28, 2022.  
<https://www.uscis.gov/newsroom/alerts/uscis-extends-green-card-validity-extension-to-24-months-for-green-card-renewals>

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### **Draft FAQs Released on H-2A Temporary or Seasonal Need Assessments, Comments Requested**

The Department of Labor's (DOL) Employment and Training Administration (ETA) published draft frequently asked questions (FAQs) for the H-2A temporary agricultural program, "Round 17: Temporary or Seasonal Need Assessments; Relevant Information or Factors Related to H-2A Labor Contractors (H-2ALCs) Operating in an Area of Intended Employment (AIE) Where Agricultural Production May Occur Year-Round."

The draft guidance pertains to the Office of Foreign Labor Certification's (OFLC) assessment of the temporary or seasonal nature of an employer's need for agricultural labor or services during review of the Form ETA-9142A, H-2A Application for Temporary Employment Certification.

ETA invites written comments from the public by October 26, 2022, on the draft FAQs to further inform the development of guidance regarding OFLC's assessment of temporary or seasonal need for the H-2A program.

Details:

- ETA notice, 87 Fed. Reg. 58374 (Sept. 26, 2022).  
<https://www.govinfo.gov/content/pkg/FR-2022-09-26/pdf/2022-20781.pdf>

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## **Temporary Protected Status Extended and Redesignated for Burma (Myanmar)**

The Department of Homeland Security (DHS) is extending temporary protected status (TPS) for Burma (Myanmar) for an additional 18 months, from November 26, 2022, to May 25, 2024, due to a military coup in 2021 that has resulted in "extraordinary and temporary conditions in Burma that prevent individuals from safely returning." DHS also redesignated Burma for TPS for the same reason, allowing eligibility to Burmese nationals (and individuals having no nationality who last habitually resided in Burma) residing in the United States as of September 25, 2022.

Current beneficiaries re-registering under the extension of TPS for Burma must do so during the 60-day re-registration period that began September 27, 2022, and runs through November 26, 2022, to ensure they keep their TPS and work authorization without a gap. DHS said it recognizes that not all re-registrants may receive new employment authorization documents (EADs) before their current EADs expire on November 25, 2022, so the agency is automatically extending the validity of EADs previously issued under the TPS designation of Burma through November 25, 2023.

### Details:

- USCIS release, Sept. 26, 2022.  
<https://www.uscis.gov/newsroom/news-releases/secretary-mayorkas-extends-and-redesignates-temporary-protected-status-for-burma>
- Extension and Redesignation of Burma (Myanmar) for Temporary Protected Status, 87n Fed. Reg. 58515 (Sept. 27, 2022).  
<https://www.govinfo.gov/content/pkg/FR-2022-09-27/pdf/2022-20784.pdf>

## **Temporary Waiver of 60-Day Rule Extended for Civil Surgeon Signatures on Form I-693**

U.S. Citizenship and Immigration Services (USCIS) has extended its temporary waiver of the 60-day rule for civil surgeon signatures on Form I-693, Report of Medical Examination and Vaccination Record. The waiver, which was effective until September 30, 2022, has been extended to March 31, 2023.

The waiver applies to all Forms I-693 associated with applications for underlying immigration benefits that have not been adjudicated, regardless of when the application was submitted to USCIS or when a civil surgeon signed

the Form I-693.

USCIS said the waiver will help applicants who have been affected by the COVID-19 pandemic and related processing delays, which have sometimes delayed immigration medical examinations, as well as applicants, including Afghan nationals evacuated under Operation Allies Welcome, who completed immigration medical examinations but could not apply for adjustment of status within 60 days of a civil surgeon signing their Form I-693.

Details:

- USCIS alert, Sept. 29, 2022,  
<https://www.uscis.gov/newsroom/alerts/extension-of-temporary-waiver-of-60-day-rule-for-civil-surgeon-signatures-on-form-i-693>

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### **USCIS Stops Accepting CW-1 Petitions From Employers Under Disaster Recovery Workforce Act**

U.S. Citizenship and Immigration Services (USCIS) said it will no longer accept CW-1 petitions filed by employers in the Commonwealth of the Northern Mariana Islands (CNMI) under the Disaster Recovery Workforce Act as of October 1, 2022.

Starting October 1, 2022, construction and extraction occupations are prohibited under the CW-1 program, except for long-term workers. USCIS said it will continue to accept CW-1 petitions other than those seeking approval under the Disaster Recovery Workforce Act.

Details:

- USCIS alert, Sept. 28, 2022.  
<https://www.uscis.gov/newsroom/alerts/uscis-stops-accepting-cw-1-petitions-under-the-disaster-recovery-workforce-act>

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### **Biden Plans Executive Action to Protect DACA Recipients**

According to reports, President Biden plans to take executive action to protect Deferred Action for Childhood Arrivals (DACA) "Dreamers" from removal if the

Fifth Circuit Court of Appeals rules against DACA, which appears imminent. Such an order may take the form of allowing DACA recipients to remain in the United States if they pose no public safety or security threat.

A longer-term solution would require Congress to pass legislation, which is unlikely in the near term. Almost 700,000 DACA recipients could lose their work authorization otherwise.

#### Details:

- "Biden White House Preparing to Take Action to Protect DACA 'Dreamers,' " NBC News, Sept. 29, 2022.  
<https://www.nbcnews.com/politics/immigration/biden-white-house-preparing-take-executive-action-protect-daca-dreamer-rcna49864>

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### **USCIS Director, CIS Ombudsman Hold 'Fireside Chat'**

U.S. Citizenship and Immigration Services (USCIS) Director Ur Jaddou and Citizenship and Immigration Services (CIS) Ombudsman Phyllis Coven held a "fireside chat" on September 21, 2022. They discussed challenges and accomplishments from fiscal year (FY) 2022 and looked ahead to FY 2023.

The conversation included discussion of processing times; backlog reduction efforts; customer service; funding and congressional appropriations; the Ombudsman's 2022 Annual Report to Congress; recommendations on USCIS's fee-for-service funding model; and types of assistance the Ombudsman's office provides to the public.

#### Details:

- Fireside chat (video). <https://www.youtube.com/watch?v=Z439ttVjmho>
- USCIS responses to the Ombudsman's Annual Reports to Congress.  
<https://www.uscis.gov/tools/ombudsman-liaison/uscis-responses-to-annual-reports-to-congress>

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### **Problems Reported With Emergency 'Satisfactory Departure' Requests**

According to reports, U.S. Citizenship and Immigration Services (USCIS) has told

some practitioners that the ability to grant multiple "satisfactory departure" requests ended in April but acknowledged that the agency's public website has not yet been updated. The website still says that "if an emergency (such as COVID-19) prevents the departure of a VWP entrant, USCIS in its discretion may grant a period of satisfactory departure for up to 30 days." For those who were already granted satisfactory departure but were unable to depart within the 30-day period because of COVID-19-related issues, "USCIS has the authority to temporarily provide an additional 30-day period of satisfactory departure. To request satisfactory departure from USCIS, a VWP entrant should call the USCIS Contact Center," the website says.

Practitioners state that this issue has been raised with USCIS and U.S. Customs and Border Protection liaisons.

#### Details:

- "USCIS Response to COVID-19" (scroll to "Extension of Stay/Change of Status Filing Delays Caused by Extraordinary Circumstances Related to COVID-19"). <https://www.uscis.gov/about-us/uscis-response-to-covid-19>

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## **E-Verify Restores Client Company Enrollments**

E-Verify announced on September 26, 2022, that it has resolved technical issues with client enrollments. According to E-Verify, employer agents can once again create and submit enrollments, and they will not experience any change in the process to enroll a new client.

For client enrollments pending registration, employer agents will need to re-send the Memorandum of Understanding (MOU) email to the previously identified MOU signatory or upload a signed signature page on the client's behalf to complete the enrollment process.

#### Details:

- E-Verify notice.  
<https://www.e-verify.gov/about-e-verify/whats-new/e-verify-client-company-enrollment-restored>

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## **ABIL Global: Peru**

*This article discusses the Artist visa for foreigners coming to perform artistic activities in Peru.*

Now that concerts and artistic events are now being held again globally following the lifting of COVID-19 pandemic-related restrictions in many areas, the Artist visa for foreigners coming to perform artistic activities in Peruvian territory should once again be considered.

The appropriate migratory status to authorize foreigners to perform artistic activities in Peru is called "Temporary-Artistic." This status allows the foreigner to carry out paid activities linked to artistic, cultural, or other similar pursuits, by virtue of a contract executed in accordance with current Peruvian legislation. This contract must be signed before the artist enters the country and extends to the artist's entourage.

The process must begin in MIGRACIONES' offices in Lima before the artist and entourage enter. Once the file is approved, within 30 business days according to MIGRACIONES' regulations (it takes longer nowadays in reality), the applicant and team must go to the Peruvian consulate abroad, where the visas are stamped in their passports.

Qualifications for this migratory status include:

- Their entry must not represent a risk to national security, internal order, or public order.
- Applicants must remain abroad until they obtain their visas granted by MIGRACIONES at the Peruvian consulate chosen abroad and indicated in their file.
- There must be a signed contract executed according to current regulations to support the visa of the artist and entourage.
- Competent authorities must verify that the foreign persons will only carry out what is established in their contract.

This visa is valid for a single entry with a maximum of 90 calendar days of stay and is not renewable.

The administrative procedure for the Temporary-Artistic Visa Application with Consular Phase is the one through which the artistic migratory status/visa will be granted. The visa, approved by MIGRACIONES, will be authorized at the

corresponding Peruvian consulate at the discretion of the Peruvian state.

Required documents and requisites to be complied with to obtain this kind of visa are indicated in the MIGRACIONES' T.U.P.A. See

<https://www.gob.pe/institucion/migraciones/informes-publicaciones/2770424-t-exto-unico-de-procedimientos-administrativos-tupa>

For the approval of the visa procedure, MIGRACIONES can verify compliance with the conditions established in the related regulations applicable to migratory status. Application requests must be made for each artist/person, not as a group. Any document in a foreign language (not Spanish) must be officially translated in Peru and be apostilled or contain the corresponding legalization chain, if applicable.

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