



IMMIGRATION UPDATE - DECEMBER 05, 2022

Posted on December 5, 2022 by Cyrus Mehta

Headlines:

[Under Court Order, OFLC to Propose Rescission of H-2B Registration Requirements and Provide Unique H-2B Temporary Registration Numbers](#) – In response to a federal court order, the Department of Labor's (DOL) Office of Foreign Labor Certification plans to rescind H-2B registration requirements and propose conforming edits throughout its H-2B regulations. In the interim, DOL said it will use the Notice of Acceptance, issued when an H-2B application meets regulatory requirements and the employer can begin recruiting U.S. workers, to inform an H-2B employer of DOL's determination of the employer's temporary need for services or labor.

[House Scheduled to Vote Next Week on Bill](#) to Phase Out Per-Country Caps – The House of Representatives is scheduled to vote next week on a bill that would phase out per-country limits on employment-based green cards.

[CBP Announces New U.S. Bridge Visa Foil](#) – U.S. Customs and Border Protection announced that it has begun issuing a new visa foil with an image of San Francisco's Golden Gate Bridge. The foil has been redesigned to replace the Lincoln visa foil.

[ABIL Global: Canada and Italy](#) – A new bilateral agreement has been in force since November 1, 2022, for Italian and Canadian citizens between the ages of 18 and 35.

Details:

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Under Court Order, OFLC to Propose Rescission of H-2B Registration Requirements and Provide Unique H-2B Temporary Registration Numbers

In response to a federal court order in *Padilla Construction Company v. Walsh*, the Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) plans to rescind H-2B registration requirements and propose conforming edits throughout its H-2B regulations.

In the interim, DOL said it will use the Notice of Acceptance (NOA), issued when an H-2B application meets regulatory requirements and the employer can begin recruiting U.S. workers, to inform an H-2B employer of DOL's determination of the employer's temporary need for services or labor:

Where an employer is determined to have a temporary need for services or labor, the NOA will provide the employer with a unique temporary need registration number, which may remain active for up to three years and which will be considered as one piece of evidence during adjudication of the employer's temporary need in future application filings. will use a Notice of Deficiency to inform an H-2B employer when its temporary need for an application filing is in question, to request additional information, and also to inform an employer of deactivation of its temporary need registration number if the number has expired or if it appears that the employer no longer demonstrates a temporary need.

OFLC said the announcement of its future proposal to rescind H-2B registration requirements will **not** affect H-2B application filings for the 2023 peak application filing season for the second-half visa cap.

Details:

- OFLC announcement, Dec. 1, 2022. <https://www.dol.gov/agencies/eta/foreign-labor>
- *Padilla Construction Company v. Walsh*, No. 2:18-cv-1214 (C.D. Cal. Nov. 2, 2022). <https://bit.ly/3VOWsRv>

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House Scheduled to Vote Next Week on Bill to Phase Out Per-Country Caps

According to reports, Rep. Steny Hoyer (D-MD) said the House of Representatives is scheduled to vote next week on the Equal Access to Green

cards for Legal Employment (EAGLE) Act of 2022 (H.R. 3648), a bill that would phase out per-country limits on employment-based green cards and raise annual limits on family-based green cards.

The bill appears to have substantial bipartisan support, although its prospects in the current session of Congress are uncertain as the lame-duck period draws to a close. Similar legislation passed the Senate unanimously in 2020 through a fast-tracked process but could not be reconciled with the House version.

In addition to eliminating per-country limits, the bill would also:

- Establish nine-year transition rules for employment-based visas such as (1) reserving a percentage of EB-2 (workers with advanced degrees or exceptional ability) and EB-3 (skilled and other workers) visas for individuals not from the two countries with the largest number of recipients of such visas, and (2) allot a number of visas for professional nurses and physical therapists.
- Impose additional requirements on an employer seeking an H-1B visa, such as prohibiting (1) an employer from advertising that a position is only open to H-1B applicants or that H-1B applicants are preferred, and (2) certain employers from having more than half of their employees as nonimmigrant visa workers.
- Require the Department of Labor (DOL) to create a publicly available website where an employer seeking an H-1B visa must post certain information about the open position.
- Expand DOL's authority to review and investigate H-1B applications for fraud or misrepresentation.
- Allow certain people to obtain lawful permanent resident status if they (1) are in the United States as a nonimmigrant, (2) have an approved immigrant visa petition, and (3) have waited at least two years for a visa.

Details:

- "Immigration Bill Aimed at Workforce Needs Poised for House Vote," Bloomberg Government, Nov. 29, 2022.
<https://about.bgov.com/news/immigration-bill-aimed-at-workforce-needs-poised-for-house-vote/##>
- R. 3648 (EAGLE Act of 2022).
<https://www.congress.gov/bill/117th-congress/house-bill/3648>

- R. 3648 Content Details.

<https://www.govinfo.gov/app/details/BILLS-117hr3648rh>

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CBP Announces New U.S. Bridge Visa Foil

U.S. Customs and Border Protection announced on November 21, 2022, that it has begun issuing a new visa foil with an image of San Francisco's Golden Gate Bridge. The foil has been redesigned to replace the Lincoln visa foil. As each consular post depletes its Lincoln visa foil stock it will begin to issue the Bridge visa foil. All Lincoln Visas will remain valid until the printed expiration date, unless revoked or canceled.

Questions on boarding travelers should be directed to the appropriate Regional Carrier Liaison Group, Immigration Advisory Program Officer, or Joint Security Program Officer, U.S. Customs and Border Protection said.

Example of new foil:

Details:

- "The U.S. Visa Will Have a New Image Printed on Its Foil. It Won't Be Lincoln Anymore," Miami Herald (AOL News), Dec. 3, 2022.

<https://www.aol.com/news/u-visa-image-printed-foil-165005973.html>

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ABIL Global: Canada and Italy

A new bilateral agreement has been in force since November 1, 2022, for Italian and Canadian citizens between the ages of 18 and 35.

The **new Agreement** aims to promote, among the new **Italian and Canadian generations, a better knowledge of culture, society, and languages through travel experiences, work, and life in the other country.**

What does the agreement stipulate?

The bilateral youth mobility agreement between Italy and Canada **offers professional training opportunities to young Italian and Canadian citizens between the ages of 18 and 35** who are entering the world of work.

For 2023, there will be **2,000 young people per country** who will be able to

benefit from this agreement. The new agreement replaces the 2006 Memorandum of Understanding between Italy and Canada on "Working Holidays" and expands its scope, with the Italian extension of the work permit to 12 months and the introduction of new categories of participants.

What new categories are now available?

In particular, the agreement includes the following three categories:

- **"Working Holiday,"** for those who intend to travel to the host country and temporarily work during their stay;
- **"Young worker,"** for those who have already obtained an employment contract in the host country, in support of their professional development or pertaining to their previous field of study; and
- **"International internship,"** aimed at students enrolled in a course at a post-secondary level institute of study who have obtained an internship relevant to their field of study in the host country, as a requirement of their academic curriculum. Visa applicants must have a valid travel document with an expiration date of at least three months longer than that of the requested visa.

Interested parties must be between the ages of 18 and 35, inclusive, on the date on which the application is received.

The validity of the visa will be commensurate with the expected duration of the stay, in any case not exceeding 12 months.

Details:

- "Agreement on Youth Mobility Between Italy and Canada," Italian Government,
https://www.esteri.it/en/opportunita/scambi_giovanili/accordo-in-materia-di-mobilita-giovanile-tra-litalia-e-il-canada/

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Firm in the News

Cyrus Mehta was an invited speaker at the 55th Annual Immigration and Naturalization Institute of the Practising Law Institute on December 1, 2022 where he spoke on ethical issues for immigration practitioners with co-panelist

Craig Dobson.

Mr. Mehta spoke at the AILA's Latin America and Caribbean Chapter 2022 conference in Mexico City on December 2, 2022 on a panel entitled "Lateral Candidates with Heavy Immigration Baggage." The co-panelists included Charlie Oppenheim, former DOS Chief of Visa Control and Reporting Unit, Washington DC, Marcine Seid and Laura J. Mazel.

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