



IMMIGRATION UPDATE - DECEMBER 23, 2024

Posted on December 23, 2024 by Cyrus Mehta

Headlines:

[DHS Final Rule Updates H-1B Program, Form I-129](#) – The Department of Homeland Security announced a final rule, effective January 17, 2025, that will "significantly enhance U.S. companies' ability to fill job vacancies in critical fields, strengthening our economy."

[DHS Final Rule Updates H-2A, H-2B Programs](#) – The Department of Homeland Security announced a final rule updating the temporary agricultural (H-2A) and temporary nonagricultural (H-2B) nonimmigrant worker programs. The rule, effective January 17, 2025, "seeks to strengthen worker protections and the integrity of the H-2 programs, provide greater flexibility for H-2A and H-2B workers, and improve program efficiency."

[USCIS Updates Guidance on Case Assistance or Feedback](#) – On December 18, 2024, U.S. Citizenship and Immigration Services announced that it is updating its Policy Manual to reflect available avenues for case assistance or feedback.

[Deportations At Highest Level Since 2014, ICE Says](#) – During FY 2024, U.S. Immigration and Customs Enforcement removed 271,484 noncitizens with final orders of removal to 192 different countries.

[DOJ Reaches Agreement With Contractor After Immigration-Related Discrimination Investigation](#) – Under the terms of the settlement, Burford's will pay \$308,689 in civil penalties to the United States.

Details

DHS Final Rule Updates H-1B Program, Form I-129

The Department of Homeland Security (DHS) [announced](#) a [final rule](#), effective

January 17, 2025, that will "significantly enhance U.S. companies' ability to fill job vacancies in critical fields, strengthening our economy." The new rule "modernizes the H-1B program by streamlining the approvals process, increasing flexibility to better allow employers to retain talented workers, and improving the integrity and oversight of the program." To implement this rule, a new edition of [Form I-129, Petition for a Nonimmigrant Worker](#), will be required for all petitions beginning January 17, 2025.

Among other things, the final rule:

- Updates the definition and criteria for specialty occupation positions and for nonprofit and governmental research organizations that are exempt from the annual statutory limit on H-1B visas.
- Extends certain flexibilities for students on an F-1 visa seeking to change their status to H-1B to avoid disruptions in lawful status and employment authorization for those F-1 students.
- Allows U.S. Citizenship and Immigration Services (USCIS) to process applications more quickly for most individuals who had previously been approved for an H-1B visa.
- Allows H-1B beneficiaries with a controlling interest in the petitioning organization to be eligible for H-1B status subject to "reasonable conditions."
- Codifies USCIS' authority to conduct inspections and impose penalties for failure to comply.
- Requires employers to establish that they have a bona fide position in a specialty occupation available for the H-1B worker as of the requested start date.
- Clarifies that the Labor Condition Application must support and properly correspond with the H-1B petition.
- Requires the petitioner to have a legal presence and be subject to legal processes in court in the United States.

DHS said the new rule builds on a previous final rule, [announced](#) in January 2024, "which has already dramatically improved the H-1B registration and selection process." DHS noted that these provisions "mainly amend the regulations governing H-1B specialty occupation workers, although some of the provisions narrowly impact other nonimmigrant classifications, including: H-2, H-3, F-1, L-1, O, P, Q-1, R-1, E-3, and TN."

There will be no grace period for accepting prior form editions, DHS said. USCIS will soon publish a preview version of the new Form I-129 edition on uscis.gov.

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DHS Final Rule Updates H-2A, H-2B Programs

The Department of Homeland Security (DHS) [announced](#) a [final rule](#) updating programs for temporary agricultural (H-2A) and temporary nonagricultural (H-2B) nonimmigrant workers. DHS said the rule, effective January 17, 2025, "seeks to strengthen worker protections and the integrity of the H-2 programs, provide greater flexibility for H-2A and H-2B workers, and improve program efficiency."

Among other things, the final rule:

- Makes significant revisions to provisions relating to prohibited fees in order to strengthen the existing prohibition on, and consequences for, charging certain fees to H-2A and H-2B workers, including new bases for denial for some H-2 petitions.
- Institutes certain mandatory and discretionary grounds for denial of an H-2A or H-2B petition.
- Provides H-2A and H-2B workers with "whistleblower protection" comparable to the protection currently offered to H-1B workers.
- Clarifies requirements for petitioners and employers to consent to, and fully comply with, U.S. Citizenship and Immigration Services (USCIS) compliance reviews and inspections.
- Clarifies USCIS' authority to deny or revoke a petition if USCIS is unable to verify information related to the petition, including but not limited to where such inability is due to lack of cooperation from a petitioner or an employer during a site visit or other compliance review.
- Adjusts the admission periods before and after the validity dates of an approved petition (grace periods) so that H-2 workers would be considered maintaining valid H-2 status for a period of up to 10 days before the petition's validity period and up to 30 days following its expiration.
- Extends the existing 30-day grace period to a period of up to 60 days following revocation of an approved petition during which an H-2 worker may seek new qualifying employment or prepare for departure from the

United States without violating their nonimmigrant H-2 status or accruing unlawful presence.

- Provides a new grace period for up to 60 days during which an H-2 worker can stop working for the petitioner while maintaining H-2 status.
- Permanently provides portability (the ability to begin new employment with the same or new employer upon the proper filing of an extension of stay petition rather than only upon its approval) to H-2A and H-2B workers.
- In the case of petition revocations, clarifies that H-2A employers have the same responsibility as H-2B employers for reasonable costs of return transportation for the beneficiary.
- Removes the requirement that USCIS may generally only approve petitions for H-2 nonimmigrant status for nationals of countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated as eligible to participate in the H-2 programs.
- Simplifies the regulatory provisions regarding the effect of a departure from the United States on the three-year maximum period of stay by providing a uniform standard for resetting the three-year clock following such a departure.

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USCIS Updates Guidance on Case Assistance or Feedback

On December 18, 2024, U.S. Citizenship and Immigration Services (USCIS) [announced](#) that it is updating its [Policy Manual](#) to reflect available avenues for case assistance or feedback. Specifically, the update:

- Recommends that stakeholders submit [changes of address](#) through the self-service tool available in their [USCIS online account](#) as soon as possible following a move or when an update is required;
- Updates information on USCIS's current case assistance tools and resources to reflect the expansion of online tools and resources;
- Includes a link to the agency's [Contact Us](#) webpage, where stakeholders can find information on how to contact USCIS, including detailed, program-specific assistance information;
- Updates and clarifies information on providing feedback to USCIS;
- Changes the language on USCIS's response time goals to service requests

from 15 calendar days to 15 business days; and

- Removes the timeframe on processing priority service requests but retains priority processing of certain service request categories.

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Deportations At Highest Level Since 2014, ICE Says

According to U.S. Immigration and Customs Enforcement's (ICE) [annual report](#) released December 19, 2024, [deportations from the United States are at their highest level since 2014](#). Selected highlights include:

- During FY 2024, ICE's Enforcement and Removal Operations (ERO) removed 271,484 noncitizens with final orders of removal to 192 different countries, including 88,763 who had charges or convictions for criminal activity; 3,706 known or suspected gang members; 237 known or suspected terrorists; and eight human rights violators.
- More than 30% of those removed during the fiscal year had criminal histories, with an average of 5.63 convictions and/or charges per individual, and many of their criminal histories were "extremely serious." During the year, ERO also identified and arrested individuals who were wanted in their home countries for crimes such as terrorist activities and participation in torture.
- Among other activities, intensive diplomatic efforts by the Department of Homeland Security and ERO increased the number of charter flights in FY 2024 to countries in the Eastern Hemisphere. These included the first large charter removal flight to the People's Republic of China since fiscal year 2018, as well as large charter flights stopping in Albania, Angola, Egypt, Georgia, Ghana, Guinea, India, Mauritania, Romania, Senegal, Tajikistan, and Uzbekistan.

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DOJ Reaches Agreement With Contractor After Immigration-Related Discrimination Investigation

On December 19, 2024, the Department of Justice (DOJ) [announced](#) that it has secured an [agreement](#) with Burford's Construction LLC, an Alabama-based contractor that provides vegetation clearing and maintenance for electrical utility companies and municipalities. The agreement resolves DOJ's

determination that Burford's "routinely discriminated against lawful permanent residents when verifying their permission to work by demanding specific, and sometimes unnecessary, documents."

After conducting an investigation, the Civil Rights Division's Immigrant and Employee Rights Section determined that from at least January 1, 2021, through May 30, 2023, Burford's routinely required lawful permanent residents to present specific immigration documents to establish their permission to work, even when they had already provided sufficient proof under the law.

Under the terms of the settlement, DOJ said Burford's will pay \$308,689 in civil penalties to the United States, train its personnel on anti-discrimination requirements, revise its employment policies that relate to hiring, and be subject to departmental monitoring.

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