



100,000 Employers Use E-Verify Program

The U.S. Citizenship and Immigration Services (USCIS) announced that more than 100,000 employers have signed up to participate in E-Verify, a free, easy to use online system that equips participating employers with the tools to quickly and effectively verify the employment eligibility of newly-hired employees.

The Bratton Corp., a construction products supplier from Kansas City, Mo., employing about 200 people in Kansas City and Pasadena, Calif., is the 100,000th employer to participate in E-Verify.

“We congratulate The Bratton Corporation for joining the thousands of employers who participate in E-Verify, and whose numbers are growing by a thousand each week,” said USCIS Acting Deputy Director Mike Aytes. “They all have taken a significant step toward maintaining the integrity of the American workforce.”

Employers have run more than two million queries through the system since October 2008, and employers have been able to automatically verify more than 18 million workers’ eligibility since 1997. USCIS has launched major enhancements since E-Verify’s inception to improve the accuracy of the system’s automatic confirmation processes, including verifying naturalized citizens directly with USCIS records.

Currently, approximately 96.1 percent of qualified employees are cleared automatically by E-Verify, and 99.6 percent of all work-authorized employees are verified without receiving a tentative non-confirmation or having to take any type of corrective action.



USCIS plans to make additional enhancements in 2009 to E-Verify and the employment authorization process, including amending the list of acceptable identity documents workers may present to employers to verify employment eligibility and adding passport data and photos to the system to reduce identity theft. Beginning this month, the federal government will require that certain federal contracts contain a clause requiring the contractor and certain subcontractors to use E-Verify.

E-Verify evolved from the Basic Pilot/ Employment Eligibility Verification Program and was offered on a voluntary basis in 1997 to employers in California, Florida, Illinois, New York and Texas, the five states with the largest immigrant populations. E-Verify was offered to all employers as a free web-based program in 2004. USCIS administers the program in partnership with the Social Security Administration.

*Courtesy of USCIS

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**714 Pollasky Avenue
 Clovis, CA 93612-1840
 Office (559) 325-9277
 Fax (559) 325-9221
 www.nairlaw.com**

USCIS Revises Employment Eligibility Verification Form

The U.S. Citizenship and Immigration Services (USCIS) announced that it has submitted to the *Federal Register* an interim final rule that will streamline the Employment Eligibility Verification (Form I-9) process.

The interim final rule narrows the list of acceptable identity documents and further specifies that expired documents are not considered acceptable forms of identification. An expansive document list makes it more difficult for employers to verify valid and acceptable forms and single out false documents compromising the effectiveness and security of the Form I-9 process. The changes included in the interim final rule will significantly improve the security of the employment eligibility verification process.

Employers must complete a Form I-9 for all newly hired employees to verify their identity and authorization to work in the United States. The list of

approved documents that employees can present to verify their identity and employment authorization is divided into three sections: List A documents verify identity and employment authorization, List B documents verify identity only, and List C documents verify employment authorization only.

The rule eliminates Forms I-688, I-688A, and I-688B (Temporary Resident Card and older versions of the Employment Authorization Card/Document) from List A. USCIS no longer issues these cards, and all that were in circulation have expired. The rule also adds to List A of the Form I-9 foreign passports containing specially-marked machine-readable visas and documentation for certain citizens of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI). The rule makes other, technical changes to update the list of acceptable documents. The revised Form I-9 includes additional changes, such as revisions to the em-

ployee attestation section, and the addition of the new U.S. Passport Card to List A.

Employers must use the revised Form I-9 for all new hires and to re-verify any employee with expiring employment authorization beginning 45 days after publication in the *Federal Register*. The interim final rule is available in the Related Links section of this page and was submitted to the *Federal Register* on Dec. 11, 2008. The *Handbook for Employers, Instructions for Completing the Form I-9 (M-274)* will be updated to reflect these changes and will be available on the USCIS website in the near future. The current version of the Form I-9 (dated 06/05/2007) will no longer be valid as of 45 days after publication in the *Federal Register*.

The interim final rule and an informational copy of the revised Form I-9 will be available for public comment at www.regulations.gov for 45 days after publication in the *Federal Register*.



H-2B Cap Reached for Second Half of Fiscal 2009

After receiving a surge of petitions, U.S. Citizenship and Immigration Services (USCIS) announced that, as of January 7, 2009, it had received enough H-2B petitions to reach the 33,000 cap for the second half of Fiscal Year 2009. The agency determined that January 7 was the "final receipt date" for cap-subject H-2B petitions requesting employment start dates on or after April 1, 2009. As such, cap-subject H-2B petitions that are

received after January 7, 2009 will be rejected.

USCIS will continue to accept cap-exempt H-2B petitions with employment start dates in the second half of FY 2009, including extension requests for current H-2B workers, and petitions requesting changes of employer or additional employers.

If USCIS deems it necessary, petitions received on January 7 will be entered into a com-

puterized lottery that will randomly select the exact number of petitions needed to meet the H-2B cap for the second half of the fiscal year. If USCIS conducts the lottery, it will reject those cap-subject petitions not selected and return the fees for those petitions.

USCIS had stated that it would accept H-2B petitions for 50,000 beneficiaries -- significantly more than the cap-figure of

33,000 -- to account for cases that are ultimately denied, withdrawn, or revoked, as well as cases in which employers actually employ fewer workers than requested. It is unclear if USCIS actually accepted petitions for 50,000 H-2B beneficiaries. The 50,000 figure was an estimate and was subject to change by the agency.

DHS Will Expand US-VISIT Entry Requirements Beginning January 18, 2009

U.S. Permanent Residents and Many Canadian Citizens Will Be Newly Subject to Biometrics Collection on Arrival

As of January 18, 2009, the Department of Homeland Security (DHS) will broadly expand the pool of foreign nationals who are required to go through the inspection and biometrics collection procedures of the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) system. As of that date, the following groups will be subject to US-VISIT:

- U.S. lawful permanent residents.
- Canadian citizens. However, most Canadian citizens entering for business or pleasure or transiting through the United States will not be required to undergo US-VISIT process-

ing, unless they have previously been deemed inadmissible to the United States and require a waiver of inadmissibility in order to enter.

- Immigrant visa holders.
- Foreign nationals paroled into the United States.
- Foreign nationals entering under the Guam Visa Waiver Program.

Nonimmigrant visa holders and foreign nationals traveling to the United States under the Visa Waiver Program will continue to be required to comply with US-VISIT on arrival.

Several groups of foreign nationals are exempt from US-VISIT. These include foreign nationals under 14 or over 79 years of age, foreign nationals holding certain diplomatic and official visas in the A, G and NATO

nonimmigrant categories, and foreign nationals registered in the National Security Entry-Exit Registration System (NSEERS) (who are otherwise subject to entry, exit and biometrics collection procedures through that system).

US-VISIT Entry Procedures

US-VISIT is an electronic check-in system for foreign travelers to the United States. When arriving in the United States, travelers subject to the system are fingerprinted and photographed, and their travel documents are reviewed. Each traveler's information is checked against immigration and law enforcement databases to determine whether the individual is eligible to enter the United States or should be prohibited from entering because of risks such as past visa or criminal violations or

national security concerns.

US-VISIT is in operation at 115 U.S. airports, 15 seaports, 154 land border ports of entry, and at selected pre-flight inspection stations abroad. If US-VISIT is in place at a foreign traveler's U.S. port of entry, he or she must go through the system upon arrival unless otherwise exempt. Foreign nationals who fail to comply with US-VISIT procedures may be deemed inadmissible to the United States.

There are currently no US-VISIT exit procedures in place. Previously, DHS tested a pilot exit program at several U.S. ports. The pilot has now expired, but DHS is expected to institute US-VISIT exit procedures in the future.



"Throughout our history, immigrants have come to America, established themselves and been joined by other members of their families. That process has brought us energetic individuals and strong families who have enriched our economy and way of life."

- Stuart Anderson

New Head of Department of Homeland Security

Safety Task Force and the Homeland Security Advisors Council. She also chaired the Western Governors Association. Napolitano previously served as the Attorney General of Arizona and the U.S. Attorney for the District of Arizona.

Napolitano's homeland security background is extensive. As U.S. Attorney, she helped lead the domestic terrorism investigation into the Oklahoma City Bombing. As Arizona Attorney General, she helped write the law to break up human smuggling rings. As Governor, she implemented one of the first state homeland security strategies in the nation, opened the first state counter-terrorism center and spearheaded efforts to transform immigration enforcement. She's also been a pioneer in coordinating federal, state, local and bi-national homeland security efforts, and presided over large scale disaster relief efforts and readiness exercises to ensure well-crafted and functional emergency plans.



Napolitano graduated from Santa Clara University in 1979, where she won a Truman Scholarship, and received her Juris Doctor (J.D.) in 1983 from the University of Virginia School of Law. After law school she served as a law clerk for Judge Mary M. Schroeder of the U.S. Court of Appeals for the Ninth Circuit before joining the law firm of Lewis and Roca.

*Courtesy of USCIS

Resource Links on the Web

United States Citizenship & Immigration Services

<http://www.uscis.gov>

U.S. Immigration & Customs Enforcement

<http://www.ice.gov>

U.S. Department of Labor

<http://www.dol.gov>

Department of Homeland Security

<http://www.dhs.gov/index.shtml>

U.S. Embassies, Consulates, & Diplomatic Missions

<http://www.usembassy.gov>

Processing Times

<https://egov.uscis.gov/cris/jsps/ptimes.jsp>

Visa Bulletin

http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html

U.S. Department of Travel

<http://www.travel.state.gov/>

U.S. Department of Justice

<http://www.usdoj.gov/>

American Immigration Lawyers Association

<http://aila.org/>

VISA BULLETIN FOR FEBRUARY 2009

	All Chargeability Areas Except Those Listed	CHINA Mainland Born	INDIA	MEXICO	PHILIPPINES
Employment Based					
1 st	C	C	C	C	C
2 nd	C	01JAN05	01JAN04	C	C
3 rd	01MAY05	01OCT02	05OCT01	01APR03	01MAY05
Other Workers	15MAR03	01OCT02	15OCT01	15OCT01	15MAR03
4 th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5 th	C	C	C	C	C
Targeted Employment Areas Regional Centers	C	C	C	C	C



LAW OFFICES OF
NAIR & ASSOCIATES, LLC
 IMMIGRATION & NATIONALITY LAW

714 Pollasky Avenue
 Clovis, CA 93612-1840
 Office (559) 325-9277
 Fax (559) 325-9221
www.nairlaw.com