

Immigration Insights (July 2009)

July 31, 2009

DHS Intends to Rescind No-Match Rule, Administration Strengthens Commitment to E-Verify and Federal Contractor Rule

On July 8, 2009, Department of Homeland Security (DHS) announced that it intends to propose a new regulation rescinding the Social Security No-Match Rule, which has been blocked by a court order since 2007. For more information about the No-Match lawsuit please click [here](#). The No-Match Rule established "safe harbor" procedures that employers must follow if they received Social Security Administration No-Match letters or notices if they wished to avoid potential liability for hiring unauthorized workers. It should be noted that the Senate has recently passed a bill to undo the Administration's decision to rescind the No-Match Rule.

In its announcement, DHS also commented on the Administration's support for the federal contractor E-Verify rule, which requires that almost all federal contractors participate in the E-Verify program. DHS stated that "E-Verify is a smart, simple and effective tool that reflects our continued commitment to working with employers to maintain a legal workforce...Requiring those who seek federal contracts to use this system will create a more reliable and legal workforce. The rule complements our Department's continued efforts to strengthen immigration law enforcement and protect critical employment opportunities."

The Administration intends to push ahead with full implementation of the federal contractor E-Verify rule on September 8, 2009.

Form I-9 Valid Beyond June 30, 2009 Expiration Date

Employers may be concerned that the I-9 forms (revised 2/02/09) that they are using expired on June 30, 2009. However, USCIS announced on June 26, 2009 that the [I-9 form](#) currently listed on the USCIS website continues to be valid beyond the expiration date. USCIS has requested approval of the current form from the Office of Management and Budget and indicated that while this request is pending the current form will not expire.

H-1B Visa Category Remains Open

As of July 30, 2009, approximately 44,900 H-1B cap-subject petitions and approximately 20,000 petitions qualifying for the advanced degree cap exemption had been filed for fiscal year 2010. The regular limit (for non advanced degree cases) is 65,000 H-1B approvals per year. USCIS will continue to accept both cap-subject petitions and advanced degree petitions until a sufficient number of H-1B petitions have been received to reach the statutory limits, taking into account the fact that some of these petitions may be

denied, revoked, or withdrawn. USCIS continues to update the H-1B cap count about twice a month.

DV-2010 Diversity Lottery Results and Status Check

Since May 2009 The U.S. Department of State's Kentucky Consular Center has been registering and notifying the winners of the DV-2010 diversity lottery. Approximately 102,800 applicants (out of 13.6 million qualified entries) have been registered and notified that they may now submit an application for an immigrant visa ("green card"). Applicants who completed the electronic DV entry through the official website can check the status of their entry through the e-DV website at <http://www.dvlottery.state.gov/>. To check the status applicants will need the information from the confirmation page received at the time of their on-line application entry. Only participants in the DV-2010 program who were selected for further processing have been notified. Those who were not selected have not received any notification.

The visas have been apportioned among six geographic regions with a maximum of seven percent available to persons born in any single country. A statistical breakdown by country can be viewed in the [August Visa Bulletin](#). During the visa interview, principal applicants must provide proof of a high school education or its equivalent, or show two years of work experience in an occupation that requires at least two years of training or experience within the past five years. Those selected should act on their immigrant visa applications quickly because a spot cannot be guaranteed.

August Visa Bulletin -- EB-2 Categories for India and China Advance

The U.S. State Department (DOS)'s [August Visa Bulletin](#) reflects an advancement of three years and nine months in the permanent resident or "green card" Employment Second Preference for India and China. The cutoff date for both EB-2 India and China is now October 1, 2003. The Employment First and Third Preference categories remain unchanged compared to the [July 2009 Visa bulletin](#).