

ALERTS AND UPDATES

India EB-2 Cut-Off Date Jumps Forward and Other Immigration Law Updates

June 28, 2010

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India EB-2 Moves Eight Months in July Visa Bulletin

On June 14, 2010, the U.S. Department of State issued the [Visa Bulletin for July 2010](#). There is good news for Indian nationals in the Employment-Based Second Preference (EB-2), as the cut-off date has moved forward by eight months, to Oct. 1, 2005. The date for Chinese nationals is the same as in the [June Visa Bulletin](#). The State Department is predicting that there could be additional movement in the India EB-2 date, possibly to March or April 2006, by September 2010.

Priority dates in the Employment-Based Third Preference advanced several weeks for all nationalities. The dates for the Other Workers category remained static.

Employment-Based	All Chargeability Areas Except Those Listed	China—Mainland Born	Dominican Republic	India	Mexico	Philippines
1st	C	C	C	C	C	C
2nd	C	Nov. 22, 2005	C	Oct. 1, 2005	C	C
3rd	Aug. 15, 2003	Aug. 15, 2003	Aug. 15, 2003	Nov. 22, 2001	U	Aug. 15, 2003
Other Workers	June 1, 2001	June 1, 2001	June 1, 2001	June 1, 2001	U	June 1, 2001

USCIS Launches Redesigned E-Verify Website

On June 14, 2010, the U.S. Citizenship and Immigration Services (USCIS) launched a new E-Verify website with a new user interface, including the re-engineering of more than 200 pages from the prior site, as well as improved navigational tools to enhance ease of use, minimize errors and support compliance. The new interface has a new home page, a new case alerts' feature, improved case management, streamlined employer tutorials and enhanced security features, such as masking Social Security numbers to further protect privacy and ensure that only valid companies enroll in E-Verify. All current E-Verify users are required to complete a 20-minute tutorial on the new system.

USCIS Proposes Application Fee Increase

On June 11, 2010, USCIS announced a proposed fee increase on many of the most commonly filed applications. The fee for an I-129 Petition for Non-Immigrant Worker would go from \$320 to \$325. I-140, Petition for Immigrant Worker, would be raised from \$475 to \$580. I-130, Petition for Immigrant Relative, would be raised from \$355 to \$420.

USCIS reports that it has conducted a comprehensive fee study and refined its cost accounting process. These studies revealed that the current fees do not recover the full costs of services provided, and that an adjustment to the fee schedule is necessary to fully recover costs and maintain adequate service.

In a [press release](#) issued by USCIS to accompany the *Federal Register* notice, the agency reported that its "fee revenue in fiscal years 2008 and 2009 was much lower than projected, and fee revenue in fiscal year 2010 remains low. While USCIS did receive appropriations from Congress, budget cuts of approximately \$160 million have not bridged the remaining gap between costs and declining revenue."

Comments on the increase are due by July 26, 2010.

E-Verify Legislation Passes Pennsylvania House

On June 10, 2010, the Pennsylvania House of Representatives passed two pieces of legislation (H.B. 1502 and 1503) that would require certain Pennsylvania employers to verify the employment eligibility of construction and contracted public workers via the E-Verify or [Social Security Number Verification Service](#) (SSNVS) systems. [House Bill 1502](#) pertains to public works contractors and their subcontractors doing business with the state and would require verification of their workers' employment eligibility either through E-Verify (for new hires) or SSNVS (for existing employees). [House Bill 1503](#) carries the same employment verification requirements for private-sector construction companies, requiring them to use E-Verify for all new hires "whether or not the work is for a public body or paid for from public funds." Both bills offer protection to employees who report or participate in an investigation relating to an alleged violation.

If the Pennsylvania Senate passes the bills and they become law, employers who violate these rules could face penalties, including the forfeiture of state licenses or certifications and debarment from state projects. We will continue to monitor developments in the Pennsylvania Senate.

New Consular Fees Effective June 4, 2010

On June 4, 2010, new fees went into effect for visa applicants at U.S. consulates abroad:

1. Visitor visas and other nonpetition-based applications: \$140
2. Petition-based employment visas (H, L, O, P, Q & R): \$150
3. K visas (fiancées, spouses and children of U.S. citizens): \$350
4. E visas (treaty traders, investors and Australian specialty workers): \$390

E-Verify Self-Check Tool Being Rolled Out in December 2010

USCIS has also announced the rollout in December 2010 of an E-Verify self-check program that will allow individuals to prescreen themselves through the system. Using the system, individuals can check their E-Verify results before applying for employment, thus giving them the opportunity to rectify any errors in the database prior to having an employer put their information through the system. Presumably, employers will not be able to use the system to prescreen candidates through the self-check mechanism. USCIS also warned that any employer who requires a potential employee to perform a self-check would be abusing the system.

E-Verify Information Sharing with DOJ, EEOC, OFCCP and ICE

E-Verify has entered into a memorandum of understanding with the Department of Justice's (DOJ) Office of Special Counsel for Immigration-Related Discrimination. The memorandum establishes a streamlined process for referring E-Verify matters. The Office of Special Counsel will receive referrals of potential discrimination that come to USCIS, and, in turn, USCIS will receive referrals of potential employer misuse of the E-Verify system from the Office of Special Counsel. In addition, the memorandum permits the two agencies to cooperate during pending investigations as they relate to E-Verify. The information that may be shared between the two agencies includes data from queries run through the system, including citizenship status. USCIS will also share employer information as necessary when employers have engaged in misuse of the E-Verify system. When evidence of discrimination by an employer is present, the Office of Special Counsel will follow its normal procedures, conduct an investigation, and bring charges or refer the case to the EEOC when necessary.

USCIS has confirmed that it has also entered into similar agreements to share employer E-Verify data with the Equal Employment Opportunity Commission (EEOC), the Office of Federal Contract Compliance Programs (OFCCP), and several state agencies, as well as the Department of Homeland Security's Immigration and Customs Enforcement (ICE).

E-Verify Implements Employee Hotline to Report Employer Abuses

USCIS has also rolled out an employee hotline for E-Verify. The telephone number, 888.897.7781, is available during normal business hours. The hotline is a dedicated number created to respond to employee inquiries, issues and complaints. It operates with an interactive voice response system that allows the employee to choose from four options. Once the employee makes a selection, the system will route the call to the appropriate customer service representative.

The questions that may be addressed by customer service representatives include how to contest an E-Verify case, how to file complaints regarding possible violations of policy and privacy laws by employers, filing a report of misuse against an employer, and general information on completing the I-9 form and participating in the E-Verify process.

For Further Information

If you have any questions about this *Alert*, please contact any of the [attorneys](#) in our [Employment, Labor, Benefits and Immigration Practice Group](#) or the attorney in the firm with whom you are regularly in contact.