

# Law Offices of Becki L Young, PLLC Newsletter

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**DISCLAIMER: This information is not to be construed as legal advice. You should consult an immigration attorney whenever specific questions arise.**

## Maintaining Permanent Resident Status & Eligibility for Naturalization

Our office is frequently contacted by permanent residents who are under the mistaken impression that, even if they live

## H-1B Cap Count

As of July 16, 2010, approximately 25,300 H-1B cap-subject petitions

were received. Additionally, USCIS has received 11,000 H-1B petitions for aliens with advanced degrees. See [www.uscis.gov/h-1b\\_count](http://www.uscis.gov/h-1b_count) for more information.



**U.S. Citizenship and Immigration Services**

## August Visa Bulletin

On July 9 DOS released the Visa Bulletin for August 2010; it is available at [www.travel.state.gov](http://www.travel.state.gov).

## Paris Embassy Visa Processing Update

The U.S. Embassy in Paris recently provided the American Immigration Lawyers Association (AILA) Rome District Chapter

with guidance on visa processing issues at its post, as follows:



### *Peak Processing Times*

There are two peak periods for nonimmigrant visa processing in Paris: April to October, and December. Wait times for interviews are generally 7-10 days during non-peak season. At its peak in summer in 2009, the wait increased to 56 days for scheduling of B-1/B-2 applications and one month for petition-based applications. The Embassy advises that, when scheduling non-immigrant visa interviews, it is best to avoid the summer season (May-August), if possible. July and August are always the busiest months for scheduling nonimmigrant visa interviews.

### *Implementation of Form DS-160*

The DS-160 (the new visa application form, which replaced the former DS-156) is fully implemented in Paris. The most common errors applicants in Paris make in completing the DS-160 include failure to list their high school/lycee and further education; use of maiden name;

overseas, they can maintain their green cards by traveling to the U.S. at least once every six months. This is a common misperception; in fact to maintain your green card, you must be residing permanently in the United States.

We have seen substantial evidence in our practice that U.S. Customs has started to crack down in recent months on legal permanent residents who spend substantial periods of time outside the United States.

Maintenance of permanent resident status is a complex topic. Our office has developed a one page publication entitled "Maintaining Permanent Resident Status and Eligibility for Naturalization" which explores this subject. If you would like to receive a copy of this publication, or if you have questions regarding maintenance of permanent resident status, please contact our office.

incorrect indication of the purpose of travel (especially business travel); and failure to list previous travel completely.

### **Visa Interview Appointments in China**

Residents of China may now apply for a non-immigrant visa at any U.S. Consular Section in China (Beijing, Chengdu, Guangzhou, Shanghai, and Shenyang), regardless of their province or city of residence. [Click here](#) to see estimated wait times for each post.

Although the basic application process is the same, specific times and application procedures at each visa issuing office can vary. Before applying for a visa, applicants should check each post's web site for procedures specific to that post.

### **I-9 Update**

#### ***Electronic Signatures & Storage***

On July 21 DHS finalized a regulation regarding electronic signature and storage of I-9 Employment Eligibility Verification forms. The rule provides additional flexibility for employers-including more options for data compression, fewer storage requirements, and more options for storage systems, among others. For further guidance on the electronic signing and storage of the I-9, and the changes to the current regulations to assist businesses in complying with the requirements of the law, visit [www.ice.gov](http://www.ice.gov).

#### ***Compliance Issues***

Employers should take note of a recent worksite ruling issued by the Office of the Chief Administrative Hearing Officer (OCAHO), a division of the Department of Justice's Executive Office of Immigration Review. After many years of silence on I-9 related issues, OCAHO held that the failure of a business to complete Section 2 of the Form I-9 within 3 days is considered a substantive, rather than a technical/procedural violation.

Unlike technical or procedural violations which can be corrected by an employer to avoid penalties or fines, substantive violations cannot be corrected. This decision shows the toughening stance the U.S. government is taking on unauthorized employment, and serves as a reminder to employers regarding the importance of I-9 compliance.

### **E-Verify Update**

USCIS recently launched a completely redesigned web interface for employers using its E-Verify Program. E-Verify-operated by USCIS in partnership with the Social Security Administration-allows participating employers to electronically verify the employment eligibility of their newly hired employees. [Click here](#) for more information.



Employers must register new employees in E-Verify within three business days after the day the employee first started work for pay. The redesigned E-Verify site asks employers to provide justification if they miss this deadline (this is called the "three day rule screen"), which has caused confusion among some employers. USCIS answers questions about the three day rule screen on its [website](#).

### InfoPass Update

When a case is hopelessly stuck at USCIS, sometimes the best course of action is to make an InfoPass appointment. InfoPass allows you to schedule an appointment with a local U.S. Citizenship and Immigration Services (USCIS) office by using the Internet. USCIS recently released [guidance on the use of Infopass](#), including a list of items you should bring to the appointment. To schedule an InfoPass appointments go to [infopass.uscis.gov](#).

### Report on Specialty Occupation Workers

DHS recently issued its [Annual Report on Characteristics of Specialty Occupation Workers \(H-1B\)](#). The report includes information on countries of origin, occupations, education levels, and compensation paid to H-1B beneficiaries.



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