



# Beach-Oswald Immigration Law Associates Newsletter

Washington, DC  
Immigration Lawyers

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**Myers  
Confirmed as  
ICE Leader**

Beach-Oswald is a full-service law firm, concentrating on immigration law. We have special expertise in work visas, family based visas, visa waivers, green cards through family and employment and asylum. We have staff members who speak many different languages to assist you.

**We succeed when others don't!**

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## First Deadline for Compliance for REAL ID

The Department of Homeland Security has announced the release of the REAL ID program, which sets uniform minimum standards for state-issued driver's licenses and identification cards. The new driver's licenses and ID cards will incorporate information and security features into each card, and will require the card issuing office to establish the identity and proof of legal immigration status of each applicant prior to issuing the cards. The facilities where the driver's licenses and identification cards are produced will also feature heightened physical security standards.



The first deadline for compliance with these new standards is December 31, 2009, by which time all states will be able to check the lawful status of applicants, ensuring that undocumented aliens will be unable to obtain REAL ID licenses. As of May 11, 2011 only REAL ID cards will be accepted for official purposes by Federal agencies, which include gaining access into a federal facility and boarding commercial airplanes.



Julie L. Myers has been confirmed by the U.S. Senate as the Assistant Secretary in charge of Immigration and Customs Enforcement.

### H-2B Cap Reached in January



The USCIS announced on January 3rd that the cap for H-2B petitions has been reached. USCIS will reject all petitions for new H-2B workers that arrive after January 2, 2008 and that are seeking employment start dates prior to October 1, 2008.

## Guidance for Employers Receiving NO MATCH Letters

Employers occasionally receive a "No Match Letter" from the Social Security Administration or the Department of Homeland Security stating that the name and Social Security Number (SSN) listed on a newly hired employee's I-9 Form do not match the Agency's records. A "no-match" may be due to a clerical error or a name change, or it may be an indication that the employee is using a false SSN and is unauthorized to work in the U.S. The new regulation specifies step by step actions that an employer must take upon receipt of such a letter, in order to avoid liability for having knowingly hired someone unauthorized to work in the U.S.

The new rule amends what it means for an employer to have "constructive knowledge" that one of its employees is unauthorized to work, and what an employer's obligations are after receiving a no match letter. If the employer does not take the prescribed steps after receiving such a letter, and the employee does in fact turn out to be ineligible to work in the U.S., then the employer may be deemed to have had constructive knowledge of the employee's illegal status, and will be disciplined accordingly.

To assist employers in complying with these standards, the USCIS has released an updated I-9 Form and Handbook for Employers, which can be found at [www.uscis.gov/files/natedocuments/m-274.pdf](http://www.uscis.gov/files/natedocuments/m-274.pdf). The revised handbook attempts to simplify the process of filling out the I-9 Form, the purpose of which is for employers to verify a new employee's identity and employment eligibility, and explains how to inspect and verify an employee's identification documents. Employers are urged to utilize the E-Verify system, which is a free Internet based system that allows employers to electronically verify whether a newly hired employee is eligible for employment. The system has recently been enhanced to include photo screening, allowing an employer to compare the picture on an employee's Employment Authorization Document (EAD) or green card to the one stored in the USCIS database. According to an announcement made by the USCIS on February 12, more than 52,000 employers have voluntarily signed up to participate in E-Verify, and approximately 1,000 new employers have been signing up for the program each week since last October.



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## Changes Benefiting Adoptive Parents

Prospective parents who are experiencing delays in finalizing their adoptions and have not yet submitted an I-600 Petition to classify an orphan as an immediate relative will now be permitted to receive one extension of the approved Application for Advance Processing of Orphan Petition (Form I-600A) at no charge. The request must be made in writing, and must be received by USCIS no earlier than 90 days before the expiration of the I-600A approval, but before the approval expires. The requests must also include an updated or amended home study.



Prospective adoptive parents with an approved I-600A Application on file, may now request a one-time re-fingerprinting without charge. The free re-fingerprinting will be valid for an additional 15 months, covering the three month gap between the 15 months that fingerprints are valid, and the 18 months during which an approved I-600A stays valid.

Also, prospective parents may make one request for a change of country notification without charge. An Application for Action on an Approved Application or Petition, Form I-824, should not be used to make this request. However, a second or subsequent request will require filing Form I-824 and paying the appropriate fee.

## Good News for Permanent Residence Applicants Awaiting FBI Name Checks

The USCIS reports that there are approximately 47,000 applications for permanent residence (I-485) cases that are approvable, but for a pending FBI name check. This means that thousands of permanent residence applicants have been waiting for months, and the approval of their permanent residence applications left pending indefinitely.

The good news is that the USCIS has finally changed its policy, and will now be approving I-485 applications that have been pending for more than 180 days because of an FBI name check.



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## Proposed Changes to the H-2A Visa Program

The H-2A nonimmigrant visa allows U.S. employers to hire foreign nationals for temporary or seasonal agricultural work. On February 6, the USCIS announced a series of proposed changes to the program to encourage and facilitate the H-2A visa process. The proposed changes are meant to remove unnecessary limitations on H-2A employers, prevent fraud and abuse, and protect the rights of temporary workers. The key modifications are:



- Extend from 10 to 30 days the time a temporary agricultural worker may remain in the United States following the expiration of the H-2A petition;
- Reduce from six months to three months the time an H-2A worker must wait outside the United States before they are eligible to re-obtain H-2A status;
- Allow H-2A workers who are changing from one H-2A employer to another to begin work with the new petitioning employer upon the filing of a new H-2A petition, provided the new employer participates in USCIS's E-Verify program;
- Require an employer attestation regarding the scope of the H-2A employment and the use of recruiters to locate H-2A workers;
- Crack down on employers and recruiters who impose fees on prospective H-2A workers;
- Require an approved temporary labor certification in connection with all H-2A petitions;
- Prohibit the approval of H-2A petitions for nationals of countries determined to be consistently refusing or unreasonably delaying repatriation of their nationals; and
- Establish a land-border exit system pilot program, which ensures that foreign workers admitted through a port of entry participating in the H-2A program must depart through a similar port that also participates in the program.

More information may be found here:

[http://www.dhs.gov/xnews/releases/pr\\_1202308094416.shtm](http://www.dhs.gov/xnews/releases/pr_1202308094416.shtm)

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## Naturalization Applicants May Have Long Wait



During the summer months of 2007 the USCIS received three and a half times the amount of naturalization applications than it did the previous summer, and as of October 2007, almost 1 million applications were pending approval. It is believed that the surge in naturalization application is due in part to the increase in the N-400 application fee from \$330 to \$595 that became effective on July 30, 2007, as well as the citizenship campaigns that have been launched across the country, and the 2008 presidential elections. Because of the high number of applications, the current processing time for naturalization applications is 16 to 18 months. The agency plans to hire 1800 additional workers to assist with the naturalization backlog.

<http://judiciary.house.gov/media/pdfs/Gonzalez080117.pdf>. It is estimated that it will take approximately three years for the USCIS to get through the current naturalization backlog.

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