



October 16, 2007

Hello,

IMMIGRATION LAW UPDATE:

New ICE Social Security No Match Rule On Hold

On October 10, 2007, the US District Court for the Northern District of California left in place a temporary preliminary injunction stopping implementation of the new Immigration and Customs Enforcement (ICE) regulation. As reported in a [previous Immigration Update](#), the new regulation was designed to add to the definition of what is "constructive knowledge" for an employer to be held liable for employing a worker who lacks US work authorization. This would specifically include an employer who receives a social security number no-match letter from the Social Security Administration (SSA). As discussed in previous Immigration Updates, ICE has been increasing its enforcement activities against employers who hire and retain workers who lack proper work authorization. In the weeks and months to come we expect to learn more about when there will be a hearing on the merits of this lawsuit, and when/if this rule will be implemented.

Homeland Security Files Suit to Stop Illinois Law Limiting Use of E-Verify

The Department of Homeland Security seeks to enjoin the State of Illinois from implementing a law preventing employers from participating in the federal government's E-Verify Program. The law, ([Public Act 095-0138](#)) signed by Illinois Governor Blagojevich and scheduled to take effect January 1, 2008, is intended to bar companies from participating in E-Verify (formerly known as the Basic Pilot program), unless the employer has been notified of the workers' ineligibility within three (3) days in 99 percent of cases. It is the US government's position, however, that the effectiveness of the Program depends on employer participation, and that "any obstacles to employers' continued participation or any limitation on new enrollments in the Basic Pilot Program impedes the ability of the US government to fully evaluate the program's utility in enforcing the [Immigration and Naturalization Act's] employment eligibility requirement." See the [Department of Homeland Security website for more on E-Verify](#).

USCIS Flooded With Applications in July and August

Due in large part to the new [US Citizenship and Immigration Services' \(USCIS\) fee increase](#), and the temporary opening of the [employment based priority dates](#) necessary for green card processing, USCIS has received approximately 2.5 million applications. USCIS has confirmed that this increase in filings will "significantly" affect their processing times.

USCIS Not Expected to Re-Implement Expedited Processing for I-140s Anytime Soon

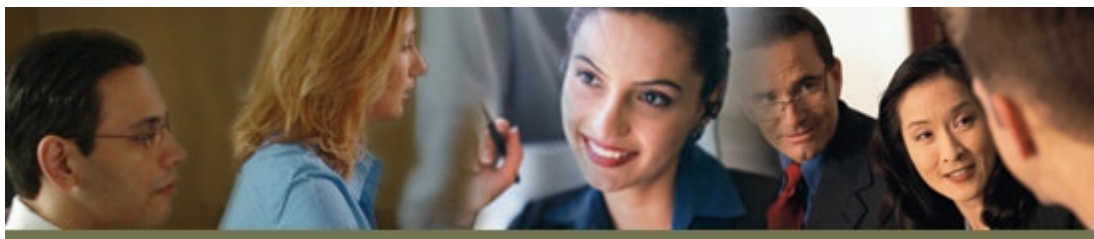
On [July 2, 2007](#) USCIS halted [expedited processing of I-140 Immigrant Worker Petitions](#) due to the volume of cases expected with Adjustment of Status filings in July. Expedited processing has been authorized by Congress, and implemented by USCIS on some cases. This process allows a payment of \$1,000 to ensure adjudication of a filing within 15 days. At a recent conference, USCIS confirmed that due the difficulty they are having in receipting the 2.5 million applications received (mentioned above), the hold on expedited processing for I-140 cases is expected to remain in place for several months.

Department of Labor Completed Most BEC Cases

The US Department of Labor (DOL) has confirmed that it has [completed almost all of the Labor Certifications](#) which were being processed by DOL's Backlog Elimination Centers (BEC), which were filed prior to the [PERM Labor Certification process](#). As the BECs are being closed, DOL officials have confirmed that officers assigned to the BECs will be transferred to other immigration related operations in early 2008, including PERM processing, to ensure more thorough adjudication and probably an increase in audit letters. DOL has indicated that PERM processing times are not expected to increase.

Visa Priority Dates - November Visa Bulletin

The November Visa Bulletin has been posted, and the [employment based green card](#) priority dates remain substantially similar to dates posted in the October Visa Bulletin. For a copy of the November Visa Bulletin, visit the [Department of State \(DOS\) website](#). For a summary of [priority dates](#), and the issues that have arisen with the [Visa Bulletin](#) recently, please visit our [previous Immigration Updates](#).



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