

***** UPDATE *****

To: Berezowski Business Immigration Law Clients
From: Nan Berezowski, Barrister & Solicitor
Date: April 6, 2018
Re: West Coast "L-1" Pilot Program

The USCIS California Service Center (CSC) and the U.S. Customs and Border Protection (CBP) at the Blaine, Washington, Port of Entry ('POE') will soon implement a joint agency pilot program for Canadian citizens seeking L-1 Non-Immigrant status under the North American Free Trade Agreement ('NAFTA'). This pilot will run from April 30, 2018, to Oct. 31, 2018.

Under existing law, a Canadian citizen may apply for admission as an Intra-Company Transfer or "L-1" by presenting a petitioning employer's Form I-129 to an immigration officer at most POEs. Alternatively, an L-1 petitioner may choose to file a Form I-129 for a Canadian citizen with USCIS. Under the pilot, employers will be asked to submit Form I-129, Petition for a Non-Immigrant Worker, and supporting evidence to the Service Center *before* the Canadian citizen seeks non-immigrant L-1 admission to the United States through the Blaine POE; and to use a cover sheet annotated with "Canadian L" to ensure quick identification of the Form I-129 and for correspondence, such as a response to a request for evidence ('RFE'). A petitioner who chooses not to participate in the pilot program may continue to file its L-1 on behalf of a Canadian citizen with CBP at the Blaine POE.

For those who choose to participate in the pilot program, USCIS will receive fees, issue a Form I-797C receipt notice, and adjudicate the Form I-129. If USCIS needs additional evidence, USCIS will send a RFE to the petitioner. However, CBP will continue to make the final determination as to whether a Canadian L-1 applicant is admissible to the United States. If the petitioner chooses to send the applicant to the Blaine POE before USCIS makes a decision on the Form I-129, there may be delays while USCIS remotely adjudicates the form. In such a case, the applicant must bring a copy of the petition receipt notice for the Form I-129 and await adjudication of the Form I-129.

If a petitioner chooses not to file the Form I-129 in advance with USCIS, the filing may continue to be made with CBP at the Blaine POE, but CBP will adjudicate it during the pilot program at the nearest Class A POE. The beneficiary may apply for admission at any designated Class A CBP POE optimized for processing L-1 petitions for Canadian citizen beneficiaries. Accordingly, petitioners can still choose to have CBP adjudicate their petitions at the time an applicant appears at a CBP-designated Class A POE or pre-clearance airport.

During the six-month pilot, stakeholders may provide feedback to USCIS through USCIS-IGAOutreach@uscis.dhs.gov. Once the pilot is complete, USCIS will consider extending the program to other POEs.

Nan Berezowski (BA, LL.B, LL.M) compiled this Update with the latest available information for the general information of Berezowski Business Immigration Law clients and other interested parties. This Update is not comprehensive and should not be relied upon without appropriate legal advice.