

TABLE OF CHANGES – INSTRUCTIONS
Form I-129, Petition for a Nonimmigrant Worker
OMB Number: 1615-0009
07/17/2025

Reason for Revision: H-1B Selection NPRM

Project Phase: FO Review

Legend for Proposed Text:

- Black font = Current text
- **Red font** = Changes

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Current Page Number and Section	Current Text	Proposed Text
Pages 7-31, Part 1. Petition Always Required	[Page 7] Part 1. Petition Always Required ... <u>H-1B Nonimmigrants (Three Types)</u> ... [Page 9] 6. A copy of any written contract between the petitioner and the beneficiary or a summary of the terms of the oral agreement under which the beneficiary will be employed. 7. If you are filing an H-1B cap petition for a fiscal year that H-1B registration is required, you must provide a valid Beneficiary Confirmation Number for the beneficiary included in this petition, along with a copy of the H-1B Registration Selection Notice. 8. If you are filing an H-1B cap petition for a fiscal year that H-1B registration is required, you must submit evidence of the beneficiary's passport or travel document used at the time of registration to identify the beneficiary.	Part 1. Petition Always Required ... <u>H-1B Nonimmigrants (Three Types)</u> ... [no change] 7. If you are filing an H-1B cap petition for a fiscal year that H-1B registration is required, you must provide all of the following: A. A valid Beneficiary Confirmation Number for the beneficiary included in this petition, along with a copy of the H-1B Registration Selection Notice. If any information does not match between the selection notice and the petition, you must provide an explanation and supporting documentation as to why there was a change or why the information does not match. If information on the registration and petition does not match, USCIS may

	reject or deny the petition; B. Evidence of the beneficiary’s passport or travel document used at the time of registration to identify the beneficiary. The petition must contain and be supported by the same identifying information provided in the selected registration; and C. Evidence of the basis of the wage level selected on the registration. Such evidence could include, but is not limited to, a printout from the DOL OFLC Wage Search website for the beneficiary’s SOC code and area(s) of intended employment as of the date of registration. See flag.dol.gov/wage-data/wage-search. 8. Off-site Assignment of H-1B Beneficiaries: Petitioners seeking to place the H-1B beneficiary off-site at a location other than their own location must answer general questions regarding this assignment in Part 5., Basic Information About the Proposed Employment and Employer. Petitioners should advise the H-1B beneficiary of the off-site work placement. [no change] ... Who is required to submit this supplement? A U.S. employer or U.S. agent seeking to classify a beneficiary as an H-1B or H-1B1 Free Trade Nonimmigrant worker must file this supplement with the Form I-129 and the appropriate fee. Completing Section 1. of the H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplement Form All petitioners who seek to classify a beneficiary as an H-1B or H-1B1 free trade nonimmigrant worker must answer every question in Item Number 1. of Section 1.,	9. Off-site Assignment of H-1B Beneficiaries: Petitioners seeking to place the H-1B beneficiary off-site at a location other than their own location must answer general questions regarding this assignment in Part 5., Basic Information About the Proposed Employment and Employer. Petitioners should advise the H-1B beneficiary of the off-site work placement. The H-1B classification is also for aliens coming to the United States to perform services of an exceptional nature relating to a cooperative research and development project administered by the U.S. Department of Defense (DOD). ... Who is required to submit this supplement? A U.S. employer or U.S. agent seeking to classify a beneficiary as an H-1B or H-1B1 Free Trade Nonimmigrant worker must file this supplement with the Form I-129 and the appropriate fee. Completing Section 1. of the H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplement Form All petitioners who seek to classify a beneficiary as an H-1B or H-1B1 free trade nonimmigrant worker must answer every question in Item Number 1. of Section 1.,
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	General Information. Guidance on how to answer these questions follows. 1. H-1B dependent employer. An “H-1B dependent employer” is an employer that: A. Has 25 or fewer full-time-equivalent employees who are employed in the United States and employs more than seven H-1B nonimmigrants; B. Has at least 26 but not more than 50 full-time-equivalent employees who are employed in the United States and employs more than 12 H-1B nonimmigrants; or C. Has at least 51 full-time equivalent employees who are employed in the United States and employs H-1B nonimmigrants in a number that is equal to at least 15 percent of the number of such full-time-equivalent employees. 2. Willful violators. A willful violator is an employer whom the U.S. Secretary of Labor has found, after notice and opportunity for a hearing, to have willfully failed to meet a condition of the labor condition application described in section 212(n) of the Immigration and Nationality Act. 3. Exempt H-1B nonimmigrant. An “exempt H-1B nonimmigrant” is an H-1B nonimmigrant who: [Page 11] A. Receives wages (including cash bonuses and similar compensation) at an annual rate equal to at least \$60,000; or B. Has attained a master’s degree or higher (or its equivalent) in a specialty related to the intended employment. 4. Highest level of formal education. In Item Number 2. of Section 1., place an “X” in the appropriate box that most closely reflects the highest level of formal	1.a. H-1B dependent employer. An “H-1B dependent employer” is an employer that: • Has 25 or fewer full-time-equivalent employees who are employed in the United States and employs more than seven H-1B nonimmigrants; • Has at least 26 but not more than 50 full-time-equivalent employees who are employed in the United States and employs more than 12 H-1B nonimmigrants; or • Has at least 51 full-time equivalent employees who are employed in the United States and employs H-1B nonimmigrants in a number that is equal to at least 15 percent of the number of such full-time-equivalent employees. 1. b. Willful violators. A willful violator is an employer whom the U.S. Secretary of Labor has found, after notice and opportunity for a hearing, to have willfully failed to meet a condition of the labor condition application described in section 212(n) of the Immigration and Nationality Act. 1. c. Exempt H-1B nonimmigrant. An “exempt H-1B nonimmigrant” is an H-1B nonimmigrant who: • Receives wages (including cash bonuses and similar compensation) at an annual rate equal to at least \$60,000; or • Has attained a master’s degree or higher (or its equivalent) in a specialty related to the intended employment. 2. Highest level of formal education. In Item Number 2. of Section 1., place an “X” in the appropriate box that most closely reflects the highest level of formal education the beneficiary has attained.
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	education the beneficiary has attained. 5. Major/primary field of study. Use the beneficiary's degree transcripts to determine the primary field of study. DO NOT consider work experience to determine the beneficiary's major field of study. 6. Master's or higher degree from a U.S. institution of higher education. Indicate whether or not the beneficiary has earned a master's or higher degree from a U.S. institution of higher education, as defined in 20 U.S.C. section 1001(a). 7. Rate of pay per year. The "rate of pay" is the salary or wages paid to the beneficiary. Salary or wages must be expressed in an annual full-time amount and do not include non-cash compensation or benefits. For example, an H-1B worker is to be paid \$6,500 per month for a 4-month period and also provided separately a health benefits package and transportation during the 4-month period. The yearly rate of pay if he or she were working for a full year would be 12 times the monthly rate, or \$78,000. This amount does not include health benefits or transportation costs. The figure \$78,000 should be entered on this form as the rate of pay. 8. SOC Code. This is the Standard Occupational Classification (SOC) Code. You can obtain the SOC codes from the Department of Labor (DOL), Bureau of Labor Statistics at www.bls.gov/soc. 9. NAICS Code. This is the North American Industry Classification System (NAICS) Code. This code can be obtained from the U.S. Department of Commerce, Census Bureau (www.census.gov/epcd/www/naics.htm). Enter the code from left to right, one digit in each of the six boxes. If you use a code with fewer than six digits, enter the code left to right and then add zeros in the remaining unoccupied boxes. For example, the code sequence 33466 would be entered as: [Each number inside a separate box] For example, the code sequence 5133	3. Major/primary field of study. Use the beneficiary's degree transcripts to determine the primary field of study. DO NOT consider work experience to determine the beneficiary's major field of study. [deleted] 4. Rate of pay per year. The "rate of pay" is the salary or wages paid to the beneficiary. Salary or wages must be expressed in an annual full-time amount and do not include non-cash compensation or benefits. For example, an H-1B worker is to be paid \$6,500 per month for a 4-month period and also provided separately a health benefits package and transportation during the 4-month period. The yearly rate of pay if he or she were working for a full year would be 12 times the monthly rate, or \$78,000. This amount does not include health benefits or transportation costs. The figure \$78,000 should be entered on this form as the rate of pay. 5. SOC Code. This is the Standard Occupational Classification (SOC) Code. You can obtain the SOC codes from the Department of Labor (DOL), Bureau of Labor Statistics at www.bls.gov/soc. 6. NAICS Code. This is the North American Industry Classification System (NAICS) Code. This code can be obtained from the U.S. Department of Commerce, Census Bureau (www.census.gov/epcd/www/naics.htm). Enter the code from left to right, one digit in each of the six boxes. If you use a code with fewer than six digits, enter the code left to right and then add zeros in the remaining unoccupied boxes. [no change]
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	would be entered as: [Each number inside a separate box] ... What evidence is required under Section 2.? Petitioners claiming an exemption from the ACWIA filing fee must submit evidence showing why the organization or entity is exempt from the filing fee. Completing Section 3. of the H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplemental Form All petitioners must complete Section 3., Numerical Limitation Information, to determine whether the beneficiary is subject to the H-1B cap. Public Law 110-229 provides that nonimmigrant workers admitted to Guam or CNMI are exempt from the statutory caps for the H visa programs through December 31, 2029.	... What evidence is required under Section 2.? [no change] All petitioners must complete Section 3., Numerical Limitation Information, to determine the type of H-1B petition you are filing and whether the beneficiary is subject to the H-1B cap or is cap exempt. [deleted] When applicable, registrations (or petitions) will be weighted and selected generally based on the Occupational Employment and Wage Survey (OEWS) wage level that the beneficiary’s proffered wage equals or exceeds for the relevant Standard Occupational Classification (SOC) code in their area(s) of intended employment. Therefore, in Section 3., if you selected Item Number 1.a. “Cap H-1B Bachelor’s Degree” or Item Number 1.b. “Cap H-1B U.S. Master’s Degree or Higher,” you must select the appropriate wage level box based on the highest OEWS wage level that the beneficiary’s proffered wage equals or exceeds for the relevant SOC code in the area(s) of intended employment when OEWS wage level is available. If the beneficiary’s proffered wage is lower than OEWS wage level I, because it is based on a prevailing wage from another legitimate source (other than OEWS) or an independent authoritative source, you must select “wage level I.” If the beneficiary will work in multiple locations, or in multiple positions if you are filing the
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		petition as an agent, you must select the lowest corresponding OEWS wage level that the proffered wage will equal or exceed. If the proffered wage is expressed as a range, you must select the OEWS wage level that the lowest wage in the range will equal or exceed. If the relevant SOC code does not have current OEWS prevailing wage information available, you must follow U.S. Department of Labor guidance on prevailing wage determinations to determine which OEWS wage level to select. The OEWS wage level selected must reflect the corresponding OEWS wage level as of the date that the registration underlying the petition was submitted. However, if the registration process is suspended, the OEWS wage level selected must reflect the corresponding OEWS wage level as of the date that the petition is submitted. NOTE: The proffered wage is the wage that you intend to pay the beneficiary as indicated on the petition. The SOC code and area(s) of intended employment should be indicated on the LCA filed with the petition. The petition must contain and be supported by the same position information, including SOC code, provided in the selected registration and must include a proffered wage that equals or exceeds the prevailing wage for the corresponding OEWS wage level reflected in the registration. In circumstances where the prevailing wage is based on a private wage survey and is lower than level I, the proffered wage on the H-1B petition must equal or exceed the prevailing wage reflected in the private survey used to register the beneficiary at OEWS level I. In its discretion, USCIS may find that a change in the area(s) of intended employment would be permissible, provided such change is consistent with the requirement of a bona fide job offer at the time of registration. If you selected Item Number 1.d. “Cap Exempt,” you must specify the reason(s) this petition is exempt from the numerical limitation for H-1B classification.
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	The Form I-129 H Classification Supplement and H-1B Data Collection and Filing Fee Exemption Worksheet require employers to indicate the specific reason for any claimed cap exemption. Please select, in Section 3 of the H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplement, the reason(s) this petition is exempt from the numerical limitation for H-1B classification: ... C. You are seeking an extension beyond the 6-year period of authorized admission limitation based on sections 104(c) or 106(a) and 106(b) of the American Competitiveness in the Twenty-first Century Act (AC21); or 8. The petitioner is an employer eligible for the Guam-CNMI cap exemption pursuant to Public Law 110-229. ...	The Form I-129 H Classification Supplement and H-1B Data Collection and Filing Fee Exemption Worksheet require employers to indicate the specific reason for any claimed cap exemption. Please select, in Section 3 of the H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplement, the reason(s) this petition is exempt from the numerical limitation for H-1B classification: ... C. You are seeking an extension beyond the 6-year period of authorized admission limitation based on sections 104(c) or 106(a) and 106(b) of the American Competitiveness in the Twenty-first Century Act (AC21); or 8. The petitioner is an employer eligible for the Guam-CNMI cap exemption pursuant to Public Law 110-229. Public Law 110-229 provides that nonimmigrant workers admitted to Guam or CNMI are exempt from the statutory caps for the H visa programs through December 31, 2029. ...
Page 32, Paperwork Reduction Act	[Page 32] Paperwork Reduction Act USCIS may not conduct or sponsor an information collection, and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated for Form I-129 at 2.55 hours; E-1/E-2 Classification at 0.67 hours; Trade Agreement Supplement at 0.67 hours; H Classification Supplement at 2.07 hours; H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplement at 1 hour; L Classification Supplement to Form I-129 at 1.34 hours; P Classifications Supplement to Form I-129 at 1 hour; Q-1 Classification Supplement at 0.34 hours; R-1 Classification Supplement at 2.34 hours; and Form I-129 ATT at 0.33 hours, including the time for reviewing	Paperwork Reduction Act USCIS may not conduct or sponsor an information collection, and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated for Form I-129 at 2.55 hours; E-1/E-2 Classification at 0.67 hours; Trade Agreement Supplement at 0.67 hours; H Classification Supplement at 2.07 hours; H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplement at 1.25 hours; L Classification Supplement to Form I-129 at 1.34 hours; P Classifications Supplement to Form I-129 at 1 hour; Q-1 Classification Supplement at 0.34 hours; R-1 Classification Supplement at 2.34 hours; and Form I-129 ATT at 0.33 hours, including the time for reviewing

	instructions, gathering the required documentation and information, completing the petition, preparing statements, attaching necessary documentation, and submitting the petition. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: U.S. Citizenship and Immigration Services, Office of Policy and Strategy, Regulatory Coordination Division, 5900 Capital Gateway Drive, Mail Stop #2140, Camp Springs, MD 20588-0009; OMB No 1615-0009. Do not mail your completed Form I-129 to this address.	instructions, gathering the required documentation and information, completing the petition, preparing statements, attaching necessary documentation, and submitting the petition. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: U.S. Citizenship and Immigration Services, Office of Policy and Strategy, Regulatory Coordination Division, 5900 Capital Gateway Drive, Mail Stop #2140, Camp Springs, MD 20588-0009; OMB No 1615-0009. Do not mail your completed Form I-129 to this address.