

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

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Samantha Deshommes  
Chief, Regulatory Coordination Division  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue, NW  
Washington, D.C. 20529

By electronic submission: [www.regulations.gov](http://www.regulations.gov)

**RE: Registration Requirement for Petitioners Seeking to File H-1B Petitions on Behalf of Cap-Subject Aliens**  
**83 Fed. Reg. 62406 (December 3, 2018)**  
**RIN 1615-AB71**

Dear Chief Deshommes:

The U.S. Chamber of Commerce respectfully requests that the comment period for the Notice of Proposed Rulemaking entitled *Registration Requirement for Petitioners Seeking to File H-1B Petitions on Behalf of Cap-Subject Aliens*, 83 Fed. Reg. 62406 (December 3, 2018) (hereinafter referred to as “NPRM,” or “proposal”) be extended by 60 days.

The Chamber further requests that U.S. Citizenship and Immigration Services (hereinafter “USCIS”) abandons its effort to implement this new H-1B registration requirement for the upcoming FY20 H-1B cap season, which would begin next spring. Substantially changing the H-1B program in this manner after companies have expended significant resources to petition for H-1B workers under the current system ensures that these businesses will not receive any of the estimated cost-savings suggested by the agency in the proposal for the current fiscal year. More importantly, the proposed changes to the petition process have the potential to be highly disruptive to the business operations of companies across a host of industries, as it increases the uncertainty associated with the ability of businesses to meet their workforce needs.

For the purposes of this comment, the Chamber is limiting its remarks to issues concerning the electronic registration requirement proposed in the NPRM. We intend to comment on the new cap-subject H-1B visa selection process in our future comments on the proposal.

The Chamber appreciates the agency's desire to modernize the H-1B petition process through the use of electronic, web-based means and we look forward to working with the agency to that effect. However, Chamber members are very anxious about having to comply with a new electronic registration system, in addition to bearing the existing burdens of the current paper-based process, in the next few months. Assuming that USCIS could stand up this new registration system by the middle of March 2019 to provide companies the ability to begin the registration process at least 14 calendar days before petitions can be submitted on April 1, 2019, companies will have an unreasonably short amount of time to comprehend all that the final rule would entail and then prepare to comply with the new requirements under the rule.

To that end, small businesses would be particularly hurt if this rule were to be finalized and implemented by next spring in this manner. Smaller companies likely do not possess the resources that would allow them to adjust to such a drastic change to the H-1B process in a short period of time. For those reasons, among others, Chamber members are united in their opinion that the imposition of any new electronic registration requirement must not be imposed upon the regulated community for the upcoming H-1B cap season.

The agency also should delay the implementation of this new electronic registration requirement because companies that rely upon the H-1B program to meet their workforce needs have already begun preparing the necessary paperwork to file petitions for the talent they desire. For many companies, the process of recruiting talent and preparing the Labor Condition Applications and the I-129 petitions for these individuals began months ago in reliance upon the requirements of the current H-1B petition process. Making these proposed changes in the next few months will ensure that, at least for this coming year, companies that would presumably register under this system and not be selected would not experience any of the cost-savings that the agency believes they would receive.

There are several ways in which this proposal creates substantial uncertainty for businesses. For example, the proposal states that once a company is informed that they have been selected under the new registration system to apply for an H-1B worker, USCIS will provide the employer with a 60-day period to complete the petition and submit it to the agency. In many cases, 60 days will be an insufficient amount of time for a company to gather all the necessary documentation to properly file the petition. For large companies that have several hundred registrations selected and must file all of those petitions within a 60-day period, those companies could easily be overwhelmed with such a large workload in a very compressed time period. Furthermore, for very complicated cases where employers and their outside counsel have significant difficulties in obtaining the necessary documents to file the H-1B petition for a particular worker, the 60-day period suggested by the agency will almost certainly be insufficient for those types of cases to be successfully filed and adjudicated under this new proposal.

Several Chamber members have expressed concerns over the potential for companies who may seek to game the registration process and file as many registrations as possible in an attempt to box out the competition. Small businesses are particularly concerned about this issue, as they do not have the resources to be able to file as many registrations under this new proposal as larger companies.

Many companies are also concerned about how the compressed time period for filing petitions could cause processing delays associated with their outstanding petitions, particularly if their company's registration requests are approved, but their filing date is later than that of other companies under the proposed staggered H-1B filing process. This is a common concern for companies of various sizes that are currently experiencing long processing delays for their FY19 cap-subject H-1B petitions that were filed earlier this April. In their view, the current system is causing their business to experience significant operational disruptions by preventing them from meeting their workforce needs, which inhibits their company's ability to meet its own project deadlines or meet the needs of its clients. These companies are skeptical as to how this proposal, which adds a new set of requirements to the overall process of obtaining an H-1B worker, will operate more efficiently and better serve their interests by providing their company with the workers it needs in a more timely fashion.

Furthermore, many Chamber members also worry that the compressed 60-day period for filing petitions for H-1B will cause more uncertainty for their businesses because it could potentially produce a situation where even more petitions are not approved by the time the company expected the worker to commence employment. Businesses across several industries have raised concerns about the feasibility of this revised structure to the H-1B petition process, particularly if USCIS declines to reinstitute the premium processing option for employers upon the implementation of this new electronic registration system.

Given these serious concerns that several companies have expressed to us with regard to the possibility that this proposal could be implemented in early 2019, we reiterate our requests to the agency to 1) extend the comment period and provide stakeholders with a total of 90 days to submit their comments to the agency and 2) abandon the attempt to implement this new registration requirement before the start of the FY20 H-1B cap season next spring. Providing only a 30 day comment period is an inadequate amount of time for many stakeholders to consider the impact this proposal will have on their businesses, which inhibits their ability to provide the agency with insightful comments that will help the agency finalize this rule in a manner that works for the American business community. We hope that the agency seriously considers delaying the comment period and its timetable for implementing this proposal.

Thank you for considering our views.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Baselice', written in a cursive style.

Jonathan Baselice  
Director, Immigration Policy  
U.S. Chamber of Commerce