Trump Proclamation Curtails the Ability of Manufacturers to Bring Workers in From Outside USA

Article By
Jennifer L. Shanley
Robinson & Cole LLP
Manufacturing Law Blog

- Immigration
- Labor & Employment
- Global
- All Federal

Tuesday, June 23, 2020

President Trump signed a proclamation temporarily suspending the entry of certain H-1B, L-1, H-2B and J-1 foreign national workers and their dependents who are currently outside of the U.S. and do not have a valid visa or other valid travel document. The order will take effect on June 24, 2020 and will be in effect through December 31, 2020, though it could be extended, if the president determines it is necessary.

By way of background, foreign nationals can work in the U.S. in a variety of work authorized categories, some of the most prominent being H-1B and L-1. Those in H-1B status are working for an employer in a specialty occupation; those working pursuant to L-1 status are intracompany transferees who worked for the U.S. company's related entity abroad in either a managerial or executive role or one that requires specialized knowledge and are working for a U.S. employer in that same capacity. Other significant categories include the J-1, which is an exchange visitor status to participate in an intern, trainee, teacher, camp counselor, au pair, or summer work travel program and the H-2B program allows for temporary nonagricultural labor or services.

The order does not apply to foreign nationals in H-1B, H-2B, L-1, J-1 status (and their dependents) who: (1) are inside the U.S. on June 24th (the effective date of the proclamation); or (2) are outside of the U.S. but have a nonimmigrant visa that is
valid on June 24th; or (3) are outside of the U.S but have an official travel document other than a visa (such as a transportation letter, an appropriate boarding foil, or an advance parole document) that is valid on June 24th or issued on any date thereafter that permits him or her to travel to the United States and seek entry or admission. In addition, the proclamation also exempts lawful permanent residents, spouses and children of U.S. citizens, workers providing temporary services essential to the U.S. food supply chain, and any foreign national whose entry is determined to be in the national interest.

For those employers who have employees outside of the U.S. on June 24th who do not have a valid H-1B, H-2B, J-1 or L-1 visa as of June 24th, or an official travel document other than a visa, such as a valid advance parole document, such employees may not be able to enter the U.S. until at least January 2021.

The proclamation does not, however, affect the status or work authorization of any individual currently inside of the U.S. in H-1B, H-2B, L-1 or J-1 status or any of their dependents also in the U.S.

Further, previously, on April 22, 2020, President Trump signed a proclamation temporarily suspending the ability of foreign nationals to apply for and obtain an immigrant visa at a U.S. consulate or embassy outside of the U.S., which would allow them to enter the U.S. as a permanent resident. The proclamation signed by President Trump also extends the immigrant visa suspension through December 31, 2020, as well.

Copyright © 2020 Robinson & Cole LLP. All rights reserved.

National Law Review, Volume X, Number 175

Source URL: https://www.natlawreview.com/article/trump-proclamation-curtails-ability-manufacturers-to-bring-workers-outside-usa