

# ROSNER

## PARTNERS

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COUNSEL FOR CORPORATE IMMIGRATION

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### New Law Affects H-1B, L-1, and More

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Starting December 23, 2010, petitions for Nonimmigrant Workers in the H-1B, H-1B1 Chile/Singapore, L-1 or O-1A categories will require the petitioner to certify that either:

1. A license is not required from either the U.S. Department of Commerce or the U.S. Department of State to release such technology or technical data to the foreign person; or
2. A license is required from the U.S. Department of Commerce and/or the U.S. Department of State to release such technology or technical data by the beneficiary until and unless the petitioner has received the required license or other authorization to release it to the beneficiary.

Employers must take into account that forms of exportation are not only limited to the traditional sense (shipping overseas), but also to the release of certain technology or technical data to any Foreign National within the United States. Any “Deemed” exports must have the correct authorization through a specialized export license issued by the corresponding government agency. This requirement will be enforced by the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR).

Employers must now certify their compliance with the U.S. Department of Commerce’s and Department of State’s “deemed export” rules, which govern the release of controlled technology to foreign persons.

To understand how these rules apply to you or your company, please contact us for further consultation.

## New Visa Procedures for US Consulates in Mexico

Beginning January 10, 2011 the U.S. Embassy in Mexico City and the U.S. Consulates in Mexico will begin processing visas differently.

Some of the key highlights include:

1. Majority of applicants will go to an Applicant Service Center (ASC) prior to their consular section interview. The ASC staff will collect applicant's biometric information. The ASCs will be located in separate buildings from the U.S. Embassy and Consulates;
2. Total visa application costs will be lowered as a result of these changes. Applicants will now pay only one application fee that will cover the appointment, application, and courier fees. Please note that petition based fees will remain the same (USD 150);
3. A great number of applicants that are renewing their visas will no longer need to schedule an interview with a consular officer. Through the Interview Waiver Program (IWP), many applicants may travel to the nearest ASC in order to submit required application documents;
4. Applicants at the U.S. Consulates in Ciudad Juarez, Monterrey, and Nuevo Laredo are no longer required to pay a USD26 surcharge.



For further information regarding the new visa procedures in Mexico, please go to the following website:

<http://visas.mexico.usembassy.gov/visas/visa-section-news/new-visa-procedures.html>

## H-1B Quota Approaching Cap

As of December 3, 2010, nearly two-thirds of the H-1B quota numbers available for fiscal year 2011 have been used. For the H-1B regular cap there are 65,000 regular H-1Bs allotted and 51,200 eligible petitions have been received; as for the H-1B Master's Exemption cap, there are 20,000 H-1Bs allotted and 18,700 cap eligible petitions have been received.

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*"H-1Bs tend to go fast"*

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At the current pace, H-1B numbers should remain for another month or two. However, the numbers at the end of the quota tend to go fast. Therefore, we recommend that you contact us soon if you have an employee that needs an H-1B.

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