

New Pilot Program for NAFTA L-1s at the Canadian Border

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On April 30, 2018, the USCIS California Service Center (CSC) and the U.S. Customs and Border Protection (CBP) port of entry (POE) in Blaine, Washington implemented a joint agency pilot program for Canadian citizens applying for an L-1 intracompany transferee nonimmigrant status under the North American Free Trade Agreement (NAFTA). As discussed below, the new program will test a process to facilitate a faster and coordinated adjudication and admission process for Canadians applying for L-1 nonimmigrant status at Canadian/U.S. border. The program will run from April 30 to October 31, 2018 and participation in the pilot program is optional.

What is the current L-1 process for Canadians?

Currently, the NAFTA L-1 process for Canadian citizens permits an applicant to apply for admission as an L-1 nonimmigrant by presenting an L-1 petition package to a CBP officer at a Class A port of entry (at a Canadian/U.S. border) or via pre-clearance process at Canadian airport. This is typically the fastest and most efficient way for a Canadian citizen to be admitted to the U.S. as an L-1 intracompany transferee. However, after admission, the CBP officer will send the petition to the appropriate Service Center of USCIS for final adjudication. Recently, there has been a surge of request for evidence notices (RFEs) in connection with these L-1 petitions and even some denials, reversing the CBP decision at the border.

A second option that Canadian citizens have is the option to directly file an L-1 petition with the appropriate Service Center of USCIS, to obtain an adjudication before they actually attempt to cross the border or board a flight to the U.S. With this option, the applicant must wait until USCIS adjudicates their petition to travel. Often, this can take months unless the employer elects to pay the \$1,225 premium process fee for a 15-calendar day adjudication. Even filing the petition under the premium process option does not guarantee a quick turnaround, as we are again seeing an uptick of RFE notices, which then re-starts the premium process clock.

The Pilot Program at Blaine, Washington

Canadian L-1 intracompany transferees who choose to participate in the [pilot program](#) will file their petition with the USCIS CSC prior to travelling to the US. CSC will receive the filing fees, issue a Form I-797C receipt notice, and expeditiously adjudicate the petition filing, without the employer having to pay the extra premium process fee. If the petition is approved, the L-1 intracompany transferee will be able to apply for admission to the U.S. at the Blaine POE. Although it is important to note, CBP will continue to retain the authority to make the final determination on whether a Canadian L-1 applicant is ultimately admissible to the U.S. The coordinated effort between USCIS and CBP under this pilot program aims for efficiency, consistency, and predictability on part of the applicants and the agency.

CBP and USCIS strongly encourage petitioners choosing to participate in the L-1 pilot program to file L-1 nonimmigrant petitions with USCIS as far in advance of travel as possible. The L-1 nonimmigrant pilot program for Canadian citizens will allow both agencies to determine the efficiency of the program's procedures, identify shortcomings, and develop operational improvements. During the 6-month pilot, stakeholders may communicate and provide feedback to USCIS through USCIS-IGAOutreach@uscis.dhs.gov. Once the pilot is complete, USCIS will seek feedback from stakeholders before considering extending the program concept to other POEs.

Please note, petitioners may choose not to participate in this pilot program. Canadian citizens may still apply for and have CBP adjudicate their petitions at the time an applicant appears at any CBP-designated Class A POE or pre-clearance airport (PC). The three optimized stations nearest to Blaine are Class A POEs Point Roberts, Washington, and Sumas, Washington, and the Vancouver, Washington, PC.

If you are interested in participating in the pilot program please contact our office. We will monitor the results of the pilot program and

report on any further developments.

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