

Date Posted	Date Received	Regulations.gov Comment ID	Comment Number	Issue Number	Commenter	Comment	Comment Expression: Support/Oppose/Mixed	Comment Type: General/Substantive	Type of Commenter: Individual/Organization	Agency Response
						<p>November 8, 2019 Submitted Via Email OMB USCIS Desk Officer dhsteskofficer@omb.eop.gov Re: OMB Control Number 3615-0144 USCIS 30-Day Notice and Request for Comments: Revision of a Currently Approved Collection: H-1B Registration Tool Dear OMB USCIS Desk Officer: The American Immigration Lawyers Association (AILA) submits the following comments in response to the above-referenced 30-day notice and request for comments published in the Federal Register on October 9, 2019.¹ Founded in 1946, AILA is a voluntary bar association of more than 15,000 attorneys and law professors practicing, researching and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. AILA previously submitted comments on the H-1B electronic registration tool to USCIS during a 60-day comment period which closed on August 26, 2019.² Given the importance of the H-1B electronic registration tool to our members, AILA welcomes the opportunity to provide additional comments on the tool during this 30-day comment period, particularly in light of recent modifications that USCIS has made to the electronic registration tool, which are reflected in updated screen shots of the H-1B registration tool which were made available to the public on October 9, 2019 via the regulations.gov website.³ We believe that our members' collective expertise and experience makes us particularly well-qualified to offer comments on the electronic registration tool that will benefit the public and the government.</p>	Intro/Conclusion	General	Organization	Thank you for your comments.
11/8/2019	11/8/2019	N/A	1	1	AILA	<p>AILA's Continued Concerns Regarding the Timing of the Agency's Implementation of the H-1B Electronic Registration Tool As an initial matter, as reflected in comments previously submitted to USCIS by AILA earlier this year relating to the H-1B registration system⁴, AILA remains concerned regarding the timing of USCIS' implementation of the H-1B electronic registration tool. While AILA appreciates that USCIS has communicated its intention to implement the registration process for the fiscal year (FY) 2021 H-1B cap season subject to continued testing of the system⁵, to the extent that USCIS does in fact implement the H-1B electronic registration tool in time for the FY 2021 cap season, AILA strongly urges USCIS to finalize this regulation, complete the requisite testing of the system, and publish a notice in the Federal Register as soon as possible, and no later than the end of the year. This will ensure that U.S. employers have adequate clarity regarding the process that will commence in only a few short months and that attorneys, U.S. employers, and other stakeholders have sufficient time to adjust their H-1B filing preparations and adequately familiarize themselves with the electronic registration tool well in advance of the initial registration period.</p> <p>Many U.S. employers and attorneys have already begun preparing for the FY 2021 cap season. Until DHS announces in the Federal Register that the agency will implement the electronic registration tool for the FY 2021 cap season, as a precautionary measure, many attorneys and U.S. employers will prepare for the FY 2021 H-1B cap filing window as they normally would by taking steps to prepare full H-1B petitions, negating the cost savings that underlie the agency's reasoning for the H-1B registration requirement.⁶ Indeed, given the lack of certainty about whether the H-1B electronic tool will be in place for the upcoming FY 2021 H-1B cap season, many attorneys and U.S. employers have already begun preparing for the FY 2021 H-1B cap as they normally would by circulating intake questionnaires, collecting supporting documentation from beneficiaries, and expending fees and costs for professional services. The longer DHS waits to make a formal announcement, the more attorneys and U.S. employers will follow a similar course of action, further negating the cost savings that underlie the agency's reasoning for the H-1B registration requirement.</p>	Mixed	General	Organization	USCIS intends to implement the registration process for the FY 2021 cap season, subject to continued testing of the system. As stated in the final rule, DHS will publish a notice in the Federal Register to formally announce the initial implementation of the H-1B registration process in advance of the cap season in which it will first implement the requirement. USCIS will provide guidance on how to use the registration system and prepare registrations prior to opening the registration system for the initial registration period.
11/8/2019	11/8/2019	N/A	1	2	AILA	<p>I. About Registrant Section AILA notes that in the "About Registrant" section of the H-1B registration tool, USCIS has updated the first question regarding the U.S. employer / agent submitting the registration. Previously the question was posed as "What is the legal name of the petitioning company or organization?" The question now states, "What is the legal name of the prospective petitioning company or organization?" (emphasis added). 7 AILA applauds this revision as the registering company or organization will not yet be petitioning the prospective beneficiary at this stage of the process.</p>	Mixed	General	Organization	Thank you for your comments.
11/8/2019	11/8/2019	N/A	1	3	AILA	<p>II. About Beneficiary Section a. Master's or Higher Degree from a U.S. Institution of Higher Education In the "About Beneficiary" section, USCIS has included a question about the beneficiary's master's or higher degree attainment. Specifically, USCIS asks beneficiaries to select either "Yes" or "No" to the following question: <i>Does the beneficiary have a master's or higher degree from a U.S. institution of higher education such that the beneficiary is eligible for the advanced degree exemption under INA 214(g)(5)(C) and requesting consideration under the advanced degree exemption?</i> AILA recommends that USCIS modify the question regarding the beneficiary's U.S. master's or higher degree attainment, as some beneficiaries may not have attained a master's or higher degree from a U.S. institution of higher education at the time of the H-1B registration period, yet may still be eligible for the exemption at the time of filing an H-1B petition if their registration is ultimately selected.⁸ Specifically, USCIS could revise the question as follows: <i>Will the beneficiary be requesting an exemption from the numerical limitation pursuant to INA 214(g)(5)(C) based on having a master's or higher degree from a U.S. institution of higher education at the time of filing an H-1B petition?</i></p>	Mixed	Substantive	Organization	Thank you for your comment. After further review, USCIS will be amending the question to the following: "Are you requesting consideration under the INA 214(g)(5)(C) advanced degree exemption because the beneficiary has earned, or will earn prior to the filing of the petition, a master's or higher degree from a U.S. institution of higher education?"
11/8/2019	11/8/2019	N/A	1	4	AILA	<p>III. Review and Submit Section a. Review Process In the "Review and Submit" section, USCIS provides the following instructional text: <i>We will review your registration to check for accuracy and completeness before you submit it. We encourage you to provide as many responses as you can throughout the registration, to the best of your knowledge. Missing information can slow down the review process after you submit your registration.</i> AILA recommends that USCIS strikes from its instructions that it will review the registration for "accuracy", as the agency will not be confirming the validity of the information provided during the registration process, but rather will only be confirming whether the form has been completely filled out.</p> <p>Moreover, the instructions stating that the registrant should provide "as many responses as you can" appears to indicate that all fields are optional, but that contradicts language in the next section which states that a registration will not pass the review process unless "you have completed all required fields and responses". AILA recommends that this instruction language be revised to read: <i>We will review your registration to check for completeness before you submit it. Missing information can slow down the review process after you submit your registration.</i> This revision will provide necessary clarity for stakeholders about the review process.</p>	Mixed	Substantive	Organization	Thank you for your comment. USCIS will be amending the statement to the following: "We will review your registration to check for completeness before you submit it."
11/8/2019	11/8/2019	N/A	1	5	AILA	<p>b. Alerts and Warnings AILA notes that USCIS has updated the H-1B registration tool to provide an alert / warning to notify registrants if they have provided an incomplete or invalid response to particular questions before they are able to submit the completed registration to USCIS. Specifically, in the H-1B registration tool screen shots that USCIS released to the public on October 9, 2019, USCIS provides the following in the "Review and Submit" section on page 9: AILA applauds the inclusion of an alert / warning to registrants for inadvertently submitting registrations that contain incomplete or invalid responses to certain questions that could result in the registration being disqualified.</p>	Support	General	Organization	Thank you for your comments.
11/8/2019	11/8/2019	N/A	1	7	AILA	<p>AILA reiterates its recommendation that USCIS also ensure there is a warning system in place for when multiple registrations are mistakenly submitted for the same beneficiary by a registrant.</p>	Mixed	Substantive	Organization	Thank you for your comment. This change is not in scope for the current system release. USCIS is reviewing system functionality requirements and will consider this for a future release.
11/8/2019	11/8/2019	N/A	1	8	AILA	<p>c. Tracking Status of Registration Online AILA notes that USCIS has updated the H-1B registration tool to provide the ability for registrants to track the status of a registration online after it has been submitted to USCIS.¹⁰ AILA applauds USCIS for providing the ability for registrants to track the status of their registration online. As noted in AILA's previous comment, providing registrants with the ability to track the status of a registration online will allow registrants to remain informed about the status of a registration throughout the H-1B registration process and will increase trust among stakeholders about USCIS and the new H-1B registration tool.</p>	Support	General	Organization	Thank you for your comment. The change in status will be available in the representative or registrants account. When a status change occurs the user will receive a notification by email or SMS to check their account.
11/8/2019	11/8/2019	N/A	1	9	AILA	<p>d. Editing a Registration After Submission Based on the most recent version of the H-1B registration tool screen shots released to the public on October 9, 2019, it is unclear whether a registration may be edited after it has been submitted to USCIS. AILA reiterates our recommendation from our August 29, 2019 comment that USCIS allow for submitted registrations to be edited through the registrant's USCIS account up until the close of the registration period.¹² This will allow registrants to quickly and efficiently correct typographical errors, or make edits to the registration in the event there are unexpected changes to the U.S. business, rather than having to delete the submitted registration and complete a whole new registration. Similarly, USCIS should also provide registrants with a mechanism to correct typographical errors after the registration period has closed, but before the registration selection is conducted.</p>	Mixed	Substantive	Organization	Thank you for your comment. Once a registration has been submitted, it cannot be edited. This is true for all filings submitted to USCIS electronically.
11/8/2019	11/8/2019	N/A	1	9	AILA	<p>Similarly, USCIS should also provide registrants with a mechanism to correct typographical errors after the registration period has closed, but before the registration selection is conducted.</p>	Mixed	Substantive	Organization	Thank you for your comment. Once a registration has been submitted, it cannot be edited. This is true for all filings submitted to USCIS electronically.

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11/8/2019	11/8/2019	N/A	1	10	AILA	<p>IV. Operational Recommendations Regarding the H-1B Registration Tool</p> <p>Based on feedback AILA received from its members and U.S. employers who participated in the usability testing of the registration tool earlier this year, AILA offers the following recommendations to USCIS to improve the operational aspects of the H-1B registration tool:</p> <ul style="list-style-type: none"> • AILA recommends that the H-1B registration tool be developed to permit multiple individuals to be logged-in to the registration tool at the same time on behalf of the same U.S. employer ("the registrant") so that they can simultaneously add beneficiaries on behalf of the registrant during the designated registration period. These individuals may be employed by the U.S. employer, serve as outside legal counsel on behalf of the U.S. employer, or employed by a supporting company. The ability for multiple users to access the registrant's account simultaneously would more closely align with the realities of most U.S. employers and immigration law firm, which generally have more than one person simultaneously handling the H-1B process for a particular U.S. employer (e.g., Senior Attorney, Associate Attorney, Immigration Paralegal, Administrative Assistant, etc.). To that end, AILA recommends that USCIS expand the range of individuals permitted to login to the H-1B registration tool on behalf of a U.S. employer. 	Mixed	Substantive	Organization	Thank you for your comment. At this time the system only allows one user per account. Accounts should not be shared.
11/8/2019	11/8/2019	N/A	1	11	AILA	<ul style="list-style-type: none"> • AILA recommends that USCIS provide the ability for registrants to download into an Excel spreadsheet or PDF document a list of all beneficiaries registered by the registrant before the registration is submitted to USCIS. This would allow registrants to efficiently audit the information inserted into the registration tool and make any necessary corrections to the information prior to submission. This is particularly relevant for large U.S. employers who may be registering a large volume of beneficiaries who would like to ensure that all beneficiaries have been correctly registered prior to submission. 	Mixed	Substantive	Organization	Thank you for your comment. USCIS is working on creating the ability to download a CSV file, but this change is not in scope for the current system release. USCIS is reviewing system functionality requirements and will consider this for a future release.
11/8/2019	11/8/2019	N/A	1	12	AILA	<p>Conclusion</p> <p>We appreciate the opportunity to provide additional comments on the H-1B registration tool and look forward to a continuing dialogue with USCIS on these and related issues.</p> <p>Sincerely,</p> <p>THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION</p>	Intro/Conclusion	General	Organization	Thank you for your comments.