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L-1 Applications for Canadians at Ports of Entry

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The North American Free Trade Agreement (NAFTA) permits qualifying Canadian citizen employees of multinational companies to apply for admission to the United States in L-1 intracompany transferee status without first obtaining USCIS approval. Until recently, U.S. Customs and Border Protection (USCBP) would review all such applications made directly at U.S. ports of entry, making no distinction between an *initial* application and *subsequent* renewal applications made by the same Canadian employee.

In a recent policy change, USCBP headquarters has confirmed that it will now only review the *initial* application made by that Canadian employee. Subsequent applications must now be filed with U.S. Citizenship and Immigration Services (USCIS), and only upon USCIS approval may the individual apply for admission to the United States. With one exception, any Canadian employee seeking admission in L-1 status can apply directly to USCBP at the land border or airport for her first application only. The exception is that Canadian employees who are considered “intermittent” or “commuter” L-1 intracompany transferees may process initial or subsequent applications directly at a port of entry.

On a practical level, first-time applicants may continue to apply for L-1 admission for up to 3 years at a land border port of entry or airport pre-flight inspection. However, after this initial period of admission, except for

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The L-1 regulations governing the implementation of NAFTA make no distinction between *initial* and *subsequent* L-1 applications. USCBP's prior practice of reviewing both initial and subsequent applications was consistent with these regulations. There may be legal challenges to this new policy. For now, Canadian employees seeking to renew or extend their L-1 status should plan to do so at least 2 to 3 months in advance to allow for processing by USCIS Service Centers.

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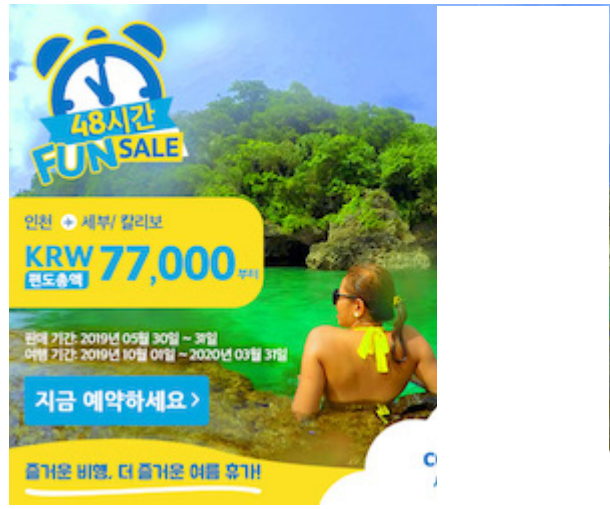
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