



An International Law Firm with Lawyers that are:

Registered with the Quebec Bar and the Law Society of Ontario in Canada
Foreign Registered Lawyers with the Law Society in Hong Kong
Registered with the Law Society of England and Wales
Registered with the Paris Court of Appeal in France
Registered with the Lawyers' Council of Thailand
Registered with the Justice Ministry of Vietnam
www.harveylawcorporation.com

Update on the Pilot Shortage in the US

16 November 2022

Good day,

You will find below the latest update on the pilot shortage in the US but before that a few housekeeping items.

I am glad to report that we are now receiving a steady stream of acceptance from USCIS. Most acceptations are now issued directly after submission and without RFE (Request for Further evidence). However, we also receive many RFEs, and sadly also some denials. While the denials represent a very small number, it is still frustrating on so many aspects. Notably the fact that some of the cases subject to denial have the same profile of cases that got accepted. This what we call the “human” factor and there is nothing we can do against it beside refiling.

In the same spirit, I would like to take this opportunity to provide an insight as to what happens when we receive a denial. First, our legal team reviews the USCIS officer's grounds for refusal and if we find inconsistencies, for instance, as mentioned above, when the denied pilot's profile is comparable to those that have been approved, and if we believe there will be a strong chance of approval we may decide to re-file a new I-140 petition.

The reason we choose to re-file and not appeal a decision is a matter of timing and success rate. When filing an appeal, it is likely to take 12 to 18 months to receive a decision. However, with refiling it takes on average about 6-8 months.

Secondly, and more importantly, the determination for the National Interest Waiver is entirely at the discretion of USCIS. Hence, a vast majority of appeals result in siding with the initial officer's decision to deny. On the flip side, you would be surprised to know that with refiling there is a real chance that USCIS could change its mind.

On another matter, as of today, USCIS does not accept premium processing requests for I-140



An International Law Firm with Lawyers that are:

Registered with the Quebec Bar and the Law Society of Ontario in Canada
Foreign Registered Lawyers with the Law Society in Hong Kong
Registered with the Law Society of England and Wales
Registered with the Paris Court of Appeal in France
Registered with the Lawyers' Council of Thailand
Registered with the Justice Ministry of Vietnam
www.harveylawcorporation.com

petitions filed after 1 February 2022. Since July 2022, USCIS has been phasing in premium processing for I-140 petitions and based on their [previous announcement](#) this expansion will likely continue. We are monitoring the situation closely and will duly notify you as soon as premium processing is available to our Pilots. For your information, once available, I-140 petitions can be processed within 45 calendar days for a fee of USD 2,500 which is in addition to all other fees.

Now, the question is would it be worth, once available, to spend USD 2,500 for such expedited services? We had a case accepted within 1 month, while another has taken 10 months – both without premium processing. One thing to bear in mind is that the time to respond is not an indication of the view USCIS has of the petition. Again, this goes back to the “human” factor we need to deal with.

Best regards,

MR. JEAN-FRANCOIS HARVEY
Global Managing Partner

1. Donald Wood, '[Pilot Shortage Causing Flight Service Decline At US Airports](#)', Travel Pulse, 14 November 2022
 - According to the Regional Airline Association (RAA), 75% of airports in the United States have experienced diminished or lost air service due to the severe pilot shortage and more than 500 regional aircraft parked and an “associated air service retraction at 324 communities.”
 - RAA CEO Faye Malarkey Black said, “14 airports have lost all scheduled commercial air service – a number that is still rising.” In total, U.S. domestic air operations declined by 18.4% from October 2019 to October 2022.
2. Thomas Gnau, '[Pilots Shortage Grounds Planes, Dampens Business Opportunities](#)', Aviation Pros, 14 November 2022
 - PSA Airlines has more than 25 planes grounded because the Dayton-based airline lacks the pilots or crew to fly them.

- When he was asked if he could fly those planes if he had the personnel, PSA President Dion Flannery said: "100%" adding that 'communities have a right-now problem'.
3. Claude Delphian, '[Fatigue Emerges As Key Issue As US Airline Pilots Reject Contracts. Authorize Strike Action](#)', WSWS, 7 November 2022
- On Monday, 15,000 Delta Airlines pilots voted by 99% to authorize strike action. On Tuesday, pilots at United Airlines voted to reject a tentative agreement by 94%. On Wednesday, officials in the Allied Pilots Association at American Airlines voted down a new deal by a vote of 15–5.
 - These votes were a powerful sign of the determination of pilots and air crews to fight against worsening conditions. One of the main factors driving pilots' opposition is the issue of fatigue.
 - During the month of June, there were quadruple the usual number of fatigue-related pilot call-ins at American Airlines. According to collected reports made to the Aviation Safety Action Program, the number of fatigue reports "have been climbing exponentially" since the summer of 2021.
 - Dennis Trajer, the communications chair at the Allied Pilots Association union at American Airlines, says that pilots across the industry are far more fatigued than previously because they are being "recklessly utilized" by airlines looking to capitalize on increased travel demand.
4. '[US's SkyWest Defers E175 Deliveries Due To Pilot Shortage](#)', Ch-Aviation, 3 November 2022
- SkyWest Airlines has deferred four E175 deliveries while it works to resolve its current shortage of experienced captains, says Chief Commercial Officer Wade Steel.
 - In addition, delivery of the last of a current order of eleven E175s to be flown for Alaska Airlines has been postponed until the middle of 2025.
 - SkyWest's President and Chief Executive Officer Chip Childs disclosed that SkyWest intended to hold off on taking any more E175s until it had stabilised its pilot shortage.
5. Jeanette Quezada, '[American Airlines Partners With Spartan College To Develop A Pilot Pipeline](#)', 2 News, 2 November 2022

- This week, American Airlines, announced a partnership with Tulsa's Spartan College of Aeronautics to train a new pipeline of pilots.
 - Graduates qualify for a restricted airline transport pilot certificate, which can be completed in as few as 17 months, as opposed to four years.
 - "They do about four lessons in a flight simulator, and then after that, we get them on a plane and then hopefully, within the first week that they start they are in the air flying," Diego Rojas said.
6. Geoff Murray, Roray Heilakka, and Andrew Medland, [‘The Pilot Shortage Will Only Get Worse As The Decade Progresses’](#), Marsh McLennan, 1 November 2022
- Our latest model expects North America to face a shortfall of 8,000 pilots in 2022, about 11% of the total. That gap will grow to more than 29,000 by the end of the decade.
 - The expanding gap between supply and demand is forcing airlines to compete with one another for pilots using higher compensation.
 - The 2021 median annual pay for airline pilots, co-pilots, and flight engineers was \$202,180. Over the near term, the bigger compensation packages are unlikely to be enough to address the shortfall.
 - There's also a current bottleneck at training facilities as they balance recertifying pilots returning from COVID-related furloughs and training new candidates.
7. Stuart Kipp Lau, [‘AINsight: Cognitive Decline In Aging Pilots’](#), AIN Online, 28 October 2022
- Congress is debating raising the mandatory retirement age of airline pilots to curb flight cancellations caused by a shortage of pilots. Citing medical reports from 2007—when the retirement age was increased from 60 to 65 years—these lawmakers say raising the retirement age of airline pilots will have an “insignificant impact” on performance in the cockpit.
 - The problem is that these senators are missing the point. The purpose of a mandatory pilot retirement age, as accepted around the globe, is to limit the risks associated with aging crewmembers.
 - In a 2014 article published by the Flight Safety Foundation, Dr. Quay Snyder, president and founder of Virtual Flight Surgeons, said, “Cognitive decline, most prevalent among aging pilots, is a threat to safety that is similar to fatigue and substance abuse.”

- According to the University of Toulouse study, "The potential deterioration of cognitive performance with advancing age becomes an absolute element of concern in this kind of risky activity, probably more than the age-related physical incapacitations."
8. [‘City, Chamber Join Coalition Worried About Shortage Of Pilots’](#), Yahoo! News, 26 October 2022
- Dayton-area business leaders want more direct destinations and more flights out of Dayton.
 - "What we hear from the business community is, get us more flights," Chris Kershner, president and chief executive of the chamber.
 - "Airlines fly for profit, not pride," aviation analyst Henry Harteveltdt, president of Atmosphere Research Group, told the Washington Post this year "And smaller towns are increasingly falling by the wayside."
9. Ryan Erik King, [‘Frontier Airlines Hiring Candidates With No Flight Experience To Tackle Pilot Shortage’](#), Jalopnik, 18 October 2022
- Frontier Airlines' F9 Pilot Cadet Program is the newest carrier-backed training scheme in the industry. The airline intends to accept 35 candidates per month into the 24-month training program and run in partnership with ATP Flight School. Requirements for applicants are very open: Candidates must be at least 19 years of age, clear a background check, and have a high school diploma.
 - Once cadets complete the 24-month training they are guaranteed a position as a Frontier Airlines First officer.
10. Jon Ostrower, [‘The 1,500-Hour Rule Isn't Going To Budge, Says Key Republican’](#), The Air Current, 12 October 2022
- Although industry leaders say the 1,500 rule has made hiring pilots at regional airlines acutely difficult, it seems it will continue to be a necessary requirement to meet the qualifications for an Airline Transport Pilot certificate.
 - "The truth of the matter is we won't touch 1,500 hours, its gonna stay right where it is," said U.S. Representative Sam Graves, who is the ranking member of the committee that has oversight over the Federal Aviation Administration.

11. Joe Banish, '[Vets 2 Wings' Program Seeks To Bring More Veterans Into Commercial Aviation](#)', Grand Forks Herald, 6 October 2022
 - UND President Andrew Armacost announced the launch of a new program called "Vets 2 Wings" which seeks to increase the number of veterans entering aviation upon completing their military careers by providing grants for aviation colleges to assist in funding their flight training.
 - Sen. John Hoeven, R-N.D., stressed the importance of the program in alleviating the growing pilot shortage nationwide.

12. Brady MacDonald, '[United Is Cutting 12 More Routes From Its Hubs In Cities Like Los Angeles, San Francisco, And Chicago — See The Full List](#)', Business Insider, 1 October 2022
 - United Airlines is slashing routes from some of its biggest hubs as the nation's fourth-largest carrier continues to aggressively drop small cities amid a nationwide pilot shortage.
 - "Airlines are going to seek out markets that they believe will give them an advantage, but if a city isn't profitable, they will cut it," Atmosphere Research Group president and travel analyst Henry Harteveldt said.

13. David Schaper, '[1 Airline Made A Bid To Reduce Flight Hours Required For New Pilots. FAA Rejects It](#)', NPR, 27 September 2022
 - The Federal Aviation Administration has rejected a regional airline's petition to reduce the number of flight hours needed to become a commercial airline pilot.
 - Republic Airways wanted graduates of its pilot training program to qualify with as little as 750 flight hours, the same as what's required of pilots coming out of military training, as a way to help address the pilot shortage.

14. Alison Sider, '[Airline's Pitch To Aspiring Pilots: Fly Our Planes Now, Work For Us Later](#)', Wall Street Journal, 22 September 2022

- Regional airline company Mesa Air Group Inc. is offering a new way for pilots who have gone through initial training to build up the hundreds of additional flying hours they need to qualify for airline jobs.
- The airline said that it acquired 29 small two-seat planes with options to buy as many as 75 more over the next year. It plans to extend pilots interest-free loans to fly those planes around until they have accumulated the hours they need to work at Mesa.

15. Daniel Martinez Garbuno, '[How Mesa Airlines Intends To Address The Pilot Shortage Problem](#)', Simply Flying, 22 September 2022

- According to federal statistics, the airline and commercial industry needs approximately 14,500 new pilots annually; however, the average annual production of new pilots only meets about 44% of the gap.
- The US produces an average of 6,335 newly certified pilots each year that are eligible for hire by the airlines. This leaves a gap of 8,165 unfilled jobs across the aviation industry.
- Mesa Airlines is looking to train new pilots, and it ordered up to 104 Pipistrel Aircraft to build its pilot development program. As part of the program, new pilots will be provided with the opportunity to accumulate up to 1,500 flight hours required to fly a commercial aircraft at Mesa Airlines.

16. Ben Goldstein, '[US Regionals Warn Of Continued Service Cuts](#)', Routes, 21 September 2022

- SkyWest Airlines CEO Chip Childs said US regional carriers will likely continue to be forced to exit or reduce service to smaller markets for the next five years, citing a growing pilot shortage.
- "The regional industry will be smaller in the future than it is today, because as we raise prices to our consumer—which is the mainline carriers—they'll want less of what we do," Republic Airways CEO Bryan Bedford explained. "Ultimately, it will mean less service to some places, less choice of service, less convenience of service and, of course, higher fares."

17. Joshua Haiar, '[As A Pilot Shortage Continues, One Airline Is Turning To SDSU](#)', SDPB, 20 September 2022

- South Dakota State University has partnered with Minneapolis-based Sun Country Airlines to get more students in the field.
- If a student is selected for the program, they complete a three-month pilot training program with Sun Country. Following the training program, students will be eligible for full-time employment: students in the program can go directly from graduation to flying a Boeing 747 with Sun Country Airlines.

18. Pilar Wolfstellar, [‘Swelling Pilot Pay Could Force US Regionals To Contract, Impacting Communities: CEOs’](#), Flight Global, 20 September 2022

- Higher pilot pay rates at regional airlines could become a problem as carriers seek to balance a pilot shortage with maintaining flights to smaller US communities.
- Speaking at the annual Regional Airline Association (RAA) leaders conference, airline chiefs say a shortage of cockpit crew has driven up pilot pay, with no telling when or if such pressure will ease.
- “We are a bit nervous about the rates,” says SkyWest Airlines chief executive Chip Childs, adding that recent salary increases are “deeply concerning” for airlines.
- “We are in a bidding war.. It’s not good for any of us,” says CommutAir CEO John Sullivan.

19. Caitlin Burke, [‘Military Recruiting Hits ‘Crisis’ Level Lows, Americans Urged To Return To A ‘Society Of Service’](#)”, CBN News, 20 September 2022

- The U.S. Army is on track to have its worst recruiting year since Vietnam – a shortfall that could have implications for decades.
- "This could potentially be multi-generational in terms of its impact. Young recruits today, become our young and senior leaders of tomorrow. So, if you can't develop them today, you have a gap in leadership tomorrow," Col. Matthew Amidon, Director of Veterans.
- "We've reduced our pilot shortage by 250 airmen, yet we still have over 1,600 pilot vacancies," Gen. David Allvin, USAF, told lawmakers during a recent military readiness hearing.



An International Law Firm with Lawyers that are:

Registered with the Quebec Bar and the Law Society of Ontario in Canada

Foreign Registered Lawyers with the Law Society in Hong Kong

Registered with the Law Society of England and Wales

Registered with the Paris Court of Appeal in France

Registered with the Lawyers' Council of Thailand

Registered with the Justice Ministry of Vietnam

www.harveylawcorporation.com