



JULY 2013 IMMIGRATION UPDATE

Posted on July 2, 2013 by Cyrus Mehta

Headlines:

1. [**Senate Passes Comprehensive Immigration Reform; House Passage Uncertain**](#) - On June 27, 2013, the full Senate passed comprehensive immigration reform legislation, 68-32.
2. [**Supreme Court's DOMA Ruling Opens Door to Immigration Benefits for Same-Sex Spouses**](#) - About 30,000 same-sex binational couples may now be eligible for immigration benefits, thanks to the Supreme Court's striking down the 1996 Defense of Marriage Act.
3. [**Border Patrol Agents Get 30-Year Sentence for Smuggling Migrants Into United States**](#) - The agents left their border posts to transport hundreds of migrants in Border Patrol vehicles from Tijuana to California.
4. [**DOL Releases New Version of Application for Prevailing Wage Determination**](#) - Requests submitted before June 18 using the iCERT Visa Portal System based on the previous ETA Form 9141 will be completed and returned using that version of the form.
5. [**Temporary Protected Status Extended for Salvadorans**](#) - DHS has extended TPS for eligible nationals of El Salvador for an additional 18 months, beginning September 10, 2013, and ending March 9, 2015.
6. [**USCIS Office Permanently Closing in Tegucigalpa, Honduras**](#) - The USCIS Field Office in San Salvador, El Salvador, will assume Tegucigalpa's former jurisdiction (Costa Rica, Honduras, and Nicaragua) and the U.S. Embassy in Tegucigalpa will assume responsibility for certain requests.
7. [**USCIS Opens Field Office in Guangzhou, China**](#) - USCIS has opened the Guangzhou Field Office, which has jurisdiction over services in various provinces.

8. [Firm In The News...](#)

Details:

1. Senate Passes Comprehensive Immigration Reform; House Passage Uncertain

On June 27, 2013, the full Senate passed comprehensive immigration reform legislation, 68-32. All Democrats voted for the bill; 14 Republicans joined them. The bill includes a lengthy pathway to provisional legal status, permanent residence, and eventual U.S. citizenship for up to 11 million undocumented persons. It also includes enforcement and border control measures like finishing a 700-mile fence along the border with Mexico, deploying an additional 20,000 Border Patrol agents, and mandating E-Verify. Despite the potential costs, the Congressional Budget Office estimated that if the bill became law, it would reduce the United States' deficit by almost \$900 billion over the next 10 years.

A celebratory atmosphere ensued after the vote. Despite admonishments from Vice President Joseph Biden, who presided over the vote, chants of "Yes we can" and "Si se puede" were heard from the public gallery after the bill passed. Sen. Patrick Leahy (D-Vt.) called it a "historic day."

Meanwhile, a bipartisan group in the House is working on its own version of comprehensive immigration reform, but observers expect that the House may pass immigration-related legislation piece by piece instead of voting for a comprehensive bill. House Speaker John Boehner said, "the House is not going to take up and vote on whatever the Senate passes. We're going to do our own bill." He said representatives would go home for recess and "listen to our constituents. And when we get back, we're going to have a discussion about the way forward."

Details and the text of the bill, S.744, are available at

<http://thomas.loc.gov/cgi-bin/bdquery/z?d113:s.0744:>

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2. Supreme Court's DOMA Ruling Opens Door to Immigration Benefits for Same-Sex Spouses

About 30,000 same-sex binational couples may now be eligible for immigration benefits, such as permanent residence based on marriage, thanks to the

Supreme Court's decision on June 26, 2013, in *United States v. Windsor*, which struck down the 1996 Defense of Marriage Act (DOMA) as unconstitutional. That law had prohibited the federal government from recognizing same-sex marriages, regardless of whether they were legally valid in certain states or in other countries, and from conferring federal benefits on same-sex spouses that are enjoyed by heterosexual spouses.

Janet Napolitano, Secretary of Homeland Security, said she applauded the decision. "Working with our federal partners, including the Department of Justice, we will implement today's decision so that all married couples will be treated equally and fairly in the administration of our immigration laws," she said. U.S. Citizenship and Immigration Services (USCIS) Director Alejandro Mayorkas said that USCIS has a list of marriage-based green card petitions that were filed since February 2011 by same-sex binational couples but were denied. He hinted that the cases might be reopened once implementing instructions issue. Secretary Napolitano issued further guidance indicating that cases can be filed immediately and that they will be treated equally like any other marriage.

The Supreme Court's ruling doesn't apply to same-sex couples in states that don't recognize gay marriage, only to the 13 states that do. There is disagreement among legal observers about whether a gay couple who gets married in one state and moves to another state that doesn't recognize the marriage will still be entitled to federal benefits.

The DOMA decision is available at

http://www.cnn.com/interactive/2013/06/politics/scotus-ruling-windsor/index.html?hpt=hp_t1.

Details and additional coverage are available at

<http://www.scotusblog.com/case-files/cases/windsor-v-united-states-2/>.

A FAQ about the ruling's impact on immigration cases is available at

<http://immigratonequality.org/2013/06/the-end-of-doma-what-your-family-needs-to-know/>. The DHS FAQ is available at

<http://www.dhs.gov/topic/implementation-supreme-court-ruling-defense-marriage-act>

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3. Border Patrol Agents Get 30-Year Sentence for Smuggling Migrants Into United States

A U.S. District Court judge recently sentenced two Border Patrol agents, Raul Villareal and his brother Fidel, to 30 years in prison for smuggling hundreds of people from Mexico into the United States. Judge John Houston said he deemed their actions a threat to national security. He also ordered one of the brothers to pay a \$250,000 fine. The brothers plan to appeal.

An informant notified U.S. Immigration and Customs Enforcement about the operation, which involved the agents leaving their border posts to transport the migrants in Border Patrol vehicles from Tijuana to California. The brothers charged the groups of immigrants, numbering 10, about \$10,000 per group. The judge said the brothers made more than \$700,000. When the brothers realized they were being investigated, they fled to Tijuana, where they were arrested two years later and extradited to the United States.

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4. DOL Releases New Version of Application for Prevailing Wage Determination

The Department of Labor (DOL) has released a new version of Form 9131, Application for Prevailing Wage Determination.

The revised version of Form 9141 was implemented on the iCERT Portal on June 18, 2013. The DOL made minor changes "to clarify information needed for more efficient application processing."

Requests submitted before June 18 using the iCERT Visa Portal System based on the previous ETA Form 9141 will be completed and returned using that version of the form, the DOL said. Any form initiated in a user's system but not yet submitted by that date, however, will not be accepted. In addition, requests on the previous version of Form 9141 can no longer be "reused" in iCERT to submit a new request for processing. Users can complete a new form by logging into their iCERT Portal account, clicking on "Begin New ETA Form 9141," and completing all the mandatory fields.

The fillable form is available at

http://www.foreignlaborcert.doleta.gov/pdf/ETA_Form_9141.pdf.

The iCERT Portal is available at <http://icert.doleta.gov/>.

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5. Temporary Protected Status Extended for Salvadorans

The Department of Homeland Security has extended temporary protected status (TPS) for eligible nationals of El Salvador for an additional 18 months, beginning September 10, 2013, and ending March 9, 2015.

Current Salvadoran beneficiaries seeking to extend their TPS status must re-register during the 60-day re-registration period that began May 30, 2013, and ends July 29, 2013. U.S. Citizenship and Immigration Services (USCIS) is encouraging beneficiaries to register as soon as possible.

The 18-month extension also allows TPS re-registrants to apply for a new employment authorization document (EAD). Eligible Salvadoran TPS beneficiaries who re-register during the registration period will receive a new EAD with an expiration date of March 9, 2015. USCIS recognizes that some re-registrants may not receive their new EADs until after their current EADs expire. Therefore, USCIS is automatically extending current TPS El Salvador EADs bearing a September 9, 2013, expiration date for an additional six months. These existing EADs are now valid through March 9, 2014.

To re-register, current TPS beneficiaries must submit [Form I-821, Application for Temporary Protected Status](#). All TPS re-registrants must also submit [Form I-765, Application for Employment Authorization](#), but no Form I-765 application fee is required if the re-registrant does not want an EAD. Re-registrants do not need to pay the Form I-821 application fee, but they must submit the biometric services fee, or a fee waiver request, if they are age 14 or older. TPS re-registrants requesting an EAD must submit the I-765 application fee, or a fee waiver request.

TPS applicants may request that USCIS waive any or all the fees by filing a [Form I-912, Request for Fee Waiver](#), or by submitting a personal letter requesting that these fees be waived. Failure to submit the required filing fees or a properly documented fee waiver request will result in the rejection of the TPS application, USCIS noted.

The USCIS notice is available at <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=9f52a089685fe310VgnVCM100000082ca60aRCRD&vgnnextchannel=a2dd6d26d17df110VgnVCM1000004718190aRCRD>.

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6. USCIS Office Permanently Closing in Tegucigalpa, Honduras

U.S. Citizenship and Immigration Services (USCIS) permanently closed its field office in Tegucigalpa, Honduras, on June 20, 2013. The USCIS Field Office in San Salvador, El Salvador, has assumed Tegucigalpa's former jurisdiction (Costa Rica, Honduras, and Nicaragua) and the U.S. Embassy in Tegucigalpa has assumed responsibility for certain requests.

The USCIS notice includes details on forms, services, and filing instructions, at <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=ef4da6dc45bfe310VgnVCM100000082ca60aRCRD&vgnnextchannel=e7801c2c9be44210VgnVCM100000082ca60aRCRD>.

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7. USCIS Opens Field Office in Guangzhou, China

U.S. Citizenship and Immigration Services (USCIS) has opened the Guangzhou Field Office, which has jurisdiction over services in the provinces of Anhui, Fujian, Guangdong, Guangxi, Guizhou, Hainan, Henan, Hubei, Jiangsu, Jiangxi, Ningxia, Qinghai, Shandong, Shanxi, Sichuan, Sinkiang (Xinjiang), Tibet (Xizang), Yunnan, and Zhejiang.

More information is available at

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=44248875d714d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=1ac900c262197210VgnVCM100000082ca60aRCRD>.

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8. Firm In The News

Three CDMA attorneys were featured speakers at the AILA Annual Conference in San Francisco from June 26-29, 2013, which had over 4,000 participants.

Cyrus Mehta was a speaker on a panel entitled, EB-1 in the Age of *Kazarian*, David Isaacson was a speaker on a panel entitled, NOIDs (Notices of Intent to Deny) and RFEs (Requests for Evidence) in Family Cases, and Myriam Jaidi was on a panel entitled, Advanced Issues in Naturalization.

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