



## MID-AUGUST 2016 IMMIGRATION UPDATE

*Posted on August 16, 2016 by Cyrus Mehta*

### Headlines:

1. [USCIS Announces End of H-1B Workload Transfer Transition Period](#) – USCIS announced that the H-1B workload transfer transition period ends August 31, 2016.
2. [September Visa Bulletin Shows Movement in Final Action Dates](#) – The Department of State's Visa Bulletin for the month of September 2016 shows much movement in the final action dates for various employment categories. For example, in August, the EB-1 final action date for China was January 1, 2010; in September it is Current.
3. [USCIS To Allow Additional Applicants for Provisional Waiver Process](#) – USCIS announced a final rule, effective August 29, 2016, that expands the existing provisional waiver process to allow certain individuals who are family members of U.S. citizens and lawful permanent residents (LPRs) and who are statutorily eligible for immigrant visas to more easily navigate the immigration process. USCIS said it expects to update its Policy Manual in the coming weeks to provide guidance on how it makes "extreme hardship" determinations.
4. [DHS Announces 18-Month Redesignation, Extension of TPS for Syria](#) – For current Syria TPS beneficiaries, the 60-day re-registration period began August 1, 2016, and runs through September 30, 2016. Certain Syrian nationals and persons without nationality who last habitually resided in Syria may apply for TPS during the 180-day initial registration period that began August 1, 2016, and runs through January 30, 2017.

### **Details:**

1. [\*\*USCIS Announces End of H-1B Workload Transfer Transition Period\*\*](#)

U.S. Citizenship and Immigration Services (USCIS) announced that the H-1B workload transfer transition period ends August 31, 2016.

On July 1, 2016, as part of a workload transfer from the California and Vermont Service Centers, the Nebraska Service Center (NSC) began accepting certain H-1B and H-1B1 (Chile/Singapore Free Trade) I-129 petitions. The NSC also began accepting I-539 and I-765 applications for certain H-4 nonimmigrants that are concurrently filed with an I-129.

The California and Vermont Service Centers will continue to accept these I-129 petitions, and any concurrently filed I-539 and I-765 applications, during the transition period until August 31. Starting September 1, only the NSC will accept them. USCIS may reject any misfiled petitions or applications.

The following Form I-129 same-employer-without-change petitions have not been transferred to the Nebraska Service Center and will continue to be accepted only at the California Service Center, if:

- The petition is for an employer that is statutorily exempt from the cap; or
- The beneficiary is employed at a qualifying cap-exempt institution, entity or organization.

See filing addresses and cap-exempt filing instructions at <https://www.uscis.gov/i-129-addresses>. The latest USCIS announcement is at <https://www.uscis.gov/news/alerts/reminder-h-1b-workload-transfer-transition-period-ends-aug-31-2016>. The details released July 1, 2016, are at <https://www.uscis.gov/news/alerts/nebraska-service-center-accept-certain-h-1b-petitions>.

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## **2. September Visa Bulletin Shows Movement in Final Action Dates**

The Department of State's Visa Bulletin for the month of September 2016 shows much movement in the final action dates for various employment categories. For example, in August, the EB-1 final action date for China was January 1, 2010; in September it is Current. The August EB-2 final action date for China was January 1, 2010; in September it has moved forward to June 1, 2013. Dates in several categories were specified in August for El Salvador, Guatemala, and Honduras; in September, that column has been dropped and all chargeability areas except those listed for China-mainland born, India,

Mexico, and Philippines are Current.

The Visa Bulletin for September 2016 is at

<https://travel.state.gov/content/visas/en/law-and-policy/bulletin/2016/visa-bulletin-for-september-2016.html>.

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### 3. **USCIS To Allow Additional Applicants for Provisional Waiver Process**

U.S. Citizenship and Immigration Services (USCIS) announced a final rule, effective August 29, 2016, that expands the existing provisional waiver process to allow certain individuals who are family members of U.S. citizens and lawful permanent residents (LPRs) and who are statutorily eligible for immigrant visas to more easily navigate the immigration process.

USCIS noted that the provisional waiver process "promotes family unity by reducing the time eligible individuals are separated from their family members while they complete immigration processing abroad, while also improving administrative efficiency."

The agency said the final rule builds on a process established in 2013 to support family unity. Under that process, certain immediate relatives of U.S. citizens can apply for provisional waivers of the unlawful presence ground of inadmissibility, based on the extreme hardship their U.S. citizen spouses or parents would suffer if the waiver were not granted. The final rule expands eligibility for the provisional waiver process to all individuals who are statutorily eligible for the waiver of the unlawful presence ground of inadmissibility. Until now, only immediate relatives of U.S. citizens were eligible to seek such provisional waivers before departing the United States for the processing of their immigrant visas. Those eligible for the provisional waiver process under the 2013 rule are only a subset of those eligible for the waiver under the statute.

To qualify for a provisional waiver, applicants must establish that their U.S. citizen or lawful permanent resident spouses or parents would experience "extreme hardship" if the applicants are not allowed to return to the United States.

USCIS said it expects to update its Policy Manual "in the coming weeks" to provide guidance on how it makes "extreme hardship" determinations. The

final rule also makes changes to Form I-601A, Application for Provisional Unlawful Presence Waiver. These changes will go into effect along with the final rule.

Applicants should not submit a request for a provisional waiver under the expanded guidelines until the final rule takes effect on August 29, 2016. If you do so before that date, USCIS may deny the application.

The USCIS announcement is at

<https://www.uscis.gov/news/news-releases/uscis-allow-additional-applicants-provisional-waiver-process>. The final rule is at

<https://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17934.pdf>. The

updated I-601A will be posted on USCIS's website at [uscis.gov/i-601a](https://uscis.gov/i-601a) on August 29, 2016.

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#### **4. DHS Announces 18-Month Redesignation, Extension of TPS for Syria**

The Department of Homeland Security has redesignated Syria for temporary protected status (TPS) and extended the existing Syria TPS designation from October 1, 2016, through March 31, 2018. Nationals of Syria, or persons without nationality who last habitually resided in Syria, can register or re-register for TPS in accordance with the notice.

For current Syria TPS beneficiaries, the 60-day re-registration period began August 1, 2016, and runs through September 30, 2016. Syrian nationals and persons without nationality who last habitually resided in Syria and have: (1) continuously resided in the United States since August 1, 2016, and (2) been continuously physically present in the United States since October 1, 2016, may apply for TPS during the 180-day initial registration period that began August 1, 2016, and runs through January 30, 2017.

The 18-month extension allows TPS re-registrants to apply for a new employment authorization document (EAD). Eligible Syria TPS beneficiaries who re-register during the 60-day period and request a new EAD will receive one with an expiration date of March 31, 2018. USCIS said it recognizes that some re-registrants may not receive their new EADs until after their current work permits expire. Therefore, USCIS is automatically extending for an additional six months current TPS Syria EADs with a September 30, 2016, expiration date. These existing EADs are now valid through March 31, 2017.

The announcement, which includes additional details, is at <https://www.uscis.gov/news/news-releases/dhs-announces-18-month-redesign-ation-and-extension-temporary-protected-status-syria>.

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