CYRUS D. MEHTA & PARTNERS PLLC
US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - JUNE 21, 2021

Posted on June 21, 2021 by Cyrus Mehta

Headlines:

EB-5 Program Set to Expire June 30, Outlook is Uncertain in Short Term – The EB-5 regional center program, under which foreign investors finance projects in the United States in exchange for green cards, is set to expire on June 30, 2021. Whether Congress will be able to reach agreement on a plan to extend it remains uncertain, at least in the short term.

Final Action Dates Advance in Visa Bulletin for July; Possible Expiration of Employment Fifth and Regional Center Visa Categories Noted – The Department of State's Visa Bulletin for July includes advances in final action dates for China and Vietnam. The bulletin also notes that because there has not yet been legislative action to extend the EB-5 program, final action dates for the I5 and R5 categories are listed as "Unavailable" for July.

USCIS Reports on FY 2022 H-1B Cap Registration Process – USCIS reported that the H-1B cap electronic registration process was "again well-received by users, who provided a high satisfaction score with the system for FY 2022 (4.87 out of 5)." USCIS received 308,613 H-1B registrations during the initial registration period and selected 87,500 registrations projected as needed to reach the FY 2022 numerical allocations.

Transitional Parole, Employment Authorization Extended for CNMI Long-Term Resident Status Applicants – USCIS will automatically extend parole and employment authorization, if applicable, for parolees who timely applied for Commonwealth of the Northern Mariana Islands long-term resident status.

USCIS Clarifies Evidence Requirements for Adjustment Under Liberian Refugee Immigration Fairness – The updated guidance clarifies what evidence an applicant may submit to establish Liberian nationality when applying for

adjustment of status under LRIF.

Vermont Service Center Address Changes – As of June 25, 2021, the Vermont Service Center will no longer receive any incoming mail at the St. Albans, Vermont, facility, which is being decommissioned. Mail sent to the previous address will be forwarded for one year.

Justice Dept. Settles With Texas-Based Industrial Contractor to Resolve Immigration-Related Discrimination Claim – The settlement resolves claims that Tecon discriminated against a naturalized U.S. citizen based on her Venezuelan national origin by rejecting her U.S. passport and requiring other documents to prove her work authorization.

Firm in the News

Details:

Back to Top

EB-5 Program Set to Expire June 30, Outlook is Uncertain in Short Term

The EB-5 regional center program, under which foreign investors indirectly finance projects in the United States in exchange for green cards, is set to expire on June 30, 2021. Whether Congress will be able to reach agreement on a plan to extend it remains uncertain, at least in the short term. The program's regional centers have funneled billions of foreign investor dollars into large projects such as City Pier A in Battery Park, New York; Hudson Yards in New York City; and the revitalization of Cleveland, Ohio's riverfront.

A bill proposed by Sens. Chuck Grassley (R-Iowa) and Patrick Leahy (D-Vt.) would restructure the program. Some in the industry support the proposal as a way of avoiding the program's expiration, while others support shortening the EB-5 program's reauthorization period or making other compromises. However, some developers want to make it easier to raise money and indicated they would not support any bill that doesn't do that. The program has taken other hits in recent years, such as a regulation that raised the minimum investor contribution from $500,000 to $900,000.

Even if the EB-5 regional center program expires, the direct EB-5 program, under which investors invest in their own projects, would continue.

Details:

- "Cash-for-Visa Program Looks to Be in Jeopardy," Wall Street Journal, June 15, 2021, https://www.wsj.com/articles/cash-for-visa-program-looks-to-be-in-jeopardy-11623758401
- "EB-5 Program Set to Expire at the End of June," Global Property and Asset Management, Inc., https://globalpropertyinc.com/2021/06/16/cash-for-visa-program-set-to-expire-at-the-end-of-june/
- "What Happens if the EB-5 Regional Center Program Expires on June 30?," EB-5 Daily, May 4, 2021, https://www.eb5daily.com/2021/05/what-happens-if-the-eb-5-regional-center-program-expires-on-june-30/
- Approved EB-5 Immigrant Investor Regional Centers, USCIS, https://bit.ly/3cTJCgU
- "EB-5 Success Stories," IIUSA, https://iiusa.org/advocacy/eb-5-success-stories/

Back to Top

Final Action Dates Advance in Visa Bulletin for July; Possible Expiration of Employment Fifth and Regional Center Visa Categories Noted

The Department of State's Visa Bulletin for July includes advances in final action dates for China (moving forward almost two months, to November 8, 2015), and Vietnam (leaping forward almost two years, to April 1, 2020).

The bulletin also notes that since there has not yet been legislative action to extend the EB-5 regional center program, final action dates for the I5 and R5 categories are listed as "Unavailable" for July. If Congress extends the regional center program for July, the final action dates would immediately become "Current" for July for all countries except China-mainland born I5 and R5, which would be subject to a November 8, 2015, final action date, and Vietnam I5 and R5, which would be subject to an April 1, 2020, final action date, the bulletin states.

Details:

- Visa Bulletin, Dept. of State, July 2021, https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2021/visa-bulletin-for-july-2021.html

Back to Top

USCIS Reports on FY 2022 H-1B Cap Registration Process

U.S. Citizenship and Immigration Services (USCIS) reported that the H-1B cap electronic registration process was "again well-received by users, who provided a high satisfaction score with the system for FY 2022 (4.87 out of 5)." USCIS received 308,613 H-1B registrations during the initial registration period and selected 87,500 registrations projected as needed to reach the FY 2022 numerical allocations. More than 37,000 prospective petitioners submitted registrations. Roughly 48 percent of all registrations requested consideration under the advanced degree exemption, USCIS said.

USCIS noted that for FY 2021, the agency received 274,237 H-1B registrations and initially selected 106,100 registrations projected as needed to reach the FY 2021 numerical allocations. USCIS conducted a second selection in August 2020 of an additional 18,315 registrations due to low filing volume from the initial selection. This resulted in a total of 124,415 selected registrations for FY 2021, the agency said.

Details:

- H-1B Electronic Registration Process, USCIS, June 9, 2021, https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-electronic-registration-process

Back to Top

Transitional Parole, Employment Authorization Extended for CNMI Long-Term Resident Status Applicants

U.S. Citizenship and Immigration Services (USCIS) announced on June 16, 2021, that it will automatically extend parole and employment authorization, if applicable, for parolees who timely applied for Commonwealth of the Northern Mariana Islands (CNMI) long-term resident status.

This specific extension of parole applies only to current parolees who timely filed Form I-955, Application for CNMI Long-Term Resident Status, and Form I-765, Application for Employment Authorization, and whose applications remain pending on June 30, 2021, the agency said. USCIS will automatically

extend their parole (and employment authorization, if applicable) without interruption through December 30, 2021, or the date on which USCIS makes a final decision on their Forms I-955 and I-765, whichever is earlier.

For eligible parolees whose timely filed Forms I-955 and I-765 remain pending on June 30, 2021, and who have an Employment Authorization Document (EAD), if applicable, expiring on or before June 30, 2021, the USCIS alert lists the documentation that will serve as evidence of identity and work authorization for Form I-9, Employment Eligibility Verification, purposes until December 30, 2021 (or the date on which USCIS makes a final decision on their long-term resident status application, whichever is earlier):

Details:

- USCIS alert, https://www.uscis.gov/news/alerts/uscis-extends-transitional-parole-for-cnmi-long-term-resident-status-applicants-1

Back to Top

USCIS Clarifies Evidence Requirements for Adjustment Under Liberian Refugee Immigration Fairness

U.S. Citizenship and Immigration Services (USCIS) announced on June 17, 2021, that it is updating guidance in the USCIS Policy Manual regarding eligibility for adjustment of status under Liberian Refugee Immigration Fairness (LRIF). The updated guidance clarifies what evidence an applicant may submit to establish Liberian nationality when applying for adjustment of status under LRIF.

The updated guidance includes examples of secondary evidence that could support an applicant's claim of Liberian nationality, as part of the totality of the evidence; for example, expired Liberian passports, baptismal records or other religious documents, school records, and medical records. USCIS said it will evaluate all evidence an applicant provides, including the applicant's testimony during an interview, to evaluate their eligibility for adjustment of status.

USCIS will accept properly filed applications from LRIF applicants until December 20, 2021.

Details:

- USCIS alert, June 17, 2021,

https://www.uscis.gov/news/alerts/uscis-clarifies-evidence-requirements-under-liberian-refugee-immigration-fairness

- Chapter 5—Liberian Refugee Immigration Fairness, USCIS Policy Manual, https://www.uscis.gov/policy-manual/volume-7-part-p-chapter-5
- LRIF page, USCIS, https://www.uscis.gov/green-card/green-card-eligibility/liberian-refugee-immigration-fairness

Back to Top

Vermont Service Center Address Changes

U.S. Citizenship and Immigration Services (USCIS) announced that as of June 25, 2021, the Vermont Service Center will no longer receive any incoming mail at the St. Albans, Vermont, facility, which is being decommissioned.

Mail sent to the previous address will be forwarded for one year, but any mail sent to the previous addresses after June 2022 may be returned to the sender by the U.S. Postal Service or the courier service used.

A chart in the USCIS alert lists the updated addresses. The alert states that senders should continue to use the St. Albans addresses in the chart under "Previous Address" through June 24, 2021.

Details:

- USCIS alert, June 17, 2021, https://www.uscis.gov/news/alerts/vermont-service-center-address-change

Back to Top

Justice Dept. Settles With Texas-Based Industrial Contractor to Resolve Immigration-Related Discrimination Claim

The Department of Justice announced on June 15, 2021, that it reached a settlement with Tecon Services Inc. (Tecon), an industrial insulation, fireproofing, and painting contractor based in Texas. The settlement resolves claims that Tecon discriminated against a naturalized U.S. citizen based on her Venezuelan national origin by rejecting her U.S. passport and requiring other documents to prove her work authorization, in violation of the anti-

discrimination provisions of the Immigration and Nationality Act.

Details:

- Justice Dept. media release, June 15, 2021, https://www.justice.gov/opa/pr/justice-department-settles-texas-based-industrial-contractor-resolve-immigration-related
- Settlement agreement, https://www.justice.gov/opa/press-release/file/1404476/download

Back to Top

Firm in the News

Cyrus Mehta posted a new video blog, "Reflections on the Life and Impact of the Late Judge Robert Katzmann." In the video, Mr. Mehta explains how Judge Katzmann was the impetus for projects to help immigrants receive legal representation that affected so many families and individuals, and shares a little about why this work needs to continue in memory and honor of the late jurist, https://thinkimmigration.org/blog/2021/06/16/reflections-on-the-life-and-impact-of-the-late-judge-robert-katzmann/. Mr. Mehta also co-wrote "In Memoriam: Judge Robert A. Katzmann's Lasting Legacy for Immigrants in Need of Representation." https://bit.ly/3gDoaiu.

Back to Top