IMMIGRATION UPDATE - JANUARY 16, 2024

Posted on January 16, 2024 by Cyrus Mehta

Headlines:

USCIS to Launch Organizational Accounts, Enabling 'Online Collaboration' and Submission of H-1B Registrations – U.S. Citizenship and Immigration Services plans to launch organizational accounts for non-cap filings and the fiscal year 2025 H-1B cap season.

Cap Reached for Additional Returning Worker H-2B Visas for First Half of FY 2024 – U.S. Citizenship and Immigration Services has received enough petitions to reach the cap for the additional 20,716 H-2B visas made available for returning workers for the first half of fiscal year 2024 with start dates on or before March 31, 2024.

February Visa Bulletin Notes Expiration of EB-4 Religious Workers Category – The Department of State's Visa Bulletin for February 2024 notes that absent legislative action, the non-minister special immigrant program will expire on February 2, 2024.

USCIS Data Show Increase in O-1A and NIW EB-2 Approvals for STEM Activities – According to a newly released report, U.S. Citizenship and Immigration Services data show a sizable overall increase in O-1A petition approvals for individuals engaged in science, technology, engineering, and mathematics (STEM) activities and in National Interest Waiver EB-2 petition approvals for individuals engaged in STEM activities.

CBP Updates Website, Provides Trusted Traveler Processing Times – In an effort to reduce unscheduled visits to Trusted Traveler Program Enrollment Centers, U.S. Customs and Border Protection has expanded the TTP-related topics on its public website portal.

DOL Increases Civil Monetary Penalties for Certain Immigration-Related

Employer Violations – Effective January 15, 2024, as part of annual inflation adjustments, the Department of Labor (DOL) is increasing D-1, H-1B, H-2A, and H-2B civil monetary penalties it assesses or enforces for employer violations.

Details:

USCIS to Launch Organizational Accounts, Enabling 'Online Collaboration' and Submission of H-1B Registrations

U.S. Citizenship and Immigration Services (USCIS) plans to launch organizational accounts for non-cap filings and the fiscal year (FY) 2025 H-1B cap season. Organizational accounts "will allow multiple individuals within an organization, such as a company or other business entity, and their legal representatives to collaborate on and prepare H-1B registrations, Form I-129, Petition for a Nonimmigrant Worker, and associated Form I-907, Request for Premium Processing Service," USCIS said. *The agency also plans to introduce online filing for I-129 H-1B petitions and H-1B I-907 premium processing service.*

USCIS expects to launch the organizational accounts in February 2024, with online filing of Forms I-129 and I-907 following shortly thereafter. USCIS will transition the paper filing location for Forms I-129 and I-907 from service centers to the USCIS lockbox.

Details:

- USCIS news release (Jan. 12, 2024).

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Cap Reached for Additional Returning Worker H-2B Visas for First Half of FY 2024

On January 12, 2023, U.S. Citizenship and Immigration Services (USCIS) announced that it has received enough petitions to reach the cap for the additional 20,716 H-2B visas made available for returning workers for the first half of fiscal year 2024 with start dates on or before March 31, 2024, under the H-2B supplemental cap temporary final rule. USCIS said January 9, 2024, was the final receipt date for petitions requesting supplemental H-2B visas under the FY 2024 first half returning worker allocation.

USCIS said it is still accepting petitions for H-2B nonimmigrant workers with start dates on or before March 31, 2024, for the additional 20,000 visas allotted for nationals of El Salvador, Guatemala, Honduras, Haiti, Colombia, Ecuador,

and Costa Rica (country-specific allocation), as well as those who are exempt from the congressionally mandated cap.

USCIS encouraged petitioners with start dates on or before March 31, 2024, whose workers were not accepted for the 20,716 returning worker allocation, to file under the country-specific allocation while visas remain available. As of January 12, 2024, USCIS said it has received petitions requesting 4,500 workers under the 20,000 visas set aside for nationals of El Salvador, Guatemala, Honduras, Haiti, Colombia, Ecuador, and Costa Rica.

Details:

- USCIS alert (Jan. 12, 2024).

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February Visa Bulletin Notes Expiration of EB-4 Religious Workers Category

The Department of State's Visa Bulletin for February 2024 notes that absent legislative action, the non-minister special immigrant program expires on February 2, 2024: "No SR visas may be issued overseas, or final action taken on adjustment of status cases, after midnight February 1, 2024. Visas issued prior to that date will be valid only until February 1, 2024, and all individuals seeking admission in the non-minister special immigrant category must be admitted (repeat admitted) into the United States no later than midnight February 1, 2024."

The bulletin notes that if there is no legislative action extending the category beyond February 2, 2023, "the category will immediately become 'Unavailable' as of February 2, 2023. In the event there is legislative action extending the category beyond February 2, the published dates will continue to be in effect for the remainder of February."

Details:

- Visa Bulletin, Dept. of State (Feb. 2024).

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USCIS Data Show Increase in O-1A and NIW EB-2 Approvals for STEM Activities

According to a newly released report, U.S. Citizenship and Immigration Services

(USCIS) data show a sizable overall increase in O-1A petition approvals for individuals engaged in science, technology, engineering, and mathematics (STEM) activities and in National Interest Waiver (NIW) EB-2 petition approvals for individuals engaged in STEM activities, compared to fiscal year 2021, before USCIS issued new policy guidance in January 2022. USCIS noted:

- From FY 2021 to FY 2022, total receipts of Form I-140, Immigrant Petition for Alien Workers, with and without waivers (combined) increased by 20 percent, from 70,600 to 84,470. Receipts continued to increase by another 10 percent from FY 2022 to FY 2023. Approvals increased by 60 percent from 57,810 in FY 2021 to 92,280 in FY 2022, but decreased about 12 percent from 92,280 in FY 2022 to 81,380 in FY 2023. The approval rate remained at 90 percent or above throughout FY 2018-FY 2023. Total EB-2 receipts in STEM job categories decreased by almost 13 percent, from 61,790 in FY 2022 to 53,960 in FY 2023. Receipts in non-STEM job categories increased by 28 percent during that time.
- An increasing number of EB-2 petitioners are requesting NIWs, USCIS said. The number of petitions with NIW requests almost doubled, from 21,990 in FY 2022 to 39,810 in FY 2023; the number of petitions without NIW requests dropped from 62,490 to 53,200.
- From FY 2021 to FY 2022, total receipts of Form I-129 for O-1A petitioners increased 29 percent, from 7,710 to 9,970. They continued to increase slightly from 9,970 in FY 2022 to 10,010 in FY 2023 (see Figure 4). Approvals followed a similar trend by increasing by 25 percent from FY 2021 to FY 2022, from 7,320 to 9,120. They continued to increase slightly from 9,120 in FY 2022 to 9,490 in FY 2023. The approval rate remained stable at 90 percent or above throughout FY 2018-FY 2023.
- From FY 2021 to FY 2022, total approvals of STEM-related O-1A Form I-129 petitions increased 29 percent, from 3,550 to 4,570. From FY 2022 to FY 2023, approvals remained almost the same, from 4,570 to 4,560. Approvals of non-STEM-related petitions followed a similar trend increasing 21 percent, from 3,410 in FY 2021 to 4,140 in FY 2022. Approvals increased slightly from 4,140 in FY 2022 to 4,380 in FY 2023.

The January 2022 policy guidance clarified how certain professionals in STEM fields can demonstrate eligibility for (a) the NIW in employment-based immigrant status (EB-2), along with the significance of letters from governmental and quasi-governmental entities, and (b) nonimmigrant status

for individuals of extraordinary ability (O-1A).

Details:

- [STEM-Related Petition Trends: EB-2 and O-1A Categories FY 2018-FY 2023](#), USCIS (N.D.).
- USCIS [Policy Alert](#), PA-2022-03 (Jan. 21, 2022).

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CBP Updates Website, Provides Trusted Traveler Processing Times

In an effort to reduce unscheduled visits to Trusted Traveler Program (TTP) Enrollment Centers, U.S. Customs and Border Protection (CBP) has expanded the TTP-related topics on its public website [portal](#) to include the ability to select the option "update documents in my account."

CBP also noted that processing times vary by applicant, but on average applicants can expect these [timeframes](#):

- Global Entry: 4-6 months
- NEXUS: 12-14 months
- SENTRI: 10-12 months
- FAST: 1-2 weeks

CBP said applicants should check the Trusted Traveler Program [website](#) periodically for updates or the status of their applications. Additionally, CBP noted that those who submit renewal applications before their membership expires can continue to use the benefits after the membership expiration date.

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DOL Increases Civil Monetary Penalties for Certain Immigration-Related Employer Violations

Effective January 15, 2024, as part of annual inflation adjustments, the Department of Labor (DOL) is increasing D-1, H-1B, H-2A, and H-2B civil monetary penalties it assesses or enforces for employer violations.

To compute the 2024 annual adjustment, DOL multiplied the most recent penalty amount for each applicable penalty by the multiplier, 1.03241, and rounded to the nearest dollar.

Details:

- DOL final rule, 89 Fed. Reg. 1810 (Jan. 11, 2024).

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