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US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - MARCH 04, 2024

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Headlines:

FY 2025 H-1B Cap Registration Period Opens Soon; USCIS Issues Reminders for Employers About Online Filing, Other New Requirements for Cap and Non-Cap Petitions – The initial registration period for the FY 2025 H-1B cap season will open at noon ET on March 6, 2024, and run through noon ET on March 22, 2024. A USCIS online account is required to register each beneficiary electronically for the selection process and pay the associated $10 registration fee.

Certain Updated Forms Take Effect April 1 With No Grace Period – Under the new fee final rule effective April 1, 2024, the new 04/01/24 editions of several forms will be required.

Reminder: Premium Processing Fees Have Increased – U.S. Citizenship and Immigration Services reminded employers that fees for Form I-907, Request for Premium Processing, increased as of February 26, 2024.

Eligible Ukrainians Can Apply for Re-Parole – Eligible Ukrainian citizens and their immediate family members who were paroled into the United States on or after February 11, 2022, and are physically present can apply for re-parole.

DOS Implements New Visa Restrictions for Transportation Operators Facilitating Irregular Migration – The Department of State has implemented a new visa restriction policy that "targets owners, executives, and senior officials of charter flight, ground, and maritime transportation companies providing transportation services designed for use primarily by persons intending to migrate irregularly to the United States."

ABIL Global: Canada –Québec reopened its Immigrant Investor Program on January 1, 2024.

Details:

FY 2025 H-1B Cap Registration Period Opens Soon; USCIS Issues Reminders for Employers About Online Filing, Other New Requirements for Cap and Non-Cap Petitions

U.S. Citizenship and Immigration Services (USCIS) reminded employers that the initial registration period for the FY 2025 H-1B cap season will open at noon ET on March 6, 2024, and run through noon ET on March 22, 2024. A USCIS online account is required to register each beneficiary electronically for the selection process and pay the associated $10 registration fee. USCIS also announced:

- Starting with the FY 2025 initial registration period, USCIS will require registrants to provide valid passport information or valid travel document information for each beneficiary. The passport or travel document provided must be the one the beneficiary, if or when abroad, intends to use to enter the United States if issued an H-1B visa. Each beneficiary must only be registered under one passport or travel document.
- On February 28, 2024, USCIS launched new myUSCIS organizational accounts to allow multiple people within an organization, as well as their legal representatives, to collaborate on and prepare H-1B registrations, H-1B petitions, and any associated Form I-907, Request for Premium Processing Service. A new organizational account is required to participate in the H-1B Electronic Registration Process as of March 2024.
- In response to reports from practitioners about problems with setting up myUSCIS accounts, USCIS said:

We are working expeditiously to address any technical issues that may arise for legal representatives whose accounts migrated when they logged into their online account on or after Feb. 14, 2024, including impacts on cases other than H-1B filings. If you previously experienced issues upon logging in to your online account after migration, please log back in to see if your issues have been resolved by our ongoing technical fixes. For additional information and resources, please review updated information on the Organizational Accounts Frequently Asked Questions page.

- In March, USCIS will launch online filing of Form I-129, Petition for a Nonimmigrant Worker, and associated Form I-907 for non-cap H-1B petitions. Those who are filing Form I-129 alone or with Form I-907 may

also file online.

- On April 1, 2024, USCIS service centers will no longer accept Form I-129 petitions requesting H-1B Specialty Occupation Worker or H-1B1 (HSC) Free Trade Agreement Worker (specialty occupation from Chile and Singapore) classification. USCIS will reject such H-1B or H-1B1 (HSC) petitions received at a USCIS service center on or after April 1, 2024. There will be **no grace period** Beginning on April 1, 2024, all paper-filed Form I-129 petitions requesting H-1B1 (HSC), or H-1B classification, including those with a concurrent Form I-907, Request for Premium Processing Service, and those with concurrently filed Form I-539 and/or Form I-765, must be filed at a USCIS lockbox facility.
- USCIS will provide the lockbox filing addresses for paper-filed forms in late March via web alert and on its Form I-129 Direct Filing Addresses
- USCIS is hosting several Tech Talks to answer questions about organizational accounts.

Details:

- FY 2025 H-1B Registration Period and myUSCIS Organizational Account Reminders (Feb. 28, 2024).
- Organizational Accounts FAQ (Mar. 1, 2024).
- Organizational Accounts for Legal Representatives—Demonstration (video, USCIS YouTube channel).
- Organizational Accounts for Companies—Demonstration (video, USCIS YouTube channel).
- myUSCIS
- H-1B Electronic Registration Process (Mar. 1, 2024).
- H-1B Electronic Registration Process: Registrants (video, USCIS YouTube channel).
- I-129, Petition for a Nonimmigrant Worker, USCIS alert (Mar. 1, 2024).

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Certain Updated Forms Take Effect April 1 With No Grace Period

U.S. Citizenship and Immigration Services (USCIS) issued a reminder that under the new fee final rule effective April 1, 2024, the new 04/01/24 editions of several forms will be required, including:

- Form I-129, Petition for a Nonimmigrant Worker.
- Form I-129 CW, Petition for a CNMI-Only Nonimmigrant Transitional Worker
- Form I-140, Immigrant Petition for Alien Workers

Note: USCIS will only accept the 04/01/24 edition of these forms if they are postmarked on or after April 1, 2024.

USCIS explained that although it usually provides "a grace period when publishing new forms, the forms listed above include changes necessary for us to administer the new fees." Beginning April 1, 2024, applicants and petitioners must submit the 04/01/24 edition of these forms with the appropriate fee listed on the USCIS Fee Schedule G-1055. USCIS said it will reject earlier versions of the above forms.

Details:

- USCIS alert (Mar. 1, 2024).

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Reminder: Premium Processing Fees Have Increased

U.S. Citizenship and Immigration Services (USCIS) reminded employers that fees for Form I-907, Request for Premium Processing, increased as of February 26, 2024. The new fees are:

- $2,805 if you are requesting premium processing of Form I-129 requesting E-1, E-2, E-3, H-1B,
  H-3, L (including blanket L-1), O, P, Q, or TN nonimmigrant classification.
- $1,685 if you are requesting premium processing of Form I-129 requesting H-2B or R nonimmigrant classification.
- $2,805 if you are requesting premium processing of Form I-140 requesting EB-1, EB-2, or EB-3 immigrant visa classification.
- $1,685 if you are requesting premium processing of Form I-765 with eligibility category (C)(3)(A), (C)(3)(B), or (C)(3)(C).
- $1,965 if you are requesting premium processing of Form I-539 seeking change of status to F-1, F-2, M-1, M-2, J-1, or J-2 nonimmigrant status.

USCIS said that if it receives a Form I-907 postmarked on or after February 26, 2024, with the incorrect filing fee, it will reject the Form I-907 and return the

filing fee. For filings sent by commercial courier (e.g., UPS, FedEx, and DHL), the postmark date is the date reflected on the courier receipt, USCIS said.

Details:

- USCIS alert (Feb. 26, 2024).
- USCIS final rule, 89 Fed. Reg. 89539 (Dec. 28, 2023).
- How do I request premium processing? USCIS form instructions.

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Eligible Ukrainians Can Apply for Re-Parole

U.S. Citizenship and Immigration Services (USCIS) announced on February 27, 2024, that eligible Ukrainian citizens and their immediate family members who are physically present in the United States can now be considered for re-parole to continue to temporarily remain in the United States.

Ukrainian citizens and their immediate family members who were paroled into the United States on or after February 11, 2022, can apply for re-parole under this process, USCIS said. The agency will consider these applications "on a discretionary, case-by-case basis for urgent humanitarian reasons or significant public benefit," as with any parole application.

If USCIS approves the re-parole application, the applicant may then file Form I-765, Application for Employment Authorization, in category (c)(11) to apply for a new Employment Authorization Document as proof of employment authorization consistent with the re-parole period.

Details:

- Eligible Ukrainians Can Now Apply for Re-Parole, USCIS (Feb. 27, 2024).

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DOS Implements New Visa Restrictions for Transportation Operators Facilitating Irregular Migration

The Department of State (DOS) has implemented a new visa restriction policy that "targets owners, executives, and senior officials of charter flight, ground, and maritime transportation companies providing transportation services designed for use primarily by persons intending to migrate irregularly to the

United States."

The new policy expands and supersedes the Nicaragua policy on charter flights issued in November 2023.

Details:

- DOS press statement (Feb. 21, 2024).

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ABIL Global: Canada

Québec reopened its Immigrant Investor Program (QIIP) on January 1, 2024.

The QIIP is the only investment-based immigration program in Canada that does not require the foreign investor to show proof of active business management in Canada at the time of submission of the application, including proof of starting or establishing a business or hiring staff or employees in Canada.

The Québec government seeks to maintain a high level of francophone economic immigration in the Province of Québec. Proof of French language capacity on filing the application accepted by Québec Immigration are a Certificate of Test Results or Diploma for a recognized French language test such as the TEFAQ, TEF Canada, TCF, TCFQ, or DELF/DALF, confirming that the applicant has reached a B2 level or higher in oral French (speaking and listening) and/or written French (reading and writing).

At the time of submission, applicants must also demonstrate that they meet the following criteria:

- They are at least 18 years old;
- They have a high school diploma at minimum (equivalent to a secondary diploma in Québec);
- They have at least two years of management experience in the five-year period before submitting the application; and
- They have at least CAD $2,000,000 of net assets (just under USD $1,500,000), accompanied with proof that the net assets were accumulated legally.

In addition, interested applicants must sign and agree to an Investment

Agreement with a Québec government-authorized financial intermediary. Once the application is approved, they must make a CAD $1,000,000 five-year investment with IQ Immigrants Investisseurs Inc. (IQII), a Québec crown corporation. The investment is guaranteed and bears no interest. Applicants also must make a non-refundable financial contribution of CAD $200,000 to the Québec government.

Once the applicants have fulfilled the financial requirements of the Québec Immigrant Investor Program, they will be directed to Immigration, Refugees and Citizenship Canada (IRCC) to apply for a three-year Canadian Work Permit. The principal applicant and their spouse, if applicable, must meet a residency requirement of at least 12 months in Québec within the first two years of being issued their Canadian Work Permits. The principal applicant must reside in Québec for a minimum of six months, while the remaining six months of residency required can be satisfied by either the principal applicant or their spouse. Once they have satisfied this residence requirement, the applicant and the spouse can then apply for a Certificat de Sélection du Québec (CSQ) from Québec and, once the CSQs are received, apply for Canadian permanent residence with IRCC.

There is no quota for the program or deadline for the submission of applications.

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