June 2022 Immigration Legal Update

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Categories:

Publications

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CDC Lifts COVID-19 Testing Requirement for International Air Passengers

On June 10, the Centers for Disease Control and Prevention (CDC) announced that, effective June 12, air passengers do not have need to present a negative COVID-19 viral test or documentation of recovery from COVID-19 before boarding an international flight to the U.S.

The requirement had been in effect since January 2021 as a "…reasonable and necessary measure in light of the increased risk of transmission and spread of SARS-CoV-2 variants by international air travel into the United States." In its rescission announcement, the CDC stated that the requirement is not currently necessary to "prevent introduction of currently circulating SARS-CoV-2 variants into the United States."

USCIS Premium Processing Expansion

On March 30, 2022, USCIS announced it intended to expand premium processing availability to additional case types in phases over at least a three-year period. On May 24, USCIS announced that it is starting the expansion by making premium processing available for certain petitioners who have pending Forms I-140 under the EB-1 and EB-2 classifications. Specifically,

- Beginning June 1, 2022, USCIS will accept premium processing requests (Forms I-907) for EB-1(C) (or E13) Multinational Executive or Manager petitions that were filed with USCIS on or before January 1, 2021.
- Beginning July 1, 2022, USCIS will accept premium processing requests (Forms I-907) for EB-1(C) (or E13) Multinational Executive or Manager petitions that were filed with USCIS on or before March 1, 2021.
- Beginning July 1, 2022, USCIS will accept premium processing requests (Forms I-907) for EB-2 National Interest Waiver (NIW) (or E21 NIW) petitions that were filed with USCIS on or

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before June 1, 2021.

USCIS is not accepting premium processing requests for new (initial) Forms I-140 for these classifications (EB-1C and EB-2 NIW) yet. For these newly eligible petitions (as described above), USCIS has announced that it will issue a decision or request for evidence within 45 calendar days upon receiving the premium processing request. Please note this should not impact premium processing requests for classifications that were eligible for premium processing prior to the implementation of this new rule expanding premium processing, and, upon receiving premium processing requests for those classifications, USCIS will continue to issue a decision or request for evidence within 15 calendar days.

USCIS also announced that, as the expansion of premium processing is being implemented in a phased approach, it will continue to work towards premium processing availability of additional Form I-140 petitions and Form I-539 and Form I-765 applications in fiscal year 2022. Additional information regarding USCIS's plans for expansion can be found here.

DOL to Release New Wages and SOC Codes on July 1, 2022

On July 1, 2022, the Department of Labor (DOL) will begin using the 2018 Standard Occupational Classification (SOC) codes. SOC codes classify all occupations within the United States. SOC codes are commonly used for immigration paperwork to help categorize workers, including the Labor Condition Application (LCA), which is required to file H-1Bs.

Periodically, these codes are reviewed to ensure relevancy and accuracy. The most recent revision process began in 2014 and implementation of these new SOC codes has been delayed for the past few years due to ongoing data collection. According to the U.S. Bureau of Labor Statistics:

> *Of the 867 occupations in the 2018 structure, 382 remained completely unchanged from the 2010 SOC, 356 had at least a definition change, 131 had at least a title change, and 115 had at least a code change. Most of the definition changes (254) were editorial revisions or clarifications that did not change*

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occupational content. Therefore, no substantive change occurred for about 88 percent of the detailed occupations in the 2010 SOC. Occupational areas with significant revisions and additions included Information technology (minor group 15-1200 Computer Occupations) and Healthcare (major groups 29-0000 Healthcare Practitioners and Technical Occupations and 31-0000 Healthcare Support Occupations)

Also on July 1, the new prevailing wage data from the Occupational Employment Survey, as generated by the Bureau of Labor Statistics, will go into effect. This wage information is valid from July 2022 through June 2023. Any prevailing wage determinations issued from the DOL after July 1, 2022, will reflect the new wage data. Employers seeking to use the current wage data to support an H-1B petition should file the LCA as soon as possible to ensure issuance before July 1.

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