

Publications

Immigration Developments You Need to Know

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Biometrics Suspension for Certain Form I-539 Applicants

Effective May 17, 2021, the biometrics requirements for H-4, L-2, and E-1, E-2, and E-3 categories of Form I-539 will be suspended for a two-year period. The suspension will apply to applications pending on May 17, 2021, and have not yet received a biometric services appointment notice and to new applications received by USCIS from May 17, 2021, through May 23, 2022. USCIS will issue guidance soon regarding the applicability of the biometrics suspension and biometrics fee.

SSA Discontinues the Sending of Social Security No-Match Letters to Employers

In April 2021, the Social Security Administration (SSA) announced that are no longer send No-Match letters to employers. Mismatches could arise when using false Social Security numbers (SSN) or SSNs assigned to other people but often arose for a variety of legitimate reasons including a misspelled name or SSN with a transposed number, a change in the employee's name due to marriage or divorce, incomplete information on a W-4 or W-2, or use of compound names which are not perfectly aligned in the government databases. The SSA indicates that its' goal is to make it better, easier and more convenient for employers to report wages electronically.

Temporary travel ban from India to the U.S.

Beginning on May 4, 2021, travelers from India have been banned from travel to the U.S. due to COVID-19. Read the announcement [here](#). The following travelers are not subject to the ban, but may be required to undergo screening and other measures upon arrival:

- U.S. citizens and nationals;
- U.S. lawful permanent residents;
- Spouses of U.S. citizens and lawful permanent residents;

- A foreign national who is the parent or legal guardian of an unmarried U.S. citizen or lawful permanent resident under the age of 21;
- A foreign national who is the sibling of a U.S. citizen or lawful permanent resident, provided they are both under 21;
- A foreign national who is the child, foster child or ward of a U.S. citizen or lawful permanent resident, or who is a prospective adoptee seeking to enter the United States on an IR-4 or IH-4 visa;
- A foreign national traveling at the invitation of the U.S. government for a purpose related to containment or mitigation of the COVID-19 virus;
- A foreign air or sea crewmember;
- Certain A, C, E-1 (TECRO or TECO employees), G, and NATO nonimmigrants or whose travel falls within the scope of section 11 of the United Nations Headquarters Agreement;
- A foreign national whose entry would further important U.S. law enforcement objectives;
- A foreign national whose entry would be in the national interest; and
- Members of the U.S. armed forces and their spouses and children.

This proclamation shall remain in effect until terminated by President Biden. The Secretary of Health and Human Services shall, as circumstances warrant and no more than 30 days after the date of this proclamation and by the final day of each calendar month thereafter, recommend whether the President should continue, modify, or terminate this proclamation.

USCIS Issues Guidance on Deference to Prior Determinations of Eligibility in Requests for Extensions of Petition Validity

On April 27, 2021, USCIS provided guidance to its' adjudicators and instructed them to give deference to prior determinations when adjudicating extension requests involving the same parties and facts unless there was a material error, material change in circumstances or in eligibility, or new material information that adversely impacts the eligibility. It further affirmed that USCIS can consider, but should not defer to, previous eligibility determinations on petitions made by other U.S. government agencies. Officers should make determinations based on the evidence of record in the petition under adjudication.

Travelers Prohibited from Entry to the United States

Several Presidential proclamations suspend and limit entry into the U.S. of noncitizens who were physically present with the following countries during the 14-day period preceding their entry into the U.S.:

- China
- Iran
- European Schengen region (Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Monaco, San Marino, Vatican City)

- United Kingdom (England, Scotland, Wales, Northern Ireland)
- Republic of Ireland
- Brazil
- South Africa
- India

For a full list of up-to-date exceptions, [click here](#).

Flexibility in Requirements Related to Form I-9 Compliance Extended until May 31, 2021

The current extension includes guidance for employees hired on or after April 1, 2021, and work exclusively in a remote setting due to COVID-19-related precautions. Those employees are temporarily exempt from the physical inspection requirements associated with the Employment Eligibility Verification (Form I-9) until they undertake non-remote employment on a regular, consistent, or predictable basis or the extension of the flexibilities related to such requirements is terminated, whichever is earlier.

Final Rule on Computation of Prevailing Wage Levels

The final rule changing the way that wage levels are calculated for prevailing wages is still in play. However, the Department of Labor will delay the effective date of the final rule changing how prevailing wage levels are calculated until 11/14/22. This means that the first increase in wage levels under the new calculation method will happen on 1/1/23. The new prevailing wage levels should not affect the H-1B registration process next year (for Fiscal Year 2023), even if the wage-based selection rule for the H-1B registrations takes effect.