

Newsletter

Immigration Monthly - July 2013

7/15/2013

DEPARTMENT OF HOMELAND SECURITY (DHS) UPDATE:

- DHS has started implementation of the Supreme Court Ruling on the Defense of Marriage Act (DOMA). Now, U.S. citizens in a same-sex marriage to a foreign national are eligible to file an immigrant petition for their spouse. This includes couples residing in U.S. states that do not recognize same-sex marriages, subject to some limited exceptions where federal agencies have traditionally considered the law in the state of residence as well as the state where the marriage was entered into. Importantly, while same-sex applicants will no longer be denied immigration benefits based solely on the nature of their marriage, all other adjudicating factors and standards applicable to applications filed by heterosexual couples, remain in place and must be complied with.
- Additionally, several federal agencies, including Department of State, have confirmed that they are working to review federal statutes and regulations that affect visa processing and immigration benefits grant to same-sex couples. This is an important issue for foreign nationals in same-sex marriages that wish to enter the U.S. for education or temporary employment, but have been hindered by inability to bring their spouse to the U.S. on the basis of their marriage.
- As of the end of June, United States Citizenship and Immigration Services (USCIS) has received nearly 27,000 applications towards the 33,000 H-2B cap for the second half of Fiscal Year (FY) 2013. H-2B visas are used by multiple industries including hospitality and construction.
- DHS has re-designated and provided an 18-month extension of Temporary Protected Status (TPS) for nationals of Syria. TPS for Syria is now extended through March 31, 2015, and eligible individuals must register or re-register for the TPS benefits within the government-prescribed timelines. Consult your immigration counsel with regard to TPS needs.
- Reminder: all U.S. employers must now use the revised Form I-9, Employment Eligibility Verification for all new workers and reverification of existing employees. A Spanish version of Form I-9 is available on the USCIS website, but may be used only in Puerto Rico.

DEPARTMENT OF STATE (DOS) NEWS:

- The DOS Visa Bulletin for August 2013 indicates significant progress with regard to the visa cut-off date for nationals of India for the Employment-Based 2nd (EB-2) preference. The severely retrogressed cut-off date has jumped to January 1, 2008. There is an expectation of significant increase in Adjustment of Status filings under the EB-2 category in August and September. Discuss your or your employees' eligibility for an Adjustment filing with your immigration counsel, to assure that you take advantage of the newly available immigrant visas.

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