DHS Enhances Opportunities for H-1B1, E-3, CW-1 Nonimmigrants and Certain EB-1 Immigrants, Final Rule Posted

DHS Enhances Opportunities for H-1B1, E-3, CW-1 Nonimmigrants and Certain EB-1 Immigrants, Final Rule Posted [1]

Submitted by Chief Editor on Jan 15th 2016

The Department of Homeland Security (DHS) amended its regulations today to improve the programs serving the H-1B1, E-3 and CW-1 nonimmigrant classifications and the EB-1 immigrant classification, and remove unnecessary hurdles that place such workers at a disadvantage when compared to similarly situated workers in other visa classifications.

This final rule, posted to the Federal Register today [2] and effective on Feb. 16, revises regulations affecting highly skilled workers in the nonimmigrant classifications for specialty occupations from Chile, Singapore (H-1B1) and Australia (E-3); the immigrant classification for employment-based first preference (EB-1) outstanding professors and researchers; and nonimmigrant workers in the Commonwealth of the Northern Mariana Islands (CNMI)-Only Transitional Worker (CW-1) classification.

Specifically, this final rule amends DHS regulations as described below:

- DHS is including H-1B1 and principal E-3 classifications in the list of classes of foreign nationals authorized for employment incident to status with a specific employer. This means that H-1B1 and principal E-3 nonimmigrants are allowed to work for the sponsoring employer without having to separately apply for employment authorization.
- DHS is authorizing continued employment with the same employer for up to 240 days for H-1B1 and principal E-3 nonimmigrants whose status has expired while their employer?s timely filed extension of stay request remains pending.
- DHS is providing this same continued employment authorization for CW-1 nonimmigrants whose status has expired while their employer?s timely filed Form I-129CW, Petition for a CNMI-Only Nonimmigrant Transitional Worker, request for an extension of stay remains pending.
- Existing regulations on the filing procedures for extensions of stay and change of status requests now include principal E-3 and H-1B1 nonimmigrant classifications.
- Employers petitioning for EB-1 outstanding professors and researchers may now submit initial evidence comparable to the other forms of evidence already listed in 8 CFR 204.5(i)(3)(i), much like certain employment-based immigrant categories that already allow for submission of comparable evidence.

This final rule does not impose any additional costs on employers, workers or any governmental entity. Further, changing the employment authorization regulations for H-1B1 and E-3 nonimmigrants makes them consistent with other similarly situated

nonimmigrant worker classifications. Additionally, this rule minimizes the potential of employment disruptions for U.S. employers of H-1B1, E-3 and CW-1 nonimmigrant workers. Finally, DHS expects that this change will help U.S. employers recruit EB-1 outstanding professors and researchers by expanding the range of evidence that U.S. employers may provide to support their petitions.

?We constantly strive to improve our processes and ensure fair and consistent access to immigration benefits,? U.S. Citizenship and Immigration Services Director León Rodríguez said. ?This Enhancing Opportunities rule removes unnecessary hurdles that place workers at a disadvantage and will be beneficial to both employers and their workers.?

Team Notes:

Nonimmigrant Visas:

E-3 Visa [3]
General Nonimmigrant Visa [4]
H-1 Visa [5]

Agency:

DHS [6]
USCIS [7]

Green Card:

EB1 Green Card [8]

Links:
[1] https://immigration.com/news/eb1-green-card/dhs-enhances-opportunities-h-1b1-e-3-cw-1-nonimmigrants-and-certain-eb-1
[2] https://www.federalregister.gov/articles/2016/01/15/2016-00478/enhancing-opportunities-for-h-1b1-cw-1-and-e-3-nonimmigrants-and-eb-1-immigrants
[3] https://immigration.com/visa/nonimmigrant-visas/e-visa/e-3-visa
[4] https://immigration.com/visa/nonimmigrant-visas/general-nonimmigrant-visa
[5] https://immigration.com/visa/nonimmigrant-visas/h-visa/h-1-visa
[6] https://immigration.com/agencies/agency/dhs
[7] https://immigration.com/agencies/agency/dhs/uscis
[8] https://immigration.com/greencard/green-card/employment-based-green-cards/eb1-green-card