

New Premium Process Rules are in Effect

May 23, 2006

Premium Processing Changes Effective Today.

The U.S. Citizenship and Immigration Services (USCIS) made two announcements through the Federal Register today. First, USCIS published a Notice of the designation of certain employment-based petitions and applications as eligible for premium processing service. These applications can be filed beginning today. Second, USCIS published an interim rule regarding changes to the procedures for notifying the public of premium processing service designations and availability.

Premium processing is now available for the following employment based (EB) I-140 petitions:

- * EB-1 aliens of extraordinary ability
- * EB-1 outstanding professors and researchers
- * EB-1 multinational executives and managers
- * EB-2 members of professions with advanced degrees or exceptional ability not seeking a national interest waiver (premium processing is not available for national interest waivers because of the complexity of processing those petitions)
- * EB-3 skilled workers
- * EB-3 professionals
- * EB-3 workers other than skilled workers and professionals.

Premium processing is also available for the following I-539 classifications, including applications for extension of status (EOS) and change of status (COS):

- * B-1 business visitors who are personal or domestic servants or foreign airline employees
- * J-1 exchange visitors who are professors, scholars, trainees, teachers, specialists, alien physicians, international visitors, government visitors, camp counselors, au pairs and summer work travel - COS only because EOS are requested through Department of State
- * J-2 dependents of J-1 exchange visitor principals - COS only because EOS are requested through Department of State
- * E-1 dependents of E-1 treaty traders
- * E-2 dependents of E-2 treaty investors
- * H-4 dependents of H-1B specialty occupation workers, H-2B temporary workers or H-3 trainee or special education trainee program workers
- * L-2 dependents of L-1A or L-1B nonimmigrants
- * O-3 dependents of O-1 aliens of extraordinary ability in the arts, sciences, business, education or athletics or O-2 essential support nonimmigrants
- * P-4 dependants of P-1 internationally recognized athletes or entertainment group members, P-2 artists or entertainers in a reciprocal exchange program, P-3 artists or entertainers in culturally unique programs, or any P-1, P-2 or P-3 essential support alien
- * R-2 dependents of R-1 temporary workers in a religious occupation
- * TD dependents of TN nonimmigrants

Premium processing is available for the following I-765 classification:

- * for aliens whose Form I-485 Application to Register Permanent Residence or Adjust Status (supported by an employment-based immigrant visa petition) is pending with

USCIS and who are requesting a renewal of employment authorization in the EB-1 through EB-5 classifications.

For foreign nationals seeking an employment authorization document (EAD), Form I-765 normally cannot be filed until after the underlying petition or application has been approved. However, USCIS will permit certain classifications within Form I-539 designated by this Notice to file Form I-765 concurrently with Form I-539 that they are filing using premium processing. These classifications are: B-1 personal or domestic servants; B-1 airline employees; E-1 or E-2 dependent spouses; and L-2 spouses. Premium processing only applies to Form I-539 so USCIS does not guarantee that the concurrently filed Form I-765 will be processed within 5 calendar days.

As a courtesy, USCIS currently provides 15 calendar day processing for a dependent's Form I-539 concurrently filed with the principal alien's Petition for a Nonimmigrant Worker (Form I-129) for which an employer has requested premium processing, without charging an additional \$1,000 fee. Premium processing only applies to the Form I-129. So, USCIS may process a concurrently filed Form I-539 within the 15 calendar day premium processing period, but does not guarantee such processing. To ensure 15 calendar day processing rather than rely on courtesy processing, dependents filing eligible Forms I-539 should file a separate request for premium processing service and pay the \$1,000 processing fee.

To read the Federal Register Notice regarding the new premium processing designations and availability, please use the following link:

<http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/06-4755.pdf>.

USCIS also published an interim rule to change the way USCIS announces designations of forms for premium processing, as well as the method for announcing the dates of availability and termination or suspension of premium service. USCIS will continue to publish Federal

Register notices to announce designations for premium processing. USCIS will announce the dates of availability of such premium service and any termination or suspension of premium service through its public website at <http://www.uscis.gov>.