

DHS Finalizes Weighted Selection Rule for H1B Cap Registrations

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U.S. Citizenship and Immigration Services (USCIS) has issued a final rule changing how H1B cap registrations are selected when demand exceeds the annual numerical limits. Beginning with the FY2027 H1B registration season, USCIS will implement a weighted selection process that increases the likelihood of selection for higher-paid positions, while continuing to allow participation at all wage levels.

Overview of the Weighted Selection Process

When USCIS receives more H1B cap registrations than needed to meet the annual quota, each unique beneficiary will be entered into the selection pool a number of times based on the Occupational Employment and Wage Statistics (OEWS) wage level associated with the offered position:

Wage Level IV: entered four times

Wage Level III: entered three times

Wage Level II: entered two times

Wage Level I: entered one time

Each beneficiary still will be counted only once toward the annual cap, regardless of the number of registrations submitted on their behalf.

New Registration and Petition Requirements

The final rule requires additional information at the registration stage, including the applicable OEWS wage level, Standard Occupational Classification (SOC) code, and area of intended employment. Petitioners must later submit evidence supporting the wage level indicated in the selected registration when filing the H1B petition.

USCIS may deny or revoke a petition if it determines that changes were made to unfairly increase the chances of selection or if there are inconsistencies between the registration, Labor Condition Application (LCA), and petition.

Effective Date and Applicability

The final rule will take effect 60 days after publication in the Federal Register and will apply to all H1B cap registrations submitted on or after the effective date, including those eligible for the advanced degree exemption.

Practical Considerations

While registrations at all wage levels remain eligible for selection, the rule is expected to materially change selection probabilities. Employers and foreign national professionals may wish to review offered wages, job classifications, and documentation strategies in advance of future cap seasons.

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