

LEGAL UPDATE

USCIS Announces Final Rule to Strengthen H-1B Program Integrity Measures

On Jan. 30, 2024, the U.S. Citizenship and Immigration Services (USCIS) released a [final rule](#) to strengthen the integrity of and reduce the potential for fraud in the H-1B registration process. Measures to accomplish this include reducing the potential for gaming the registration system and ensuring each beneficiary has the same chance of being selected regardless of the number of registrations submitted on their behalf. This rule was published in the [Federal Register](#) on Feb. 2, 2024, and becomes effective 30 days after, on March 4, 2024.

Background

The USCIS's final rule is intended to bolster the integrity of the H-1B registration process, curtail potential fraud and streamline the application process. As a result, the rule aims to make H-1B selections more equitable and allow the H-1B process to be fully electronic, beginning with registration until the final decision.

IMPORTANT INFORMATION

USCIS' final rule intends to strengthen the integrity of the H-1B registration process and reduce potential fraud.

- The final rule changes the H-1B selection process so that each H-1B beneficiary is selected once regardless of how many registrations are submitted on the beneficiary's behalf.
- The final rule was published in the Federal Register on Feb. 2, 2024.
- The final rule will become effective 30 days after its official publication, or March 4, 2024.

H-1B Registration Final Rule

The final rule creates a beneficiary-centric selection process for registrations by employers, codifies start date flexibility for certain petitions subject to the congressionally mandated H-1B cap and adds more integrity measures related to the registration process. Under this process, registrations will be selected by unique beneficiary rather than by registration. This new process is designed to reduce the potential for fraud and ensure each beneficiary would have the same chance of being selected regardless of the number of registrations submitted on their behalf by an employer.

Starting with the fiscal year 2025 initial registration period, the USCIS will require registrants to provide valid passport information or valid travel document information for each beneficiary. The passport or travel document provided must be the one the beneficiary, if or when abroad, intends to use to enter the United States if issued an H-1B visa. Each beneficiary must only be registered under one passport or travel document. The final rule also clarifies requirements regarding the requested employment start date on certain petitions subject to the congressionally mandated H-1B cap to permit filing with requested start dates that are after Oct. 1 of the relevant fiscal year, consistent with current policy.

Additionally, the H-1B final rule codifies the USCIS' ability to deny or revoke H-1B petitions where the underlying registration contained a false attestation or was otherwise invalid. Under the new rule, the USCIS may deny or revoke the approval of an H-1B petition if it determines that the fee associated with the registration is declined, not reconciled, disputed or otherwise invalid after submission.

