



Minsky, McCormick & Hallagan, P.C.

*A Full-Service Law Firm Dedicated To All Aspects of U.S. Immigration & Nationality Law*

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# NEWSLETTER

## **1.) U.S. Department of State Releases the Visa Bulletin for February 2010**

On January 11, 2010, the U.S. State Department of State (DOS) issued the Visa Bulletin for February 2010. The China EB-3 category priority date advanced to September 22, 2002 and the India EB-3 category priority date of June 22, 2001, remained the same as the previous month's bulletin. [http://travel.state.gov/visa/frvi/bulletin/bulletin\\_1360.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html)

## **2.) USCIS Issues Memorandum on Establishing the "Employee-Employer Relationship" in H-1B Petitions**

On January 13, 2010, the U.S. Citizenship and Immigration Services (USCIS) issued updated guidance to adjudication officers clarifying the requirements to establish an employer-employee relationship to qualify for the H-1B 'specialty occupation' classification. This memorandum addresses scenarios involving independent contractors, self-employed beneficiaries, and beneficiaries placed at third-party worksites. An employer who seeks to sponsor a temporary worker in an H-1B specialty occupation is required to establish a valid employer-employee relationship. USCIS has defined such a relationship to hinge on an employer's right to control the means and manner in which the work is performed. USCIS has indicated that adjudicators will review the totality of the circumstances when making a determination as to whether the employer-employee relationship exists. <http://www.uscis.gov/USCIS/Laws/Memoranda/2010/H1B%20Employer-Employee%20Memo010810.pdf>

## **3.) U.S. Department of Labor Begins E-Filing System for New Centralized Prevailing Wage Request Program**

Beginning on January 21, 2010, the U.S. Department Labor (DOL) will begin accepting e-filed ETA Form 9141 prevailing wage requests for its new centralized prevailing wage program. Employers or their authorized representatives who intend to use the iCERT System to electronically submit prevailing wage applications will be required to register on the iCERT system and create accounts prior to electronically submitting their applications. Employers (or authorized representatives) who are already registered to use the iCERT System, may continue using their existing accounts.

## **4.) Immigration & Customs Enforcement (ICE) Reaches Non-Prosecution Agreement With Pilgrim's Pride Corp.**

On December 30, 2009, the U.S. Attorney's Office, Eastern District of Texas, Pilgrim's Pride Corp., and ICE reached a non-prosecution agreement to resolve an investigation with respect to the hiring and employment of unauthorized aliens at Pilgrim's Pride plants in the Eastern District of Texas. Under the terms of the agreement, Pilgrim's Pride agrees to pay \$4.5 million and adopt more stringent immigration compliance practices to ensure its workforce is composed of employees legally authorized to work in the U.S. <http://www.ice.gov/pi/nr/0912/091230beaumont.htm>

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