



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 (DOS) Releases the May 2010 Visa Bulletin

On April 12, 2010, the U.S. Department of State (DOS) issued the Visa Bulletin for May 2010. The China, EB-3 category moved forward by a couple of months, compared to last month's bulletin. Priority dates for the India, EB-3 category also advanced by one month. However, the priority dates for the Mexico EB-3 Category are listed as unavailable for the month of May. http://travel.state.gov/visa/frvi/bulletin/bulletin_4805.html

2.) U.S. Citizenship and Immigration Services (USCIS) Announces H-1B Numbers Still Available

The H-1B nonimmigrant numbers are capped at approximately 65,000 per fiscal year, with an additional 20,000 set aside for foreign nationals who possess master's degrees or higher from a US institution. USCIS announced that as of April 22, 2010, approximately 16,025 H-1B cap-subject petitions and 6,739 cap exempt H-1B petitions have been filed since April 1, 2010. If you would like to pursue a petition for H-1B status for an individual, or you would like to discuss other available nonimmigrant options please contact your designated MMH Attorney.

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=4b7cdd1d5fd37210VgnVCM100000082ca60aRCRD&vgnnextchannel=73566811264a3210VgnVCM100000b92ca60aRCRD>

3.) U.S. Citizenship and Immigration Services (USCIS) Issues Revised FAQs on E-Verify for Federal Contractors

USCIS issued a revised list of questions and answers on the Federal Acquisition Regulation (FAR) final rule on E-Verify. Topics include federal contracts affected by the rule, employees affected by the rule, enrollment, initiating E-Verify inquiries, subcontractors, and more.

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextchannel=534bbd181e09d110VgnVCM1000004718190aRCRD&vgnnextoid=30edde1d67ee4210VgnVCM100000082ca60aRCRD>

4.) The Board of Alien Labor Certification Appeals (BALCA) Affirms PERM Denial Where Employer Failed To Show Its Requirements Were Based On Business Necessity

In *Matter of Wissen, Inc.* (04/15/2010), BALCA affirmed a PERM denial, finding the employer failed to demonstrate its requirements are essential to perform the job in a reasonable manner, as required for a business necessity argument. BALCA required a demonstration of business necessity because the employer's requirements exceeded the U.S. Department of Labor's assigned Job Zone SVP level assigned to the occupation for a "Senior Software Engineer" position. The employer submitted internet advertisements found on the internet for similar positions and asserted in its audit response that an individual who possessed merely a bachelor's degree would only have a "basic theoretical knowledge" and would "not possess skills, knowledge or ability to perform the highly complex duties without extensive supervision and constant guidance." BALCA responded by stating that a generalized assertion does not adequately demonstrate business necessity when the PERM requirements exceed the Job Zone SVP level.

5.) Arizona Governor Signs Tough New Immigration Bill into Law

On Friday, April 23, 2010, Arizona Governor Jan Brewer signed the Support Law Enforcement and Safe Neighborhoods Act into law. This new immigration provision gives the police broad power under state law to check the legal status of any person they reasonably suspect of being in the United States without authorization, and criminalizes unlawful presence by non-citizens. The law is slated to go into effect in August 2010.

The Arizona bill also amends the E-Verify provisions to require that after hiring and E-verifying an employee, employers must keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer.

This MMH Newsletter has been created to provide you with information on the most recent and relevant developments in U.S. immigration-related law, regulations and policy. An MMH Newsletter is never a substitute for fact specific immigration related legal analysis and guidance. If you have any questions about this MMH Newsletter and how the information provided might affect your specific circumstances, please contact an MMH Immigration Attorney at www.mmhpc.com or (312) 427-6163. If you wish to unsubscribe from this Newsletter, please respond to this e-mail with the subject line "Unsubscribe".

Minsky, McCormick & Hallagan, P.C.
210 S. Clark Street, Suite 2025
Chicago, Illinois 60603
Tel: 312-427-6163 Fax: 312-427-6513
www.mmhpc.com