



Minsky, McCormick & Hallagan, P.C.

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

October 2010

Volume 2, No. 10

NEWSLETTER

1.) U.S. Department of State (DOS) Releases the November 2010 Visa Bulletin

On October 8, 2010, the U.S. Department of State (DOS) issued the Visa Bulletin for November 2010. The China, EB-3 category moved forward by several weeks, compared to last month's bulletin. Priority dates for the India, EB-3 category also advanced by several weeks. http://travel.state.gov/visa/bulletin/bulletin_5172.html

2.) U.S. Citizenship and Immigration Services (USCIS) Announces Latest FY2011 H-1B Filing Numbers

USCIS updated its count of FY2011 cap-subject H-1B petitions and advanced degree cap-exempt receipted petitions. As of October 15, 2010, approximately 21,000 H-1B cap-subject numbers are still available. In addition, approximately 4,200 H-1B petitions for aliens with advanced degrees are still available.

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

3.) H-1B Petition Processing Delays at the USCIS California Service Center

The U.S. Citizenship and Immigration Services (USCIS)' California Service Center is experiencing processing delays for H-1B nonimmigrant petitions filed at this facility. MMH is observing a processing spike of about 4 months or more, which is inconsistent with USCIS' official processing estimate of two months for non-premium process H-1B petitions. This extended adjudication period may affect initial filings, changes of status and extensions of stay. Thus, in certain cases some employers may wish to file premium processing for certain H-1B petitions pending for an extended period of time. If you have questions about whether or not this processing delay at the California Service Center will affect your H-1B nonimmigrant filings, please contact your designated MMH attorney.

The California Service Center adjudicates H-1B petitions where the beneficiary's place of employment is in Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington State, Wisconsin, or Wyoming.

4.) U.S. Citizenship and Immigration Services Seeks to Require H-1B Employers to Pre-Register before Filing

United States Citizenship and Immigration Services (USCIS) is seeking Office of Management and Budget (OMB) approval to publish a Proposed Rule that would require H-1B employers to pre-register before filing a petition. While this proposal is still taking shape, USCIS indicates the plan will streamline the H-1B cap filing process by asking employers to register online and be awarded a cap number before submitting a full cap petition with supporting documentation. USCIS foresees also using the system for other petitions that are subject to annual caps. USCIS anticipates that the pre-registration system may be implemented in FY2012. <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=200810&RIN=1615-AB71>

5.) Non-Immigrants and International Travel during the Upcoming Holiday Season

The holiday season is a popular time for many employees to visit their loved ones abroad. International travel requires advance preparation on the part of the foreign national non-immigrant worker. Foreign nationals should advise their designated Human Resources contact and MMH team of their upcoming international travel, regardless if they possess a valid visa with which to travel or if they possess a currently valid advance parole document. In preparation for their trip they should also check the validity of their passport and the validity of the visa/advance parole documents of each member of their immediate family who will be joining them in their travel abroad. After the foreign national's trip abroad, he should provide to their MMH team a copy of the front and back of all their family members' I-94 cards so that we may check for any errors in the issuance of these documents.

Generally speaking, if a foreign national does not possess a valid visa or advance parole document, he must make an appointment at an appropriate U.S. Consulate abroad well in advance of his expected travel. Individuals applying for a visa at a U.S. Consulate abroad should also contact their designated Human Resources contact and their MMH team as soon as they know they wish to travel. The MMH team will supply the foreign national with a copy of his most recently approved nonimmigrant petition and the company will provide a recently dated employment verification letter to the employee. These documents will be provided to the foreign national approximately 2 weeks prior to his departure from the U.S. Both the company and the foreign national worker should also be prepared for the possibility that visa issuance at a U.S. Consulate may be delayed due to additional security or other background checks. While most visas are favorably processed within a week after the visa appointment, a small number of applicants do experience a delay of several months due to some extended background checks. If you should have additional questions regarding the general information provided, please contact your designated MMH attorney.

6.) New USCIS Fee Schedule to Take Effect on November 23, 2010

As mentioned in a previous MMH newsletter, the U.S. Citizenship and Immigration Services instituted a new fee schedule that will take effect on November 23, 2010. Overall fees will increase by a weighted average of about 10%, however, certain applications and petitions fees will decrease. The new fee schedule will apply to all petitions and applications filed on or after November 23, 2010.

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=5be73dc5cb93b210VgnVCM10000082ca60aRCRD&vgnnextchannel=5b33aca797e63110VgnVCM1000004718190aRCRD>

This MMH Newsletter was 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