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Headlines:

USCIS Clarifies Period of Authorized Stay for P-1S Essential Support Personnel of Individual Athletes – USCIS emphasizes that the periods of initial authorized stay are different for individual athletes (P-1A visa) and their essential support personnel (P-1S visa).

DHS Increases H-2B Cap for FY 2019 by 30,000 Additional Visas – The purpose of the rule is to aid U.S. businesses that are likely to suffer irreparable harm (permanent and severe financial loss) without the ability to employ all of the H-2B workers requested on their petitions before the end of FY 2019.

DHS Continues Documentation Validity for Beneficiaries of Nepal, Honduras TPS – DHS will not implement or enforce the decision to terminate temporary protected status for Honduras or Nepal pending resolution of an appeal, and will extend associated EADs.

USCIS Names Mark Koumans as New Deputy Director – Mr. Koumans, a career federal employee, has served since September 2015 in a number of executive positions at CBP.

President Trump Nominates Mark Morgan To Lead ICE – Mr. Morgan previously was chief of the U.S. Border Patrol in the last months of the Obama administration and a former agent of the Federal Bureau of Investigation.

OFLC Approves CW-1 Program Survey From CNMI Governor – OFLC approved the governor's survey and started issuing CW-1 prevailing wage determinations using the survey wages for occupations covered by the governor's survey.

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USCIS Clarifies Period of Authorized Stay for P-1S Essential Support Personnel of Individual Athletes

U.S. Citizenship and Immigration Services (USCIS) has updated its *Adjudicators Field Manual* to emphasize that, under current regulations, the periods of initial authorized stay are different for individual athletes (P-1A visa) and their essential support personnel (P-1S visa).

The P-1S classification is for "Essential Support Personnel" who are an integral part of the performance of a P-1 individual athlete, and who perform support services that cannot be readily performed by a U.S. worker.

- Under existing DHS regulations, P-1A individual athletes have an *initial* period of authorized stay of up to 5 years, while their P-1S essential support personnel have an *initial* authorized stay limited to the period of time necessary to complete the sporting event, but not to exceed 1 year.
- USCIS also may authorize visa extension petitions for P-1S essential support personnel for a period necessary to complete the event, not to exceed 5 years, for a total period of stay not to exceed 10 years.

Details: USCIS announcement, <https://www.uscis.gov/news/alerts/uscis-clarifies-period-authorized-stay-p-1s-essential-support-personnel-individual-athletes>; USCIS policy alert, <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2019/20190509-P1SValidity.pdf>; P-1A Internationally Recognized Athlete page, <https://www.uscis.gov/working-united-states/temporary-workers/p-1a-internationally-recognized-athlete>

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DHS Increases H-2B Cap for FY 2019 by 30,000 Additional Visas

A temporary rule jointly issued by the Departments of Homeland Security (DHS) and Labor (DOL), effective May 8, 2019, increases the H-2B cap for fiscal year (FY) 2019 by 30,000. The H-2B visa permits a foreign worker to fill temporary nonagricultural jobs in the United States. The purpose of the rule is to aid U.S. businesses that are likely to suffer irreparable harm (permanent and severe financial loss) without the ability to employ all of the H-2B workers requested on their petitions before the end of FY 2019.

Among other terms and conditions, the temporary rule requires:

- For this one-time increase, any H-2B workers falling under this cap increase are limited to returning workers who were "issued an H-2B visa or otherwise granted H-2B status in FY 2016, 2017, or 2018."
- If an employer submits a request to DHS for an H-2B visa more than 45 days after the start date of work listed on the temporary labor certification, the employer would be required to conduct a "fresh round of recruitment" for U.S. workers.

Details: DHS/DOL rule, <https://www.federalregister.gov/documents/2019/05/08/2019-09500/exercise-of-time-limited-authority-to-increase-the-fiscal-year-2019-numerical-limitation-for-the>; USCIS announcement with links to forms, <https://www.uscis.gov/news/news-releases/dhs-dol-publish-joint-rule-additional-visas-returning-foreign-workers>

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DHS Continues Documentation Validity for Beneficiaries of Nepal, Honduras TPS

The Department of Homeland Security (DHS) announced that it will not implement or enforce the decision to terminate temporary protected status (TPS) for Honduras or Nepal pending resolution of an appeal in *Ramos v. Nielsen* or other order of the court, and as required by the order in *Bhattarai v. Nielsen*.

Beneficiaries under these TPS designations will retain their TPS for a temporary period, provided they remain eligible otherwise.

- Beneficiaries under these TPS designations will retain their TPS for a temporary period, provided they remain eligible otherwise.
- DHS further announced that it is automatically extending through March 24, 2020, the validity of related employment authorization documents (EADs) and other related documentation for eligible beneficiaries under the TPS designation for Nepal.
- The TPS designation for Honduras remains in effect through January 5, 2020.

Details: USCIS announcement, <https://www.uscis.gov/news/news-releases/uscis-names-new-deputy-director>; Federal Register notice, <https://bit.ly/2Q0Rahh>

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USCIS Names Mark Koumans as New Deputy Director

U.S. Citizenship and Immigration Services (USCIS) announced on May 10, 2019, that Mark Koumans is the agency's new Deputy Director, effective May 13.

Mr. Koumans, a career federal employee, has served since September 2015 in a number of executive positions at U.S. Customs and Border Protection (CBP). He replaces Tracy Renaud, who has served as USCIS Acting Deputy Director since March 2018. Renaud will return to her previous position as the Associate Director of the Management Directorate. Mr. Koumans previously served for eight years as a Deputy Assistant Secretary in the Department of Homeland Security Office of Policy. Before that, he was a member of the U.S. Foreign Service for 17 years.

Details: USCIS announcement, <https://www.uscis.gov/news/news-releases/uscis-names-new-deputy-director>

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President Trump Nominates Mark Morgan To Lead ICE

In a tweet, President Donald Trump named Mark Morgan to head U.S. Immigration and Customs Enforcement (ICE): "I am pleased to inform all of those that believe in a strong, fair and sound Immigration Policy that Mark Morgan will be joining the Trump Administration as the head of our hard working men and women of ICE. Mark is a true believer and American Patriot. He will do a great job!" Mr. Morgan's appointment must be confirmed by the Senate.

Mr. Morgan previously was chief of the U.S. Border Patrol in the last months of the Obama administration and a former agent of the Federal Bureau of Investigation. He has publicly stated that he backs President Trump's border wall, among other policies.

Details: Trump tweet announcing Mr. Morgan's nomination, <https://twitter.com/realDonaldTrump/status/1125051346456121346>; news articles on Mr. Morgan's opinions, *Washington Post*, https://www.washingtonpost.com/politics/2019/01/09/obama-border-patrol-chief-trump-stay-course-border-wall/?utm_term=.5e0eea6c15a4; *Epoch Times*, https://www.theepochtimes.com/former-border-patrol-chief-mark-morgan-border-crisis-worst-in-history_2896172.html

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OFLC Approves CW-1 Program Survey From CNMI Governor

The Department of Labor's Office of Foreign Labor Certification (OFLC) recently received and approved a CW-1 wage survey from the governor of the Commonwealth of the Northern Mariana Islands (CNMI) covering 84 occupations. OFLC approved the governor's survey and started issuing CW-1 prevailing wage determinations on May 9, 2019, using the survey wages for occupations covered by the governor's survey.

Details: OFLC announcement (May 9, 2019), <https://www.foreignlaborcert.doleta.gov/>; CW-1 program page, <https://www.foreignlaborcert.doleta.gov/cw-1.cfm>

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New Publications and Items of Interest

CBP Officer's Reference Tool documents. In response to a Freedom of Information Act request, portions of the U.S. Customs and Border Protection's *Officer's Reference Tool* (replacing the *CBP Inspector's Field Manual*) have been released and are being posted on a rolling basis by the American Immigration Lawyers Association at <https://www.aila.org/infonet/gr-foia-cbp-table>.

Immigrant and Employee Rights webinars. The Department of Justice's Immigrant and Employee Rights Section is offering free webinars to the public. The webinars are for workers, employers, and advocates. For more information or to register, see <https://www.justice.gov/crt/webinars>.

Alliance of Business Immigration Lawyers:

- ABIL is available on Twitter: @ABILImmigration.
- Recent ABIL member blogs are at <http://www.abilblog.com/>.

Organizations seeking non-lawyer and lawyer volunteers. Cornell Law School has compiled a list of organizations seeking non-lawyer and lawyer volunteers to help migrants in U.S. detention and deportation proceedings. The list, which is updated on an ongoing basis, is at <http://www.lawschool.cornell.edu/MigrationandHumanRightsProgram/Organizations-seeking-non-lawyer-and-lawyer-volunteers.cfm>.

Nation of immigrants. Podcasts on U.S. immigration history and what it means to be an immigrant in America:

- Statutes of Liberty: <http://bit.ly/2thMM9O> (new episodes: A Prescription for Success: EB-1 for Physicians, <https://bit.ly/2J7oSjV>; The Best, Brightest, and Backlogged, discusses the backlog, who it affects, how to read the Visa Bulletin, and strategies for EB-1 visas, <https://bit.ly/2E6vamz>)
- Code Switch Podcast: What Does It Mean To Be A 'Nation of Immigrants'?:
<http://n.pr/2FeWWg4>
- Hidden Brain: The Huddled Masses and the Myth of America: <http://n.pr/2Fbo9kC>
- American Pendulum I: <http://bit.ly/2FbYKY3>

Advisories and tips:

- Community Advisory: Social Media, Criminalization, and Immigration has been published by the National Lawyers Guild's National Immigration Project. This advisory summarizes ways in which immigration agents may use social media against those in removal proceedings or involved in criminal cases. The advisory is at https://www.nationalimmigrationproject.org/PDFs/community/2017_03Apr_comm-adv-social.pdf.
- How to safeguard your data from searches at the border is the topic of several recent articles and blogs. See, for example, <https://www.nytimes.com/2017/03/21/technology/personaltech/crossing-the-border-heres-how-to-safeguard-your-data-from-searches.html> and

<https://www.aclu.org/blog/free-future/can-border-agents-search-your-electronic-devices-its-complicated>.

- Listings and links to cases challenging executive orders, and related available pleadings, are available at <https://lawfareblog.com/litigation-documents-resources-related-trump-executive-order-immigration>.

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ABIL Member/Firm News

Dagmar Butte (bio: <http://www.abil.com/lawyers/lawyers-butte.cfm?c=US>) was quoted by Wired in "Visa Rejections for Tech Workers Spike Under Trump." Ms. Butte said she began noticing a spike in denials shortly after President Trump took office. In 2017, she said, she filed numerous applications on behalf of one IT client, only to have them all rejected, a first in her nearly three-decade career. "I thought: Did I suddenly get stupid?", she said. In her experience, the article notes, the H-1B visa holders who have been hardest hit are systems analysts and quality assurance analysts employed through outsourcing firms. These applicants are increasingly being told that their jobs are not considered specialized, although those determinations appear to be applied unevenly, she noted. In one instance, she filed 16 applications for systems analysts; all had the same expertise and educational attainment but two were denied. Ms. Butte noted that it would have been dangerous to challenge the denials on the basis that other similarly skilled applicants were approved. "If I were to point that out, they would not approve the two denied cases; they would just reopen and deny the 14 approved cases," she noted, adding that this has happened to some of her firm's clients. "When the denials come, it's devastating. They leave everything behind." The article is at <https://www.wired.com/story/h-1b-visa-rejections-spike-under-trump/>.

H. Ronald Klasko, of **Klasko Immigration Law Partners, LLP**, has authored a new blog entry on the immigration law ramifications of unlawful presence litigation. A positive development in unlawful presence litigation occurred this week when Judge Loretta C. Biggs rejected the government's Motion to Dismiss. Her decision also enjoins the implementation of USCIS's unlawful presence policy issued on August 9, 2018, nationwide because of the "likelihood of success" of the plaintiffs' challenges. Mr. Klasko, co-counsel and an immigration subject matter expert on this litigation, provides background on the issue, the ramifications of this decision, and what it means for affected institutions and foreign nationals. Additionally, he examines the nationwide impact of this decision and what that means for a litigation strategy on other issues of significant importance. The blog is at <https://bit.ly/2LLsr6a>.

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) has authored a new blog entry. "Judge Issues Nationwide Preliminary Injunction in Unlawful Presence Case: What Does the Injunction Mean for Current F, J, and M Nonimmigrants?" is at <https://bit.ly/2VoBCZO>.

David Isaacson, of **Cyrus D. Mehta & Partners PLLC**, has authored a new blog entry. "Challenges to Expedited Removal Orders Against Returning Nonimmigrants: How Recent Case Law Supports Habeas Petitions Even After Removal" is at <https://bit.ly/2YmmZlc>.

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Government Agency Links

Follow these links to access current processing times of the USCIS Service Centers and the Department of Labor, and the Department of State's latest Visa Bulletin with the most recent cut-off dates for visa numbers:

USCIS Service Center processing times online:
<https://egov.uscis.gov/cris/processTimesDisplay.do>

Department of State Visa Bulletin: <https://travel.state.gov/content/visas/en/law-and-policy/bulletin.html>

Visa application wait times for any post: <https://travel.state.gov/content/visas/en/general/wait-times.html/>

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About ABIL

The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 370 member lawyers and their more than 800 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.

The Alliance of Business Immigration Lawyers' website is at <http://www.abil.com/>. ABIL is also on Twitter: [@ABILImmigration](#).

Disclaimer/Reminder

This email does not constitute direct legal advice and is for informational purposes only. The information provided should never replace informed counsel when specific immigration-related guidance is needed.

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