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US IMMIGRATION & NATIONALITY LAW

FEBRUARY 2015 IMMIGRATION UPDATE

Posted on February 2, 2015 by Cyrus Mehta

Headlines:

1. DHS Considers 'Known Employer' Program To Aid Business Travel P DHS expects to launch a pilot by late 2015 to test the program.

2. HHS Updates Poverty Guidelines P Among other things, the poverty guidelines are used in determining minimum income requirements for Form I-864, Affidavit of Support, and Form I-912, Fee Waiver Request.

3. USCIS Issues Reminder for Requesting DACA P Those requesting either initial or renewal Deferred Action for Childhood Arrivals (DACA) must submit an application for employment authorization and required fees.

4. State Dept. Anticipates Visa Number Movement in Some Employment-Based Categories P Forward movement is possible in some employment-based categories in the coming months.

5. USCIS Revises Petition for a Nonimmigrant Worker P Starting on May 1, 2015, USCIS will accept only the October 23, 2014, edition of the I-129.

6. Agencies Launch Awareness Campaign on Executive Actions for Mexicans and Central Americans P The campaign explains how Deferred Action for Parents of Americans and Lawful Permanent Residents will be implemented and who is eligible.

7. DHS Extends TPS for Salvadorans P Temporary protected status (TPS) has

been extended for eligible nationals of El Salvador through September 9, 2016.

8. DHS Extends, Redesignates TPS for Syrians P Syria has been redesignated for TPS, and the existing TPS designation for that country has been extended through September 30, 2016.

9. State Dept. Revises Reciprocity Schedules for Several Countries P In recent months, the Department of State has revised visa reciprocity schedules for Armenia, Brazil, Albania, and China, among others.

10. State Dept.'s NVC Is Now Handling All Domestic isa Inquiries P The National Visa Center (NVC) has begun handling all domestic email and telephone inquiries from the public on nonimmigrant and immigrant visa cases.

11. ABIL Global: Mexico P The new "Temporary Migration Regularization Program" took effect January 13.

12. Firm In The News...
Details:

1. DHS Considers 'Known Employer' Program To Aid Business Travel
The Department of Homeland Security (DHS) is considering a "Known Employer" pilot program to streamline adjudication of certain types of employment-based immigration benefit requests filed by eligible U.S. employers.
DHS expects to launch the pilot by late 2015 to test the program, which is designed to make adjudications more efficient and less costly, and reduce paperwork and delays for both the department and U.S. employers who seek to employ foreign workers.
U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, and U.S. Immigration and Customs Enforcement will jointly implement the pilot program. A goal is to expedite or otherwise facilitate legitimate cross-border business travel along the northern border ports of entry. "Doing so is a binational commitment under the North American Free Trade Agreement as well as the U.S.-Canada Beyond the Border initiative," DHS explained.
In particular, the U.S. and Canadian governments intend to "explore the feasibility of incorporating a trusted employer concept in the processing of

business travelers between Canada and the United States."
Additional information about the Known Employer program will be provided in the coming months. For background and updates, see http://www.dhs.gov/beyond-border. DHS seeks input on the Beyond the Border initiative, which can be emailed to beyondtheborder@hq.dhs.gov or mailed to Beyond the Border Coordinator, U.S. Department of Homeland Security, Mailstop 0455, Washington, DC 20016.
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2. HHS Updates Poverty Guidelines

The Department of Health and Human Services (HHS) has updated the poverty guidelines effective January 22, 2015. Among other things, the poverty guidelines are used in determining minimum income requirements for Form I-864, Affidavit of Support, and Form I-912, Fee Waiver Request.
The latest guidelines were published in the Federal Register at http://www.gpo.gov/fdsys/pkg/FR-2015-01-22/pdf/2015-01120.pdf.
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3. USCIS Issues Reminder for Requesting DACA

U.S. Citizenship and Immigration Services (USCIS) issued the following reminder on January 20, 2015:
If you request either initial or renewal Deferred Action for Childhood Arrivals (DACA), you must submit Form I-765, Application for Employment Authorization and required fees. USCIS will reject your request if you fail to submit Form I-765, the required filing fee, Form I-765 Worksheet, and Form I-821D, Consideration of Deferred Action for Childhood Arrivals. For complete instructions on requesting DACA, go to the Consideration of Deferred Action for Childhood Arrivals (DACA) page .
For DACA renewals, USCIS strongly encourages you to submit your renewal request between 150 days and 120 days before the expiration date located on your current Form I-797 DACA approval notice and Employment Authorization Document. Filing during this window will minimize the possibility that your current period of DACA will expire before you receive a decision on your renewal request.
USCIS' current goal is to process DACA renewal requests within 120 days. However, you may submit an inquiry about the status of your renewal request after it has been pending more than 105 days. To submit an inquiry, please visit

egov.uscis.gov/e-request or call the National Customer Service Center at 1-800-375-5283 (TDD for the hearing impaired: 1-800-767-1833).
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4. State Dept. Anticipates Visa Number Movement in Some Employment-Based Categories

The Department of State's Visa Bulletin for February 2015 notes that movement is possible in some employment-based categories in the coming months.
In the employment-based "Worldwide" third preference category, the Visa Office expects rapid forward movement "for at least another month or two." The bulletin notes that rapid movement in recent months is expected to generate a significant amount of demand for numbers. "Once such demand materializes at the anticipated rate, it will have a direct impact on this cut-off date," which stands in February at January 1, 2014.
Similarly, the Visa Office expects rapid forward movement in the employment-based third preference category for China. "Such movement is likely to result in a dramatic increase in demand which could require 'corrective' action within the next six months," the bulletin notes. India may move by up to two weeks.
On the other hand, Mexico and the Philippines will remain at the Worldwide date, although increased demand in the latter could require "corrective" action at some point later in the fiscal year, the bulletin states.
The bulletin notes that the determination of the monthly cut-off dates is subject to monthly fluctuations in applicant demand and a number of other variables, so trends and estimates are not guaranteed.
The Visa Bulletin for February 2015 is available at http://travel.state.gov/content/visas/english/law-and-policy/bulletin/2015/visa-bulletin-for-february-2015.html.

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5. USCIS Revises Petition for a Nonimmigrant Worker

U.S. Citizenship and Immigration Services (USCIS) has revised Form I-129, Petition for a Nonimmigrant Worker. The revised Form I-129 is labeled with an October 23, 2014, edition date. It expires on October 31, 2016.
Starting on May 1, 2015, USCIS will accept only the October 23, 2014, edition of

the I-129. USCIS will not accept previous editions of the I-129 on or after May 1, 2015.
Among other things, the revised form includes a question on the H classification supplement that asks, "Does any beneficiary in this petition have ownership interest in the petitioning organization?"
Details and a link to the form are available at http://www.uscis.gov/i-129.
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6. Agencies Launch Awareness Campaign on Executive Actions for Mexicans and Central Americans

The Departments of State and Homeland Security have launched the "Executive Action on Immigration: Know the Facts" awareness campaign, a national and international outreach effort detailing the eligibility requirements for requesting deferred action under President Obama's announcement in November 2014. The campaign, aimed at the Mexican and Central American public, explains how Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) will be implemented and who is eligible, "in an effort to dispel potential misinformation."
The campaign, in collaboration with U.S. Customs and Border Protection (CBP) and U.S. Citizenship and Immigration Services (USCIS), is intended to:

- inform undocumented immigrants in the United States and the Mexican and Central American public about DAPA and to whom it applies;
- dissuade family members living in the United States from supporting the unauthorized migration of family members, including by emphasizing that persons currently in the United States who help undocumented family members enter the country will be barred from DAPA; and
- dissuade members of the Mexican and Central American public from migrating to the United States without authorization in the hope of taking advantage of executive actions that do not apply to them, including by reminding them that migrants apprehended at the border or ports of entry while attempting to unlawfully enter the United States fall into the United States' "highest enforcement and removal priority."

The campaign includes:

- running radio and TV public service announcements in El Salvador,

Guatemala, Honduras, Mexico, and U.S. metropolitan areas with high concentrations of Mexicans and Central Americans, such as Houston, Los Angeles, the District of Columbia, New York, and Miami;
- placing print products in English and Spanish language outlets in those countries;
- engaging English and Spanish-language media in the United States, Mexico, and Central America;
- providing more information on executive action eligibility on CBP's and USCIS' websites; and
- updating CBP's Information Call Center help lines with the latest information in Spanish and English.

The announcement is available at http://www.dhs.gov/news/2015/01/05/departments-state-homeland-security-launch-executive-action-immigration-know-facts. Campaign materials and additional information can be viewed and downloaded at http://apps.cbp.gov/ea/. A social media campaign is also being planned.
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7. DHS Extends TPS for Salvadorans

Jeh Johnson, Secretary of Homeland Security, has extended temporary protected status (TPS) for eligible nationals of El Salvador for an additional 18 months, effective March 10, 2015, through September 9, 2016.
Current TPS El Salvador beneficiaries seeking to extend their TPS must re-register during the 60-day re-registration period that began on January 7, 2015, and runs through March 9, 2015. U.S. Citizenship and Immigration Services (USCIS) encourages beneficiaries to re-register as soon as possible.
The 18-month extension also allows TPS re-registrants to apply for a new employment authorization document (EAD). Eligible TPS El Salvador beneficiaries who re-register during the 60-day period and request a new EAD will receive one with an expiration date of September 9, 2016. USCIS recognizes that some re-registrants may not receive their new EADs until after their current ones expire. Therefore, USCIS is automatically extending current TPS El Salvador EADs that have a March 9, 2015, expiration date for an additional six months. These existing EADs will now be valid through September 9, 2015.
To re-register, current TPS beneficiaries must submit:

- Form I-821, Application for Temporary Protected Status (re-registrants do not need to pay the Form I-821 application fee).
- The biometrics services fee (or a fee waiver request) if they are 14 years old or older.
- Form I-765, Application for Employment Authorization, regardless of whether they want a new EAD.
- The Form I-765 application fee or a fee waiver request, but only if they want an EAD. If the re-registrant does not want an EAD, no application fee is required.

Applicants may ask USCIS to waive the I-765 application fee or biometrics fee based on an inability to pay. To do so, applicants must file Form I-912, Request for Fee Waiver, or submit a written request. Fee waiver requests must be accompanied by supporting documentation. USCIS will reject the TPS application of any applicant who fails to submit the required filing fees or a properly documented fee waiver request.
Additional information about TPS for El SalvadorCincluding guidance on eligibility, the application process, and where to fileCis available online at http://www.uscis.gov/tps. Further details about the extension of TPS for El Salvador, including application requirements and procedures, were published in the Federal Register on January 7, 2015, at http://www.gpo.gov/fdsys/pkg/FR-2015-01-07/html/2015-00031.htm.
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8. DHS Extends, Redesignates TPS for Syrians

Jeh Johnson, Secretary of Homeland Security, has redesignated Syria for temporary protected status (TPS) and extended the existing TPS designation for that country from April 1, 2015, through September 30, 2016.
Current TPS beneficiaries from Syria must re-register during a 60-day re-registration period that began on January 5, 2015, and runs through March 6, 2015. Syrian nationals and person without nationality who last habitually resided in Syria, who don't have TPS and who have continuously resided in the United States since January 5, 2015, and who have been continuously physically present in the United States since April 1, 2015, may apply for TPS during a 180-day initial registration period that began on January 5, 2015, and runs through July 6, 2015.
U.S. Citizenship and Immigration Services (USCIS) encourages beneficiaries to

re-register as soon as possible. The 18-month extension allows TPS re-registrants to apply for a new employment authorization document (EAD). Eligible Syria TPS beneficiaries who re-register during the 60-day period and request a new EAD will receive one with an expiration date of September 30, 2016. USCIS recognizes that some re-registrants may not receive their new EADs until after their current EADs expire. Therefore, USCIS is automatically extending current TPS Syria EADs with a March 31, 2015, expiration date for an additional six months. These existing EADs are now valid through September 30, 2015.
To re-register, individuals must submit:

- Form I-821, Application for Temporary Protected Status (re-registrants do not need to pay the Form I-821 application fee).
- The biometric services fee (or a fee-waiver request) if they are 14 years old or older.
- Form I-765, Application for Employment Authorization, regardless of whether they want a new EAD.
- The Form I-765 application fee or a fee waiver request, but only if they want an EAD. If the re-registrant does not want an EAD, no application fee is required.

Eligible Syrian nationals (and persons having no nationality who last habitually resided in Syria) who do not currently have TPS may apply for TPS if they meet the continuous physical presence requirements noted above. In addition, applicants must meet all other TPS eligibility and filing requirements.
To apply for the first time, individuals must submit:

- Form I-821, Application for Temporary Protected Status.
- The Form I-821 application fee.
- Form I-765, Application for Employment Authorization, regardless of whetherthey want a new EAD.
- The Form I-765 application fee, but only if they want an EAD and are 14 to 65 years old (those who are under age 14 or are age 66 or older do not need to pay the I-765 fee with their initial TPS applications).
- The biometric services fee if they are age 14 or older.

Those who still have a pending initial Syria TPS application do not need to submit a new I-821. However, if such individuals currently have a TPS-related EAD and want a new EAD, they must submit the I-765 with application fee,

regardless of their age, and a copy of the receipt notice for the initial I-821 that is still pending.

DHS anticipates that approximately 5,000 individuals will be eligible to re-register for TPS under the existing designation of Syria and that approximately 5,000 additional individuals may be eligible for TPS under the redesignation.

Applicants may ask USCIS to waive any fees based on inability to pay by filing Form I-912, Request for Fee Waiver, or by submitting a written request. Fee waiver requests must be accompanied by supporting documentation. USCIS will reject the TPS application of any applicant who fails to submit the required filing fees or a properly documented fee waiver request.

For more information, see http://www.uscis.gov/humanitarian/temporary-protected-status-deferred-enforced-departure/tps-designated-country-syria/temporary-protected-status-designated-country-syria. The related Federal Register notice is available at http://www.gpo.gov/fdsys/pkg/FR-2015-01-05/pdf/2014-30871.pdf.

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9. State Dept. Revises Reciprocity Schedules for Several Countries

In recent months, the Department of State has revised visa reciprocity schedules for Armenia, Brazil, Albania, and China, among others.

For temporary visitors (nonimmigrants) to the United States, reciprocity tables show applicable visa issuance fees by country and by visa classification type, and the maximum period of visa validity and number of applications, or entries, that may be authorized.

The latest updates are available at http://travel.state.gov/content/visas/english/law-and-policy/visa-policy-update.html. Reciprocity tables by country are available at http://travel.state.gov/content/visas/english/fees/reciprocity-by-country.html. Additional updates are available at http://travel.state.gov/content/visas/english/fees/reciprocity-whats-new.html.

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10. State Dept.'s NVC Is Now Handling All Domestic Visa Inquiries

The Department of State's Visa Office has established one point of contact for all domestic inquiries regarding nonimmigrant and immigrant visa cases. The

National Visa Center (NVC) has begun handling all domestic email and telephone inquiries from the public on nonimmigrant and immigrant visa cases as of January 12, 2015.
The notice is available at http://travel.state.gov/content/visas/english/contact.html.
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11. ABIL Global: Mexico

The new *"Temporary Migration Regularization Program*" took effect January 13.
On January 12, 2015, the Mexican government published an announcement in the Federal Official Gazette about the "Temporary Migration Regularization Program," which became effective the day after and will expire on December 18, 2015.
The program incorporates requirements and procedures temporarily applicable to foreigners who entered Mexico legally before November 9, 2012, and who, as of January 13, 2015, have been living in Mexico under an irregular migration status
.
The program establishes that if the migration authority resolves the migration filing as approved (taking into account that the interested individual filed a migration regularization application), the authority will grant temporary resident status for four years with the possibility of requesting a work permit with authorization to perform remunerated activities in Mexico.
This program is aligned with various strategies of the Mexican government that promote specific actions to guarantee protection of the human rights of immigrants under unfavorable conditions, such as irregular status, which often represents a risk to their security, access to health services, and development in society.
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12. Firm In The News

Cyrus Mehta was a speaker at the Ethics 101 CLE, organized by the AILA-NY Chapter on January 21, 2015 where he spoke on Ethics and President ObamaXs Immigration Accountability Executive Action.
Cyrus Mehta was interviewed on BBC World News regarding President Obama's executive immigration actions on January 30,

2015, https://www.youtube.com/watch?v=yD0spRisCl8&feature=youtu.be
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