



IMMIGRATION UPDATE - JUNE 07, 2021

Posted on June 7, 2021 by Cyrus Mehta

Headlines:

[Cap Reached for Additional Returning Worker H-2B Visas for FY 2021](#) – Under the recently announced H-2B supplemental cap temporary final rule, USCIS has received enough petitions to reach the cap for the additional 16,000 H-2B visas made available for returning workers only. USCIS continues to accept petitions for H-2B nonimmigrant workers for the additional 6,000 visas allotted for nationals of Honduras, Guatemala, and El Salvador.

[State Dept. Expands National Interest Exception Criteria for Travelers from Covid-Restricted Countries](#) – The Department expanded the NIE criteria for individuals subject to proclamations restricting travel to the United States due to physical presence in China, Iran, India, Brazil, South Africa, the Schengen Area, the United Kingdom, and Ireland.

[DHS Terminates Migration Protection Protocols Program](#) – Alejandro Mayorkas, DHS Secretary, announced on June 1, 2021, that he has terminated the Migration Protection Protocols (MPP) program.

[ABIL Global: India](#) – The Indian government has simplified the rules for renewal of Overseas Citizenship of India (OCI) cards.

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Cap Reached for Additional Returning Worker H-2B Visas for FY 2021

Under the recently announced H-2B supplemental cap temporary final rule, U.S. Citizenship and Immigration Services (USCIS) announced on June 3, 2021, that it has received enough petitions to reach the cap for the additional 16,000 H-2B visas made available for returning workers only. USCIS continues to

accept petitions for H-2B nonimmigrant workers for the additional 6,000 visas allotted for nationals of Honduras, Guatemala, and El Salvador (collectively called the Northern Triangle).

USCIS said it is rejecting and returning any cap-subject petitions for H-2B returning workers (not including those filed under the Northern Triangle allotment) received after June 1, 2021, together with any accompanying filing fees.

Petitioners whose workers were not selected for the 16,000 returning worker allotment are encouraged to refile for workers from the Northern Triangle countries while visas for that allotment remain available. The final date for filing petitions requesting Northern Triangle nationals who are exempt from the returning worker requirement is July 8, 2021. If fewer than 6,000 beneficiaries are requested toward the visas set aside for nationals of the Northern Triangle countries, USCIS will announce by July 23, 2021, that the remaining visa numbers will be made available to beneficiaries regardless of nationality, subject to the returning worker limitation.

USCIS said it will continue to accept H-2B petitions for workers filing under the Northern Triangle allotment, as well as those that are exempt from the congressionally mandated cap. This includes petitions for:

- Current H-2B workers in the United States petitioning to extend their stay and, if applicable, change the terms of their employment or change their employers;
- Fish roe processors, fish roe technicians, and/or supervisors of fish roe processing; and
- Workers performing labor or services in the Commonwealth of the Northern Mariana Islands and/or Guam from November 28, 2009, until December 31, 2029.

Details:

- USCIS announcement, <https://www.uscis.gov/news/alerts/cap-reached-for-additional-returning-worker-h-2b-visas-for-fy-2021>
- "Temporary Increase in H-2B Nonimmigrant Visas for FY 2021" page, USCIS, <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h->

[2b-non-agricultural-workers/temporary-increase-in-h-2b-nonimmigrant-visas-for-fy-2021](#)

- Joint temporary final rule, <https://www.govinfo.gov/content/pkg/FR-2021-05-25/pdf/2021-11048.pdf>

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State Dept. Expands National Interest Exception Criteria for Travelers from Covid-Restricted Countries

On May 27, 2021, the Department of State expanded the National Interest Exception (NIE) criteria for individuals subject to proclamations restricting travel to the United States due to physical presence in China, Iran, India, Brazil, South Africa, the Schengen Area, the United Kingdom, and Ireland.

Categories of qualified travelers who can now apply and qualify for NIEs include those "who are seeking to provide vital support or executive direction for critical infrastructure; those traveling to provide vital support or executive direction for significant economic activity in the United States; journalists; students and certain academics covered by exchange visitor programs; immigrants; and fiancés."

Qualified travelers who are applying for or have valid visas or Electronic System for Travel Authorization (ESTA) may travel to the United States following the procedures summarized in the notice, which also provides information for F-1 or M-1 students and on NIEs for qualified travelers seeking to enter the United States for purposes related to humanitarian travel, public health response, and national security.

Travelers requiring a visa stamp and/or NIE should review the website of the nearest U.S. embassy or consulate for further instructions specific to the post.

Details:

- State Dept. notice, <https://bit.ly/3x0xRgd>

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DHS Terminates Migration Protection Protocols Program

Alejandro Mayorkas, Secretary of the Department of Homeland Security (DHS), announced on June 1, 2021, that he has terminated the Migration Protection

Protocols (MPP) program. The Trump administration implemented the program in January 2019 with a memorandum from then-DHS Secretary Kirstjen Nielsen.

Under the program, approximately 68,000 individuals were returned to Mexico following their enrollment. According to a new memorandum, Secretary Mayorkas determined that "MPP does not adequately or sustainably enhance border management in such a way as to justify the program's extensive operational burdens and other shortfalls." Under MPP, certain non-Mexican applicants for admission to the United States who arrived on land at the southwest border could be returned to Mexico to await their removal proceedings. Due to public health measures necessitated by the ongoing COVID-19 pandemic, however, DHS and the Executive Office for Immigration Review (EOIR) "stopped being able to facilitate and conduct immigration court hearings for individuals enrolled in MPP beginning in March 2020," the memo notes. DHS "has worked with interagency partners and facilitating organizations to implement a phased process for the safe and orderly entry into the United States of certain individuals who had been enrolled in MPP" following DHS's suspension of new enrollments as of January 21, 2021.

The memo states that termination of MPP "does not impact the status of individuals who were enrolled in MPP at any stage of their proceedings before EOIR or the phased entry process" described in the memo.

Details:

- DHS memorandum, June 1, 2021, https://www.dhs.gov/sites/default/files/publications/21_0601_termination_of_mpp_program.pdf

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ABIL Global: India

The Indian government has simplified the rules for renewal of OCI cards.

The Overseas Citizenship of India (OCI) card is popular among foreign nationals who are of Indian origin and spouses of foreign origin of Indian citizens. The card provides for hassle-free entry and unlimited stay in India.

According to news reports, the Ministry of Home Affairs has simplified the rules regarding renewals. OCI cardholders are no longer required to have their OCI

cards reissued each time they obtain a new passport.

Previously, it was mandatory for OCI cards to be re-issued each time a cardholder 20 years of age or younger obtained a new passport, and also at least once after the cardholder obtained a passport after the age of 50. Although the Indian government never enforced this rule consistently and permitted entry to OCIs even if they had not renewed the card, many OCIs frequently faced issues at foreign airports before traveling to India if they had not renewed the OCI card after being issued a new passport. Different airlines interpreted these rules inconsistently.

The new guidance is summarized as follows:

- **Card issued before holder turned 20.** Those with OCI cards issued before the cardholder turned 20 years old only need to obtain a reissued OCI card once when they obtain a new passport after reaching 20 years of age.
- **Card issued after holder turned 20.** OCI cardholders who obtained their OCI card after they turned 20 years of age no longer need to obtain a re-issued OCI card and can continue to use their existing card.
- **New passport obtained after holder turns 50.** OCI cardholders who obtain new passports after the age of 50 are no longer required to have their OCI card reissued.
- **New government notification requirements.**
 - OCI cardholders 20 years of age or younger must upload copies of their new passports with recent passport-size photographs to the OCI online portal each time a new passport is issued, and once after reaching 50 years of age.
 - OCI cardholders married to Indian citizens or other OCI cardholders who obtain a new passport must upload a copy of their passport with a recent photograph and a declaration that they are still married.
 - Updated documents and photographs may be uploaded by OCI cardholders within three months of receipt of the new passport.
- **Travel restrictions.** There are no travel restrictions from the date the new passport is issued until new details are recorded on the OCI portal.

The Indian government has yet to post instructions on updating documents and photographs under the relaxed guidance.

Details:

- "Government Simplifies Renewal of OCI Cards," NDTV, Apr. 16, 2021,
<https://bit.ly/3wJFw2q>

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