



IMMIGRATION UPDATE - FEBRUARY 03, 2026

Posted on February 3, 2026 by Cyrus Mehta

Headlines:

[FY 2027 H-1B Cap Initial Registration Period Opens March 4](#) – The initial registration period for the Fiscal Year 2027 H-1B cap will open at noon ET on March 4 and run through noon ET on March 19, 2026.

[DOL-DHS Temporary Rule Will Increase H-2B Visa Limit in FY 2026](#) – The Departments of Labor and Homeland Security plan to issue up to an additional 64,716 H-2B visas for this fiscal year.

[Ninth Circuit Rules That Secretary Noem Exceeded Her Authority With Respect to Venezuelan and Haitian TPS](#) – The U.S. Court of Appeals for the Ninth Circuit ruled that Homeland Security Secretary Kristi Noem exceeded her statutory authority in her vacatur and termination of Venezuela's Temporary Protected Status (TPS) designation and her partial vacatur of Haiti's TPS designation. The Ninth Circuit affirmed the district court's setting aside of the Venezuelan vacatur and termination, and the Haitian partial vacatur.

[Trump Administration Launches 'Gold Card' Site](#) – The site includes application information and questions and answers about the Trump Gold Card.

Details:

FY 2027 H-1B Cap Initial Registration Period Opens March 4

On January 30, 2026, U.S. Citizenship and Immigration Services (USCIS) [announced](#) that the initial registration period for the Fiscal Year (FY) 2027 H-1B cap will open at noon ET on March 4 and run through noon ET on March 19, 2026.

During that period, prospective H-1B cap-subject petitioners and

representatives must use a [USCIS online account](#) to register each beneficiary for the selection process and pay the associated \$215 H-1B registration fee. H-1B petitioning employers who do not have a USCIS online account must [create an organizational account](#). Representatives may add company clients to their accounts at any time, but both representatives and employers must wait until March 4 to enter beneficiary information and submit registrations and the \$215 fee.

Selections will take place after the initial registration period closes. USCIS said it will send selection notifications by March 31, 2026, via users' USCIS online accounts, to prospective petitioners and representatives who have at least one registration selected.

New for the FY 2027 Cap Season

The new H-1B selection process prioritizes allocating visas to higher-skilled and higher-paid workers. For the FY 2027 H-1B cap season, USCIS will conduct a weighted selection if it receives registrations for unique beneficiaries during the initial registration period that exceed the cap. If USCIS does not receive registrations for enough unique beneficiaries, it will select all registrations for unique beneficiaries that were properly submitted in the initial registration period.

Pursuant to the Presidential Proclamation, [Restriction on Entry of Certain Nonimmigrant Workers](#), a petitioner whose registration is selected and who is otherwise eligible to file an H-1B cap-subject petition "may need to pay an additional \$100,000 fee before filing the H-1B petition as a condition of eligibility," USCIS noted.

Additional information on the electronic registration process is available on the [H-1B Electronic Registration Process](#) page. USCIS said it will update the page before the initial registration period.

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DOL-DHS Temporary Rule Will Increase H-2B Visa Limit in FY 2026

The Departments of Labor (DOL) and Homeland Security (DHS) plan to publish a temporary rule on February 3, 2026, to exercise their time-limited Fiscal Year (FY) 2026 authority to issue up to an additional 64,716 H-2B visas for this fiscal year. The supplemental visas will be available only to U.S. businesses "that are

suffering or will suffer impending irreparable harm, i.e., those facing permanent and severe financial loss, as attested by the employer," an [advance copy of the rule](#) states. The supplemental visas "will be distributed in three allocations based on the petitioner's start date of need through the end of the fiscal year":

- 18,490 immediately available visas limited to returning workers, that is, those who were issued an H-2B visa or otherwise granted H-2B status in FYs 2023, 2024, or 2025, and who will be available for eligible employers with a need for workers to begin work between January 1, 2026, through March 31, 2026. Employers must file these petitions no later than 14 days after the second half of the statutory cap is reached;
- 27,736 visas, plus any unused visas from the first allocation, limited to returning workers, that is, those who were issued an H-2B visa or otherwise granted H-2B status in FYs 2023, 2024, or 2025, and who will be available for eligible employers with a need for workers to begin work between April 1, 2026, and April 30, 2026. Employers must file these petitions no earlier than 15 days after the second half of the statutory cap is reached; and
- 18,490 visas, plus any unused visas from the first or second allocations, for those who will be available for eligible employers with a need for workers to begin work between May 1, 2026, and September 30, 2026. These petitions are exempt from the returning worker requirement. Employers must file these petitions no earlier than 45 days after the second half of the statutory cap is reached.

DHS said that it will not accept any H-2B petitions under provisions related to the FY 2026 supplemental numerical allocations after September 15, 2026, and will not approve any such H-2B petitions after September 30, 2026. The rule is effective from January 30, 2026, through September 30, 2026, except for the requirements at 20 CFR 655.69, which are effective from January 30, 2026, through September 30, 2029. Under the document retention requirements at 20 CFR 655.69, petitioners must retain documents and records demonstrating compliance with this rule for three years from the date of the attestation, and must provide the documents and records at the request of DHS or DOL.

Comments on the temporary rule will be accepted for 60 days from publication and can be submitted via the method noted in the rule.

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Ninth Circuit Rules That Secretary Noem Exceeded Her Authority With Respect to Venezuelan and Haitian TPS

On January 28, 2026, the U.S. Court of Appeals for the Ninth Circuit [ruled](#) that Homeland Security Secretary Kristi Noem exceeded her statutory authority in her vacatur and termination of Venezuela's Temporary Protected Status (TPS) designation and her partial vacatur of Haiti's TPS designation. The Ninth Circuit affirmed the district court's setting aside of the Venezuelan vacatur and termination, and the Haitian partial vacatur.

The Ninth Circuit noted that Secretary Noem vacated the prior administration's extension of TPS for Venezuela through October 2, 2026, and terminated Venezuela's TPS effective April 3, 2025. Secretary Noem also partially vacated the prior administration's extension of Haiti's TPS such that the designation would expire in August 2025 instead of February 2026. Among other things, the court noted that the plain text of the TPS statute provides that a TPS termination cannot be effective earlier than the expiration of the most recent previous extension.

The court said that Secretary Noem's actions "have left hundreds of thousands of people in a constant state of fear that they will be deported, detained, separated from their families, and returned to a country in which they were subjected to violence or any other number of harms. The Secretary's actions fundamentally contradict Congress's statutory design, and her assertion of a raw, unchecked power to vacate a country's TPS is irreconcilable with the plain language of the statute."

In a concurrence, Judge Salvador Mendoza, Jr., remarked on Secretary Noem's "rushed and abnormal process" in vacating Venezuelan and Haitian TPS, leading to a "preordained outcome," and underscored "why we must not permit government agencies to justify their actions with pretext, especially when that pretext is cloaking animus on the basis of race or national origin." He said that "Secretary Noem's vacatur actions would fail on the independent ground that they were arbitrary and capricious in contravention of the , as even a cursory review of the record indicates that her decisions were both preordained and rooted in pretext." Noting that public statements by President Trump and Secretary Noem were founded on "racist stereotyping based on

country of origin," he said, "This case presents one of the rare situations where the strong showing of bad faith needed to look beyond the administrative record is easily met."

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Trump Administration Launches 'Gold Card' Site

The Trump administration has launched its "Trump Gold Card" [website](#). The site includes application information and questions and answers about the Trump Gold Card. It explains that for a \$15,000 "processing fee" and, after background approval, a contribution of \$1 million, an individual can "receive U.S. residency in record time." The site includes information for individuals and businesses.

The site also includes information on the "Trump Platinum Card," which it says is coming soon. The site says that foreign nationals can sign up now to secure their places on the waiting list. When launched, and upon receipt of a \$15,000 "processing fee" and a \$5 million contribution, "they will have the ability to spend up to 270 days in the United States without being subject to U.S. taxes on non-U.S. income."

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