

DHS Announces Changes to H-1B CAP Program Including New Lottery Methodology

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On January 30, 2019, the Department of Homeland Security (DHS) announced a final rule amending the way the U.S. Citizenship and Immigration Services (USCIS) conducts the annual H-1B cap lottery.

This rule reverses the order by which USCIS selects H-1B cap petitions. Effective April 1, 2019, USCIS will now count all H-1B applicants, including those that may be eligible for the advanced degree exemption, towards the 65,000 H-1B cap first. Once that number is reached, USCIS will then select applicants towards the 20,000 advanced degree exemption.

According to USCIS, this change will lead to a 16% increase in the number of cases selected for individuals with a U.S. Master's Degree or higher. The USCIS is proposing a new electronic registration system for H-1B cap cases, as well; however, this electronic registration requirement is suspended for the upcoming H-1B cap season. According to USCIS, once implemented, the electronic registration requirement will require companies seeking to file H-1B cap petitions to electronically register with USCIS first during a designated registration period.

Only those companies whose electronic registrations are selected will be able to file an H-1B cap petition. USCIS expects that the implementation of the electronic registration requirement "will reduce overall costs for petitioners and create a more efficient and cost-effective H-1B cap petition process for USCIS and petitioners."

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