

## Dept. of Homeland Security Issues Final Rule Governing Cap-Subject H-1B Petitions

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Employers need to know about two major changes the Department of Homeland Security made official when it amended regulations governing petitions filed under the H-1B visa lottery last week.

The first piece of new regulation reverses the order by which the U.S. Citizenship and Immigration Services (USCIS) will select petitions submitted on behalf of all beneficiaries under the H-1B cap lottery. An H-1B is a work visa for highly-specialized jobs that require at least a bachelor's degree in a specific field of study, and the recent update also includes those eligible for the advanced degree exemption (U.S. masters degrees or above).

Beginning April 1, the office first will count ALL applicants (bachelor and U.S. advanced degrees) towards the regular cap lottery for 65,000 H-1B visas. After these are selected, the office will select applicants towards the U.S. advanced degree exemption for the additional 20,000 H-1B visas. It is anticipated this change will result in an increase of up to 16 percent or 5,340 workers in the number of selected petitions for H-1B beneficiaries with a master's degree or higher from a U.S. institution of higher education.

The final rule also adds an electronic registration requirement for employers seeking to file H-1B cap-subject petitions, though it won't take effect until 2020 to allow USCIS sufficient time to engage in stakeholder outreach and provide training to the public on the registration system in advance of its implementation. Once implemented, employers will be required to pre-register for an H-1B cap-subject number. USCIS will then select the full 85,000 H-1B cap-subject numbers from the pre-registrations and only those employers will be able to submit a petition on April 1, 2020.

Employers wishing to file H-1B cap-subject petitions for the April 1 filing season should begin preparing now. If you have any questions about the new regulations, please [contact me](#) or any member of the [Barley Snyder Immigration Practice Group](#).

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