



Beach-Oswald Immigration Law Associates Newsletter

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Beach-Oswald is a full-service law firm, concentrating on immigration law. We have special expertise in work visas, family based visas, visa waivers, green cards through family and employment and asylum. We have staff members who speak many different languages to assist you.

We succeed when others don't!

USCIS Planning to Increase Duration of TN Visas

USCIS has announced its plans to enact a new rule that would increase the maximum amount of time that a professional worker from Canada or Mexico on a Trade-NAFTA (TN) Visa can remain in the U.S. from one year to three years. TN visa holders are not subject to a maximum period of stay in the U.S., so the new rule proposal will simply allow workers to extend their TN visas in three year increments as opposed to one year increments.



Enhancements to the E-Verify Program



E-Verify is an online employment verification system that allows employers to instantly determine whether the workers they are about to hire are authorized



On April 11, 2008 Danielle Beach-Oswald appeared on an internationally broadcast TV program called "America Dream". The program consisted of a one hour long 3 person panel discussion, which included Mrs. Beach-Oswald, a member from the AILF and from Americans for Immigration Control.

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to work in the U.S. More than 64,000 employers currently participate in the program, and USCIS states that E-Verify receives approximately 1,000 new enrollments weekly.

Occasionally, the system will produce mismatched data, notifying an employer that a worker is not authorized to work in the U.S. when in fact he is. Although USCIS believes that this happens only to about 1% of eligible workers, they are determined to fix this glitch. Those most commonly affected by the mismatch problem are naturalized citizens who have not yet updated their records with the Social Security Administration (SSA). Therefore, to help eliminate this problem, the E-Verify system will now include naturalization data, which will instantly confirm the citizenship status of naturalized U.S. citizens. The system will also include real time arrival data from the Integrated Border Inspection System. To further eliminate the possibility of mismatches, E-Verify plans to check against Department of State passport records in the near future.

For more information on the E-Verify system, go to www.uscis.gov/e-verify.

Dept. of State Issues a Waiver for HIV Positive UN AIDS Meetings Attendants



It is U.S. policy not to grant visas to those who test positive for HIV. However, a special exception is being made to those wishing to attend the United Nations General Assembly High-Level Meeting on HIV/AIDS, which will take place June 9-11, 2008 in New York City. The U.S. Department of State announced that it has decided to grant a blanket waiver to meeting attendees who are otherwise eligible for a visa.

ICE Releases Report on Compliance with Detention Standards After Severe Criticism in Press



In response to some very critical articles by the Washington Post of treatment of detainees, the Office of Detention and Removal Operations (DRO) has been directed to make semi-annual reports regarding their adherence with ICE's National Detention Standards, and

on May 9, 2008 U.S. Customs & Enforcement (ICE) released the first such semiannual report. ICE uses the following detention facilities for those detained for immigration related reasons:

- Service processing centers (SPCs), which are owned and operated by ICE;
- Contract detention facilities (CDFs), which are owned and operated by private-sector businesses on behalf of ICE;
- Facilities operated by government entities under intergovernmental service agreements (IGSAs).

There are more than 350 local and state facilities under IGSAs, 7 CDFs, 8 SPCs, and facilities operated by the Federal Bureau of Prisons and Office of Refugee Resettlement. Each semiannual report will focus on half of the total number of facilities.

Each facility given one of the following ratings: At-Risk, Deficient, Acceptable, Good, or Superior.

The overall final ratings for the 176 facilities reviewed in the semiannual report released are as follows:

- SPCs: 100% (7 of 7) received a Final Rating of Acceptable or above.
- CDFs: 100% (4 of 4) received a Final Rating of Acceptable or above.
- IGSAs: 87% (144 of 165) received a Final Rating of Acceptable or above.

Those detention facilities that did not score well will receive a follow up inspection in 90 days. For more information, please visit www.ice.gov.

USCIS Makes favorable amendment to the Child Status Protection Act

The Child Status Protection Act (CSPA) determines who is a child for the purposes of immigration. If a U.S. citizen or permanent resident files an I-130 Petition for Alien Relative on behalf of his/her child before the child turns 21, the child will continue to be considered a child



for the purposes of immigration even if the child turns 21 while the petition is pending.

Previously, the CSPA only allowed beneficiaries of a visa petition that had been approved before August 6, 2002 (which is when the CSPA was enacted), to be covered by the CSPA if the beneficiary had filed a permanent residence application on or before August 6, 2002 and had not yet received a final decision on the permanent residence application prior to August 6, 2002. However, as explained on the USCIS website, the CSPA has now been expanded in the following way:

Under prior policy guidance, USCIS considered an alien beneficiary of a visa petition that was approved before August 6, 2002 to be covered by the CSPA only if the beneficiary had filed an application for permanent residence (either adjustment of status or an immigrant visa) on or before August 6, 2002, and no final determination had been made on that application prior to August 6, 2002. This new policy extends CSPA coverage to aliens who had an approved visa petition prior to the enactment of CSPA but who did not have a pending application for permanent residence on the date of enactment of the CSPA.

Aliens who were ineligible under the prior policy and who subsequent to the enactment of the CSPA never filed an application for permanent residence may file an application for permanent residence to take advantage of this new interpretation. Aliens who filed an application for permanent residence after the enactment of the CSPA and who were denied solely because they had aged out may file motions to reopen or reconsider without a filing fee.

USCIS's Guidance Fact Sheet, which may be accessed at www.uscis.gov, also provides the following clarifications:

- The new guidance does not include aliens who, prior to Aug. 6, 2002 (date CSPA was enacted), had a final decision on an application for

permanent residence based on the immigrant visa petition upon which the applicant claimed to be a child.

- If an alien filed an application for permanent residence after the enactment of the CSPA, and the application was denied, that denial must be 'solely based' on a finding that the applicant was not a child because the CSPA did not apply. An I-485 can be denied for various reasons; if your I-485 denial was based for a reason other than for CSPA, then this revised CSPA guidance does not apply to you.
- Finally, if you had an approved immigrant visa petition before August 6, 2002, and did not file an I-485 after the enactment of the CSPA, you could still benefit if (1) you are filing as an immediate relative or (2) your visa became available on or after Aug. 7, 2001, you did not apply for permanent residence within one year of petition approval and your visa becoming available.

The Border Fence and the Attempt to Save the Jaguar



A new player in the border fence debate appears to be "the JAGUAR" As recently reported by CNN, jaguars are a rare in the U.S., and experts estimate that there are no more than 120 left in the U.S. Jaguars cross the U.S./Mexico border regularly to breed in northern Mexico, but the border fence that is currently being built seriously threatens the livelihood of the jaguar.

According to CNN, the Department of Homeland Security recently waived 30 environmental laws in order to finish 470 miles of the fence by the end of the year. Those studying the problem have commented that the border fence has had many negative environmental repercussions in addition to the precarious fate of the jaguar. The problems are partially caused by drug

runners and human traffickers, who in an effort to avoid the fence, have been pushed up into the mountain areas. This human invasion seriously threatens the native animal populations.

To read more about the "immigration vs. the environment" dilemma, check out these interesting articles:

- [**CNN: "Border Fence Dispute Snares Rare Jaguars"**](#)
- [**The New York Times: "Gone for Decades, Jaguars Steal Back to the Southwest"**](#)
- [**The National Geographic: "U.S. Jaguar Plan Foiled by Border Fence, Critics Say"**](#)

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**Beach-Oswald Immigration Law Associates, PC | 888 17th Street, NW
Suite 310 | Washington | DC | 20006**