



May 30, 2007

Hello,

IMMIGRATION LAW UPDATE:

Immigration Reform Bill Introduced

On May 21, 2007, the United States Senate introduced a comprehensive immigration reform bill for debate. This is a very extensive immigration bill that would dramatically change the immigration system. This bill is currently in the early stages and is being debated in the Senate. For a detailed summary by the American Immigration Lawyers' Association, [please see this weblink](#). Due to the fact that this proposal will experience several amendments in the next few weeks and months (and it must be passed by the House and signed by the President before it becomes law), we are only providing a brief summary at this time. Among other provisions, this bill would:

1. Strengthen workplace enforcement to combat the employment of undocumented workers by tightening employment verification, improving systems to verify identity and work eligibility, and increasing penalties for non-compliance.
2. Extend foreign students' post-curricular Optional Practical Training (and F-1 status) to 24 months and create an F-4 visa for those studying math, engineering, technology, or physical science.
3. Raise the annual limit of H-1B visas to 115,000, with the possibility of 180,000. Employers would have to make good faith efforts to recruit US workers, and limits companies with more than 50 employees to no more than 50% of its workers on H-1Bs.
4. Eliminate current family preference categories and limit future family immigration only to spouses and minor children of citizens and permanent residents.
5. Eliminate employment-based immigration categories and put in place a merit-based point system, which awards points for the type of occupation, education, English/civics and family.

We urge you to [contact your congressperson to voice your opinion](#).

Fee Increase

On May 29, [USCIS announced significant fee increases](#) for most immigration applications. Applications submitted on or after July 30, 2007 must include these new fees.

Changes to PERM Labor Certification

On May 17, the [Department of Labor issued new regulations](#) concerning the PERM Labor Certification process (first stage of the employment-based green card process). Each of these changes is aimed to prevent fraud or misrepresentation in the labor certification process. These regulations make several important changes, and will be effective on July 16, 2007.

1. Under the new regulations, substitutions of foreign national beneficiaries on PERM or pre-PERM labor certifications is prohibited. This applies to all pending and approved labor certifications and PERM applications. The regulation clearly states that PERM and pre-PERM labor certifications are valid only for the foreign national named in the application.

2. The employer must file the I-140 (Petition for Alien Worker) within 180 days after approval of the PERM or pre-PERM labor certification.

3. The foreign national employee cannot pay any costs, in any form, related to a PERM application, including attorney fees, advertising costs, or any other costs. The Department of Labor has determined that all costs associated with the PERM case are the employer's, and accordingly cannot be paid for by the foreign national, even if he/she is willing to pay. The foreign national employee may pay for an attorney, who is not also the employer's immigration counsel, to represent only the employee in the process. However, the costs incurred by the employee cannot be for preparation, filing or obtaining the labor certification.

4. The new regulations describe the process of investigating a PERM application due to fraud, and contain increased penalties for employers found to have misrepresented, committed fraud, or have had a pattern of noncompliance with the PERM requirements. These penalties include suspension of an employer's ability to file PERM applications, prohibition from filing PERM applications, and/or criminal penalties.

For more information about the green card process, please visit the [Clark Hill website](#).

Premium Processing of I-140s Requesting Substitution of Beneficiary

In response to the above mentioned new Department of Labor regulations, [USCIS has announced](#) that beginning May 18, premium processing service for I-140 petitions requesting a substitution of the beneficiary will no longer be available. Under the new regulations, which go into effect on July 16, 2007, substitution of beneficiaries is no longer permitted. Therefore, USCIS expects an increase in volume of substitution I-140s between now and July 16, and will not have the capacity to provide premium processing service on these petitions.

H-1B Update

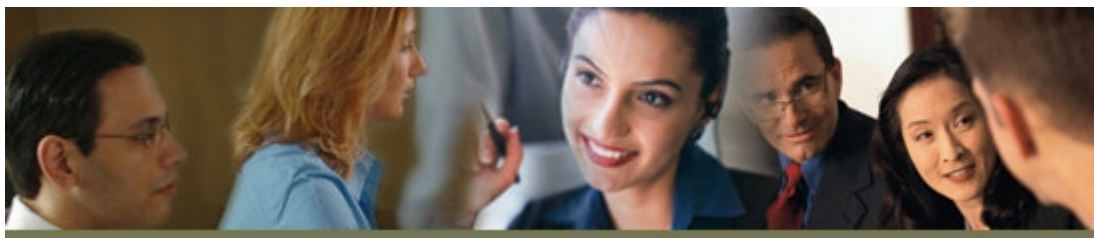
As explained in [our previous Immigration Update](#), on April 3, US Citizenship and Immigration Services (USCIS) announced that the H-1B cap for most applicants had been reached. Applications received on April 2 and 3 were subject to a random lottery to determine which applications would be accepted for processing. On May 2, USCIS indicated that all receipt notices for H-1B applications selected in the lottery were mailed by May 11.

Additionally, on May 4, [USCIS announced](#) that the H-1B cap for applicants who had earned a US Master degree was reached on April 30. Applications received on April 30 will subject to a computer generated random lottery to determine which were accepted for processing.

We remain hopeful that Congress will take action to increase the number of H-1B visas available. The unavailability of H-1B visas until 2008, coupled with a continually growing employment based green card backlog for permanent employees, puts American businesses at a severe disadvantage globally. If these professionals are not permitted to come to, or stay in, the US to share their expertise, they will go to other countries. We encourage you to [contact your Congressperson](#) to voice your concern.

US-VISIT

Effective May 6, international visitors are no longer required to check out at a US-VISIT exit kiosk when they leave the US. The US Department of Homeland Security has integrated the biometric exit procedures into the existing international visitor departure process, making US-VISIT checkout unnecessary. International visitors who received an I-94 card upon arrival must still return it to an airline or ship representative when departing the US. The US-VISIT program provides biometrics-based identity information to the US government. Most international visitors applying to enter the US are required to be photographed and fingerprinted, which are used to verify identity and assist officers in making visa issuance and admission decisions.



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