

IMMIGRATION NEWS

Time to Plan for those H Visas

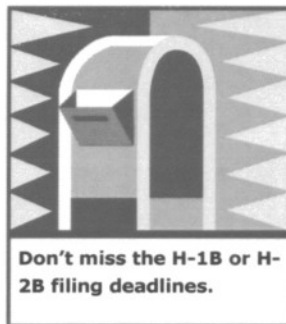
Employers who anticipate the need for either H-1B workers in fiscal year 2010 or H-2B workers for the last half of fiscal year 2009 need to begin the process now. Because both types of visas require multiple steps in order to have a complete petition for filing, it is important that adequate time be allowed prior to the filing deadlines. In addition, since the quotas for both types of visas are filled quickly, preplanning and preparation are critical to insure

that your petition meets all of the requirements and will not be rejected.

It is anticipated once again that the H-1B quota will be filled in the first five days of filing (April 1-5) and that a random lottery will again take place. Thus, employers need to evaluate their future needs and particularly consider current employees whose OPTs, J-1s or other visas may be expiring. These employees will need to change their status and may be a candidate for

an H-1B visa.

If you need to file an H-1B or H-2B this coming Spring, please contact



our office as soon as possible so that we can discuss with you the filing requirements and deadlines for the type of visa that your business needs.

Naturalization Processing Times

The United States Citizenship and Immigration Services ("USCIS") has been making a concerted effort to decrease the processing times for naturalization

applications. On November 6, 2008 USCIS issued the processing times at its district offices as of the end of fiscal year 2008.

The processing times for the offices used by our clients are: New Orleans: 14 months, Memphis: 13.5 months and Houston: 8.4 months.

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Our Firm Can Assist You With:

- Employment based immigrant and nonimmigrant petitions
- Family based immigrant petitions
- Naturalization Applications
- Follow up with USCIS on pending petitions
- I-9, LCA and PERM audits
- Employment authorization and advance parole extensions
- Immigration related training sessions for HR staff
- General immigration questions and document review

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PERM Application Facts for Fiscal Year 2008

The Employment and Training Administration of the U.S. Department of Labor issued a list of the top job titles for PERM applications (labor certification applications for employment based green cards). The top job titles included: Computer Software Engineers (8,861), Computer Systems Analysts (3,173), Computer and Information System Managers (648), Restaurant Cooks (1,120), Electronics Engineers (1,047), Market Research Analysts

(970), Computer Programmers (902), Financial Analysts (707), Mechanical Engineers (702), Chefs and Head Cooks (700), and Electrical Engineers (651).

Approximately 63% of the PERM cases that were certified in fiscal year 2008 represented foreign workers that were in the United States on H-1B visas. The top five states of intended employment for fiscal year 2008 PERM applications were: California (11,836), New York

(5,049), New Jersey (4,503), Texas (3,816) and Florida (2,709). Alien beneficiaries representing 179 countries were certified for PERMs.



Chefs are among the top 10 job titles for PERM applications

PERM Processing Facts for Fiscal Year 2008

The Employment and Training Administration of the U.S. Department of Labor issued processing statistics for PERM applications for fiscal year 2008. The total number of applications received was 90,039. Of those, 84,876 were filed electronically and 5,163 were filed via mail-in.

Implementation of the new ETA 9089 has been delayed until the Spring of 2009.

The DOL completed review of 61,997 of the applications and certi-

fied 49,205, denied 10,729 and 2,063 were withdrawn. Currently the DOL is reviewing PERMs filed in May, 2008 and audits from July, 2007.

The new ETA 9089 set to be implemented on January 1, 2009 has been delayed until the Spring of 2009.

Some Consulates Now Require DS-160

Some United States Consulates abroad are requiring the use of the DS-160 form in order to complete consular processing.

For Non-Immigrant Visas, the Consulates in Nuevo Laredo, Mexico, Monterrey, Mexico Montreal, Canada, and Vancouver, Canada

require the DS-160 online form. As of November 24, 2008, the U.S. Consulate in Hong Kong will require the use of the DS-160 form for petition based



Some Consulates in Canada and Mexico as well as Hong Kong now require the DS-160.

applicants (H, L, O, P, and Q visas).

Foreign nationals consular processing through these cities should make note of the new requirement.

USCIS Increases Period of Stay for TN Visas

The United States Citizenship and Immigration Services (“USCIS”) has increased the maximum period of time a NAFTA professional worker from Canada or Mexico (TN) may remain in the United States before seeking readmission or an extension of stay. This final rule changes the initial period of admission for TN workers from one to three years, making it equal to the initial period of admission given to H-1B professional workers. Eligible workers

will now be allowed to receive extensions of stay in increments of up to three years instead of the prior maximum period of stay of one year.

This final rule will ease administrative burdens and costs on TN workers. It will also benefit U.S. employers by increasing the amount of time TN nonimmigrants will be able to work for them before having to seek an extension of status.

Since the TN visa is frequently used when NAFTA eligible workers do not make the H-1B quota, this rule



TN Visas are now issued in 3 year increments.

makes the TN visa an even more attractive alternative.

Seven Countries Added to Visa Waiver Program

Seven new nations have been added to the list of those eligible to participate in the Visa Waiver Program with the United States. Citizens of these countries may now be admitted to travel to the United States for business or pleasure without a visa. This is part of a reciprocal program where citizens of the United States

Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovakia and South Korea have been added to the Visa Waiver Program.

may also travel to those countries without a visa.

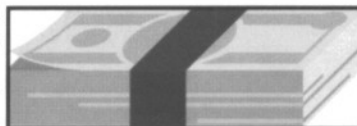
The seven countries are: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovakia and South Korea. These countries agree to provide information about threats to the United States and to restrict travel of their citizens on the program to those with tamper-proof biometric passports.

Harahan Company Sentenced for Employing Illegal Aliens

N&F Logistic, located in Harahan, Louisiana was sentenced to forfeit \$750,000 to Immigration and Customs Enforcement (“ICE”). This fine was levied when N&F Logistic pled guilty to a Bill of Information charging that the company employed ten or more illegal aliens in a

twelve month period.

This plea and sentence was the result of an ICE raid at the offices of N&F Logistic on May 16, 2008 where 38 people were arrested.



N&F Logistic of Harahan, Louisiana was fined \$750,000 for employing illegal aliens.

The raid and plea are part of an ongoing push by ICE in the southeast to crack down on companies employing illegal aliens.

See page 4 of this newsletter for a related article.

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Just a note....

The holidays are fast approaching and all of us at the firm want to wish you and your families a happy and healthy holiday season. As we get ready to end one year and begin another, we also want to take this opportunity to thank you for your patronage and your referrals. We appreciate your business and look forward to working with you in the coming year.

The new year will also bring a new Presidential administration and Congress. It is anticipated that there will be changes in the immigration laws in time and we will monitor any developments carefully and keep you informed of changes as they occur.

Patricia

Can Your Business Stand Up To An ICE Subpoena?

Most businesses believe that they adequately comply with United States immigration laws and properly complete I-9 documentation when they hire new employees. However businesses are often surprised after an I-9 audit by Immigration and Customs Enforcement ("ICE") to find that their I-9s contain substantial errors. Under current law, each error or discrepancy on each I-9 is subject to a fine. In addition, additional fines can be assessed for undocumented workers or workers for whom there is no I-9 on record. These fines can quickly grow into thousands of dollars.

Businesses often wait until they are served with the subpoena from ICE to contact immigration counsel to review I-9s or compliance procedures. However, at that point, remedial measures cannot be taken.

It is important for businesses to annually assess their I-9 compliance procedures and audit current I-9s for accuracy. We provide a number of services to assist you in this area including performing an I-9 audit, reviewing or preparing I-9 compliance procedures for your business and providing training sessions for your HR staff on I-9 and immigration procedures.

The Gulf Coast has been the subject of substantial ICE enforcement activities in the past and has received substantial funding to continue these activities in fiscal year 2009. Thus we can anticipate that there will be increased enforcement activity in the upcoming year in the states of Louisiana, Mississippi and Alabama.

Don't wait for ICE to knock on your door before you review your business's I-9 compliance. We would be happy to meet with you and help you assess your business's needs and recommend a course of action that best serves your situation.