

Immigration News and Updates

April 9, 2004

H-1B Cap

As we announced in our most recent immigration update, on February 18, 2004, the U.S. Citizenship and Immigration Services (CIS) began rejecting new H-1B petitions seeking an employment date before October 1, 2004. There is currently no indication that Congress will raise the 65,000 cap for H-1B visas. We would therefore encourage employers to plan accordingly, and file H-1B petitions for new employees as soon as possible. We encourage employers to file all first-time H-1B applications utilizing the Premium Processing service so as to ensure an approval with a start date of October 1, 2004. For specific filing strategies, please contact our office. Please be advised that on February 18, 2004, the State Department sent a cable to all U.S. Consulates abroad to advise that there is speculation that the suspension of H-1B visa issuance will lead to an increase in L-1 visa petitions and an abuse in this category.

Revised TN Visa Application Procedures for Mexicans

Upon the tenth anniversary of the North American Free Trade Agreement (NAFTA), the procedures required to obtain TN visa status for Mexican citizens has been simplified. Mexican citizens are now able to apply for TN visas directly with the U.S. Consulates in Mexico or abroad. Labor Condition Applications are no longer required. In addition, the numerical limitation on these visas was removed.

U.S. VISIT and Visa Waiver

The Department of Homeland Security (DHS) will begin processing all Visa Waiver travelers under the U.S. VISIT program beginning on September 30, 2004. All Visa Waiver travelers will be required to enroll in the U.S. VISIT program upon arrival at U.S. air and sea ports of entry by September 30th of this year. The U.S. VISIT program requires that foreign visitors entering the U.S. have their two index fingers scanned and their photo taken to verify their identity. The DHS estimates that the process will not adversely affect wait times at airports and sea ports, but acknowledges that approximately 130 million foreign nationals enter the U.S. in Visa Waiver status each year. There are currently 27 countries that participate in the Visa Waiver program with the U.S.

U.S. Citizenship and Immigration Fees

The U.S. Citizenship and Immigration Services (CIS) has announced a proposed fee increase for all immigration benefit applications. The fee increase would "deliver a more compassionate, effective, and secure system," stated Eduardo Aguirre, the CIS Director. This fee increase would also help realize President Bush's goal of a six-month processing time for all immigration benefit applications by the end of financial year 2006. All applications would increase by an average of \$55. For example, the fee for the I-129 Petition for a Nonimmigrant Worker would be \$185 (currently the fee is \$130). The CIS will publish the new fee schedule after a comment period of approximately two months.

For more information about this, or other U.S. immigration issues, please contact our Miller Canfield Immigration Practice. This message is for general information only and should not be used as a basis for specific action without

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obtaining further legal advice.