

SISKIND'S IMMIGRATION BULLETIN
December 20, 2002

E-mail subscribers as of 10 October 2001: 30,159 persons (50 states/144 countries).
Published by Greg Siskind, partner at the Immigration Law Offices of Siskind, Susser, Haas & Devine, Attorneys at Law; telephone: 800-748-3819, 901-737-3194 or 615-345-0225; facsimile: 800-684-1267, email: gsiskind@visalaw.com, WWW home page: <http://www.visalaw.com>.

SSHD serves immigration clients throughout the world from its offices in the US, Canada and the People's Republic of China. To schedule a telephone or in-person consultation with the firm, go to <http://www.visalaw.com/intake.html>. Editors: Amy Ballentine and Greg Siskind. Contributors: Karen Weinstock, David Delgado and Mick Wright.

To receive a free e-mail subscription to Siskind's Immigration Bulletin, fill out the form at <http://www.visalaw.com/subscribe2.html>. To unsubscribe, send your request to visalaw-unsubscribe@topica.com.

To subscribe to the free Siskind's Immigration Professional Newsletter, go to <http://www.visalaw.com/sip-intro.html>.

Are you a jobseeker looking for an employer to sponsor your work visa?
Are you an employer or recruiter who can benefit from free online job posting?
Visit [Visajobs.com](http://www.visajobs.com), the online career network, and create your new account
(<http://www.visajobs.com>).

1. OPENERS
2. THE ABC'S OF IMMIGRATION – DEPARTMENT OF HEALTH AND HUMAN SERVICES LAUNCHES NEW J WAIVER PROGRAM
3. ASK VISALAW.COM
4. BORDER NEWS
5. NEWS FROM THE COURTS
6. GOVERNMENT PROCESSING TIMES
7. NEWS BYTES
8. INTERNATIONAL ROUNDUP
9. INS ARRESTS HUNDREDS APPEARING FOR SPECIAL REGISTRATION
10. INS PROVIDES NEW GUIDANCE ON H-1B VISAS FOR REGISTERED NURSES
11. LIST OF COUNTRIES SUBJECT TO SPECIAL REGISTRATION EXPANDED AGAIN
12. REPORT SHOWS IMPORTANCE OF IMMIGRANTS TO LABOR MARKET
13. WHITE HOUSE CALLS ON NEW CONGRESS TO EXTEND SECTION 245(I)
14. LEGISLATIVE UPDATE

-
1. OPENERS

Dear Readers:

First of all, Merry Christmas to all of our readers celebrating the holiday. We hope your holiday season is joyous and that you have a safe and prosperous new year. We also

wanted to let you know that next week we will be taking a break and will not publish as usual unless there is urgent news. We'll be back right after the New Year.

While our firm is a full-service immigration practice, we are very well known nationally for our practice relating to health care immigration. If you read the news regularly, you probably have heard about the grave health care worker shortages in the US. There is a nationwide shortage of nurses and communities all over the country lack access to physicians. Health care employers are increasingly turning to immigrant nurses and doctors to fill the gap. This week the Department of Health and Human Services announced a new waiver program for foreign physicians that effectively restores the US Department of Agriculture and Department of Housing and Urban Development waiver programs that have disappeared in recent years. Thousands of communities around the country may benefit from this news. We report on the program at length in the week's ABCs of Immigration feature.

We also report this week on an INS memorandum that spells out for the first time when nurses can qualify for H-1Bs. While the door has not been opened up much more than has previously been the case, employers will now be able to file H-1B applications for certain types of nurses with more certainty.

The news on immigration was more frightening for many. The INS announced this week that Pakistan, Saudi Arabia and Armenia were next for the special registration program. Armenia was quickly removed from the list. And Pakistan's government quickly protested. It may be a waste of time. Attorney General John Ashcroft told Larry King on his CNN talk show that the Justice Department plans on covering all nationalities within two years. That news coincided with the roundup of hundreds of Iranian nationals in Los Angeles and other INS offices who decided to comply with the rules and went in to register. Comparisons to the roundup of Japanese nationals in the US during World War II were immediately made by many observers. The most frightening aspect of the detentions was the fact that many of the people detained are in adjustment of status proceedings and are legally in the US. Most of these people are believed to have been released. But what sort of message is this sending to these people, the public and the world as a whole?

Within the last hour, Trent Lott, the majority leader of the US Senate announced his resignation. Bill Frist, the Senator from our home state - Tennessee - is expected to take the helm. Most of you probably know very little about Bill Frist. I am happy to report that Senator Frist follows the long tradition of supporting immigration. He supported a restoration of INA Section 245i the last time it came up for a vote. He co-sponsored legislation to create a new agricultural guestworker program last year. He supported increasing the cap for H-1B immigrants. More importantly, he is seen as a close ally of President Bush. This week, the President made it known that he wants 245i restored in this session of Congress. Senator Frist will be an important friend in the Senate if the President is serious.

In firm news, I've been quoted in the ABA Law Practice Management magazine in an article discussing web sites for law firms. In the latest issue of Nashville Post Magazine, I am quoted in a similar article. I'm also the author of an article on this subject in the same issue of Law Practice Management. Lawyer Marketing News, published by the popular Findlaw.com web site gives a favorable review to my new book, The Lawyers Guide to Marketing on the Internet, 2nd ed., which has been published by the American Bar Association. And the American Hospital Association quotes me in a news story they released on the expansion of the Conrad 20 program. These articles are linked on our web site at www.visalaw.com/news/ .

As always, we remind readers that we're lawyers who make our living representing immigration clients. We would love to discuss becoming your law firm. Just go to <http://www.visalaw.com/intake.html> to request an appointment or call us at 800-343-4890 or 901-682-6455.

Regards,

Greg Siskind

2. THE ABC'S OF IMMIGRATION – DEPARTMENT OF HEALTH AND HUMAN SERVICES LAUNCHES NEW J WAIVER PROGRAM

The US Department of Health and Human Services (HHS) announced this week that it will begin acting as an interested government agency for primary care physicians agreeing to work in health care shortage areas. The program is largely designed to replace the national waiver program operated for several years by the US Department of Agriculture. That program officially closed in February of this year.

The HHS program is very similar to the USDA program. However, it contains a new restriction that largely limits the program to people recently concluding primary care training. People with subspecialty training will find it difficult to qualify for the HHS waiver.

HHS currently sponsor waiver requests from physicians engaged in research of national or international significance. The new program represents a dramatic expansion of HHS' waiver functions.

While there is no limit on the numbers of waivers HHS will grant each year, the agency does note in the preamble to the program regulations that its Exchange Visitor Waiver Review Board may determine the appropriate numbers and geographic areas for waivers. These determinations will be made based on data relating to the health care needs of a particular area. According to a source at HHS, the agency will generally not issue a waiver if waivers are still available under a state Conrad program. Also, if a waiver is available from the Appalachian Regional Commission or any other regional programs that might come into force later, HHS will expect that the applicant will first seek a waiver from that agency. If the ARC or another agency indicates that it does not have the resources to handle the application or otherwise requests that HHS adjudicate the application, HHS would do so. But such procedures are still being formalized.

HHS is also hoping to develop a database that will include information on waiver approvals issued by state Conrad programs and other federal programs in order to develop a complete picture on how underserved a particular community actually is.

HHS notes in the preamble as well "Nor should these HHS regulations be confused with criteria applicable to the waiver program implemented by state departments of health (the Conrad program)." This is a significant statement because HHS has lobbied actively over the years to limit all shortage-based government agency waiver requests to primary care positions. The statement may signal a retreat from previous efforts by HHS to limit state programs.

The program has a couple of new features that differ from the previous USDA program. First, during the twelve-month period following completion of a residency program, a doctor

who has departed the US must apply for the waiver. The waiver can be pursued from outside the US. After that, HHS will not sponsor him or her.

Also, HHS will only sponsor primary care physicians or psychiatrists who have completed their primary care or psychiatric residency training programs no more than twelve months before the date of commencement of employment. According to HHS, the new requirement is designed to "ensure that the physicians' primary care training is current and they are not engaged in subspecialty training." This provision will likely mean that many physicians with specialist training will utilize state Conrad programs to work in primary care positions.

The USDA regulations addressed the concern about specialist physicians accepting primary care positions but really work in their area of specialization. Instead of barring subspecialty training, the USDA prohibited doctors from working for specialist facilities in the physician's area of specialization but claiming to do primary care work. So, for example, someone with cardiology training could be approved to do primary care work in a nephrology facility. But that same cardiologist would not be approved to do primary care work in a cardiology practice.

The remainder of the HHS program rules are consistent with the USDA program and the State Department regulations. They include the following:

1. The physician must agree to perform primary care or psychiatric services. Primary care includes general internal medicine, pediatrics, family practice or obstetrics/gynecology.
2. The work must be in a Health Professional Shortage Area, Medically Underserved Area/Population or, for psychiatrists, in a Mental Health Professional Shortage Area.
3. The facility must show good faith attempts to recruit US physicians in the recent past.
4. The facility head must confirm that that the facility is located in a HPSA, MUA/P, or MHPSA and that the facility accepts Medicare, Medicaid and indigent patients. The facility must provide care on a sliding fee scale for persons at or below 200% of the poverty income level. Persons with third party insurance may be charged the full fee for services. Such a policy must be posted prominently at the facility so that patients can see it. Furthermore, the facility may not charge more than the "usual and customary" rate prevailing in the geographic area in which the services are provided.
5. The doctor cannot be pursuing more than one interested government agency waiver request at a time.
6. The doctor must work for a minimum of three years and work a minimum of 40 hours per week in the specified HPSA, MUA/P or MHPSA.
7. The contract cannot contain a covenant restricting the doctor's ability to continue working in the area after the three year period is over.

HHS waiver cases will be handled by the Office of Global Health Affairs at the Department of Health and Human Services.

HHS expects to issue instructions on actually filing cases within the next 30 days. However, a facility that is ready to apply sooner can do so even before formal instructions are released.

An application can be submitted with all of the required documentation to

Mike Berry, Program Analyst
Health Resources Services Administration
US Department of Health and Human Services
5600 Fishers Lane
Rockville, MD 20857

Mr. Berry's telephone number is 301-443-4154. Note that HHS waivers for researchers will now be submitted to the Office of Global Health Affairs (formerly the Office of International Affairs).

An Adobe Acrobat PDF version of the regulation can be found online at <http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2002/pdf/02-31972.pdf>.

A text version can be found at <http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2002/02-31972.htm>

3. ASK VISALAW.COM

If you have a question on immigration matters, write Ask-visalaw@visalaw.com. We can't answer every question, but if you ask a short question that can be answered concisely, we'll consider it for publication. Remember, these questions are only intended to provide general information. You should consult with your own attorney before acting on information you see here.

Q - Hello! i would like to ask what kind of visa would i acquire if i want to take a new york PT stateboards exam.? thanks!

A - To come to the US to take an exam, you will want to enter on a B-1/B-2 visitor visa.

Q - I'm an LPR and I have filed I130 for my wife who is here in the US with a B2 visa, can she stay here and wait for the I130 approval?

A - Your wife will not be entitled to remain in the US until she has a current priority date or you are a US citizen, whichever gets here first. Right now, priority dates are backlogged about five to eight years. Otherwise, she will need to find a visa strategy that does not depend on her marriage to you.

Q - Does Pakistani's who are imigrantes in USA and are back in Pakistan for visit for some time, also have to comply before Dec 15th with the special registration act?

A - Permanent residents of the US are not subject to the special registration rules. For your information, the following people would not be subject to the call up registration rules:

- Females

- U.S. citizens
- Lawful permanent residents of the U.S.
- "A" and "G" nonimmigrants
- Anyone who applied for asylum before a specified date
- Anyone who already was granted asylum.

 Q - Are same sex couples eligible for sponsorship by their domestic partner if the partner is a US citizen?

A - Unfortunately, same sex couples are not eligible for spouse or fiancé visas. We would have to come up with alternative visa strategies in these cases.

 Q - Are high school teachers subject to the h1b cap?

A - Yes. University and college employees are exempt, but not high school teachers.

 Q - Hello, I want to find out about E2 visas. Please let me know if u can advice me. thanks.

A - Here is an article on the subject you may find helpful:
<http://www.visalaw.com/00feb2/7feb200.html>

 Q - How long can I go out of USA and not come back if I am a Green-Card holder? Do I have to apply for reentry permit? Is there a lifetime limit on how many times can I apply for reentry permit?

A - You may find the article at <http://www.visalaw.com/01jan4/12jan401.html> helpful.

 Q - How long does it take the INS to process an application 1-485 adjustment to permanent residence based on asylum? What the expecting date for some one who already applied around 6/2000.

A - Expect the case to take several years in total - probably four or more.

 Q - Hi, i am a permanent resident (green card holder). i am going on vacation to Europe for three weeks. my UK passport is valid until 4/03. will i have a problem getting back in to the US at JFK in New York? is there a rule where the passport must be valid for 6 months?

A - If you are only gone from the US for 3 weeks, your green card is sufficient documentation to reenter the US. There are situations with long trips where it would not be, but your UK passport will not be required in either case.

4. BORDER NEWS

In a sign of how tight border security has become over the past year, the INS this year will not issue visa waivers to Mexican high school students to participate in a Christmas in the Christmas parade in Calexico, California. For the past 16 years the students have marched in the parade, and have been allowed to enter the US without a visa. Because the visa requirement is now being strictly enforced, only three of the 25 groups from Mexicali, Mexico, right across the border from Calexico, will participate in this week's parade. Local business owners say the parade day is the biggest shopping day of the year, and worry that stepped up enforcement will hurt their businesses.

Three Mexican citizens were recently charged with smuggling six immigrants from the Middle East into the US. One person, a man from Lebanon, died during his journey to the US during this past June.

Five stowaways from Colombia found on board a cargo freighter at Port Everglades near Miami were taken into INS custody recently. Three of the men were taken to a local hospital for treatment for dehydration. As stowaways, the only way they will be allowed to remain in the US is by winning an application for asylum. Much more likely is that they will be deported to Colombia within a few days.

On Monday December 16, 2002, Immigration Judge Rex J. Ford denied the first five asylum requests from the Haitian refugee boat that arrived in Miami on October 29th. Judge Ford stated that he was not unsympathetic to the situation of the Haitians, but there was no evidence to grant asylum as outlined by the law. The individuals denied asylum and ordered removed to Haiti are five males currently detained in the Krome Processing Center in Miami, Florida.

Haitian immigrants and immigration advocates in South Florida participated in a fast to protest the federal government's detention of children from the October 29th Haitian refugee boat. The protestors demand that the government release the children before Christmas to relatives in the Miami area. The children are currently detained at Boystown, a juvenile facility in southwest Miami-Dade County.

Immigration Judge Kenneth Hurewitz ruled on this week that Cuban spy suspect Juan Emilio Aboy be removed to Cuba. Judge Hurewitz found that during his U.S. immigration process, Aboy did not reveal that he participated in espionage training and that he was a member of the Cuban Communist Party. Normally, Cubans who are ordered deported are not returned to Cuba. However, the Cuban government sometimes makes acceptations to this general rule. Aboy's attorney plans to appeal the removal order. Aboy entered the United States on May 1996 and has been employed as a commercial diver. Throughout his immigration proceedings, Aboy denied being a spy. He admits being a member of the Revolutionary War

Marines from 1974 to 1999. He also acknowledges being sent to Russia by the Cuban government to study diving.

5. NEWS FROM THE COURTS

Dobrota v. INS, Ninth Circuit

Aurelian Dobrota, a citizen of Romania, came to the US in 1993 as a tourist, overstayed his visa and applied for asylum. After filing the application, but before any hearing, he hired an attorney. In 1994, the asylum application was denied, and a notice of the denial was sent to both Dobrota and his attorney. In 1995, Dobrota moved without notifying the INS. Also in 1995, the INS issued an order placing Dobrota in deportation proceedings. This notice was sent both to Dobrota's previous address and to his attorney. A couple of months later the INS sent a notice scheduling the hearing. This notice was sent only to Dobrota's address on file, not to his attorney. The notice was returned to the INS with an indication that delivery had been attempted but failed. Neither Dobrota nor his attorney appeared at the hearing, and Dobrota was ordered deported in absentia. A couple of years later the attorney received a notice detailing arrangements for Dobrota's deportation.

The attorney promptly filed a motion to reopen the proceedings. This motion was denied, and Dobrota appealed to the Board of Immigration Appeals. The Board found the immigration judge did not provide adequate reason for the denial, and remanded the case. On remand, the judge found that because the INS sent all notices to the address it had on file, it had satisfied all its obligations. This decision was also appealed. The Board this time affirmed the denial, and Dobrota appealed to the Ninth Circuit.

Notice of INS proceedings must be given in the way most reasonably calculated to reach the person whose presence is needed. INS regulations specifically provide that the notice need only be mailed to the most recent address the alien has provided the agency, so there are some cases in which the alien may never receive notice, and yet the proceedings still meet the requirements of due process. While the notices that Dobrota did receive warned of the importance of keeping one's address on file with the INS up-to-date, they also indicated that all notices would be mailed to the attorney as well. The Ninth Circuit found that, given that the initial deportation notice was mailed to the attorney, Dobrota could reasonably rely on the INS to send any hearing notice to the attorney as well. Therefore, the court found, the Board erroneously found the way in which Dobrota was notified of his hearing was satisfactory and remanded the case for further proceedings.

The opinion is available online at
<http://caselaw.lp.findlaw.com/data2/circs/9th/0171266p.pdf>.

6. GOVERNMENT PROCESSING TIMES

Texas Service Center Processing Times

Jurisdiction: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee and Texas.

December 15, 2002

Application/Petition Type	Date Based on Pending Initial Adjudication
I-90 to replace lost, damaged or destroyed I-551	4/10/2002
I-102 for replacement/initial nonimmigrant arrival/departure form	8/6/2002
I-129 / H1B	11/4/2002
I-129 / H2A	11/20/2002
I-129 / H2B	11/4/2002
I-129 / H3	11/15/2002
I-129 / L	11/12/2002
I-129 / Blanket L	11/12/2002
I-129 / O	10/11/2002
I-129 / P	10/7/2002
I-129 / Q or R	Q Current - R 7/23/2002
I-129F (fiancée)	10/11/2002
I-129 / E	7/15/2002
I-130 / Spouse, Parent or Child of US Citizen	6/8/2001
I-130 / Spouse of Lawful Permanent Resident	4/3/1998
I-130 / Other Relative	4/3/1998
I-131 / Advance Parole	12/3/2002
I-131 / Advance Parole for HRIFA principal applicant	n/a
I-131 / Reentry Permit	n/a
I-131 / Refugee Travel Document	n/a
I-140 A (extraordinary ability)	5/28/2002
I-140 B (outstanding professor or researcher)	5/28/2002
I-140 C (multinational executive or manager)	5/28/2002
I-140 D (professional holding adv. degree/alien of exceptional ability)	9/25/2002
I-140 E (skilled worker or professional)	7/17/2002
I-140 I (National Interest Waiver)	7/18/2002
I-140 G (other worker)	7/17/2002

I-212 permission to reapply for admission after deportation/removal	n/a
I-360 petition for Amerasian, widow(er), or Special Immigrant	8/1/2001
I-485 Asylum-based	n/a
I-485 Refugee-based	n/a
I-485 Employment-based	11/1/2000
I-485 Haitian Refugee Immigration Fairness Act (HRIFA)-based	n/a
I-526 Immigrant Petition by Alien Entrepreneur	11/15/2002
I-539 / extension of stay for F or M non-immigrant	11/25/2002
I-539 / extension of stay for J non-immigrant	n/a
I-539 / extension of stay for L or H non-immigrant	11-25 or date of I-129
I-539 / extension of stay for other non-immigrant	11/25/2002
I-539 / change nonimmigrant classification to F or M	11/25/2002
I-539 / change nonimmigrant classification to J	11/25/2002
I-539 / change nonimmigrant classification to L or H	11-25 or date of I-129
I-539 / change to other nonimmigrant classification	11/25/2002
I-612 waiver of foreign residence requirement	9/17/2002
I-730 Refugee/Asylee Relative Petition	n/a
I-751 Petition to Remove Conditions on Residence	9/13/2002
I-765 / initial asylee or asylum applicant authorization C-8	10/29/2002
I-765 / employment authorization associated with Hurricane Mitch TPS	7/5/2002
I-765 / employment authorization associated with EI Salvador TPS	8/1/2002
I-765 / employment authorization while I-485 is pending C-9	9/13/2002
I-765 / all other employment authorization	9/6/2002

I-817 Application for Family Unity Benefits	12/29/1998
I-821 for El Salvador	4/13/2001
I-821 for Hurricane Mitch countries	8/17/1999
I-824 Application for Action on an Approved Application or Petition	8/8/2002
I-829 Petition by Entrepreneur to Remove Conditions	3/22/1999

These are not official INS times, nor are they endorsed by the Central Office.
Source: [American Immigration Lawyers Association](#)

Missouri Service Center Processing Times

Jurisdiction: LIFE Related Applications

December 15, 2002

Application/Petition Type	Date of Cases Pending Initial Adjudication
I-485 LIFE	8/7/2002
I-817 Family Unity	7/30/2002
I-690 Waivers	current
I-539 V1/2/3	8/27/2002
I-129 K3/K4	9/30/2002
I-765	10/30/2002
I-131 Advanced Parole	10/29/2002
I-601	11/21/2002
I-212	11/13/2002
I-824	11/21/2002
I-102	current

I-290B

9/23/2002

Dates initially pending adjudication are dependent on date received from lockbox. The shipping of I-485 cases to the field offices for interview/processing is dependent on receipt of fingerprint results. The processing of I-817 and I-539 cases is dependent on receipt of fingerprint results. The processing of I-765 cases filed concurrently with I-817 and I-539 is dependent on receipt of fingerprint results.

These are not official INS times, nor are they endorsed by the Central Office.

Source: [American Immigration Lawyers Association](#)

Nebraska Service Center Processing Times

Jurisdiction: Alaska, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

December 1, 2002

Form	Processing cases with receipt notice dates on or before
I-90 to replace lost, damaged or destroyed I-551	3/26/02
I-90 to renew expiring I-551	3/29/02
I-102 for replacement/initial nonimmigrant arrival/departure form	1/24/02
I-129 / H1B	9/24/02
I-129 / H2A	11/17/02
I-129 / H2B	11/8/02
I-129 / H3	9/16/02
I-129 / L	10/15/02
I-129 / Blanket L	10/29/02
I-129 / O	9/20/02
I-129 / P	10/29/02
I-129 / Q or R	10/4/02
I-129 / TN	11/4/02
I-129F (fiancée)	7/15/02
I-130 / spouse, parent or child (under21)	5/16/02

of a United States citizen	
I-130 / son or daughter (over 21) of a United States citizen	4/14/01
I-130 / brother or sister of a United States citizen	4/14/01
I-130 / spouse of a lawful permanent resident	4/12/01
I-130 / unmarried child under 21 of a lawful permanent resident	4/14/01
I-130 / unmarried son or daughter over 21 of lawful permanent resident	4/14/01
I-131 / Advance Parole	10/16/02
I-131 / Advance Parole for HRIFA principal applicant	4/17/02
I-131 / Reentry Permit	5/16/02
I-131 / Refugee Travel Document	11/17/02
I-140 A (extraordinary ability)	6/7/02
I-140 B (outstanding professor or researcher)	7/2/02
I-140 C (multinational executive or manager)	6/21/02
I-140 D (professional holding adv. degree/alien of exceptional ability)	3/12/02
I-140 E (skilled worker or professional)	10/4/02
I-140 I (National Interest Waiver)	3/14/02
I-140 G (other worker)	10/8/02
I-212 permission to reapply for admission after deportation/removal	6/6/02
I-360 petition for Amerasian, widow(er), or Special Immigrant	1/28/02
I-485 Asylum-based	2/1/99
I-485 Refugee-based	8/1/01
I-485 Employment-based	8/1/01
I-485 Haitian Refugee Immigration Fairness Act (HRIFA)-based	12/18/99
I-526 Immigrant Petition by Alien Entrepreneur	not processed at the NSC
I-539 / extension of stay for F or M non-	11/17/02

immigrant	
I-539 / extension of stay for J non-immigrant	11/17/02
I-539 / extension of stay for L or H non-immigrant	9/18/02
I-539 / extension of stay for other non-immigrant	9/5/02
I-539 / change nonimmigrant classification to F or M	9/16/02
I-539 / change nonimmigrant classification to J	11/17/02
I-539 / change nonimmigrant classification to L or H	9/19/02
I-539 / change to other nonimmigrant classification	8/27/02
I-612 waiver of foreign residence requirement	9/16/02
I-730 Refugee/Asylee Relative Petition	6/4/02
I-751 Petition to Remove Conditions on Residence	6/10/02
I-765 / initial asylee or asylum applicant authorization	10/17/02
I-765 / employment authorization associated with Hurricane Mitch TPS	11/17/02
I-765 / employment authorization associated with El Salvador TPS	7/22/02
I-765 / employment authorization while I-485 is pending	10/16/02
I-765 / all other employment authorization	9/26/02
I-817 Application for Family Unity Benefits	6/17/02
I-821 / El Salvador	7/22/02
I-821 / Hurricane Mitch countries	11/17/02
I-824 Application for Action on an Approved Application or Petition	1/21/02

These are not official INS times, nor are they endorsed by the Central Office.
Source: [American Immigration Lawyers Association](#)

Vermont Service Center Processing Time Report

Jurisdiction: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, Washington D.C. and West Virginia.

Information current as of December 15, 2002

Form	Currently Processing
I-90 to replace lost, damaged or destroyed I-551	1/14/2002
I-102 for replacement/initial nonimmigrant arrival/departure form	Current
I-129 / H1B Cap	10/18/2002
I-129 / H1B Ext	10/15/2002
I-129 / H2A	Current
I-129 / (H2B, H3, O, P, Q, R)	10/11/2002
I-129S / Blanket L	11/11/2002
I-129F (Fiancée)	11/2/2002
I-212, I-601, I-612 Waivers	Current
I-130 Immediate Relative Classes	7/10/2002
I-130 Preference Classes	2/8/1999
I-131 Application for Travel Document	11/1/2002
I-140 Immigrant Petitioner for Alien Worker E11	3/22/2002
I-140 Immigrant Petitioner for Alien Worker E12	3/22/2002
I-140 Immigrant Petitioner for Alien Worker E13	6/4/2002
I-140 Immigrant Petitioner for Alien Worker E21 (National Interest Waivers: 4/1/2002)	5/31/2002
I-140 Immigrant Petitioner for Alien Worker E31, E32, EW3 (Nurses: 7/17/2002)	6/5/2002
I-360 Petition for Widowed/Special Immigration	7/3/2002
I-360 VAWA	6/22/2002
I-485 Application to Register Permanent Residence or to Adjust Status	10/15/2001
I-539 Application to Extend/Change Nonimmigrant Status	11/21/2002
I-687	N/A
I-698 Application to Adjust Status from Temporary to Permanent Resident	N/A
I-751 Petition to Remove Conditions on Residence	1/8/2002
I-765 Employment Authorization (C)(8)	11/1/2002
I-765 Employment Authorization (C)(9)	11/2/2002
I-765 Employment Authorization Other	10/21/2002
I-817 Application for Family Unity Benefits	N/A
I-821 Application for Temporary Protected Status - El Sal	4/4/2001
I-821 Application for Temporary Protected Status - Nicaragua/Honduras	Current

I-824 Application for Action on an Approved Application or Petition	2/22/2002
I-914 Application for T Non-Immigrant Status	11/16/2002
N-470, N-565, N-643	9/26/2002
N-600	9/6/2002

These are not official INS times, nor are they endorsed by the Central Office.

Source: [American Immigration Lawyers Association](#)

7. NEWS BYTES

As a result of increased INS background checks, naturalization ceremonies for thousands of people have been postponed. Ceremonies have been cancelled in Miami and New York, and several people were taken out of a ceremony in Los Angeles. In other cities, as many as 20 percent of people scheduled for oath ceremonies have been told they are not eligible because background checks are still being conducted.

The mother of accused Washington, DC, area sniper John Lee Malvo was deported to Jamaica last week. Una James and her son entered the US without permission sometime in 2000. A year ago she and Malvo were detained by the INS, but were released on bond. INS officials say James may be allowed to reenter the US to testify at her son's trial.

Leaders of the National Academy of Sciences, the National Academy of Engineering and the Institute of Medicine recently issued a joint statement criticizing increased visa restrictions, saying that the measures are having an unanticipated negative impact on scientific research. According to the statement "ongoing research collaborations have been hampered," and "outstanding young scientists, engineers, and health researchers have been prevented from or delayed in entering this country." They are concerned that, among other things, US visa policy will mean that international scientific conferences will be moved out of the US. The statement also stressed that while visa policies should be designed to keep out those who would do harm, they should also facilitate the entry of those who will be bringing a benefit to the US.

According to a new poll released this week, public opinion and elite opinion on immigration differ greatly, with the public calling for more restrictions on legal immigration and more efforts to combat undocumented immigration than leaders support. The poll, which was conducted over the summer by the Chicago Council on Foreign Relations, found that 70 percent of those polled said reducing undocumented immigration should be a "very important" policy goal, while just 22 percent of the "elites," members of Congress and leaders of the business, academic, labor and religious communities, polled. Fifty-five percent of the public supported reduced levels of legal immigration, compared to 18 percent among the leaders. Supporters of reduced immigration say the poll results support their position, but immigration advocates say much of the results stems for the wording of poll questions, and add that for most people, immigration is still not a major concern.

Two men in the Minneapolis-St. Paul area were recently charged with document fraud in two separate schemes after a yearlong investigation. Officials say that Fernando Gutierrez was sent hundreds of blank green cards and other documents from California, and would then use his own document making machines to provide identities. In the other case, Chistian Martinez was charged with possessing of fraudulent documents after officials found him in possession of hundreds of blank immigration documents.

A Sudanese pilot working in North Carolina as a taxi driver this week pled guilty to immigration fraud charges, including making false statements to obtain a tourist visa and in support of an asylum application. Mekki Hamed Mekki's plea agreement is sealed, but attorneys involved in the case say that he will be deported. According to local government officials, the federal government believes he has connections to terrorist organizations.

8. INTERNATIONAL ROUNDUP

Norway Proposes Mandatory Schooling For New Immigrants

New immigrants who have arrived in Norway and who have residence permits will be given two years of mandatory schooling. The proposal, presented by Municipal Minister Era Solberg, also provides a yearly stipend of NOK 108,000, mainly directed toward refugees and asylum seekers, which is subject to taxes and deductions for class absence.

The classes will include language training and basic knowledge of how the Norwegian society functions.

Local authorities have tried similar programs with success, and the government believes the national program will make it easier for new immigrants to integrate into Norwegian society.

Australia Temporarily Excises Islands To Curb Illegal Immigration

The Howard Government secretly excised four islands close to the Western Australian mainland from Australia's migration zone when a suspicious boat appeared to be heading for them. The suspects turned out to be illegal fisherman from Sri Lanka, not a boatload of asylum-seekers, as was anticipated. The Senate has blocked previous attempts to excise three to four thousand other islands.

Governor-General Peter Hollingworth signed the regulations excising the four islands - Bernier, Dorre, Dirk Hartog and Faure - on Saturday night after a request from Immigration Minister Philip Ruddock. Ruddock said the government would seek to rescind the excision, adding, "if the need arose again, we would take the same course."

Labor immigration spokesman Julia Gillard said the excision was an absurdity and a "blunder of mammoth proportions."

The eight Sri Lankan fishermen were taken to Christmas Island, where they were set to be deported along with 25 failed asylum-seekers.

German Immigration Bill Rejected By High Court

Germany's center-left Government and its leader, Gerhard Schröder, were dealt a blow when the country's highest court rejected a controversial immigration law. The legislation was intended to allow a controlled number of skilled workers from outside the European Union for the first time in three decades.

Conservatives made the debate over the new immigration law a focus of the September elections, arguing that Germany's four million unemployed would be hurt by allowing more foreign workers. The Constitutional Court upheld a complaint of the conservatives, who argued that the split vote on the legislation in the upper house of parliament was unconstitutional.

Interior Minister Otto Schily said he would revive the bill next month and negotiate with conservatives who control the upper House.

Advocates of the new law see it as a bulwark against the declining birth rate in Germany. Economists predict shortages of skilled people, particularly in the computer and other high-technology fields, and demographers say the country could face labor shortages by 2010. But with unemployment at around 10 percent, popular support for more immigration is low.

9. INS ARRESTS HUNDREDS APPEARING FOR SPECIAL REGISTRATION

In Southern California, hundreds of people reporting for special registration at INS offices has been arrested and placed in detention. Estimates are that a minimum of 500 people have been arrested, and possibly as many as 1000. Most of those arrested are Iranian, but people from all countries subject to special registration have been arrested. The Los Angeles area is home to the largest Iranian population outside Iran, with about 600,000 Iranians living in the area.

The arrests have prompted numerous demonstrations by Islamic and immigrant groups, and the American Civil Liberties Union has compared the arrests to the detention of Japanese-Americans during World War Two. They are also concerned about the efficacy of arresting those people who are willing to appear for registration, observing that terrorists are unlikely to comply with the registration requirement. Many are also concerned that jail overcrowding in Southern California will mean that many of those arrested will be transferred to other states where they could languish in detention for months before receiving a hearing.

The INS has said that it will not release information on the number of people arrested, nor on the number of people who have appeared for special registration. The agency has said that the arrests were based on a number of charges, including visa overstay, criminal convictions, and other immigration violations. Most of those arrested have since been released on bail and ordered to appear before immigration judges for hearings.

10. INS PROVIDES NEW GUIDANCE ON H-1B VISAS FOR REGISTERED NURSES

Immigration and Naturalization Service Associate Executive Commissioner Johnnie Williams has issued a field guidance memorandum that for the first time clarifies when a nurse will be eligible for an H-1B nonimmigrant work visa. The memorandum is critical because if a nurse cannot qualify for an H-1B visa, the nurse must wait for a green card to be processed. This means that instead of being able to come in to the US to work for an employer in two to twelve weeks, a nurse could wait eighteen to twenty-four months to enter the US.

The INS made it clear that normal RN positions will not qualify for H-1B visas unless the state where the nurse seeks a license requires a bachelor's degree. Currently, only North Dakota requires a bachelor's degree for RNs. The INS did, however, list a number of positions that might qualify for an H-1B visa and the new guidance will hopefully lead to greater consistency in reviewing H-1B petitions.

The following is a summary of the memorandum. The text of the actual memorandum is attached for your review.

General Requirements

In order to qualify for an H-1B visa, an employer of a nurse must show the following:

1. a bachelor's or higher degree (or its equivalent) is normally the minimum requirement for entry into the position;
2. the degree requirement is common to the industry for parallel nursing positions (*i.e.*, employers in the same industry require their employees to hold the degree when they are employed in the same or a similar position);
3. the employer normally requires a degree or its equivalent for the position or the nature of the position's duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree (or its equivalent).

Employers who can meet these requirements can apply for an H-1B visa.

Advance Practice Registered Nurses

The INS also discusses specific nurse positions. First, advance practice registered nurses (APRNs) will generally qualify for H-1B visas because these are advanced level positions requiring more education and training than the typical RN. An employer may require that the prospective employees hold advanced practice certification as one of the following: clinical nurse specialist (CNS), certified registered nurse anesthetist (CRNA), certified nurse-midwife (CNM), or certified nurse practitioner (APRN-certified). If the APRN position also requires that the employee be certified in that practice, then the nurse will be required to possess an RN, at least a Bachelor of Science in Nursing (BSN), and some additional graduate level education.

The INS lists the following positions that will normally qualify for an H-1B visa:

• Clinical Nurse Specialists (CNS): Acute Care, Adult, Critical Care, Gerontological, Family, Hospice and Palliative Care, Neonatal, Pediatric, Psychiatric and Mental Health-Adult, Psychiatric and Mental Health-Child, and Women's Health

• Nurse Practitioner (NP): Acute Care, Adult, Family, Gerontological, Pediatric, Psychiatric & Mental Health, Neonatal, and Women's Health.

- Certified Registered Nurse Anesthetist (CRNA); and
- Certified Nurse-Midwife (CNM).

Administrative Positions

The INS will also approve H-1B visas for certain administrative nurse positions. According to the INS memorandum, "upper level nurse managers" in hospital administration positions may work for H-1B visas since these positions usually require bachelor's degrees. Nursing Services Administrators should work since these positions involve supervisory functions and they typically require a graduate degree in nursing or health administration.

States that Require Bachelors Degrees

As noted above, the INS will consider an H-1B visa to be appropriate for any RN if the state where the nurse's position is requires a bachelor's degree. Right now only North Dakota has such a requirement. This raises the intriguing possibility of making North Dakota a gateway for employers seeking to bring nurses to the US quickly. Two possible scenarios come to mind:

1. A nurse contractor establishes an office in North Dakota and petitions for the nurse to enter North Dakota for their initial orientation with the contractor employer. The employer then files for an I-140 and concurrently files for an I-485 petition and employment authorization document. After the employment document is approved, the nurse could then move to a different state.
2. North Dakota health care facilities and employers can take advantage of this loophole and have easy access to foreign nurses. They can then take advantage of this unique market position and potentially spin off their own staffing companies or cut deals with existing staffing companies to contract their nurse employees to health care facilities around the country using the I-140/I-485 process noted above.

Specialized Nurse Positions

Aside from the Advanced Practice Registered Nurses noted above, nurses in certain specialized areas may file for H-1Bs. The INS specifically cites critical care and peri-operative (operating room) nurses as two examples of positions requiring a higher degree of knowledge and skill than a typical RN or staff nurse position. The INS indicates that passing a certification examination for a particular type of position is an important indicator. Examples of these types of certification examinations are school health, occupational health, rehabilitation nursing, emergency room nursing, critical care, operating room, oncology and pediatrics.

Such nurses should meet the general requirements noted above. Evidence to show these requirements could include affidavits from independent experts or other means showing that the job duties are so specialized and complex that a bachelor's or higher degree is appropriate. The INS notes that these cases will be adjudicated on a case-by-case basis so the outcome of such applications is far from certain.

MEMORANDUM FOR REGIONAL DIRECTORS

SERVICE CENTER DIRECTORS
DIRECTOR, ADMINISTRATIVE APPEALS OFFICE
DEPUTY EXECUTIVE ASSOCIATE COMMISSIONER,
IMMIGRATION SERVICES DIVISION

FROM: Johnny N. Williams /S/
Executive Associate Commissioner
Office of Field Operations

SUBJECT: Guidance on Adjudication of H-1B Petitions Filed on Behalf of Nurses

The purpose of this memorandum is to provide field offices with guidance on adjudication of H-1B petitions when the beneficiary is a registered nurse (RN). This memorandum clarifies that while typical RNs generally do not meet the requirements for H-1B classification, aliens in certain specialized RN occupations are more likely than typical RNs to be eligible for H-1B status.

A. General Requirements for H-1B Classification in a Specialty Occupation

The Service will approve an H-1B nonimmigrant worker petition filed on behalf of certain foreign nurses if the statutory and regulatory requirements for H-1B classification are met. An individual is eligible for H-1B nonimmigrant classification if he or she is in a specialty occupation. Under section 214(i)(1) of the Immigration and Nationality Act (Act), a specialty occupation "means an occupation that requires (A) theoretical and practical application of a body of highly specialized knowledge, and (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States." Under section 214(i)(2) of the Act, the specialty occupation requirement is met by "(A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation, (B) completion of the degree described in paragraph (1)(B) for the occupation, or (C)(i) experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty."

An employer may submit evidence that the alien has the required degree (or its equivalent) by submitting:

1. a copy of the alien's U.S. bachelor's or higher degree in the specialty occupation,
2. a copy of the foreign degree determined to be equivalent to the U.S. degree, or
3. evidence that the alien's education and experience are equivalent to the required U.S. degree.

In order to be licensed as an RN, an individual must graduate from an approved nursing program and pass the National Council Licensure Examination for Registered Nurses (NCLEX-RN) exam. The minimum requirement for entry into the field of nursing as a registered nurse is a two-year associate degree in nursing (A.D.N.), meaning a typical RN would not likely be eligible for H-1B classification. (See Bureau of Labor Statistics, U.S. Dep't of Labor, Occupational Outlook Handbook, 2002-2003 edition, p.269.) Accordingly, RN positions do not generally require a bachelor's or higher degree. In order to qualify an RN position as H-1B, the petitioning employer can meet the existing regulatory requirements by showing that:

1. a bachelor's or higher degree (or its equivalent) is normally the minimum requirement for entry into the position;
2. the degree requirement is common to the industry for parallel nursing positions (*i.e.*, employers in the same industry require their employees to hold the degree when they are employed in the same or a similar position);
3. the employer normally requires a degree or its equivalent for the position; or
4. the nature of the position's duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree (or its equivalent).

In determining degree equivalencies, the Service uses a formula that requires the beneficiary to have three years of specialized training and/or work experience for each year of college-level training that the beneficiary is lacking. 8 CFR 214.2(h)(4)(iii)(D)(5). The Service will be issuing more detailed technical guidance on this subject in the near future.

Accordingly, a registered nurse will be eligible for H-1B classification if the petitioner can demonstrate that the position and the individual alien meet the requirements for establishing that the position is H-1B as outlined above.

B. Advanced Practice Nurses

In contrast to most general RN positions, certain specialized nursing occupations are likely to require a bachelor's or higher degree, and accordingly, be H-1B equivalent. Positions that require nurses who are certified advanced practice registered nurses (APRN) will generally be H-1B equivalent due to the advanced level of education and training required for certification. An employer may require that the prospective employees hold advanced practice certification as one of the following: clinical nurse specialist (CNS), certified registered nurse anesthetist (CRNA), certified nurse-midwife (CNM), or certified nurse practitioner (APRN-certified). If the APRN position also requires that the employee be certified in that practice, then the nurse will be required to possess an RN, at least a Bachelor of Science in Nursing (BSN), and some additional graduate level education.

The following list describes certain advanced practice occupations that will generally be H-1B equivalent if the position requires, and the alien has obtained, advanced practice certification:

- Clinical Nurse Specialists (CNS): Acute Care, Adult, Critical Care, Gerontological, Family, Hospice and Palliative Care, Neonatal, Pediatric, Psychiatric and Mental Health-Adult, Psychiatric and Mental Health-Child, and Women's Health

- Nurse Practitioner (NP): Acute Care, Adult, Family, Gerontological, Pediatric, Psychiatric & Mental Health, Neonatal, and Women's Health.

- Certified Registered Nurse Anesthetist (CRNA); and
- Certified Nurse-Midwife (CNM).

C. Nurses in Administrative Positions

Certain other nursing occupations, such as an upper-level "nurse manager" in a hospital

administration position, may be H-1B equivalent since administrative positions typically require, and the individual must hold, a bachelor's degree. (See Bureau of Labor Statistics, U.S. Dep't of Labor, Occupational Outlook Handbook at 269.) Nursing Services Administrators are generally supervisory level nurses who hold an RN, and a graduate degree in nursing or health administration. (See Bureau of Labor Statistics, U.S. Dep't of Labor, Occupational Outlook Handbook at 75.)

D. State Requirements

As stated earlier in this memo, a general RN position does not qualify as H-1B. However, the National Council on State Boards of Nurses (NCSBN) has confirmed that the state of North Dakota is the only state that requires that an individual possess a BSN in order to be licensed as an RN in that state. This applies to individuals who enrolled in a nursing program after January 1, 1987. In a situation in which the BSN is a prerequisite to practicing in the field, the position will qualify as an H-1B position. Thus, a petition for an RN position in the state of North Dakota will generally qualify as an H-1B position due to the degree requirement for licensure. The Service will issue updated field guidance if it becomes aware of other states that adopt this requirement.

E. Nursing Specialties

An increasing number of nursing specialties, such as critical care and peri-operative (operating room), to name two examples, require a higher degree of knowledge and skill than a typical RN or staff nurse position. Further, certification examinations are available to registered nurses who are not advanced practice nurses, but who possess additional clinical experience. Examples of these types of certification examinations are school health, occupational health, rehabilitation nursing, emergency room nursing, critical care, operating room, oncology and pediatrics. In such nursing specialties, the petitioner may be able to demonstrate that the H-1B petition is approvable by demonstrating that the position meets the requirements outlined in Section A above, and by demonstrating that the individual nurse meets the requirements. For example, for certain critical care nurses the employer must demonstrate, through affidavits from independent experts or other means, that the nature of the position's duties are sufficiently specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree (or its equivalent). As always, each petition must be adjudicated on a case-by-case basis and a decision to approve or deny the petition must take into account the totality of the requirements for the position, (*i.e.*, educational requirements, additional training in the specialty, and the experience), and the individual's qualifications for the position.

Questions regarding this memorandum may be directed to the Office of Adjudications through appropriate channels.

1 An H-1B petition filed for an alien who does not have a valid state license shall be approved for a period of one year provided that the only obstacle to obtaining state license is the fact that the alien cannot obtain a social security card from the Social Security Administration. See attached Service memorandum, *Social Security Cards and the Adjudication of H-1B Petitions*, November 20, 2001.

This week the INS added two more countries to the list required for special registration. The new countries placed in "Group 3" special registration are Pakistan and Saudi Arabia. The addition of these countries brings the total of countries named for special registration to 20. Of note, the December 16, 2002, Federal Register notice announcing the new countries subject to special registration also included citizens and nationals of Armenia. Two days later, the Justice Department rescinded the original notice stating that the notice incorrectly listed Armenia.

Only males born on or before January 13, 1987, who entered the US in nonimmigrant status on or before September 30, 2002, are required to register. Lawful permanent residents are not required to register, nor are people who have been granted asylum. People who have asylum applications pending on or before December 18, 2002 are not required to register, but those with an asylum claim filed after that day will be. Nonimmigrants in the US as diplomats or employees of a foreign government or international nongovernmental organization are not required to register.

Those subject to special registration under this rule must report to a designated INS office between January 13, 2003, and February 21, 2003. They must present their passport, visa and other immigration documents, as well as evidence that they are working or studying in accordance with their nonimmigrant visa. They must also present proof that they are residing in the US. They will be fingerprinted and photographed, and must provide any additional information the INS requests.

Individuals subject to special registration will have a number of important requirements. Each year the person remains in the US, the individual will be required to reregister within 10 days of the anniversary date of the initial registration. Also, if an individual changes one's address, employment, or educational institution, the person must inform the Service within 10 days of this change on a Form AR-11 SR. Lastly, upon leaving the United States, the individual must appear before a Service officer at a designated port-of-departure and depart from that port on the same day.

Attorney General John Ashcroft said this week during a television interview that the government hopes to have all nonimmigrants participate in the special registration system by 2005.

12. REPORT SHOWS IMPORTANCE OF IMMIGRANTS TO LABOR MARKET

The Center for Labor Market Studies at Northeastern University completed a study for the National Business Roundtable entitled, "Immigrant Workers and the Great American Job Machine: The Contributions of New Foreign Immigration to National and Regional Labor Force Growth in the 1990s." This report indicates that foreign immigration had a much greater impact on the labor surge in the 1990s than previously suggested by most labor studies. The Center for Labor Market Studies concludes that the economic success of the 1990s was greatly dependent on new immigrant workers, particularly male immigrant workers.

In the 1990s, 13 to 14 million new immigrants arrived in the United States. To place this number in perspective, this immigration total far exceeds the decennial immigration numbers during the "Great Wave of Immigration" from 1890 to 1920. This high number of new immigrants accounted for over 40 percent of the country's population growth during the decade.

In regard to the civilian labor force, these new immigrants accounted for over 50 percent of the nation's labor growth. Since labor force statistics were first accumulated in 1940, new immigrant workers have never accounted for such a large percentage of the nation's overall labor increase. The new influx of immigrant workers contained a high proportion of working males, accounting for 79 percent of the growth in the nation's male civilian labor force. The areas most influenced by the new immigrant labor force were the Northeastern and Western regions of the United States.

In comparison to native citizens entering the labor force, the immigrant labor force was more likely to be young (under 35) and less educated, with over a third of the new immigrant workers not completing high school. Interestingly, even with such a low number of high school graduates, the number of new immigrants workers with a bachelor's degree or higher was nearly identical to the number of new native born workers with these degrees. New immigrant workers have been employed in a large number of major industrial sectors, but immigrant workers are over-represented in a number of industrial sector including farm/forestry/fishing, construction, manufacturing, business/repair services, and personal services. In contrast, the new immigrant work force is under-represented in positions that do not require physical labor.

The U.S. Census Bureau, the Urban Institute, and the authors of this study have concluded that approximately 9 million new immigrant workers are undocumented aliens. Because of these high numbers, the Center for Labor Market Studies believes that the country should conduct a comprehensive national debate on immigrant labor policies. The Center for Labor Market Studies also believes that the nation's reliance on immigrant labor must receive additional attention from the nation's economic policymakers, the business community, organized labor, and from workforce development boards.

Regarding future labor studies, the Center for Labor Market Studies recommends a broader assessment of the types of employment performed by new immigrant workers. Another recommendation is a more comprehensive analysis of the labor force behavior of recent immigrant women.

13. WHITE HOUSE CALLS ON NEW CONGRESS TO EXTEND SECTION 245(I)

This week White House Press Secretary Ari Fleischer said in response to a question from the press that President Bush remains in strong support of an extension of Section 245(i), which allows many people who entered the US without authorization or have failed to maintain valid status while in the US to apply for adjustment of status without returning to their home countries, which in many cases will subject the person to a three or ten year bar on reentering the US.

Bush was strong in support of the provision before September 11th, and the provision had passed the Senate. The House was to vote on an extension on September 11th, but the vote did not occur because Congress was evacuated following the terrorist attacks.

According to Fleischer, Bush "thinks that's an important immigration initiative to help give people opportunities to come to the United States where willing employers want and have positions for immigrants," and wants for the new Congress to address the issue. It remains to be seen whether security concerns will continue to trump calls for a Section 245(i) extension.

14. LEGISLATIVE UPDATE

No new legislation was introduced this week as Congress remained out of session. Congress will meet again during the first week of January. To view the legislative chart, please visit <http://www.visalaw.com/advocacy.html>. When Congress begins its new session, the bills listed on this chart will no longer be considered, and new bills will be introduced.
