

Special Immigration Alert: H-1B Cap Reached for Fiscal Year 2011

January 31, 2011 | Publications

On January 27, 2011, U.S. Citizenship and Immigration Services ("USCIS") announced that it had received a sufficient number of new H-1B petitions to reach the statutory cap for fiscal year 2011 (October 1, 2010, through September 30, 2011), and that January 26, 2011, was the final receipt date for new H-1B petitions requesting an employment start date in fiscal year 2011. USCIS also indicated that the final receipt date would be the date on which it physically received the petition, not the date on which the petition was postmarked. The USCIS notice stated that the agency will reject any cap-subject H-1B petitions that arrive after January 26, 2011.

USCIS anticipates that it will receive more new, cap-subject H-1B petitions on January 26, 2011, than the H-1B cap can accommodate. For this reason, USCIS announced that it will apply a computer-generated random selection process to all new, cap-subject H-1B petitions that are received on January 26, 2011. H-1B petitions not selected by this process will be rejected and returned with the accompanying fee.

Please note that the cap does not cover H-1B petitions filed by employers that are cap-exempt, or that apply to foreign nationals who are in H-1B status and already have been counted against the cap in this or a prior year. Please also note that the cap does not affect nonimmigrant petitions filed in other nonimmigrant visa classifications.

For more information, or if you have questions regarding how this might affect you, your employees, or your organization, please contact one of the following members of the Immigration

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