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FROM THE EDITOR'S DESK

Many interesting and crucial changes have taken place this month. We continue to monitor all developments that could affect the both prospective employees and employers. Let's take a look at some of the most important news this month.

USCIS published a new edition of the **M-274, Handbook for Employers**, which provides instructions on completing the Form I-9 or the employment eligibility verification process. The new edition, dated June 1, 2011, revises and expands the previous version to give detailed directions on how to fill out the I-9 correctly. Some of the changes include instructions on how to identify valid employment authorization for those in Temporary Protected Status, detailed instructions on how to fill out the I-9 for those in J-1, F-1 or M-1 status, explanation and instructions regarding F-1 students who file an H-1B petition and are utilizing cap-gap and detailed explanation and discussion regarding those who have extensions of status pending and those utilizing H-1B portability when changing employers.

Welcome news for Indian and Chinese nationals came by way of the release of the **July Visa Bulletin** earlier this month. The July Bulletin saw significant advancement for Indian and Chinese nationals in the Employment Based Second Preference Category ("EB-2"). Using unused numbers from the severely under-utilize First Preference Category and unused numbers from EB-2 for all other chargeabilities. The DOS was able to move EB-2 numbers for Indians and Chinese nationals by almost 5 months. Further movement is anticipated and eagerly awaited.

The month of June also marks the introduction of several immigration reform bills. One of them is, HR 216, the Immigration Driving Entrepreneurship in America (IDEA)

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- [Latest News](#)
- [In Focus](#)
- [Processing Times](#)
- [Discussion Corner](#)
- [Questions and Answers](#)
- [Success Stories](#)

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YOUR OPINION

Do you favor the changes proposed to the H-1B and L-1 visa categories by Rep. Zoe Lofgren in the Immigration Driving Entrepreneurship in America (IDEA) Act of 2011 introduced on June 15, 2011?

a. Yes

Act of 2011. It was introduced by Rep. Zoe Lofgren (D-CA) on June 15, 2011 and contains provisions that would allow professionals with advanced degrees in Science, Technology, Engineering and Math (STEM) and investors who would create U.S. jobs to obtain expedited green cards. On the other hand, however, the bill also proposes to place new, possibly severe, restrictions on employers hiring H-1B professionals and L-1 intracompany transferees. The bill proposes the creation of a new Employment Based First Preference (EB-1) category for individuals who have advanced degrees in the STEM subjects, have a job offer from a U.S. employer and are offered a wage at or above the prevailing wage. Individuals in this category as well as "Outstanding Researchers" would also no longer be subject to any numerical limitations.

In terms of the nonimmigrant categories the IDEA Act, for example, would require employers to conduct recruitment before filing an H-1B petition unless the employer could prove that they are a recruiter that has a track record of hiring U.S. workers and pays at least Level 2 wages. IDEA, in its current form, would increase the Department of Labor's regulatory authority, requiring that at least five percent of H-1B petitions be audited. Also, the total H-1B eligibility period would be limited to three years unless the green card process is started. L-1 employers would also be required to pay at least the prevailing wage under IDEA if the L-1 employee remains in the U.S. for more than eighteen months over a three year period. IDEA would also give DOL the same authority to investigate and audit L-1 employers as they do H-1B employers.

As the bill is still in the early stages of the process, changes can be expected. It is safe to say, however, that the Bill in its present form, while creating great options and advancement in the green card categories for advanced degree professionals will also create severe restrictions on an employer's ability to hire temporary foreign professional workers. A summary of some of the other proposals made in the bill are as follows:

Permanent Residence

1. **Backlog Reduction:** Recapture unused employment- and family-based visa numbers going back as far as 1992 to reduce the backlog. Spouses and minors would be exempt from numerical limits and per-country limits would be eliminated.
2. **PERM Filing Fee:** Enact a filing fee (\$295) for labor certifications. The DOL would be *required* to adjudicate labor certifications within 120 days or 180 days in the case of an audit. A form of premium processing would be offered for an additional fee (\$1,000) where DOL must adjudicate the application within 30 days or 60 days for an audited case.
3. **"Established U.S. Recruiter":** Employers who consistently employ a workforce that is made up of 80% U.S. workers and meet other eligibility requirements are designated as an "established U.S. recruiter." In addition to some streamlined recruitment requirements, these employers could permanently retain qualified foreign nationals by proving there are not "equally qualified" U.S. workers. This is a significant department from minimally qualified U.S. workers. This distinction means that an employer can eliminate U.S. applicants that are not equally qualified as a

- b. No
- c. Can't say

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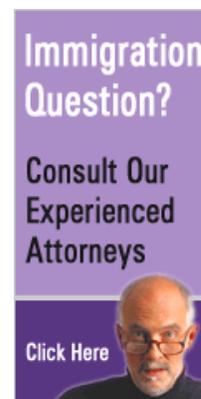
IMMIGRATION QUIZ

Win a FREE Online Consultation!

Submit your answer to the query below. The best response will be published in the next **Immigration Monitor** and the winner will receive a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of July 2011.

Mr. Partho is currently in the US on an L-1B visa. He is now receiving interesting job offer from other companies in the US and wants to change his status from [L-1B](#) to [H-1B](#). Can someone who is in the US on an L-1B visa change his or her status to H-1B visa?

[Submit Your Answer](#)



Winner of the Immigration Quiz - May 2011:

Nathan Joe

The Question:

I'm currently in the U.S. on an [H-1B](#) visa with Company A. Company B is ready to transfer my H-1B visa. My concern is that I am working as a Marketing Executive in Company A whereas Company B has offered me a job as a Marketing Manager. Will my H-1B transfer be denied because of the change in

highly valued foreign national.

4. **EB-5 Regional Center:** The Regional Center "pilot" program becomes permanent. Among other changes, the bill introduces the idea of "full-time equivalence" - a method to allow employer/investors to include part-time employees in the minimum employment creation requirements.
5. **EB-6 "Immigrant Entrepreneurs":** Creation of a new employment based category, EB-6, for immigrant entrepreneurs establishing start-up businesses that demonstrate the creation of U.S. jobs. There would be no numerical limitations for this category.

Nonimmigrant Programs

1. **F-1 and Dual Intent:** Dual Intent, currently available for H-1B and L-1 workers, is extended to F-1 students.
2. **F-1/L-1 Status Extension:** The ability to continue to extend status as long as a green card application is pending, currently available to H-1B workers, is extended to F-1 and L-1 status holders.

Miscellaneous

1. **High-Volume Filers:** Employers who are high-volume filers could be pre-certified and become a "trusted employer", as proposed by the American Council on International Personnel (ACIP).
2. **Premium Processing Expansion:** Premium Processing is expanded to all employment based petitions and applications including administrative appeals.
3. **3-Level Prevailing Wage System:** Eliminate the lowest wage level, creating a 3-level wage system. This would adjust wages upward.

On the other end of the immigration spectrum, namely enforcement, Judiciary Committee Chairman Lamar Smith (R-TX) introduced the Legal Workforce Act. The bill would make an "E-verify" type system mandatory for practically all employers and would be phased in based on the size of the business. Civil and criminal penalties for knowingly hiring unauthorized workers and for employment verification paperwork errors would increase. The bill also provides for improving methods to protect workers against identity theft and fraud.

While the bill would be welcome news for employers as it would mean an escape from the patchwork of state verification laws that are currently in existence and are being enacted, it would also significantly increase penalties for simple paperwork errors, not just penalties for knowingly hiring unauthorized workers.

Other Developments in Immigration Law

USCIS and Mississippi Implement New E-Verify Tool to Combat Fraud

USCIS launched Records and Information from DMVs for E-Verify (RIDE), a new feature which allows USCIS's E-Verify program to validate the authenticity of Mississippi driver's licenses used by employees as Form I-9 identity

my job duties?

The Winning Response:

Generally in an H-1B change of employer case, the USCIS scrutinizes applicant's qualifications like any new filing. A petition will not be denied as the field of work is the same but the role is with higher responsibilities as a manager as compared to as an executive.

Nathan Joe receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of July 2011.

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documents.

[DOS Temporary Suspends Certain J-1 Exchange Visitor Program Requirement For Libyan Students](#)

DOS is temporarily suspending the application of certain requirements governing program status and on-campus and off-campus employment for J-1 Libyan students. This action is necessary to mitigate the adverse impact upon these students due to political turmoil in their home country. This action will take effective and remain in effect until December 31, 2011.



[More Videos...](#)

Immigration Articles and Other Fun Stuff

Check out our **In Focus** section for this month, titled **'Being a Permanent US Resident - How to maintain your Status?'** is a must read if you are a Lawful Permanent Resident (Green Card holder) in US or are intending to apply for one. The article reveals you the importance of being a Permanent Resident of US and also explains you why and how important it is to maintain your Permanent Resident Status in the US. You can't afford to miss this article, friends. Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that **64.71%** of the respondents agree to the immigration experts' belief that H-1B visas for FY2012 will remain available till this year end. We appreciate that people take interest in the opinion question and cast their vote to give us their feedback. Keep it up! And continue to cast your vote to express **Your Opinion**.



We congratulate **Nathan Joe** for winning last month's Immigration Quiz. Again, we received a significant number of responses from our readers, who talked about various solutions to support their position, but **Nathan Joe** gave the correct answer and won a free

online consultation to discuss the concerned Immigration issues. So it's time to get ready for this month's quiz. If you know the correct answer your name might be featured in next month's newsletter. All the Best!!!

To ensure you receive your Immigration Newsletter, please add Immigration-Monitor@VisaPro.com to your address book or safe list.

See you next month with a lot more noise from the Immigration World!

Christine

We are pleased to share that the VisaPro team was a part of the Presidential Executive Mission to India.



Mr. Ramineni (standing on the extreme right, holding the President's hand) from our DC office is interacting with President Obama.

[Read Full Article in Los Angeles Times](#)

LATEST NEWS XML

[H1B Cap Count Reaches to 16,300](#)

USCIS has updated the count of H1B visa petitions received and counted towards the H1B cap for the fiscal year 2012 employment. As of June 17, 2011, USCIS has received approximately 16,300 H1B cap-subject petitions and 10,800 petitions for foreign nationals with advanced degrees.

[US Government Unveiled a Multi-agency, Nationwide Initiative to Combat Immigration Services Scams](#)

The U.S. government unveiled today a multi-agency, nationwide initiative to combat immigration services scams. The Departments of Homeland Security (DHS) and Justice (DOJ) and the Federal Trade Commission (FTC) are leading this historic effort. This initiative is set upon three pillars—enforcement, education and continued collaboration—designed to stop UPIL scams and prosecute those who are responsible; educate immigrants about these scams and how to avoid them; and inform immigrants about the legal immigration process and where to find legitimate legal advice and representation.

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▲ Top

IN FOCUS

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Being a Permanent US Resident - How to maintain your Status?

Permanent residents have most of the rights of US citizens, but there are many important reasons to consider becoming a US citizen, including getting those rights only available to US citizens. Green Card status is a "privilege" and not a "right", a privilege the US government can take away under certain conditions. Maintaining green card status, is therefore important, so that you can enjoy the privilege of becoming a US citizen.

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▲ Top

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DISCUSSION CORNER

[H1B - layoff, status, transfer to L2](#)

By Raiden

[Initial I-485 interview before work authorization](#)

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QUESTIONS AND ANSWERS

Q1. I studied Travel & Tourism Management at university and want to eventually become a hotel manager. I currently have a seasonal job at a resort and my visa will expire at the end of next month. I would like to finish the season at the resort and utilize the opportunity to transfer to another park which is operated by the same company. The US has so many options for my field of study and I would want to extend my visa or apply for a green card to be able to gain valuable working experience in the US. What are my options?

Ans. Depending on your current status, there are a few options that might be available for you. The first would be an [H-2B](#) visa for seasonal work. The hotel would have to submit a petition seeking the H-2B for you. Then if another hotel in the chain wants you for a different season that hotel would have to submit a separate petition for you. You could stay in the US for up to 3 years in H-2B status.

A second option would be an [H-1B](#). If a hotel wanted to hire you into a management-level position or a position that required specialized knowledge that can only be attained through at least bachelor-level education or its equivalent in hotel management/travel & tourism management -- you could qualify for the H-1B. Note, however, that there are a limited number of H-1B visas available each year and a beneficiary must wait until at least the beginning of the fiscal year (October) to start working.

Another option would be the [J-1](#) or [H-3](#) Training Visas. If your petitioner has a management training program that you could take advantage of, you could get from up to one year on the J-1 and up to two years on the H-3.

Q2. My sister is a U.S. Citizen and I was born in Canada. My sister filed an [I-130](#) petition for me in November 2007. I would like to know how I can expedite issuance of my Permanent Resident Visa?

Ans. When one may apply and receive an immigrant visa (green card) is controlled by a "priority date" system which essentially allows those who applied first to obtain their green cards before those who applied later to receive theirs. Because of numerical limitations within the preference categories and further per-country limits, most preference based immigrant visa categories have backlogs, i.e., more people have applied than there are visas available. In these categories you must wait until your "priority date" becomes current before you can apply for your visa. Your priority date is usually the date the immigrant petition (the I-130 in your case) was filed. The Department of State releases a monthly update on which priority date they are currently processing called the "Visa Bulletin."

GOT A QUESTION?

If you have a short, simple query on immigration to the U.S., send your questions to us. We will select and answer a few of the queries in every issue.

Note: Responses posted in this section provide only general information. Since immigration law is a complex matter, please [consult](#) an immigration attorney before acting upon any responses provided.

[Ask Your Question](#)

You fall into what is known as the Family-based "Fourth Preference" category, namely, brothers and sisters of U.S. citizens. According to the Visa Bulletin for June 2011, the DOS is currently accepting visa applications for those born in Canada with priority dates of March 8, 2000 or earlier. This means that only those individuals whose U.S. citizen brother or sister filed a petition for them on or before March 8, 2000 may now apply for their green cards. If you were born in Mexico or the Philippines, the priority dates are backed up to 1996 and 1988 respectively!

Because the dates on the Visa Bulletin do not necessarily progress monthly, it is difficult to accurately predict how soon you will be able to apply for the immigrant visa. However, based on past trends, it generally takes approximately 10 years for priority dates to become current for the fourth preference family based category.

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▲ Top

SUCCESS STORIES

"I'd like to express sincere and heartfelt thanks to both of you and the Visa Pro team for successfully preparing the case that led to my wife getting the greenlight on her [\[K-3 visa\]](#) to the USA. This is the best news I have received this year, and without a doubt the most positive news I have received since I got married to Irina last year.

Thank you so much for helping me and Irina to navigate through the maelstrom of legal paperwork required for processing an immigration visa. I am certain that your help was critical to the success of our case and we are so happy that we followed your advice.

May God bless you all mightily for the outstanding work you do to bring lives together. I will happily refer you to anyone that comes into my path requiring immigration visa services."

Yours most thankfully and respectfully,

Steve & Irina Latham,
United States

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▲ Top

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