



FROM THE EDITOR'S DESK

March is a crucial month in immigration. With April 1 just around the corner employers are gearing up to file [H-1B](#) cases for fiscal year 2011. There is a lot of excitement in the air. April 1 marks the first and only day of H-1B filing and with only 65,000 H-1B visas available H-1B petitioners are getting anxious. Many immigration experts are trying their hand at guessing if the U.S. Citizenship and Immigration Services (USCIS) will reach the H-1B cap this year very soon or will the situation be like last year.

The pace of cap usage for the upcoming filing season is difficult to predict because of several competing factors. The fiscal 2010 cap was reached just a few months ago, unlike in recent years when it was reached on the first filing day, so there is not likely to be the kind of pent-up demand that employers have been experiencing. At the same time, improvement in the economy and in certain industries could mean more new petitions subject to the cap than last year's slower overall filing rate would suggest. Even though cap usage was generally slow throughout most of the last fiscal year, there was a spike in quota number usage in November and December, suggesting a resurgence of demand. At this time, all we can do is simply wait and watch.

Effective February 24, 2010, the USCIS changed the procedures for filing the application for [employment authorization](#) (EAD), or Form [I-765](#). The Form I-765 now must be filed at either a designated lockbox or at the Vermont Service Center (VSC) depending on what category filed under. For the first month USCIS will automatically forward incorrectly filed applications to the appropriate lockbox facility (Phoenix or Dallas) for processing. After March 26, 2010, improperly filed petitions will be returned with a note to file at the correct facility.

The USCIS is also streamlining the processing of adoption petitions. The petitions, both Forms [I-600](#) and [I-600A](#), will

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continue to be filed through the Dallas Lockbox facility, but all petitions will now be processed through the USCIS' new adoption team established at the National Benefits Center in Missouri. USCIS cites efficiency and consistency as the reason for the change.

In another streamlining move, the USCIS has also changed the filing location for Form [I-824](#), Application for Action on an Approved Application or Petition. As of February 19, 2010, all Form I-824s must be filed with a lockbox facility. As with the change to the EAD applications noted above, the USCIS will automatically forward improperly filed petitions for the first 30 days, after which they will return improperly filed applications with a note to file at the appropriate lockbox facility. You guessed it, this is another efficiency move.

It is not just the USCIS that is making changes in its procedures. The U.S. Department of State (DOS) recently issued a notice regarding a change in processing procedures for [K-3](#) visa cases. K-3 petitions are filed for the spouses of U.S. citizens when there is a delay in completing the processing of the [I-130](#) petition. Effective February 1, 2010, if both a K-3 petition and the underlying Form [I-130](#) spousal petition approvals are transmitted to the National Visa Center (NVC), then processing of the K-3 petition will be discontinued by NVC. The NVC will process only the I-130 immediate relative petition. This will allow the foreign national spouse to enter the United States on an immigrant visa instead of the K-3 nonimmigrant visa. The stated reason for the change is that the availability and need for the K-3 nonimmigrant visa ends with the approval of the I-130 petition.

This move by the DOS is not without controversy, with strong opinions being voiced by individuals on both sides of the discussion. Some people believe that the I-130 is a much better option to start with, while others feel that the change in procedure makes K-3 visa a less attractive and, in many cases, superfluous option. Of course, this depends upon the speed at which I-130 petitions are being processed. It is always advisable to discuss the pros and cons of pursuing the K-3 with a qualified immigration attorney who can evaluate the options.

Other Developments in Immigration Law

[Greece Becomes a Member of the Visa Waiver Program \(VWP\)](#)

Department of Homeland Security (DHS) Secretary Janet Napolitano announced the designation of Greece as a member of the Visa Waiver Program (VWP) - strengthening

YOUR OPINION

Do you think change in the processing procedures for [K-3](#) visa cases will cause K-3 visa to be administered closely?

- a. Yes
- b. No
- c. Can't say

[Cast Your Vote](#)

[View Results](#)

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 March 2010.

I'm here in the U.S. since 2001. My wife is a U.S. citizen. We married in August 2004 and I got two year green card and then extended to one year or two. In August 2008 my petition to remove the conditions on the residence was DENIED by the USCIS.

I was very disappointed and forgot the case since then. I have also some problems with my wife and in Dec 2008 I moved to other address.

Now is it possible that for me to get green card? As a Truck Driver can I apply for the Green Card based on my employment?

passenger information sharing and ensuring strict security standards while streamlining travel for Greek citizens visiting the United States. Greece joins the 35 nations already participating in Visa Waiver Program (VWP). Greek citizens will be able to visit the United States without visas in approximately 30 days.

DHS Unveils Initiatives to Enhance E-Verify

Department of Homeland Security (DHS) Secretary Janet Napolitano joined U.S. Citizenship and Immigration Services (USCIS) Director Alejandro Mayorkas to announce a trio of initiatives to strengthen the efficiency and accuracy of the E-Verify system.

Immigration Articles and Other Fun Stuff

Now for the regulars – this month's **Immigration Article** **"Can You Travel To The US On A Visa Waiver Program (VWP) Or Do You Need A Visa"** lays an emphasis on when does a national of a VWP country needs to apply for a visa instead of using the VWP to enter the U.S. The article also speaks about the eligible countries for VWP and requirements to enter the U.S. on a Visa Waiver Program. Also check out our **In Focus** section for this month entitled **"Can One Get Married On A Tourist Visa"** where we discuss all the pros and cons of getting married to a U.S. citizen on a tourist visa.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that **66.67%** of the respondents believe that proving a valid employer-employee relationship for H-1B visas can be a cause of worry for the U.S. employers. 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 **Tahir Mahmood** 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 **Tahir Mahmood** 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.

[Submit Your Answer](#)

Immigration
Question?

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Experienced
Attorneys



Winner of the Immigration Quiz - February 2009:

Tahir Mahmood

The Question:

I am a citizen of Canada and I am working as an Independent contractor (providing software services) to a U.S. Company. Initially I used to travel to the U.S. on [B-1](#) but now I want to be full-time in the U.S. So how should I go about filing an [H-1B](#) visa for myself as an independent contractor?

The Winning Response:

Unfortunately an independent contractor does not qualify for an H-1B visa. However, in certain circumstances you may qualify for a TN visa.

Tahir Mahmood receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of March 2010.

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

Christine

RECENT IMMIGRATION EVENTS



VisaPro Attorney
Mr. Thomas Joy
at Bangalore



Consular Interview
Mock Session



Seminar Attendees
at Hyderabad

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▶ [Immigration Paralegal](#)

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Do you have questions regarding H-1, L-1, E-1, work visas or green cards? VisaPro has answers to commonly asked immigration questions. [Click here](#) to know more.

Wanted to take part in our immigration events, but missed your chance? Check out the informative library of immigration law videos from past conferences.



[More Videos...](#)

[DOL Announces Updated Model Notices and Educational Material on Extension of COBRA Subsidy](#)

The U.S. Department of Labor released updated model notice packages to enable group health plans and employers to provide notice on the availability of the Consolidated Omnibus Budget Reconciliation Act continuation coverage premium reductions under the American Recovery and Reinvestment Act through March 31.

[CBP Reminds U.S.-Bound Travelers from Visa Waiver Program \(VWP\) Countries to Complete Online Travel Authorization](#)

U.S. Customs and Border Protection reminds U.S.-bound travelers from Visa Waiver Program (VWP) countries to register through the Electronic System for Travel Authorization prior to traveling to the United States. Beginning March 20, CBP will end its 60-day transition to enforced ESTA compliance for air carriers; VWP travelers without an approved ESTA may not be allowed to board U.S.-bound aircraft.

[USCIS Reminds Petitioners to Provide Approved Labor Condition Applications \(LCA\)](#)

U.S. Citizenship and Immigration Services (USCIS) announced that it will not extend the period in which it temporarily accepted H-1B petitions filed with uncertified Labor Condition Applications (LCAs). As of March 10, 2010, USCIS will reject any H-1B petition filed without an LCA certified by DOL.

[Read More News](#)

Can One Get Married On a Tourist Visa?

“Can one get married on a tourist visa?” is a million-dollar question as it disturbs many people especially those who have marriage plans in the US but have no time to file for K-1 Fiancé visa and are certainly left with the only option of coming to the US on a tourist visa and getting married. Though, there is nowhere written in the US immigration laws that one cannot get married on a tourist visa however, the USCIS has very strict rules for those who come to the US on tourist visa with the sole intention of getting married. In this article, we will discuss all the pros and cons of getting married to a US citizen on a tourist visa.

[Read Full Article](#) | [Read More Articles](#)

Can You Travel To The US On A Visa Waiver Program (VWP) Or Do You Need A Visa?

If you are a citizen of certain countries, your trip is for business or pleasure, and you are planning to stay in the U.S. for less than 90 days, you will not need a visa. The Visa Waiver Program, known by the acronym VWP, allows citizens of 36 qualifying countries to travel to the United States for tourism or business for stays of up to 90 days without having to obtain a visa. However, you cannot use the VWP to enter the U.S. for any purpose other than as a tourist or business visitor. In this article we discuss the various situations when the national of a VWP country needs to apply for a visa instead of using the VWP to enter the U.S. We also speak about the eligible countries for VWP and requirements for VWP nationals to enter the U.S. on a Visa Waiver Program.

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PROCESSING TIMES

▶ [Visa Bulletin](#)

▶ [USCIS Processing Times](#)

▶ [Local USCIS Offices](#)

DISCUSSION CORNER

[Australian to US on a L1 & Brining family](#)

By Sillybilly

[Tourist Visa from Brazil?](#)

By Greenbear92

[Processing times at NVC - Sister of US Citizen](#)

By N.A.Khan1

[More Discussions](#)

2010 H-1B Cap Strategies

How to beat the Cap?

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QUESTIONS AND ANSWERS

Q1. I am waiting for my Green Card application to be approved, but my question is about traveling both to Canada and to Europe. Am I able to travel to Canada and Europe to visit my family while my Green Card application is pending? If so, what do I need to prepare in terms of extra paperwork to travel overseas and then return safely to the U.S. in 2-3 months?

Ans. As long as you have never been out of status in the U.S. for longer than 180 days you can apply for Advance Parole. Advance Parole allows you to travel outside the U.S. while your adjustment application is pending.

The advance parole application (Form [I-131](#)) must be submitted to the National Benefits Center (the same place your adjustment of status package was filed) and will take 60 - 90 days for approval. You cannot leave the U.S. until you have received the approved advance parole document (Form I-512). The I-512 is usually granted for 1 year, and can be renewed for 1 year at a time. If you travel with your advance parole you must return to the U.S. before the [Advance Parole](#) expires. If you do not return in time (or if you leave the U.S. before you receive your advance parole document) you will be considered to have abandoned your [adjustment of status](#) application and will have to start the process over outside the U.S. and you will not be allowed to return until you get your immigrant visa.

Q2. Form I-485 approval letters received for myself, my wife and daughter in June. My wife and daughter are currently on vacation in India and have valid advance parole to re-enter the country until January 23 next year. However, they are coming back on Aug 23. Questions:

- 1. Can they re-enter the US on Aug 23, with the Advance Parole documents that they currently carry (valid until Jan 23, next year)? If not then what are their options?**
- 2. If the plastic green card is received prior to their Aug 23 reentry, and I can send them their green cards via Fed-Ex to India, can they enter the US on Aug 23 using the new plastic Green Cards?**

Ans. If you receive the actual green cards (the plastic card) in the mail before your wife and daughter are set to return to the US you should forward them to India so they can be used for entry. If you do not receive them your wife and daughter can use the advance parole for entry. Either way they should not have any difficulty in returning.

The USCIS has been pretty good at getting the cards out quickly once the [I-485](#) has been approved so it is very likely that you will get them in time to forward them to India.

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](#)

[More Q&A](#)

SUCCESS STORIES

"On behalf of the Mingei International Museum Staff I would like to extend a heartfelt thank you for the hours of hard work you put into making sure that Daroga Ram and Rajen Bai were able to acquire U.S. visas to work on the exhibition "Sonabai - Another way of Seeing".

Their presence has enriched our lives and has added a new level of understanding for every audience member who walks through the door.

Thank you to everyone who was involved in this process, we certainly could not have done it without you."

Sincerely,

Johanna Pope,
Mingei International Museum

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