

UPDATE ON H-1B SITUATION

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by

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The implementation of the H-1B Visa Reform Act continues to be delayed at OMB. As frequent readers of this column and www.longchangonline.com know, the United States Citizenship and Immigration Services (USCIS) had previously announced in March 2005 that the H-1B cap exemption created by the H-1B Visa Reform Act of 2004 would apply to all qualified beneficiaries, not just those beneficiaries who graduated from a U.S. college or university with an advanced degree (master's or higher). It is now unclear whether the USCIS intends to stand by this announcement or if they will revert to the specific language of the H-1B Visa Reform Act of 2004 which provides that the 20,000 new H-1Bs would only be available to beneficiaries with an advanced degree from a U.S. college. The USCIS will not accept any H-1Bs with a start date earlier than October 1, 2005, until specific instructions are published in the Federal Register, and is currently rejecting any H-1B application with a start date prior to October 1, 2005 (the beginning of fiscal year 2006). It is also unclear as to how the USCIS will handle H-1B petitions which have already been approved or are currently pending once the H-1B Visa Reform Act is implemented. Many interested parties have inquired as to whether these H-1B petitions will have to be refiled to obtain an earlier start date. Stay tuned to www.longchangonline.com for updates on the H-1B situation.

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