

# Immigration Spotlight

## Inside Spotlight

### U.S. Citizenship and Immigration Services

Premium processing for EB-3 I-140s.....	53.1
Processing times change on uscis.gov.....	53.2
National Security and Records Verification.....	53.2

### Department of Labor

BEC case status now on-line.....	53.2
New FAQ on BEC 45-day letters.....	53.2

### Department of State

October Visa Bulletin.....	53.2
Visa waiver travel guide updated.....	53.3

### Global Visas

France: New residence and work permits.....	53.3
---	------

### Other News

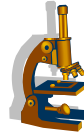
Write for H-1B and retrogression reform.....	53.3
J&H news.....	53.4

## Abbreviations used in this issue

- BEC** - DOL Backorder Elimination Center(s)
- CRNL** - DOL Center Receipt Notification Letters
- DOL** - Department of Labor
- DOS** - Department of State
- FDNS** - USCIS Fraud Detection and National Security Division
- RFE** - Request for Evidence
- NSRV** - USCIS National Security and Records Verification Directorate
- PDS** - BEC Backlog Public Disclosure System
- USCIS** - U.S. Citizenship and Immigration Services
- VWP** - Visa Waiver Program

**Spread the word!** *Immigration Spotlight is written and distributed to HR professionals and also published to our website. To read a back issue on our website, click on "Employer Resources" on the menu bar. Please feel free to forward Spotlight to the rest of your management team and employees.*

© 2006 Jackson & Hertogs LLP is one of the oldest and most respected immigration and nationality law firms in the United States. Established in 1950, we were one of the first legal firms in the country dedicated solely to the practice of immigration law. Today, Jackson & Hertogs has eight attorneys and a staff of more than 25 legal assistants and office management personnel to assist you with immigration matters.



## Immigration options for Scientists and Researchers

As part of our monthly series, Jackson & Hertogs will offer a webinar addressing immigration issues for scientist and researcher employees in the life sciences and technology sectors on **Wednesday, October 18th at 10:00 a.m. PDT**. We will cover non-immigrant employment visa options, as well as options in pursuing permanent residency. The webinar will cover questions such as: When do viable alternatives to the H-1B visa exist? What are possible alternatives to the PERM labor certification process? How does immigrant visa retrogression affect the decision-making process? To register for this webinar, please e-mail [webinar@jackson-hertogs.com](mailto:webinar@jackson-hertogs.com).

## USCIS News

### Premium processing for EB-3 I-140s

As of August 28, 2006, USCIS has begun accepting certain employment-based I-140 immigrant petitions for premium processing. Under premium processing, for an additional processing fee of \$1,000, the USCIS will to either approve, deny, or issue a Request for Evidence (RFE) within 15 calendar days of receiving the I-140 petition. Only I-140 immigrant petitions for the employment-based 3rd preference (EB-3) Professionals and Skilled Workers category will be accepted for premium processing at this time. Additional types of I-140 immigrant petitions will be accepted for premium processing at a later date.



USCIS has stated that certain EB-3 petitions will not be accepted for premium processing at this time. EB-3 I-140 petitions not eligible for premium processing include: A second filing of a Form I-140 petition while an initial Form I-140 remains pending; Labor Certification substitution requests; and duplicate Labor Certification requests (i.e., cases filed without an original labor certification from the Department of Labor). These petitions are not being accepted for premium processing because of their special processing requirements, which can include locating and transferring other files or documents internally and requesting initial evidence from an outside agency. These extra activities make it unduly difficult for USCIS to guarantee processing the case within a 15 calendar day period.

The USCIS press release can be viewed at: <http://www.uscis.gov/graphics/publicaffairs/newsrels/PremProc081806NR.pdf>.

## Processing times change on [uscis.gov](http://uscis.gov)

In a press release dated August 23, 2006, USCIS announced changes to the reporting of processing times for applications listed on their website, [www.uscis.gov](http://www.uscis.gov):

In the past, USCIS benefit processing reports indicated the specific type of applications or petitions that were being processed and the date the cases were received. However, the date the case was received did not provide a clear indication of when USCIS expected to complete the case, nor did it provide a clear indication of USCIS' commitment to process cases within a certain cycle time. It also did not align with the processing times and cycle times the agency reports in other contexts.

This improved reporting procedure is an effort to give our customers more accurate information that better reflects current processing time and USCIS service level commitments. Effective immediately, when we are completing applications and petitions within our service goal levels we will report that as the processing time. For example, when our service level goal is to process a particular kind of case within six months, then if our processing time is six months or less, we will show a processing time consistent with our service level goal because that reflects our commitment. Similarly, where our service level goal is 3 month processing, we will show a processing time reflecting that commitment if we are meeting that service level goal.

When we are not meeting our service level goal, the date posted will reflect the filing date of cases that are being completed. It should be noted that while in some instances reported processing dates may appear to have regressed due to this change, they do not reflect a lengthening of USCIS processing times, but simply the change in reporting. Our goal is to provide accurate projections and thus give customers clear expectations as to what they can expect as a processing time.

The original press release can be viewed at: <http://www.uscis.gov/graphics/publicaffairs/statements/PRCSSTimes082306PN.pdf>.

## National Security and Records Verification Directorate



On September 12, 2006, USCIS announced the creation of the National Security and Records Verification Directorate (NSRV). The NSRV merges all security functions for all USCIS offices, other DHS components, and federal and local law enforcement agencies. The Directorate includes the USCIS Fraud Detection and National Security (FDNS) Division, Records Division and the Verification Division.

Some interesting facts about national security and immigration:

- The FDNS handles all of USCIS' intelligence work, fraud detection and national security cases.
- FDNS consists of nearly 400 immigration officers, intelligence research specialists, senior adjudications officers and analysts throughout USCIS Headquarters and the field.

- Since 2003, USCIS has mandated that every applicant undergo a national security and background check.
- USCIS employees complete security and background checks on more than 135,000 applicants each day.
- Document and benefit fraud investigations have increased from 2,334 in FY 2004 to 3,591 in FY 2005.
- Criminal indictments in benefit fraud investigations have increased from 767 to 875.
- Arrests have risen from 1,300 to 1,391 cases.
- Convictions have increased from 559 to 992 cases.

## DOL News

### BEC case status now on-line!

On September 11, 2006, DOL added the ability to look up basic case status information on Alien Employment Certifications pending at a Backlog Elimination Center. Known as the Backlog Public Disclosure System (PDS), the on-line system will provide the case status upon input of a Dallas or Philadelphia case number. The system case statuses include: data review, in process, certified, denied, appeal, withdrawn, or closed. No other information beyond the case status is provided. This page can be accessed through our website: <http://www.jackson-hertogs.com/index/bec.htm>.

### New FAQ on BEC 45-day letters

On September 11, 2006, DOL released FAQs on the non-issuance of 45-day Center Receipt Notification Letters (CRNL), also known as 45-day letters, by the Backlog Elimination Centers. The FAQs can be reviewed at: [http://www.workforcsecurity.doleta.gov/foreign/pdf/backlog\\_faqs\\_09-11-06\\_nobec.pdf](http://www.workforcsecurity.doleta.gov/foreign/pdf/backlog_faqs_09-11-06_nobec.pdf).

Please note that J&H has contacted the appropriate BEC on all cases we are managing for which no 45-day letter was received.

## DOS News

### October Visa Bulletin

On September 12, 2006, DOS released the October 2006 Visa Bulletin ([http://travel.state.gov/visa/frvi/bulletin/bulletin\\_3032.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_3032.html)). There were no retrogressions in any categories, and movement forward in most categories.

EB-1 remains current for all countries. EB-2 is current for all countries other than China and India. For individuals born in China, the EB-2 category advanced to April 1, 2005. For individuals born in India, EB-2 has reopened since being unavailable as of August, and the cutoff date is June 15, 2002.

In the EB-3 category, the priority date moved forward two months to May 1, 2002 for Chinese-born and Philippine-born individuals as well as for the world-wide cut off (individuals born in all countries other than India, China, Mexico, or the Philippines). There is forward movement of a few days for India-born individuals, with the new cutoff date at April 22, 2001. The EB-3 cutoff date for persons born in Mexico is May 1, 2001.

For more information on the Visa Bulletin and country quota movements, including information about movement in the Family-Based Quotas, please see our DOS Visa Bulletin and Quota Movement page (<http://www.jackson-hertogs.com/quota/0quota.htm>) which includes detailed charts of quota movement for the past decade.

## Visa waiver travel guide updated

The visa waiver program (VWP) travel guide has been updated to reflect the changes to passport requirements for those traveling to the U.S. as a visa waiver visitor.

- As of October 26, 2006, any passport issued on or after this date by a VWP country must be an e-Passport for VWP travelers to be eligible to enter the United States without a visa.
- A VWP traveler who has a valid, machine-readable passport with a digital photograph does not need a new e-Passport until the existing passport expires, if the digital photograph passport was issued before October 26, 2006.

A VWP traveler with a valid, machine-readable passport without a digital photograph does not need a new e-Passport until the existing one expires, if the machine-readable passport was issued before October 26, 2005.

Please see the updated travel guide for more details: [http://www.dhs.gov/interweb/assetlibrary/vwp\\_travelguide.pdf](http://www.dhs.gov/interweb/assetlibrary/vwp_travelguide.pdf).

## Global Visas



### France: New residence and work permits

The French government recently passed a new immigration law that created two new types of residence / work permits that will soon be available. The "Skills and Talents Permit" (*carte de Séjour Compétences et Talents*) is valid for three years and is renewable. This residence permit is designed for migrants whose "personalities, abilities and projects" may strongly contribute to the country's development and international status. This new Residence Permit will allow its holder to live and work in France either as an independent contractor or as an employee.

The "Employee on a Mission Permit" (*Salarié en Mission*) also is valid for 3 years and is renewable. It is intended for the temporary secondment of foreign employees in France. The secondment must be an intra-company or intra-group secondment and the employee's monthly gross salary must

be a minimum 1,5 times the statutory minimum salary in France as updated every July 1st (currently Euros 1254.28 x 1,5 = Euros 1882). This residence permit provides that the seconded employee's spouse is eligible to receive a 1-year renewable "private and family life" (*vie privée et familiale*) residence permit which allows him or her also to work in France.

The new French immigration law also extends the scope of the "reception and integration contract" (*Contrat d'accueil et d'intégration*) and requires that non-EU migrants admitted to France for the first time agree to take French language and civics lessons. This contract should not apply to temporary workers assigned to France who do not intend to reside in France on a long-term basis.

Please contact us for further information about working in France.

## Legislative Corner

### Take action! Write for H-1B and retrogression reform!



J&H believes that it is important to keep our clients informed and make available the tools for immigration advocacy. To that goal, we have provided two sample letters that can be personalized to urge Congress for H-1B cap and immigrant visa retrogression reform. The first letter addresses the Senate Judiciary Committee's bipartisan budget reconciliation package as a viable solution to both multi-year immigrant visa backlogs and the H-1B visa "blackout." The Senate's budget reconciliation package would provide relief from this crisis by mitigating the impact of the visa backlogs and H-1B blackout. It would also provide for expanded access to employment-based immigrant visas and H-1B visas through the recapture and reallocation of unused numbers from prior years. In exchange for the expanded access, the proposal would impose new fees on employment-based immigrant visas, on the recaptured H-1B nonimmigrant visa numbers, and on L-1 visas. Please complete this letter to urge that these provisions remain in the final budget reconciliation package: <http://www.jackson-hertogs.com/issues/retrogr.doc>.

The second letter addresses the H-1B blackout and urges that Congress provide relief. Due to the annual cap on H-1B visas, there are no H-1B visa numbers available for the next year until October 1, 2007. The H-1B cap was reached on May 26, 2006, sixteen months before the start of the next fiscal year. This means that U.S. companies will lose access for over a year to highly educated foreign professionals vital to the success of U.S. companies. This is the second year in a row that the H-1B cap has been reached before the start of the fiscal year, and the eighth time the cap has been reached since 1997. Now is the time to educate policy makers about the adverse impacts of the cap to your business and express your support for reform. This letter can be personalized with specifics of how the H-1B cap affects your business: [http://www.jackson-hertogs.com/issues/h1b\\_cap.doc](http://www.jackson-hertogs.com/issues/h1b_cap.doc).



## J&H News

### J&H welcomes Leah Onori!

J&H is happy to welcome Leah Onori, who has recently joined our team of legal assistants and will be working primarily with attorney Ilana J. Drummond. Leah received Bachelor's degrees in English and Political Science from Westmont College in Santa Barbara, California and her Master's degree in English from San Francisco State University in San Francisco, California. Leah has experience with both nonimmigrant and immigrant visas as a legal assistant at a large business immigration firm in San Francisco, California.

### J&H welcomes Trexy Ching!

J&H is also pleased to welcome Trexy Ching, who will be working primarily with attorney Norman C. Plotkin as a legal assistant. Trexy was born in Taiwan and grew up in multiple states within the U.S. including New York, Florida, Georgia and California. She graduated from San Francisco State University in San Francisco, California in 2004 and has been involved with legal, educational, and sexual violence advocacy for over six years. Previously Trexy worked as a Client Advocate with the Bar Association of San Francisco's Volunteer Legal Services Program. She is also currently working with Project Survive and Survivors International as an interpreter and workshop facilitator.

### Immigration Trivia

**You can now Premium Process any I-140 immigrant visa petition for a surcharge of \$1000.**

True or False?

**Answer:** False. At this time, USCIS is only accepting Premium Processing of EB-3 (employment-based 3rd preference) Professionals and Skilled Workers category I-140 immigrant visa petition where the filing is not a second filing of a Form I-140 petition while an initial Form I-140 remains pending; a Labor Certification substitution request; or a duplicate Labor Certification request. Please watch [www.jackson-hertogs.com](http://www.jackson-hertogs.com) for announcements when additional categories are opened for Premium Processing by USCIS.

# Jackson & Hertogs



Half a century of experience in the exclusive practice of immigration and nationality law. Highest rating for corporate immigration law in Martindale-Hubbell Bar Register, International Who's Who, and Best Lawyers in America. Representation ranges from Fortune 500 multinationals to venture-backed startups.

**JACKSON & HERTOGS LLP**  
170 COLUMBUS AVENUE, 4TH FLOOR  
SAN FRANCISCO, CA 94133

(800) 780-2008  
[WWW.JACKSON-HERTOGS.COM](http://WWW.JACKSON-HERTOGS.COM)

## We provide a wide range of services.

- Petitions for all types of temporary employment visas.
- Extraordinary Alien, Outstanding Researcher, Multinational Manager/Executive and National Interest Waiver immigrant visa petitions.
- Requests for labor certifications.
- Family preference immigrant visa petitions.
- Applications for permanent resident status, whether based upon labor certification, family relative visa petitions, or pre-certified occupational categories.
- B-1, E1 and E2.
- Applications for changes of nonimmigrant status.
- Processing of temporary and permanent visas at American Consulates and Embassies throughout the world.
- Applications for waivers of two-year foreign residence requirements pertaining to J-1 exchange students and researchers.
- Applications for naturalization and related citizenship matters.
- Advice to employers in complying with the employer sanctions provisions of the Immigration Reform and Control Act.