

ALERTS

Immigration Update

USCIS REACHES FISCAL YEAR 2010 H-1 CAP

12.23.2009

On December 22, 2009, U.S. Citizenship and Immigration Services (USCIS) announced that it had received a sufficient number of H-1B petitions to reach the statutory cap for fiscal year (FY) 2010.

USCIS confirmed that Dec. 21, 2009 is the "final receipt date" for new H-1B specialty occupation petitions requesting an employment start date in FY 2010. The "final receipt date" is the date on which USCIS determines that it has received enough cap-subject petitions to reach the limit of 65,000. Properly filed cases will be considered received on the date that USCIS physically receives the petition; not the date that the petition was postmarked. USCIS will reject cap-subject H-1B petitions that arrived after Dec. 21, 2009.

USCIS will apply a computer-generated random selection process to all cap-subject petitions received on Dec. 21, 2009. USCIS will use this process to select petitions needed to meet the cap. Cap-subject petitions not randomly selected will be returned and fees will be refunded.

The statutory cap applies to H-1B petitions for workers who are applying for an initial issuance of H-1B status. H-1B Petitions filed on behalf of current H-1B workers who have been counted previously against the cap, such as petitions to extend current H-1B status or to change employer for current H-1B workers, are not subject to the cap.

April 1, 2010 will be the first date that employers can petition for cap-subject H-1B status for FY 2011, which begins October 1, 2010. If you have any questions regarding cap-subject H-1B petitions, please call or email your [MVA Global Immigration Team Contact](#).