



ATTORNEY ADVERTISING

NOVEMBER 9, 2007

## Immigration eNews

### IN THIS ISSUE...

- [New I-9 Form](#)
- [New USCIS travel rule for H and L green card applicants](#)
- [Court finds a misuse of a Social Security number a crime of moral turpitude](#)
- [Visa Bulletin for November 2007](#)
- [USCIS update on receipt issuance](#)
- [The DREAM Act is dead](#)

### New I-9 Form

On November 7, 2007, the U.S. Citizenship and Immigration Services ("USCIS") released a revised Employment Eligibility Verification Form I-9. The revised Form I-9 is a further step in the USCIS' ongoing work toward reducing the number of documents used to confirm identity and work eligibility. According to the USCIS, certain forms were removed because they lack features to help deter counterfeiting, tampering, and fraud. Other important updates relate to employee's Social Security Number, and the electronic execution and retention of the Form I-9.

All employers are required to complete a Form I-9 for each employee hired after November 6, 1986. Employers are encouraged to start using the revised Form I-9 immediately. Both the revised form and the " *Handbook for Employers, Instructions for Completing the Form I-9* " are available online at <http://www.uscis.gov/files/nativedocuments/m-274.pdf> . In addition, the related USCIS fact sheet which details the changes is available at <http://www.uscis.gov/files/pressrelease/FormI9FS110707.pdf> .

### New USCIS travel rule for H and L green card applicants

Effective November 1, 2007, a new rule by the USCIS removed the requirement that certain H and L nonimmigrants returning from travel abroad must present an I-485 receipt notice at a port of entry to avoid having the adjustment application deemed abandoned.

Generally, green card applicants who are awaiting the adjudication of their Form I-485 Applications to Adjust Status to obtain lawful permanent resident status must take certain steps before a trip abroad. Most applicants must obtain permission from the USCIS to travel prior to the trip (known as "advance parole"). Leaving the U.S. without advance parole while an adjustment of status application is pending can result in automatic abandonment of an application.

However, some applicants do not need to obtain advance parole prior to their trip. These applicants include applicants in H and L status (including dependents, H-4 and L-2). Before the USCIS' recent ruling, upon return to the United States, H and L applicants without advance parole were required to demonstrate at the port of entry that they (1) remain eligible for H-1/H-4 or L-1/L-2 nonimmigrant status; (2) will resume employment with the same employer; (3) are in possession of a valid H or L visa (if a visa is required); and (4) have the original receipt notice for the Form I-485 Application to Adjust Status. It is this last requirement to have the Form I-485 receipt that has been removed by the new rule.

The USCIS recognizes that due to its varying workload, it is not always able to ensure immediate issuance and mailing of Form I-797 receipt notices upon receipt of an adjustment of status application. This new rule will ensure that the H and L green card applicants are not adversely affected with regard to their travel by the delays in the USCIS processing and

issuing the Form I-485 receipt.

### **Court finds a misuse of a Social Security number a crime of moral turpitude**

The federal court in the Fifth Circuit held that a conviction of misuse of a social security number obtained by fraud is a crime involving moral turpitude, thus making the alien ineligible for relief from removal (deportation).

The case involved an alien whose family member submitted an application for a social security card in the alien's name. The application falsely stated that the alien was lawfully present in the U.S. on a student visa. Although the alien himself did not complete the application, he knew about the family member doing it on his behalf. The alien obtained the social security card and used it to get a Texas driver's license and identification card. Later, the alien pled guilty to misuse of a social security number obtained by fraud. Petitioner was placed in removal proceedings for deportation and applied for cancellation of removal. The court concluded that the alien's conviction constituted a crime involving moral turpitude which rendered him ineligible for relief.

This decision is important not only with regard to eligibility for relief from removal (deportation), but also because the findings of being guilty of crimes of moral turpitude may have grave consequences for eligibility for other immigration-related benefits, such as eligibility for permanent residence or naturalization in the U.S.

### **Visa Bulletin for November 2007**

The Immigration and Nationality Act (INA) sets an annual minimum for both family-based and employment-based immigrant visas ("green cards"), prescribed by categories and per-country limits. A prospective immigrant can apply to become a permanent resident only when a visa number is available in his/her respective category. The monthly Visa Bulletin, published by the U.S. Department of State, provides a monthly update on the availability of visa numbers, listing the cut-off priority. Only applicants who have a priority date **earlier than** the cut-off date may be allotted a number.

The complete Visa Bulletin for November 2007 is available at the Department of State's website at [http://travel.state.gov/visa/frvi/bulletin/bulletin\\_3827.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_3827.html). Below is an excerpt from the November 2007 Visa Bulletin pertaining to the employment-based categories.

	<b>All Charge-ability Areas Except Those Listed</b>	<b>CHINA-mainland born</b>	<b>INDIA</b>	<b>MEXICO</b>	<b>PHILIP-PINES</b>
<b>Employment -Based</b>					
1st	C	C	C	C	C
2nd	C	01JAN06	01APR04	C	C
3rd	01 AUG02	01SEP01	22APR01	22APR01	01AUG02
Other Workers	01OCT01	01OCT01	01OCT01	01OCT01	01OCT01
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5th	C	C	C	C	C
Targeted Employment Areas/ Regional Centers	C	C	C	C	C

### **USCIS update on receipt issuance**

Although the USCIS' processing of fee payments and entry of cases into the tracking system continues to be behind schedule, according to the USCIS' most recent update, the agency has now completed the entry of those permanent residence cases that had been sent to the USCIS under the special provisions of the July 2007 Visa Bulletin.

The USCIS continues to assure its customers that the agency honors the actual date that an application was received in the mailrooms as the official "Receipt Date" and this date is being reflected on Forms I-797, Notice of Action (receipt notices). The USCIS continues to process Premium Processing Service requests within 15 days.

Until this situation is resolved, the USCIS provides weekly updates on the progress of receipt issuing. Below is the most recent update, as of **November 1, 2007**.

**California Service Center**

Form Number	Date Received
I-130	08/30/2007
N-400	08/06/2007
All Other Forms	10/16/2007

**Vermont Service Center**

Form Number	Date Received
I-130	07/24/2007
N-400	07/29/2007
All Other Forms	10/28/2007

**Nebraska Service Center**

Form Number	Date Received
I-131	10/09/2007
I-140	10/09/2007
I-485 (Employment-Based)	10/09/2007
I-485 Refugee	08/21/2007
I-765	10/09/2007
N-400	07/29/2007

**Texas Service Center**

Form Number	Date Received
N-400	07/22/2007

**USCIS Lockbox**

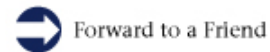
Form Number	Date Received
TPS	10/11/2007

**The DREAM Act is dead**

On October 24, 2007, the Senate failed to obtain the necessary votes to move forward with the debate on the Development, Relief and Education for Alien Minors Act of 2007 or DREAM Act. The vote was 52-44 in favor of proceeding with the DREAM Act, which was eight votes short of the 60 votes necessary to allow senators to begin debating and working on the DREAM Act amendments, before voting on its final passage.

The DREAM Act was bipartisan legislation that aimed to provide an avenue for qualified undocumented students to acquire legal permanent status and pursue a college degree. Under this legislation, the eligible students would receive permanent status if, over a number of years, they successfully complete several requirements, including, among others, achieving a certain educational level, being a person of good moral character, and not having criminal record.

For more information, please contact  
[Megan Naughton](mailto:mnaughton@rc.com), at 860-275-8263 ( [mnaughton@rc.com](mailto:mnaughton@rc.com) ),  
[Joshua Mirer](mailto:jmirer@rc.com), at 860-275-8344 ( [jmirer@rc.com](mailto:jmirer@rc.com) )  
or [Natasha Sharubina](mailto:nsharubina@rc.com), at 860-275-8396 ( [nsharubina@rc.com](mailto:nsharubina@rc.com) ).



© 2007 Robinson & Cole LLP

All rights reserved. No part of this document may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without prior written permission. This newsletter should not be considered legal advice and does not create an attorney-client relationship between Robinson & Cole LLP and you. Consult your attorney before acting on the information in this newsletter.

This email was sent to: [archive@rc.com](mailto:archive@rc.com)

This email was sent by: Robinson & Cole LLP  
280 Trumbull Street Hartford, CT 06103 Attn: Client Relations

Powered by  
**ExactTarget.**  
Click to learn more.

We respect your right to privacy [view our policy](#)

[Manage Subscriptions](#) | [Update Profile](#) | [One-Click Unsubscribe](#)