



**LEGAL
NOTES**

Ruben S.
Seguritan

INS stops accepting H-1B petitions

H-1B petition for first time employment of professional workers received by the INS on or after June 15, 1999 would be returned along with the filing fee to the petitioner.

This was announced in the Federal Register on June 15 as the cap for H-1B which is 115,000 has been reached. The INS also said in a press release that approvable cases with the receipt date of on or before April 9, 1999 will be granted H-1B status. Petitions that were received from April 10 through June 14 will still be adjudicated but will have a start date of October 1, 1999. The limitation on the number of H-1B visas was implemented in fiscal year 1992 under the Immigration Act of 1990 (IMMACT). From 1992 through 1996, the annual cap of 65,000 was not reached. However, in 1997, the limit was reached on September 1 that year. Last year it was reached on May 11, 1998. It was because of the strong demand for professional, especially hi-tech,

workers' that Congress temporarily raised the limit from 65,000 to 115,000 for 1999 and 2,000 and 107,500 for 2001. The increase will end in the fiscal year 2001. The Philippines ranked fourth among the top ten countries sending H-1B workers in the first half of 1999.

Not affected by the cap are petitions that have been filed for sequential or concurrent H-1B employment, H-1B extensions and amended H-1B petitions. Sequential employment refers to an alien's assuming one H-1B position after another, while concurrent employment applies to aliens who hold two H-1B positions at one time. H-1B extensions of stay are filed by current employers in order to extend the temporary stay of the alien. Amended petitions cover those that reflect changes in employment conditions while employed by the same person or organization. The INS will continue to process these petitions.

The INS also issued an interim rule that makes accommodation of certain foreign students (F-1) and exchange visitors (J) who are presently in the U.S. They and their dependents will be allowed to remain if their employer filed a timely petition and application for change of status. However, they will be prohibited from working or engaging in any activity that is violative of their status.