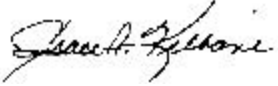


U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION OWS
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DIRECTIVE : EMPLOYMENT SERVICE PROGRAM LETTER NO. 03-01

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : Grace A. Kilbane 
Administrator
Office of Workforce Security

SUBJECT : Notice of Anticipated Significant Increase in new Permanent Labor Certification Applications Received In FY 2001

1. Purpose. To provide notice of an expected significant increase in new Permanent Labor Certification applications as a result in a recent change in the Immigration and Nationality Act, and provide recommendations for actions to support the intentions of the change in the Act while recognizing the constraints under current regulations and budget limitations.
2. References. The Immigration and Nationality Act, The Legal Immigration Family Equity Act of 2000 (LIFE Act), the LIFE Act amendments of 2000; 20 CFR Part 656.
3. Background. On December 21, 2000, the President signed into law the LIFE Act Amendments of 2000. Section 1502 of that law amended section 245(i) of the Immigration and Nationality Act to provide certain immigration benefits to any alien for whom an immigrant visa petition or a permanent labor certification has been filed no later than April 30, 2001.

In FY 1998, the State Agencies experienced a similar event, when section 245(i) benefits were allowed for applications which were received by the State Agencies by January 14, 1998. Nationally, during the three month period during which aliens and their employers could respond, the system received an estimated 40,000 applications over the number of applications normally anticipated for this time period. This additional number of new applications received (some States received in those three months the number of applications they normally receive in one year) seriously burdened the states and significantly added to the backlog of permanent applications in the system.

RESCISSIONS None	EXPIRATION DATE
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4. Actions State Agencies Should Consider.

Application beneficiaries (and their representatives) are extremely interested in insuring that State Agencies are in a position administratively to receive the new applications up until the last minute available under the law. State Agencies may wish to consider, if at all practicable, accommodating last minute submittals by making arrangements for receiving hand delivered applications (walk-ins) and marking the submittals as to the date received.

Impacted parties are also extremely interested in insuring that the State Agencies correctly date stamps the application as to when the application is received by the agency. State Agencies are reminded that if an application is received in the office or in a post office box designated for the purpose of accepting applications by midnight April 30, 2001, the State should date stamp these as being received April 30 (even if the volume of cases received means the actual date stamping will occur some days later).

It should also be noted that although the plan is to propose a new permanent labor certification system which is expected to significantly reduce the work required by the State Agencies, it will be necessary for State Agencies to process all permanent cases received under the current system. This includes the anticipated large influx due to the temporary reinstatement section 245(i). States have received funds for this year and DOL will seek adequate funding for State Agencies to process the applications during this period and as a result of the law change.

5. Valid Applications.

The regulations at 20 CFR §656.21 (c) provides that the State Agency shall date stamp the application upon receipt. Some time after the application is date stamped, the State Agency should review the application to ensure the form is complete. Section 656.21 (c) and the Technical Assistance Guide provides that if the application is not complete the State Agency is to return the application to the employer and shall provide the employer with precise instructions on completing the application and informing the employer they have 45 days to complete the application and refile. If the application is refiled within 45 days with the information requested, the local office date of the original receipt remains. If a complete application is not received with the requested information within 45 days, the employer will be requested to refile the application as a new case with a new acceptance date. (Such applications will not be considered as “received” as of the date of the first (incomplete) submittal.)

Also note that if the submittal does not include a signed ETA750A it is not an application for alien labor certification. Therefore, the submittal need not be stamped in as received, and may be returned immediately to the submitter with no further action, except to inform them that it will not be accepted until a signed ETA750A is included.

6. Actions Required.

State Administrators are requested to inform their labor certification staff of the guidance provided by this issuance, and take whatever actions they deem practicable to insure that beneficiaries of the labor certification program are provided all the rights and opportunities afforded by the Life Act Amendments of 2000.

7. Questions. Questions should be directed to the appropriate ETA Regional Office.