

Does This Process Apply to H-1B Petitions Filed for Employment to Commence on or After October 1, 2004?

No. Those petitions are not affected by the procedures described in this notice and will be adjudicated in the normal fashion, regardless of whether they are filed after this year's cap is reached. Petitioners are reminded that, pursuant to 8 CFR part 214.2(h)(9)(i)(B), petitions for H-1B classification may not be filed or approved more than six months prior to the requested employment start date. Therefore, petitions filing for work to commence on October 1, 2004, should not be filed prior to April 1, 2004. H-1B petitions filed for employment to commence on or after October 1, 2004, will be counted, if otherwise chargeable against the annual H-1B cap, against the FY 2005 numerical cap.

How Will CIS Treat H-1B Petitions That Are Revoked for Any Reason Other Than Fraud or Willful Misrepresentation?

For purposes of the annual numerical limitation, if an H-1B petition was approved in a prior fiscal year (e.g. FY2000, 2001, 2002, 2003) but revoked in FY2004, that revocation *will have no effect* on the FY2004 cap and the number *will not be restored* to the total number of H-1B new petition approvals available for the remainder of FY2004.

However, if an H-1B petition was approved in FY2004 (and the approval was counted against the FY2004 cap), and the H-1B petition subsequently is revoked during FY2004 for any reason other than fraud or willful misrepresentation (e.g. the petitioner goes out of business), that number *will*

be restored to the total number of H-1B petition approvals available for the remainder of FY2004. If the same H-1B petition is revoked for any reason other than fraud or willful misrepresentation after the end of FY2004, CIS *will not restore* the number to the FY2004 cap.

How Will CIS Process H-1B Petitions That Are Revoked for Fraud or Willful Misrepresentation?

Section 108 of the American Competitiveness in the Twenty-first Century Act of 2000, Pub. L. 106-313 ("AC21"), sets forth the procedure when an H-1B petition is revoked on the basis of fraud or willful misrepresentation. Under AC21, one number shall be restored to the total number of H-1B petition approvals available for the fiscal year during which an H-1B petition is revoked on the basis of fraud or misrepresentation, regardless of the fiscal year in which the petition was approved.

How Will CIS Process H-1B Petitions That Were Originally Denied but Subsequently Ordered Approved by the Administrative Appeals Office or by a Federal Court?

CIS has considered cases currently on appeal in its determination of cases that could count towards the statutory cap. CIS will process approved petitions in the order that they were originally filed with CIS or the former INS.

Will CIS Refund a Filing Fee if a Petition Is Withdrawn or Revoked?

No, CIS will not refund the \$130 filing fee when a petition is revoked or withdrawn. The provisions contained in 8 CFR 103.2(a)(1) preclude the refunding of filing fees on Form I-129

petitions in these situations. The CIS will refund a filing fee only if the refund request is based on CIS error or if the petition is filed subsequent to February 17, 2004. It should be noted that H-1B cap cases filed under the premium processing program are subject to the conditions contained in this notice.

William Yates,

Acting Director, Bureau of Citizenship and Immigration Services.

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DEPARTMENT OF THE INTERIOR

National Park Service

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Pursuant to 36 CFR 51.23, public notice is hereby given that the National Park Service proposes to extend the following expiring concession contract for a period of up to 3 years until September 30, 2006.

SUPPLEMENTARY INFORMATION: The listed concession authorization expired on September 30, 2003. The National Park Service has determined that the proposed extension is necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption. This extension will allow the National Park Service to complete and issue a prospectus leading to the competitive selection of a concessioner for new long-term concession contracts covering these operations.

Conc ID No.	Concessioner name	Park
LAME004	Lake Mead Ferry Service, Inc.	Lake Mead National Recreation Area.

EFFECTIVE DATE: October 1, 2003.

FOR FURTHER INFORMATION CONTACT:

Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC, 20240, Telephone 202/513-7156.

Dated: January 27, 2004.

Richard G. Ring,

Associate Director, Administration, Business Practices and Workforce Development.

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DEPARTMENT OF THE INTERIOR

National Park Service

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Pursuant to the terms of existing concession contracts, public notice is hereby given that the National Park Service has requested a continuation of visitor services for the following expiring concession contract for a period of 1 year, or until such time as a new contract is awarded, whichever occurs first.

SUPPLEMENTARY INFORMATION: The listed concession authorization expired on September 30, 2003. Under the provisions of current concession contracts and pending the development and public solicitation of a prospectus for a new concession contract, the National Park Service authorizes continuation of visitor services for a period not-to-exceed 1 year, or until such time as a new contract is awarded, whichever occurs first, under the terms and conditions of the current concession contract, as amended. The continuation of operations does not