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Labor, in Switch, Urges Amnesty for All Illegal Immigrants

By STEVEN GREENHOUSE

NEW ORLEANS, Feb. 16 — Adopting a sharp change in policy, the American labor movement today called for blanket amnesty for illegal immigrants and an end to most sanctions against employers who hire them.

In decades past, labor unions often saw immigrant workers as the enemy, accusing them of depressing wages and breaking strikes. But the executive council of the American Federation of Labor and Congress of Industrial Organizations adopted a more sympathetic approach today, contending that too often the nation's immigration rules had enabled employers to exploit illegal immigrants.

The new policy comes as business groups are pushing for similar legislative changes to help industry cope with a shortage of workers.

Immigrants comprise an ever-larger part of the nation's work force, and labor leaders are stepping up efforts to unionize hundreds of thousands of immigrants who work in farms, hotels, construction, meat packing and many other industries.

Labor leaders complain that unscrupulous employers often fight off unionization drives by threatening to fire employees who are illegal immigrants and support unions, and by calling immigration officials to deport them.

"The present system doesn't work and is used as a weapon against workers," said John Wilhelm, chairman of the labor federation's Committee on Immigration Policy and president of the Hotel Employees and Restaurant Employees Union. "The only reason a lot of employers want to hire a large number of illegal aliens is so they can exploit them."

Labor leaders said they hoped their new policy would help persuade Congress to pass an amnesty law that would enable immigrant workers to stand up for their rights.

"I think the A.F.L.-C.I.O.'s decision is going to be a shot heard round Washington," said Frank Sharry, executive director of the National Immigration Forum, an immigrants' advocacy group. "You have a variety of employer groups saying, 'We need more immigrant workers and

we want our workers to be legal,' and you have the A.F.L.-C.I.O. saying, 'We want more immigrant workers to be legal and we're willing to talk to employers about their legitimate needs.' You have the makings of a business-labor compact that could draw new immigration policies for the next decade."

The labor federation's resolution calls for blanket amnesty for the estimated six million illegal immigrants in the United States. At the same time the federation, which is holding its annual winter meeting here, called on the federal government to maintain efforts to keep illegal immigrants out of the country.

Just 15 years ago, the federation's support helped in passing legislation creating sanctions for employers who hire illegal immigrants. At the time, unions said such sanctions were needed to keep illegal immigrants from flooding the labor market and undermining union wages.

But union officials said today that a new policy was needed because employer sanctions had failed to stem the tide of immigration and

because immigrants represented such a large part of the work force in dozens of industries.

"It's a very dramatic change in policy that follows a very dramatic change in our world," Mr. Wilhelm said.

Many immigrants have had an ambivalent attitude toward the labor movement because some unions sought to keep out immigrant workers and because of labor's past support of employer sanctions. But union officials view the new policy as a way to make it easier to unionize businesses that employ illegal immigrants by making it harder for employers to intimidate them.

"We, the labor movement, have to put ourselves in a leadership position in immigrant rights," said Arturo Rodriguez, president of the United Farm Workers. "This is a way to help low-wage immigrant workers."

The federation's resolution calls for tougher sanctions against any company that uses advertisements or recruiters in other countries to encourage illegal immigrants to come to the United States to work for them. In support of this measure, the United Food and Commercial Workers distributed copies of a want ad, placed in a newspaper in Juarez, Mexico, on behalf of a chicken-processing plant in Tennessee.

Randy Johnson, vice president of labor policy for the United States Chamber of Commerce, welcomed labor's new policy. "It's certainly a departure from organized labor's traditional position, which was an increased number of immigrant workers is bad for domestic workers," he said. "I think this is an area where the business community and organized labor can work together."

But some advocacy groups criticized labor's change on immigration. Dan Stein, executive director of the Federation for American Immigration Reform, which has taken a hard line against increased immigration, maintained that the call for amnesty, coming after the amnesty granted in 1986, would inevitably encourage more illegal immigration.

"These pronouncements send signals around the world that this country should continue to be flooded with illegal workers," Mr. Stein said.

The labor federation opposed proposals made by some business groups to expand guest worker programs in which tens of thousands of foreigners are allowed into the United States temporarily to work. Union officials said that many guest workers had been exploited and that the best way to deal with any shortage of workers would be to expand job-training programs.

THE NEW YORK TIMES,
THURSDAY, FEBRUARY 17, 2000

Unions Ask Amnesty For Illegal Aliens

Policy Would End Employer Sanctions

By FRANK SWOBODA
Washington Post Staff Writer

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NEW ORLEANS, Feb. 16—In a significant policy shift, organized labor today called for amnesty for an estimated 6 million illegal immigrants and repealing current law that imposes sanctions on employers that hire them.

Labor helped enact the original sanctions program 15 years ago as part of the last major amnesty under the federal immigration act, and business lobbyists reacted favorably today to the policy resolution, which was approved unanimously by the AFL-CIO executive council.

The AFL-CIO's announcement coincides with an extremely tight job market, with labor unions finding that their best chance to boost union membership is among recent immigrants. An estimated 40 percent of the population growth in the 1990s has been the result of immigration, the bulk of it legal. Other estimates indicate as many as 20 percent of the entrants to the work force last year were immigrants, in occupations as diverse as meatpacking, construction and computer science.

The AFL-CIO said it would continue its opposition to the proliferation of guest-worker programs that have allowed a variety of corporations to bring skilled workers into the country, particularly in high-tech industries. Officials said they want fewer guest-worker programs and

greater scrutiny of claims by corporations that they can not find appropriate workers in the United States.

Still, the broader policy shift represents a remarkable turnaround for the American labor movement and points it back toward its roots, when the sons and daughters of turn-of-the-century immigrants became the leaders of the nation's industrial union drive in the 1930s.

"I think we've really come full circle," said John Wilhelm, president of the Hotel Employees and Restaurant Employees Union, where 75 percent of the 250,000-strong membership are immigrants. "The labor movement is on the side of immigration in this country. The goal is to make it clear which side the labor movement is on."

Business lobbyists called the labor plan a positive step.

"It's a welcome embrace of amnesty from an employer's perspective, since we do have a shortage of workers in this country and will continue to have a shortage of workers for several decades," said Bruce Josten, executive vice president of the U.S. Chamber of Congress. Josten and Ali Cleveland, the chamber's manager of labor policy, said concerns about a shortage of high-tech workers have spread to industries such as the hotel and restaurant business.

Lee Culpepper, senior vice president of the National Restaurant Association, said he was encouraged that labor "recognizes that there are problems with the current system" and said, "I think that the AFL-CIO position is significant, but it is just one step toward what should be broader reform."

On Capitol Hill, though, at least one key member of Congress on immigration issues, Rep. Lamar S. Smith (R-Tex.), chairman of the Judiciary Committee's subcommittee on immigration, called labor's announcement a cynical ploy.

"What a betrayal of American workers," Smith said. "Apparently union bosses are so distraught about declining enrollments they will stoop to exploiting illegal workers."

Union leaders, who plan to hold public forums starting in April to

build support for the plan, were quick to stress today that they were not advocating a new open-border policy. Instead, they said, they were trying to fix an immigration policy that clearly wasn't working.

The labor proposal outlined today has three basic components: an end to the "I-9 Employers Sanctions" program, which penalizes employers who hire illegal immigrants; amnesty for illegal immigrants now living in the United States; and the granting of full workplace rights to prevent intimidation and exploitation of illegal workers.

The AFL-CIO would leave the business of tracking down illegal immigrants to the Immigration and Naturalization Service. But it said it would not take employers completely off the hook.

In exchange for taking the onus off employers for enforcing the immigration laws, the labor federation would impose criminal penalties against employers that knowingly hired an illegal immigrant and then used the worker's legal status with the INS as a weapon for imposing substandard wages or working conditions.

Once the proposed amnesty program expires—the AFL-CIO did not propose a time frame—new illegal immigrants would be on their own in the workplace. If they were caught by the INS they would be deported, under labor's plan. But those same workers could get amnesty if they blow the whistle on an employer hiring illegal immigrants and imposing substandard or sweatshop conditions.

Although the plan calls for eventual amnesty for as many as 6 million people, the AFL-CIO proposed immediate amnesty for the half-million Salvadorans, Guatemalans, Hondurans and Haitians who fled their countries in the 1980s and early 1990s and have been denied refugee status. In addition, the unions want immediate amnesty for 350,000 long-term resident immigrants they claim were denied legal status because of INS improprieties in the last amnesty program. Labor also wants immediate amnesty for 10,000 Liberians who fled to this country during the civil war in their homeland.

Labor groups court illegal immigrants

Unions view them as new members

By Timothy Burn
THE WASHINGTON TIMES

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NEW ORLEANS — The leaders of the nation's labor unions, in a major shift in their policy toward illegal immigrants, unanimously approved a proposal yesterday that would allow an estimated 6 million illegal immigrants to stay in the country, work and join a union.

While organized labor traditionally has seen illegal aliens as a threat to American jobs, its leaders now believe that they have become an exploited class, forced to work long hours in jobs most American do not want.

"The current system of immigration enforcement in the U.S. is broken," said Linda Chavez-

Thompson, vice president for the AFL-CIO, the umbrella organization for 68 labor unions.

"If we are to have an immigration system that works, it must be orderly, responsible and fair," she said.

While U.S. labor law is intended to protect all workers regardless of their resident status, most illegal workers are reluctant to report employer abuses for fear of being deported.

The AFL-CIO also notes that illegal immigrants are increasingly working in sectors, like hotels, restaurants and farming, where the labor movement has been most active. Their presence in these industries often has made it difficult

for organizers to wage successful collective-bargaining agreements.

Labor leaders now believe that the best way to preserve their movement is not to keep illegal aliens out, but rather to make them legal and encourage them to join unions.

They said current immigration law has failed. It doesn't stem the flow of new arrivals without documentation and places employers in a law-enforcement role.

In many instances, union officials said, unscrupulous employers have used threats of deportation to exploit illegal workers, knowing they will not complain.

"Employers often knowingly hire workers who are undocumented, and then when workers seek to improve working conditions employers use the law to fire or intimidate workers," Ms. Chavez-Thompson said.

For example, nine illegal Mexican hotel workers recently won a \$72,000 settlement from their employer, Holiday Inn Express, after filing a federal employment discrimination claim accusing their employer of exploiting them because of their immigration status.

The workers claimed that hotel management knew that they were in the country illegally and reported them to the Immigration and Naturalization Service only after they voted to join a union and push for better treatment. Now the nine workers face almost certain deportation, although Attorney General Janet Reno is considering their request for amnesty.

John W. Wilhelm, president of the Hotel Employees and Restaurant Employees International Union, said the Holiday Inn Express case is just one example of a practice becoming all too common as more illegal immigrants seek employment, and more employers struggle to find people willing to work for low wages and few benefits. January's unemployment rate hit a 30-year low of 4.0 percent, the Bureau of Labor Statistics reported.

The proposal also calls for an end to employer sanctions, a provision of U.S. immigration law that punishes employers for knowingly

hiring illegal aliens.

The AFL-CIO had supported employer sanctions in the late 1980s, but now believes the system gives employers too much control over the fates of illegal workers.

Mr. Wilhelm noted that the U.S. work force has changed dramatically in the past 10 years. While illegal immigrants in the 1980s were found primarily in places like California and Texas and in a few industries, illegal aliens now work all over the country and in any sector needing cheap labor.

Twenty percent of entrants into the work force last year were immigrants, according to the Bureau of Labor Statistics. The federation estimates that 40 percent of U.S. population growth in the 1990s has come from immigration.

Mr. Wilhelm said about 75 percent of the 25,000 members of the hotel and restaurant workers unions are recent immigrants.

Labor leaders insisted that they are not seeking to open U.S. borders to immigrants who enter illegally.

Instead, they want to reform a system they believe is broken and establish laws to protect the rights of all workers and remove the threat of deportation.

Allowing a general amnesty for illegal immigrants would require congressional approval. Mr. Wilhelm, while acknowledging an uphill fight, said he believes that business groups might support the effort since they have been complaining of worker shortages.

A similar amnesty was passed in 1986 allowing 3.1 million illegal immigrants to stay in the United States. That law also held employers responsible for hiring illegal workers.

At the time, proponents of the amnesty said the change would stop the flow of illegal immigrants by filling available jobs with legal residents. Since then, however, nearly 6 million illegal workers have come across U.S. borders.

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IMMIGRATION: THE UNION'S CALL FOR AMNESTY FOR UNDOCUMENTED
WORKERS ALREADY IN
THE U.S. IS A WELCOME APPROACH.

BYLINE: JORGE A. BUSTAMANTE, Jorge A. Bustamante is a professor of sociology
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immigration, specialist at the University of Notre Dame and the College of the,
Northern Border in Tijuana

BODY:

Since its beginning, the AFL-CIO has been the champion of anti-immigrant causes. It has supported legislative initiatives aimed at a virtual closing of the border to immigrants from Mexico. It was the main supporter of what became known as "Operation Wetback," which resulted in 1954 in the expulsion of more than 1 million undocumented immigrants to Mexico.

The AFL-CIO was the original proponent of sanctions against employers who hired undocumented immigrants. Sanctions became the law of the land in 1986 with the approval of the Immigration Reform and Control Act. In a nutshell, the AFL-CIO was not the best friend of immigrants--or of Mexican causes. The federation was one of the strongest U.S. critics of the North American Free Trade Agreement.

The AFL-CIO, however, took a 180-degree turn Feb. 16, when its executive council agreed unanimously to demand a blanket amnesty for undocumented immigrants already in the United States.

As surprising as it was, this dramatic change of vision on immigrant labor is not without precedents among the unions associated with the AFL-CIO. The Ladies Garment Workers Union became pro-immigrant labor, to the point of suing the U.S. Immigration and Naturalization Service for violations of immigrant workers' rights more than 20 years ago. There were also the efforts of Cesar Chavez, who defended farm workers' rights in the United States regardless of their migratory status.

Claudia Smith of the California Rural Legal Assistance Foundation, which supports the AFL-CIO's new position, said: "We estimate 40% to 50% of the farm workers of California may be undocumented." This statement is consistent with a study published in 1994 by the U.S. secretary of Labor titled "Migrant Farm Workers: Pursuing Security in an Unstable Labor Market," which concluded: "In effect, migrant workers, so necessary for the success of the labor-intensive U.S. agricultural system, subsidize that very system with their own and their family's indigence. The system functions to transfer costs to workers who are left with income so marginal that, for the most part, only newcomers and those with no other options are willing to work on our nation's farms."

The AFL-CIO has not been the only one to surprise those who have suggested the militarization of the border with Mexico. In January, Federal Reserve Chairman Alan Greenspan called for "expanding the number of people we allow in" to meet acute U.S. labor shortages.

The new approach to immigration by the AFL-CIO offers scenarios of an internationalization of new organized labor forms, including cooperative agricultural production both in the United States and in Mexico.

**Illegal Immigrants/AFL
Q&A
February 17, 2000**

EMPLOYER SANCTIONS

Q: Do you support the repeal of current I-9/Employer sanctions system as a tool of workplace immigration enforcement since it has failed to stop employers from hiring undocumented workers and has resulted in discrimination and is used as a retaliatory tool against workers seeking to organize?

A: We are a country of laws and have an obligation to enforce our immigration laws including employer sanctions. The Administration is committed to enforcing the nation's immigration laws while respecting the civil rights and labor rights of all people, including the right to organize. However, we will take a look at the issues raised in this resolution.

AMNESTY

Q: Do you support a new amnesty program for undocumented workers?

A: The past experience with amnesty programs has not reduced the undocumented immigrant population and has not always resulted in improved working conditions for workers, has not stopped employers from hiring undocumented workers, and such programs can be interpreted as unfair to immigrants who have played by the rules waiting their turn to immigrate lawfully to the US and rewarding illegal behavior. Having said that, the Administration is concerned about the vulnerability of these undocumented workers and we will take a look at the issues raised in this resolution.

IMMIGRATION

The AFL-CIO proudly stands on the side of immigrant workers. Throughout the history of this country, immigrants have played an important role in building our nation and its democratic institutions. New arrivals from every continent have contributed their energy, talent, and commitment to making the United States richer and stronger. Likewise, the American union movement has been enriched by the contributions and courage of immigrant workers. Newly arriving workers continue to make indispensable contributions to the strength and growth of our unions. These efforts have created new unions and strengthened and revived others, benefitting all workers, immigrant and native-born alike. It is increasingly clear that if the United States is to have an immigration system that really works, it must be simultaneously orderly, responsible and fair. The policies of both the AFL-CIO and our country must reflect those goals.

The United States is a nation of laws. This means that the federal government has the sovereign authority and constitutional responsibility to set and enforce limits on immigration. It also means that our government has the obligation to enact and enforce laws in ways that respect due process and civil liberties, safeguard public health and safety, and protect the rights and opportunities of workers.

The AFL-CIO believes the current system of immigration enforcement in the United States is broken and needs to be fixed. Our starting points are simple:

1. Undocumented workers and their families make enormous contributions to their communities and workplaces and should be provided permanent legal status through a new amnesty program.
2. Regulated legal immigration is better than unregulated illegal immigration.
3. Immigrant workers should have full workplace rights in order to protect their own interests as well as the labor rights of all American workers.
4. Labor and business should work together to design cooperative mechanisms that allow law-abiding employers to satisfy legitimate needs for new workers in a timely manner without compromising the rights and opportunities of workers already here.
5. Labor and business should cooperate to undertake expanded efforts to educate and train American workers in order to upgrade their skill levels in ways that enhance our shared economic prosperity.
6. Criminal penalties should be established to punish employers who recruit undocumented workers from abroad for the purpose of exploiting workers for economic gain.

Current efforts to improve immigration enforcement, while failing to stop the flow of undocumented people into the United States, have resulted in a system that causes discrimination and leaves unpunished unscrupulous employers who exploit undocumented workers, thus denying labor rights for *all* workers.

The combination of a poorly constructed and ineffectively enforced system that results in penalties for only a few of the employers who violate immigration laws has had especially detrimental impacts on efforts to organize and adequately represent workers. Unscrupulous employers have systematically used the I-9 process in their efforts to retaliate against workers who seek to join unions, improve their working conditions, and otherwise assert their rights.

Therefore, the AFL-CIO calls for replacing the current I-9 system as a tool of workplace immigration enforcement. We should substitute a system of immigration enforcement strategies that focuses on the criminalization of employer behavior, targeting those employers who recruit undocumented workers from abroad, either directly or indirectly. It should be supplemented with strong penalties against employers who abuse workers' immigration status to suppress their rights and labor protections. The federal government should aggressively investigate, and criminally prosecute, those employers who knowingly exploit a worker's undocumented status in order to prevent enforcement of workplace protection laws.

We strongly believe employer sanctions, as a nationwide policy applied to all workplaces, has failed and should be eliminated. It should be replaced with an alternative policy to reduce undocumented immigration and prevent employer abuse. Any new policy must meet the following principles: 1) it must seek to prevent employer discrimination against people who look or sound foreign; 2) it must allow workers to pursue legal remedies, including supporting a union, regardless of immigration status; and 3) it must avoid unfairly targeting immigrant workers of a particular nationality.

There is a long tradition in the United States of protecting those who risk their financial and physical well-being to come forward to report violations of laws that were enacted for the public good. Courageous undocumented workers who come forward to assert their rights should not be faced with deportation as a result of their actions. The recent situation at the Holiday Inn Express in Minneapolis highlights the perversity of the current situation. Therefore, the AFL-CIO calls for the enactment of whistleblower protections providing protected immigration status for undocumented workers who report violations of worker protection laws or cooperate with federal agencies during investigations of employment, labor and discrimination violations. Such workers should be accorded full remedies, including reinstatement and back pay. Further, undocumented workers who exercise their rights to organize and bargain collectively should also be provided protected immigration status.

Millions of hard-working people who make enormous contributions to their communities and workplace are denied basic human rights because of their undocumented status. Many of these men and women are the parents of children who are birthright U.S. citizens. The AFL-CIO supports a new amnesty program that would allow these members of local communities to adjust their status to permanent resident and become eligible for naturalization. The AFL-CIO

also calls on the Immigration and Naturalization Service to address the shameful delays facing those seeking to adjust their status as a result of the Immigration Reform and Control Act.

Immediate steps should include legalization for three distinct groups of established residents: 1) approximately half-a-million Salvadorans, Guatemalans, Hondurans, and Haitians, who fled civil war and civil strife during the 1980s and early 1990s and were unfairly denied refugee status, and have lived under various forms of temporary legal status; 2) approximately 350,000 long-resident immigrants who were unfairly denied legalization due to illegal behavior by the INS during the amnesty program enacted in the late 1980s; and 3) approximately 10,000 Liberians who fled their homeland's brutal civil war and have lived in the United States for years under temporary legal status.

Guestworker programs too often are used to discriminate against U.S. workers, depress wages and distort labor markets. For these reasons, the AFL-CIO has long been troubled by the operation of such programs. The proliferation of guestworker programs has resulted in the creation of a class of easily exploited workers, who find themselves in a situation very similar to that faced by undocumented workers. The AFL-CIO renews our call for the halt to the expansion of guestworker programs. Moreover, these programs should be reformed to include more rigorous labor market tests and the involvement of labor unions in the labor certification process. All temporary guestworkers should be afforded the same workplace protections available to all workers.

The rights and dignity of all workers can best be ensured when immigrant and non-immigrant workers are fully informed about the contributions of immigrants to our society and our unions, and about the rights of immigrants under current labor, discrimination, naturalization and other laws. Labor unions have led the way in developing model programs that should be widely emulated. The AFL-CIO therefore supports the creation of education programs and centers to educate workers about immigration issues and to assist workers in exercising their rights.

Far too many workers lack access to training programs. Like all other workers, new immigrants want to improve their lives and those of their families by participating in job training. The AFL-CIO supports the expansion of job training programs to better serve immigrant populations. These programs are essential to the ability of immigrants to seize opportunities to compete in the new economy.

Immigrant workers make enormous contributions to our economy and society, and deserve the basic safety net protections that all other workers enjoy. The AFL-CIO continues to support the full restoration of benefits that were unfairly taken away through Federal legislation in 1996, causing tremendous harm to immigrant families.

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FOR IMMEDIATE RELEASE
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CONGRESSIONAL HISPANIC CAUCUS APPLAUDS AFL-CIO'S NEW STAND ON IMMIGRATION POLICY

Congresswoman Lucille Roybal-Allard, Chair of the Congressional Hispanic Caucus (CHC), issued the following statement on the AFL-CIO's endorsement of initiatives to grant amnesty to immigrants now living in the United States without documentation:

"The Congressional Hispanic Caucus applauds the AFL-CIO's decision to support proposals that would provide much-needed relief and protection to many immigrants who have been living and working in the United States. The endorsement of the labor community is a welcome addition to our efforts.

We look forward to working with the AFL-CIO and the business community to reform our immigration policy and ensure fair treatment of all America's workers."

The CHC has been working to highlight the plight of two classes of immigrants who have been unfairly treated by the immigration system.

The first group, called late amnesty applicants, consists of people who were eligible for amnesty during the mid-1980s, but were wrongly turned away by the Immigration and Naturalization Service (INS). Many immigrants successfully sued the INS over the issue. However, in 1996, federal legislation stripped these immigrants of their right to resolve the issue in court. They now face immediate deportation. The CHC supports measures to legalize the status of the late amnesty immigrants.

The second group is made up of immigrants from Guatemala, El Salvador, Honduras, and Haiti who entered the United States in order to escape political violence and persecution in their home countries.

The AFL-CIO called for immediate action to legalize the status of late amnesty individuals and the Central American and Caribbean refugees.

"The CHC recognizes that many immigrants have come to the United States seeking refuge from instability and political unrest in Central and Latin America and throughout the world. We believe that these immigrants have made impressive contributions to our workforce and to our nation.

We appreciate the AFL-CIO's support of relief for late amnesty individuals and for the Central American and Caribbean refugees. The labor community joins a chorus of other concerned voices who believe that our nation's immigration policy must ensure fairness for all."

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Labor's New View

THE AMERICAN labor movement, which 15 years ago helped draft laws to punish employers who hire illegal immigrants, this week reached out to immigrant workers, proposing amnesty for those illegally in the country and an end to most employer sanctions.

On one level this new attitude is simply a response to reality. The immigration reforms of 1986, which extended amnesty to roughly 3 million illegal residents and tried to cut off the supply of jobs for illegal immigrants by making employers responsible for hiring legal workers, have failed to stem the tide. Millions of illegal workers are here and are filling a need in the booming labor market. In some cases those workers are being deliberately exploited by employers who wave the threat of deportation to discourage complaints about wages or working conditions—and to hamper union organizing, even among legal immigrants.

Labor leaders described the new policy as a return to the movement's roots as an organization built by immigrants and their children. It's also a clear look toward the unions' own future interests. In a strong economy, it's hard to argue as labor sometimes has in the past that immigrants are taking jobs away from U.S. workers. To the contrary, John Wilhelm, president of the Hotel Employees and Restaurant Employees Union, notes that as unions have become more active in organizing in recent years, they have encountered immigrant workers in every sort of workplace and every location. "We need to be on their side," he said.

While calling for a broad amnesty that could eventually cover as many as 6 million people, including current illegal workers and their family members, labor leaders proposed acting immediately on behalf of some groups with a strong claim for consideration. They include Salvadorans, Guatemalans, Hondurans and Haitians

who fled their countries in the late 1980s and early 1990s and have been denied refugee status, 350,000 long-term residents the unions say were improperly denied legal status in the last amnesty program and 10,000 Liberians who fled that country's civil war. That is a reasonable place to start.

A full or partial amnesty would acknowledge that these workers have become essential in important industries and that there is no national appetite for a wholesale effort to find and deport them. But any amnesty needs to be coupled with a clear and enforceable plan for combating future illegal immigration. It also must be fair to the legal applicants who have waited in line and played by the rules.

The unions want to impose criminal penalties on employers who recruit undocumented workers abroad and those who deliberately take advantage of workers' illegal status to operate substandard workplaces. And for good reason: Many who flout immigration law also break other laws, including those governing safety and minimum wage. A concerted effort to go after those employers could be more effective in the long run than the current broad-based sanctions, which have been gutted by weak enforcement and the wide availability of fraudulent documents.

Another key element of a reformed policy should be a heightened effort to identify and pursue those who arrive on legitimate visas but then stay on after the visas have expired. These overstayers are almost as numerous as those who slip illegally across the border.

The economy's sustained growth has created an opportunity for a fresh look at immigration policy. The goal should be a workable system that takes into account the reality of the marketplace—and that will make sense even when times are not quite so good.

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that for all his impressive achievements in office, tices under credible new leadership.

Hasty Call for Amnesty

The A.F.L.-C.I.O.'s call for the government to grant amnesty to an estimated six million illegal immigrants currently living in the United States and to eliminate most sanctions on employers who hire them in the future was a surprising turnabout. Until now, organized labor has fought hard to keep illegal workers from taking jobs from higher-paid union workers.

The A.F.L.-C.I.O.'s proposal is attractive to many groups. Unions welcome the chance to go after a huge new pool of unorganized workers. Employers welcome the chance to hire cheap labor without fear of criminal liability. And illegal immigrants who have worked hard for years and raised families under harrowing circumstances would welcome access to medical care and other services denied to illegal aliens.

But the A.F.L.-C.I.O.'s proposal should be rejected. Amnesty would undermine the integrity of the country's immigration laws and would depress the wages of its lowest-paid native-born workers.

Back in 1986, Congress granted amnesty to an estimated three million illegal immigrants as part of a law that also promised to crack down on further illegal immigration by imposing sanctions on employers who knowingly violated the law. At that time, this page endorsed amnesty because it was tied to measures that promised to keep further rounds of illegal immigration in check. But 14 years later there are twice as many illegal workers, and

employer sanctions are widely deemed a joke. Workers pretend to show employers proof of citizenship or work visas and employers pretend they do not know the proof is fake.

The primary problem with amnesties is that they beget more illegal immigration. Demographers trace the doubling of the number of Mexican immigrants since 1990 in part to the amnesty of the 1980's. Amnesties signal foreign workers that American citizenship can be had by sneaking across the border, or staying beyond the term of one's visa, and hiding out until Congress passes the next amnesty. The 1980's amnesty also attracted a large flow of illegal relatives of those workers who became newly legal. All that is unfair to those who play by the immigration rules and wait years to gain legal admission.

It is also unfair to unskilled workers already in the United States. Between about 1980 and 1995, the gap between the wages of high school dropouts and all other workers widened substantially. Prof. George Borjas of Harvard estimates that almost half of this trend can be traced to immigration of unskilled workers. Illegal immigration of unskilled workers induced by another amnesty would make matters worse. The better course of action is to honor America's proud tradition by continuing to welcome legal immigrants and find ways to punish employers who refuse to obey the law.

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Press Release

February 17, 2000

New Orleans, LA

Union Leaders Stand With Immigrants Workers

The AFL-CIO Executive Council on Feb. 16 took a stand in solidarity with immigrant workers, calling for reforms that will protect workplace rights and freedoms and hold employers accountable when they exploit immigrant workers.

Meeting in New Orleans, council members unanimously passed a resolution that calls for replacing the current system of employer verification of workers' eligibility to work in the United

States. It also urges a new amnesty program and full workplace rights and freedoms for all workers—immigrant, native born, documented and undocumented.

"Immigrants have played an important role in building democratic institutions," said Linda Chavez-Thompson, AFL-CIO executive vice president. "The current system of immigration enforcement in the U.S. is broken. If we are to have an immigration system that works, it must be orderly, responsible and fair."

The current system not only has failed to stop the flow of undocumented immigrants into this country—it also has led to discrimination and does not punish employers who exploit undocumented workers, "thus denying labor rights for all workers," the Executive Council statement said.

A new system should prevent employer discrimination against individuals who look or sound foreign and allow workers to seek a voice at work by joining a union regardless of immigration status.

Union leaders noted that the recent case of undocumented hotel workers in Minneapolis who came together to form a union and now are faced with deportation shows why such workers should be provided protected immigration status.

"Employers often knowingly hire workers who are undocumented, and then when workers seek to improve working conditions, employers manipulate the law to fire or intimidate workers," Chavez-Thompson said. "This subverts the intent of the law and lowers working standards for all workers. The law should criminalize employer behavior, not punish workers."

Resolution
February 16, 2000
New Orleans, LA
Immigration

The AFL-CIO proudly stands on the side of immigrant workers. Throughout the history of this country, immigrants have played an important role in building our nation and its democratic institutions. New arrivals from every continent have contributed their energy, talent, and commitment to making the United States richer and stronger. Likewise, the American union movement has been enriched by the contributions and courage of immigrant workers. Newly arriving workers continue to make indispensable contributions to the strength and growth of our unions. These efforts have created new unions and strengthened and revived others, benefitting all workers, immigrant and native-born alike. It is increasingly clear that if the United States is to have an immigration system that really works, it must be simultaneously orderly, responsible and fair. The policies of both the AFL-CIO and our country must reflect those goals.

The United States is a nation of laws. This means that the federal government has the sovereign authority and constitutional responsibility to set and enforce limits on immigration. It also means that our government has the obligation to enact and enforce laws in ways that respect due process and civil liberties, safeguard public health and safety, and protect the rights and opportunities of workers.

The AFL-CIO believes the current system of immigration enforcement in the United States is broken and needs to be fixed. Our starting points are simple:

Undocumented workers and their families make enormous contributions to their communities and workplaces and should be provided permanent legal status through a new amnesty program.

Regulated legal immigration is better than unregulated illegal immigration.

Immigrant workers should have full workplace rights in order to protect their own interests as well as the labor rights of all American workers.

Labor and business should work together to design cooperative mechanisms that allow law-abiding employers to satisfy legitimate needs for new workers in a timely manner without compromising the rights and opportunities of workers already here.

Labor and business should cooperate to undertake expanded efforts to educate and train American workers in order to upgrade their skill levels in ways that enhance our shared

economic prosperity.

Criminal penalties should be established to punish employers who recruit undocumented workers from abroad for the purpose of exploiting workers for economic gain.

Current efforts to improve immigration enforcement, while failing to stop the flow of undocumented people into the United States, have resulted in a system that causes discrimination

and leaves unpunished unscrupulous employers who exploit undocumented workers, thus denying labor rights for all workers.

The combination of a poorly constructed and ineffectively enforced system that results in penalties for only a few of the employers who violate immigration laws has had especially detrimental impacts on efforts to organize and adequately represent workers. Unscrupulous employers have systematically used the I-9 process in their efforts to retaliate against workers who seek to join unions, improve their working conditions, and otherwise assert their rights.

Therefore, the AFL-CIO calls for replacing the current I-9 system as a tool of workplace immigration enforcement. We should substitute a system of immigration enforcement strategies

that focuses on the criminalization of employer behavior, targeting those employers who recruit

undocumented workers from abroad, either directly or indirectly. It should be supplemented with strong penalties against employers who abuse workers' immigration status to suppress their

rights and labor protections. The federal government should aggressively investigate, and criminally prosecute, those employers who knowingly exploit a worker's undocumented status in

order to prevent enforcement of workplace protection laws.

We strongly believe employer sanctions, as a nationwide policy applied to all workplaces, has failed and should be eliminated. It should be replaced with an alternative policy to reduce undocumented immigration and prevent employer abuse. Any new policy must meet the following principles: 1) it must seek to prevent employer discrimination against people who look

or sound foreign; 2) it must allow workers to pursue legal remedies, including supporting a union,

regardless of immigration status; and 3) it must avoid unfairly targeting immigrant workers of a particular nationality.

There is a long tradition in the United States of protecting those who risk their financial and physical well-being to come forward to report violations of laws that were enacted for the public

good. Courageous undocumented workers who come forward to assert their rights should not be faced with deportation as a result of their actions. The recent situation at the Holiday Inn

Express in Minneapolis highlights the perversity of the current situation. Therefore, the

AFL-CIO calls for the enactment of whistleblower protections providing protected immigration

status for undocumented workers who report violations of worker protection laws or cooperate with federal agencies during investigations of employment, labor and discrimination violations.

Such workers should be accorded full remedies, including reinstatement and back pay.

Further,

undocumented workers who exercise their rights to organize and bargain collectively should also be provided protected immigration status.

Millions of hard-working people who make enormous contributions to their communities and workplace are denied basic human rights because of their undocumented status. Many of these men and women are the parents of children who are birthright U.S. citizens. The AFL-CIO supports a new amnesty program that would allow these members of local communities to adjust

their status to permanent resident and become eligible for naturalization. The AFL-CIO also calls on the Immigration and Naturalization Service to address the shameful delays facing those

seeking to adjust their status as a result of the Immigration Reform and Control Act.

Immediate steps should include legalization for three distinct groups of established residents:

1) approximately half-a-million Salvadorans, Guatemalans, Hondurans, and Haitians, who fled civil

war and civil strife during the 1980s and early 1990s and were unfairly denied refugee status, and have lived under various forms of temporary legal status; 2) approximately 350,000

long-resident immigrants who were unfairly denied legalization due to illegal behavior by the INS

during the amnesty program enacted in the late 1980s; and 3) approximately 10,000 Liberians who fled their homeland's brutal civil war and have lived in the United States for years under temporary legal status.

Guestworker programs too often are used to discriminate against U.S. workers, depress wages and distort labor markets. For these reasons, the AFL-CIO has long been troubled by the operation of such programs. The proliferation of guestworker programs has resulted in the creation of a class of easily exploited workers, who find themselves in a situation very similar to

that faced by undocumented workers. The AFL-CIO renews our call for the halt to the expansion of guestworker programs. Moreover, these programs should be reformed to include more rigorous labor market tests and the involvement of labor unions in the labor certification process. All temporary guestworkers should be afforded the same workplace protections available to all workers.

The rights and dignity of all workers can best be ensured when immigrant and non-immigrant workers are fully informed about the contributions of immigrants to our society and our unions,

and about the rights of immigrants under current labor, discrimination, naturalization and other laws. Labor unions have led the way in developing model programs that should be widely emulated. The AFL-CIO therefore supports the creation of education programs and centers to educate workers about immigration issues and to assist workers in exercising their rights.

Far too many workers lack access to training programs. Like all other workers, new immigrants

want to improve their lives and those of their families by participating in job training. The AFL-CIO supports the expansion of job training programs to better serve immigrant populations. These programs are essential to the ability of immigrants to seize opportunities to compete in the new economy.

Immigrant workers make enormous contributions to our economy and society, and deserve the basic safety net protections that all other workers enjoy. The AFL-CIO continues to support the

full restoration of benefits that were unfairly taken away through Federal legislation in 1996, causing tremendous harm to immigrant families.

HEADLINE: UNION'S IMMIGRATION STANCE LEAVES GOP CONGRESS COLD;

LABOR: SURPRISE PROPOSAL TO GIVE ILLEGAL IMMIGRANTS AMNESTY IS A BETRAYAL OF AMERICAN WORKERS THAT WOULD COST THEM JOBS AND WAGES, KEY REPUBLICAN SAYS.

BYLINE: ART PINE, TIMES STAFF WRITER

DATELINE: WASHINGTON

BODY:

Organized labor's unexpected call for amnesty for 6 million illegal immigrants and repeal of the federal sanctions against employers who hire them may result in changes if Democrats win the November elections, but it is unlikely to sway the GOP Congress in the interim, lawmakers and analysts said Thursday.

The call, adopted unanimously by the AFL-CIO's executive council Wednesday, is expected to bolster repeal efforts by some business groups. But many Republicans are considered likely to view the organization's turnaround as a move to recruit more immigrants as union members.

Rep. Lamar S. Smith (R-Texas), chairman of the House Judiciary subcommittee on immigration and a key decision-maker on such issues, all but closed the door on labor's hopes of seeing such legislation passed soon.

"The union bosses have betrayed American workers," Smith said in a statement issued by his office Thursday. "Legalizing millions of illegal aliens to compete with American workers will cost them jobs and reduce their wages."

House and Senate Republican leaders were no more receptive. "Labor isn't even at the table on this issue," an aide to one senior lawmaker said. "We're not expecting to see any changes just because they AFL-CIO leaders have reversed their stand."

Even the Clinton administration was conspicuously noncommittal on the AFL-CIO proposal.

Maria Echaveste, the deputy White House chief of staff who serves as President Clinton's top liaison to the Latino community, called the AFL-CIO's

action "an important recognition of the participation of undocumented workers in the labor force" that "needs to be reviewed."

Officials expressed concern, however, that providing amnesty for the illegal workers and repealing the employer sanctions would encourage more illegal immigration and exacerbate a problem that already is proving touchy for Democratic candidates.

The AFL-CIO policy shift marks a dramatic turnabout from the organization's long opposition to amnesty for illegal immigrants and efforts to force employers to help keep them out.

It was pressure from labor that helped push through the original sanctions against employers about 15 years ago. And until Wednesday night, the AFL-CIO had been unrelenting in its opposition to accepting more immigrants.

Lawmakers have put forward dozens of major proposals for changing immigration laws in recent years, including some that would ease quotas for workers in specialty occupations, such as computer programming, and others that would let more farm workers into the United States.

A bill allowing more high-tech workers into the country is expected to pass soon. But the administration has serious qualms about a proposal to require farm workers who obtain green cards to work in the agriculture industry for five years.

"We really had concerns about trying to require workers to remain in a particular industry," an administration official said. "It was almost like indentured servitude."

Despite the seeming rejection by GOP leaders, some analysts suggested that it may take some time to sort out the real effect of the AFL-CIO turnabout. "There's a wait-and-see attitude," one Capitol Hill strategist said. "We'll have to see how the election plays out."

Paul Donnelly, a spokesman for the Immigration Reform Coalition, said that, although the consolidation of business and labor on the immigration issue is expected to intensify pressure for amnesty legislation, it could be months or next year before any effect is felt.

"The real question is whether this latest AFL-CIO action will cause lawmakers to give higher priority to amnesty legislation and repeal of the sanctions law than they were planning for the guest-worker issue," he said, referring to the special visas for high-tech workers.

"This will take a while to sort out," Donnelly said.

Meanwhile, the congressional Hispanic Caucus welcomed the AFL-CIO shift. Rep. Lucille Roybal-Allard (D-Los Angeles), the group's chairwoman, said that members would "look forward to working with the AFL-CIO and the business community to reform our immigration policy."

Roybal-Allard said the caucus "recognizes that many immigrants have come to the United States seeking refuge from instability and political unrest in Central and Latin America."

"We believe that these immigrants have made impressive contributions to our work force and to our nation," she said.

*

Times staff writers Ricardo Alonso-Zaldivar and Richard Simon contributed to this story.

LANGUAGE: English

LOAD-DATE: February 18, 2000

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2. Regulated legal immigration is better than unregulated illegal immigration.
3. Immigrant workers should have full workplace rights in order to protect their own interests as well as the labor rights of all American workers.
4. Labor and business should work together to design cooperative mechanisms that allow law-abiding employers to satisfy legitimate needs for new workers in a timely manner without compromising the rights and opportunities of workers already here.
5. Labor and business should cooperate to undertake expanded efforts to educate and train American workers in order to upgrade their skill levels in ways that enhance our shared economic prosperity.
6. Criminal penalties should be established to punish employers who recruit undocumented workers from abroad for the purpose of exploiting workers for economic gain.

Current efforts to improve immigration enforcement, while failing to stop the flow of undocumented people into the U.S., have resulted in a system that causes discrimination and leaves unpunished unscrupulous employers who exploit undocumented workers, thus denying labor rights for *all* workers.

Immediate steps should include legalization for three distinct groups of established residents: 1) approximately half a million Salvadorans, Guatemalans, Hondurans, and Haitians, who fled civil war and civil strife during the 1980's and early 1990's and were unfairly denied refugee status, and have lived under various forms of temporary legal status; 2) approximately 350,000 long-resident immigrants who were unfairly denied legalization due to illegal behavior by the INS during the amnesty program enacted in the late 1980's; and 3) approximately 10,000 Liberians who fled their homeland's brutal civil war and have lived in the United States for years under temporary legal status.

Guest worker programs too often are used to discriminate against U.S. workers, depress wages and distort labor markets. For these reasons the AFL-CIO has long been troubled by the operation of such programs. The proliferation of guestworker programs has resulted in the creation of a class of easily exploited workers, who find themselves in a situation very similar to that faced by undocumented workers. The AFL-CIO renews our call for the halt to the expansion of guestworker programs. Moreover, these programs should be reformed to include more rigorous labor market tests and the involvement of labor unions in the labor certification process. All temporary guest workers should be afforded the same workplace protections available to all workers.

The rights and dignity of all workers can best be ensured when immigrant and non-immigrant workers are fully informed about the contributions of immigrants to our society and our unions, and about the rights of immigrants under current labor, discrimination, naturalization and other laws. Labor unions have led the way in developing model programs that should be widely emulated. The AFL-CIO therefore supports the creation of education programs and centers to educate workers about immigration issues, and to assist workers in exercising their rights.

Far too many workers lack access to training programs. Like all other workers, new immigrants want to improve their lives and those of their families by participating in job training. The AFL-CIO supports the expansion of job training programs to better serve immigrant populations. These programs are essential to the ability of immigrants to seize opportunities to compete in the new economy.

Immigrant workers make enormous contributions to our economy and society, and deserve the basic safety net protections that all other workers enjoy. The AFL-CIO continues to support the full restoration of benefits that were unfairly taken away through Federal legislation in 1996, causing tremendous harm to immigrant families.

The combination of a poorly constructed and ineffectively enforced system that results in penalties for only a few of the employers who violate immigration laws has had especially detrimental impacts on efforts to organize and adequately represent workers. Unscrupulous employers have systematically used the I-9 process in their efforts to retaliate against workers who seek to join unions, improve their working conditions, and otherwise assert their rights.

Therefore, the AFL-CIO calls for replacing the current I-9 system as a tool of workplace immigration enforcement. We should substitute a system of immigration enforcement strategies that focuses on the criminalization of employer behavior, targeting those employers who recruit undocumented workers from abroad, either directly or indirectly. It should be supplemented with strong penalties against employers who abuse workers' immigration status to suppress their rights and labor protections. The Federal government should aggressively investigate, and criminally prosecute, those employers who knowingly exploit a worker's undocumented status in order to prevent enforcement of workplace protection laws.

We strongly believe employer sanctions, as a nationwide policy applied to all workplaces, has failed and should be eliminated. It should be replaced with an alternative policy to reduce undocumented immigration and prevent employer abuse. Any new policy must meet the following principles: 1) it must seek to prevent employer discrimination against people who look or sound foreign; 2) it must allow workers to pursue legal remedies, including supporting a union, regardless of immigration status; and 3) it must avoid unfairly targeting immigrant workers of a particular nationality.

There is a long tradition in the United States of protecting those who risk their financial and physical well-being to come forward to report violations of laws that were enacted for the public good. Courageous undocumented workers who come forward to assert their rights should not be faced with deportation as a result of their actions. The recent situation at the Holiday Inn Express in Minneapolis highlights the perversity of the current situation. Therefore, the AFL-CIO calls for the enactment of whistleblower protections providing protected immigration status for undocumented workers who report violations of worker protection laws or cooperate with federal agencies during investigations of employment, labor and discrimination violations. Such workers should be accorded full remedies, including reinstatement and back pay. Further, undocumented workers who exercise their rights to organize and bargain collectively should also be provided protected immigration status.

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January 30, 1998

BACKGROUND PAPER ON IMMIGRATION

This paper uses data from the INS' 1996 Statistical Yearbook to illustrate the scope of all legal migration to the U.S. Then, each of the employment-based categories for which the Department of Labor has programmatic responsibilities will be described and quantified.

Legal migration can be broken into two main categories -- immigrants and nonimmigrants. Immigrants are those people who are allowed to stay in this country indefinitely. Immigrants are granted lawful permanent residence, and are eligible for eventual citizenship. Nearly two-thirds (64.9%) of the 915,900 people granted lawful permanent residence in FY 96 were admitted under family reunification classes (relatives of U.S. citizens or legal permanent residents). Other major categories of immigrants in FY 96 were refugees and asylees (14.0%) and employment-based (12.8%). (See Table 1.)

The second category of migrants are referred to as nonimmigrants. These are aliens admitted into the country for a specific purpose and temporary period. Of the 24.8 million nonimmigrants who came to the U.S. in FY 96, over three-fourths (76.9%) entered as visitors for pleasure (tourists). The next largest category of nonimmigrants, visitors for business, accounted for 15.2% of the FY 96 total. Temporary worker and trainee categories made up less than 1% (227,440) of nonimmigrant admissions. (See Table 2.) (Note: INS data on nonimmigrants counts entries, not visas. Many classes of nonimmigrants include persons, such as students, who enter the U.S. numerous times during the year.)

Employment-based Immigration

The employment-based immigration system in the U.S. is employer-driven. An employer seeking to sponsor an alien for lawful permanent residence must petition to fill a specific job. Employment-based immigration classes accounted for 12.8% of FY 96 immigration. Of these 117,098¹ persons, less than half (51,224) were principals, and the remainder their spouses and children. There is an annual limit of 140,000 employment-based immigration visas set by law. Employment-based immigration is broken into five preference categories:

- 1st: Priority Workers: aliens with extraordinary ability, outstanding professors or researchers, multinational executives or managers. NOT subjected to labor market testing, i.e. these are workers considered so valuable that there is no requirement that U.S. workers be unavailable for the positions.

FY 96 admissions: 11,047 principals

- 2nd: Members of the professions holding advanced degrees or persons of exceptional ability. Category subject to labor market test, whereby DOL must find that there

¹ Excludes 401 persons admitted under the Chinese Student Protection Act.

is no U.S. worker qualified and available for the job for which the alien is sought.

FY 96 admissions: 8,870 principals

3rd: Skilled workers and baccalaureate holders, as well as a limited number of unskilled workers. Category subject to labor market test.

FY 96 admissions: skilled 21,508 principals

unskilled 6,010 principals

The 4th and 5th preference categories are not subject to a labor market test. These categories comprise special immigrants (primarily religious ministers and religious workers) and investors for employment creation. FY 96 admissions for both categories totalled 8,780, including dependents. Table 3 presents a breakdown of employment-based immigration for FY 92 - 96.

Nonimmigrant Worker Categories

Applications for nonimmigrant worker visas, like applications for employment-based immigration, must be made by the employer wishing to hire a foreign worker. The underlying principals of temporary worker programs are that foreign workers should not undercut the wages and working conditions of U.S. workers, and that foreign workers should be protected from exploitative employment. Temporary workers and trainees accounted for 227,440 nonimmigrant admissions in FY 96². Five DOL-administered temporary worker programs accounted for 170,484 of those admissions. (Again, the INS nonimmigrants data reflects admissions or border crossings, not individual workers.)

H-1A: Registered Nurses. A 5-year pilot program, which sunset in 1995, designed to alleviate the shortage of RN's in the late 1980's. Nurses were admitted for stays of up to five years based on an employer attestation. FY 96 admissions of 2,046 represent nurses re-entering the U.S. on currently outstanding or renewed visas.

H-1B: Workers with "specialty occupations" with a baccalaureate degree (or equivalent experience) entering for jobs requiring a baccalaureate degree. (Fashion models of distinguished merit are also part of H-1B.) Visas are issued for a 3-year period, and can be renewed for one additional 3-year period. A "labor condition application" must be filed with DOL, where they are checked for completeness and obvious inaccuracies before a visa can be issued. In this simple, one-page application, an employer must attest to four conditions: (1) the wage offer is the higher of (a) the wage paid to similarly employed, similarly qualified individuals, or (b) the locally prevailing wage for the occupation; (2) working conditions of the H-1B worker will not adversely affect those of similarly-employed U.S. workers; (3) the place of employment is not affected by a strike or lockout; and (4) the employer has given its employees notice of the filing of the attestation, either by posting it at the worksite or giving notice to the union representative, if there is one. There is no stipulation in the H-1B program that the employer engage in domestic recruitment.

² Excludes workers (and their dependents) admitted under NAFTA.

The H-1 category is often used by employers to screen workers who they might later sponsor for permanent labor certification. In FY 96, about half (48%) of the skilled workers granted permanent labor certification through the 2nd and 3rd preference categories were already working in the country with H-1 visas. (See Chart 1.)

The H-1B program, in effect since FY 92, is capped at 65,000 new visas annually (principals only). The cap was reached for the first time in FY 97. Employers often file multiple labor condition applications and offer several positions on each application, just in case they develop a need for workers. Therefore, the DOL processes many more applications (180,739 in FY 97, representing over 400,000 positions), than the INS issues visas. Moreover, because many H-1B workers enter the U.S. multiple times throughout the year, INS admissions data are not useful in counting either new H-1B's or the stock of H-1B's in the country at any given time. (The visa allows for stays of up to six years.) The INS reports 144,458 H-1B admissions in FY 96.

H-2A: Agricultural "guestworkers" are admitted on H-2A visas for temporary jobs. In order to be allowed H-2A workers, an employer must prove to the DOL that (a) there are not sufficient U.S. workers able, willing, qualified and available to perform the services; and (b) there will be no adverse effect on the wages and working conditions of similarly-employed U.S. workers. Employers are further required to provide free housing to workers outside the commuting area; reimburse workers inbound transportation if they complete half of the contract, outbound also if they complete the contract; guarantee 3/4 of the hours of the contract; and hire any qualified U.S. worker who applies during the first half of the work contract.

Largely because of the housing requirement, the H-2A program is used primarily in the East Coast. Western growers rely more heavily on illegal foreign workers. There is no cap on the number of H-2A visas granted -- in FY 96, H-2A admissions totaled 9,635. There were 1,930 new applications made to DOL in FY 96 -- each application petitions for multiple workers.

H-2B: Temporary nonagricultural workers, such as crab pickers and fishery workers. Limited by law to 66,000 new visas annually, the H-2B visa category accounted for 14,345 entries in FY 96. Like the H-2A program, each application covers multiple workers. In FY 96, the DOL processed 2,100 new applications.

D-1: Crewmembers to perform longshore work at U.S. ports. Generally such work is prohibited, however, one exception requires an employer to file an attestation with the DOL stating that it is the prevailing practice for the activity at that port, that there is no strike or lockout at the place of employment, and that notice has been given to U.S. workers or their representatives. In FY 96, the Department received 59 applications, all filed by Japanese and Korean shipbuilders.

TABLE 1. IMMIGRATION, BY ENTRY CLASS: FISCAL YEARS 1991-1996
(Numbers in thousands)

	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1996, in percents</u>
1) Immediate relatives of U.S. citizens	237.1	235.5	255.1	249.8	220.360	300.430	32.8
2) Family preferences	216.1	213.1	226.8	212.0	238.122	294.174	32.1
3) Employment preferences	59.5	116.2	147.0	123.3	85.336	117.499	12.8
4) IRCA legalization	1123.2	163.3	24.3	6.0	4.267	4.635	0.5
Residents since 1982	(214.0)	(47.0)	(18.7)	(4.4)	(3.124)	(3.286)	(0.4)
Agricultural workers	(909.2)	(116.4)	(5.6)	(1.6)	(1.143)	(1.349)	(0.1)
5) Nonpreference	12.3	1.6	0.0	-	-	-	-
6) Refugees & Asylees	139.1	117.0	127.3	121.4	114.664	128.565	14.0
7) Diversity	-	33.9	33.5	41.1	47.245	58.790	6.4
8) Legalization dependents	-	52.3	55.3	34.1	.277	.184	0.0
9) Others	39.9	41.1	35.0	16.8	10.190	11.623	1.3
TOTAL	1,827	974.0	904.3	804.4	720.461	915,900	100.0
TOTAL, NON-LEGALIZATION	704.0	810.6	880.0	798.4	716.194	911,265	NA

Notes: Figures may not add to totals due to rounding.

With the exception of immediate relatives of U.S. citizens, immigrants in a class of admission include principal beneficiaries, i.e., those aliens who directly qualify for the class of admission under U.S. immigration laws, and derivative beneficiaries, i.e., the spouses and unmarried children of principal immigrants.

Brief descriptions of the entry classes:

- 1) Numerically unrestricted immigrants comprising spouses, unmarried minor children, and orphans adopted by U.S. citizens as well as parents of adult U.S. citizens.
- 2) Numerically restricted family-sponsored immigrants comprise the following four preference classes:
 1. Unmarried adult sons and daughters of U.S. citizens
 2. Spouses and unmarried sons and daughters of U.S. permanent resident aliens
 3. Married sons and daughters of U.S. citizens
 4. Brothers and sisters of adult U.S. citizens
- 3) Includes immigrants issued employment-based preference visas since FY 1992, as well as immigrants issued third preference (members of the professions or persons of exceptional ability in the sciences and arts), sixth preference (skilled and unskilled workers in short supply), and special immigrant visas prior to fiscal year 1992.
- 4) Under the 1986 Immigration Reform and Control Act, certain persons who had been in the United States illegally could apply for legal permanent residence.
- 5) Under the 1986 Immigration Reform and Control Act, immigrants from certain countries determined to have been adversely affected by the 1965 immigration reform were admitted under a special "nonpreference" category.
- 6) The distinction between refugees and asylees is the location of the alien at the time of application: asylees are already in the United States or at a port of entry.
- 7) Under the Immigration Act of 1990, a 3-year program (1992-94) authorized 40,000 visas annually for natives of the 34 countries determined to have been adversely affected by the 1965 immigration reform. Another diversity program

of 55,000 visas annually began in fiscal year 1995 aimed at increasing flows from specific countries and regions of the world based on prior low levels of immigrant admissions.

8) Under the Immigration Act of 1990, a 3-year program (1992-94) provided for a maximum of 55,000 visas annually for the spouses and children of legalized aliens.

9) Includes groups such as persons receiving suspension of deportation, Soviet and Indochinese parolees, and registered nurses.

Source: U.S. Department of Justice, *1996 Statistical Yearbook of the Immigration and Naturalization Service*, Table 4.

**TABLE 2. NONIMMIGRANTS ADMITTED, BY CLASS OF ADMISSION:
FISCAL YEARS 1994-96**

<u>Nonimmigrant class</u>	<u>Admissions</u>		
	<u>1994</u>	<u>1995</u>	<u>1996</u>
Foreign gov't officials, spouses, & children (A)	105,299	103,606	118,157
Temporary visitors for business (B-1)	3,164,099	3,275,334	3,770,326
Temporary visitor for pleasure (B-2)	17,154,834	17,611,533	19,109,944
Transit aliens (C)	330,936	320,333	325,538
Students (F-1)	386,157	356,585	418,117
Vocational students (M-1)	7,844	7,635	8,786
Spouses and children of students (F-2 and M-2)	33,720	31,260	32,485
Int'l representatives, spouses and children (G)	74,722	71,982	79,528
Temporary workers			
• Registered nurses (H-1A)	6,106	6,512	2,046
• Specialty occupations: professionals (H-1B)	105,899	117,574	144,458
• Temporary agricultural workers (H-2A)	13,185	11,394	9,635
• Temporary nonagricultural workers (H-2B)	15,687	14,193	14,345
• Industrial trainees (H-3)	3,075	2,787	2,986
• Professional workers: U.S.-Canada FTA (TC)	5,031	X	X
• Professional workers: NAFTA (TN)	19,806	23,904	26,987
• Workers with extraordinary ability (O-1)	5,029	5,974	7,177
• Workers accompanying O-1 nonimmigrants (O-2)	1,455	1,813	2,112
• Athletes and entertainers (P-1, P-2, P-3)	28,055	28,372	33,633
• International cultural exchange (Q-1)	1,546	1,399	2,056
• Nonprofit religious organization workers (R-1)	5,951	6,742	8,992
• Intracompany transferees (L-1)	98,189	112,124	140,457
• Treaty traders and investors & families (E)	141,030	131,777	138,568
Families of temp. workers (H-4, O-3, P-4, R-2)	43,207	46,380	53,572
Families of CFTA & NAFTA professionals (TB & TD)	6,033	7,202	7,694
Spouses & children of intracompany transferees (L-2)	56,048	61,621	73,305
Foreign media representatives and dependents (I)	27,691	24,220	33,596
Exchange visitors (J-1)	216,610	201,095	215,475
Spouses and children of exchange visitors (J-2)	42,561	39,269	41,250
Fiances(ees) of U.S. citizens (K-1)	8,124	7,793	9,011
Children of fiances(ees) (K-2)	764	768	1,012
NATO officials, spouses and children (N-1 - N-7)	9,135	8,579	10,945
Unknown	878	779	310
TOTAL	22,118,706	22,640,539	24,842,503

Note: These numbers include multiple entries by the same person over time. Consequently, they should not be interpreted as the number of individual nonimmigrants entering in a particular fiscal year.

x Not applicable

Source: United States Department of Justice, 1996 Statistical Yearbook of the Immigration and Naturalization Service, Table 39.

TABLE 3. EMPLOYMENT-BASED IMMIGRATION, BY PREFERENCE: FISCAL YEARS 1992-96

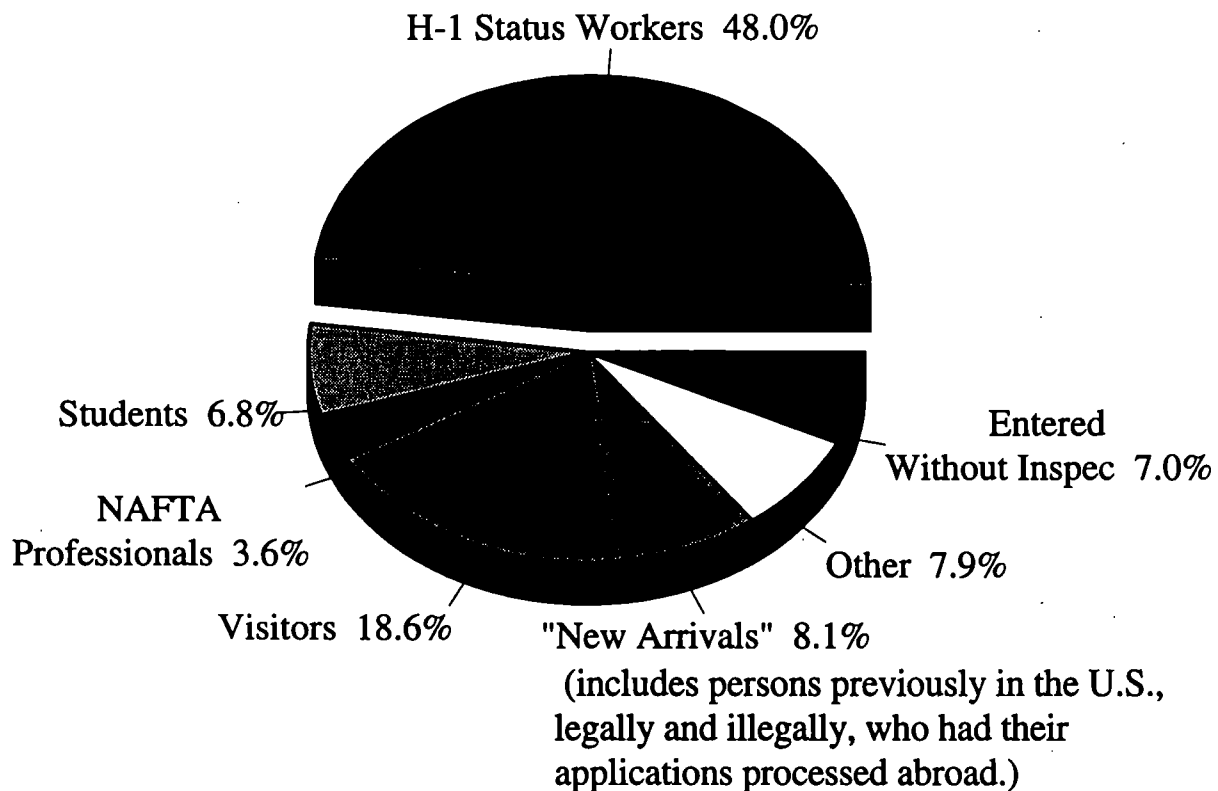
<u>Employment-Based Preference</u>	<u>Fiscal Year</u>				
	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
Total, Employment 1st preference	5,456	21,114	21,053	17,339	27,501
Aliens with extraordinary ability	261	1,259	1,313	1,194	2,060
Outstanding professors or researchers	319	1,676	1,809	1,617	2,633
Multinational executives or managers	1,446	5,088	4,975	3,922	6,354
Spouses and children of 1st pref.	3,430	13,091	12,956	10,606	16,454
Total, Employment 2nd preference	58,401	29,468	14,432	10,475	18,462
Members of the professions holding advanced degrees or persons of exceptional ability	27,503	13,801	6,807	4,952	8,870
Spouses and children of 2nd pref.	30,898	15,667	7,625	5,523	9,592
Total, Employment 3rd preference	47,568	87,689	76,956	50,245	62,756
Skilled workers	12,257	12,813	10,139	9,094	16,001
Baccalaureate holders	4,192	9,560	7,732	5,792	5,507
Spouse and child of the above	22,187	28,434	28,398	23,262	28,998
Chinese Student Protection Act	---	26,915	21,297	4,213	401
Principals	---	26,852	21,008	4,134	373
Spouses and children	---	63	289	79	28
Other workers (unskilled workers)	4,017	4,405	4,136	3,636	6,010
Spouse & child of unskilled worker	4,915	5,562	5,254	4,248	5,839
Total, Employment 4th preference	4,063	8,158	10,406	6,737	7,844
Special immigrants	1,768	3,576	4,647	2,929	3,494
Spouse and child of 4th preference	2,295	4,582	5,759	3,808	4,350
Total, Employment 5th preference	59	583	444	540	936
Employment creation, not targeted area	21	159	106	95	143
Spouses and children	32	311	190	190	301
Employment creation, targeted area	3	37	51	79	152
Spouses and children	3	76	97	176	340
Total, Pre-1992 3rd and 6th preference	651	---	---	---	---
Principals	227	---	---	---	---
Spouses and children	424	---	---	---	---
<u>Excluding Chinese Student Protection Act:</u>					
Total, employment pref., principals	52,014	52,374	41,715	33,310	51,224
Percent of all immigration	5.3	5.8	5.2	4.6	5.6
Total, employment pref., dependents	64,184	67,723	60,279	47,813	65,874
Percent of all immigration	6.6	7.5	7.5	6.6	7.2
TOTAL, employment preferences	116,198	120,097	101,994	81,123	117,098
Percent of all immigration	11.9	13.3	12.7	11.3	12.8
<u>Including Chinese Student Protection Act:</u>					
GRAND TOTAL, employment preferences	116,198	147,012	123,291	85,336	117,499

Notes: Percentages may not add to totals due to rounding.

The number of admissions in a given year may exceed the numerical ceiling on visa issuances as immigrant visas may be used up to 4 months after issuance.

Source: U.S. Department of Justice, 1996 *Statistical Yearbook of the Immigration and Naturalization Service*, Table 5.

Chart 1: About Half of Employment-Based Immigrants* Admitted Through H-1 Programs



Source: U.S. Immigration and Naturalization Service

* Admissions for FY 1996, includes 2nd and 3rd Preference Principals only. Excludes Chinese Student Protection Act and Unskilled Workers.

Labor Condition Application for H-1B Nonimmigrants

U.S. Department of Labor

Employment and Training Administration
U.S. Employment Service



1. Full Legal Name of Employer	5. Employer's Address (No., Street, City, State, and ZIP Code)	OMB Approval No.: 1205-0310 Expiration Date: 11-30-97
2. Federal Employer I.D. Number		
3. Employer's Telephone No. ()	6. Address Where Documentation is Kept (If different than Item 5)	
4. Employer's FAX No. ()		

7. OCCUPATIONAL INFORMATION (Use attachment if additional space is needed)

(a) Three-digit Occupational Group Code (From Appendix 2):		(b) Job Title (Check Box if Part-Time):			
(c) No. of H-1B Nonimmigrants	(d) Rate of Pay	(e) Prevailing Wage Rate and its Source (see instructions)	(f) Period of Employment From To	(g) Location(s) Where H-1B Nonimmigrants Will Work (see instructions)	
\$	\$	☐ SESA ☐ Other:			
\$	\$	☐ SESA ☐ Other:			

8. EMPLOYER LABOR CONDITION STATEMENTS (Employers are required to develop and maintain documentation supporting labor condition statements 8(a) and 8(d). Employers are further required to make available for public examination a copy of the labor condition application and necessary supporting documentation within one (1) working day after the date on which the application is filed with DOL. Check each box to indicate that the employer will comply with each statement.)

- ☐ (a) H-1B nonimmigrants will be paid at least the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question or the prevailing wage level for the occupation in the area of employment, whichever is higher.
- ☐ (b) The employment of H-1B nonimmigrants will not adversely affect the working conditions of workers similarly employed in the area of intended employment.
- ☐ (c) On the date this application is signed and submitted, there is not a strike, lockout or work stoppage in the course of a labor dispute in the occupation in which H-1B nonimmigrants will be employed at the place of employment. If such a strike or lockout occurs after this application is submitted, I will notify ETA within 3 days of the occurrence of such a strike or lockout and the application will not be used in support of petition filings with INS for H-1B nonimmigrants to work in the same occupation at the place of employment until ETA determines the strike or lockout has ceased.
- ☐ (d) A copy of this application has been, or will be, provided to each H-1B nonimmigrant employed pursuant to this application, and, as of this date, notice of this application has been provided to workers employed in the occupation in which H-1B nonimmigrants will be employed: (check appropriate box)
- ☐ (i) Notice of this filing has been provided to the bargaining representative of workers in the occupation in which H-1B nonimmigrants will be employed; or
- ☐ (ii) There is no such bargaining representative; therefore, a notice of this filing has been posted and was, or will remain, posted for 10 days in at least two conspicuous locations where H-1B nonimmigrants will be employed.

9. DECLARATION OF EMPLOYER. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the information provided on this form is true and correct. In addition, I declare that I will comply with the Department of Labor regulations governing this program and, in particular, that I will make this application, supporting documentation, and other records, files and documents available to officials of the Department of Labor, upon such official's request, during any investigation under this application or the Immigration and Nationality Act.

Name and Title of Hiring or Other Designated Official	Signature	Date
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Complaints alleging misrepresentation of material facts in the labor condition application and/or failure to comply with the terms of the labor condition application may be filed with any office of the Wage and Hour Division of the United States Department of Labor.

AN APPLICATION CERTIFIED BY DOL MUST BE FILED IN SUPPORT OF AN H-1B VISA PETITION WITH THE INS.

FOR U.S. GOVERNMENT AGENCY USE ONLY: By virtue of my signature below, I acknowledge that this application is hereby certified and will be valid from _____ through _____.

Signature and Title of Authorized DOL Official	ETA Case No.	Date
Subsequent DOL Action: Suspended _____ (date) Invalidated _____ (date) Withdrawn _____ (date)		

The Department of Labor is not the guarantor of the accuracy, truthfulness or adequacy of a certified labor condition application.

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of U.S. Employment Service, Department of Labor, Room N-4470 and/or the Office of IRM Policy, DOL, Room N-1301, 200 Constitution Avenue N.W., Washington, DC 20210. (1205-0310).

DO NOT SEND THE COMPLETED FORM TO EITHER OF THESE OFFICES

ETA 9035 (Rev. Dec. 1994)

**INSTRUCTIONS FOR COMPLETING FORM ETA 9035 - LABOR CONDITION
APPLICATION FOR H-1B NONIMMIGRANTS**

IMPORTANT: READ CAREFULLY BEFORE COMPLETING FORM

Print legibly in ink or use a typewriter. Sign and date one form in original signature. Citations below to "regulations" are citations to identical provisions at 20 CFR 655, subparts H and I, and to 29 CFR 507, subparts H and I.

To knowingly furnish any false information in the preparation of this form and any supporting documentation thereto, or to aid, abet or counsel another to do so is a felony, punishable by \$10,000 fine or five years in the penitentiary, or both (18 U.S.C. 1001). Other penalties apply as well to fraud or misuse of this Immigration document (U.S.C. 1546) and to perjury with respect to this form (18 U.S.C. 1546 and 1621).

Employers seeking to hire H-1B nonimmigrants in specialty occupations or as fashion models of distinguished merit and ability must submit the completed and dated original Form ETA 9035 (or a facsimile) and one copy of the completed original Form ETA 9035 to the regional certifying officer in the Department of Labor (DOL), Employment and Training Administration (ETA) regional office having jurisdiction over the State in which the position is located. See 20 CFR 655.720 for ETA regional office addresses. An application which is complete and has no obvious inaccuracies will be certified by DOL and returned to the employer, who may then file it in support of its petition with the Immigration and Naturalization Service.

Item 1. Full Legal Name of Employer. Enter full legal name of business, firm or organization, or, if an individual, enter name used for legal purposes on documents.

Item 2. Federal Employer I.D. Number. Enter employer's Federal Employer Identification Number (EIN) assigned by the Internal Revenue Service.

Item 3. Employer's Telephone No. Self-explanatory.

Item 4. Employer's FAX No. Self-explanatory.

Item 5. Employer's Address. Self-explanatory.

Item 6. Address Where Documentation is Kept. Self-explanatory.

Item 7. Occupational Information. Enter the information requested under the appropriate subheading. If necessary, continue on an attachment.

Item 7(a). Three-Digit Occupational Group Code. Enter the three-digit code from Appendix 2 which most clearly describes the job to be performed. (DOL purposes only.)

Item 7(b). Job Title. Enter the common name or payroll title of the job being offered. Check box to the right of the blank if position is part-time. A separate labor condition application shall be filed for each occupation in which H-1B nonimmigrants will be employed.

Item 7(c). Number of H-1B Nonimmigrants. Enter the number of H-1B nonimmigrants that will be hired in the three-digit occupational code stated in item 7(a).

Item 7(d). Rate of Pay. Enter the salary to be paid in terms of the amount per hour, week, year, etc. If a wage range is listed for this item, the salary for each H-1B nonimmigrant shall be maintained in support of the application.

Item 7(e). Prevailing Wage Rate and Its Source. Enter the prevailing wage rate in terms of the amount per hour, week, year, etc. If the employer is relying on a wage determination obtained from a State Employment Security Agency, check the box marked "SESA." If the employer is using another source, check the "Other" box and specify such other source: i.e., published wage survey, or other source utilized by the employer to determine the prevailing wage for the occupational classification in which H-1B nonimmigrants will be employed, e.g., "collective bargaining agreement," or "Bureau of Labor Statistics Occupational Compensation Survey, Denver, Colorado, Metropolitan Area." (Only 1 box can be checked per line item).

Item 7(f). Period of Employment. Enter the starting and ending dates during which the H-1B nonimmigrants will be employed.

Item 7(g). Locations Where H-1B Nonimmigrants Will Work. Enter the city and State of site or location where the work will actually be performed.

Item 8. Employer Labor Condition Statements. The employer must attest by checking off the conditions listed in (a) through (d) and by signing the application form. Employers must develop and maintain documentation to support labor condition statements 8(a) and 8(d). Documentation in support of a labor condition application shall be retained at the employer's principal place of business or worksite and made available to DOL upon such official's request. See 20 CFR 655.731 through 655.734 for guidance on the documentation that must support each labor condition statement.

Item 8(a). The employer must attest that H-1B nonimmigrants will be paid wages which are at least the higher of the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question or the prevailing wage level for the occupational classification in the area of intended employment.

Item 8(b). The employer must attest that the employment of H-1B nonimmigrants in the occupations named will not adversely affect the working conditions of workers similarly employed in the area of intended employment.

Item 8(c). The employer must attest that on the date the application is signed and submitted, there is not a strike, lockout or work stoppage in the course of a labor dispute in the named occupation at the worksite. If such a strike or lockout occurs after this application is submitted, the employer must notify ETA within 3 days of the occurrence of such a strike or lockout and the application may not be used in support of petition filings with INS for H-1B nonimmigrants to work in the same occupation at the place of employment until ETA determines the strike or lockout has ceased.

Item 8(d). The employer must attest that as of the date of filing, notice of the labor condition application has been provided to workers employed in the named occupation. The application may be provided to the workers through the bargaining representative, or where there is no such bargaining representative, notice of the filing must be posted in conspicuous places where H-1B nonimmigrants will be employed. Further, the employer must attest that each H-1B nonimmigrant employed pursuant to the application will be provided with a copy of the application. The notification shall be provided no later than the date the H-1B nonimmigrant reports to work at the place of employment.

Item 9. Declaration of Employer. One copy of this form must bear the original signature of the employer. By signing this form, the employer is attesting to the accuracy of the labor condition statements listed in items 8(a) through (d) and to compliance with these conditions. False statements are subject to Federal criminal penalties, as stated above. Failure to meet a condition of the application regarding strikes or lockouts, substantial failure to meet a condition of the application regarding notification of the bargaining unit representative, employees, or H-1B nonimmigrants, willful failure to meet a condition of the application regarding wages or working conditions, or misrepresentation of a material fact may result in additional penalties.