

## Update on procedures for prospective RAWs

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According to an "interim final rule" issued on July 17, eligible aliens who want any chance of being selected for legal status as replenishment agricultural workers (RAWs) from October 1, 1989, through September 30, 1993, have to register before November 1, 1989. This version supersedes a proposed rule issued last March that covered only the first year of the RAW program established under the Immigration Reform and Control Act of 1986 (IRCA) (see "SAW employment data and the need for RAWs," *California Agriculture*, May-June 1989).

Under IRCA, foreign workers may be granted legal resident status in the United States to replenish the farm labor supply during fiscal years 1990-93. The RAW program, along with the Special Agricultural Worker (SAW) and H-2A programs, was designed to help prevent disruptions in agriculture that might be caused by new lawful hiring requirements.

The new immigration law left two critical determinations to federal agencies administering the RAW program: (1) how many replenishment workers to admit, and (2) how to distribute the available RAW visas. The U.S. Secretaries of Labor and Agriculture are to make the first of these decisions, using IRCA guidelines to establish a "shortage number" each year.

IRCA provided virtually no policy, however, for determining whom to admit as a RAW or how. The changes in the rule proposed by the Immigration and Naturalization Service (INS) reflect comments from a wide range of employer, worker, and government representatives. Although subject to further revision, the rule is unlikely to change substantially.

The RAW selection process has two main parts: registration and petitioning. The major change in the new rule is in specification of a single registration period, September 1 through October 31, 1989, to establish the RAW-eligible pool for all four years of the program.

Other adjustments have been made in the criteria for RAW eligibility and selection priority. The new rule disqualifies persons who entered the United States illegally after November 30, 1988 (the March proposal had specified November 6, 1986). New features also include: (1) authorization for community outreach organizations, Qualified Designated Entities (QDEs), to help applicants register and petition and to be the only channels for distributing registration forms to those outside the United States; (2) printing of instructions for the registration card and petition form in English and Spanish; (3) a \$10 registration fee and a commensurate reduction of the petition fee to \$175; (4) creation of a toll-free telephone

system for applicant inquiries; and (5) means for appealing the denial of a petition.

The five basic eligibility criteria for RAW status are: (1) minimum age of 18; (2) general admissibility to the United States as an immigrant; (3) having performed at least 20 "man-days" of any agricultural work in the United States during any 12 consecutive months from May 1, 1985, to November 30, 1988; (4) self-certification of ability and intent to perform 90 "work-days" per year of seasonal agricultural services (SAS) for the following 3 years; and (5) having not illegally entered the United States after November 30, 1988.

Registration cards (Form I-807) for eligible aliens within the United States will be available at all INS district, legalization, and sub-offices, by mail from an INS Central Processing Facility (P.O. Box 6004, London, KY 40742-6004), and through participating QDEs.

Acceptable registration forms submitted by the October 31 deadline will be sorted into four priority groups, in descending rank: (1) persons in the United States who are spouses or unmarried children of aliens legalized under IRCA; (2) other eligible persons in the United States; (3) those outside the United States who are spouses or unmarried children of aliens legalized under IRCA; and (4) others outside the United States. The INS will invite petitions from aliens randomly selected from the highest ranked priority class until the shortage number is met each year.

To maintain temporary legal resident status, RAWs will have to work in seasonal agricultural services at least 90 work-days (4 hours minimum a day) per year, for 3 consecutive years. RAWs can then become permanent legal residents without further employment in agriculture.

The new regulation puts eligible workers outside the United States at a disadvantage compared with those who are here: those outside the United States are less likely to learn of the rule in time to act on it; their access to registration cards is more limited; and they will have lower priority for selection to petition throughout the RAW program.

Although the numbers of RAWs to be admitted in fiscal 1990 and following years remain uncertain, eligible workers must act soon if they want a chance to be counted among them.

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