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## UPDATE - CIS PUBLISHES PROPOSED RULE FOR H-4 WORK AUTHORIZATION

On May 12, 2014 the Department of Homeland Security (DHS) published in the Federal Register a [proposed rule](#) to allow certain H-4 nonimmigrants to apply for work authorization. Comments on the proposed rule are due July 11, 2014.

Under the proposed rule, spouses of H-1B visa holders who have reached a certain stage in the permanent residency process will be able to apply for work authorization. To qualify, the H-4 nonimmigrant's H-1B spouse must be the beneficiary of an **approved** I-140 Immigrant Visa Petition, or alternatively must be the beneficiary of an H-1B extension under Section 106 of the American Competitiveness in the Twenty-first Century Act (AC-21), which allows certain H-1B holders to extend their H-1B status beyond the normal six-year limitation.

The proposed rule is limited – it applies only to H-4 spouses, and only to those whose H-1B spouses have an approved I-140 Immigrant Visa Petition or have been approved for a one-year extension of H-1B status under AC-21. One-year extensions of H-1B status are available under Section 106 AC-21 to those for whom an I-140 Immigrant Visa Petition or PERM Application for Permanent Employment Certification was filed at least one year ago.

Because this is only a proposed rule, no applications for H-4 work authorization can be filed at this time. Qualifying H-4 nonimmigrants may apply for work authorization only after the notice and comment period has expired (July 11<sup>th</sup>) and after the DHS has considered all comments and published a final rule.

As always, FosterQuan will continue to monitor immigration regulations and procedures and will provide additional information in future Immigration Updates®, and on our firm's [website](#).