



IMMIGRATION UPDATE - NOVEMBER 03, 2020

Posted on November 3, 2020 by Cyrus Mehta

Headlines:

[Late November Visa Bulletin Preserves Forward Movement for Employment-Based Immigrant Visa Numbers](#) – The Department of State released the November Visa Bulletin about two weeks later than usual, and USCIS is allowing applicants to use the "Dates for Advanced Filing" chart for November.

[DHS Proposed Rule Would Replace Random H-1B Registration Selection With Wage-Level-Based Selection Process](#) – The proposed rule would modify the H-1B cap selection process by replacing the random selection process with a wage-level-based selection process.

[OFLC Releases FAQs on DOL Prevailing Wage Interim Final Rule](#) – OFLC released two rounds of frequently asked questions addressing issues related to DOL's interim final rule on prevailing wage calculations.

[USCIS Extends South Sudan TPS Designation](#) – USCIS is extending the designation of South Sudan for temporary protected status for 18 months, from November 3, 2020, through May 2, 2022. The 60-day re-registration period runs from November 2, 2020, through January 4, 2021.

ABIL Global: Colombia – *Colombia is gradually phasing back in international flights and migration processes.*

Details :

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Late November Visa Bulletin Preserves Forward Movement for Employment-Based Immigrant Visa Numbers

The Department of State released the November Visa Bulletin about two weeks

later than usual, and U.S. Citizenship and Immigration Services (USCIS) is allowing applicants to use the "Dates for Advanced Filing" chart (Chart B) for November.

Chart B for November preserves the very substantial forward movement for all categories of employment-based immigrants that was implemented in October. The dates for filing in nearly all categories are identical between October and November, so qualified applicants waiting for required evidence can now submit applications any time before November 30, 2020.

The November bulletin also notes that the Continuing Appropriations Act, 2021 (P.L. No. 116-159) extends both the employment fourth preference religious workers (SR) and employment fifth preference pilot (I5 and R5) categories until December 11, 2020.

Details:

- November 2020 Visa Bulletin,
<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2021/visa-bulletin-for-november-2020.html>

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DHS Proposed Rule Would Replace Random H-1B Registration Selection With Wage-Level-Based Selection Process

The Department of Homeland Security (DHS) published a proposed rule on November 2, 2020, that would prioritize the selection of H-1B registrations (or petitions, if the registration process is suspended) based on corresponding wage levels. U.S. Citizenship and Immigration Services generally would first select registrations based on the highest Occupational Employment Statistics prevailing wage level that the proffered wage equals or exceeds for the relevant Standard Occupational Classification code and area(s) of intended employment.

Modifying the H-1B selection process by replacing the random selection process with a wage-level-based selection process "is a better way to allocate H-1Bs when demand exceeds supply," DHS said. The agency believes that such a new selection process "would incentivize employers to offer higher wages or petition for positions requiring higher skills and higher-skilled workers instead of using the program to fill relatively lower-paid vacancies."

The proposed rule would be implemented for both the H-1B regular cap and the H-1B advanced degree exemption, but would not change the order of selection between the two as established by the H-1B registration requirement final rule. The wage level ranking would occur first for the regular cap selection and then for the advanced degree exemption.

Litigation is expected. Comments are due within 30 days of November 2, 2020, on the proposed rule, and within 60 days on the proposed information collection.

Details:

- DHS proposed rule,
<https://www.govinfo.gov/content/pkg/FR-2020-11-02/pdf/2020-24259.pdf>
- USCIS statement,
<https://www.uscis.gov/news/news-releases/dhs-trump-administration-protect-american-jobs-from-unfair-international-competition>

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OFLC Releases FAQs on DOL Prevailing Wage Interim Final Rule

The Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) released two rounds of frequently asked questions (FAQs) addressing issues related to DOL's interim final rule on prevailing wage calculations.

Details:

- OFLC FAQs (Round 2),
<https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-1B-Wage-Protection-FAQ-Round-2-10-29-20.pdf>
- OFLC FAQs (Round 1),
<https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-1B-Prevailing-Wage-IFR-FAQs-20201008.pdf>

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USCIS Extends South Sudan TPS Designation

U.S. Citizenship and Immigration Services (USCIS) is extending the designation of South Sudan for temporary protected status (TPS) for 18 months, from November 3, 2020, through May 2, 2022. The 60-day re-registration period runs

from November 2, 2020, through January 4, 2021.

The extension allows currently eligible TPS beneficiaries from South Sudan to retain TPS through May 2, 2022, so long as they otherwise continue to meet the eligibility requirements for TPS. USCIS plans to publish a notice in the November 2, 2020, Federal Register setting forth the procedures necessary for South Sudan TPS recipients to re-register for TPS and to apply for employment authorization documents (EADs). USCIS recommends that registrants re-register timely before their EADs expire.

Details:

- Federal Register notice, <https://www.federalregister.gov/documents/2020/11/02/2020-24238/extension-of-the-designation-of-south-sudan-for-temporary-protected-status>

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ABIL Global: Colombia

Colombia is gradually phasing back in international flights and migration processes.

International Flights

After a six-month hiatus during the pandemic, on September 19, 2020, the first phase of international commercial flights between Colombia and the United States began. Gradually flights have resumed with other countries such as Mexico, Brazil, Ecuador, the Dominican Republic, Guatemala, and Bolivia. Humanitarian flights, as well as charters authorized by the government, continue to be scheduled and to transport travelers to and from Colombia.

With the gradual reopening of international air traffic, several measures were established to achieve better control and comply with biosafety protocols. For example, an air traveler must:

- Present a PCR test with a negative result for COVID-19, no more than 96 hours before the flight
- Fill out a Check-Mig form for entry and exit, between 24 hours and 1 hour before the flight
- Download the Coronapp application and create a profile to report health status
- Comply with the mandatory use of a mask, frequent hand-washing, and

social-distancing protocols

The land, sea, and river borders were closed until November 1 as a preventive measure.

Migration Processes

On September 21, 2020, Migración Colombia resumed services in all offices in the country for procedures related to foreigners' identity cards, visa registration, certificates of migratory movement, safe conduct, Special Permits to Stay for the Promotion of Formalization, and Temporary Permits to Stay. Considering recent circumstances, Migración Colombia established a transition period from September 21 to December 15, 2020. This is important, for example, for visa registrations and applications for a Foreign ID Card (*Cédula de Extranjería*), since 15 calendar days are allowed from the time the visa is issued in Colombia, or at the time of entry into the country if the visa was issued before a consulate. The Ministry of Foreign Affairs still is not stamping visas, which is why visa registrations and issuances of Foreign ID Cards can be done with an electronic visa, i.e., despite not being stamped in the passport.

Appointments are required for all of these processes. To do so, an applicant must download the Coronapp application and fill out the health declaration form. Some users report that they have not been able to schedule appointments for some procedures in Bogotá, or that or if they could, they were assigned appointments in the month of November. This will likely lead to an extended transition period because users may not be able to perform the necessary steps under the established terms.

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