



IMMIGRATION UPDATE - JULY 10, 2023

Posted on July 10, 2023 by Cyrus Mehta

Headlines:

[State Dept. Clarifies India EB-3 Retrogression in July](#) – The Department of State clarified the Final Action Date retrogression applicable to employment-based third preference (EB-3) visa applicants chargeable to India and explained the reason for prorating India EB-3 visas.

[USCIS Launches Online Rescheduling of Biometric Appointments, Releases Guidance on 'Good Cause'](#) – U.S. Citizenship and Immigration Services (USCIS) has launched a new self-service tool allowing rescheduling of most biometric services appointments before the date of the appointment. USCIS also clarified its guidance on policies and procedures related to "good cause" in this context.

[DHS Announces New Parole Processes for Colombians, Salvadorans, Guatemalans, and Hondurans](#) – While awaiting an immigrant visa, eligible individuals can request work authorization that can be maintained throughout the parole period. When the immigrant visa becomes available, the individual may apply to become a lawful permanent resident.

[DHS Updates ESTA Guidance re Cuba-Related VWP Travel Restrictions](#) – The Department of Homeland Security's Carrier Liaison Program has incorporated changes related to the designation of Cuba as a State Sponsor of Terrorism, making individuals who have been present in Cuba on or after that date ineligible for travel under the Visa Waiver Program.

Firm in the News

Details:

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State Dept. Clarifies India EB-3 Retrogression in July

The Department of State (DOS) recently clarified the Final Action Date retrogression applicable to employment-based third preference (EB-3) visa applicants chargeable to India, effective with the July 2023 Visa Bulletin, and explained the reason for prorating India EB-3 visas.

DOS noted that the Final Action Date is the priority date of the first applicant for whom a visa number could not be immediately allocated. India is currently oversubscribed for immigrant visas in numerically limited immigrant visa categories. The annual limits will reset with the start of the new fiscal year (FY 2024) on October 1, 2023, DOS said. The EB-3 Final Action Date for India "is expected to advance once the annual limits reset for FY 2024; however, the movement of this date throughout the fiscal year depends on various factors" such as visa demand and the employment-based annual limit, which DOS projects to be substantially lower than in FY 2023.

The Department of State's Visa Bulletin for July notes that due to high demand, retrogressions have been necessary for the employment-based third preference (EB-3) category for India, Mexico, Philippines, and Rest of World. The Rest of World, Mexico, and Philippines EB-3 final action dates have retrogressed to 01FEB22. EB-3 applicants from India are subject to a final action date of 01JAN09.

Details:

- India EB-3 Retrogression, DOS notice (June 26, 2023).
<https://travel.state.gov/content/travel/en/News/visas-news/india-eb-3-retrgression.html>
- of State Visa Bulletin (July 2023).
<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2023/visa-bulletin-for-july-2023.html>

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USCIS Launches Online Rescheduling of Biometric Appointments, Releases Guidance on 'Good Cause'

U.S. Citizenship and Immigration Services (USCIS) has launched a new self-service tool allowing benefit requestors, and their attorneys and accredited representatives, to reschedule most biometric services appointments before

the date of the appointment. USCIS also clarified its guidance on policies and procedures related to "good cause" in this context.

USCIS said good cause exists "when the reschedule request provides sufficient reason for the benefit requestor's inability to appear on the scheduled date."

Sufficient reasons may include but are not limited to:

- Illness, medical appointment, or hospitalization;
- Previously planned travel;
- Significant life events such as a wedding, funeral, or graduation ceremony;
- Inability to obtain transportation to the appointment location;
- Inability to obtain leave from employment or caregiver responsibilities;
- and
- Late delivered or undelivered biometric services appointment notice.

Previously, benefit requestors and accredited representatives could request to reschedule a biometric services appointment only by calling the USCIS Contact Center. With the new tool, those who have or create a USCIS online account can reschedule most requests for biometric services appointments without calling the Contact Center, USCIS said. The new tool, however, cannot be used to reschedule an appointment that already has been rescheduled two or more times, is within 12 hours, or has already passed. USCIS said it only accepts untimely rescheduling requests made to the USCIS Contact Center. It does not accept such requests by mail, in person at a USCIS office, or through the myUSCIS online rescheduling tool.

The biometric services appointment rescheduling tool can be accessed via a USCIS online account regardless of whether the pending case was submitted online or by mail, the agency said. Benefit requestors and accredited representatives can call the USCIS Contact Center to reschedule an appointment, but USCIS "strongly encourages users to use the new tool to save time, increase efficiency, and reduce call volume to the USCIS Contact Center."

The USCIS Contact Center's toll-free number inside the United States is 800-375-5283 (TTY 800-767-1833) Monday through Friday, 8 am to 8 pm ET. Outside the United States, the number is 212-620-3418.

Details:

- USCIS news release (July 6, 2023).

<https://www.uscis.gov/newsroom/news-releases/uscis-launches-online-re-scheduling-of-biometrics-appointments>

- USCIS policy alert, PA-2023-19 (July 6, 2023).
<https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20230706-ASCAAppointments.pdf>
- USCIS online account. <https://myaccount.uscis.gov/>

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DHS Announces New Parole Processes for Colombians, Salvadorans, Guatemalans, and Hondurans

On July 7, 2023, the Department of Homeland Security (DHS) announced the implementation of new family reunification parole processes for eligible nationals of Colombia, El Salvador, Guatemala, and Honduras. DHS said the new processes are for "nationals from those countries whose family members are U.S. citizens or lawful permanent residents and who have received approval to join their family in the United States. Specifically, nationals of these countries can be considered for parole on a case-by-case basis for a period of up to three years while they wait to apply" to become lawful permanent residents.

DHS said that while awaiting an immigrant visa, such an individual can request work authorization that can be maintained throughout the parole period. When the immigrant visa becomes available, the individual may apply to become a lawful permanent resident.

Details:

- DHS news release (July 7, 2023).
<https://www.uscis.gov/newsroom/news-releases/dhs-announces-family-re-unification-parole-processes-for-colombia-el-salvador-guatemala-and-honduras>
- Colombia notice, 88 Fed. Reg. 43591 (July 10, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-07-10/pdf/2023-14472.pdf>
- El Salvador notice, 88 Fed. Reg. 43611 (July 10, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-07-10/pdf/2023-14475.pdf>
- Guatemala notice, 88 Fed. Reg. 43581 (July 10, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-07-10/pdf/2023-14473.pdf>
- Honduras notice, 88 Fed. Reg. 43601 (July 10, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-07-10/pdf/2023-14474.pdf>

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DHS Updates ESTA Guidance re Cuba-Related VWP Travel Restrictions

The Department of Homeland Security's (DHS) Carrier Liaison Program has updated the Electronic System for Travel Authorization (ESTA) application and mobile app to incorporate changes related to the designation of Cuba as a State Sponsor of Terrorism on January 12, 2021, making individuals who have been present in Cuba on or after that date ineligible for travel under the Visa Waiver Program (VWP). The restriction on VWP travel also applies to individuals who are dual nationals of both a VWP country and Cuba at the time of applying.

If an ESTA has already been approved and it is later determined that the traveler has been present in Cuba or holds dual nationality with both a VWP country and Cuba, the ESTA will be revoked. Non-VWP travel to the United States is not barred for travelers affected by the restriction who do not meet exemption criteria, however. DHS said that such travelers can apply for a nonimmigrant visa at any U.S. embassy or consulate.

Limited exceptions to the VWP travel restrictions include military personnel and government employees who are exempted based on their presence in Cuba if such presence was in order to carry out their official duties for military service in the armed forces of a VWP country or as full-time government employees of a VWP country. There are no exemptions for presence in Cuba on behalf of international organizations or dual nationality with both a VWP country and Cuba, DHS said.

Details:

- CBP notice (July 6, 2023). <https://tinyurl.com/49nxpy9n> (scroll down)

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Firm in the News

Cyrus Mehta was quoted by the Times of India in "U.S. Appeals Court Upholds Filing of Amended H-1B Applications on Change in Work Location." Mr. Mehta shared his views on why filing H-1B amendments each time a worker moves outside the area of employment—even to a new home worksite—can be painful and burdensome for employers and H-1B workers.

<https://timesofindia.indiatimes.com/nri/us-canada-news/us-appeals-court-uph>

[olds-filing-of-amended-h-1b-applications-on-change-in-work-location/articleshow/101542599.cms?from=mdr](https://cyrusmehta.com/blog/2023/07/10/5756/olds-filing-of-amended-h-1b-applications-on-change-in-work-location/articleshow/101542599.cms?from=mdr)

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