



IMMIGRATION UPDATE - JULY 21, 2023

Posted on July 21, 2023 by Cyrus Mehta

Headlines:

[DHS Adds Eight Qualifying Fields to STEM Designated Degree Program List](#) –

The Department of Homeland Security (DHS) has amended the DHS STEM Designated Degree Program List by adding eight qualifying fields of study and a corresponding Department of Education Classification of Instructional Programs (CIP) code for each.

[August Visa Bulletin Announces Retrogressions in Several Categories](#) – The Department of State's Visa Bulletin for August includes information on establishment of a Worldwide employment-based first preference (EB-1) final action date; retrogression in the employment-based first preference (EB-1) category for India; and retrogression in the employment-based third preference (EB-3) category for Rest of World countries, Mexico, and Philippines.

[USCIS Expands Personalized Processing Times to Work Authorization and Travel Document Applications](#) – U.S. Citizenship and Immigration Services is expanding myProgress (formerly known as personalized processing times) to Form I-765, Application for Employment Authorization, and Form I-131, Application for Travel Document.

[OFLC Publishes Assignment Groups for H-2B Applications With Work Start Dates of October 1, 2023](#) – The Department of Labor's Office of Foreign Labor Certification has published the Assignment Groups for 2,157 H-2B applications covering 40,947 worker positions with a work start date of October 1, 2023.

[Labor Dept. Publishes Round 2 FAQ on AEWB Rule](#) – The Office of Foreign Labor Certification has issued a set of Frequently Asked Questions (FAQs) regarding the final rule, "*Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United*

States."

Details:

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DHS Adds Eight Qualifying Fields to STEM Designated Degree Program List

The Department of Homeland Security (DHS) has amended the DHS STEM Designated Degree Program List by adding eight qualifying fields of study and a corresponding Department of Education Classification of Instructional Programs (CIP) code for each. No CIP codes from the existing list are being removed.

The eight added fields and CIP codes are:

- Landscape Architecture (04.0601)
- Institutional Research (13.0608)
- Mechatronics, Robotics, and Automation Engineering Technology/Technician (15.0407)
- Composite Materials Technology/Technician (15.0617)
- Linguistics and Computer Science (30.4801)
- Developmental and Adolescent Psychology (42.2710)
- Geospatial Intelligence (43.0407)
- Demography and Population Studies (45.0501)

The list is used to determine whether a degree obtained by certain F-1 nonimmigrant students following the completion of a program of study qualifies as a science, technology, engineering, or mathematics (STEM) degree as determined by DHS, as required for the F-1 student to be eligible to apply for a 24-month extension of post-completion optional practical training (OPT).

DHS noted that "interested parties, including members of the public, may nominate a CIP code for inclusion on, or removal from, the STEM list."

Nominations may be submitted by email to the SEVP Response Center at SEVP@ice.dhs.gov, with the subject line "Attention: STEM CIP Code Nomination."

Details:

- DHS notice, 88 Fed. Reg. 44381 (July 12, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-07-12/pdf/2023-14807.pdf>

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August Visa Bulletin Announces Retrogressions in Several Categories

The Department of State's Visa Bulletin for August includes the following information:

- **Establishment of Worldwide employment-based first preference (EB-1) final action date.** An EB-1 final action date will be established for Rest of World countries, Mexico, and Philippines in August. Rest of World countries, Mexico, and Philippines will be subject to a final action date of 01AUG23. It is likely that in October the category will return to "Current" for these countries.
- **Retrogression in employment-based first preference (EB-1) for India.** The EB-1 final action date for India will retrogress in August. India will be subject to an EB-1 final action date of 01JAN12. It is likely that in October the final action date will advance.
- **Retrogression in employment-based third preference (EB-3) for Rest of World countries, Mexico, and Philippines.** The Rest of World, Mexico, and Philippines EB-3 final action dates will retrogress in August to 01MAY20.

Details:

- Department of State's Visa Bulletin (August 2023).
<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2023/visa-bulletin-for-august-2023.html>

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USCIS Expands Personalized Processing Times to Work Authorization and Travel Document Applications

U.S. Citizenship and Immigration Services (USCIS) announced on July 12, 2023, that it is expanding myProgress (formerly known as personalized processing times) to Form I-765, Application for Employment Authorization, and Form I-131, Application for Travel Document. MyProgress is also available for applicants with a USCIS online account who file Form I-90, Application to Replace Permanent Resident Card, among others.

USCIS said that myProgress provides personalized estimates of wait times for

major milestones, including final case decisions. USCIS noted that although estimates are based on historical patterns of cases with similar specifics, they "are not a guarantee of speed, cannot take into consideration all possible unique application processing delays, and may over- or underestimate the true processing time."

To view estimated case timelines, applicants must first create a USCIS online account or log into their account and select their pending application. If they e-filed or linked one of the applicable forms to their online account using an online access code, they will see a myProgress tab for their application. The myProgress tab displays the estimated wait time until their case has a decision, along with a checkmark beside three milestones as they are completed:

- Confirmation that the application was received;
- Completion of the biometric services appointment (if required); and
- Decision on the pending case.

Applicants should visit the public [Check Case Processing Times](#) webpage to determine if they are eligible to file an Outside of Normal Processing Times service request, USCIS said.

Details:

- USCIS alert (July 12, 2023).
<https://www.uscis.gov/newsroom/alerts/uscis-expands-myprogress-to-for-m-i-765-and-form-i-131>

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OFLC Publishes Assignment Groups for H-2B Applications With Work Start Dates of October 1, 2023

The Department of Labor's Office of Foreign Labor Certification (OFLC) has published the Assignment Groups for 2,157 H-2B applications covering 40,947 worker positions with a work start date of October 1, 2023. OFLC said it completed the randomization process on July 6, 2023, and assigned to National Processing Center analysts all H-2B applications placed in Assignment Group A for issuance of Notices of Deficiency or Acceptance. Group A includes enough worker positions to reach the H-2B semiannual visa allotment of 33,000.

One additional Assignment Group was created for the remaining applications

and associated worker positions. Each filing was randomly given a unique number in accordance with OFLC's randomization process and placed into a group for assignment to analysts for review and processing, OFLC said.

The agency noted that on July 6, 2023, it provided written notice to each employer (and the employer's authorized attorney or agent) informing them about the Assignment Group for their application(s).

Details:

- OFLC notice (scroll to July 10, 2023).
<https://www.dol.gov/agencies/eta/foreign-labor>

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Labor Dept. Publishes Round 2 FAQ on AEWR Rule

The Department of Labor's Office of Foreign Labor Certification (OFLC) has issued a set of Frequently Asked Questions (FAQs) regarding the final rule, "*Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States*," which was published on February 28, 2023.

The Round 2 FAQs provide guidance on Adverse Effect Wage Rate (AEWR) determinations, including how a State Workforce Agency (SWA) and the Certifying Officer (CO) determine which AEWR applies to a job opportunity, how SWAs and COs determine the AEWR for job duties with multiple Standard Occupational Classification codes, and the impact of certain job duties on AEWRs.

Details:

- OFLC notice (scroll to July 11, 2023).
<https://www.dol.gov/agencies/eta/foreign-labor>
- Round 2 FAQs for AEWR final rule (July 11, 2023).
<https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/2023%20AEWR%20Rule%20FAQ%20-%20Round%202%20-%2007-11-2023.pdf>
- AEWR final rule, 88 Fed. Reg. 12760 (Feb. 28, 2023).
<https://www.govinfo.gov/content/pkg/FR-2023-02-28/pdf/2023-03756.pdf>

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