



## Business Immigration Reporter

Vol. II - Issue 3

March 2016



### Final Rule on STEM OPT Extensions

The Department of Homeland Security (DHS) has published its final rule on “Improving and Expanding Training Opportunities for F-1 Nonimmigrant Students with STEM Degrees and Cap-Gap Relief for All Eligible F-1 Students.” The rule, which will become effective on May 10, 2016 is available [here](#).

The new rule increases the OPT extension period from 17 months to 24 months, which means a STEM graduate can have a total of three years of OPT. In addition, if a STEM graduate earns a second STEM degree, s/he will be eligible for an additional 24 months of OPT, for a total of five years.

Wages must be similar and compatible to those of U.S. workers and the employer and STEM beneficiary must prepare and execute a formal training plan and explain how those training objectives will be achieved. The employer will have to attest that the company has the necessary resources for the training program and that the STEM beneficiary is not replacing an American worker.

As previously required, all STEM employers must be participants in the E-Verify Program. For a condensed version of the rule and for guidance on how to manage applications prior to and after the implementation of the new rule take a look at the Immigration & Customs Enforcement (ICE) announcement by clicking [here](#) or contact us directly.

### Multiple H-1B Petitions for the Same Beneficiary

Because of the scarcity of H-1B visa numbers, some employers have attempted to file multiple H-1B petitions for the same beneficiary. Please remember that this is not innovative; rather, it is prohibited by regulation. Specifically,

*“An employer may not file, in the same fiscal year, more than one H-1B petition on behalf of the same alien if the alien is subject to the numerical limitations of section 214(g)(1)(A) . . . [F]iling more than one H-1B petition by an employer on behalf of the same alien in the same fiscal year will result in the denial or revocation of all such petitions.”*

Even filing multiple petitions through related entities



Christian G.A. Zeller, Esq.



AV<sup>®</sup> PREEMINENT<sup>™</sup>  
Martindale-Hubbell<sup>®</sup>  
Lawyer Ratings



CONSULTATIONS/INQUIRIES

**Corporate Office**  
Tampa  
813-221-1366  
[Map](#)

### Branch Offices

**Immigration Help Center**  
Tampa, Florida  
813-888-6700

which have different Employer Identification Numbers can cause the USCIS to deny the petition if the DHS determines, in its discretion, that related companies coordinated to file multiple H-1B petitions for the same beneficiary without a legitimate business need.

### **DHS Launches Known Employer Pilot Program**

The DHS announced the launch of a “Known Employer” pilot to assess a new process for employers who seek to hire certain workers through employment-based visa categories.

If successful, the process seeks to reduce paperwork burdens and processing times. Pending outcome, the Director of USCIS, Leon Rodriguez, expects to expand the program to promote robust trade, travel, and economic prosperity. According to USCIS the goals of the Known Employer pilot are to make the employment eligibility adjudication process more efficient while reducing delays for U.S. employers that wish to employ foreign workers under certain immigrant and nonimmigrant visa programs by:

- Reducing the amount of paperwork filed by employers and retained by USCIS;
- Promoting consistency in the adjudication of employment-based petitions and applications;
- Streamlining the adjudicative process to achieve greater efficiency within USCIS;
- Providing greater support to CBP and DOS in support of greater efficiency and consistency at ports of entry and consular posts.

Under the pilot, only nine preselected employers are currently filing certain employment-based non-immigrant and immigrant petitions. Stay tuned for updates.

### **“240-Day-Rule” Update**

By way of history, this rule provides for an automatic 240-day employment authorization extension where the non-immigrants employment authorization has expired, but where a timely extension of stay has been filed with USCIS.

The USCIS has added H-1B1 (Chile, Singapore), E-3 (Australia) and CW-1 (Commonwealth of the Northern Mariana Islands) to the list of eligible 240-day rule non-immigrant categories. The original list includes A-3, E-1, E-2, G-5, H-1B, H-2A, H-2B, H-3, I, J-1, L-1, O-1, O-2, P-1, P-2, P-3, R-1, and TN non-immigrant visas.

Did you know that you may re-verify 240-day rule beneficiaries on Employment Eligibility Verification Form I-9 upon timely filing of the extension petition without the need for waiting on the approval of the petition?

### **April 2016 Visa Bulletin**

There are no significant advances or retrogressions and the EB-3 for all-chargeability areas remain all but current. The new bulletin is available [here](#).

[Map](#)

#### **Orlando, Florida**

407-857-1300

[Map](#)

#### **Albuquerque, New Mexico**

505-266-8739

[Map](#)

#### **El Paso, Texas**

915-533-6699

[Map](#)

#[MANEY |GORDON|ZELLER]#  
101 E. Kennedy Blvd., Suite 3170  
Tampa, Florida 33602  
This email was sent to: [l.pabon@maneygordon.com](mailto:l.pabon@maneygordon.com)  
[Unsubscribe](#) | [Subscribe](#) | [Forward to a Friend](#)

Email Marketing by

**mailer  
mailer**