



OCTOBER VISA BULLETIN – NEW FORMAT ALLOWS EARLIER FILING FOR ADJUSTMENT OF STATUS

The U.S. Department of State (DOS) has published the Monthly [Visa Bulletin for October](#), introducing a new format that, with the agreement each month of U.S. Citizenship & Immigration Services (CIS), will allow applicants to file I-485 Applications to Adjust Status to permanent resident even before an immigrant visa number is immediately available. The new format will enable applicants and their dependent family members under backlogged categories to apply for ancillary benefits much earlier, including Employment Authorization Document (EAD) cards and Advance Parole travel documents. Earlier filing of an I-485 Application to Adjust Status to permanent resident will also enable applicants to qualify for “portability” of the permanent residency process earlier, because eligibility is triggered by the passage of 180 days since the filing of the applicant’s I-485 Application to Adjust Status.

New Format and What It Means

With the October Visa Bulletin, the Department of State has included two separate cutoff dates under backlogged categories. The “filing cutoff date” represents the cutoff date for filing new Applications to Adjust Status to Permanent Resident (green card) with U.S. Citizenship & Immigration Services (CIS). The “final action cutoff date” represents the cutoff date for approval of pending applications. The “final action cutoff date” is the date traditionally published each month in the Visa Bulletin.

October 2015						
Employment-Based Preference Category	All Chargeability Areas Except Those Listed	China Mainland Born	India	Mexico	Philippines	
1st	C	C	C	C	C	C
2nd	Filing Cut-off Date	C	01MAY14	01JUL11	C	C
	Final Action Cut-off Date	C	01JAN12	01MAY05	C	C
3rd	Filing Cut-off Date	01SEP15	01OCT13	01JUL05	01SEP15	01JAN15
	Final Action Cut-off Date	15AUG15	01OCT11	08MAR04	15AUG15	01JAN07
Other Workers	Filing Cut-off Date	01SEP15	01JAN07	01JUL05	01SEP15	01JAN15
	Final	15AUG15	01JAN06	08MAR04	15AUG15	01JAN07

	Action Cut-off Date					
4th		C	C	C	C	C
Certain Religious Workers	Filing Cut-off Date	C	C	C	C	C
	Final Action Cut-off Date	U	U	U	U	U
5th	Filing Cut-off Date	C	01MAY15	C	C	C
	Final Action Cut-off Date	U	U	U	U	U

The [CIS has indicated](#) that the CIS will determine each month whether the agency will accept applications filed based on the filing cutoff dates published in the Visa Bulletin. Today the CIS has confirmed that the CIS will accept filings in accordance with the new “filing cutoff dates” published in the October Visa Bulletin. It is likely that the U.S. Department of State and CIS will confer regarding the appropriate filing cutoff dates for future months. Accordingly, it is possible that the CIS will concur each month with the dates published in the Visa Bulletin and will publish corresponding dates on the CIS webpage that explains how to determine when to file an Application to Adjust Status.

EB-2 China

Under the October Visa Bulletin, Employment-based, Second Preference (EB-2) applicants born in China may file their Applications to Adjust Status with CIS if their priority date is earlier than May 1, 2014. The priority date is normally the date that the ETA-9089 PERM Application for Permanent Employment Certification (labor certification) was filed with the U.S. Department of Labor, or if no labor certification is required, the date that the I-140 Immigrant Visa Petition was filed with CIS.

Although applicants will be permitted to file their applications so long as their priority date is earlier than the new filing cutoff date, their applications cannot be approved by CIS until the later approval cutoff date of a January 1, 2012 priority date.

Whenever filing an Application to Adjust Status, applicants and their qualifying dependent family members may file Applications for Employment Authorization and Advance Parole for international travel concurrently with the Application to Adjust Status. Individuals who hold an Employment Authorization Document (EAD) card may apply for Social Security Number cards with the U.S. Social Security Administration.

EB-2 India

Under the October Visa Bulletin, EB-2 applicants born in India may file their Applications to Adjust Status with CIS if their priority date is earlier than July 1, 2011. Pending Applications to Adjust

Status may be approved if the applicant's priority date is earlier than May 1, 2005. The new final action cutoff date represents a retrogression of eight months from the cutoff date in the September Visa Bulletin.

EB-3 India, China, Philippines and the World

As expected at the beginning of the new fiscal year, the EB-3 category has advanced for China, to a new final action cutoff date of October 15, 2011, with the newly established filing cutoff date of October 1, 2013. The EB-3 India category will retrogress over ten months to a final action cutoff date of March 8, 2004, but a new filing cutoff date of July 1, 2005 will allow for filing of I-485 applications with requests for employment authorization and advance parole for the applicant and qualifying dependent family members much sooner than March 8, 2004, and sooner than the September 2015 Visa Bulletin cutoff date of December 22, 2014. EB-3 applicants born in the Philippines must have a priority date earlier than January 1, 2015 to file their applications, and earlier than January 1, 2007 to have pending applications approved. Applicants born in all other areas of chargeability must have a priority date earlier than September 1, 2015 to file their applications, and earlier than August 15, 2015 to have pending applications approved.

Contact Foster Now to Initiate New Applications

Applicants who will become eligible to file applications beginning October 1st are encouraged to contact their Foster immigration attorney now to initiate the preparation and filing of an I-485 Application to Adjust Status. By initiating new applications now, applicants can hope to be ahead of the rush of anticipated filings as many new applicants become eligible to file applications during the month of October. Filing at the very beginning of October should help applicants to avoid longer wait times for the adjudication of Applications for Employment Authorization and Advance Parole.

As always, Foster will continue to monitor immigrant visa availability and the procedures that allow for filing Applications to Adjust Status to permanent resident and will provide additional information in future Immigration Updates[®] and on our firm's website at www.fosterglobal.com.