



## **IMMIGRATION ALERT**

### **Significant New Delays for Many Green Card Applicants**

The Department of State has released its Visa Bulletin for the month of October 2005 revealing new delays for a broad class of Green Card applicants, a development not seen in several years. Delays have been announced for applicants in all employment-based Green Card filing categories, EB-1, EB-2, and EB-3, for applicants of specific nationalities.

The “priority dates” for the employment-based third preference category for nationals of all countries, with the exception of China, India, Mexico, and the Philippines, is listed as March 1, 2001. Foreign nationals from China, India, Mexico, and the Philippines are subject to a larger retrogression (May 1, 2000, January 1, 1998, January 1, 2001, and March 1, 2001, respectively). The current Visa Bulletin can be viewed at: [http://travel.state.gov/visa/frvi/bulletin/bulletin\\_2631.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_2631.html)



In addition to the already existing EB-3 retrogression, the Department of State has announced back-logs for the EB-1 and EB-2 categories. Currently, only foreign nationals of India and China are subject to a first and second preference category retrogression. For the EB-1 category, priority dates have backdated to January 1, 2000 for China and August 1, 2002 for India. In the EB-2 category, priority dates have retrogressed to May 1, 2000 for China and November 1, 1999 for India. Foreign nationals of all other countries are not subject to the first and second preference retrogression. The retrogression of priority dates in the first and second preference category marks an unprecedented delay with respect to available visa numbers.

A foreign national with a priority date subsequent to the current date as listed in the Visa Bulletin is prohibited from advancing to the final stages of the Permanent Residence process (filing an I-485 Adjustment of Status application or a Consular Processing Immigrant Visa application) until his or her priority date becomes current. A priority date is established by the original date on which the initial Green Card Application (Labor Certification or I-140 Immigrant Petition) was filed. Any application initially filed before the listed date is allowed to proceed to the final stages of the Permanent Residence process. Any application filed after the given dates must wait to complete the permanent residence process.

This Alert answers a number of questions about the retrogression of priority dates.

### **Why have the Priority Dates retrogressed?**



The Immigration and Nationality Act limits the number of Green Cards which can be issued in any fiscal year. These limits are categorized by nationality and type of application. In the past several years, lengthy Labor Certification processing times, combined with USCIS delays in processing I-485 Adjust-

ment of Status applications, have meant that the annual quotas for each category have not been reached. However, in light of the new PERM regulations and the improved processing of I-485 applications, the quotas have been reached in the first and second preference employment-based categories for citizens of China and India and for citizens of all countries in the third preference.

**How can I track the current Priority Date?**

The Department of State publishes the Visa Bulletin online each month. It is accessible at ([http://travel.state.gov/visa/frvi/bulletin/bulletin\\_2631.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_2631.html)). The Visa Bulletin is published in the middle of each month and lists the following month's priority dates.

**Is it possible that Priority Dates in other categories will retrogress in the future?**

This is possible. The priority dates are determined by the Department of State based on the number of approved immigrant visas (Green Cards) in each category during the fiscal year. If USCIS processing of I-485 applications continues to improve, priority dates may retrogress in the employment-based first- or second-preference categories for all countries.

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