

One Minute Memo®



U.S. Department of State to Alter Visa Bulletin System

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In accordance with President Obama's [Executive Actions on Immigration](#) proposed in November 2014, the U.S. Department of State (DOS) is expected to announce a new system for determining immigrant visa availability, establishing two separate "approval" and "acceptance" cut-off dates within the [Visa Bulletin](#).

The "approval" cut-off date would function in the same manner as a "[priority date](#)," which, in the employment-based immigrant visa context, is the date on which the Immigrant Visa Petition is filed with U.S. Citizenship and Immigration Services (USCIS) or the PERM Labor Certification is filed with the Department of Labor (DOL). Under the current system, once an individual's priority date is deemed "current," or prior to the date indicated on the DOS' [Visa Bulletin](#), the individual becomes eligible to file an Adjustment of Status (or green card) application with USCIS, which includes applications for secondary benefits, including employment authorization and travel documents. USCIS typically issues the employment and travel documents within 60 - 90 days of filing the Adjustment of Status application, with the green card issued about 7-8 months after the initial filing date, assuming the priority date remains current and there are no legal challenges to the applications.

The "acceptance" cut-off date, which represents the most significant change to the current system, would determine when an Adjustment of Status application may be *filed*. The mere filing of this application is an important step in the green card process because it enables the individual and his/her dependent family members to apply for the critical, secondary employment and travel benefits. In addition, the individual may be eligible for I-140 Immigrant Visa Petition "portability" once the green card application has been pending for more than six months, providing the applicant with career mobility. Under this new system, once the applications have been filed, USCIS would adjudicate the applications for employment and travel documents and wait for the applicant's "approval" cut-off date to become current before adjudicating the Adjustment of Status application.

The employment-based "acceptance" cut-off dates are expected to be several years before the "approval" cut-off dates, which will allow a large number of foreign nationals who are caught in an immigrant visa processing backlog -- particularly those born in China and India -- to file Adjustment of Status applications immediately once the new system becomes effective.

The prospective cut-off dates cannot be confirmed until the DOS finalizes the new *Visa Bulletin* system and issues guidance accordingly.

In the meantime, Seyfarth Shaw LLP's Immigration Group is closely monitoring these developments and will provide an update when more information becomes available.

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