



NOVEMBER VISA BULLETIN: RETROGRESSION FOR EB-3 INDIA AND CHINA

The Department of State publishes immigrant visa availability information in a monthly Visa Bulletin which establishes cut off dates for filing of adjustment of status applications or immigrant visa applications. The cut-off dates are determined based on predictions of immigrant visa demand. The Visa Bulletin contains two different charts, the Application Final Action Dates and Dates for Filing Applications. When USCIS determines there are immigrant visas available for the filing of additional adjustment of status applications, the Dates for Filing Applications chart may be used to determine when to file an adjustment of status application with USCIS. Otherwise, adjustment of status applicants must use the Application Final Action Date charts for filing.

For more information on the Visa Bulletin, see our Client Flyer on the Visa Bulletin: Understanding the Basics (page 2).

For the month of November 2021, USCIS has determined that the Dates for Filing Applications chart should be used for filing applications for adjustment of status with USCIS. It is important to note that priority dates for both Indian and Chinese nationals in the EB-3 (employment based third preference) category are retrogressing in November, moving back by nearly two years in the case of India and by more than nine months in the case of China.

INDIA



EB-3 India Dates for Filing: Only applicants born in India with priority dates earlier than **January 22, 2012**, may file adjustment of status applications during the month of November 2021.

EB-3 India Final Action Dates: During the month of November 2021, USCIS will only approve adjustment applications, and DOS will only issue immigrant visas, for EB-3 applicants born in India with priority dates earlier than **January 15, 2012**.

CHINA



EB-3 China Dates for Filing: Only applicants born in China with priority dates earlier than **April 1, 2018**, may file adjustment of status applications during the month of November 2021.

EB-3 China Final Action Dates: During the month of November 2021, USCIS will only approve adjustment applications, and DOS will only issue immigrant visas for EB-3 (employment-based third preference) applicants born in China with priority dates earlier than **March 22, 2018**.

We are closely monitoring the monthly Visa Bulletin and encourage you to contact our office at [NAME] at [NUMBER] if you have any questions.



VISA BULLETIN: UNDERSTANDING THE BASICS

WHAT IS THE VISA BULLETIN?

The Visa Bulletin is a tool for you and the U.S. Government. The U.S. Government can only give out a limited number of Green Cards (or Immigrant Visas or visa numbers) every year: 226,000 for Family-Based immigrants and 140,000 for Employment-Based immigrants. The law limits how many can be used for each country and each category. However, there may be additional visas in some fiscal years, as some unused visa numbers from the prior fiscal year can get carried over to the next fiscal year. The U.S. Government uses the Visa Bulletin to keep track of all these visa numbers and to give you a tool that you can use to tell you when you can file your case and when your case can be approved.

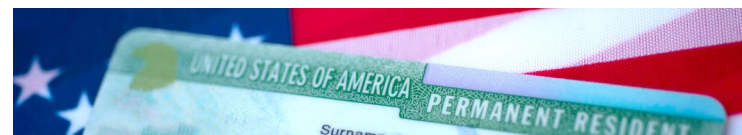
TERMS YOU SHOULD KNOW TO USE DEPARTMENT OF STATE'S (DOS) VISA BULLETIN

- **Priority Date:** The “Received Date” of I-130 or I-140 Immigrant Petition at USCIS. (One exception is if your I-140 is based on a Labor Certification, then it’s the LC filing date.)
- **Cutoff Date:** The date printed in the boxes appearing in Visa Bulletin charts, which are not “Current.”
- **Current:** Your Priority Date is a date earlier than the date printed in a box you find in a chart on the Visa Bulletin. Then (1) you file a Form I-485 Adjustment of Status application to USCIS, (2) USCIS can approve a pending Form I-485, or (3) a Consulate can issue your Green Card to you.
- **C:** This means all Priority Dates are Current.
- **“Dates for Filing” Chart:** Priority Dates earlier than the Cutoff Dates in this chart can gather and submit required documents to Department of State’s National Visa Center. NVC will tell you when you can begin submissions. You may be able to file a Form I-485 with USCIS.
- **“Final Actions Dates” Chart:** Priority Dates earlier than the Cutoff Dates in this chart (1) can file an I-485 Application to USCIS, (2) USCIS can approve a pending Form I-485 or (3) a Consulate can issue your Green Card to you.
- **Visa Retrogression:** This is when a priority date was Current in one month, but is no longer Current in the future month.

HOW DOES THE VISA BULLETIN WORK FOR ME?

You use the [Visa Bulletin](#) to understand what happens with the last stage of the Green Card process whether you are going the path of filing a Form I-485 to U.S. Citizenship and Immigration Services (USCIS) or Consular Processing through DOS to obtain an Immigrant Visa in your passport so that you can enter the U.S. as a permanent resident.

In the Visa Bulletin, you will see the top row listing countries and the left-hand column listing visa categories, like F1 or EB2. You take your Priority Date and look in the box under your Country of Birth and across from your visa category. If the date in the box comes after your date, then you may be able to file your case, depending on if you’re looking at the Final Action or Filing Dates charts. For example, if your Priority Date is September 1, 2013 in the F1 category and you were born in India, and you look at the October 2020 Visa Bulletin your date is earlier than the Cutoff Date of September 14, 2015 for F1 India.



CAN I FILE MY FORM I-485 USING THE DATES FOR FILING CHART?

A person is not eligible to file a Form I-485 until the Visa Bulletin shows that their Priority Date is Current. Even though you use the Visa Bulletin to know if your Priority Date is Current, you are only allowed to file the I-485 Adjustment Application using the Filing Dates Chart when USCIS decides that is permitted. The Visa Bulletin has a link to the USCIS website - www.uscis.gov/visabulletininfo - where they post the Adjustment of Status Filing Charts. If USCIS lists the Filing Dates Chart and someone’s Priority Date is current based on it, then they can file their Form I-485.



WHAT DO I NEED TO KNOW ABOUT THE OCTOBER VISA BULLETIN?

The October Visa Bulletin issued by the U.S. Department of State (DOS) marks the start of their new year for the US Government on October 1, called their Fiscal Year (FY) – it runs from October 1 to the following September 30. For example, the FY2021 runs from October 1, 2020 through September 30, 2021. The October Visa Bulletin tends to show forward movement of visa numbers for 4 reasons:

1. Each new FY starts with the full amount of visa numbers under the law.
2. Unused visa numbers from Family-Based immigration are added to the total Employment-Based numbers.
3. Events like COVID-19 reducing the use of Family-Based immigrant visa numbers because Consulates closed will increase the visa numbers added to Employment-Based immigration in the next year.
4. Travel Bans enacted by the Trump Administration reduced usage of visa numbers.

With the continuation of the Trump Administration's travel bans and restrictions on travel and movement because of COVID-19, the limited usage of Family-Based immigrant visa numbers by Consulates may continue. This will continue a trend of increasing Employment-Based immigrant visa numbers.

WHAT HAPPENS IF NEXT MONTH'S VISA BULLETIN CHANGES?

A new Visa Bulletin is issued every month that is in effect for that one (1) month. Once that month is over, then we need a new Visa Bulletin. If the new Visa Bulletin shows that your Priority Date is not Current then: the Consulate cannot approve your Green Card, you cannot file your Form I-485, and USCIS cannot approve your filed application. For example, if your Priority Date is Current in October 2020, then you can file your Form I-485 with USCIS in October 2020. However, if the November 2020 Visa Bulletin changes and your Priority Date has retrogressed, then your Form I-485 cannot be accepted by USCIS or approved by USCIS in any part of the month. Similarly, in this example, someone applying at a Consulate can be issued the Green Card during October 2020 with a Current Priority Date. However, if their Priority Date is no longer Current in November 2020 and they were told to provide additional documents by the Consulate, the visa cannot be issued if they return in November even if they were interviewed in October.

We are closely monitoring the monthly Visa Bulletin and encourage you to contact our office at the Dutta Law Firm at (212) 495-9089 if you have any questions.

