

The US State Department has issued its October 2015 Visa Bulletin in a new format. The Visa Bulletin is a monthly publication that provides an updated visa priority date list, which determines a foreign national's eligibility to apply for permanent residence in the US. A foreign national's priority date is the date on which their employer filed a labor certification or immigrant worker petition on behalf of the foreign national. In other words, the priority date is the date which determines a foreign national's place in line for an immigrant visa (green card). The Visa Bulletin's previous format had only one chart that listed a single visa priority cut-off date based on an applicant's employment-based preference category and country of nationality. Thus, an individual could only file an adjustment of status application (Form I-485) or a consular processing application for an immigrant visa abroad when the priority date was "current" in the Visa Bulletin for his or her country of birth and preference category, that is, when the individual's priority date fell before the cut-off date listed in the Visa Bulletin.

The revised Visa Bulletin, which implements the President's November 2014 Executive Order initiative on modernizing the immigrant visa system, now has two charts that list two separate priority cut-off dates for each employment-based preference category and country: (1) an "Application Final Action Date," which is consistent with previous Visa Bulletins; and (2) a new "Date for Filing of Visa Applications," which determines the date when a foreign national and eligible dependents can apply for adjustment of status (Form I-485) or consular processing.

Application Final Action Dates

This is the date when an immigrant visa becomes available and the State Department or USCIS can make a decision on the individual's consular processing or adjustment of status application. This chart is consistent with previous visa bulletins that list the immigrant visa availability priority cut-off dates. Therefore, individuals can use this chart to determine if their adjustment of status or consular processing application is eligible for processing, that is, if they are eligible to have the green card issued.

Dates for Filing Applications

This is the earliest date when an individual can apply for adjustment of status or consular processing. Thus, individuals can use this chart to determine when to file their Adjustment of Status (Form I-485) or Consular Processing application. If the individual has a "priority date" earlier than the listed "filing date" for their particular visa preference category and country, the individual will be able to immediately file his/her Form I-485, Adjustment of Status application. This is a significant change as individuals can now file for Adjustment of Status earlier than under the old visa system where filing of the adjustment application was only permitted when an immigrant visa became available. However, it is important to note that an individual will still have to wait for the "Final Action" date to become current before the Adjustment of Status or Consular Processing application can be approved.

The new Visa Bulletin system will reduce the wait for many foreign nationals and their eligible dependents to apply for adjustment of status to permanent residence and the accompanying work and travel authorization available while an adjustment of status application is pending. The new system will also help ensure that all immigrant visas authorized by Congress for a fiscal year are issued to eligible individuals when there is sufficient demand for such visas, and that visas do not go unused for any fiscal year.

For more information regarding this guidance or immigration developments, please contact your principal Squire Patton Boggs lawyer, or one of the individuals listed in this publication.

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