

US IMMIGRATION CLIENT ALERT

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May 8, 2009

State Department Releases June 2009 Visa Bulletin

Waiting Period for India EB-2 Category Will Increase Significantly Next Month

EXECUTIVE SUMMARY

The cut-off date for the second employment-based (EB-2) permanent residence category for India will retrogress significantly next month, to January 1, 2000. Waiting periods for all other employment-based immigrant categories will not change. According to State Department projections, in the last three months of this fiscal year, some employment-based immigrant categories could be subjected to new or longer waiting periods, because demand for employment-based immigrant visa numbers has been heavy.

According to the State Department's June 2009 Visa Bulletin, the waiting period for the second employment-based permanent residence (EB-2) category will increase significantly for India next month. The State Department will impose a cut-off date of January 1, 2000 for EB-2 India – a retrogression of more than four years – in order to make sure that annual quotas are not exceeded. The third employment-based preference category (EB-3) will remain unavailable for all countries and waiting periods for all other employment-based categories will be unchanged.

In June, priority date cut-offs for the first three employment-based categories will be as follows:

EB-1: Current for all countries.

EB-2: China – February 15, 2005; India – January 1, 2000; all other countries – current.

EB-3 Professionals and Skilled Workers: Unavailable.

EB-3 Other Workers: Unavailable.

Because of heavy demand for employment-based immigrant visas, the State Department is projecting that availability of visa numbers in all categories and for all countries could become more limited in the last three months of Fiscal Year (FY) 2009, which ends on September 30. In the coming months, the State Department could impose waiting periods on employment-based categories that are now current and lengthen waiting periods for categories that are already backlogged.

The Visa Bulletin is the State Department's forecast of green card availability for the coming month. Each month, the agency sets a cut-off date for each immigrant visa category. A foreign national whose priority date (his or her place in line) is earlier than the cut-off date for a particular category is eligible to apply for adjustment of status or an immigrant visa in that

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particular month. If the State Department designates a category as “current,” any foreign national eligible for the category may apply for adjustment or an immigrant visa. If a category is designated as “unavailable,” the annual quota of immigrant visas has been met and immigrant visas are no longer available in that category. Note that categories may become unavailable in the middle of a month.

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