

Special Immigration Alert: DOS and USCIS Revise Permanent Residence Application Procedures

On September 9, 2015, the U.S. Department of State (“DOS”) and the U.S. Citizenship and Immigration Services (“USCIS”) jointly announced revisions to the process for determining visa availability that will speed up the ability of foreign nationals (“FNs”) to file for permanent residence or apply for an immigrant visa.

The changes announced by the DOS and USCIS largely take the form of enhancements to the monthly Visa Bulletin issued by the DOS. Beginning with the October 2015 Visa Bulletin, the DOS will include two new charts regarding visa availability on both the family- and employment-based (“EB”) categories. The first chart, entitled “Application Final Action Dates,” contains the date through which the DOS or USCIS may approve a permanent residence application or issue an immigrant visa. The second chart, entitled “Dates for Filing Applications,” contains the dates through which an FN may apply for permanent residence or initiate the immigrant visa process, even though his or her priority date might not yet be current. For example, in the Indian EB-2 category, the October 2015 Visa Bulletin lists May 1, 2005, as the final action date and July 1, 2011, as the date for filing applications. This means that Indian citizens with priority dates on or before July 1, 2011, are eligible to submit applications for permanent residence or initiate the immigrant visa process even though the government cannot adjudicate and approve the applications until the May 1, 2005, priority date becomes current.

There are many outstanding issues that have not been addressed by today’s announcement. Primary among these is whether the current green card “portability” rules for EB cases will apply to permanent residence applications filed under this new process.

We will continue to follow these developments and advise as soon as additional information is available.

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