



U.S. DEPARTMENT OF STATE ANNOUNCES VISA RETROGRESSION FOR EB-2 INDIA & CHINA

As previously reported in [a recent FosterQuan Immigration Update[®]](#), the Department of State confirmed that in May 2012, the EB-2 category for persons born in India and China will retrogress significantly, to August 15, 2007. Earlier this week, the U.S. Department of State confirmed that, as of March 23, 2012, EB-2 visa availability had in fact already retrogressed to August 15, 2007.

This means that, despite the publication of the [April Visa Bulletin](#) announcing EB-2 India & China cut-off dates of May 1, 2010, U.S. Embassies and Consulates will no longer issue new immigrant visas for EB-2 Indian-born or Chinese-born applicants unless the “priority date”, or “place in line” for an immigrant visa, is before August 15, 2007. Similarly, U.S. Citizenship & Immigration Services (CIS) will no longer be able to approve I-485 Applications to Adjust Status (“green card” applications) for Indian-born or Chinese-born applicants unless the “priority date” is before August 15, 2007.

Continued Filing of Applications to Adjust Status

In July 2007, the last time immigrant visa availability progressed very dramatically, the Department of State issued a revised Visa Bulletin which announced a dramatic retrogression, prompting the CIS to announce that I-485 Applications to Adjust Status would be rejected. The public outcry was just as unprecedented as the government’s handling of the matter. In order to avoid the same type of disaster that occurred in July 2007, the Department of State does not plan to issue a revised Visa Bulletin, and the CIS will likely continue to *accept* I-485 Applications to Adjust Status (“green card” applications) which are filed in accordance with the already published April Visa Bulletin.

This means that during the remainder of March and April 2012, applicants who are otherwise eligible for permanent residency and who had PERM Applications filed earlier than May 1, 2010, should file their Applications to Adjust Status (“green card” applications). Beginning May 1, 2012, applicants must have the much earlier priority date of August 15, 2007, in order to file their “green card” applications.

Benefits of Filing “Green Card” Application as Soon as Eligible

Filing an Application to Adjust Status typically affords eligibility for certain benefits, such as employment authorization and travel documents, for the principal applicant and dependent family members, and can in some cases help preserve eligibility for dependent children who

otherwise may be “aging out” of dependent status under immigration law (turning 21). For this reason, it is important for applicants to file their Applications to Adjust Status as soon as they become eligible.

While there is no firm prediction concerning EB-2 visa availability for the remainder of the fiscal year, it is possible that EB-2 India and China priority dates will not approach May 2010 again for many months. For this reason, applicants with current priority dates, should contact their FosterQuan immigration attorney as soon as possible for additional information regarding application for an immigrant visa at a U.S. Embassy/Consulate abroad, or application for Adjustment of Status with USCIS in the United States.