

VISA BULLETIN FOR AUGUST 2013

By

Michael Phulwani, Esq. and David H. Nachman, Esq.

The following information is provided by the Visa Office regarding the cut-off dates for the month of *August 2013*.

FAMILY PREFERENCES

F1-Family first preference: Unmarried sons and daughters over the age of 21 years of U.S. Citizens. The cut-off date has moved forward by twelve (12) weeks for most of the countries including *India* to *September 1, 2006*.

F2A - Family second preference: Spouses and minor children, and unmarried sons and daughters of permanent residents. The cut-off date for this category for most countries including *India* is *CURRENT*.

F2B- Family second preference: Unmarried sons and daughters over 21 of permanent residents. The cut-off date has moved forward by four (4) weeks for most of the countries including *India* to *December 1, 2005*.

F3-Family third preference: Married sons and daughters of U.S. Citizens and their spouses and children. The cut-off date has moved forward by nine (9) weeks for most of the countries including *India* to *December 8, 2002*.

F4-Family fourth preference: Brothers and sisters of U.S. Citizens. The cut-off date has moved forward by three (4) weeks for most of the countries including *India* to *June 22, 2001*.

EMPLOYMENT PREFERENCES

EB1 – Priority Workers: The cut-off date for this category for all countries including *India* is *CURRENT*.

EB2 – Advanced Degree holders: The cut-off date for this category for most countries is *CURRENT*. For *India*, it moved forward by three (3) years and four (4) months *January 1, 2008*.

EB3 – Professional Skilled Workers: The cut-off date for this category has *No Movement*, date remains the same *January 1, 2009* for most of the countries and for *India*, it has *No Movement* to *January 22, 2003*.

EB3 – Other Workers: The cut-off date for this category has *No Movement* to *January 1, 2009* for most of the countries and for *India*, it has *No Movement* and the date remains the same of *January 22, 2003*.

EB4 (Certain Special Immigrants) is *CURRENT* for all countries including *INDIA*.

EB4 (Certain Religious Workers) is *CURRENT* for all countries including *INDIA*.

1

EB5 (Targeted Employment Areas/Regional Centers) and the pilot program is *CURRENT* for all countries including *INDIA*.

It is very good news that F2A category for spouses and unmarried children under the age of 21 years has become *CURRENT* in August 2013 for all the countries. As per predictions from Department of State it is likely to remain current for the next few months. Green Card holders who get married now or who have already got married can file for the adjustment of status in the US, if physically residing in the US with valid legal status or eligible u/s 245(i) of I&N Act and otherwise eligible for the same.

With regard to the applicants born in India or eligible under the rule of cross chargeability and waiting for EB-2 visa numbers to become available, and presently physically residing in US in legal status, can submit I-485 with required documents with USCIS in August 2013, if their priority date is Jan 11, 2008 or before and otherwise eligible for Adjustment of Status including approved I-140 petition.

Those who have already filed I-485 applications under India EB-2 category previously and have been waiting for the visa numbers to become available in their case, may request USCIS to process their applications as soon as possible, since it is possible that EB-2 for India may regress in the coming months.

In the visa Bulletin for August 2013, the Department of State has advised that Indian Employment sponsored F2B category, has been advanced in an effort to fully utilize the numbers available under overall Employment Second Preference category annual limit. It is expected that such movement will generate significant amount of new India based demand during coming months.

With regards to the Family based F2A Category becoming *CURRENT* in August and expected to remain so for the next several months, this action has been taken in an effort to generate an increased level of demand. Despite the fact that there are large amounts of registered F2A demand, currently there are not enough applicants who are actively pursuing final action on their case to fully utilize all of the available numbers.

These changes for the Family F2A, and India Employment Second preference categories reflect actions which have been taken based on current applicant demand patterns. Readers should expect that some type of “corrective” action will be required at some point during FY-2014 in an effort to maintain number use within the applicable annual limits. Such action would involve the establishment and retrogression of such cut-off dates, and could occur at any time.

Applicants under these categories who have unmarried children who are now over 21 or likely to become 21 years or older, should look at the provisions of CSPA (Child Status Protection Act) under which such children may qualify as derivative applicants under CSPA.

In visa processing cases where the applicants under the above mentioned categories, are residing abroad and will be applying for Immigration visas at American Consulates, they should take into consideration whether Immigrant visa petition is still pending with USCIS or has been approved, whether their visa number is current or available and their paperwork is completed by NVC or still needs to be done.

For more information, please feel free to contact the Immigration and Nationality Lawyers at the NPZ Law Group at 201-670-0006 or by e-mailing us at info@visaserve.com.