

PUBLICATION

Government: "Recall Message" on October Visa Bulletin Gifts

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The Department of State posted on July 25 a revised Visa Bulletin for October with "Dates for Filing Application" that cut out many thousands of people in 5 different employment based categories from India and the Philippines. For Baker Donelson's article on the initial announcement, [click here](#).

Please note that the following "Dates for Filing" have changed:

Category	(9/9/15) Filing Date	NEW (9/25/15) Filing Date	Difference
EB-2 China	5/1/2014	1/1/2013	1 year, 5 months
EB-2 India	7/1/2011	7/1/2009	2 years
EB-3 Philippines	1/1/2015	1/1/2010	5 years
FB-1 Mexico	7/1/1995	4/1/1995	3 months
FB-3 Mexico	10/1/1996	5/1/1995	1 year, 5 months

Therefore, individuals who fall under the above-referenced categories will only be permitted to file for adjustment of status in the month of October if they have a priority date that is earlier than the NEW Filing Date listed in the revised September 25, 2015 Visa Bulletin.

The revision is a public relations embarrassment to the Obama Administration, which two weeks earlier had invited the now-disappointed workers and their families to start filing applications for "adjustment of status" with interim work and travel authorization and thereby become "free agents" 6 months later.

The Government has not published any explanation for its precise settings for the originally published advance filing dates or for the new revisions. One might expect the new "Dates for Filing Application" to draw litigation from the same groups of U.S. workers who have made court challenges to policies expanding "Optional Practical Training" for F-1 student visa holders after their graduation. Perhaps the Government tightened the dates as a way to moderate the scope of the new benefits granted to a more legally justifiable level.

USCIS canceled a September 16 webinar in which it had said it would explain the new "Dates for Filing Application," and it has not published any guidance on the extent to which the early adjustment or visa processing filings will serve to "lock in" the "adjusted age" of children to protect them from "aging out" of derivative eligibility while awaiting "Dates for Final Action" for actual allocation of visa numbers.

It appears that even when the Visa Bulletin in future months continues to post "Dates for Filing" that are earlier than "Final Action Dates," USCIS will determine and publish separate public notice whether or not applicants may use those dates to file for adjustment and interim work and travel authorization.

