



Monday, July 2, 2007

U.S. DEPARTMENT OF STATE (DOS), IN AN UNPRECEDENTED MOVE, ISSUES A REVISED MONTHLY VISA BULLETIN FOR JULY 2007 ON THE FIRST BUSINESS DAY OF JULY

The DOS Announcement Prompts U.S. Citizenship & Immigration Services (CIS) to Announce CIS Plan to Reject Employment-Based Applications Beginning Today

The U.S. Department of State published its July 2007 Monthly Visa Bulletin in mid-June, indicating that all Employment-Based Immigrant Categories (except for the EB-3 “Other Worker” sub-category) would be current beginning July 1, 2007. [Initial July 2007 Visa Bulletin](#).

In preparation for filing, tens of thousands of Applicants nationwide began to collect the substantial documentation required to file an Application to Adjust Status in the month of July for them and their families.

Late last week, government reports indicated a possibility that there would be an early July “retrogression” of visa availability. Mid-morning today, Monday, July 2, 2007, the unprecedented occurred. The Department of State did, in fact, issue a revised Visa Bulletin for the month of July that shocked and appalled the entire immigration community. The DOS’ unilateral declaration indicated that requests for visa numbers made by U.S. CIS in the final step of approving an Application to Adjust Status will be refused for employment-based cases for the remainder of the fiscal year (through September 30, 2007). [DOS Revises Visa Bulletin](#). (Click on “Current Bulletin”.) This DOS announcement, and subsequent publication of the revised July Bulletin on the first business day in July, prompted U.S. Citizenship & Immigration Services (CIS) to announce intentions to reject filings for applicants for whom there is no visa number immediately available pursuant to the *revised* July Bulletin. [CIS Announcement Concerning Rejection Plan](#).

This DOS and CIS joint action has resulted in what turns out to have been only a false or nonexistent opportunity. In retrospect, the window of opportunity for filing, which all had acknowledged would be brief, was never really open at all. *For the first time in the history of the DOS management of immigrant visa availability, applicants who filed at the earliest possible moment in time are finding out that on the first day they were simply too late.* Despite their efforts at honest compliance with all immigration laws and regulations, and in most cases, an already years-long wait to reach this final stage in the permanent residency process, all applicants who believed the first DOS July Monthly Visa Bulletin published in mid-June indicating their priority dates would be current in July, face the possibility that their Applications will be rejected by the CIS on the first day that filings were to have been accepted.

While the CIS announcement today regarding its plan to reject filings is troublesome, there are ongoing, behind-the-scenes efforts to secure a more equitable and less arbitrary response. With the delivery of some applications into CIS hands prior to the DOS revision of the July Visa Bulletin, we are hopeful that CIS will apply logic, equity, and discretion when formulating and executing its plan to reject applications.

Presumably, even the CIS would have to acknowledge that filings delivered to the CIS prior to the publication of the revised Visa Bulletin at approximately 10:00 CDT today, July 2, 2007, would have been received by CIS while a visa number was immediately available, therefore qualifying the application for receipting in at CIS, where it would remain pending availability of a visa number next Fiscal Year. Given the logistical issue with determining the time of delivery of all such filing packages to CIS, it would be logical to extend a receipting policy to all such filings received by CIS before the close of business today, July 2, 2007.

With advocacy groups in full mobility and the possibility of legal action looming, we retain some hope that CIS will receipt in the applications received today. The American Immigration Lawyers Association (AILA) has condemned the government's mishandling of this situation, ([AILA Condemnation](#)) and the American Immigration Law Foundation (AILF) is currently accepting applications from candidates who would seek to be a named plaintiff in the event of legal action against the government. If you or your organization would like to explore the option to join others in an effort to secure an equitable remedy from the government in connection with its unprecedented action, please notify your Tindall & Foster, P.C. immigration attorney.

Tindall & Foster, P.C. will continue to monitor this very fluid situation concerning the ultimate handling of applications received on CIS premises today and will make new information available to our clients via the Tindall & Foster, P.C. web site at www.tindallfoster.com, and, when appropriate, via future Email Bulletins.