



Wednesday, June 11, 2008

U.S. DEPARTMENT OF STATE (DOS) ANNOUNCES THE UNAVAILABILITY OF IMMIGRANT VISAS FOR THE EMPLOYMENT-BASED, THIRD (EB-3) PREFERENCE CATEGORY BEGINNING JULY 1, 2008;

The EB-3 Category Will Likely Remain Unavailable through September 30, 2008

Each month the U.S. Department of State (DOS) publishes the [Monthly Visa Bulletin](#), reporting current immigrant visa availability under the annual quota system for U.S. immigration. Visa availability is expressed in terms of “cut-off” dates for each category. An employment-based applicant’s “priority date,” most often the date an Application for Permanent Employment Certification was filed on his or her behalf, determines the applicant’s place in line for an immigrant visa number. In order to apply or be approved for Adjustment of Status, an Applicant’s priority date must be earlier than the cut-off date for his or her employment-based category on the current Visa Bulletin.

In the July Visa Bulletin, the U.S. DOS reports temporary unavailability of immigrant visas under the Employment-Based, Third (EB-3) Preference category beginning July 1, 2008, and likely continuing through the end of Fiscal Year 2008 (September 30, 2008).

Presently, and for the remainder of the month of June, EB-3 Applicants may file Applications for Adjustment of Status (“green card” applications), and such applications already pending may continue to final adjudication, if the Applicant’s priority date is earlier than the following published dates:

EB-3 Applicant Country of Birth	Applicant Priority Date Before:
China	March 22, 2003
India	November 1, 2001
Mexico	July 1, 2002
All Other Countries of Birth	March 1, 2006

All other employment-based preference categories remain unchanged from the June Visa Bulletin. Applicants under the remaining categories may file Applications for Adjustment of Status, and such applications already pending may continue to final adjudication, if the Applicant’s priority date is earlier than the following published dates:

Preference Category	Country of Birth	Priority Date Before:
EB-1	All Countries of Birth	All Priority Dates
EB-2	China	April 1, 2004
EB-2	India	April 1, 2004
Other Worker	All Countries of Birth	January 1, 2003
All Other EB Categories	All Countries of Birth	All Priority Dates

Generally, a prospective Applicant's own country of birth determines his or her "area of chargeability" and thus impacts availability of an immigrant visa; however, in some cases, a Applicant's spouse's country of birth can be used to determine the area of chargeability and can enable a prospective Applicant to file an Application to Adjust Status sooner. For Applicants with spouses born in a country for which the Applicant's priority date would be considered current, it may be possible to proceed with preparation and filing of an Application to Adjust Status immediately.

For more information on any of these employment-based classifications, or to initiate the permanent residency process and establish a priority date for a foreign national employee, contact your Tindall & Foster immigration attorney. Your Tindall & Foster attorney will be able to assist you by developing a case-specific strategy for pursuit of permanent residency under an appropriate employment-based category for your company's employees. As always, Tindall & Foster, P.C. will continue to monitor changes in immigrant visa availability and will make future updates available via the [Tindall & Foster web site](#) and in future Email Bulletins.