

State Department Makes Predictions about EB Cut-Off Date Movement

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Notably, the State Department stated with certainty that the EB-2 Rest of the World category likely will retrogress in the coming months.

At a recent American Immigration Lawyers Association meeting, the US Department of State made comments about Employment-Based (EB) cut-off date movement in the final third of the fiscal year. This Immigration Alert summarizes the comments made by the State Department and what they could mean for EB cut-off date movement in the upcoming months.

EB-1: China and India

US Citizenship and Immigration Services announced that the “final action date” of January 1, 2012 will control for the China and India EB-1 categories. These have apparently exhausted close to 50% of the entire EB-1 limit for the 2017 fiscal year. This cut-off date is expected to be maintained until the end of September, when the fiscal year ends. The final action cut-off date for the China and India EB-1 categories may once again become current at the start of the new fiscal year on October 1, 2017, but there is no guarantee that this will happen.

EB-1: Rest of the World

The EB-1 Rest of the World category (i.e., countries other than China, India, Mexico, the Philippines, El Salvador, Guatemala, and Honduras) should remain current for the foreseeable future.

EB-2: India

A slight advancement in the EB-2 India category will occur in June, but it is unlikely that this category will once again reach the most advanced final action cut-off date that was reached last year. The State Department stated that it may maintain the existing final action date through the end of September, but there is no guarantee that this will occur.

EB-2: China

EB-2 China will advance by less than one month to March 1, 2013 in June. The State Department noted that the EB-2 China category should continue to advance slowly and will probably exhaust its per-country limit before the end of the year.

EB-3: China

EB-3 China's final action date of October 1, 2014 will continue to apply in June. As a result of a significant EB-3 downgrade volume, retrogression in this category is possible in the final months of the fiscal year.

EB-2: Worldwide

The State Department noted that the EB-2 category has experienced significant usage, and **stated with certainty that a final action cut-off date will be imposed for the EB-2 Rest of the World category in August—or even as early as July**. This cut-off date, once imposed, should remain unchanged through the end of September, with a small advancement possible in September and a return to currency in October.

EB-3: Rest of the World

The EB-3 Rest of the World category will move forward by one month in June to April 15, 2017. The State Department expects further forward movement in this category for the rest of the fiscal year.

EB-3: India

The State Department noted that the EB-3 India category will advance in June from March 25, 2005 to May 15, 2005. Continued forward movement is expected in July and August. The State Department predicts that the July cut-off date for the EB-3 India category will advance to October 15, 2005.

How This Affects You

It is highly likely that the cut-off date movement predicted by the State Department will occur. Persons seeking permanent residence through the EB process should take note of this predicted movement and plan accordingly. In particular, persons in the EB-2 Rest of the World category may wish to consider filing adjustment of status applications before the anticipated retrogression in this category occurs in July or August. Once this retrogression occurs, only persons with priority dates before the new cut-off date will be able to file such applications.

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