

Business Immigration Weekly for September 18, 2015

9/18/2015

Practices: Immigration

ESTA WEBSITE REDESIGNED

The US Customs and Border Protection (CBP) redesigned the Electronic System for Travel Authorization (ESTA) website that travelers must use to pre-register before entering the United States pursuant to the Visa Waiver Program. The website was redesigned using feedback from travelers and stakeholders to make it more user-friendly. More than 19 million foreign travelers use the ESTA website every year. The revised website includes the following features:

- Access to FAQs during the entire application process.
- Smartphone capability for application status checks.
- Translation of all website pages into 23 languages.
- "Group" feature placed at the start of the application process so that families and groups can more easily submit their applications at the same time.

ESTA registrations submitted through the old website will still remain active and accessible. Travelers who have a valid ESTA registration will not be required to re-register with the new website until their current registration expires. The new website can be accessed here: <https://esta.cbp.dhs.gov/esta/>

ESTA is a web-based application process that was established in 2008 to enhance the security of the Visa Waiver Program. The Visa Waiver Program allows certain nonimmigrants to enter the United States as a Visitor for Business or Pleasure without having to previously secure a B-1/B-2 visa at their local U.S. Embassy or Consulate abroad. A Visa Waiver Program traveler is granted a period of authorized stay of 90 days. Prior to entry, the traveler must register with the Electronic System for Travel Authorization (ESTA) online and pay a nominal fee. Citizens and nationals of the following countries are eligible to participate in the Visa Waiver Program: Andorra, Australia, Austria, Belgium, Brunei, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Taiwan, and United Kingdom.

YEMEN DESIGNATED FOR TEMPORARY PROTECTED STATUS (TPS)

The Department of Homeland Security (DHS) announced this week that it has designated Yemen for Temporary Protected Status (TPS) for 18 months from September 3, 2015 to March 3, 2017 due to the continued armed conflict affecting the country. The designation will enable Yemeni nationals (and non-Yemeni

nationals who last resided in Yemen) who have been physically and continuously present in the in the United States after September 3, 2015 to apply for TPS. Approval of TPS protects individuals from removal from the United States and allows individuals to apply for an employment authorization document (EAD). Eligible individuals will have to register for TPS by submitting an application during the registration period open now until March 1, 2016. Individuals can find more information, including the application and requirements for TPS at: <http://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-yemen>

The DHS designates a country for TPS when conditions in the country are dangerous. This may be due to armed conflict, environmental disasters or other temporary events. TPS provides certain protections to nationals of the designated country such as protection from removal from the United States, eligibility for an EAD and travel authorization. TPS is not a path to US lawful permanent residence. The following countries are currently designated by the DHS for TPS: El Salvador, Guinea, Haiti, Honduras, Liberia, Nepal, Nicaragua, Sierra Leone, Somalia, Sudan, South Sudan and Syria.

October 2015 Visa Bulletin

OCTOBER 2015 VISA BULLETIN UPDATE

The Department of State (DOS) released the monthly Visa Bulletin and below is a summary of green card Final Action Dates and Dates For Filing dates for employment-based immigrant visa categories for the month of October.

GREEN CARD "DATES FOR FILING" AVAILABILITY DATES

Individuals with priority dates prior to the dates listed in the chart below are eligible to file their green card applications during the month of October.

Category	All Countries Except Those Listed	China (mainland)	India	Mexico	Philippines
EB-1	Current	Current	Current	Current	Current
EB-2	Current	05/01/14	07/01/11	Current	Current
EB-3	09/01/15	10/01/13	07/01/05	09/01/15	01/01/15
Other Workers	09/01/15	01/01/07	07/01/05	09/01/15	01/01/15
4th	Current	Current	Current	Current	Current
Certain Religious Workers	Current	Current	Current	Current	Current
5th Targeted Employment Areas/ Regional Centers	Current	05/01/15	Current	Current	Current

and Pilot Programs					
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GREEN CARD APPROVAL "FINAL ACTION DATES"

Individuals with priority dates prior to the dates listed in the chart below have a green card available to them during the month of October, therefore, the US government may take final action on their case.

Category	All Countries Except Those Listed	China (mainland)	India	Mexico	Philippines
EB-1	Current	Current	Current	Current	Current
EB-2	Current	01/01/12	05/01/05	Current	Current
EB-3	08/15/15	10/15/11	03/08/04	08/15/15	01/01/07
Other Workers	08/15/15	01/01/06	03/08/04	08/15/15	01/01/07
4th	Current	Current	Current	Current	Current
Certain Religious Workers	U	U	U	U	U
5 th Non-Regional Center (C5 and T5)	Current	10/08/13	Current	Current	Current

Below is a summary of changes from the visa bulletin for September for final action dates:

- The EB-2 China category has advanced from January 1, 2006 to January 1, 2012.
- The EB-2 India category retrogressed from January 1, 2006 to May 1, 2005.
- The EB-3 World and Mexico categories remain at August 15, 2015.
- The EB-3 China category advances aggressively from December 22, 2004 to October 15, 2011.
- The EB-3 India category retrogressed from December 22, 2004 to March 8, 2004.
- The EB-3 Philippines category shows significant advancement from December 22, 2004 to January 1, 2007.
- The EB-5 China advances slightly from September 22, 2013 to October 8, 2013.

COMPARISON TO PRIOR MONTHS

The following is a comparison of priority date movement for final action dates since the inception of the current retrogression in 2007:

	Dec	Jun	Aug	Sept	Jan	Sept	Oct
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	2007	2008	2009	2012	2015	2015	2015
EB-3 World	09/01/02	03/01/06	U	10/01/06	06/01/13	08/15/15	08/15/15
EB-2 China	01/01/03	04/01/04	10/01/03	U	02/01/10	01/01/06	01/01/12
EB-3 China	10/15/01	03/22/03	U	12/15/05	03/01/11	12/22/04	10/15/11
EB-2 India	01/01/02	04/01/04	10/01/03	U	02/15/05	01/01/06	05/01/05
EB-3 India	05/01/01	11/01/01	U	10/08/02	12/15/03	12/22/04	03/08/04
EB-3 Other Workers	10/01/01	01/01/03	U	10/01/06	06/01/13	08/15/15	08/15/15

Month-to-month availability of immigrant visas varies and depends on many factors. These forecasts do not guarantee future availability.

DOS FORECASTS AVAILABILITY OF IMMIGRANT VISAS

The Department of State's (DOS) Chief of the Visa Control and Reporting Division, Charlie Oppenheim, shared extensive information on the future availability of immigrant visas (green cards) in light of the recent changes to the Visa Bulletin which include the incorporation of a "Date for Filing" date. The DOS is the government agency that controls and tracks the annual quotas on the issuance of green cards. Each month the DOS issues the Visa Bulletin which outlines the availability of green cards for that month. Mr. Oppenheim indicated that the DOS does not foresee that the "Date for Filing" dates will change throughout the fiscal year which began in October 2015. These dates may advance slightly throughout the year as the DOS better understands and predicts visa availability. Mr. Oppenheim has assured stakeholders that these dates will not retrogress without sufficient advance warning and that the bifurcation of the Visa Bulletin into "Date for Filing" and "Final Action Dates" will allow the DOS to ensure that sudden movements and aggressive retrogression is a thing of the past. The Visa Bulletin for November will be issued in early October, therefore, we will have more information on Date for Filing and Final Action Date movement at that time.