

1. What is retrogression?

Retrogression refers to the situation where previously current dates on the quota bulletin go backwards and become unavailable.

Retrogression can impact an individual at different times in the overall process.

The individual's priority date must be current at two critical points in time: on the date that the I-485 application for adjustment of status is filed or application for immigrant visa at an Embassy/Consulate is filed AND it must also be current on the date when the case is actually adjudicated (i.e., the immigrant visa cannot be issued or the adjustment of status application cannot be approved if the quota bulletin is not current for the applicable priority date).

2. What is a priority date?

A priority date in an employment-based (EB) case requiring Labor Certification is the original date that the case was filed with the State Employment office under the pre-March 28, 2005 procedures or with the U.S. Department of Labor under the PERM system in place since March 28, 2005.

For petitions that do not require a labor certification, the priority date is the date that the I-140 immigrant visa petition was filed with U.S. Citizenship and Immigration Services (USCIS).

To read the quota bulletin and determine if your priority date is current, you need to know (1) your priority date; (2) the EB category that you fall under.

3. What is the EB-3 category?

The EB-3 category, similar to the EB-2 category, requires the employer to obtain a labor certification showing that there were no qualified U.S. workers available for the position.

The EB-3 category is divided into three categories: "skilled workers, professionals, and other workers."

How an individual falls into the categories is dictated by the requirements listed on the employer's labor certification.

If the labor certification states that the requirements are at least a Bachelor's degree, then the position will be classified as a "professional."

If the requirements indicate that at least 2 years of employment experience and no degree is required, then the position will be designated a "skilled worker."

If the requirements are less than two years of experience and no degree is required, it will fall into the "other worker" category.

The “professional” and “skilled worker” categories are treated the same under the quota bulletin.

The “other worker” category has a different priority date track to follow.

4. How can I tell if my priority date is current or not?

Every month, the U.S. Department of State (DOS) publishes the Visa Bulletin.

The Visa Dates indicate whether the dates are current or whether there is a backlog in order to file for the Adjustment of Status.

The current Visa Bulletin can be found on our website, as well as on the DOS website at: http://travel.state.gov/visa/frvi/bulletin/bulletin_1360.html.

5. How could the numbers have retrogressed so far as of January 2005?

In 2004, USCIS began efforts to reduce all backlogs by the end of 2006.

In addition, the “banked” visa numbers were used. As a result immigrant visa numbers have been allocated at a much faster rate than in comparison to previous years.

The Immigration and Nationality Act (INA) states that not more than 27% of the employment based annual limit may be used in each of the first three quarters of a fiscal year. Based on the rate of demand in the first quarter of 2005, DOS determined that it was necessary to impose limits on the allocation of immigrant visa numbers to applicants from China, India and the Philippines during the second quarter of 2005, due to the high demand for the EB-3 category visas from applicants of those countries.

6. Is there anything I can do to speed up things up so I can apply for my green card before my priority date retrogresses?

Unfortunately, no. As USCIS continues to process cases, it is possible that the numbers will retrogress even further and that individuals from countries other than China, India, and the Philippines will be impacted.