Visa Bulletin for August 2010

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A. STATUTORY NUMBERS

1. This bulletin summarizes the availability of immigrant numbers during **August**. Consular officers are required to report to the Department of State documentarily qualified applicants for numerically limited visas; the Bureau of Citizenship and Immigration Services in the Department of Homeland Security reports applicants for adjustment of status. Allocations were made, to the extent possible under the numerical limitations, for the demand received by July **9th** in the chronological order of the reported priority dates. If the demand could not be satisfied within the statutory or regulatory limits, the category or foreign state in which demand was excessive was deemed oversubscribed. The cut-off date for an oversubscribed category is the priority date of the first applicant who could not be reached within the numerical limits. Only applicants who have a priority date **earlier than** the cut-off date may be allotted a number. Immediately that it becomes necessary during the monthly allocation process to retrogress a cut-off date, supplemental requests for numbers will be honored only if the priority date falls within the new cut-off date which has been announced in this bulletin.

2. The fiscal year 2010 limit for family-sponsored preference immigrants determined in accordance with Section 201 of the Immigration and Nationality Act (INA) is 226,000. The fiscal year 2010 limit for employment-based preference immigrants calculated under INA 201 is 150,667. Section 202 prescribes that the per-country limit for preference immigrants is set at 7% of the total annual family-sponsored and employment-based preference limits, i.e., 26,367 for FY-2010. The dependent area limit is set at 2%, or 7,533.

3. Section 203 of the INA prescribes preference classes for allotment of immigrant visas as follows:

FAMILY-SPONSORED PREFERENCES

First: Unmarried Sons and Daughters of Citizens: 23,400 plus any numbers not required for fourth preference.

Second: Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents: 114,200, plus the number (if any) by which the worldwide family preference level exceeds 226,000, and any unused first preference numbers:

A. Spouses and Children: 77% of the overall second preference limitation,
of which 75% are exempt from the per-country limit;

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B. Unmarried Sons and Daughters (21 years of age or older): 23% of the overall second preference limitation.

Third: Married Sons and Daughters of Citizens: 23,400, plus any numbers not required by first and second preferences.

Fourth: Brothers and Sisters of Adult Citizens: 65,000, plus any numbers not required by first three preferences.

EMPLOYMENT-BASED PREFERENCES

First: Priority Workers: 28.6% of the worldwide employment-based preference level, plus any numbers not required for fourth and fifth preferences.

Second: Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability: 28.6% of the worldwide employment-based preference level, plus any numbers not required by first preference.

Third: Skilled Workers, Professionals, and Other Workers: 28.6% of the worldwide level, plus any numbers not required by first and second preferences, not more than 10,000 of which to "Other Workers".

Fourth: Certain Special Immigrants: 7.1% of the worldwide level.

Fifth: Employment Creation: 7.1% of the worldwide level, not less than 3,000 of which reserved for investors in a targeted rural or high-unemployment area, and 3,000 set aside for investors in regional centers by Sec. 610 of P.L. 102-395.

4. INA Section 203(e) provides that family-sponsored and employment-based preference visas be issued to eligible immigrants in the order in which a petition in behalf of each has been filed. Section 203(d) provides that spouses and children of preference immigrants are entitled to the same status, and the same order of consideration, if accompanying or following to join the principal. The visa prorating provisions of Section 202(e) apply to allocations for a foreign state or dependent area when visa demand exceeds the per-country limit. These provisions apply at present to the following oversubscribed chargeability areas: CHINA-mainland born, DOMINICAN REPUBLIC, INDIA, MEXICO, and PHILIPPINES.

5. On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are available for all qualified applicants; and "U" means unavailable, i.e., no numbers are available. (NOTE: Numbers are available only for applicants whose priority date is **earlier** than the cut-off date listed below.)

Family	All Chargeability Areas Except Those Listed	CHINA-mainland born	DOMINICAN REPUBLIC	INDIA	MEXICO	PHILIPPINES
1st	01AUG05	01AUG05	01AUG05	01AUG05	15NOV92	01JAN96
2A	01MAR09	01MAR09	01MAR08	01MAR09	01MAR08	01MAR09

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2B	01JAN04	01JAN04	01JAN04	01JAN04	15JUN92	01AUG01
3rd	01JAN02	01JAN02	01JAN02	01JAN02	01MAR92	01MAY94
4th	01JUN01	01JUN01	01JUN01	01JUN01	01JAN94	01APR90

*NOTE: For August, 2A numbers **EXEMPT from per-country limit** are available to applicants from all countries with priority dates **earlier** than 01MAR08. 2A numbers **SUBJECT to per-country limit** are available to applicants chargeable to all countries **EXCEPT the DOMINICAN REPUBLIC and MEXICO** with priority dates beginning 01MAR08 and earlier than 01MAR09. (All 2A numbers provided for the DOMINICAN REPUBLIC AND MEXICO are exempt from the per-country limit; there are no 2A numbers for the DOMINICAN REPUBLIC AND MEXICO subject to per-country limit.)

Employment-Based	**All Chargeability Areas Except Those Listed**	**CHINA-mainland born**	**DOMINICAN REPUBLIC**	**INDIA**	**MEXICO**	**PHILIPPINES**
1st	C	C	C	C	C	C
2nd	C	01MAR06	C	01MAR06	C	C
3rd	01JUN04	22SEP03	01JUN04	01JAN02	U	01JUN04
Other Workers	15MAY02	15MAY02	15MAY02	01JAN02	U	15MAY02
4th	C	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C	C
5th	C	C	C	C	C	C
Targeted Employment Areas/ Regional Centers	C	C	C	C	C	C
5th Pilot Programs	C	C	C	C	C	C

The Department of State has available a recorded message with visa availability information which can be heard at: (area code 202) 663-1541. This recording will be updated in the middle of each month with information on cut-off dates for the following month.

Employment Third Preference Other Workers Category: Section 203(e) of the NACARA, as amended by Section 1(e) of Pub. L. 105-139, provides that once the Employment Third Preference Other Worker (EW) cut-off date has reached the priority date of the latest EW petition approved prior to November 19, 1997, the 10,000 EW numbers available for a fiscal

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year are to be reduced by up to 5,000 annually beginning in the following fiscal year. This reduction is to be made for as long as necessary to offset adjustments under the NACARA program. Since the EW cut-off date reached November 19, 1997 during Fiscal Year 2001, the reduction in the EW annual limit to 5,000 began in Fiscal Year 2002.

B. DIVERSITY IMMIGRANT (DV) CATEGORY

Section 203(c) of the Immigration and Nationality Act provides a maximum of up to 55,000 immigrant visas each fiscal year to permit immigration opportunities for persons from countries other than the principal sources of current immigration to the United States. The Nicaraguan and Central American Relief Act (NACARA) passed by Congress in November 1997 stipulates that beginning with DV-99, and for as long as necessary, up to 5,000 of the 55,000 annually-allocated diversity visas will be made available for use under the NACARA program. **This reduction has resulted in the DV-2010 annual limit being reduced to 50,000**. DV visas are divided among six geographic regions. No one country can receive more than seven percent of the available diversity visas in any one year.

For **August**, immigrant numbers in the DV category are available to qualified DV-2010 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers **BELOW** the specified allocation cut-off number:

Region	All DV Chargeability Areas Except Those Listed Separately	
AFRICA	64,300	Except: Egypt: 26,000 Ethiopia: 25,625 Nigeria: 22,000
ASIA	28,700	
EUROPE	CURRENT	
NORTH AMERICA (BAHAMAS)	5	
OCEANIA	CURRENT	
SOUTH AMERICA, and the CARIBBEAN	CURRENT	

Entitlement to immigrant status in the DV category lasts only through the end of the fiscal (visa) year for which the applicant is selected in the lottery. The year of entitlement for all applicants registered for the DV-2010 program ends as of September 30, 2010. DV visas may not be issued to DV-2010 applicants after that date. Similarly, spouses and children accompanying or following to join DV-2010 principals are only entitled to derivative DV status until September 30, 2010. No visas may be issued to DV-2010 spouses or children after September 30, 2010. Action may not be taken

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for granted. Numbers could be exhausted prior to September 30.

C. ADVANCE NOTIFICATION OF THE DIVERSITY (DV) IMMIGRANT CATEGORY RANK CUT-OFFS WHICH WILL APPLY IN SEPTEMBER

For **September**, immigrant numbers in the DV category are available to qualified DV-2010 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers **BELOW** the specified allocation cut-off number:

Region	All DV Chargeability Areas Except Those Listed Separately	
AFRICA	CURRENT	Except: Ethiopia: 26,350
ASIA	CURRENT	
EUROPE	CURRENT	
NORTH AMERICA (BAHAMAS)	CURRENT	
OCEANIA	CURRENT	
SOUTH AMERICA, and the CARIBBEAN	CURRENT	

D. RETROGRESSION OF THE MEXICO FAMILY FOURTH PREFERENCE CUT-OFF DATE

It has been necessary to retrogress the Mexico Family Fourth preference cut-off date to keep visa issuances within the annual numerical limitations set by law. It is anticipated that for October, the first month of the new fiscal year, this preference will return to the latest cut-off date reached during FY-2010.

E. APPLICABILITY OF INA SECTION 202(a)(5)(A)AS IT RELATES TO THE ALLOCATION OF “OTHERWISE UNUSED” NUMBERS

INA Section 202(a)(5)(A), added by the American Competitiveness in the 21st Century Act (AC21), provides that if total demand will be insufficient to use all available numbers in a particular Employment preference category in a calendar quarter, then the otherwise unused numbers may be made available without regard to the annual per-country limits. This provision helps to assure that all available Employment preference numbers may be used. In recent years, the application of Section 202(a)(5)(A) has occasionally allowed oversubscribed countries such as China-mainland born and India to utilize large quantities of Employment First and Second preference numbers that would have otherwise gone unused.

For example, let us assume that 11,600 Employment Second preference numbers are available

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in a calendar quarter. There is heavy Employment Second preference demand by China-mainland born and India applicants; however, each country is oversubscribed and would ordinarily be limited to about 800 of the available numbers due to the prorating provisions of INA Section 202(e). Applicants from other countries that have not yet reached their per-country limit have reported a total demand of 6,500 numbers. After taking the worldwide demand into account, it is determined that as a result of the China-mainland born and India per-country limits only 8,100 of the total available Employment Second preference numbers would be used in that quarter. In this instance, the otherwise unused 3,500 numbers could then be made available to China-mainland born and India regardless of their per-country limits. Should that occur, the same cut-off date would be applied to each country, since numbers must be provided strictly in priority date order regardless of chargeability. In this instance, greater number use by one country would indicate a higher rate of demand by applicants from that country with earlier priority dates.

F. DETERMINATION OF THE NUMERICAL LIMITS ON IMMIGRANTS REQUIRED UNDER THE TERMS OF THE IMMIGRATION AND NATIONALITY ACT (INA)

The State Department is required to make a determination of the worldwide numerical limitations, as outlined in Section 201(c) and (d) of the INA, on an annual basis. These calculations are based in part on data provided by U.S. Citizen and Immigration Services (CIS) regarding the number of immediate relative adjustments in the preceding year and the number of aliens paroled into the United States under Section 212(d)(5) in the second preceding year. Without this information, it is impossible to make an official determination of the annual limits. To avoid delays in processing while waiting for the CIS data, the Visa Office (VO) bases allocations on the minimum annual limits outlined in Section 201 of the INA. On July 7th, CIS provided the required data to VO.

The Department of State has determined the Family and Employment preference numerical limits for FY-2010 in accordance with the terms of Section 201 of the INA. These numerical limitations for FY-2010 are as follows:

Worldwide Family-Sponsored preference limit: 226,000
Worldwide Employment-Based preference limit: 150,667

Under INA Section 202(A), the per-country limit is fixed at 7% of the family and employment annual limits. For FY-2010 the per-country limit is 26,367. The dependent area annual limit is 2%, or 7,533.

G. OBTAINING THE MONTHLY VISA BULLETIN

The Department of State's Bureau of Consular Affairs offers the monthly "Visa Bulletin" on the INTERNET'S WORLDWIDE WEB. The INTERNET Web address to access the Bulletin is:

http://travel.state.gov

From the home page, select the VISA section which contains the Visa Bulletin.

To be **placed on** the Department of State's E-mail subscription list for the "Visa Bulletin", please send an E-mail to the following E-mail address:

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The Department of State also has available a recorded message with visa cut-off dates which can be heard at: (area code 202) 663-1541. The recording is normally updated by the middle of each month with information on cut-off dates for the following month.

Readers may submit questions regarding Visa Bulletin related items by E-mail at the following address:

VISABULLETIN@STATE.GOV

(This address cannot be used to subscribe to the Visa Bulletin.)

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