

# VISA BULLETIN

Number 44 Volume IX

Washington, D.C.

## IMMIGRANT NUMBERS FOR MAY 2012

### A. STATUTORY NUMBERS

1. This bulletin summarizes the availability of immigrant numbers during May. Consular officers are required to report to the Department of State documentarily qualified applicants for numerically limited visas; U.S. Citizenship and Immigration Services in the Department of Homeland Security reports applicants for adjustment of status. Allocations were made, to the extent possible, in chronological order of reported priority dates, for demand received by April 6th. If not all demand could be satisfied, 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. If 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 announced in this bulletin.

2. Section 201 of the Immigration and Nationality Act (INA) sets an annual minimum family-sponsored preference limit of 226,000. The worldwide level for annual employment-based preference immigrants is at least 140,000. 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., 25,620. The dependent area limit is set at 2%, or 7,320.

3. 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, INDIA, MEXICO, and PHILIPPINES.

4. Section 203(a) of the INA prescribes preference classes for allotment of Family-sponsored immigrant visas as follows:

**FAMILY-SPONSORED PREFERENCES**

**First:** (F1) Unmarried Sons and Daughters of U.S. 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, plus any unused first preference numbers:

A. (F2A) Spouses and Children of Permanent Residents: 77% of the overall second preference limitation, of which 75% are exempt from the per-country limit;

B. (F2B) Unmarried Sons and Daughters (21 years of age or older) of Permanent Residents: 23% of the overall second preference limitation.

**Third:** (F3) Married Sons and Daughters of U.S. Citizens: 23,400, plus any numbers not required by first and second preferences.

**Fourth:** (F4) Brothers and Sisters of Adult U.S. Citizens: 65,000, plus any numbers not required by first three preferences.

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.)

<b><u>Family-Sponsored</u></b>	All Charge-ability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	01MAY05	01MAY05	01MAY05	15MAY93	01JUL97
F2A	15NOV09	15NOV09	15NOV09	15OCT09	15NOV09
F2B	22FEB04	22FEB04	22FEB04	01DEC92	08DEC01
F3	08MAR02	08MAR02	08MAR02	15JAN93	22JUL92
F4	01DEC00	22NOV00	01DEC00	01JUN96	22JAN89

\*NOTE: For May, F2A numbers EXEMPT from per-country limit are available to applicants from all countries with priority dates earlier than 15OCT09. F2A numbers SUBJECT to per-country limit are available to applicants chargeable to all countries EXCEPT MEXICO with priority dates beginning 15OCT09 and earlier than 15NOV09. (All F2A numbers provided for MEXICO are exempt from the per-country limit; there are no F2A numbers for MEXICO subject to per-country limit.)

5. Section 203(b) of the INA prescribes preference classes for allotment of Employment-based immigrant visas as follows:

**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 Pub. L. 102-395.

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.)

<u>Employment-Based</u>	All Charge-ability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
1st	C	C	C	C	C
2nd	C	15AUG07	15AUG07	C	C
3rd	01MAY06	01APR05	08SEP02	01MAY06	01MAY06
Other Workers	01MAY06	22APR03	08SEP02	01MAY06	01MAY06
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5th	C	C	C	C	C
Targeted Employment Areas/ Regional Centers and Pilot Programs					

\*Employment Third Preference Other Workers Category: Section 203(e) of the Nicaraguan and Central American Relief Act (NACARA) passed by Congress in November 1997, 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 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.

6. The Department of State has a recorded message with visa availability information which can be heard at: (202) 663-1541. This recording is updated on or about the tenth of each month with information on cut-off dates for the following month.

B. DIVERSITY IMMIGRANT (DV) CATEGORY

Section 203(c) of the INA provides up to 55,000 immigrant visas each fiscal year to permit additional immigration opportunities for persons from countries with low admissions during the previous five years. The NACARA 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 resulted in reduction of the DV-2012 annual limit 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 May, immigrant numbers in the DV category are available to qualified DV-2012 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	50,000	Except:	Egypt 33,000 Ethiopia 33,000 Nigeria 25,000
ASIA	40,500		
EUROPE	40,000	Except:	Uzbekistan 16,500
NORTH AMERICA (BAHAMAS)	10		
OCEANIA	1,150		
SOUTH AMERICA, and the CARIBBEAN	1,150		

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-2012 program ends as of September 30, 2012. DV visas may not be issued to DV-2012 applicants after that date. Similarly, spouses and children accompanying or following to join DV-2012 principals are only entitled to derivative DV status until September 30, 2012. DV visa availability through the very end of FY-2012 cannot be taken 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 JUNE

For June, immigrant numbers in the DV category are available to qualified DV-2012 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	
ASIA	CURRENT	
EUROPE	CURRENT	Except: Uzbekistan 17,050
NORTH AMERICA (BAHAMAS)	CURRENT	
OCEANIA	CURRENT	
SOUTH AMERICA, and the CARIBBEAN	CURRENT	

D. RETROGRESSION OF THE CHINA-MAINLAND AND INDIA EMPLOYMENT SECOND PREFERENCE CUT-OFF DATE

Due to the rapid forward movement of the cut-off date, demand for China and India Employment Second preference numbers has increased dramatically during recent months, and at a much faster rate than had been expected. Therefore, it has been necessary to retrogress that cut-off date to August 15, 2007 in an attempt to hold number use within the annual limit while maintaining availability for those countries that have not yet reached their per-country limit. Notices were included in the November, January, and February *Visa Bulletins* alerting readers to the possibility of such a retrogression. While corrective action has become necessary earlier than was anticipated based on the information available at the time cut-off dates were determined, it is hoped that readers are not caught off guard by this retrogression.

Should additional information regarding potential demand become available, it may be necessary to take additional corrective action at any time.

Every effort will be made to return the China and India Employment Second preference cut-off date to the previously announced April date of May 1, 2010. This will be done as quickly as possible under the FY-2013 annual limits, which take effect October 1, 2012. It will not be possible to speculate on the cut-off date which may apply at that time until late summer.

USCIS has indicated that it will continue accepting China and India Employment Second preference I-485 filings based on the originally announced April cut-off date.

E. IMPORTANT NOTICE FOR DIVERSITY VISA (DV)2012 ENTRANTS

Successful entrants are encouraged to send in their required documents to the Kentucky Consular Center (KCC) immediately, so that an interview appointment at the appropriate U.S. Embassy or consulate can be scheduled in the near future. In order for an appointment to be scheduled with either a U.S. Embassy or Consulate, entrants must first submit the Form DSP-122 and Form DS-230 to KCC. Embassies and Consulates only have a limited number of appointments each month, including September, for DV applicants, so it is vital that successful entrants mail these documents to KCC very soon. There is no guarantee that a successful entrant who submits all of the required documentation to KCC will either be given an appointment or issued a DV.

There are several reasons why successful entrants should submit their documents to KCC now. First, there are 50,000 DVs available for DV-2012. **Once all of the 50,000 DV visas have been issued for DV 2012, the program will end.** In addition, because no more than 3,500 individuals from a single country may receive DVs in a given year, once 3,500 from an individual country have received a DV, other selectees from that country will no longer be eligible to receive a DV. Finally, U.S. Embassies and Consulates only have six months left to issue visas to eligible applicants in the DV 2012 program. **Successful entrants cannot be issued a DV after September 30, 2012.** Participants are reminded to check the status of their DV entry through Entrant Status Check [www.dvlottery.state.gov](http://www.dvlottery.state.gov), using the confirmation numbers they received when they initially submitted their applications.

F. VISA AVAILABILITY IN THE COMING MONTHS

FAMILY-sponsored categories (monthly)

Worldwide dates:

F1: four to six weeks  
F2A: up to two and one half months  
F2B: three to six weeks  
F3: three to six weeks  
F4: three to five weeks

EMPLOYMENT-based categories (monthly)

Employment First: Current

Employment Second:

Worldwide: Potential need for cut-off date to be established

China and India: Potentially "Unavailable"

Employment Third:

Worldwide: three to five weeks  
China: up to six weeks  
India: up to two weeks  
Mexico: three to five weeks  
Philippines: three to five weeks

Employment Fourth: Current

Employment Fifth: Current

Please be advised that the above ranges are only estimates for what could happen during each of the next few months based on current applicant demand patterns. The determination of the actual monthly cut-off dates is subject to fluctuations in applicant demand which can occur at any time. Those categories with a "Current" projection will remain so for the foreseeable future.

G. OBTAINING THE MONTHLY VISA BULLETIN

The Department of State's Bureau of Consular Affairs publishes the monthly Visa Bulletin on their website at <https://travel.state.gov/content/travel.html> under the Visas section. Alternatively, visitors may access the Visa Bulletin directly by going to:

<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>

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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**(example: *Subscribe Visa-Bulletin Sally Doe*)**

To be removed from the Department of State's E-mail subscription list for the "Visa Bulletin", send an e-mail message to the following E-mail address:

**listserv@calist.state.gov**

and in the message body type: **Signoff Visa-Bulletin**

The Department of State also has available a recorded message with visa cut-off dates which can be heard at: (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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