

Visa Bulletin For December 2010

Number 27

Volume IX

Washington, D.C.

A. STATUTORY NUMBERS

1. This bulletin summarizes the availability of immigrant numbers during **December**. 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 **November 10th** 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. 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. 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;

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	15FEB06	15FEB06	01JUN04	15FEB06	01JAN93	01APR97
2A	01AUG10	01AUG10	01AUG10	01AUG10	01MAR10	01AUG10
2B	01JUN05	01JUN05	01JAN02	01JUN05	22JUN92	01MAR00
3rd	01JUN02	01JUN02	01JUN02	01JUN02	22OCT92	01JUL92

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4th	01JAN02	01JAN02	01JAN02	01JAN02	22DEC95	01JAN88
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*NOTE: For December, 2A numbers **EXEMPT from per-country limit** are available to applicants from all countries with priority dates **earlier** than 01MAR10. 2A numbers **SUBJECT to per-country limit** are available to applicants chargeable to all countries **EXCEPT MEXICO** with priority dates beginning 01MAR10 and earlier than 01AUG10. (All 2A numbers provided for MEXICO are exempt from the per-country limit; there are no 2A numbers for 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	08JUN06	C	08MAY06	C	C
3rd	22FEB05	08DEC03	22FEB05	22JAN02	01JUL02	22FEB05
Other Workers	22APR03	22APR03	22APR03	22JAN02	01JUL02	22APR03
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 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.

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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-2011 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 **December**, immigrant numbers in the DV category are available to qualified DV-2011 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	15,650	Except: Egypt 12,600 Ethiopia 12,250 Nigeria 10,850
ASIA	11,600	
EUROPE	13,600	
NORTH AMERICA (BAHAMAS)	4	
OCEANIA	700	
SOUTH AMERICA, and the CARIBBEAN	675	

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-2011 program ends as of September 30, 2011. DV visas may not be issued to DV-2011 applicants after that date. Similarly, spouses and children accompanying or following to join DV-2011 principals are only entitled to derivative DV status until September 30, 2011. DV visa availability through the very end of FY-2011 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 JANUARY

For **January**, immigrant numbers in the DV category are available to qualified DV-2011 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

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BELOW the specified allocation cut-off number:

Region	All DV Chargeability Areas Except Those Listed Separately	
AFRICA	20,900	Except: Egypt 16,000 Ethiopia 13,200 Nigeria 12,100
ASIA	13,300	
EUROPE	15,400	
NORTH AMERICA (BAHAMAS)	6	
OCEANIA	775	
SOUTH AMERICA, and the CARIBBEAN	900	

D. OVERSUBSCRIPTION OF THE DOMINICAN REPUBLIC CHARGEABILITY

Continued heavy applicant demand for Family preference numbers has required the oversubscription of the DOMINICAN REPUBLIC chargeability for December, to hold issuances within the annual numerical limitation. The result has been the establishment of cut-off dates in the Family First and 2B preference categories which are earlier than the Worldwide dates.

E. RETROGRESSION OF PHILIPPINES FAMILY CUT-OFF DATES

A dramatic increase in the level of applicant demand with very early priority dates has required the retrogression of the Philippines Family 2B, Third, and Fourth preference cut-off dates.

F. VISA AVAILABILITY IN THE COMING MONTHS

Family-sponsored: From early 2009 through September 2010, the level of demand for numbers in the Family-sponsored preference categories was very low. As a result, the cut-off dates for most Family preference categories were advanced at a very rapid pace, in an attempt to generate demand so that the annual numerical limits could be fully utilized. As readers were advised in previous Visa Bulletins providing projections of visa availability (e.g., April 2009, January 2010, May 2010, July 2010), such cut-off date advances could not continue indefinitely, and at some point they could slow, stop, or in some cases retrogress.

The level of demand which has been experienced during FY-2011 has resulted in most of the worldwide cut-off dates being held for the month of December. At this time it is not possible to predict when or if these dates may advance further, and there is a distinct possibility that retrogressions could occur as early as January if demand within the established cut-off dates does not appear to be subsiding.

Employment-based: At this time it is unlikely that there will be any cut-off dates in the Employment First preference during the coming months. It also appears unlikely that it will be

necessary to establish a cut-off date other than those already in effect for the Second preference category. Cut-off dates continue to apply to the China and India Second preference categories due to heavy demand.

Based on current indications of demand, the best case scenarios for cut-off date movement each month during the coming months are as follows:

Employment Second:

China: none to two weeks

India: no movement

Employment Third:

Worldwide: three to six weeks

China: one to three weeks

India: none to two weeks

Mexico: although continued forward movement is expected, no specific projections are possible at this time.

Philippines: three to six weeks

Please be advised that the above ranges are estimates based upon the current demand patterns, and are subject to fluctuations during the coming months. The cut-off dates for upcoming months cannot be guaranteed, and no assumptions should be made until the formal dates are announced.

G. ANNUAL REPORT OF IMMIGRANT VISA APPLICANTS IN THE FAMILY-SPONSORED AND EMPLOYMENT-BASED PREFERENCES REGISTERED AT THE NATIONAL VISA CENTER AS OF NOVEMBER 1, 2010

This information is available on the Consular Affairs travel.state.gov web site. Once at that site, select "Visas" from along the top line, then on the left side select "Visa Statistics", then Immigrant Visas", then "Annual IV Waiting List Report".

H. 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.

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