

Siskind's Immigration Bulletin – August 2014

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1. Openers

The summer of 2014 was expected to go very differently when it comes to the immigration debate. For much of the year, pro-immigration advocates in both parties were patiently waiting for the end of the Republican primary season. In January, Speaker John Boehner presented a framework for immigration reform that many thought had a realistic chance of attracting bipartisan support. After an immediate backlash from right wing anti-immigrant forces in his party, he backtracked and said immigration reform couldn’t move forward because House Republicans couldn’t trust President Obama to implement immigration reform legislation. Many, however, believed that Boehner’s quick reversal was designed to

divert attention from work being done behind the scenes in several House Republican offices to get ready to move legislation in the summer.

The primaries went relatively smoothly and immigration was not a decisive issue in race after race. But then House Majority Leader Eric Cantor was shockingly defeated by a Tea Party candidate who attacked Cantor for being soft on immigration (which was hardly supported by Cantor's actual record). While a variety of analysts disputed the notion that immigration was the key issue in the election, a narrative developed and Boehner gave in to pressure from his right flank not to move immigration reform legislation in 2014.

Boehner's decision prompted President Obama to give a Rose Garden statement informing the media that the Republicans were not going to move immigration reform and the President would do what many had been urging for more months – issue an Executive Order making dramatic changes to the immigration system to accomplish many of the goals not accomplished legislatively. This would include measures to provide relief to millions of undocumented immigrants and to reform legal immigration as well.

Shortly after the address, a crisis was beginning to become known at the southwest border involving the arrival of 50,000+ children from Guatemala, Honduras and El Salvador who were fleeing horrific violence in those countries. Ugly protests and massive media attention to the plight of the young immigrants began to dominate news coverage and pressure mounted on Congress and the President to deal with the crisis. The President offered a legislative proposal that involved spending billions to beef up border security and provide resources for the courts to handle the immigrants. Initially, the President indicated he would support eliminating some due process protections for the children in order to expedite deportations. His own party balked at this and the President reversed course.

Republicans, however, decided they would defy the President. The House GOP's bill provided him with a fraction of the funding he requested and it contained the due process protection roll back that President Obama now said would trigger a veto. Senate Majority Leader Harry Reid also suggested he would use any House bills on immigration an opportunity for sending back comprehensive immigration reform legislation.

On Thursday, July 31st, the House was to vote on the border funding bill to deal with unaccompanied minors. Speaker Boehner pulled the bill at the last moment because it became apparent that conservatives in his party would rebel and not vote for it unless they got to vote on legislation repealing the popular Deferred Action for Childhood Arrivals program (DACA). Boehner gave in and the next day a vote on both the border funding bill and a separate DACA repeal bill both were brought to the floor. Each passed narrowly on party-line votes with all but four Republicans voting for the border bill (joined by a lone Democrat) and the DACA repeal bill won with all Republicans but 11 supporting and three Democrats abandoning their party.

The vote was widely reported in the media and many believe it marks the complete abandonment by Republicans of the pro-immigration shift the party took in response to the drubbing the GOP took in the 2012 presidential election where many blamed the Hispanic vote for Mitt Romney's loss to a generally unpopular President Obama.

President Obama took advantage of the disarray in the GOP on the immigration issue and brought up the problems in a press conference also held on Friday. There he indicated that the GOP's failure to provide funding for more enforcement as envisioned in the various comprehensive immigration reform bills meant that he would need to reallocate resources – a subtle hint that his promised executive order would mean many undocumented individuals

would not be removed. The President suggested that his order would come during the August recess when Republicans were on their astonishingly long five week vacation.

And here we are. The House has passed immigration bills which will not be taken up in the Senate and which would be vetoed. And the President is getting ready to release executive orders that are expected to be massive in scope. The implications for the 2014 election are not yet clear and some are predicting that the Republicans will be so angered that they will pursue impeachment proceedings against the President, something that some Democrats are actually welcoming as the conventional wisdom is that the public doesn't have an appetite for this political exercise. Stay tuned. August is going to be very interesting.

In firm news, the summer has meant comings and goings for many of Siskind Susser's young professionals. We bid goodbye to Bailey Hutchison who has been this newsletter's associate editor and our webmaster for the past year. We wish her well as she heads to Europe for greener ventures. And we welcome Rose Baker in to the position. Rose has been shadowing Bailey for the last six weeks and is already an old pro. She's got some big projects on her plate including overseeing the transition to our new web site (where you may be reading this if everything stays on schedule. We also bid goodbye to law clerks Justin Mantell and Shayna Giles who are off to law school. We wish them both well and appreciate their hard work.

I also made some headway on bringing attention to an issue that has bothered me for a while. The Veterans Administration has had a terrible J-1 physician program for years and it has been universally reviled by immigration lawyers who make sure our physician clients know how difficult it is to work with that agency. More than 25% of the country's doctors are international medical graduates and 80% come on J-1 visas. Most of these doctors need a government agency to support their staying. But the VA's program is one of 55 around the country and it is probably the least doctor-friendly. With the VA's scandal in the news and the general consensus emerging that a shortage of doctors was the problem, it proved a good opportunity for me to educate people on the J-1 issue. USA Today published an opinion column I wrote which can be found at <http://www.usatoday.com/story/opinion/2014/07/10/va-doctor-shortage-immigration-law-physicians-column/12494295/> .

As always, we remind readers that Siskind Susser, PC is a full service immigration law firm serving clients locating anywhere in the United States. To set up a telephone or in person consultation with a Siskind Susser lawyer, please call us at 901-682-6455 or visit our web site at www.visalaw.com.

Regards,

Greg Siskind

2. ABCs of Immigration Law: Grounds for Asylum and Refugees

For most of its history, the U.S. had no law providing for the admission of refugees. Following World War II, the U.S., along with many other countries, realized the need for comprehensive laws on the subject. Numerous laws were passed to allow the admission of war refugees, but the programs they created tended to provide only for emergencies and were effective for only short periods. In 1965, a seventh preference immigration category was created that provided for the annual admission of 17,400 people as refugees. To be considered a refugee under this law, the person must have been persecuted or fear persecution on the basis of race, religion or political opinion. In 1980, the Refugee Act was passed. This law implemented the United Nations Protocol on the Status of Refugee, which the U.S. had joined in 1968. It created a permanent procedure for the admission and resettlement of refugees.

What is a refugee?

According to the Immigration and Nationality Act (INA), a refugee is defined as "any person who is outside of any country of such person's nationality . . . who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." Current, past, and well founded fear of future persecution are all qualifiers for application.

There is no fee to apply for refugee status.

What is the difference between refugees and asylees?

Both refugees and asylees must satisfy the above definition. The two terms are virtually identical, but they differ most notably on two stipulations. Asylees must make their applications while inside the U.S, while refugees must apply outside of their home country, but also outside of the U.S. Additionally, refugees must obtain a referral from the United Nations High Commissioner for Refugees (UNHCR) to accompany their application.

Can refugee and asylee status be denied?

In some cases, claims may be denied. Following is a list of conditions that will lead to a mandatory denial of refugee or asylee status.

- The applicant's concerns can be reasonably assuaged by internal relocation
- The applicant ordered, incited, assisted, or otherwise participated in the persecution of others
- The applicant has been convicted of a particularly serious crime
- The applicant has been convicted of a serious nonpolitical crime
- There are reasonable grounds for regarding the applicant as a danger to U.S. security
- The applicant is found to be involved in terrorist activities
- The applicant has been firmly resettled in another country prior to filing for status in the U.S.
- The applicant previously applied for and was denied status, unless circumstances have changed to the extent of affecting the applicant's eligibility
- If the applicant fails to file within the 1 year time limit (asylees only)

- The application was filed before April 1, 1997

Applicants may also be denied status based on the discretionary ruling of an Immigration Judge. The applicant may also be removed to a safe third country pursuant to a bilateral or multilateral agreement.

Time limits on filing and safe-third country bars are inapplicable to unaccompanied minors (under 18 years old).

How can I be granted asylum or refuge because of my race?

There have been few cases dealing with this ground for refuge. Winning refuge on this basis requires proof that the government either engaged in persecution or encouraged others to persecute someone because of their race. One factor that makes this ground difficult to prove is that the persecution must be individualized; that is, the applicant must be singled out of persecution. This has the effect, in some cases, of denying eligibility to members of groups that are subject to widespread persecution, because the applicant cannot prove that they individually face danger in place of generalized risk.

How can I be granted asylum or refuge because of my religion?

Persecution on the basis of religious beliefs is a much more common basis on which asylum and refuge are granted. Here again, though, the applicant must prove that the persecution comes from the government or is motivated by the government. Discrimination or harm the applicant experiences that comes from individuals, even if because of the applicant's religion, will not support an asylum application unless the government makes clear that it supports the activity.

How can I be granted asylum or refuge because of my nationality?

This is an infrequently used basis for asylum and refuge. Even if people in their country of residence harm members of a certain nationality, they still must show that the government of that country either engaged in persecution or encouraged it, or that it is unwilling to provide protection. Also, if a country discriminates equally against all non-nationals, asylum cannot be granted.

How can I be granted asylum or refuge because of my membership of a particular social group?

This is the most litigated basis for asylum. Determining what constitutes a social group has proven difficult. Some courts have defined it as an identifiable group of people seen as a threat to the country from which they are seeking refuge. Others definitions encompass groups of people tied together because of a common, fundamental characteristic which they are incapable of changing. One court has even found that a family unit constitutes a social group. The Board of Immigration Appeals (BIA) defines a social group as a unit of people who share a common, immutable characteristic, whether an innate part of their existence (such as gender), or a common experience (such as military service). This characteristic, while persecuted in the applicant's country of origin, is protected within the U.S., and as such members of particular social groups are said to share a "protected characteristic."

The U.S. does not extend protection to gangs or similar groups. The border children crisis of the summer of 2014 has raised the issue of whether the thousands of children from Guatemala, Honduras and El Salvador are members of a persecuted social group.

How can I be granted asylum or refuge based on my sexual orientation/gender identity?

Gender identity and sexual orientation are two different issues, and shall be discussed here together because of the many ways they overlap. Individuals who seek asylum or refuge based on their sexual orientation/gender identity are generally grouped with other asylees and refugees who base their status on their membership of a particular social group (discussed above). Sexual orientation/gender identity may also be related to other grounds for application, such as political opinion or religious affiliation. However, due to the increasingly relevant and evolving nature of gender and sexuality topics, it is important to discuss the particular steps to seeking asylee or refugee status based on one's sexual orientation/ gender identity.

In 2012, USCIS published a comprehensive process on adjudicating Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) refugee and asylum claims. Sexual orientation, gender identity, and having an intersex condition can be classified as either inherent or fundamental; they are "protected characteristics" which LGBTI individuals either cannot or should not be expected to change about themselves. Individuals who feel persecuted or prosecuted based on their LGBTI status can seek asylee or refugee status in the US. Like other asylees and refugees, they may be asked to provide corroborating evidence of their status, as long as that evidence can be reasonably obtained.

With the passage of the Windsor decision in the Supreme Court overturning the Defense of Marriage Act, same sex spouses can now qualify as spouses in asylum cases.

How can I be granted asylum or refuge because of my political opinion?

This is the most often used basis for an asylum or refuge application. In 1992, the Supreme Court issued an opinion significantly restricting this basis, ruling that the political opinion that matters is that of the victim, and that merely resisting government action is not alone enough to show persecution. Nor, according to the Board of Immigration Appeals, is being caught up in general civil unrest sufficient for a claim of asylum or refuge unless the government knows that the person disagrees with it politically.

One important development in this area is the idea of an imputed political opinion. In these cases, when it is obvious that the government is acting on the basis of what it believes to be an opposing political opinion, no evidence of the applicant's actual opinion or that the applicant's actual opinion or that the government knew it, is required.

In 1996, Congress adopted a law making coercive family planning a form of persecution based on political opinion. Under this law, if a person can show they were forced to terminate a pregnancy or be sterilized, they are deemed to have shown persecution on the basis of political opinion.

Are there other ways of being granted asylee or refugee status?

There are many conditions under which one can apply for asylee or refugee status. The above categories are just broad explanations of the most common avenues for application. Generally, an individual qualifies for asylee status if they are fleeing persecution in their home country. Persecution can take many shapes, including, but not limited to:

- Custodial interrogation
- Rape or sexual assault
- Forced medical examination
- Physical harm or detention
- Emotional trauma
- Harassment
- Discrimination
- Economic deprivation
- Stripping citizenship
- Civil war
- Laws of general application
- Prosecution (not generally, but arguments can be made for prosecution amounting to persecution)
- Intent to harm distinct from persecution
- Breach of confidentiality of asylum
- Government unable or unwilling to control persecutors

There are also certain groups designated for refugee protection, including:

- Iraqis employed by U.S. government in Iraq
- North Koreans
- Any persons from certain countries (Vietnam, Laos, Cambodia, China, North Korea, countries of former Soviet Republic, nations of the Greater Middle East Region) who personally deliver into custody any living American missing or held prisoner, as well as their parents, spouse, and children
- Spouses and children of refugees

Do I have any other options?

There are other protected groups, such as Temporary Protected Status (TPS) aliens. For more information about these special groups, visit <http://www.visalaw.com/12jan1/2jan112.html>.

3. Ask Visalaw.com

In our Ask Visalaw.com section of the SIB, attorney [Ari Sauer](#) answers immigration law questions sent in by our readers. If you enjoy reading this section, we encourage you to visit Ari's blog, [The Immigration Answer Man](#), where he provides more answers to your immigration questions. You can also follow The Immigration Answer Man on [Facebook](#) and [Twitter](#).

If you have a question on immigration matters, write Ask-visalaw@visalaw.com. We can't answer every question, but if you ask a short question that can be answered concisely, we'll consider it for publication. Remember, these questions are only intended to provide general information. You should consult with your own attorney before acting on information you see here.

* * *

1) QUESTION: I am from India. My brother is a US citizen and filed an F4 visa petition for me. Can I apply in another way that will allow me to get the visa faster, or do I have to sit and wait for years to be able to apply with this petition?

ANSWER: Having an immigrant petition filed for you in a particular preference category does not lock you in to only relying on that petition. If someone is eligible to have petitions filed in other preference categories, they can have more than one petition filed for them. For example someone who has an F-4 preference I-130 immigrant petition filed for them by a US citizen sibling, they are not barred from having another relative, such as a US citizen parent or spouse, file an I-130 petition for them as well. Or the person might have an employer that would sponsor them for either an immigrant petition (i.e, an I-140) or a nonimmigrant (temporary) visa type (i.e, an H-1B). Although there are some nonimmigrant visa types, (i.e., B-2 visitor visa) that might be more difficult to obtain when someone already has a pending or approved immigrant petition.

2) QUESTION: When my daughter was 3 her father was deported to Honduras. Can she petition for him to get his citizenship?

ANSWER: A US citizen must be at least 21 years old to petition for their parent to come to the US as a Permanent Resident. So if your daughter is now 21, then she might be able to. Of course I can't say for sure without knowing a lot more information about the situation. If your daughter is 21 or older, or even if she will turn in the next couple years, then it would be beneficial for her to consult with an immigration lawyer about her options.

4. Border and Enforcement News:

192 Arrested on Immigrant Smuggling Charges in South Texas

Homeland Security arrested 192 people at the Texas-Mexican border on charges of immigrant smuggling. 501 undocumented immigrants were taken into USCIS custody and over \$625,000 was seized from human and drug smuggling groups during "Operation Coyote", part of a 90-day endeavor to crack down on smuggling groups crossing the border. The immigrants involved in the case have been detained. Some may qualify for visas or other protection as victims or witnesses of crime, but those found ineligible will eventually be forced to return home.

Smugglers have been exploiting U.S. policies that often allow undocumented Central American children to stay in the U.S. indefinitely once they arrive. Crackdowns like "Operation Coyote" are part of the Obama administration's efforts to stop illegal border crossing and immigrant smuggling. Homeland Security Secretary Jeh Johnson hopes that

these operations will send a clear message to potential border crossers that the U.S. does not welcome illegal immigration.

<http://www.seattlepi.com/news/texas/article/Gov-t-arrests-192-on-immigrant-smuggling-charges-5638842.php?cmpid=email-mobile>

Congress Recesses With No Action on Border Children

As noted in Openers, Congress has recessed for its annual month-long August vacation without passing a border bill to deal with the tens of thousands of children from Central America who have presented themselves at ports of entry along the US-Mexico border after fleeing serious violence and poverty in their home countries of Guatemala, Honduras and El Salvador. The Administration has begun moving the children to locations around the country and reunited many with their families. The House of Representatives passed a border bill with a "poison pill" provision that would take away due process rights for children and the President has promised a veto in the unlikely event the Senate took up the bill.

In the meantime, President Obama has promised a major series of executive actions to address the broken immigration system.

NOTE: Siskind Susser will be publishing a special newsletter on the executive order or orders as soon as it is released.

5. News Bytes:

USCIS Releases Interim Memo on Adoptions

On June 30th, USCIS issued a policy memorandum (PM-602-0103) that offers guidance on the implementation of the Intercountry Adoption Universal Accreditation Act of 2012 and the statutory change to section 101(b)(1)(F) of the Immigration and Nationality Act in the Consolidated Appropriations Act, 2014. The PM revises Chapter 21. 5(b)(4), Chapter 21.5(d), and Chapter 21.5(e) of the Adjudicator's Field Manual (AFM); AFM Update AD14-06.

6. Updates from the Visalaw.com Blogs

[Greg Siskind's Blog on ILW.com](#)

- [Did Boehner Really Tell Obama that Immigration Reform is Dead?](#)
- [Issa Calls for End to DACA](#)

- [Arizona DREAMers Win Fight on Driver's Licenses](#)
- [Peter Pan and Helen Hayes – Lessons from Past Child Refugee Crises](#)
- [AILA President Emphasizes the Need for Due Process in Dealing with Border Kids](#)
- [Immigrant of the Day: Paul Cuadros – Journalist, Professor and Coach of Los Jets](#)
- [Groups Sue White House to Force Them to Provide Lawyers for Border Kids](#)
- [Welcome USCIS Director Rodriguez](#)
- [Immigrants By the Numbers](#)
- [Ombudsman Report Exposes USCIS' Bogus Claim of Encouraging Startups](#)
- [My USA Today Op-Ed: VA's J-1 Program Helps Explain the Doctor Scandal](#)
- [USCIS' ELIS System Criticized by Office of Inspector General](#)
- [GOP Flirts with Trying to Use Border Funds to Force End of DACA](#)
- [Immigration Humor: Jon Stewart's Take on the Border Kids](#)
- [Goodlatte and Chaffetz Introduce Latest Anti-Immigrant Bill](#)
- [Immigrant of the Day: Julia Ioffe – Journalist and Russia Expert](#)
- [House Republicans' Release Border Recommendations](#)

The SSB I-9, E-Verify, & Employer Immigration Compliance Blog

Bruce Buchanan's Blog on ILW.com

- [OSC Settles Discrimination Claim against Commercial Cleaning Systems](#)
- [E-Verify is a Work in Progress](#)
- [UPDATED: Employer "DOs and DON'Ts" for Hiring, Firing, and E-Verify in 2014](#)
- [OCAHO Issues Third Crescent City Decision](#)
- [OCAHO Decides Desert Canyon Golf's Penalties](#)

The Visalaw Healthcare Immigration Blog

- Greg Siskind's USA Today Op-Ed on the VA's J-1 Program Problems
- NY Times Editorial: Lack of Training Slots Contributing to Physician Shortage

7. State Department Visa Bulletin: September 2014

September Visa Bulletin Summary:

Family 1st - World numbers, China and India advanced 1 week 2 days to 01 May 2007; Mexico moved forward 1 month 3 weeks 3 days to 01 June 1994; the Philippines moved forward 2 months to 01 August 2004.

Family 2A - China, India, and the Philippines advanced 8 months to 01 January 2013; Mexico jumped 1 year 1 month 1 week to 22 April 2012.

Family 2B - World numbers, China and India moved 2 months to 01 September 07; Mexico progressed 1 month 2 weeks to 15 May 1994; the Philippines moved 1 month 3 weeks 2 days to 01 Dec 2003.

Family 3rd – World numbers, China and India stalled at 15 November 2003; Mexico progressed 1 month to 15 October 1993; the Philippines moved forward 1 month 1 week to 22 May 1993.

Family 4th – World numbers, China and India stalled at 01 January 2002; Mexico advanced 3 weeks to 22 January 1997; the Philippines advanced 1 month 3 weeks to 15 March 1991.

Employment 1st – Still current in all categories.

Employment 2nd – World numbers, China remained the same at 08 October 2009; India advanced 3 months 1 week 2 days to 01 May 2009; Mexico and the Philippines are still current.

Employment 3rd – World numbers, China remained the same at November 2008; India remained the same at 08 November 2003; Mexico remains stalled at 01 April 2011; the Philippines moved forward 10 months to 01 April 2011.

Other Workers – World numbers, China remained the same at 22 July 2005; India remained the same at 08 November 2003; Mexico remained the same at 01 April 2011; the Philippines advanced 10 months to 01 April 2011.

Employment 4th – Still current in all categories.

Certain Religious Workers – Still current in all categories.

Employment 5th – Still current in all categories.

*Number 72
Volume IX
Washington, D.C*

A. STATUTORY NUMBERS

1. This bulletin summarizes the availability of immigrant numbers during September. 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 August 12th. 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. If at any time an annual limit is reached, it would be necessary to immediately make the preference category "unavailable", and no further requests for numbers will be honored.

2. The fiscal year 2014 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 2014 limit for employment-based preference immigrants calculated under INA 201 is 150,241. 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., 26,337 for FY-2014. The dependent area limit is set at 2%, or 7,525.

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.)

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	01MAY07	01MAY07	01MAY07	01JUN94	01AUG04
F2A	01JAN13	01JAN13	01JAN13	22APR12	01JAN13
F2B	01SEP07	01SEP07	01SEP07	15MAY94	01DEC03
F3	15NOV03	15NOV03	15NOV03	15OCT93	22MAY93
F4	01JAN02	01JAN02	01JAN02	22JAN97	15MAR91

*NOTE: For September, F2A numbers EXEMPT from per-country limit are available to applicants from all countries with priority dates earlier than 22APR12. F2A numbers SUBJECT to per-country limit are available to applicants chargeable to all countries EXCEPT MEXICO with priority dates beginning 22APR12 and earlier than 01JAN13. (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.)

Employment-Based	All Chargeability Areas Except Those Listed	CHINA - mainland born	INDIA	MEXICO	PHILIPPINES
1st	C	C	C	C	C
2nd	C	08OCT09	01MAY09	C	C
3rd	01APR11	01NOV08	08NOV03	01APR11	01APR11
Other Workers	01APR11	22JUL05	08NOV03	01APR11	01APR11
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5th Targeted Employment Areas/ Regional Centers	C	C	C	C	C

and Pilot Programs					
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*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) 485-7699. 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 FOR THE MONTH OF SEPTEMBER

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-2014 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 September, immigrant numbers in the DV category are available to qualified DV-2014 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	81,100	Except: Egypt: 32,250
ASIA	13,350	Except: Nepal: 9,500
EUROPE	40,150	
NORTH AMERICA	CURRENT	

(BAHAMAS)		
OCEANIA	1,450	
SOUTH AMERICA, and the CARIBBEAN	1,750	

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-2014 program ends as of September 30, 2014. DV visas may not be issued to DV-2014 applicants after that date. Similarly, spouses and children accompanying or following to join DV-2014 principals are only entitled to derivative DV status until September 30, 2014. DV visa availability through the very end of FY-2014 cannot be taken for granted. Numbers could be exhausted prior to September 30.

C. THE DIVERSITY (DV) IMMIGRANT CATEGORY RANK CUT-OFFS WHICH WILL APPLY IN OCTOBER

For October, immigrant numbers in the DV category are available to qualified DV-2015 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	8,000	Except: Egypt: 6,000 Ethiopia: 7,000
ASIA	2,500	
EUROPE	8,500	
NORTH AMERICA (BAHAMAS)	3	
OCEANIA	400	
SOUTH AMERICA, and the CARIBBEAN	550	

D. VISA AVAILABILITY IN THE COMING MONTHS

INDIA Employment-based Second Preference: The use of potentially "otherwise unused" Employment numbers prescribed by Section 202(a)(5) of the Immigration and Nationality Act (INA) has allowed the India Employment Second preference cut-off date to advance very rapidly in recent months. Continued forward movement of this cut-off date during the upcoming months cannot be guaranteed, however, and no assumptions should be made until the dates are formally announced. Once there is a significant increase in India Employment Second preference demand it will be necessary to retrogress the cut-off date, possibly as early as November, to hold number use within the fiscal year 2015 annual limit.

E. 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. Citizenship and Immigration Services (USCIS) 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 USCIS data, the Visa Office (VO) bases allocations on the minimum annual limits outlined in Section 201 of the INA. On July 24th, USCIS provided the required data to VO. The Department of State has determined the Family and Employment preference numerical limits for FY-2014 in accordance with the terms of Section 201 of the INA. These numerical limitations for FY-2014 are as follows:

Worldwide Family-Sponsored preference limit:	226,000
Worldwide Employment-Based preference limit:	150,241

Under INA Section 202(A), the per-country limit is fixed at 7% of the family and employment annual limits. For FY-2014 the per-country limit is 26,337. The dependent area annual limit is 2%, or 7,525.

F. OBTAINING THE MONTHLY 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:

listserv@calist.state.gov

and in the message body type:

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

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) 485-7699**. The recording is normally updated on/about the 10th 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.)

Department of State Publication 9514

CA/VO: August 12, 2014