

Table of Contents

CHAPTER 1. WORLDWIDE AND PER-COUNTRY NUMERICAL LIMITS

- § 1:1 Introduction
- § 1:2 Worldwide numerical limits
- § 1:3 Aliens not subject to direct numerical limitations
- § 1:4 Family-sponsored immigration
- § 1:5 Employment-based immigration
- § 1:6 Diversity and other immigrant provisions
- § 1:7 Derivative status for relatives
- § 1:8 Per-country limits on preference immigrants
- § 1:9 —Hong Kong per-country levels
- § 1:10 Asylee adjustments
- § 1:11 Visa Bulletin changes in 2015

CHAPTER 2. FAMILY-SPONSORED IMMIGRATION

- § 2:1 Introduction
- § 2:2 Revised definition of “immediate relatives”
- § 2:3 USA PATRIOT Act relief for certain surviving spouses and children
- § 2:4 Changes in the family preference system—First preference: unmarried sons and daughters of United States citizens
- § 2:5 —Second preference: spouses and unmarried sons and daughters of permanent residents
- § 2:6 —Third preference: married sons and daughters of United States citizens
- § 2:7 —Fourth preference: brothers and sisters of United States citizens
- § 2:8 Immigrant visas for spouses and children of legalized aliens (LB visas)
- § 2:9 Family unity provisions
- § 2:10 —Eligibility requirements for family unity
- § 2:11 —Confidentiality and application of the program
- § 2:12 —Disqualification from public assistance
- § 2:13 —Filing fees
- § 2:14 —Review of denied applications
- § 2:15 Child Status Protection Act
- § 2:16 Adam Walsh Act of 2006
- § 2:17 Affidavits of support

APPENDIX 2A. Guidance for Determining if an Adoption is Valid for Immigration and Nationality Act (INA) Purposes

APPENDIX 2B. Revised Regulations re: Petitions to Classify Alien as Immediate Relative of United States Citizen or as Preference Immigrant

APPENDIX 2C. Final Family Unity Regulations

APPENDIX 2D. Child Status Protection Act Materials

APPENDIX 2E. Poverty Guidelines and Affidavit of Support

APPENDIX 2F. June 21, 2006 Amendments to Regulations on Affidavits of Support

CHAPTER 3. EMPLOYMENT BASED IMMIGRATION

- § 3:1 Introduction

- § 3:2 Backlogs
- § 3:3 Employment-based first preference priority workers
- § 3:4 —Persons with extraordinary ability
- § 3:5 —Outstanding researchers and professors
- § 3:6 —Multinational executives and managers
- § 3:7 Employment based second preference professionals holding advanced degrees or aliens of exceptional ability in sciences, arts or business
- § 3:8 —Professionals with advanced degrees
- § 3:9 —Aliens with exceptional ability
- § 3:10 — —Prospective and substantial benefit to the United States
- § 3:11 —Requirement of labor certification
- § 3:12 —Waiver of employer sponsorship and labor certification
- § 3:13 Employment based third preference—Skilled workers, professionals, and other workers
- § 3:14 —Skilled workers
- § 3:15 —Professionals
- § 3:16 —Unskilled workers
- § 3:17 Employment based fourth preference—Special immigrants
- § 3:18 Employment based fifth preference—Employment creation investors
- § 3:19 —Basic eligibility requirements
- § 3:20 — —Establishing and engaging in a new commercial enterprise
- § 3:21 — —“Invested or actively in the process of investing”
- § 3:22 — —Benefit to the United States economy
- § 3:23 — —Create at least ten full-time jobs
- § 3:24 — —Nature and amount of capital required
- § 3:25 — —Deterring immigration-related entrepreneurship fraud
- § 3:26 —Two-year conditional status
- § 3:27 — —Notice by the USCIS
- § 3:28 — —Filing of petition to remove conditional status
- § 3:29 — —Personal interview
- § 3:30 — —Three grounds for termination prior to second anniversary
- § 3:31 — —Treatment of conditional residence period for naturalization
- § 3:32 — —Immigrant investor pilot program
- § 3:33 Special parole rule for entrepreneurship, innovation, and job creation
- § 3:34 DHS final rule: “Retention of EB-1, EB-2, and EB-3 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant Workers”
- § 3:35 Immigrant Investor Program modernization
- § 3:36 EB-5 Reform and Integrity Act of 2022

- APPENDIX 3A. Employment-Based Immigrant (Summary to 8 C.F.R. §§ 103 and 204)
- APPENDIX 3B. Interim Rule re: Priority Dates for Employment-Based Petitions (Summary to 8 C.F.R. § 204)
- APPENDIX 3C. Final Rule re: Removal of Conditional Residency for Alien Entrepreneurs
- APPENDIX 3D. Interim Rule re: Applications under the Soviet Scientists Immigration Act of 1992
- APPENDIX 3E. AAO Vacates NYSDOT in Matter of Dhanasar
- APPENDIX 3F. Form I-829, Petition by Entrepreneur to Remove Conditions
- APPENDIX 3G. USCIS Memorandum: Extension of Status for Conditional Residents with Pending or Denied Form I-829

CHAPTER 4. LABOR CERTIFICATION

- § 4:1 Introduction
- § 4:2 Validity period; employer payment requirements; rules on suspension and debarment

TABLE OF CONTENTS

- § 4:3 PERM
- § 4:4 Priority dates
- § 4:5 Substitution of beneficiaries
- § 4:6 Notice requirements
- § 4:7 Advertising requirements: labor certification conversion regulations
- § 4:8 A third party's right to submit documentary evidence
- § 4:9 Pilot program for labor shortages or surpluses
- § 4:10 Schedule A applications
- APPENDIX 4A. Labor Certification Process for Permanent Employment (Summary to 20 C.F.R. § 656)
- APPENDIX 4B. New Labor Certification Process for Permanent Employment
- APPENDIX 4C. Instructions for ETA Form 9089
- APPENDIX 4D. ETA Form 9089, Application for Permanent Employment Certification

CHAPTER 5. DIVERSITY VISAS, DIVERSITY TRANSITION VISAS AND DISPLACED TIBETANS

- § 5:1 Introduction
- § 5:2 Background and historical overview
- § 5:3 Diversity provisions (DV-1 program)—Eligibility requirements
- § 5:4 —“High admission” and “low admission” regions and states
- § 5:5 —Visa distribution
- § 5:6 —Diversity application procedure
- § 5:7 Displaced Tibetans
- APPENDIX 5A. Registration for the DV-1 Immigrant Visa Program (Summary to 22 C.F.R. Part 42 Proposed Regulations)
- APPENDIX 5B. Instructions for the 2023 Diversity Immigrant Visa Program (DV-2023)

CHAPTER 6. HONG KONG PROVISIONS

- § 6:1 Introduction
- § 6:2 Per-country levels for Hong Kong
- § 6:3 Transition for employees of certain United States companies in Hong Kong
- § 6:4 —Eligibility requirements
- § 6:5 —Derivatives
- § 6:6 —Section 124 transition visa procedure
- § 6:7 Special immigrant status for certain employees at the United States mission in Hong Kong
- § 6:8 —Eligibility requirements
- § 6:9 —Section 152 special immigrant visa procedure
- § 6:10 Extension of period of validity of immigrant visas for certain residents of Hong Kong
- § 6:11 —Eligibility requirements
- § 6:12 —Derivatives
- § 6:13 —Section 154 visa validity extension procedure
- § 6:14 —Treatment of certain employees in Hong Kong
- § 6:15 Changes to the Hong Kong provisions in 2020
- APPENDIX 6A. Transition for Employees of Certain U.S. Businesses in Hong Kong (Summary to 8 C.F.R. § 204)
- APPENDIX 6B. Visas: Documentation of Immigrants (Summary to 22 C.F.R. § 22)
- APPENDIX 6C. Visas: Documentation of Immigrants (Summary to 22 C.F.R. § 45)
- APPENDIX 6D. Executive Order on Hong Kong Autonomy

CHAPTER 7. SPECIAL IMMIGRANTS

I. IN GENERAL

- § 7:1 Introduction
- § 7:2 Special immigrants

II. DEPENDENT JUVENILES ELIGIBLE FOR LONG-TERM FOSTER CARE

- § 7:3 Introduction
- § 7:4 Eligibility requirements under the regulations
- § 7:5 Expanded eligibility under INTCA and the 1998 appropriations bill
- § 7:6 Revocation of special immigrant status
- § 7:7 Procedure for obtaining permanent resident status
- § 7:8 Strategy and tactics
- § 7:9 Exclusion/inadmissibility grounds, deportation/removal grounds and waivers

III. RELIGIOUS WORKERS

- § 7:10 Generally
- § 7:11 Eligibility requirements
- § 7:12 Bona fide religious organization
- § 7:13 Religious vocation or occupation
- § 7:14 Numerical limitation
- § 7:15 Procedure for application

IV. EMPLOYEES OF THE UNITED STATES MISSION IN HONG KONG

- § 7:16 Generally
- § 7:17 Eligibility requirements
- § 7:18 Exceptional circumstances
- § 7:19 Employees in Hong Kong and other foreign employees distinguished
- § 7:20 Procedure for obtaining permanent resident status

V. MEMBERS OF THE ARMED FORCES

- § 7:21 Generally

VI. USA PATRIOT ACT

- § 7:22 Generally
- § 7:23 Eligibility requirements
- § 7:24 Procedures for applications

VII. IRAQI AND AFGHAN TRANSLATORS

- § 7:25 Generally

VIII. IRAQI AND AFGHAN NATIONALS

- § 7:26 Iraqi nationals
- § 7:27 Afghan nationals

IX. FILIPINO WORLD WAR II VETERANS PAROLE PROGRAM

- § 7:28 Generally

APPENDIX 7A. Field Guidance on Special Immigrant Juvenile Status Petitions

TABLE OF CONTENTS

APPENDIX 7B.	Special Immigrant Dependent Juvenile Court Petition
APPENDIX 7C.	Final Regulations re: Special Immigrant Dependent Juveniles (Summary to 8 C.F.R. Parts 101, 103, 204 and 245)
APPENDIX 7D.	Fact Sheet and Questions and Answers Pertaining to Religious Worker Regulations
APPENDIX 7E.	Special Immigrant Military Wire Text Act H #1
APPENDIX 7F.	Special Immigrant Military Wire Text Act H #2
APPENDIX 7G.	Interim Regulations re: Special Immigrant Military Aliens
APPENDIX 7H.	Military Accessions Vital to the National Interest Pilot Program Extension
APPENDIX 7I.	Certification of Honorable Service for Members of the Selected Reserve of the Ready Reserve and Members of the Active Components of the Military or Naval Forces for Purposes of Naturalization
APPENDIX 7J.	Certification of Honorable Service for Purposes of Naturalization for Members of the Selected Reserve of the Ready Reserve

CHAPTER 8. NONIMMIGRANTS

I. NATIONAL SECURITY ENTRY-EXIT REGISTRATION SYSTEM (NSEERS)

- § 8:1 Registration upon entry
- § 8:2 Call-in registration
- § 8:3 US-VISIT Entry-Exit System

II. PREMIUM PROCESSING PROGRAM

- § 8:4 Premium processing

III. B-VISA WAIVER PILOT PROGRAM

- § 8:5 Generally
- § 8:6 Expansion of pilot program under INTCA

IV. CREW MEMBERS—THE D VISA

- § 8:7 Generally
- § 8:8 Strikes and lockouts
- § 8:9 Longshore work
- § 8:10 —Safety and environmental protection exception
- § 8:11 —Prevailing practice exception
- § 8:12 —The reciprocity exception

V. TREATY TRADERS AND INVESTORS—THE E VISAS

- § 8:13 Generally

VI. STUDENTS—THE F-1 VISA

- § 8:14 Overview
- § 8:15 The Off-Campus Employment Pilot Program
- § 8:16 —Student requirements under the pilot program
- § 8:17 —Employer requirements under the pilot program
- § 8:18 —Recruitment under the pilot program
- § 8:19 —Wages under the pilot program

- § 8:20 —Attestation under the pilot program
- § 8:21 —Enforcement and penalties under the pilot program
- § 8:22 Reporting to Congress under the pilot program
- § 8:23 On-campus and off-campus student employment subsequent to the pilot program
- § 8:24 Student and Exchange Visitor Information System (SEVIS)

VII. TEMPORARY WORKERS—H VISAS

- § 8:25 Overview
- § 8:26 H-1A registered nurses
- § 8:27 —Attestation elements
- § 8:28 —Procedure
- § 8:29 —Documentation
- § 8:30 —Definition of “nurse”
- § 8:31 —Nursing contractors
- § 8:32 —Penalties
- § 8:33 H-1C Nursing Relief for Disadvantaged Areas Act of 1999

VIII. H-1B—ALIENS EMPLOYED IN SPECIALTY OCCUPATIONS AND FASHION MODELS OF DISTINGUISHED MERIT AND ABILITY

- § 8:34 Generally
- § 8:35 Synopsis of the 1990 H-1B changes
- § 8:36 Synopsis of FY-99 Omnibus Spending Bill changes to H-1B
- § 8:37 American Competitiveness in the 21st Century Act
- § 8:38 The employer-employee relationship
- § 8:39 Specialty occupations and qualifications to be a member thereof
- § 8:40 Prominent business professionals
- § 8:41 Foreign medical school graduates
- § 8:42 Fashion models of distinguished merit and ability
- § 8:43 Dual intent
- § 8:44 The labor condition application requirement
- § 8:45 DOL procedure for investigation and disposition of complaints
- § 8:46 Penalties for the employer
- § 8:47 Determining proper wage levels
- § 8:48 —Actual wage
- § 8:49 —Prevailing wage
- § 8:50 Numerical limitations on H-1B visas
- § 8:51 Six-year limitation for H-1B admissions
- § 8:52 Strategic considerations
- § 8:53 Final labor condition application regulations effective January 19, 1995

IX. H-2B—TEMPORARY NONAGRICULTURAL WORKERS

- § 8:54 Generally

X. H-3—TRAINEES

- § 8:55 Generally

XI. L-1—INTRACOMPANY TRANSFEREES

- § 8:56 Overview
- § 8:57 Managers and executives
- § 8:58 Managerial capacity
- § 8:59 Executive capacity

TABLE OF CONTENTS

- § 8:60 Relevance of staffing levels
- § 8:61 Specialized knowledge
- § 8:62 Qualifying employment abroad
- § 8:63 Thirty-day deadline and place of filing
- § 8:64 Periods of authorized admission
- § 8:65 Dual intent codified
- § 8:66 Blanket L-1 petition procedure
- § 8:67 Accounting firms

XII. O NONIMMIGRANTS—ALIENS OF EXTRAORDINARY ABILITY IN THE SCIENCES, ARTS, EDUCATION, BUSINESS, OR ATHLETICS

- § 8:68 Introduction
- § 8:69 O-1 visa eligibility
- § 8:70 —Scientists, educators, and business persons
- § 8:71 —Aliens of extraordinary ability in the arts and aliens of extraordinary achievement in the motion pictures or in the television industry
- § 8:72 The consultation process
- § 8:73 —Consultations for business persons, scientists educators and artists (non-motion picture)—O-1 visas
- § 8:74 —Motion picture and television consultation
- § 8:75 —Expedited consultation
- § 8:76 —Who qualifies as a peer group, labor organization or management group?
- § 8:77 —Waiver of the consultation requirement for aliens of extraordinary achievement working in the arts
- § 8:78 —Multiple events
- § 8:79 Self-employment
- § 8:80 O-2 visas—accompanying aliens
- § 8:81 Consultation requirement for O-2 applicants

XIII. P NONIMMIGRANTS—PERFORMING ARTISTS AND ATHLETES

- § 8:82 Introduction
- § 8:83 P-1 athletes, entertainment groups, and accompanying aliens
- § 8:84 —P-1 athletes
- § 8:85 —Entertainment groups
- § 8:86 —Essential support aliens
- § 8:87 Waiver of the international recognition requirement
- § 8:88 The one-year relationship rule
- § 8:89 Circus performers
- § 8:90 P-2 persons entering through a reciprocal exchange program
- § 8:91 —Eligibility
- § 8:92 —Documentation
- § 8:93 P-3 artists and entertainers in culturally unique programs—Eligibility
- § 8:94 —Documentation
- § 8:95 —Consultation
- § 8:96 —Substituting beneficiaries
- § 8:97 —Annual cap on P-1 and P-3 aliens

XIV. CONSIDERATIONS COMMON TO BOTH O AND P VISAS

- § 8:98 Filing the petition
- § 8:99 Multiple work sites
- § 8:100 Foreign petitioner
- § 8:101 Multiple employers

- § 8:102 Change of employer
- § 8:103 Amended petitions
- § 8:104 Extensions
- § 8:105 Dual intent
- § 8:106 Return transportation requirement

XV. CULTURAL VISITORS—THE Q VISA

- § 8:107 Introduction
- § 8:108 The petition process
- § 8:109 Concurrent petition
- § 8:110 Requirements for program approval
- § 8:111 Requirements for approval of participants
- § 8:112 Employer's documentation requirements
- § 8:113 Documentation demonstrating cultural benefits
- § 8:114 No derivative beneficiaries

XVI. RELIGIOUS WORKERS—THE R VISA

- § 8:115 Introduction
- § 8:116 Statutory requirements
- § 8:117 Regulatory definitions and documentation requirements—Two-year membership prior to application for admission
- § 8:118 —Limitation on stay
- § 8:119 —Bona fide religious organization
- § 8:120 —Religious denomination
- § 8:121 —Affiliated organizations
- § 8:122 —Ministers of religion
- § 8:123 —Professional religious workers
- § 8:124 —Religious occupations
- § 8:125 —Religious vocations
- § 8:126 —Lay persons
- § 8:127 Miscellaneous issues—Remuneration of religious workers
- § 8:128 —Volunteers
- § 8:129 —Spouses and children
- § 8:130 —Extension of stay and change of employers

XVII. DEFENSE RESEARCH NONIMMIGRANTS

- § 8:131 Generally

XVIII. SPECIAL EXCHANGE VISITORS

- § 8:132 Generally

XIX. RETENTION OF EB-1, EB-2, AND EB-3 IMMIGRANT WORKERS AND PROGRAM IMPROVEMENTS AFFECTING HIGH-SKILLED NONIMMIGRANT WORKERS

- § 8:133 Overview

- APPENDIX 8A. Treaty Aliens (Summary to 8 C.F.R. § 214)
- APPENDIX 8B. Treatment of Individuals Previously Subject to Requirements of NSEERS
- APPENDIX 8C. Documentation of E Nonimmigrants (Summary to 22 C.F.R. § 41)
- APPENDIX 8D. Temporary Alien Workers, H, L, O and P Classifications (Aug. 15, 1994) (Summary to 8 C.F.R. § 214)

TABLE OF CONTENTS

APPENDIX 8E.	Final Rule re: H-1B Labor Condition Applications
APPENDIX 8F.	Interim F-1 Regulations re: Student Work Authorization
APPENDIX 8G.	Joint Interim Final Rule re: F-1 Attestations for Off-Campus Work Authorization
APPENDIX 8H.	International Cultural Exchange Visitors, Q Classification (Summary to 8 C.F.R. Part 214)
APPENDIX 8I.	Temporary Alien Workers, H-1B Classification (April 9, 1992) (Summary to 8 C.F.R. § 214)
APPENDIX 8J.	Aliens in Religious Occupations, R Classification (Summary to 8 C.F.R. Part 214)
APPENDIX 8K.	Aliens in Religious Occupations, USCIS memorandum and DOL Questions and Answers Pertaining to 2009 Amendments to Rule Governing H-2B Visas
APPENDIX 8L.	Maximum Authorized Stay for Employment-Related Nonimmigrant Categories
APPENDIX 8M.	Form ETA 9033: Attestation by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports
APPENDIX 8N.	Form ETA 9033-A: Attestation by Employers Using Alien Crewmembers for Longshore Activities at Locations in the State of Alaska
APPENDIX 8O.	Final Rule re: H-1A Attestations
APPENDIX 8P.	Form ETA 9035: Labor Condition Application for Nonimmigrant Workers

CHAPTER 9. GROUNDS OF INADMISSIBILITY AND WAIVERS

I. INTRODUCTION

- § 9:1 1990 Act
- § 9:2 Revised grounds of “inadmissibility” under AEDPA and IIRAIRA
- § 9:3 Revised grounds of “inadmissibility” under the USA PATRIOT Act of 2001
- § 9:4 Nonimmigrant and immigrant travel restrictions

II. REVISED GROUNDS OF EXCLUSION/INADMISSIBILITY

A. IN GENERAL

- § 9:5 Generally

B. HEALTH GROUNDS

- § 9:6 Generally
- § 9:7 Communicable diseases of public health significance
- § 9:8 Waiver of communicable diseases exclusion
- § 9:9 Physical or mental disorders
- § 9:10 Waiver of excludability/inadmissibility on the basis of physical or mental disorders
- § 9:11 Immigrants without documentation of vaccination for certain diseases
- § 9:12 Waiver of inadmissibility on the basis of lack of required vaccinations
- § 9:13 Drug abusers or addicts

C. CRIMINAL GROUNDS

- § 9:14 Generally
- § 9:15 Crimes involving moral turpitude
- § 9:16 Controlled substances
- § 9:17 Multiple criminal convictions

- § 9:18 Prostitution and commercialized vice
- § 9:19 Noncitizens involved in serious criminal activity who have asserted immunity from prosecution

D. SECURITY GROUNDS

- § 9:20 Generally
- § 9:21 Espionage, sabotage and other unlawful activity
- § 9:22 Export control violations
- § 9:23 Terrorist activity
- § 9:24 —Additional anti-terrorism provisions under AEDPA and IIRAIRA
- § 9:25 Foreign policy grounds
- § 9:26 Immigrant membership in a totalitarian party
- § 9:27 —Exception for involuntary membership
- § 9:28 —Past membership
- § 9:29 —Close family members
- § 9:30 Participants in Nazi persecution or genocide
- § 9:31 Waiver for alien informants (S visas)

E. PUBLIC CHARGE

- § 9:32 Generally
- § 9:33 Expansion of public charge ground of exclusion under welfare “reform” law and IIRAIRA
- § 9:34 Expansion of public charge ground of inadmissibility by the Executive Branch in 2018 and 2019

F. LABOR CERTIFICATION AND QUALIFICATIONS FOR CERTAIN IMMIGRANTS

- § 9:35 Labor certification
- § 9:36 Foreign medical graduates
- § 9:37 Inadmissibility of uncertified foreign health care workers under IIRAIRA

G. ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS

- § 9:38 Generally
- § 9:39 Persons previously excluded
- § 9:40 Persons previously deported

H. FRAUD OR WILLFUL MISREPRESENTATION

- § 9:41 Generally
- § 9:42 Fraud waiver

I. STOWAWAYS

- § 9:43 Generally

J. SMUGGLERS

- § 9:44 Generally
- § 9:45 Waiver

K. SUBJECT OF CIVIL PENALTIES FOR DOCUMENT FRAUD

- § 9:46 Generally
- § 9:47 Waiver for those subject to a final document fraud order

TABLE OF CONTENTS

L. DOCUMENTATION REQUIREMENTS

- § 9:48 Immigrants
- § 9:49 Waiver
- § 9:50 Nonimmigrants
- § 9:51 Waiver

M. INELIGIBLE FOR CITIZENSHIP/DRAFT EVASION

- § 9:52 Generally

N. DRAFT EVADERS

- § 9:53 Generally

O. MISCELLANEOUS PROVISIONS

- § 9:54 Practicing polygamists
- § 9:55 Guardians accompanying inadmissible aliens
- § 9:56 International child abduction

P. GROUNDS OF INADMISSIBILITY UNDER IIRAIRA

- § 9:57 Aliens present without admission or parole—INA § 212(a)(6)(A)
- § 9:58 Aliens who fail to attend a removal proceeding—INA § 212(a)(6)(B)
- § 9:59 Aliens previously removed or unlawfully present—INA § 212(a)(9)
- § 9:60 Aliens unlawfully present after previous immigration violations—INA § 212(a)(9)(C)
- § 9:61 Miscellaneous grounds—Guardians accompanying helpless aliens—INA § 212(a)(10)(B)
- § 9:62 —Unlawful voters—INA § 212(a)(10)(D)
- § 9:63 —Former citizens who renounced United States citizenship to avoid United States taxation—INA § 212(a)(10)(E)

III. NOTICE OF GROUNDS OF EXCLUSION/INADMISSIBILITY

- § 9:64 Generally

IV. RIGHT TO REVIEW LOOKOUT BOOKS

- § 9:65 Generally

V. WAIVERS

- § 9:66 Generally
- § 9:67 Lawful permanent residents—INA § 212(c)
- § 9:68 —Repeal of § 212(c) by IIRAIRA
- § 9:69 Nonimmigrants—INA § 212(d)(3)
- § 9:70 Alien smugglers—INA § 212(d)(11)
- § 9:71 Waiver for persons with communicable diseases and mental and physical disorders—INA § 212(g)
- § 9:72 Relatives of United States citizens or lawful residents—INA § 212(h)—Persons covered
- § 9:73 —Eligibility requirements
- § 9:74 —Eligibility restricted under IIRAIRA
- § 9:75 Fraud—INA § 212(i)

APPENDIX 9A. Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats

- APPENDIX 9B. Centers for Disease Control Supplement to I-601 Application for Waiver of INA § 212(a)(1)(A)(ii)(I) or (II) Exclusion (Physical/Mental Disorder)
- APPENDIX 9C. Section 212(a)(9)(B)
- APPENDIX 9D. Clarification of Periods of Stay Considered to be Authorized by the Attorney General
- APPENDIX 9E. Implementation of New “Limited General” Discretionary Exemption Under Immigration and Nationality Act (INA) Section 212(d)(3)(B)(i) for Qualified Applicants with Specified Associations and Activities with Qualified Undesignated, or “Tier III,” Terrorist Organizations
- APPENDIX 9F. Implementation of New Exemption Under Immigration and Nationality Act (INA) Section 212(d)(3)(B)(i) for Participation in the Iraqi Uprisings

CHAPTER 10. GROUNDS OF DEPORTATION/REMOVAL

I. IN GENERAL

- § 10:1 Introduction
- § 10:2 Entries and the reentry doctrine
- § 10:3 The *Fleuti* doctrine
- § 10:4 —The entry and *Fleuti* doctrines in the wake of IIRAIRA

II. THE GROUNDS OF DEPORTATION/REMOVAL

A. INTRODUCTION

- § 10:5 List of grounds
- § 10:6 Effective date
- § 10:7 Revised grounds of removal under the USA PATRIOT Act of 2001

B. ALIEN EXCLUDABLE/INADMISSIBLE AT TIME OF ENTRY/ADMISSION OR ADJUSTMENT OF STATUS OR IN VIOLATION OF STATUS

- § 10:8 Excludable/inadmissible at time of entry/admission
- § 10:9 Entry without inspection
- § 10:10 Violations of nonimmigrant status
- § 10:11 Persons who fail to meet a condition of a health-related waiver
- § 10:12 Termination of conditional permanent resident status
- § 10:13 Aiding and abetting illegal entry
- § 10:14 Failure to maintain RAW status
- § 10:15 Marriage fraud

C. CRIMINAL OFFENSES

- § 10:16 Convictions for crimes of moral turpitude
- § 10:17 Multiple criminal convictions
- § 10:18 Convictions for aggravated felonies
- § 10:19 Pardons
- § 10:20 Controlled substances
- § 10:21 Drug abusers or addicts
- § 10:22 Firearms offenses
- § 10:23 Miscellaneous crimes

D. OTHER GROUNDS

- § 10:24 Failure to register and falsification of documents

TABLE OF CONTENTS

§ 10:25 Security and related grounds

§ 10:26 Public charge

APPENDIX 10A. Matter of Javier-Camarena, Case No. A91 996 032 (BIA Aug. 17, 1993)
(unreported)

APPENDIX 10B. Matter of Cabasug, Case No. A18 423 537 (BIA Sept. 16, 1991)
(unreported)

CHAPTER 11. DEPORTATION/REMOVAL PROCEDURE

§ 11:1 Introduction

§ 11:2 Commencement of proceedings

§ 11:3 —Jurisdiction

§ 11:4 —Service of the OSC

§ 11:5 — —Service of the notice to appear (NTA) under IIRAIRA

§ 11:6 —Contents of the OSC/NTA—The statute

§ 11:7 —Contents of the OSC—The regulations

§ 11:8 —Change of address reporting form

§ 11:9 —List of counsel

§ 11:10 Notice of time and place of proceedings

§ 11:11 Form of the OSC and the notice

§ 11:12 —Burden of proof under IIRAIRA

§ 11:13 Consequences of failure to appear—In absentia order

§ 11:14 —Rescission of order

§ 11:15 — —Exceptional circumstances

§ 11:16 — —Failure to receive notice

§ 11:17 — —Respondents in federal or state custody

§ 11:18 Judicial review of in absentia orders

§ 11:19 Attorney sanctions

§ 11:20 —Procedures

§ 11:21 Limitation of discretionary relief for failure to appear

§ 11:22 —Failure to appear at a deportation hearing

§ 11:23 —Failure to depart after an order of voluntary departure

§ 11:24 —Strategic considerations in deportation proceedings

§ 11:25 —Failure to report for deportation

§ 11:26 —Failure to appear for asylum hearing

§ 11:27 —Restrictions on voluntary departure by IIRAIRA

§ 11:28 Exclusion proceedings

§ 11:29 Expedited removal without a hearing under IIRAIRA

§ 11:30 Removal proceedings for alien terrorists under AEDPA

§ 11:31 Report regarding consolidation of requests for discretionary relief

§ 11:32 Revised regulations regarding appeals, motions to reopen, and motions to reconsider

§ 11:33 Revised enforcement authority under INA § 287

§ 11:34 Limited scope of judicial review after AEDPA and IIRAIRA

§ 11:35 Further limitations to judicial review under the REAL ID Act

§ 11:36 Deferred action for childhood arrivals (DACA)

§ 11:37 Administrative closure, continuances, and termination of proceedings

APPENDIX 11A. Operating Policies and Procedures Memorandum No. 92-2: Notices of
Immigration Judge Hearings

APPENDIX 11B. Change of Address Form

APPENDIX 11C. Matter of Gutierrez, Case No. A72 016 485 (BIA March 1, 1993)
(unreported)

APPENDIX 11D. EOIR; Final Rules of Procedures (Summary to 8 C.F.R. Parts 3, 103, 242 &
292)

- APPENDIX 11E. Attorney General's Report to Congress on Consolidation of Requests for Relief from Deportation
- APPENDIX 11F. Revised Form I-210 re: Sanctions for Failure to Depart Pursuant to Grant of Voluntary Departure
- APPENDIX 11G. Final Rule re: Authority of INS Officers
- APPENDIX 11H. Final EOIR Rule re: Motions and Appeals
- APPENDIX 11I. Final EOIR Rule re: Stipulated Requests for Deportation or Exclusion Orders, Telephonic, Video Electronic Media Hearings
- APPENDIX 11J. Form I-821D, Consideration of Deferred Action for Childhood Arrivals; Form I-765 and Worksheet

CHAPTER 12. NONCITIZEN CRIMINAL OFFENDERS

I. IN GENERAL

- § 12:1 Introduction
- § 12:2 Overview of the legal disabilities faced by noncitizens convicted of aggravated felonies

II. AGGRAVATED FELONIES

A. DEFINITION OF AGGRAVATED FELONY

- § 12:3 Statutory provisions
- § 12:4 Effective date of aggravated felony definition
- § 12:5 Crime of violence
- § 12:6 Sentence of five years imprisonment
- § 12:7 Political offense exception
- § 12:8 Drug trafficking
- § 12:9 Money laundering
- § 12:10 State offenses
- § 12:11 Foreign offenses

B. THE CONSEQUENCES OF BEING AN AGGRAVATED FELON

- § 12:12 No asylum
- § 12:13 Withholding of deportation/restriction on removal
- § 12:14 Section 212(c) waiver unavailable for aggravated felons
- § 12:15 Section 212(h) waiver unavailable for aggravated felons who have previously been granted lawful permanent resident status
- § 12:16 Pardons
- § 12:17 Naturalization eligibility where the conviction occurred on or before November 29, 1990
- § 12:18 No stay of deportation upon the filing of a petition for review
- § 12:19 Shortened time period for filing of petitions for review
- § 12:20 No finding of good moral character
- § 12:21 Bar to reentry
- § 12:22 No deportation prior to completing sentence

C. CUSTODY, BAIL, AND ABOLITION OF RECOMMENDATIONS AGAINST DEPORTATION

- § 12:23 Custody upon release from criminal incarceration
- § 12:24 Bail for persons convicted of an aggravated felony
- § 12:25 Mandatory detention for certain criminal aliens under IIRAIRA
- § 12:26 Mandatory detention requirements of the USA PATRIOT Act of 2001

TABLE OF CONTENTS

- § 12:27 Abolition of judicial recommendations against deportation
- APPENDIX 12A. Memorandum re: Whether Definition of “Aggravated Felony” Applies to Convictions Prior to November 18, 1988
- APPENDIX 12B. Guidance on Compliance with Article 3
- APPENDIX 12C. Desertion Guidelines Effective October 9, 1998
- APPENDIX 12D. Field Guide Lines for Applying Revised Interpretation of Mandation Custody Provision
- APPENDIX 12E. Memorandum re: Continued Detention Review Hearings

CHAPTER 13. EMPLOYER SANCTIONS AND ANTI-DISCRIMINATION PROVISIONS

- § 13:1 Background
 - § 13:2 Employer sanctions
 - § 13:3 Citizenship and national origin discrimination
 - § 13:4 —National origin discrimination
 - § 13:5 —Citizenship discrimination
 - § 13:6 —Knowing and intentional behavior
 - § 13:7 —Retaliation
 - § 13:8 Complying with the laws
 - § 13:9 ICE and OSC fines
 - § 13:10 Hearings regarding employer sanctions and unfair immigration-related employment practices
- APPENDIX 13. Form I-9—Employment Eligibility Verification

CHAPTER 14. TEMPORARY PROTECTED STATUS PROGRAM, THE ABC CASE, AND NACARA

I. INTRODUCTION

- § 14:1 Overview

II. THE TPS PROGRAM

- § 14:2 The conditions and length of designation
- § 14:3 Treatment of Salvadorans
- § 14:4 Criteria for eligibility for temporary protected status
- § 14:5 The nature of TPS—Employment authorization and protection against deportation/removal
 - § 14:6 —The documentation demonstrating TPS
 - § 14:7 —The potential for travel abroad
 - § 14:8 —Nonimmigrant status and adjustment of status
 - § 14:9 —Initiation of deportation proceedings at end of TPS period
 - § 14:10 —Effect on suspension of deportation
 - § 14:11 —Ineligibility for public benefits
 - § 14:12 —Discretionary nature of TPS
- § 14:13 Application procedures
 - § 14:14 —The filing fee
 - § 14:15 —Supporting evidence—Evidence demonstrating identity and nationality
 - § 14:16 — —Evidence demonstrating residence in the United States since the required date
- § 14:17 The interview
- § 14:18 Benefits pending a decision
- § 14:19 Reregistration

- § 14:20 The government's obligation to provide information regarding TPS
- § 14:21 Denial and withdrawal of temporary protected status—Denial of TPS
- § 14:22 —Revocation of TPS
- § 14:23 Miscellaneous issues—Confidentiality
- § 14:24 —Administrative closure of pending immigration court proceedings
- § 14:25 —Effect of TPS on voluntary departure

III. THE ABC SETTLEMENT

- § 14:26 Generally
- § 14:27 Benefits of *ABC*
- § 14:28 Procedures for the new asylum adjudication
- § 14:29 Deadlines for registering under the *ABC* program and filing a new I-589—
Salvadorans
- § 14:30 —Guatemalans

IV. NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT

- § 14:31 Generally
- § 14:32 Salvadorans, Guatemalans, and nationals of the former Soviet Bloc countries
- § 14:33 Nicaraguans and Cubans

V. HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998

- § 14:34 Generally
- APPENDIX 14A. Deferred Enforced Departure for TPS Salvadorans
- APPENDIX 14B. Expiration of Deferred Enforced Departure for Salvadorans
- APPENDIX 14C. Notice re: Extension of Work Authorization for DED Salvadorans, Asylum
Filing Deadline for ABC Class Salvadorans, and ABC “Notice 5”
- APPENDIX 14D. Notice re: Further Extension of Work Authorization for DED Salvadorans

CHAPTER 15. NATURALIZATION

- § 15:1 Introduction
- § 15:2 Procedures
- § 15:3 Eligibility requirements
- APPENDIX 15A. Administrative Naturalization (Summary to Interim Regulations
Implementing MTINA)
- APPENDIX 15B. Final Rule re: Revocation of Naturalization
- APPENDIX 15C. DOJ Opinion Regarding Role of Legal Guardians or Proxies in
Naturalization Proceedings
- Appendix 15D. USCIS Fact Sheet—Naturalization Through Military Service
- APPENDIX 15E. USCIS Fact Sheets—Naturalization Process for U.S. Armed Forces
Members and for Overseas Spouses of Service Members

CHAPTER 16. PROTECTION OF BATTERED SPOUSES, OTHER CHANGES TO IMFA, THE VICTIMS OF TRAFFICKING AND VIOLENCE PREVENTION ACT OF 2000 AND THE LEGAL IMMIGRATION AND FAMILY EQUITY ACT

I. IN GENERAL

- § 16:1 Background

TABLE OF CONTENTS

§ 16:2 1990 Act changes

II. WAIVER FOR BATTERED OR ABUSED SPOUSES AND CHILDREN

- § 16:3 Generally
- § 16:4 Who may apply
- § 16:5 Definition of “was battered by or subject to extreme cruelty”
- § 16:6 Evidence of physical abuse or extreme cruelty
- § 16:7 Confidentiality of information
- § 16:8 Procedure for filing waiver

III. EFFECT OF MARRIAGE WHILE IN PROCEEDINGS

- § 16:9 Generally
- § 16:10 Burden and elements of proof
- § 16:11 Visa petitions
- § 16:12 Adjustment of status applications

IV. SELF PETITIONING UNDER THE VIOLENCE AGAINST WOMEN ACT

- § 16:13 Generally

V. VICTIMS OF TRAFFICKING AND VIOLENCE PREVENTION ACT OF 2000

- § 16:14 Generally

VI. LEGAL IMMIGRATION AND FAMILY EQUITY ACT

- § 16:15 Generally
- APPENDIX 16A. Relative Petition/Adjustment of Status (Summary to 8 C.F.R. §§ 204 and 245)
- APPENDIX 16B. Conditional Residents/Battered Spouses (Summary to 8 C.F.R. § 216)
- APPENDIX 16C. USCIS Memorandum: Eligibility to Self-Petition as a Battered Spouse or Child of a U.S. Citizen or Lawful Permanent Resident Within Two Years of the Abuser’s Loss of Status
- APPENDIX 16D. USCIS Memorandum: Determinations of Good Moral Character in VAWA-Based Self-Petitions
- APPENDIX 16E. USCIS Memorandum: Trafficking Victims Protection Reauthorization Act of 2003
- APPENDIX 16F. USCIS Memorandum: Centralization of Interim Relief For U Nonimmigrant Status Applicants
- APPENDIX 16G. USCIS Memorandum: Applications for U Nonimmigrant Status
- APPENDIX 16H. USCIS Memorandum: Extension of U Nonimmigrant Status for Derivative Family Members Using the Application to Extend/Change Nonimmigrant Status (Form I-539)
- APPENDIX 16I. Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for “T” Nonimmigrant Status

CHAPTER 17. DOCUMENT FRAUD

- § 17:1 Generally
- § 17:2 The notice of intent to fine
- § 17:3 Request for hearing
- § 17:4 Document fraud proceedings

§ 17:5 Right to appeal

APPENDIX 17A. Form I-763C—Notice of Intent to Fine (Civil Document Fraud)

APPENDIX 17B. Final Document Fraud Regulations (8 C.F.R. § 217)

APPENDIX 17C. Office of Chief Administrative Hearing Officer Rules of Practice (28 C.F.R. § 68)

APPENDIX 17D. Mediation Through OCAHO Settlement Officers

APPENDIX 17E. Civil Document Fraud Pleadings (Complaint and Notice of Hearing)

Index