

# **The Recaptured 50,000 Schedule A Visa Numbers and Visa Availability Projections for the Remainder of FY05**

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The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act of 2005 ("Emergency Supplemental"), signed into law on May 11, 2005, contained a number of immigration-related provisions, included several relating to Schedule A occupations. While Schedule A includes qualifying physical therapists, and certain exceptional ability individuals in the sciences or arts, the benefit of the recaptured 50,000 visas likely will go largely to nurses. Specifically, the Emergency Supplemental amended section 106(d) of the American Competitiveness in the Twentyfirst Century Act of 2000 (Public Law 106-313; 8 U.S.C. 1153) to recapture unused employment-based numbers available in fiscal years 2001 through 2004, to a maximum of 50,000.

A Department of State Visa Office Official provided the following update to AILA:

The additional 50,000 Schedule A visas will help, but there is no way of telling how much of the current Employment Third preference demand will be covered by these additional numbers. It is possible that most of the Philippines demand is covered, but it's not clear how many of the 2,800 pending China/India E3 applicants will qualify for Schedule A classification.

The Department of State Visa Office (VO) has been working with posts and the National Visa Center in an effort to identify applicants. Some are scheduled for processing in June. The VO is in the process of determining whether a new visa category code will be designated for these additional Schedule A numbers (similar to the process established years ago under the three year program for Legalization Beneficiaries (LB). For this fiscal year and in the future, the VO plans on using the same LB processing procedures for the Schedule A limit. Schedule A applicants will first have a shot at numbers under the E3 cut-off date, and then the EX (proposed identifier) cut-off date. Essentially, this will give Schedule A applicants two chances at becoming eligible each month. The EX listing would appear in the monthly Visa Bulletin under the Employment Third preference cut-off dates, followed by the "Other Worker" listing.

As noted in a prior InfoNet posting, the U.S. Citizenship and Immigration Services (USCIS) has been processing an increasingly larger number of cases each month as they attempt to reduce their backlog, significantly depleting the supply of visa numbers. For example, in the month of April, the USCIS used 25,000 Employment numbers, and the USCIS number use can be expected to increase.

The VO concludes that a review of current projections yields an expectation that over 84% of the numbers available under the annual limit will have been used by July, and it is likely total availability will be depleted before the end of the current fiscal year.