

granted to aliens applying under section 124 of Public Law 101–649 to a number not to exceed 12,000 in any fiscal year and not to exceed in any month of a fiscal year 1,200 plus any balance remaining from authorizations for preceding months in the same fiscal year.

(b) *Allocation of immigrant visa numbers.* Within the numerical limitations specified in paragraph (a) of this section and based on the chronological order of priority dates of applicants as established pursuant to §45.2 of this part, the Department shall allocate immigrant visa numbers for use in connection with the issuance of immigrant visas and the granting of adjustment of status to such aliens.

**§ 45.4 Period of validity of immigrant visas.**

The period of validity of an immigrant visa issued to an alien pursuant to the provisions of this part may, at the request of the applicant, be extended until January 1, 2002, if the applicant so requests either at the time of issuance of the visa or within four months thereafter. If the applicant fails to make such a request at the time of visa issuance but subsequently, within four months thereafter, makes such a request, the consular officer shall issue a replacement visa to the alien in accordance with the provisions of § 42.74(b) of part 42 of this title.

**§ 45.5 Redetermination of admissibility if visa validity extended.**

(a) An alien to whom an immigrant visa is issued pursuant to this part who elects to have the validity of the visa extended as provided in §45.4 shall have his or her admissibility redetermined prior to actual travel to the United States as follows:

(1) If the alien is the beneficiary of a petition to accord status under section 124 of Public Law 101–649 which was supported by a specific offer of employment from the petitioning entity, or is the spouse or child of such an alien, a redetermination of admissibility is required only if the anticipated date of actual application for admission for permanent residence is more than four months following the date of visa issuance;

(2) If the alien is the beneficiary of a petition to accord status under section 124 of Public Law 101–649 which was supported by a general assurance from the petitioning entity that an appropriate job would be made available to the alien upon entry, or is the spouse or child of such an alien, a redetermination of admissibility is required whenever the alien proposes to apply for admission for permanent residence, whether within four months of the date of visa issuance or later.

(b) When an alien to whom an immigrant visa is issued pursuant to this part elects to have the validity of the visa extended pursuant to paragraph (a) of this section, the consular officer shall notify the alien in writing of the requirement for a redetermination of admissibility as provided in paragraph (a) and shall endorse the visa “section 154 applies.” Thereafter, the alien shall, not sooner than four months preceding the contemplated date of application for admission for permanent residence notify the appropriate consular officer of his or her intention to travel to the United States for this purpose. The consular officer shall thereupon schedule an appointment with such alien for the purpose of determining whether or not the alien remains admissible into the United States for permanent residence. If the consular officer determines that the alien continues to be so admissible, he or she shall issue to the alien a duplicate immigrant visa as provided in §45.6 of this part. If the consular officer determines that the alien has become inadmissible to the United States, he or she shall revoke the visa as provided in §42.82 of part 42 of this title.

(c) An alien who elects to have the period of validity of his or her immigrant visa extended pursuant to §45.4 and whose entitlement to the immigrant classification of such visa was based upon his or her status as a child at the time of visa issuance shall not cease to be entitled to such visa by reason of attaining age twenty-one or marrying prior to his or her application for admission for permanent residence.

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(d) An alien who seeks a redetermination of admissibility pursuant to paragraph (a) of this section shall not be found to be admissible unless he or she:

(1) Has continued to be employed by the petitioning entity in a qualifying position since issuance of the visa and presents a letter describing the specific qualifying employment the alien will take up upon admission for permanent residence; or

(2) Is the spouse or child accompanying or following to join such an alien.

(e) For the purposes of this section, "qualifying position" shall include both the position occupied by the alien at the time the petition in the alien's behalf was approved and any other position within the petitioning entity's organization, regardless of geographical location, which would otherwise meet the requirements for approval of such a petition in the alien's behalf. For the purposes of this section, *qualifying employment* shall mean any position in the United States of the kind required for approval of such a petition.

[56 FR 32506, July 17, 1991, as amended at 61 FR 1837, Jan. 24, 1996]

### § 45.6 Issuance of immigrant visa upon redetermination of admissibility.

When an alien to whom an immigrant visa having extended validity has been issued pursuant to § 45.5 of this part applies for a redetermination of admissibility and the consular officer determines that the alien remains admissible to the United States, the consular officer shall issue to the alien a new immigrant visa valid for a period of four months. The applicant shall execute a new application and provide the necessary current supporting documents. The applicant shall pay a new issuance fee. The consular officer shall insert the word "DUPLICATE" on Form OF-155A before the word "IMMIGRANT" on each immigrant visa issued pursuant to this section.

## PART 46—CONTROL OF ALIENS DEPARTING FROM THE UNITED STATES

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AUTHORITY: Secs. 104, 215, 66 Stat. 174, 190; 8 U.S.C. 1104, 1185.

### § 46.1 Definitions.

For the purposes of this part:

(a) The term *alien* means any person who is not a citizen or national of the United States.

(b) The term *Commissioner* means the Commissioner of Immigration and Naturalization.

(c) The term *regional commissioner* means an officer of the Immigration and Naturalization Service duly appointed or designated as a regional commissioner, or an officer who has been designated to act as a regional commissioner.

(d) The term *district director* means an officer of the Immigration and Naturalization Service duly appointed or designated as a district director, or an officer who has been designated to act as a district director.

(e) The term *United States* means the several States, the District of Columbia, the Canal Zone, Puerto Rico, the Virgin Islands, Guam, American Samoa, Swains Island, the Trust Territory of the Pacific Islands, and all other territory and waters, continental and insular, subject to the jurisdiction of the United States.

(f) The term *continental United States* means the District of Columbia and the several States, except Alaska and Hawaii.

(g) The term *geographical part of the United States* means (1) the continental United States, (2) Alaska, (3) Hawaii, (4) Puerto Rico, (5) the Virgin Islands, (6) Guam, (7) the Canal Zone, (8) American Samoa, (9) Swains Island, or (10) the Trust Territory of the Pacific Islands.