



U.S. Immigration Policy: Chart Book of Key Trends

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Summary

This report is a chart book of selected immigration trends that touch on the main elements of comprehensive immigration reform (CIR). Most policymakers agree that the main issues in CIR include increased border security and immigration enforcement, improved employment eligibility verification, revision of legal immigration, and options to address the millions of unauthorized aliens residing in the country. The report offers snapshots of time series data, *using the most complete and consistent time series currently available for each statistic*. The key findings and elements germane to the data depicted are summarized with the figures. The summary offers the highlights of key immigration trends.

The United States has a history of receiving immigrants, and these foreign-born residents of the United States have come from all over the world.

- Immigration to the United States today has reached annual levels comparable to the early years of the 20th century.
- Immigration over the last few decades of the 20th century was not as dominated by three or four countries as it was earlier in the century, and this pattern has continued into the 21st century.
- The number of foreign-born residents in the United States is at its highest level in U.S. history, reaching 40 million in 2010.
- Foreign-born residents of the United States made up 12.9% of the U.S. population in 2010, approaching levels not seen since the proportion of foreign-born residents reached 14.8% in 1910.

Legal immigration encompasses permanent immigrant admissions (e.g., employment-based or family-based immigrants) and temporary nonimmigrant admissions (e.g., guest workers, foreign students). The Immigration and Nationality Act (INA) contains the provisions detailing the requirements for admission (permanent and temporary) of foreign nationals and the eligibility rules for foreign nationals to become U.S. citizens.

- In FY2011, 1.1 million aliens became U.S. legal permanent residents (LPRs). Of this total, nearly 65% entered on the basis of family ties.
- The pool of people potentially eligible to immigrate to the United States as LPRs each year typically exceeds the worldwide level set by the INA.
- Most of the 4.4 million approved petitions pending at the close of FY2012 were family members of U.S. citizens.
- After falling from 7.6 million in FY2001 to 5.0 million in FY2004, temporary visa issuances reached 7.5 million in FY2011.
- Generally, all of the temporary employment-based visa categories have increased since FY1994. Although there was a dip during the recent recession, the number of employment-based temporary visas increased in FY2010 and FY2011.

Immigration control encompasses an array of enforcement tools, policies, and practices to secure the border and to prevent and investigate violations of immigration laws. The INA specifies the

grounds for exclusion and removal of foreign nationals as well as the documentary and entry-exit controls for U.S. citizens and foreign nationals.

- U.S. State Department denials of petitions for LPR visas have increased in recent years, and prior removals from the United States or past illegal presence in the United States has become the leading ground of inadmissibility.
- U.S. Border Patrol apprehensions of foreign nationals between ports of entry fell to a 40-year low of 327,577 in FY2011.
- The number of employers enrolled in the E-Verify employment eligibility verification system grew from 5,900 at the close of FY2005 to 418,000 by the end of FY2012. These data indicate that approximately 7% of U.S. employers were participating by the close of FY2012.
- A total of \$10.5 million in administrative fines was imposed on employers who engaged in unlawful employment in FY2011—a figure that exceeds the level of total fines imposed over the entire period from FY2000 through FY2009.
- Formal removals grew from 30,039 in 1990 to 391,953 in FY2011.
- Immigration and Customs Enforcement (ICE) identifies many more potentially removable aliens than it arrests (i.e., places in removal proceedings).
- The number of criminal aliens removed from the United States increased from 73,298 in FY2001 to 188,382 in FY2011.

The three main components of the unauthorized resident alien population are (1) aliens who enter the country surreptitiously without inspection, (2) aliens who overstay their nonimmigrant visas, and (3) aliens who are admitted on the basis of fraudulent documents.

- Estimates based on the March Supplement of the U.S. Census Bureau's Current Population Survey (CPS) indicate that the unauthorized resident alien population rose from 3.2 million in 1986 to 12.4 million in 2007, before leveling off at 11.1 million in 2011.
- The latest estimates indicated that 33% of the 11.5 million unauthorized resident aliens in 2011 had entered from 2000 to 2010.

For those who seek more complete analyses of the issues, this report cites Congressional Research Service (CRS) products that discuss the policies underlying the data presented in each of the figures.

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Introduction

This report is a chart book of selected immigration trends that touch on the main elements of comprehensive immigration reform (CIR). The main issues in the immigration debate typically include increases to border security and enforcement of immigration laws within the U.S. interior, expansion of employment eligibility verification, and reforms to the system for legal temporary and permanent immigration. The thorniest issues concern policy options to address the millions of unauthorized aliens residing in the country.

This report offers snapshots of time series data, *using the most complete and consistent time series currently available for each statistic*. Some of the time series span decades, others capture only a few years. The key findings and elements germane to the data depicted are summarized with the figures. For those who seek more complete analyses of the issues, the report cites Congressional Research Service (CRS) products that discuss the policies underlying the data presented in each of the figures.

Much of the data come from administrative sources, most notably the Department of Homeland Security (DHS) and the Department of State (DOS). For historical context, demographic data from the U.S. Census Bureau are also included.

The Immigration and Nationality Act (INA), which was first codified in 1952, contains the provisions detailing the requirements for admission (permanent and temporary) of foreign nationals, grounds for exclusion and removal of foreign nationals, document and entry-exit controls for U.S. citizens and foreign nationals, and eligibility rules for the naturalization of foreign nationals. Congress has significantly amended the INA several times since 1952, most notably by the Immigration Amendments of 1965, the Refugee Act of 1980, the Immigration Reform and Control Act (IRCA) of 1986, the Immigration Act of 1990, and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996.¹

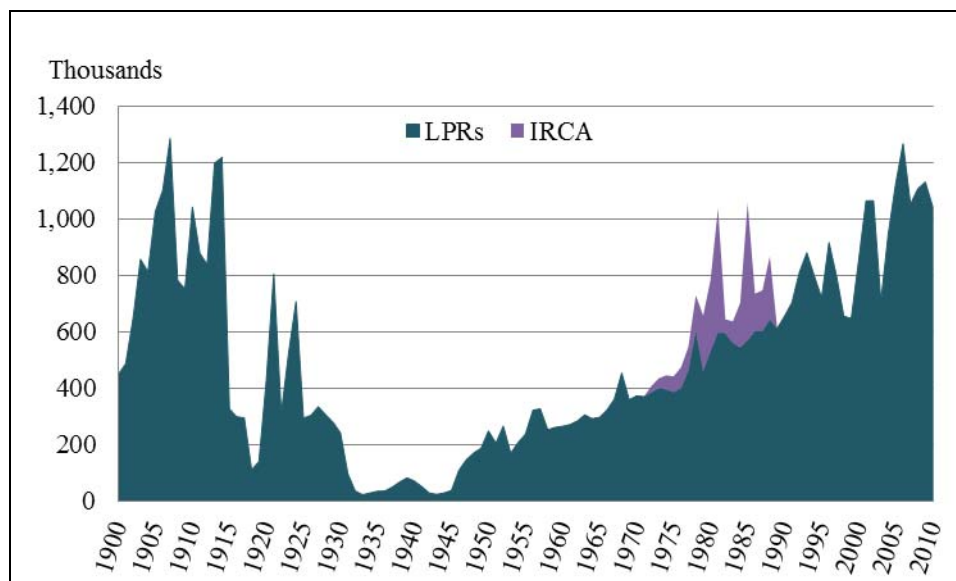
Legal immigration encompasses permanent admissions (e.g., employment-based or family-based legal permanent residents (LPRs)) and temporary admissions (e.g., guest workers, foreign students). This chart book presents historical time series data on permanent admissions as well as a breakdown of legal permanent residents by broad classes of admission in 2011. Trends in temporary admissions, including legal employment-based temporary migrants, are also depicted.

Immigration control encompasses an array of enforcement tools, policies, and practices to secure the border and to prevent and investigate violations of immigration laws. Among the statistical trends tracking immigration control presented in this chart book are inadmissibility determinations, border apprehensions, worksite enforcement prosecutions, and alien removal. The final section of this chart book looks at trends in the unauthorized resident alien population since 1986.

¹ Since 2000, other major laws that amended the INA include the USA PATRIOT Act (P.L. 107-56), the Enhanced Border Security and Visa Reform Act of 2002 (P.L. 107-173), Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458), and the REAL ID Act of 2005 (P.L. 109-13, Division B). None of these laws attempted a comprehensive reform of the INA.

Historical Immigration Trends

Figure 1. Annual LPR Admissions and Status Adjustments, 1900-2010



Source: *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, multiple fiscal years. Aliens legalizing through the Immigration Reform and Control Act (IRCA) of 1986 are depicted by year of arrival rather than year of adjustment.

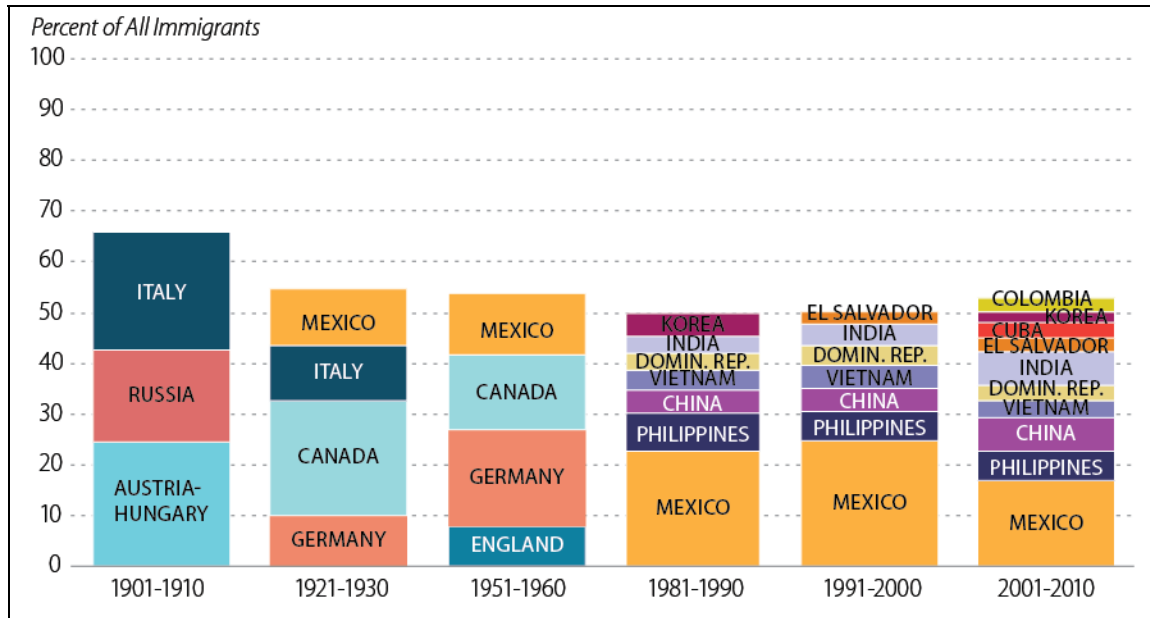
Immigration to the United States was peaking at the beginning of the 20th century. In 1910, foreign-born residents made up 14.8% of the U.S. population. Immigration dropped as a result of the numerical limits and national origins quotas imposed by the Immigration Acts in 1921 and 1924. Levels fell further during the Great Depression and World War II. The annual number of settled immigrants, typically referred to as LPRs, rose gradually after World War II, as **Figure 1** illustrates. In 1952, the INA was codified and, as amended, remains the governing statute.

The growth in immigration after 1980, shown in **Figure 1**, is partly attributable to the total number of LPRs entering through the preference system as well as immediate relatives of U.S. citizens. The Immigration Reform and Control Act (IRCA) of 1986 enabled 2.1 million unauthorized aliens residing in the United States as of 1982 to become LPRs. In addition, the number of refugees admitted increased from 718,000 in the period 1966-1980 to 1.6 million during the period 1981-1995, after the enactment of the Refugee Act of 1980. The Refugee Act established permanent provisions for refugees and asylees to become LPRs.

The Immigration Act of 1990 was the last significant revision of legal permanent immigration. It set a statutory worldwide level of 675,000 LPRs annually, but certain categories of LPRs, most notably immediate relatives of U.S. citizens and refugees, are permitted to exceed the limits. The INA further specifies that countries are held to an annual numerical limit of 7% of the worldwide level of U.S. immigrant admissions, known as per-country limits or country caps. Immigration to the United States today has reached levels comparable to the early years of the 20th century.

For further background and analysis, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

Figure 2. Top Sending Countries (Comprising at Least Half of All LPRs): Selected Periods



Source: CRS analysis of Table 2, *Statistical Yearbook of Immigration*, U.S. Department of Homeland Security, Office of Immigration Statistics, FY2010.

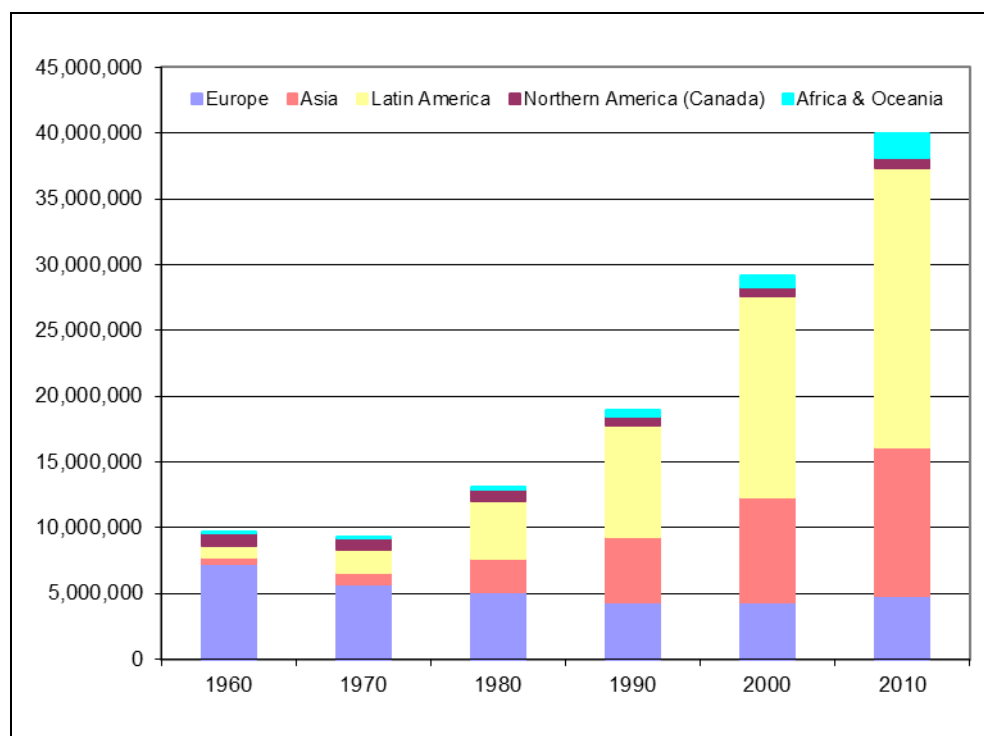
In any given period of U.S. history, a handful of countries have dominated the flow of immigrants, but the dominant countries have varied over time. **Figure 2** presents trends in the top immigrant-sending countries (together comprising at least 50% of the immigrants admitted) for selected decades. The Immigration Act of May 19, 1921, imposed the first numerical limits on LPR admissions to the United States, and it set the level of admission of aliens from specific countries to 3% of the foreign-born persons of that nationality who lived in the United States in 1910. A few years later, the Immigration Act of May 26, 1924, established the national origins system, which set quotas based on the number of foreign-born persons of that nationality in the country in 1890 and 1920. Both laws exempted Western Hemisphere countries from the limits. The Immigration Amendments of 1965 replaced the national origins quota system with per-country ceilings.

Figure 2 illustrates that immigration over the last few decades of the 20th century was not as dominated by three or four countries as it was earlier in the century. Although Europe was home to the countries sending the most immigrants during the early 20th century (e.g., Germany, Italy, Austria-Hungary, and the United Kingdom), Mexico has been a top sending country for most of the 20th century—largely after 1970—and into the 21st century. Other top sending countries from FY2001 through FY2010 were the Dominican Republic, El Salvador, Colombia, and Cuba (Western Hemisphere); and the Philippines, India, China, South Korea, and Vietnam (Asia).

These data suggest that the per-country ceilings established in 1965 had some effect. As **Figure 2** illustrates, immigrants from only three or four countries made up more than half of all LPRs prior to 1960. By the last two decades of the 20th century, immigrants from seven to eight countries comprised about half of all LPRs, and this pattern has continued into the 21st century.

For further background and analysis, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

Figure 3. Foreign-Born Residents by Region of Origin:
1960, 1970, 1980, 1990, 2000, and 2010



Source: U.S. Census Bureau data: decennial census 1960, 1970, 1980, 1990, and 2000, and the American Community Survey for 2010.

The number of foreign-born residents in the United States is at the highest level in U.S. history. In the past 50 years, the number of foreign-born residents of the United States has gone from just under 10 million in 1960 to 40 million in 2010, a 313% increase, as **Figure 3** illustrates. As part of this increase, the source regions of foreign-born residents have shifted from Europe (74% in 1960) to Latin America and Asia (81% in 2010). Foreign-born residents made up 12.9% of the U.S. population in 2010.

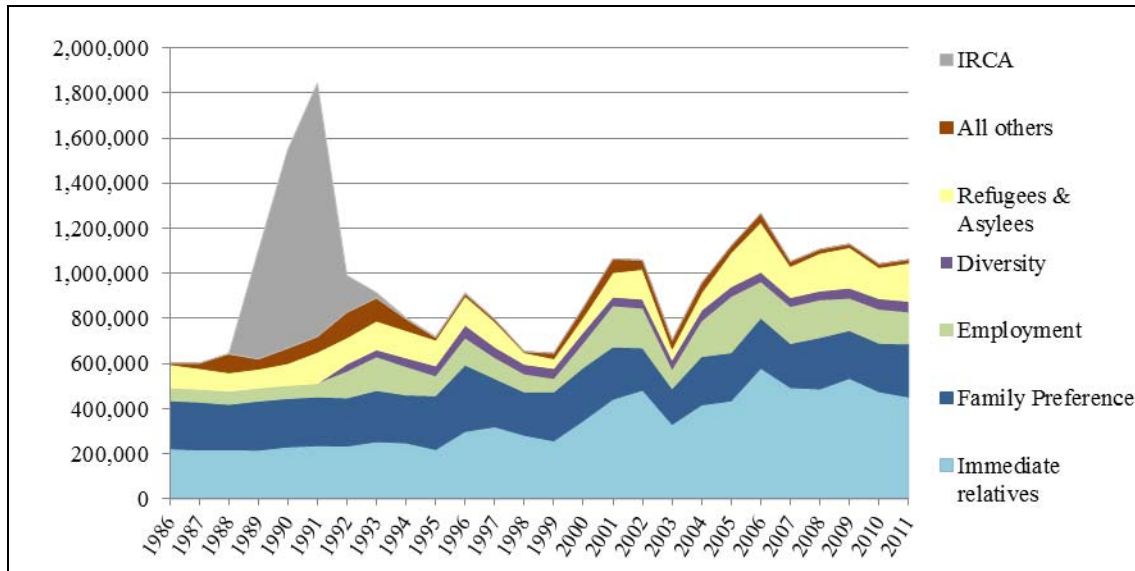
More recently, between 2000 and 2010, the foreign born contributed 32% of the total U.S. population increase. Foreign-born residents comprised most of the increase in the prime 25-54 working age population over this decade. Almost one-third of current foreign-born residents arrived in the United States since 2000, as discussed in the CRS report cited below.

The Department of Homeland Security (DHS) Office of Immigration Statistics (OIS) estimated that 13.1 million foreign-born residents were LPRs as of January 1, 2011. OIS has also estimated that 1.9 million foreign-residents were legally present on long-term temporary visas and about 11.5 million were aliens residing in the United States without legal authorization. In the 2010 U.S. Census, about 18 million foreign-born residents stated they had become U.S. citizens, slightly higher than the number of naturalizations OIS has estimated.

For further background and analysis, see CRS Report R41592, *The U.S. Foreign-Born Population: Trends and Selected Characteristics*.

Legal Permanent Immigration

Figure 4. Legal Permanent Residents Admitted/Adjusted by Category
1986-2011

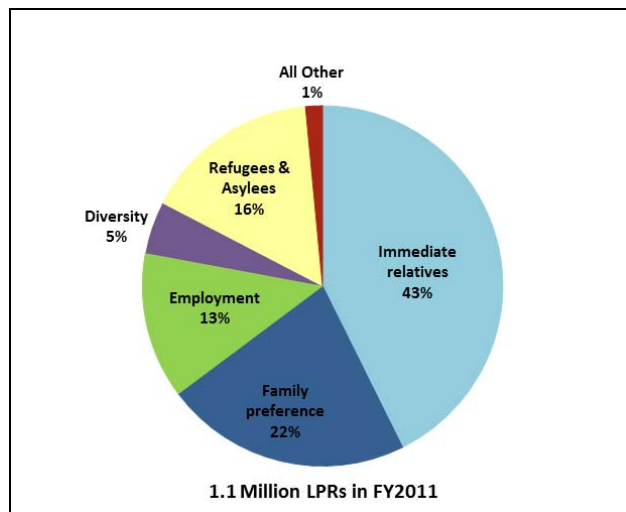


Source: U.S. Department of Homeland Security, Office of Immigration Statistics, *U.S. Legal Permanent Residents: 2011*. Aliens legalizing through the IRCA are depicted by year of adjustment.

The INA specifies a complex set of numerical limits and preference categories that give priorities for permanent immigration based on family relationships, employment connections, the protection of refugees, and diversity of admissions by country of origin. Apart from those aliens legalized by IRCA, the largest growth since 1986 has been in the immediate relatives of U.S. citizens, doubling from 223,468 in FY1986 to 453,158 in FY2011, as presented in **Figure 4**.

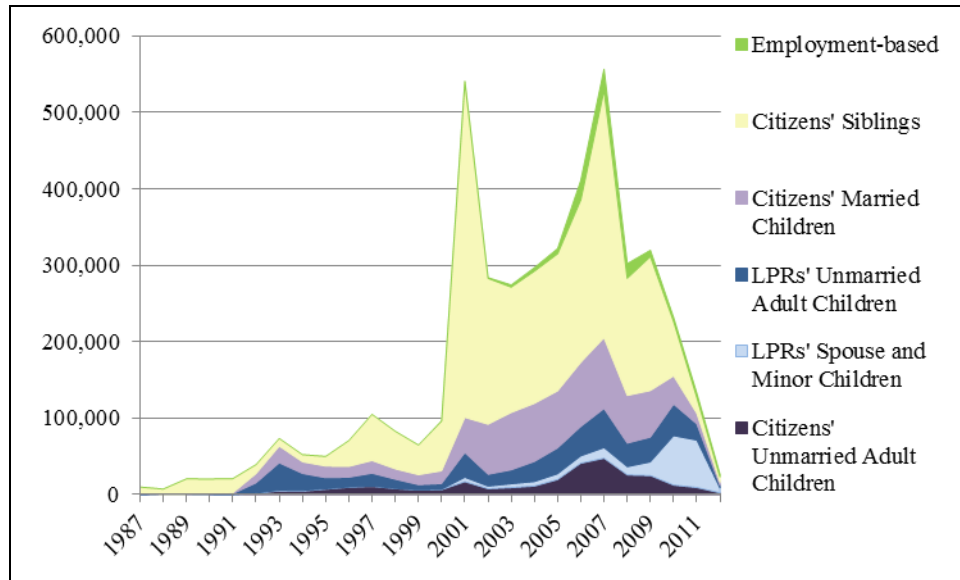
As prescribed by changes in statute that the Immigration Amendments Act of 1990 made, the number of employment-based immigrants grew from 56,617 in FY1986 to 139,339 in FY2011. About 90% of the employment-based LPRs adjusted from a temporary status. The employment-based numbers include the accompanying spouses and children of the qualifying LPR.

In FY2011, 1.1 million aliens became LPRs. Of this total presented on the right, nearly 65% entered on the basis of family ties. Other major categories were employment-based LPRs (13%), diversity migrants (5%), and refugees and asylees (16%).



For further background and analysis, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

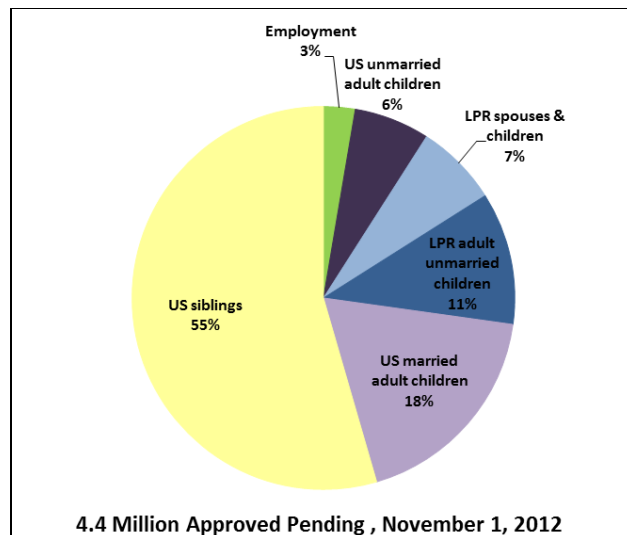
Figure 5. Approved LPR Visa Petitions Pending in FY2012 by Date of Submission and by Preference Category



Source: U.S. Department of State, Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center, November 1, 2012.

The pool of people who are potentially eligible to immigrate to the United States as LPRs each year typically exceeds the worldwide level set by the INA. **Figure 5** presents a snapshot of this pool in November 1, 2012. Almost 1.3 million of the 4.4 million approved visa petitions pending at the end of FY2012 had been submitted and approved at least 10 years earlier. These data do not constitute a processing backlog; rather, these data represent persons who have been approved for visas that are not yet available due to the numerical limits in the INA. Some immigration officials and practitioners maintain that many petitions filed after FY2007 had not yet appeared in the approved caseload at the close of FY2012, despite a slight uptick in FY2009. The decline in approved cases pending after FY2007 was likely due to petitioners who had not advanced in the pipeline because their visa priority dates are well into the future, rather than a drop in petitioners.

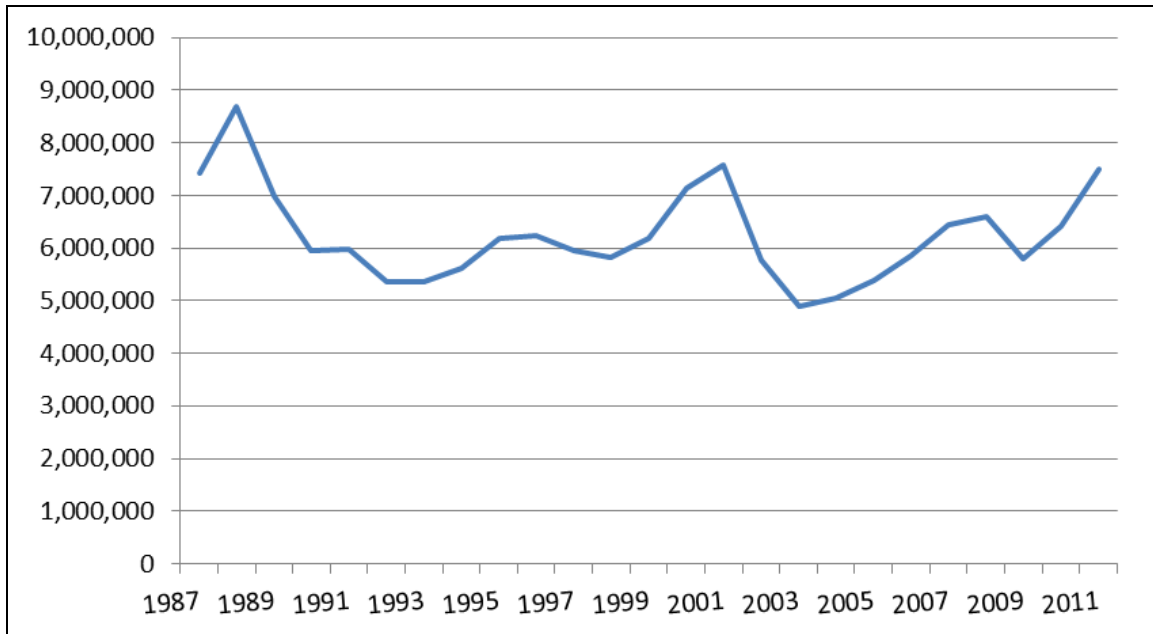
Over half (55%) of the 4.4 million approved petitions pending at the close of FY2012 were brothers and sisters of U.S. citizens, as presented on the right. Adult children of U.S. citizens with approved LPR visas pending totaled 24% (6% unmarried and 18% married). Family members of LPRs totaled 18% of the approved visa petitions pending. The employment preferences account for only 3% (113,058) of the LPR visas pending.



For further background and analysis, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*; and CRS Report R42048, *Numerical Limits on Employment-Based Immigration: Analysis of the Per-Country Ceilings*.

Legal Temporary Migration

**Figure 6. Nonimmigrant Visas Issued by the U.S. Department of State
1987-2011**



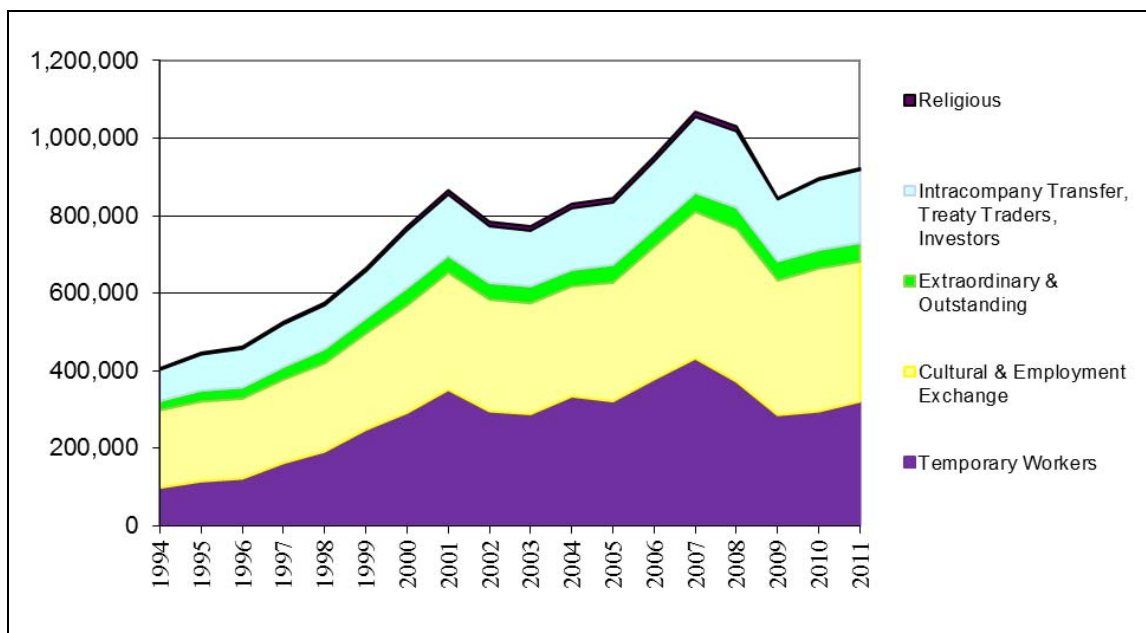
Source: CRS presentation of data from Table XVIII of the annual reports of the U.S. Department of State Office of Visa Statistics.

The INA provides for the temporary admission of various categories of foreign nationals, known as nonimmigrants. Nonimmigrants are admitted for a temporary period of time and a specific purpose, including as tourists, students, and temporary workers. There are 24 major nonimmigrant visa categories, and over 70 specific types of nonimmigrant visas are issued currently. Most of these nonimmigrant visa categories are defined in §101(a)(15) of the INA. These visa categories are commonly referred to by the letter and numeral that denotes their subsection in §101(a)(15); for example, B-2 tourists, E-2 treaty investors, F-1 foreign students, H-1B temporary professional workers, and J-1 cultural exchange participants. Many nonimmigrant visas are valid for multiple entries as well as multiple years.

The U.S. Department of State (DOS) consular officer who issues the visa must be satisfied that the foreign national is entitled to a nonimmigrant status. Notably, INA §214(b) generally presumes that all aliens seeking admission to the United States are coming to live permanently; as a result, most aliens seeking to qualify for a nonimmigrant visa must demonstrate that they are not coming to reside permanently. Nonimmigrant visas issued abroad had dipped to 5.0 million in FY2004 after peaking at 7.6 million in FY2001, as **Figure 6** shows. Nonimmigrant visa issuances reached 7.5 million in FY2011. Expansion of the visa waiver program (VWP), which allows nationals from 36 countries to enter the United States as temporary visitors for business or pleasure without obtaining a visa from a U.S. consulate abroad, has affected these trends.

For further background and analysis, see CRS Report RL31381, *U.S. Immigration Policy on Temporary Admissions*; and CRS Report RL32221, *Visa Waiver Program*.

Figure 7. Temporary Employment-Based Visas Issued
1994-2011



Source: U.S. Department of State Bureau of Consular Affairs data.

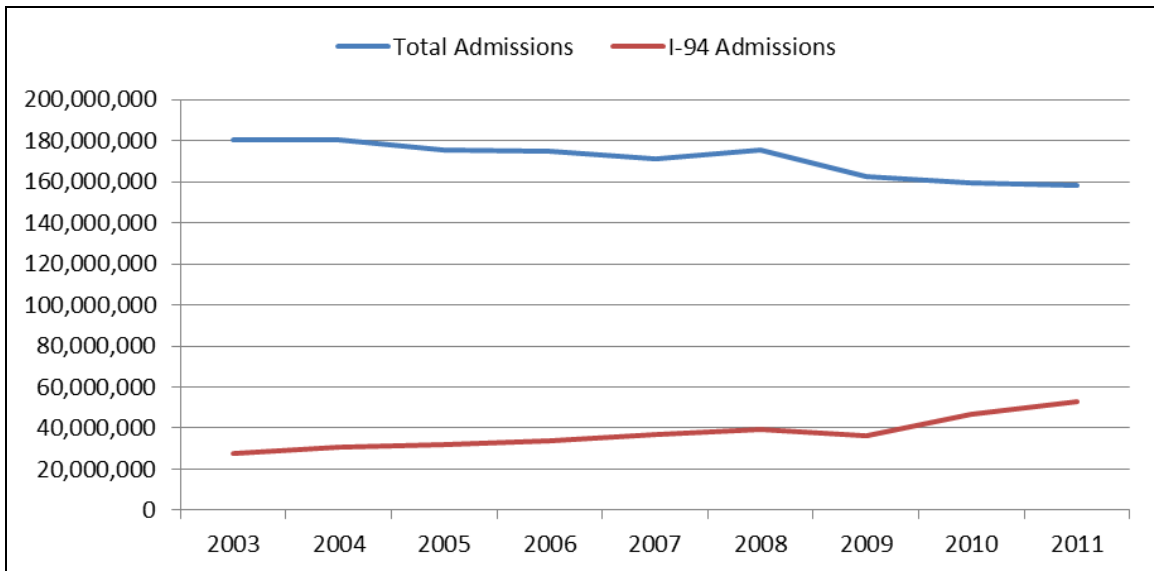
The major nonimmigrant category for temporary workers is the H visa. Professional workers typically use the H-1 visa, which includes professional specialty workers (H-1B) and nurses (H-1C). There are two visa categories for temporary seasonal workers (i.e., guest workers): agricultural guest workers (H-2A) and other seasonal/intermittent workers (H-2B). Unskilled workers are eligible for H-2A and H-2B visas.

Intracompany transferees who are executive, managerial, and have specialized knowledge, and who are employed with an international firm or corporation are admitted on the L visas. Aliens who are treaty traders enter on E-1 visas, whereas those who are treaty investors use E-2 visas. Those with J and Q cultural exchange visas include professors and research scholars, students, foreign medical graduates, teachers, resort workers, camp counselors, and au pairs who are participating in an approved exchange visitor program. Persons with extraordinary ability in the sciences, arts, education, business, or athletics are admitted on O visas, whereas internationally recognized athletes or members of an internationally recognized entertainment group come on P visas. Aliens working in religious vocations enter on R visas.

Generally speaking, all of the temporary employment-based visa categories have increased since FY1994, as **Figure 7** illustrates. Only the religious workers on R visas did not exhibit substantial growth. Visas issued to employment-based nonimmigrants surpassed 1 million in FY2007 and again in FY2008, after dropping when the “high-tech bubble” burst in the early 2000s. Although there was another dip during the recent recession, the employment-based temporary visas have increased in FY2010 and in FY2011.

For further background and analysis, see CRS Report R42530, *Immigration of Foreign Nationals with Science, Technology, Engineering, and Mathematics (STEM) Degrees*; and CRS Report R42434, *Immigration of Temporary Lower-Skilled Workers: Current Policy and Related Issues*.

Figure 8. Nonimmigrant Admissions at U.S. Ports of Entry
2003-2011



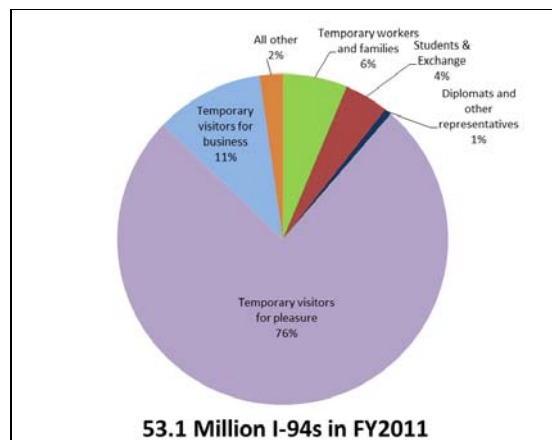
Source: *Yearbook of Immigration Statistics: 2011*, Table 25, U.S. Department of Homeland Security, Office of Immigration Statistics, 2012.

In addition to DOS consular officers interviewing aliens applying for visas, DHS Customs and Border Protection (CBP) inspects foreign nationals when they seek to enter the United States. CBP policy typically requires about one-quarter of nonimmigrants entering the United States to fill out the arrival records, which are colloquially called I-94 admissions because I-94 is the immigration form number. For example, Mexican nationals with border crossing cards and Canadian nationals traveling for business or tourist purposes are specifically excluded from the I-94 admission totals. I-94 data presented in **Figure 8** recorded admissions rather than persons.

I-94 admissions have generally inched upwards from FY2003 to FY2011, largely due to CBP’s expanded use of I-94 forms at land ports in FY2005. The total nonimmigrant admissions recorded by CBP has declined somewhat over this same period. In FY2011, the 18.3 million visitors entering under the VWP constituted 40% of all temporary visitors.

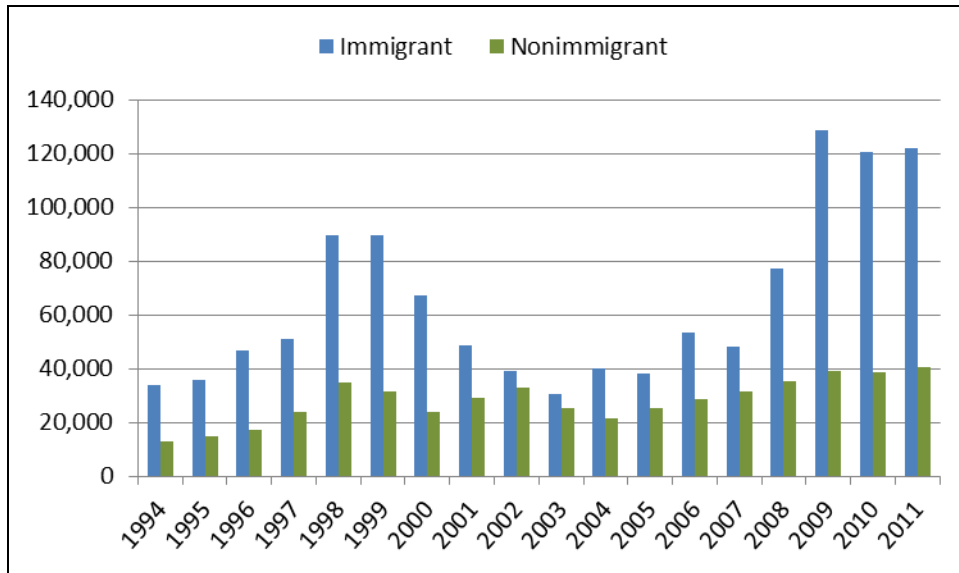
Visitors dominated the 53.1 million I-94 admissions in FY2011, as presented on the right. Over three-quarters of all I-94 admissions were tourists in FY2011 and another 11% were business visitors. The other substantial categories are the students and exchange visitors (4%) and the temporary workers (6%).

For further background and analysis, see CRS Report RL31381, *U.S. Immigration Policy on Temporary Admissions*; and CRS Report RL32221, *Visa Waiver Program*.



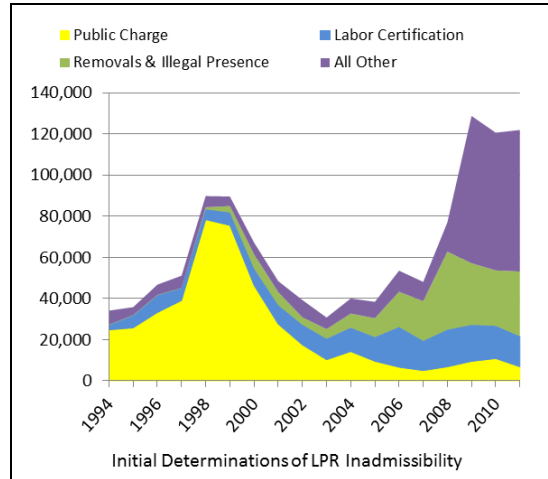
Inadmissibility

Figure 9. Aliens Denied Visas Under §212(a) Inadmissibility 1994-2011



Source: CRS presentation of initial determination data from Table XX of the annual reports of the U.S. Department of State Office of Visa Statistics.

Foreign nationals not already legally residing in the United States who wish to come to the United States generally must obtain a visa to be admitted. The burden of proof is on the foreign national to establish eligibility for a visa. Most importantly, foreign nationals must not be deemed inadmissible according to the specified grounds in INA §212(a). These §212(a) inadmissibility criteria are health-related grounds, criminal history, security and terrorist concerns, public charge (e.g., indigence), seeking to work without proper labor certification, illegal entrants and immigration law violations, ineligible for citizenship, and aliens illegally present or previously removed.

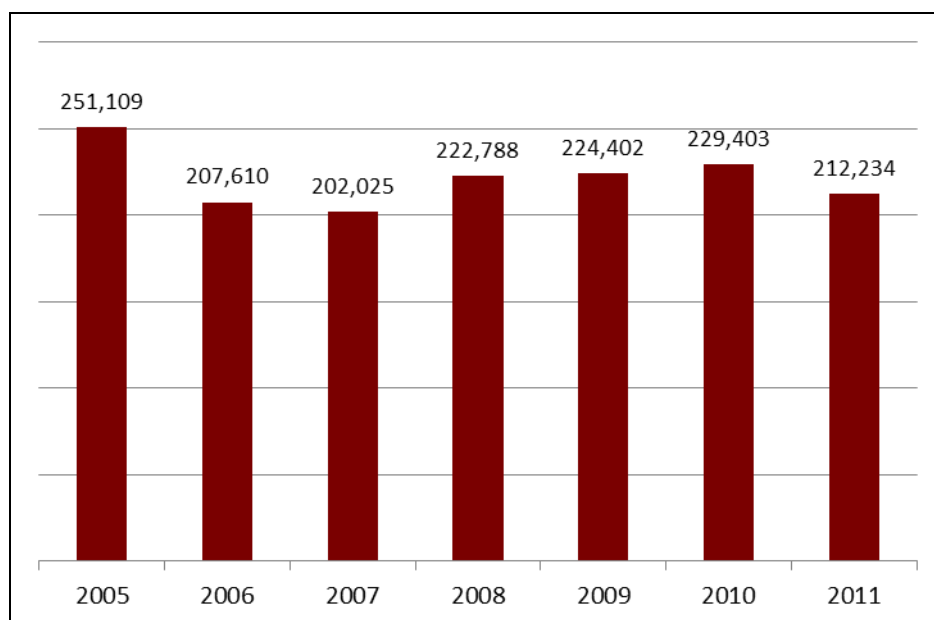


As **Figure 9** shows, §212(a) denials for LPR visas have increased in recent years. Until FY2003-FY2005, public charge exclusions dominated the 18-year trend analysis of inadmissibility for LPRs. Now, prior removals/illegal presence has become the top single ground of inadmissibility, followed by labor certification, as presented on the right. Increased §212(a) denials based on other immigration law violations are depicted at the right among “all other,” and these collectively sum to the leading grounds since FY2008.

For further background and analysis, see CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*.

Figure 10. Inadmissible Aliens at Ports of Entry

2005-2011



Source: *Yearbook of Immigration Statistics: 2011*, Table 36, U.S. Department of Homeland Security, Office of Immigration Statistics, 2012.

The INA requires the inspection of all aliens who seek entry into the United States; possession of a visa or another form of travel document does not guarantee admission into the United States. As a result, all persons seeking admission to the United States must demonstrate to a CBP inspector that they are a foreign national with a valid visa and/or passport or that they are a U.S. citizen. CBP officers can permit an alien to voluntarily withdraw their application for admission and return to their home country. CBP officers can also summarily exclude an alien arriving through the Visa Waiver Program and those arriving without proper documentation, unless the alien expresses the intention to apply for asylum or has a fear of persecution or torture. Immigration judges with the U.S. Department of Justice's Executive Office for Immigration Review (EOIR) decide all other inadmissibility cases resulting from inspections.

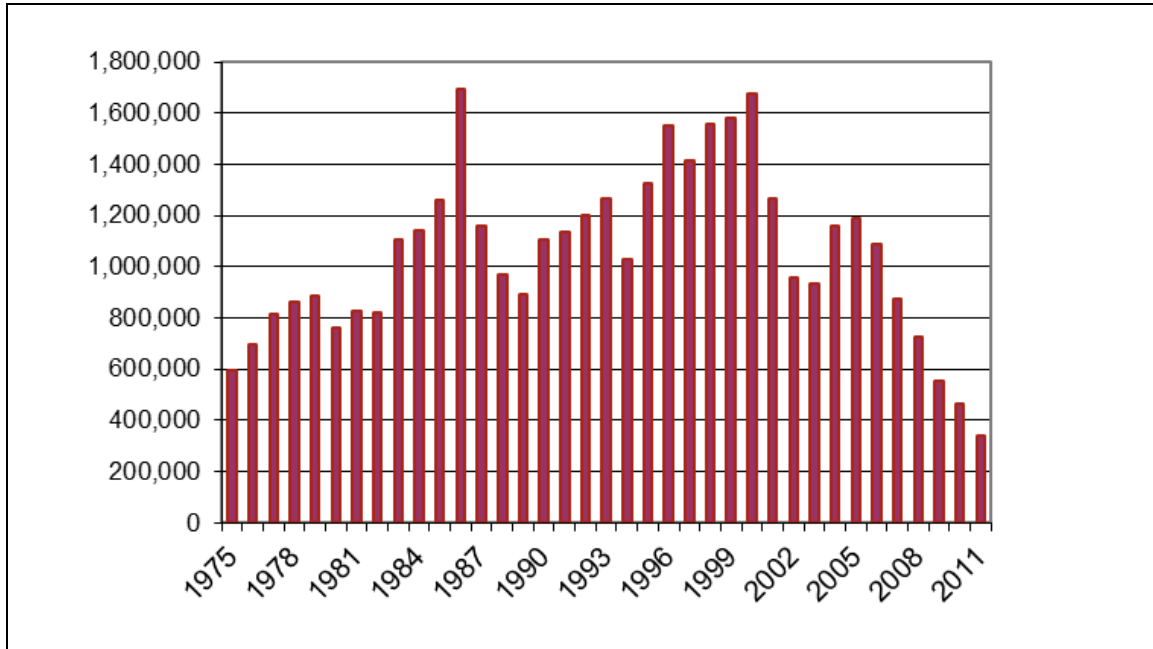
As **Figure 10** shows, the number of inadmissible aliens at ports of entry has not fluctuated greatly over the seven-year period for which data are available. Published reports of the DHS Office of Immigration Statistics indicate that CBP recorded 212,234 foreign nationals arriving at a port of entry who were inadmissible in FY2011. In FY2011, CBP processed 51% of all inadmissible aliens at land ports, followed by 31% at sea ports, and 18% at airports.

According to the DHS Office of Immigration Statistics, Mexican nationals accounted for 32% of inadmissible aliens, followed by persons from Canada (15%), the Philippines (12%), and China (8%). These four countries accounted for two-thirds of all aliens whom CBP deemed inadmissible in FY2011.

For further background and analysis, see CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*.

Border Security

Figure 11. U.S. Border Patrol Apprehensions
1975-2011



Source: Statistical Yearbook of Immigration, U.S. Department of Homeland Security, Office of Immigration Statistics, multiple fiscal years; and data provided by USBP Congressional Affairs.

Border Patrol apprehensions of foreign nationals between ports of entry have fallen to a 40-year low, as **Figure 11** shows. Apprehensions had peaked at 1.7 million in 1986, the year Congress enacted IRCA. Since 1986, Congress has passed at least four laws authorizing increased Border Patrol personnel, and there has been a corresponding increase in appropriations. Border Patrol staffing has more than doubled over the past decade and increased more than nine-fold since 1998. As of September 30, 2011, the Border Patrol had 21,444 agents, up from a total of 2,268 Border Patrol agents in 1980.

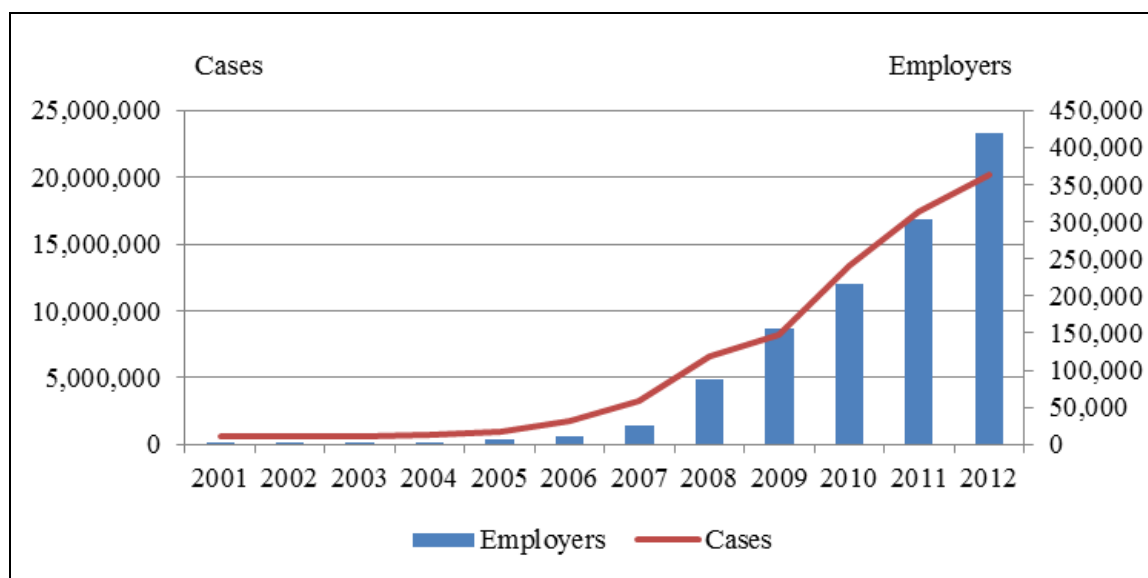
Annual Border Patrol apprehensions generally increased between FY1991 and FY2000, climbing from 1.13 million in FY1991 to 1.68 million in FY2000. Apprehensions have generally fallen since that time (with the exception of FY2004-FY2006), reaching 327,577 in FY2011.

Border patrol apprehensions data count events rather than people. Thus, an unauthorized migrant who is caught trying to enter the country three times in one year counts as three apprehensions. The percentage of apprehended aliens whom the Border Patrol makes subject to some form of high-consequence enforcement (i.e., criminal charges, formal removal, lateral repatriation, or interior repatriation) has increased in recent years, reaching 98% (321,891 out of 327,577) in FY2011.

For further background and analysis, see CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*.

Employment Eligibility Verification

Figure 12. Employers Enrolled in E-Verify and Number of Cases Submitted
FY2001 to FY2012



Source: CRS presentation of data from U.S. Citizenship and Immigration Services.

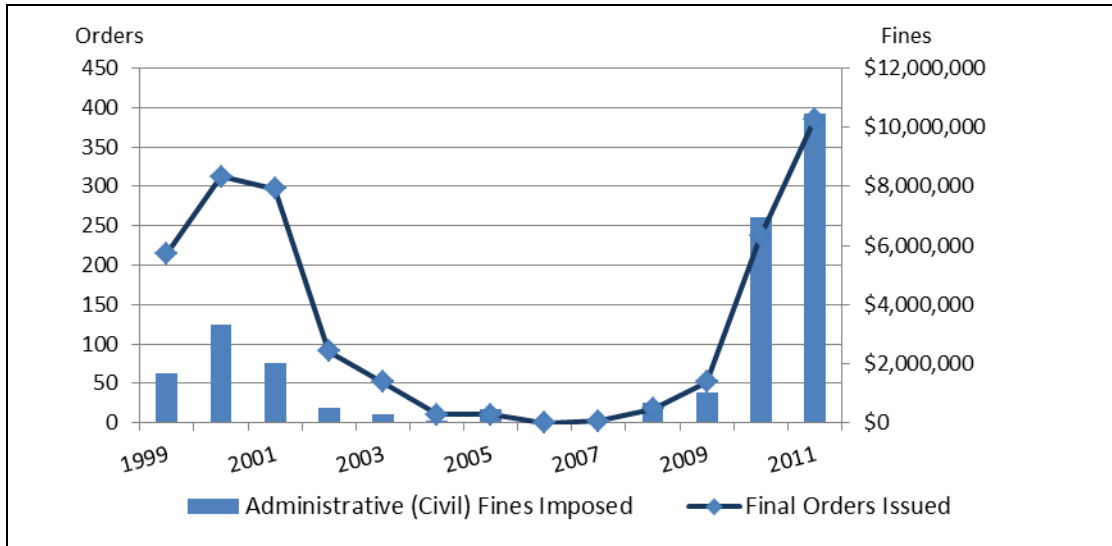
All employers are currently required to participate in a paper-based employment eligibility verification system in which they examine documents presented by every new hire to verify the person's identity and work eligibility. The INA states that an employer is in compliance "if the document reasonably appears on its face to be genuine." The new hire must submit a document that establishes both identity and authorization to work (e.g., U.S. passport or LPR card) or submit two documents, one establishing identity (e.g., driver's license) and the other establishing authorization to work (e.g., Social Security card). Employers must retain these employment eligibility verification (I-9) forms.

Employers may opt to participate in an electronic employment eligibility verification program, E-Verify, which checks the new hire's employment authorization through Social Security Administration and, if necessary, DHS databases. E-Verify evolved from the Basic Pilot program, one of the three employment verification pilots authorized by the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 to be implemented and the only one still in operation. It began in November 1997 in the five states with the largest unauthorized alien populations at the time. In December 2004, in accordance with P.L. 108-156, the program became available nationwide. The number of employers enrolled in E-Verify grew from 5,900 in FY2005 to 418,000 by the end of FY2012. These data indicate that approximately 7% of U.S. employers were participating by the close of FY2012. **Figure 12** shows a comparable increase over time in the number of E-Verify cases that employers have submitted. The number of cases has grown from just under 1 million in FY2005 to 20.2 million in FY2012.

For further background and analysis, see CRS Report R40446, *Electronic Employment Eligibility Verification*.

Worksite Enforcement

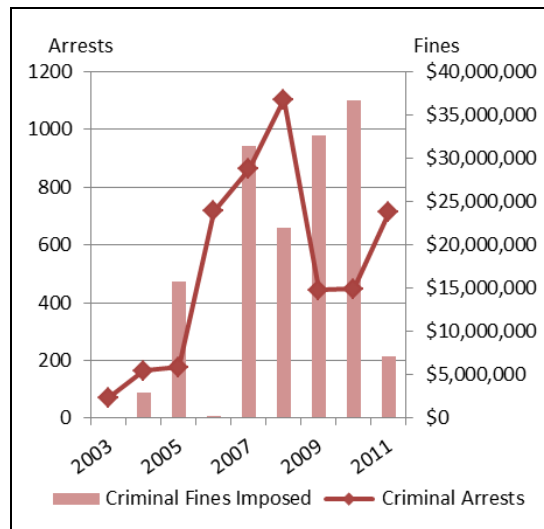
Figure 13. Administrative (Civil) Charges and Fines under INA §274A



Source: Data provided to CRS by ICE, May 2012.

Under INA §274A, it is unlawful for an employer to knowingly hire, recruit or refer for a fee, or continue to employ an alien who is not authorized to be so employed.

Employers who engage in unlawful employment may be subject to civil and/or criminal penalties. If DHS’s Immigration and Customs Enforcement (ICE) believes that an employer has committed a civil violation, the employer may receive a “Final Order” for civil money penalties, a settlement, or a dismissal. In April 2009, ICE issued new guidance on immigration-related worksite enforcement. The 2009 guidance emphasized targeting criminal aliens and employers who cultivate illegal workplaces. According to

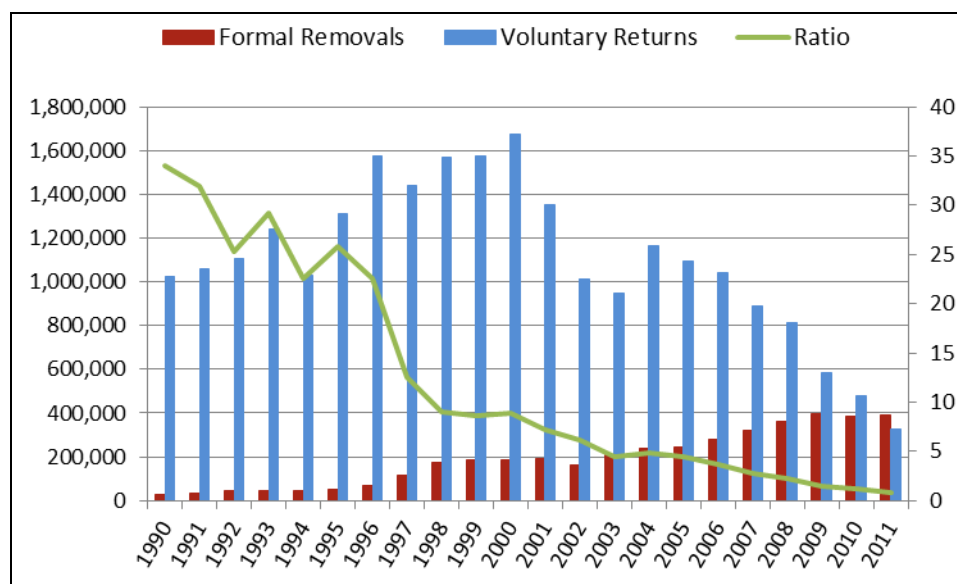


data provided by ICE, 385 employers were subject to civil penalties in FY2011, up from zero in FY2006, as depicted in **Figure 13**. A total of \$10.5 million in administrative fines were imposed in FY2011—a figure that exceeds the level of total fines imposed over the entire period from FY2000 through FY2009. Employers convicted of having engaged in a pattern or practice of knowingly hiring or continuing to employ unauthorized aliens may face criminal fines and/or imprisonment. It is also a criminal offense for a person to knowingly produce, use, or facilitate the production or use of fraudulent immigration documents. Criminal fines peaked at \$36.6 million in FY2010, as presented on the right.

For further background and analysis, see CRS Report R40002, *Immigration-Related Worksite Enforcement: Performance Measures*.

Alien Removals

Figure 14. Twenty-Two Year Trends in Alien Removals
1990-2011



Source: Statistical Yearbook of Immigration, U.S. Department of Homeland Security, Office of Immigration Statistics, multiple fiscal years.

Note: ICE has reported removal statistics that differ from those published by the DHS Office of Immigration Statistics.

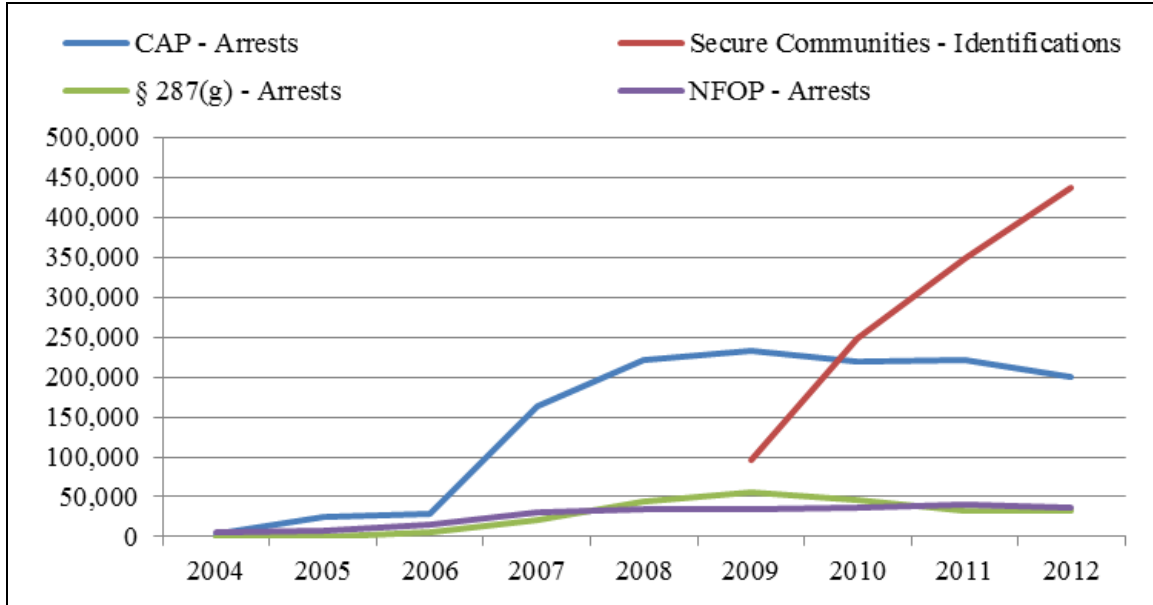
The specific grounds for which foreign nationals are removed from the United States are found in INA §237. These grounds are comparable to the inadmissibility grounds. They include foreign nationals who are inadmissible at time of entry or violate their immigration status; commit certain criminal offenses (e.g., crimes of moral turpitude, aggravated felonies, alien smuggling, high-speed flight); fail to register (if required under law) or commit document fraud; are security risks (such as aliens who violate any law relating to espionage, engage in criminal activity that endangers public safety, partake in terrorist activities, or genocide); become a public charge within five years of entry; or vote unlawfully. Generally, an immigration judge determines whether an alien is removable.

Formal removals grew from 30,039 in 1990 to 391,953 in FY2011. Since FY2001, formal removals have increased by over 100%. The trends for direct returns at the border and voluntary departures (i.e., permitting aliens to leave the United States on their own recognizance and at their own expense) within the interior in **Figure 14** resemble that of Border Patrol apprehensions over the same period, as depicted in **Figure 11**. As **Figure 14** presents, the ratio of voluntary departures to formal removals has gone from 34:1 in FY1990 to almost 1:1 in FY2011.

For further background and analysis, see CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*.

Criminal Aliens

Figure 15. Interior Immigration Enforcement Targeting Criminal Aliens
FY2004-FY2012



Source: CRS Report R42057, *Interior Immigration Enforcement: Programs Targeting Criminal Aliens*.

DHS's Immigration and Customs Enforcement (ICE) manages four interior immigration enforcement programs targeting criminal aliens, all of which have grown in recent years. The Criminal Alien Program (CAP) is an umbrella program that includes several different systems for initiating removal proceedings against criminal aliens within federal, state, and local prisons and jails. The number of CAP arrests jumped from 28,493 in FY2006 to 164,296 in FY2007 in just one year. It has maintained comparable levels in subsequent years, as shown in **Figure 15**.

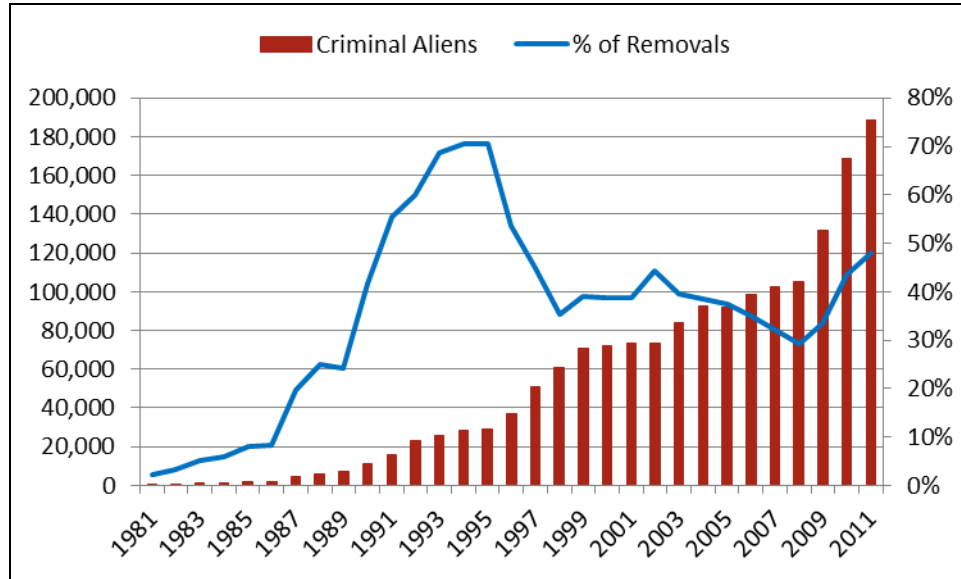
Secure Communities is an information sharing program between DHS and the Department of Justice (DOJ). Under the program, when participating law enforcement agencies submit the fingerprints of people being booked into jails to the Federal Bureau of Investigation (FBI) for criminal background checks, the fingerprints are also automatically checked against DHS databases, and potential matches are forwarded to ICE's Law Enforcement Support Center. Secure Communities began in FY2009 with 95,664 alien identifications and had increased to 348,970 enforcement actions in FY2011. ICE identifies many more potentially removable aliens than it arrests.

The INA §287(g) program enables ICE to delegate certain immigration enforcement functions to state and local law enforcement agencies pursuant to memorandums of agreement between such agencies and ICE. ICE trains and supervises the local officers, who may perform specific functions relating to the investigation, apprehension, or detention of aliens. INA §287(g) arrests have gone from 0 in FY2004 and 2 in FY2005 to 33,180 in FY2011, peaking at 56,116 in FY2009. National Fugitive Operations Program (NFOP) pursues known at-large criminal aliens and fugitive aliens, and their arrests have gone from 6,584 in FY2004 to 39,466 in FY2011.

For further background and analysis, see CRS Report R42057, *Interior Immigration Enforcement: Programs Targeting Criminal Aliens*.

Figure 16. Criminal Aliens Formally Removed from the United States, 1981-2011

Total Criminal Aliens Removed and Percentage of all Removals



Source: Statistical Yearbook of Immigration, U.S. Department of Homeland Security, Office of Immigration Statistics, multiple fiscal years.

Note: ICE has reported removal statistics that differ from those published by the DHS Office of Immigration Statistics.

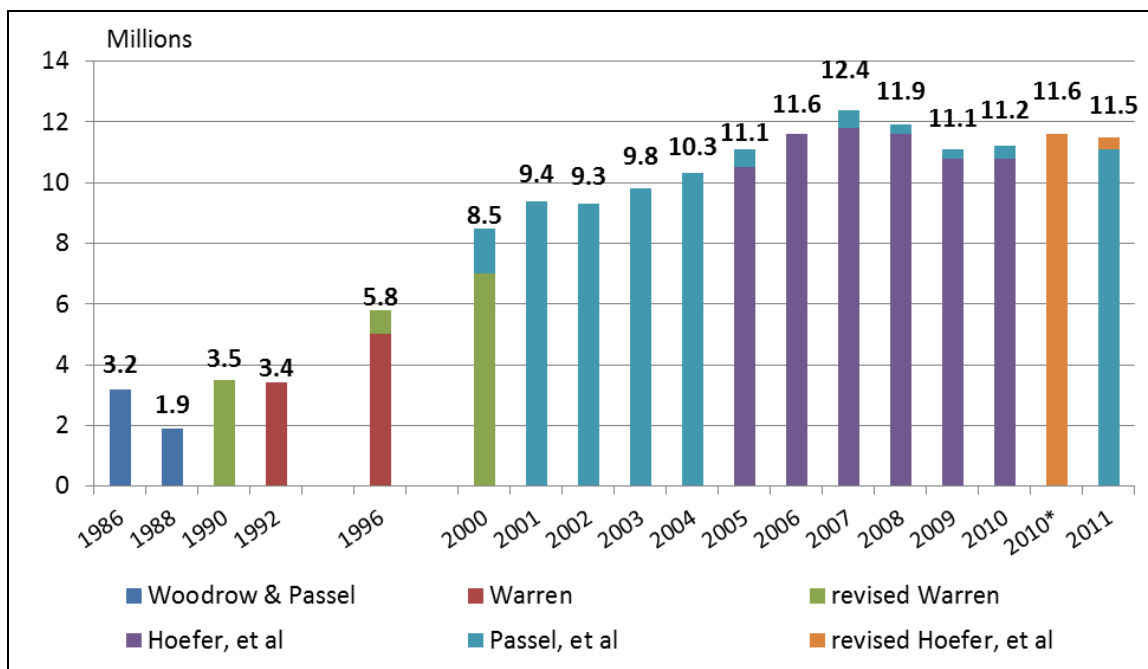
In 1986, Congress made deporting aliens who had been convicted of certain crimes an enforcement priority. Between 1988 and 1996, Congress enacted a series of measures, including the Illegal Immigrant Reform and Immigrant Responsibility Act of 1996 (IIRIRA, P.L. 104-208), which expanded the definition of aggravated felons and created additional criminal grounds for removal.

The number of criminal aliens who have been removed has risen sharply in recent years. According to the DHS Office of Immigration Statistics, and as presented in **Figure 16**, the number of criminal aliens removed from the United States has gone from 73,298 in FY2001 to 188,382 in FY2011. This change is a 157% increase in the removal of criminal aliens over the past decade. As a percentage of all removals, criminal aliens accounted for 48% in FY2011.

For further background and analysis, see CRS Report R42057, *Interior Immigration Enforcement: Programs Targeting Criminal Aliens*; and CRS Report RL32480, *Immigration Consequences of Criminal Activity*.

Unauthorized Resident Aliens

Figure 17. Estimated Number of Unauthorized Resident Aliens, 1986-2011



Source: CRS presentation of analyses of U.S. Census Bureau and CPS data conducted by Karen Woodrow and Jeffrey Passel (1986 and 1990); Robert Warren (1996, 2000, and 2003); Jeffrey Passel, Randy Capps, and Michael Fix (2002); Passel and D'Vera Cohn (2008, 2010, 2011, 2012); Michael Hoefer, Nancy Rytina, and Bryan Baker (2009, 2010, 2011, 2012).

Note: 2010* indicates that Hoefer, Rytina, and Baker revised their 2010 estimate based upon the American Community Survey after data from the 2010 Census of Population was released.

The three main components of the unauthorized resident alien population are (1) aliens who enter the country surreptitiously without inspection, (2) aliens who overstay their nonimmigrant visas, and (3) aliens who are admitted on the basis of fraudulent documents. In all three instances, the aliens are in violation of the INA and subject to removal.

Estimates derived from the March Supplement of the U.S. Census Bureau's Current Population Survey (CPS) indicate that the unauthorized resident alien population (commonly referred to as illegal aliens) rose from 3.2 million in 1986 to 12.4 million in 2007, before leveling off at 11.1 million in 2011 (**Figure 17**). Using the American Community Survey, DHS Office of Immigration Statistics (OIS) demographers Michael Hoefer, Nancy Rytina, and Bryan Baker estimated there were 11.5 million unauthorized aliens in 2011. The most recent OIS report estimated that 33% of the 11.5 million had entered from 2000 to 2010, a smaller proportion than the OIS estimate of 35% of unauthorized aliens in 2007 who had entered the United States from 2000 to 2006. Although increased border security, a record number of alien removals, and high unemployment, among other factors, have depressed the levels of illegal migration in recent years, the number of unauthorized aliens residing in the United States remains sizeable.

For further background and analysis, see CRS Report RL33874, *Unauthorized Aliens Residing in the United States: Estimates Since 1986*.

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