

# Rules and Regulations

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## DEPARTMENT OF STATE

### 22 CFR Part 42

[Public Notice 4092]

#### Visas: Documentation of Immigrants—Visa Classification Symbols

**AGENCY:** Bureau of Consular Affairs, Department of State.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Department's regulations to add and delete immigrant visa symbols on the immigrant visa classification table. The Department is amending the table to add a new class of special immigrants for certain aliens who had petitions or labor certification applications revoked, terminated or rendered null due to the terrorist activities of September 11, 2001, and for the guardian grandparents of certain children rendered orphans by the attacks. The Department is also taking this opportunity to remove the HK immigrant classification symbols used for transition employees of certain U.S. businesses in Hong Kong and their dependents whose visa validity was extended under section 124 of Public Law 101-649. This immigrant status was valid only through January 1, of 2002. The Department is also changing "orphan" to "child" under the classification definition IR3 and correcting the section of law citation under the entry AM3 to read "Public Law 100-102" instead of "P.L. 100-202".

**DATES:** This rule takes effect on August 29, 2002.

**FOR FURTHER INFORMATION CONTACT:** For information regarding this regulation please contact Pam Chavez, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520-0106, phone (202) 663-1206 or e-mail [chavezpr@state.gov](mailto:chavezpr@state.gov).

**SUPPLEMENTARY INFORMATION:**

#### What Legislation Created These Visa Categories?

Public Law 107-56 (the USA Patriot Act) provided special immigration benefits for certain victims of the terrorist acts of September 11, 2001. Section 421 of this Act created a new special immigrant category (SP) for certain aliens who were beneficiaries of petitions or labor certification applications which were revoked, terminated or otherwise rendered null due to the terrorist attacks of September 11, 2001. The USA Patriot Act also provides special immigrant status for the spouse and children of these aliens and for certain grandparents of children who were orphaned as a result of these attacks.

Section 124 of Public Law 101-649 (IMMACT 90) extended the visa validity for employees of certain U.S. businesses located in Hong Kong to January 1, 2002. Aliens issued visas under section 124 of IMMACT 90 were given the classification symbol HK. Since visas are no longer being issued for this visa classification, the Department is removing the code from the classification table.

#### How Is the Department Amending its Regulations?

The rule amends the immigrant visa classification table at 22 CFR 42.11 by adding a new classification symbol SP. The rule also removes the classification symbols HK1, HK2 and HK3. In the classification symbol IR4, the word "orphan" is replaced by the word "child". In the classification symbol AM3, the public law citation should read "Public Law 100-102."

#### Final Rule

##### *Administrative Procedure Act*

The Department's implementation of this regulation as a final rule is based upon the "good cause" exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). Since the new special immigrant category became effective upon enactment of the law and since there is a substantial immediate benefit to aliens, citizens and lawful permanent residents, there is not enough time nor sufficient reason to delay its implementation by issuing a proposed rule with request for comments.

#### *Regulatory Flexibility Act*

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

#### *Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### *Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### *Executive Order 12866*

Although it is being promulgated in conjunction with the Immigration and Naturalization Service, a domestic agency, the Department of State does not consider this rule, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Therefore, in accordance with the letter to the Department of State of February 4, 1994 from the Director of the Office of Management and Budget, it does not require review by the Office of Management and Budget.

#### *Executive Order 13132*

This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in

accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### *Paperwork Reduction Act*

This rule does not impose any new reporting or record-keeping requirements under the Paperwork Reduction Act.

#### **List of Subjects in 22 CFR Part 42**

Aliens, Immigrants, Passports and visas.

#### **PART 42—[AMENDED]**

1. The authority citation for part 42 is revised to read as follows:

**Authority:** 8 U.S.C. 1104.

2. Amend § 42.11 as follows:

a. In the table, under the heading “Immediate Relatives”, revise the entry for IR4;

b. In the table, revise the entries under the heading “Vietnam Amerasian Immigrants”;

c. In the table, under the heading “Employment 4th Preference (Certain

Special Immigrants)”, add an entry for SP in alpha-numeric order; and

d. In the table, remove the heading “Transition for Employees of Certain U.S. Businesses in Hong Kong (Fiscal Years 1991–1993)” and the entries HK1, HK2 and HK3, and remove the note at the end of the table.

The revisions and additions read as follows:

#### **§ 42.11 Classification symbols.**

\* \* \* \* \*

#### **IMMIGRANTS**

Symbol	Class	Section of law
<b>Immediate Relatives</b>		
IR4 .....	Child Adopted Abroad by U.S. Citizen .....	201(b)
* .....	* .....	* .....
<b>Vietnam Amerasian Immigrants</b>		
AM1 .....	Vietnam Amerasian Principal .....	584(b)(1)(A), 584(b)(1)(B), and 584(b)(2)(C) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (As contained in section 101(e) of Public Law 100–102 as amended.
AM2 .....	Spouse or Child of AM1 .....	
AM3 .....	Natural Mother of Unmarried AM1 (Spouse or Child of Such Mother) or Person Who has Acted in Effect as the Mother, Father, or Next-of-Kin of Unmarried AM1 (and Spouse or Child of Such Person).	
* .....	* .....	* .....
<b>Employment 4th Preference (Certain Special Immigrants)</b>		
SP .....	Alien Beneficiary of a petition or labor certification application filed prior to September 11, 2001, if the petition or application was rendered void due to a terrorist act of September 11, 2001. Spouse, child of such alien, or the grandparent of a child orphaned by a terrorist act of September 11, 2001.	Section 421 of Public Law 107–56.
* .....	* .....	* .....

Dated: July 31, 2002.

**George Lannon,**

*Acting Assistant Secretary for Consular Affairs, Department of State.*

[FR Doc. 02–20090 Filed 8–28–02; 8:45 am]

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

**[TN–186; TN–187; TN–202; TN–203–200207a; FRL–7270–6]**

#### **Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to Tennessee Implementation Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC) on July 10, 1996, February 14, 1997, and February 21, 1997. These submittals revise the regulations for Exemptions in the Construction and Operating Permits chapter, General Provisions and Applicability in the Nitrogen Oxides chapter, and add a chapter on Conflict of Interest.

**DATES:** This direct final rule is effective October 28, 2002, without further