

blades. The waiver must therefore be terminated because of the existence of a small business manufacturer available to participate in the Federal procurement market. This is the final administrative action of the SBA on this matter.

Robert J. Moffitt,

Chairman, Size Policy Board.

[FR Doc. 91-23579 Filed 9-30-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 175 and 176

[Docket No. 90F-0207]

Indirect Food Additives: Adhesives and Components of Coatings and Paper and Paperboard Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of siloxanes and silicones prepared by the platinum-catalyzed reaction of vinyl-containing dimethylpolysiloxane with methyl hydrogen polysiloxane, with optional components dimethyl maleate, vinyl acetate, dibutyl maleate, diallyl maleate, and C₁₆-C₁₈ olefins, as a release surface for adhesives, as a component of resinous and polymeric coatings for polyolefin films, and as a component of coatings for paper and paperboard. This action is in response to a petition filed by the General Electric Co.

DATES: Effective October 1, 1991; written objections and requests for a hearing by October 31, 1991.

ADDRESSES: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the *Federal Register* of July 17, 1990 (55 FR 29105), FDA announced that a food additive petition (FAP 0B4208) had been filed by the General Electric Co., c/o 1120 G St. NW., Washington, DC 20005, proposing that § 175.105 Adhesives (21 CFR 175.105), § 175.125 Pressure-sensitive

adhesives (21 CFR 175.125), § 175.320 Resinous and polymeric coatings for polyolefin films (21 CFR 175.320), and § 176.170 Components of paper and paperboard in contact with aqueous and fatty foods (21 CFR 176.170) be amended to provide for the safe use of the platinum-catalyzed reaction product of vinyl-containing dimethylpolysiloxane with methyl hydrogen polysiloxane as a release surface for adhesives, as a component of resinous and polymeric coatings for polyolefin films, and as a component of coatings for paper and paperboard for food-contact use. It was also proposed that the regulations be amended to provide for the safe use of butylallyl maleate, diallyl maleate, dimethyl maleate, and vinyl acetate as polymerization inhibitors, and for the safe use of C₁₆-C₁₈ olefins as a release agent in the additive.

In its review of the petition, the agency determined that the optional component butylallyl maleate is actually a 50:50 mixture of diallyl maleate and dibutyl maleate. The agency has therefore reviewed the safe use of these two components instead of butylallyl maleate.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed uses of siloxanes and silicones prepared by the platinum-catalyzed reaction of vinyl-containing dimethylpolysiloxane with methyl hydrogen polysiloxane, and the optional components dimethyl maleate, vinyl acetate, dibutyl maleate, diallyl maleate, and C₁₆-C₁₈ olefins, are safe. The agency also concludes that the amendments to § 175.320 Resinous and polymeric coatings for polyolefin films and § 176.170 Components of paper and paperboard in contact with aqueous and fatty foods would cover the petitioned use of the additive as a release coating for adhesives and it is therefore unnecessary to amend § 175.105 Adhesives and § 175.125 Pressure-sensitive adhesives. Therefore, as indicated below, this rule only amends § 175.320 and § 176.170 of the food additive regulations by alphabetically adding two new entries to each section as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before October 31, 1991 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 175

Adhesives, Food additives, Food packaging.

21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR parts 175 and 176 are amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

Authority: Sections 201, 402, 409, 706 of the

Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 175.320 is amended in the table of paragraph (b)(3) by alphabetically adding two new entries under "(i) Resins and polymers" to read as follows:

§ 175.320 Resinous and polymeric coatings for polyolefin films.

* * * * *

(b) * * *

(3) * * *

List of substances

Limitations

(i) * * *

Siloxanes and silicones; platinum-catalyzed reaction product of vinyl-containing dimethylpolysiloxane (CAS Reg. Nos. 67762-94-1 and 68083-18-1), with methyl hydrogen polysiloxane (CAS Reg. No. 63148-57-2). Dimethyl maleate (CAS Reg. No. 624-48-6) and vinyl acetate (CAS Reg. No. 108-05-4) may be used as optional polymerization inhibitors.

Platinum content not to exceed 100 parts per million. For use only as a surface coating under the following conditions:

1. In coatings for olefin polymers provided the coating contacts food only of the types identified in § 176.170(c) of this chapter, Table 1, under Types I, II, VI, and VII-B when used under conditions of use E, F, and G described in Table 2 in § 176.170(c) of this chapter.
2. In coatings for olefin polymers provided the coating contacts food only of the types identified in § 176.170(c) of this chapter, Table 1, under Types III, IV, V, VII-A, VIII, and IX when used under conditions of use A through H described in Table 2 in § 176.170(c) of this chapter.

Platinum content not to exceed 100 parts per million. For use only as a release coating for pressure sensitive adhesives.

Siloxanes and silicones; platinum-catalyzed reaction product of vinyl-containing dimethylpolysiloxane (CAS Reg. Nos. 67762-94-1 and 68083-18-1), with methyl hydrogen polysiloxane (CAS Reg. No. 63148-57-2). Dimethyl maleate (CAS Reg. No. 624-48-6), vinyl acetate (CAS Reg. No. 108-05-4), dibutyl maleate (CAS Reg. No. 105-76-0) and diallyl maleate (CAS Reg. No. 999-21-3) may be used as optional polymerization inhibitors. The polymer may also contain C₆-C₁₈ olefins (CAS Reg. No. 68855-60-7) as a control release agent.

* * * * *

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

3. The authority citation for 21 CFR part 176 continues to read as follows:

Authority: Sections 201, 402, 406, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 346, 348, 376).

4. Section 176.170 is amended in the table of paragraph (b)(2) by alphabetically adding two new entries under the headings "List of Substances" and "Limitations" to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *

(2) * * *

List of substances

Limitations

Siloxanes and silicones; platinum-catalyzed reaction product of vinyl-containing dimethylpolysiloxane (CAS Reg. Nos. 67762-94-1 and 68083-18-1), with methyl hydrogen polysiloxane (CAS Reg. No. 63148-57-2). Dimethyl maleate (CAS Reg. No. 624-48-6) and vinyl acetate (CAS Reg. No. 108-05-4) may be used as optional polymerization inhibitors.

Platinum content not to exceed 100 parts per million. For use only as a surface coating under the following conditions:

1. In coatings for paper and paperboard provided the coating contacts food only of the types identified in paragraph (c) of this section, Table 1, under Types I, II, VI, and VII-B when used under conditions of use E, F, and G described in Table 2 of paragraph (c) of this section.
2. In coatings for paper and paperboard provided the coating contacts food only of the types identified in paragraph (c) of this section, Table 1, under Types III, IV, V, VII-A, VIII, and IX when used under conditions of use A through H described in Table 2 of paragraph (c) of this section.

Platinum content not to exceed 100 parts per million. For use only as a release coating for pressure sensitive adhesives.

Siloxanes and silicones; platinum-catalyzed reaction product of vinyl-containing dimethylpolysiloxane (CAS Reg. Nos. 67762-94-1 and 68083-18-1), with methyl hydrogen polysiloxane (CAS Reg. No. 63148-57-2). Dimethyl maleate (CAS Reg. No. 624-48-6), vinyl acetate (CAS Reg. No. 108-05-4), dibutyl maleate (CAS Reg. No. 105-76-0) and diallyl maleate (CAS Reg. No. 999-21-3) may be used as optional polymerization inhibitors. The polymer may also contain C₆-C₁₈ olefins (CAS Reg. No. 68855-60-7) as a control release agent.

Dated: September 23, 1991.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-23636 Filed 9-30-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 42

[Public Notice 1491]

Visas: Documentation of Immigrants Under the Immigration and Nationality Act, as Amended; Immigrants Not Subject to Numerical Limitations of INA 201 and 202; Immigrants Subject to Numerical Limitation

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Interim Rule with request for comments.

SUMMARY: This rule amends part 42, title 22 of the Code of Federal Regulations, to implement sections 101, 111, 112, 121 and 162(b)(1)(E) of Public Law 101-649 which restructured section 203 of the Immigration and Nationality Act. Most of the changes in the regulations to part 42 are editorial and relate primarily to designations and citations. As a result of the provisions in section 121 of the Immigration Act of 1990, however, this rule also transfers to subpart D of this part the regulations relating to special immigrant classes not previously subject to numerical limitation and currently listed in subpart C. Changes have also been made to the regulations in § 42.21 to add language benefiting spouses of deceased U.S. citizens entitled to immediate relative status.

DATES: This interim rule is effective October 1, 1991. Written comments must be received on or before October 31, 1991.

ADDRESSES: Please submit comments in duplicate, to the: Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Services, Department of State, Washington, DC 20522-0113.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations, and Advisory Assistance, (202) 663-1184.

SUPPLEMENTARY INFORMATION:

Immigration Act of 1990

Sections 111 and 121 of Public Law 101-649, Immigration Act of 1990, restructured section 203 of the Immigration and Nationality Act (INA)

by dividing family-related immigration from employment-related immigration and creating several new preference classes under the latter heading. This has required the substitution of new terminology and, in some cases, a change in primary decision-making authority in some of the regulations in title 22, part 42.

Section 121 of the Immigration Act of 1990—INA 201, 203, 204

Section 121 of Public Law 101-649 included Special Immigrants (other than those under INA 101(a)(27)(A) and (B)) in the fourth employment-related class, thereby subjecting them to the numerical limits of INA 201. Subpart C of part 42 contains regulations pertaining to aliens who are not subject to the numerical limitations in INA 201 which, until October 1, 1991, includes both Immediate Relatives under INA 201(b) and Special Immigrants under INA 101(a)(27). Clearly, therefore, regulations pertaining to those classes had to be removed from subpart C and incorporated into subpart D, which relates to aliens who are subject to a numerical ceiling. Accordingly, §§ 42.24—42.27 have been redesignated as § 42.32(d)(1) through (4). Similarly, the imposition of a petition requirement under INA 204, as amended by section 162(b)(1)(E) of Public Law 101-649, on those special immigrant classes has altered the primary decision-making authority with respect to eligibility for classification in such status. Current regulations impose on the consular officer the responsibility for determining that the alien has established his or her claim to status in the Special Immigrant classes. The petition requirement vests this determination in the Service (except with respect to aliens under INA 101(a)(27)(D)) and the regulations had to be changed accordingly.

Not least, the change in designations caused by having separate (and, to an extent, duplicative) lists of preference classes (e.g., family-related first preference and employment-related first preference) has necessitated editorial changes reflecting such nomenclature. Thus, what has been § 42.33, Third Preference Immigrants, has become § 42.32(a), First (employment-based) Preference—Priority Workers. Similar changes in designations and terminology have been made for the other employment-related classes.

Immigrants Not Subject to Numerical Limitations

Specifically, subpart C, Immigrants Not Subject to Numerical Limitations under INA 201 and 202, has been modified in three minor respects:

Section 42.21, Immediate Relatives, has been designated paragraph (a) and a new paragraph (b) has been added to take note of the continuing entitlement to Immediate Relative status of certain spouses of deceased U.S. citizens.

Section 42.22(c), Relief provisions under INA 212(c), was amended editorially to restate the exceptions in accordance with the change in the statute and to add the limitation of applicability of INA 212(c). No changes were made in § 42.23. Sections 42.24 through 42.27 have been deleted from this subpart.

Immigrants Subject to Numerical Limitations

Subpart D, relating to immigrants subject to numerical limitations, has undergone substantial restructuring because of the number of classes added to this category of immigrants by Public Law 101-649, as suggested above.

Section 42.31 has been retitled "Family-sponsored Immigrants", appropriate changes in statutory designations have been made, and a new subsection (c) contains the usual injunction against issuance of an immigrant visa, this time under section 112 of the Immigration Act of 1990, unless the Immigration and Naturalization Service has approved a petition according that status and the consular officer is satisfied that the alien is within the class described in that section.

Section 42.32, which had been reserved, has become "Employment-based Preference Immigrants", with various subsections devoted to the five such classes: Section 42.32(a), First Preference—Priority Workers; § 42.32(b), Second Preference—Professionals with Advanced Degrees or Persons of Exceptional Ability; § 42.32(c), Third Preference—Skilled Workers, Professionals, Other Workers—no substantive changes have been made from the comparable regulations relating to current third and sixth preference cases, but nomenclature and statutory designations have, of course, been appropriately modified. § 42.32(d), Fourth Preference—Special Immigrants. The special immigrant classes that were moved from subpart C, with two additions, are incorporated in this section and divided into paragraphs: (1) Religious Workers; (2) U.S. Government Employees (reserved); (3) Panama Canal Employees; (4) Spouses and Children of Certain Foreign Medical Graduates; (5) Certain International Organization Employees; and (6) Certain Aliens Dependent on a Juvenile Court.

All of the above regulations, most of which were transferred from sections 42.24-27, have been modified to require receipt of an approved petition to accord the appropriate status prior to classification by a consular officer of an alien in any of these classes. Section 42.32(d)(5), regarding international organizations aliens, is new but patterned after the others. It also contains a regulatory reference to the time limits for application imposed in the statute. Section 42.32(d)(6), which relates to classification as an alien dependent on a juvenile court, contains the standard requirement for an approved petition according to the status. Section 42.32(e), Fifth Preference—Employment Creation Immigrants, also contains the standard language requiring receipt of an approved petition according to such status. Section 42.33, relating to the new class of diversity immigrants which does not become effective until October 1, 1994, is reserved.

The former §§ 42.34—Sixth preference immigrants, 42.35—Nonpreference, and 42.36—Administering labor certification provisions—have been deleted.

Regulations pertaining to special immigrants under INA 101(a)(27)(D), § 42.32(d)(2), (employees and former employees of the United States Government abroad), will be the subject of separate rulemaking because they entail new responsibilities for the Department of State.

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. With regard to the information collection requirement contained in this rule, Form OF-230 has been reinstated by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

List of Subjects in 22 CFR Part 42

Aliens, Immigrants, Numerical limitations, Special immigrants, Visas.

In view of the foregoing, title 22 of the Code of Federal Regulations, subparts C and D of part 42 are revised to read as follows:

PART 42—[AMENDED]

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

Authority: 8 U.S.C. 1104; 8 U.S.C. 1101 note.

2. Subpart C (consisting of §§ 42.21 through 42.23) is revised to read as follows:

Subpart C—Immigrants Not Subject to Numerical Limitations of INA 201 and 202

Sec.

42.21 Immediate relatives.

42.22 Returning resident aliens.

42.23 Certain former U.S. citizens.

Subpart C—Immigrants Not Subject to Numerical Limitations of INA 201 and 202

§ 42.21 Immediate relatives.

(a) *Entitlement to status.*

An alien who is a spouse or child of a United States citizen, or a parent of a U.S. citizen at least 21 years of age, shall be classified as an immediate relative under INA 201(b) if the consular officer has received from INS an approved Petition to Classify Status of Alien Relative for Issuance of an Immigrant Visa, filed on the alien's behalf by the U.S. citizen and approved in accordance with INA 204, and the officer is satisfied that the alien has the relationship claimed in the petition. An immediate relative shall be documented as such unless the U.S. citizen refuses to file the required petition, or unless the immediate relative is also a special immigrant under INA 101(a)(27) (A) or (B) and not subject to any numerical limitation.

(b) *Spouse of a deceased U.S. Citizen.* The spouse of a deceased U.S. citizen shall be entitled to immediate relative status after the date of the citizen's death provided he or she meets the criteria of INA 201(b)(2)(A)(i) and the consular officer has received an approved petition from the INS which accords such status, or official notification of such approval, and the consular officer is satisfied that the alien meets those criteria.

§ 42.22 Returning resident aliens.

(a) *Requirements for returning resident status.*

An alien shall be classifiable as a special immigrant under INA 101(a)(27)(A) if the consular officer is satisfied from the evidence presented that:

(1) The alien had the status of an alien lawfully admitted for permanent residence at the time of departure from the United States;

(2) The alien departed from the United States with the intention of returning and has not abandoned this intention; and

(3) The alien is returning to the United States from a temporary visit abroad and, if the stay abroad was protracted, this was caused by reasons beyond the alien's control and for which the alien was not responsible.

(b) *Documentation needed.* Unless the consular officer has reason to question the legality of the alien's previous admission for permanent residence or the alien's eligibility to receive an immigrant visa, only those records and documents required under INA 222(b) which relate to the period of residence in the United States and the period of the temporary visit abroad shall be required. If any required record or document is unobtainable, the provisions of § 42.65(d) shall apply.

(c) *Relief provisions for certain returning resident aliens under INA 212(c).* The exercise by the Attorney General of discretionary authority under INA 212(c) to grant relief from certain grounds of ineligibility (other than those specified therein) to certain returning resident aliens shall remove the alien's ineligibility to receive a visa only under the conditions specified in the Attorney General's order. This relief shall not apply to an alien who has been convicted of an aggravated felony and has served a term of imprisonment of at least 5 years.

(d) *Returning resident alien originally admitted under the Act of December 28, 1945.* An alien admitted into the United States under Section 1 of the Act of December 28, 1945 ("GI Brides Act") shall not be refused an immigrant visa after a temporary absence abroad solely because of a mental or physical defect or defects that existed at the time of the original admission.

§ 42.23 Certain former U.S. citizens.

(a) *Women expatriates.* An alien woman, regardless of marital status, shall be classifiable as a special immigrant under INA 101(a)(27)(B) if the consular officer is satisfied by appropriate evidence that she was formerly a U.S. citizen and that she meets the requirements of INA 324(a).

(b) *Military expatriates.* An alien shall be classifiable as a special immigrant under INA 101(a)(27)(B) if the consular officer is satisfied by appropriate evidence that the alien was formerly a U.S. citizen and that the alien lost citizenship under the circumstances set forth in INA 327.

4. Subpart D (consisting of §§ 42.31 through 42.33) is revised to read as follows:

Subpart D—Immigrants Subject to Numerical Limitations

Sec.

42.31 Family-Sponsored immigrants.

42.32 Employment-based preference immigrants.

Sec.

42.33 Diversity immigrants. [Reserved]

Subpart D—Immigration Subject to Numerical Limitations**§ 42.31 Family-sponsored immigrants.***(a) Entitlement to status.*

An alien shall be classifiable as a family-sponsored immigrant under INA 203(a) (1), (2), (3) or (4) if the consular officer has received from INS a Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa approved in accordance with INA 204 to accord the alien such preference status, or official notification of such an approval, and the consular officer is satisfied that the alien has the relationship to the petitioner indicated in the petition. In the case of a petition according an alien status under INA 203(a) (1) or (3) or status as an unmarried son or daughter under INA 203(a)(2), the petitioner must be a "parent" as defined in INA 101(b)(2) and 22 CFR 40.1. In the case of a petition to accord an alien status under INA 203(a)(4) filed on or after January 1, 1977, the petitioner must be at least twenty-one years of age.

(b) Entitlement to derivative status.

Pursuant to INA 203(d), and whether or not named in the petition, the child of a family-sponsored first, second, third or fourth preference immigrant or the spouse of a family-sponsored third or fourth preference immigrant, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, is entitled to a derivative status corresponding to the classification and priority date of the beneficiary of the petition.

(c) Spouses and children of legalized aliens. An alien shall be classifiable as a spouse or child of a legalized alien pursuant to Section 112 of Public Law 101-649, if the consular officer has received from INS an approved petition which accords such status, or official notification of such an approval, and the consular officer is satisfied that the alien is within the class described in that section.

§ 42.32 Employment based immigrants.

Aliens subject to the worldwide level specified in section 201(d) for employment-based immigrants in a fiscal year shall be allotted visas as indicated below.

(a) First preference.—Priority workers. (1) *Entitlement to status.* An alien shall be classifiable as an employment-based first preference immigrant under INA 203(b)(1) if the consular office has received from INS a Petition for Immigrant Worker approved in accordance with INA 204 to accord the alien such Preference status, or

official notification of such an approval, and the consular officer is satisfied that the alien is within one of the classes described in INA 203(b)(1).

(2) *Entitlement to derivative status.* Pursuant to INA 203(d), and whether or not named in the petition, the child or spouse of an employment-based first preference immigrant, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, is entitled to a derivative status corresponding to the classification and priority date of the beneficiary of the petition.

(b) Second preference—Professionals with advanced degrees or persons of exceptional ability.—(1) Entitlement to status. An alien shall be classifiable as an employment-based second preference immigrant under INA 203(b)(2) if the consular officer has received from INS a Petition for Immigrant Worker approved in accordance with INA 204 to accord the alien such preference status, or official notification of such an approval, and the consular officer is satisfied that the alien is within one of the classes described in INA 203(b)(2).

(2) *Entitlement to derivative status.* Pursuant to INA 203(d), and whether or not named in the petition, the child or spouse of an employment-based second preference immigrant, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, is entitled to a derivative status corresponding to the classification and priority date of the beneficiary of the petition.

(c) Third preference—Skilled workers, professionals, other workers.—(1) Entitlement to status. An alien shall be classifiable as an employment-based third preference immigrant under INA 203(b)(3) if the consular officer has received from INS a Petition for Immigrant Worker approved in accordance with INA 204 to accord the alien such preference status, or official notification of such an approval, and the consular officer is satisfied that the alien is within one of the classes described in INA 203(b)(3).

(2) *Entitlement to derivative status.* Pursuant to INA 203(d), and whether or not named in the petition, the child or spouse of an employment-based third preference immigrant, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, is entitled to a derivative status corresponding to the classification and priority date of the beneficiary of the petition.

(d) Fourth preference—Special immigrants.—(1) Religious workers. (i) *Classification based on qualifications under INA 101(A)(27)(C).* An alien shall be classifiable under INA 203(b)(4) as a

special immigrant described in INA 101(a)(27)(C) if:

(A) The consular officer has received a petition approved by INS to accord such classification, or an official notification of such approval; and

(B) The consular officer is satisfied from the evidence presented that the alien qualifies under that section; or

(C) The consular officer is satisfied the alien is the spouse or child of a religious worker so classified and is accompanying or following to join the principal alien.

(ii) *Timeliness of application.* An immigrant visa issued under INA 203(b)(4) to an alien described in INA 101(a)(27)(C), other than a minister of religion, who qualifies as a "religious worker" as defined in 8 CFR 204.5(1), shall bear the usual validity except that in no case shall it be valid later than September 30, 1994.

(2) *Certain U.S. Government employees.* (Reserved)

(3) *Panama Canal employees.* (i) *Entitlement to status.* An alien who is subject to the numerical limitations specified in section 3201(c) of the Panama Canal Act of 1979, Public Law 96-70, is classifiable under INA 203(b)(4) as a special immigrant described in INA 101(a)(27) (E), (F) or (G) if the consular officer has received a petition approved by INS to accord such classification, or official notification of such an approval, and the consular officer is satisfied that the alien is within one of the classes described in INA 101(a)(27) (E), (F), or (G).

(ii) *Entitlement to derivative status.* Pursuant to INA 203(d), and whether or not named in the petition, the spouse or child of any alien classified under INA 203(b)(4) as a special immigrant qualified under this section, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, is entitled to a derivative status corresponding to the classification and priority date of the beneficiary of the petition.

(4) *Spouse and children of certain Foreign Medical graduates.* The accompanying spouse and children of a graduate of a foreign medical school or of a person qualified to practice medicine in a foreign state who has adjusted status as a special immigrant under the provisions of INA 101(a)(27)(H) are classifiable under INA 203(b)(4) as special immigrants defined in INA 101(a)(27)(H) if the consular officer has received an approved petition from INS which accords such status and the consular officer is satisfied that the alien is within the class described in INA 101(a)(27)(H).

(5) *Certain International Organization employees.* (i) *entitlement to status.* An alien is classifiable under INA 203(b)(4) as a special immigrant described in INA 101(a)(27)(I) if the consular officer has received a petition approved by the INS to accord such classification or official notification of such approval, and the consular officer is satisfied from the evidence presented that the alien is within one of the classes described in that section.

(ii) *Timeliness of application.* An alien accorded status under INA 203(b)(4) because of qualification under INA 101(a)(27)(I) must appear for a final visa interview and issuance of the immigrant visa within six months of establishing entitlement to status.

(6) *Certain juvenile court dependents.* An alien shall be classifiable under INA 203(b)(4) as a special immigrant defined in INA 101(a)(27)(J) if the consular officer has received from INS an approved petition to accord such status, or an official notification of such an approval, and the consular officer is satisfied the alien is within the class described in that section.

(e) *Fifth preference—Employment-creation immigrants.*

(1) *Entitlement to status.* An alien shall be classifiable as a fifth preference employment-creation immigrant if the consular officer has received from INS an approved petition to accord such status, or official notification of such an approval, and the consular officer is satisfied that the alien is within the class described in INA 203(b)(5).

(2) *Entitlement to derivative status.* Pursuant to INA 203(d), and whether or not named in the petition, the spouse or child of an employment-based fifth preference immigrant, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, is entitled to a derivative status corresponding to the classification and priority date of the beneficiary of the petition.

§ 42.33 Diversity immigrants. [Reserved]

Dated: September 11, 1991.

James Ward,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 91-23466 Filed 9-30-91; 8:45 am]

BILLING CODE 4710-06-M

22 CFR Part 42

[Public Notice 1490]

Visas: Documentation of Immigrants Under the Immigration and Nationality Act, as Amended

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends part 42, title 22 of the Code of Federal Regulations, to implement statutory revisions and/or new provisions in the Immigration Act of 1990, Public Law 101-649. Most of the amendments are primarily editorial. In addition to the editorial changes, this rule provides a table of new immigrant visa symbols at § 42.11 and a revised substantive procedure at § 42.83 for initiating action to terminate the registration of an alien entitled to an immigrant status.

DATES: This interim rule is effective October 1, 1991. Comments are invited and must be received on or before October 31, 1991.

ADDRESSES: Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Services, Department of State, Washington, DC 20522-0113, (202) 663-1184.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Office, Department of State, Washington, DC 20522-0113, (202) 663-1184.

SUPPLEMENTARY INFORMATION:

Background

The Immigration Act of 1990, Public Law 101-649, redesignated many sections/subsections of the Immigration and Nationality Act, added classes subject to self-contained numerical limitations not under sections 201 and 202, restructured INA 203, and added a petition requirement for classes not now subject to such a prerequisite.

Sections to This Part Not Included in This Rule

Except for § 42.32(d)(2), the regulations in subparts C and D of part 42, which relate to individual classes of aliens, are the subject of a separate interim rule. Also the subject of a separate interim rule is § 42.32(d)(2) of subpart D, which relates to special immigrants under INA 101(a)(27)(D) (employees and former employees of the United States Government). The regulations relating to changes in subpart F of part 42 also will be the subject of a separate interim rule.

Amendments by the Immigration Act of 1990

This regulatory order contains all other regulations in part 42 which have been changed in any respect. The majority of these changes are editorial and, whether or not substantive, are required for conformity with the law.

Substantive changes of a discretionary character are to be found only in §§ 42.2, 42.63, 42.65, and 42.83, as discussed below.

Section 42.2, Aliens Not Required To Present Passports

Paragraph (d), benefiting third preference applicants, was added to § 42.2 on or around 1967. It was designed to assist those immigrants most needed by U.S. industry, primarily scientists, who were natives of but not resident in totalitarian countries, unable or unwilling to obtain a passport from the authorities of their native land, and bearers of travel documents which did not meet the statutory definition of a "passport." In light of the fact that almost all aliens now have a suitable travel document and there has been little, if any, need for it, this provision has been withdrawn and the succeeding subsections (e) through (h) redesignated as (d) through (g). It should be noted, however, that any alien can still be the beneficiary of an individual passport waiver for good cause shown, and this deletion does not affect that right.

Section 42.11, Classification Symbols

New immigrant visa symbols are shown in § 42.11. The list of exceptions to the general rule that aliens are chargeable to the foreign state or dependent area of birth, contained in § 42.12, has been expanded to include those classes not subject to the numerical limitations of INA 201 and 202, i.e.: Spouses and children of legalized aliens documented under section 112 of the Immigration Act of 1990; Certain employees of U.S. businesses in Hong Kong; Natives of certain adversely affected foreign states; Displaced Tibetans; and Amerasians under section 584(b)(1), as contained in section 101(e) of Public Law 100-202. Reference therein to special immigrants, on the other hand, has been narrowed to those under INA 101(a)(27) (A) or (B), inasmuch as all others become subject to numerical limitation as the fourth employment-based preference under Public Law 101-649, section 121.

Section 42.41, Effect of Approved Petition, and Section 42.42, Petition for Immediate Relative or Preference Status

Because INA 204, as amended by section 162(b) of the Immigration Act of 1990, vests the authority and responsibility to approve petitions in the Secretary of State, rather than the Attorney General, with respect to certain classifications, § 42.41 and § 42.42 contain the minor editorial