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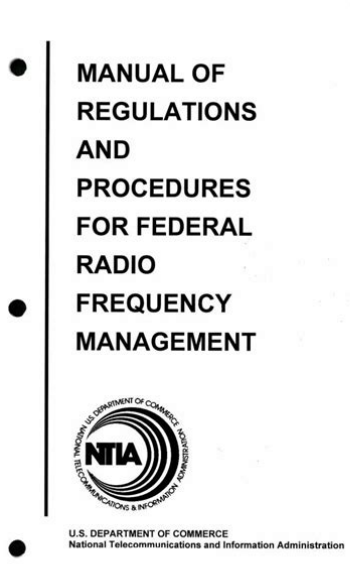

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Orders, Presidential directives, OMB circulars and other sources. 9 FAM dealsImmigration and Nationality Act of 1952, as amended INA. The current text ofIn addition,Relations, CFR is the administrative law that further interprets and defines,Register, the powers and responsibilities given to the Department by Congress. Chapter I, Subchapter E Visas governs the Departments visa operations. The 9. FAM provides additional guidance outlining specific policies and procedural informationIf you have questions about how to interpretPlain language isFor more information on plain language, see the Office of Directives. Managements Plain Writing Resource Page. Government employee other than a consular officer is involved, we will specify in. The FAM generally policy and the FAHs generally procedures together convey codified information to Department staff and contractors so they can carry out their responsibilities in accordance with statutory, executive and Department mandates. Chapter 42 covers immigrant visas. Chapter 40 relates to visa ineligibilities and waivers. Go to the U.S. Department of State site to review 9 FAM Visas. We've made big changes to make the eCFR easier to use. Be sure to leave feedback using the Help button on the bottom right of each page!The Public Inspection page may alsoWhile every effort has been made to ensure thatUntil the ACFR grants it official status, the XMLCounts are subject to sampling, reprocessing and revision up or down throughout the day. These can be usefulOnly official editions of theUse the PDF linked in the document sidebar for the official electronic format. This rule codifies in regulation the eligibility criteria for special immigrant status of such aliens and the application process for applicants.http://farolive.com/UserFiles/canadian-forces-drill-manual-cfp-201.xml

- **9 foreign affairs manual, 9 foreign affairs manual 402.2-5 e 3 u, 9 foreign affairs manual fam 42.31 n2, 9 foreign affairs manual 402.9, volume 9 foreign affairs manual, foreign affairs manual at 9 fam 41.31 n9.1-4, foreign affairs manual chapter 9, 9 foreign affairs manual, 9 foreign affairs manual, 9 foreign affairs manual, foreign affairs manual 9 fam, foreign affairs manual volume 9.**

For special immigration status to be granted, this provision requires that the principal officer of a Foreign Service establishment recommend granting of special immigrant status in an exercise of discretion to aliens in exceptional circumstances. The statute provides that the Secretary of State may choose to approve such a recommendation after finding that it is in the national interest to grant such status, for the status to be conferred. Upon notification that the Secretary of State, or designee, has approved a recommendation and found that granting special immigrant status is in the national interest, the applicant must submit a completed Form DS1884, Petition to Classify Special Immigrant Under INA 203b4 as an Employee or Former Employee of the U.S. Government Abroad, to the Department of State "Department" within one year. Once the DS1884 is submitted and approved, the employee must submit an immigrant visa application, which a consular officer adjudicates in accordance with relevant provisions in the INA. If the consular officer approves the visa application and issues the visa, the applicant then has six months to immigrate to the United States.The scope of "exceptional circumstances" set out in this rule departs, in certain respects, from the Departments policies that preceded this rule, which were articulated only in the Foreign Affairs Manual FAM, specifically 9 FAM 502.53C2d, not in the CFR. Specifically, the excluded criteria, formerly in 9 FAM 502.53C2d3ciivi, that will no longer constitute exceptional circumstances, are Recognition with multiple individual awards; high visibility in a sensitive position; control over key aspects of the operations or overall functioning of a Foreign Service post; valuable services and assistance to the U.S. community at post apart from performance of official

duties; and faithful service in a country foreign to the employee that resulted in the employee losing economic and social ties to his or her home country.http://www.thmed.com.br/userfiles/conteudos/canadian-forces-patrolling-manual.xml

The regulation also adds two new criteria that will constitute exceptional circumstances moving forward, specifically Recognition with a “Foreign Service National of the Year” award; and disclosure of waste, fraud, abuse, or other issues that result in significant action against an offending party. The FAM will be revised in accordance with this rule on the effective date of this rule. Text formerly in section 42.32d2iB is now consolidated with the definition of “qualifying fulltime service” in section 42.34c1. For example, working fulltime for 10 years and halftime for at least 10 more would qualify the employee for consideration. Department guidance that preceded this rule, and will continue, instructs principal officers at foreign service post to consider employees disciplinary records and other similar factors in making this assessment. Because the term “persecution,” as defined in certain other U.S. legal contexts, does not accurately reflect the Departments policy relative to finding exceptional circumstances for this special immigrant status, the regulation adopts a standard of “retribution,” to more accurately reflect the Departments policy and practice in this area. The Department does not anticipate this change in terminology will affect the application of this exceptional circumstance provision, because the Department, for the purposes of this provision, has historically considered conduct to be “persecution” within the meaning of the FAM guidance, as amended, despite not necessarily meeting the elements of “persecution” as defined in other contexts, such as in the asylum context, and as informed by the Board of Immigration Appeals and opinions by the Attorney General. Since the inception of this program, as a matter of policy, the Department has viewed 20 or more years of faithful service as prima facie evidence of “exceptional circumstances,” because the employee has devoted such a large portion of his or her career to the U.S. government.

This rule retains that understanding. INA section 101a27D, 8 U.S.C. 1101 a27D, provides for the granting of special immigrant status in exceptional circumstances to immigrants who are employees, or honorably retired former employees, of the U.S. government abroad, or of the American Institute in Taiwan, and who have performed faithful service for at least 15 years, as well as their accompanying spouse and children. Further, INA section 101a27D, 8 U.S.C. 1101 a27D, provides that the Secretary of State must approve each recommendation and find that it is in the national interest to grant special immigrant status. INA section 203b4, 8 U.S.C. 1153 b4, allocates visas to be made available to qualified special immigrants each fiscal year. Certain criteria that were included in Volume 9 of the FAM were subjective or otherwise led to inconsistency in recommendations submitted by different overseas posts. This likely resulted in uncertainty for special immigrant status applicants and, potentially, inconsistent results for similarly situated applicants. The Department is revising the eligibility criteria to exclude the most subjective of criteria and adding new objective bases for establishing exceptional circumstances. The Department aims to promote consistency in adjudications of applications for special immigrant status. Codifying these objective criteria is intended to increase the likelihood that similar service is rewarded similarly around the world and increase the fairness and integrity of the special immigrant status process through more consistent application of the law. These transparent standards will aid the U.S. government abroad in recruiting and retaining loyal and committed foreign nationals. The new standards will apply to all recommendations from the principal officer of a Foreign Service establishment submitted to the Department for consideration by the Secretary of State, or designee, on or after the effective date.

http://gbb.global/blog/3m-intracom-d-20-manual

The Department considers a recommendation to be submitted when the Department has received the principal officers recommendation through the proper submission methods from post. This rulemaking provides prospective applicants seeking to qualify under INA section 101a27D, 8 U.S.C.

Start Printed Page 36325 1101a27D, for special immigrant status notice regarding the Departments implementation of the program. This is particularly essential in countries where local staff members face retribution by the host government, making it even more challenging to recruit and retain a locally employed workforce. The potential for locally employed staff to obtain special immigrant status for their spouses and children, in particular, is central to the U.S. governments ability to recruit and retain loyal and committed foreign nationals to support U.S. missions overseas. Consequently, the approval of recommendations for special immigrant status, and the promulgation of standards for such approval under the Secretary of States authority in INA section 101a27D, 8 U.S.C. 1101 a27D, involve foreign affairs functions of the Department of State. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments. The Department has also reviewed this rulemaking to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866. The Department has also considered this rule in light of Executive Order 13563 and affirms that this regulation is consistent with the guidance therein. This regulation is de minimis under Executive Order 13771. The Department estimates that approximately 60 recommendations from a principal officer per year may be initially impacted by this rule, because an employees qualifications will not demonstrate the requisite exceptional circumstances to qualify for special immigrant status due to the changes in standards implemented through this rule.

The Department is unable to reliably estimate the number of dependents who may also be restricted in their ability to qualify for derivative status until their spouse or parent is recommended by a principal officer under this new rule. Assuming an average of 2 derivatives per principal applicant, the rule could affect approximately 180 people worldwide per year.For example, some principal officer recommendations for applicants with at least 15 years of service, but less than 20 years of service, could previously qualify under the grounds of receiving at least two individual honor awards. This rule eliminates this category of exceptional circumstance. However, these same principal officer recommendations may still qualify under a separate exceptional circumstance in the future by reaching 20 years of service. As a result, while an Start Printed Page 36326 estimated 60 recommendations from principal officers regarding the qualification of applicants may be affected, the Department does not expect that a significant number of principal officer recommendations will be permanently affected. The Department will incur de minimis administrative costs to provide clear guidance and messaging regarding this change to all posts and to locally employed staff that may be impacted by the rule. While some locally employed staff may believe a principal officer would likely recommend them for special immigrant status on bases eliminated by this rule, there are several other categories, as discussed above, through which they may qualify in the future. The rule will not have federalism implications warranting the application of Executive Orders 12372 and 13132. Accordingly, the requirements of section 5 of Executive Order 13175 do not apply to this rulemaking. This rule has no effect on the DS1884 or the cost burdens for individual applicants completing these forms. Rather, this rule applies to the adjudication standards applied internally by the Departments personnel.

The Department believes this rule may initially reduce the overall number of DS1884, Petition to Classify Special Immigrant Under INA 203b4, by approximately 60 per year due to a decrease either in the number of principal officer recommendations submitted to the Department or the number of recommendations approved by the Secretary, or his designee. However, many of the affected applicants will likely eventually qualify and file both the form DS1884 and DS260. Because this rule is likely to delay, rather than prevent, most affected applicants from completing these forms, the Department does not believe that this proposal will affect the burden of these forms. The

Department is unable to reliably estimate the number of dependents of affected applicants for special immigrant status who will not file a DS260, if the principal subsequently is approved for SIV status, because, e.g., they will age out of dependent eligibility or they will be unable or unwilling to wait. An alien who seeks classification as a special immigrant under INA 203b4 based on service as an employee to the U.S. government abroad or American Institute in Taiwan must file a Form DS1884, Petition to Classify Special Immigrant under INA 203b4 as an Employee or Former Employee of the U.S. Government Abroad, with the Department of State. An alien may file such a petition only after, but within one year of, notification from the Department that the Secretary of State or designee has approved a recommendation from the principal officer that special immigrant status be accorded the alien in exceptional circumstances, and has found it in the national interest to do so. The priority date of an alien seeking status under INA 203b4 as a special immigrant described in 101a27D shall be the date on which the petition Start Printed Page 36327 to accord such classification, the DS1884, is filed.

The filing date of the petition is the date on which a properly completed form and the required fee are accepted by a Foreign Service post. Pursuant to INA 203d, and whether or not named in the petition, the spouse or child of an alien classified under INA 203b4, if not otherwise entitled to an immigrant status and the immediate issuance of a visa, is entitled to the classification and priority date of the beneficiary of the petition. The authority to approve petitions to accord status under INA 203b4 to an alien described in INA 101a27D is hereby delegated to the chief consular officer at the post of recommendation or, in the absence of the consular officer, to any alternate approving officer designated by the principal officer. Such authority may not be exercised until the Foreign Service post has received formal notification of the Secretary of State or designees approval of special immigrant status for the petitioning alien. Except as noted in this paragraph, the validity of a petition approved for classification under INA 203b4 shall be six months beyond the date of the Secretary of States approval thereof or the availability of a visa number, whichever is later. If the principal officer of a post concludes that circumstances in a particular case are such that an extension of validity of the Secretary of State or designees approval of the principal officers recommendation or of the petition would be in the national interest, the principal officer shall recommend to the Secretary of State or designee that such validity be extended for not more than one additional year. An alien must have been employed for a total of at least 15 fulltime years, or the equivalent thereof, in the service of the U.S. government abroad.

The number of hours per week that qualify an employee as fulltime is dependent on local law and prevailing practice in the country where the alien is or was employed, as reflected in the employment documentation submitted with the application for special immigrant status. An alien may qualify as a special immigrant under INA 101a27D on the basis of employment abroad with one or more than one agency of the U.S. government provided the total amount of fulltime service with the U.S. government is 15 years or more, or the equivalent thereof. An alien must have performed faithfully in the position held. The principal officer has the primary responsibility for determining whether the aliens service meets this requirement. A record of disciplinary actions that have been taken against the alien does not automatically disqualify the alien. The principal officer must assess the disciplinary action in light of the extent and gravity of the misconduct and when it occurred and determine whether the record as a whole, notwithstanding disciplinary actions, is one of faithful service. INA 101a27D permits both present and former employees of the American Institute in Taiwan to apply for special immigrant status. An aliens service before and after the founding of the American Institute in Taiwan is counted toward the minimum 15 years of service requirement. Separations within the meaning of “honorably retired” include, for example, those resulting from mandatory or voluntary retirement, reductioninforce, or resignation for personal reasons. Separations not within the meaning of “honorably retired” would include a termination for cause or an involuntary termination or resignation in lieu of a termination for cause. The principal officer

must determine that an alien demonstrates at least one form of “exceptional circumstances” to support an application for special immigrant status. In the following situations an aliens service with the U.S.

government generally will be deemed to have met exceptional circumstances. Employees of the Hong Kong Consulate General who received or were approved for special immigrant status before July 1, 1999, also may continue employment with the U.S. government. Of the 508 principal officer recommendations reviewed during that 10month period, 50 qualified for this program solely based on the categories of exceptional circumstances that are being removed or changed. The volume of applications reviewed during this period was consistent with historical precedent. Based on this sample, the Department estimates that approximately five potential principal officer recommendations per month, or 60 per year, will not be eligible for special immigrant status but may have been eligible under the previous eligibility criteria. However, the Department has no way to anticipate the number of aliens who might qualify in the future under the new categories of exceptional circumstances created in this regulation. The following FAM subchapters were revised In particular, employers can anticipate that L1B visas for intracompany specialized knowledge workers, and E visas for essential workers, will face greater scrutiny. These two categories are very commonly used by multinational corporations to quickly transfer key personnel if the company has a Blanket L visa approval, or is an Eregistered company. Specifically, on March 31, 2017, USCIS issued a policy memorandum reinterpreting the professional designation of computer programming positions and providing new, stricter guidance on when those positions can be considered a specialty occupation for purposes of H1B classification. In addition, there have been numerous reports of USCIS issuing a new line of requests for evidence RFE that question the entrylevel designation of certain H1B positions.

This particular type of request has broader implications for employers, as these types of requests are being issued across all types of positions, not just those limited to certain occupations. USCIS and The Department of Labor use a fourlevel wage system for specific occupational codes in the preparation of a Labor Condition Application, a prerequisite to filing an H1B petition. Using this system, Level 1 normally reflects the most junior or entrylevel positions, while Level 4 reflects the most seniorlevel positions within a specific occupational code. This new line of questioning places employers in the predicament of having to explain both that the duties of the proffered position require a limited amount of independent judgment thus, making the position entrylevel, and that the duties are still sufficiently complex to warrant a determination that the position is a specialty occupation. The new RFEs have the effect of making it more difficult for employers to pay entrylevel wages to H1B workers due to increased scrutiny on what qualifies as an entrylevel position. Employers should expect this trend to continue, and, importantly, should clearly outline the duties and requirements of the proffered position to ensure that they meet definitional thresholds. Officers at Consular Posts adjudicating specialized knowledge or essential positions are likely to closely review proposed salaries. If these are at the lower end of the wage scale for those occupations, employers may have a more difficult time getting these visas approved. Furthermore, employers should evaluate their experience requirements for positions open to nonimmigrant visa sponsorship, as USCIS has demonstrated that they will be looking closely at wage levels relative to complexity of the proposed position. Thank you!

It contains a wealth of information on the application process, grounds of inadmissibility ineligibility, the various classifications for immigrant and nonimmigrant visas, and revocation of a visa. With the current administrations retreat from transparency, however, there is no guarantee that the public will be able to access this information in the future. We have therefore published here a PDF file containing Volume 9, which concerns visas. Foreign Affairs Manual, Vol. 9, Visas PDF. This version of 9 FAM 101.1 through 504.13 was downloaded from the Department of State website on July 6,

2017. Privacy policy. The FAM is the authoritative source for U.S. Department of State DOS policies and procedures and provides instructional guidance to U.S. Consular officers when administering the issuance of U.S. visas. Section 2b of the EO, for example, states that “it shall be the policy of the executive branch to rigorously enforce and administer the laws governing entry into the United States of workers from abroad.” In addition, section 5a directs several government agencies such as the DOS, Department of Homeland Security, and Department of Labor, “to propose new rules and issue new guidance… to protect the interests of United States workers in the administration of our immigration system including through the prevention of fraud or abuse.” These visa categories are The new language reiterates the protection of U.S. workers “in the administration of our immigration system, including through the prevention of fraud or abuse” and instructs consular officers to adjudicate cases under each of these visa categories “with this spirit in mind.” As such, employers should anticipate that their employees who travel abroad to apply for a visa at a U.S. consular post abroad will likely face a more rigorous adjudication and higher level of scrutiny of their visa applications.

As a precaution, employers may want to strategize with their employees well in advance of the visa appointments to prepare for any negative outcomes and to have a strategy in place in the event of a denial. The new language expands guidance on the “foreign residence” requirement for F1 visa applicants by instructing consular officers as follows To evaluate this, you should assess the applicant’s current plans following completion of his or her study or OPT. The hypothetical possibility that the applicant may apply to change or adjust status in the United States in the future is not a basis to refuse a visa application if you are satisfied that the applicant’s present intent is to depart at the conclusion of his or her study or OPT. The guidance appears to give officers even more discretionary power to deny a student’s visa application simply because an officer was not “satisfied” with the applicant’s evidence.For example, some applicants who already hold F1 student status but who have H1B petitions submitted and pending with the USCIS on their behalf may face an uphill battle in applying for a renewed F1 visa. In such instances, if a consular officer asks the student whether he or she intends to depart the United States upon completion of his or her studies, the applicant will truthfully need to advise of his or her pending H1B petition with USCIS. This information in all likelihood will lead to the consulate’s denial of the student’s F1 visa application and the applicant will need to remain outside the United States until he or she is able to apply for an H1B visa. To avoid having one’s F1 visa application denied, it would, therefore, be in the student’s interest to not leave the United States at all until and unless the H1B petition is approved by USCIS, and then apply for the H1B visa at the consulate abroad at the appropriate time. However, this may not be possible; for example, if there is a family emergency abroad.

However, the revisions appear to instruct officers to apply a more rigorous and, arguably, protectionist approach to determining whether an applicant meets the requirements of the visa category in question. For the work visa classifications E, L, O, P, and H, employers should be aware that their employees or potential employees may encounter increased scrutiny at the visa interview and prepare for any setbacks accordingly. Applicants seeking student visas should seek out resources from their school’s offices for international students to prepare accordingly. Student visa applicants may also want to communicate with their prospective H1B employer if applicable to their situations about alternate arrangements in the event that the consulate abroad denies their visa applications. When such a disaster occurs, there is often little time to organize our business affairs in the midst of more pressing personal obligations. It is only after the crisis passes that we fully appreciate the impact on our company’s operations, forcing us to struggle from behind the power curve to put our business affairs back in order and comply with the seemingly endless legal and regulatory burdens that often arise after a major disaster. We cannot become your lawyers or represent you in any way unless 1 we know that doing so would not create a conflict of interest with any of the clients we represent, and 2 satisfactory arrangements have been made with us for

representation. Accordingly, please do not send us any information about any matter that may involve you unless we have agreed that we will be your lawyers and represent your interests and you have received a letter from us to that effect called an engagement letter.

The statute creating the B nonimmigrant classificationFor example, it recognizesThe medical clerkship is only forIt does not applyFailure to pass the Foreign Medical GraduateHowever, aliens, often students,For a list of countriesThe website also provides information about general VWP eligibility, requirements,The applicantDocumentationBecause the nature of classification as a WT or WB visitorFor example, they may not legally accept parttime,The total amount. Travel and Reentry Comparison Chart Such “singleintent” visas can be denied if the Consular Officer adjudicating the visa request is not convinced that the visa applicant has a residence in their home country to return to that they have no intent of abandoning. The revised FAM entries, effective August 8, 2017, make stricter FAM guidance on assessing residence abroad for F1 students, by removing helpful prior language that had encouraged consular officers to consider the inherent difference between a young F1 visa applicant and a shortterm B visa applicant. For example, a Brazilian living in the U.K. for the past 3 years need not prove that he intends to return to the U.K., as long as he can prove that he intends return to their residence in Brazil after the studies are complete. This presents a somewhat contradictory scenario how does one prove their intent to return their home country when they have clearly already manifested intent to immigrate. This is clarified in 9 FAM 401.13F2e which explains that it is the intention of the visitor on the particular visit that is relevant. This section provides the following guidance to Consular Officers While immigrant visa registration is reflective of an intent to immigrate, it may not be proper for you to refuse issuance of a visa under INA 214b solely on the basis of such registration, unless you have reason to believe the applicants true intent is to remain in the United States until such a time as an immigrant visa IV becomes available.