

9 FAM 42.52

POST RECORDS OF VISA APPLICATIONS

(CT:VISA-1548; 09-27-2010)
(Office of Origin: CA/VO/L/R)

9 FAM 42.52 RELATED STATUTORY PROVISIONS

(CT:VISA-1548; 09-27-2010)

See INA 203(e)(3) (8 U.S.C. 1153(e)(3))

INA 203(e) Allocation of Immigrant Visas

(e) Order of consideration. –

- (3) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.

9 FAM 42.52 RELATED REGULATORY PROVISIONS

(CT:VISA-1548; 09-27-2010)

22 CFR 42.52 Post records of visa applications.

(a) Waiting list. Records of individual visa applicants entitled to an immigrant classification and their priority dates shall be maintained at posts at which immigrant visas are issued. These records shall indicate the chronological and preferential order in which consideration may be given to immigrant visa applications within the several immigrant classifications subject to the numerical limitations specified in INA 201, 202, and 203. Similar records shall be kept for the classes specified in INA 201(b)(2) and 101(a)(27) (A) and (B) which are not subject to numerical limitations. The records which pertain to applicants subject to numerical limitations constitute “waiting lists” within the meaning of INA 203(e)(3) as redesignated by the Immigration Act of 1990.

(b) Entitlement to immigrant classification. An alien shall be entitled to

immigrant classification if the alien:

- (1) Is the beneficiary of an approved petition according immediate relative or preference status;
- (2) Has satisfied the consular officer that the alien is entitled to special immigrant status under INA(101)(a)(27) (A) or (B);
- (3) Is entitled to status as a Vietnam Amerasian under section 584(b)(1) of section 101(e) of Public Law 100-202 as amended by Public Law 101-167 and re-amended by Public Law 101-513; or
- (4) Beginning in FY-95, is entitled to status as a diversity immigrant under INA 203(c).

(c) Record made when entitlement to immigrant classification is established.

- (1) A record that an alien is entitled to an immigrant visa classification shall be made on Form OF-224, Immigrant Visa Control Card, or through the automated system in use at selected posts, whenever the consular officer is satisfied—or receives evidence—that the alien is within the criteria set forth in paragraph (b) of this section.
- (2) A separate record shall be made of family members entitled to derivative immigrant status whenever the consular officer determines that a spouse or child is chargeable to a different foreign state or other numerical limitation than the principal alien. The provisions of INA 202(b) are to be applied as appropriate when either the spouse or parent is reached on the waiting list.
- (3) A separate record shall be made of a spouse or child entitled to derivative immigrant status whenever the consular officer determines that the principal alien intends to precede the family.

[56 FR 51174, Oct. 9, 1991, as amended at 61 FR 1836, Jan. 24, 1996]