

9 FAM 42.32(d)(3) PANAMA CANAL EMPLOYEES

*(CT:VISA-1399; 02-19-2010)
(Office of Origin: CA/VO/L/R)*

9 FAM 42.32(d)(3) RELATED STATUTORY PROVISIONS

(CT:VISA-1350; 10-21-2009)

See INA 101(a)(27)(E), (F), and (G) (8 U.S.C. 1101(a)(27)(E), (F), and (G)), INA 203(b)(4) (8 U.S.C. 1153(b)(4)), INA 203(d) (8 U.S.C. 1153(d)), and INA 204(a)(1)(E) (8 U.S.C. 1154(a)(1)(E)).

INA 101(a)(27)(E), (F), and (G)

(E) An immigrant, and his accompanying spouse and children, who is *or* has been an employee of the Panama Canal Company or Canal Zone Government before the date on which the Panama Canal Treaty of 1977 (as described in section 3 (a)(1) of the Panama Canal Act of 1979) enters into force, who was resident in the Canal Zone on the effective date of the exchange of instruments of ratification of such Treaty, and who has performed faithful service as such an employee for one year or more;

(F) An immigrant, and his accompanying spouse and children, who is a Panamanian national and

(i) Who, before the date on which such Panama Canal Treaty of 1977 enters into force, has been honorably retired from United States Government employment in the Canal Zone with a total of 15 years or more of faithful service, or

(ii) Who, on the date on which such Treaty enters into force, has been employed by the United States Government in the Canal Zone with a total of 15 years or more of faithful service and who subsequently is honorably retired from such employment or continues to be employed by the United States Government in an area of the former Canal Zone;

(G) An immigrant, and his accompanying spouse and children, who was an employee of the Panama Canal Company or Canal Zone Government on the effective date of the exchange of instruments of ratification of such Panama Canal Treaty of 1977, who has performed faithful service for five years or more as such an employee, and whose personal safety, or the personal safety of whose spouse or children, as a direct result of such Treaty, is

reasonably placed in danger because of the special nature of any of that employment.

INA 203(b)(4)

b. Preference Allocation for 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 follows:

(4) Certain special immigrants. - Visas shall be made available, in a number not to exceed 7.1 percent of such worldwide level, to qualified special immigrants described in section 101(a)(27) (other than those described in subparagraph (A) or (B) thereof), of which not more than 5,000 may be made available in any fiscal year to special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii), and not more than 100 may be made available in any fiscal year to special immigrants, excluding spouses and children, who are described in section 101(a)(27)(M).

INA 203(d)

d. Treatment of family members.—A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a), (b), or (c), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, the spouse or parent.

INA 204(a)(1)(E)

(E) Any alien desiring to be classified under section 203(b)(1)(A), or any person on behalf of such an alien, may file a petition with the Attorney General for such classification.

9 FAM 42.32(d)(3) RELATED REGULATORY PROVISIONS

(CT:VISA-1350; 10-21-2009)

See 22 CFR 42.32(d)(3)

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.

- (d) Fourth preference--Special immigrants--
- (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 DHS 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.