

## **9 FAM 42.32(d)(9) FOURTH PREFERENCE--SPECIAL IMMIGRANTS--VICTIMS OF TERRORISM**

*(CT:VISA-1098; 11-03-2008)  
(Office of Origin: CA/VO/L/R)*

### **9 FAM 42.32(d)(9) RELATED STATUTORY PROVISIONS**

*(CT:VISA-1098; 11-03-2008)*

See Sec. 421 of Public Law 107-56.

#### **SEC. 421. SPECIAL IMMIGRANT STATUS.**

- a. In General.--For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Attorney General may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)), if the alien—
  - (1) files with the Attorney General a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4)); and
  - (2) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility, the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.
- b. Aliens Described.—
  - (1) Principal aliens.--An alien is described in this subsection if-
    - (A) the alien was the beneficiary of—
      - (i) a petition that was filed with the Attorney General on or before September 11, 2001--
      - (I) under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) to classify the alien as a family-sponsored immigrant under section 203(a) of such Act (8 U.S.C. 1153(a)) or as an

- employment-based immigrant under section 203(b) of such Act (8 U.S.C. 1153(b)); or
- (II) under section 214(d) (8 U.S.C. 1184(d)) of such Act to authorize the issuance of a nonimmigrant visa to the alien under section 101(a)(15)(K) of such Act (8 U.S.C. 1101(a)(15)(K)); or
- (ii) an application for labor certification under section 212(a)(5)(A) of such Act (8 U.S.C. 1182(a)(5)(A)) that was filed under regulations of the Secretary of Labor on or before such date; and
- (B) such petition or application was revoked or terminated (or otherwise rendered null), either before or after its approval, due to a specified terrorist activity that directly resulted in—
  - (i) the death or disability of the petitioner, applicant, or alien beneficiary; or
  - (ii) loss of employment due to physical damage to, or destruction of, the business of the petitioner or applicant.
- (2) Spouses and children.—
  - (A) In general.--An alien is described in this subsection if--
    - (i) the alien was, on September 10, 2001, the spouse or child of a principal alien described in paragraph (1); and
    - (ii) the alien--
      - (I) is accompanying such principal alien; or
      - (II) is following to join such principal alien not later than September 11, 2003.
  - (B) Construction.--For purposes of construing the terms “accompanying” and “following to join” in subparagraph (A)(ii), any death of a principal alien that is described in paragraph (1)(B)(i) shall be disregarded.
- (3) Grandparents of orphans.--An alien is described in this subsection if the alien is a grandparent of a child, both of whose parents died as a direct result of a specified terrorist activity, if either of such deceased parents was, on September 10, 2001, a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States.
- c. Priority Date.--Immigrant visas made available under this section shall be issued to aliens in the order in which a petition on behalf of each such alien is filed with the Attorney General under subsection (a)(1), except that if an alien was assigned a priority date with respect to a petition

described in subsection (b)(1)(A)(i), the alien may maintain that priority date.

- d. Numerical Limitations.--For purposes of the application of sections 201 through 203 of the Immigration and Nationality Act (8 U.S.C. 1151-1153) in any fiscal year, aliens eligible to be provided status under this section shall be treated as special immigrants described in section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) who are not described in subparagraph (A), (B), (C), or (K) of such section.

## **9 FAM 42.32(d)(9) RELATED REGULATORY PROVISIONS**

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See 22 CFR 42.32(d)(9).