DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

8 CFR Part 204

[CIS No. 2106-00]
RIN 1615-AA47

Special Immigrant Visas for Fourth Preference Employment-Based Broadcasters


ACTION: Final rule.

SUMMARY: This rule adopts, without change, the interim rule published by the former Immigration and Naturalization Service (Service) in the Federal Register on October 11, 2001, that established procedures under which the International Broadcasting Bureau of the United States Broadcasting Board of Governors, or a grantee organization, could file immigrant visa petitions for foreign language alien broadcasters. The rule explained the requirements that alien broadcasters must meet in order to be the beneficiary of an immigrant visa petition. The public did not submit any comments to the interim rule.

DATES: This final rule is effective May 18, 2006.

FOR FURTHER INFORMATION CONTACT: Alanna Ow, Adjudications Officer, Business and Trade Services Branch, Office of Program and Regulations Development, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., 3rd Floor (ULLICO), Washington, DC 20529, telephone (202) 616-7417.

SUPPLEMENTARY INFORMATION:

Background

Section 203 of the Immigration and Nationality Act (INA) provides for the allocation of preference visas for both family and employment-based immigrants. The fourth preference, employment-based category (EB-4), allows for the immigration of a variety of aliens who possess various specialized job skills or abilities. Id. at 203(b)(4). Section 101(a)(27) of the INA also offers definitions of the various jobs or professions that aliens must hold or possess in order to qualify for the EB-4 category.

The first preference, priority workers, allows for the immigration of workers with extraordinary abilities in the sciences,
arts, education, business, or athletics; outstanding professors and researchers; and certain multinational executives. Id. at 203(b)(1). The second preference allows for the immigration of professionals holding advanced degrees. Id. at 203(b)(2). The third preference allows for the immigration of skilled workers in short supply and professionals holding baccalaureate degrees. Id. at 203(b)(3).

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Legislative and Regulatory History

On November 22, 2000, President Clinton signed the Special Immigrant Status For Certain United States International Broadcasting Employees Act (IBE Act), Public Law 106-536. Section 1 of the IBE Act amended section 101(a)(27) of the INA by adding a new subparagraph. The amendment established a special fourth preference employment-based immigrant category for immigrants seeking to enter the United States to work as broadcasters in

the United States for the International Broadcasting Bureau of the United States Broadcasting Board of Governors (BBG) or a BBG grantee. (Currently, BBG grantees are Radio Free Asia, Inc. and Radio Free Europe/Radio Liberty, Inc.)

On October 11, 2001, at 66 FR 51819, the former Service published an interim rule in the Federal Register that added 8 CFR 204.13 and established an administrative procedure for the BBG and its grantees to use in order to petition for the services of an alien broadcaster. The interim rule also codified the provisions of the IBE Act and put into place procedures for the BBG, its grantees, and former Service officers, now U.S. Citizenship and Immigration Services (USCIS) officers, to follow.

Why Does the BBG Need Alien Broadcasters?

The BBG and its grantees are charged by Congress to broadcast internationally on behalf of the United States Government. This requires that the BBG attract and retain a large number of foreign language broadcasters. These broadcasters must have the unique combination of native fluency in the broadcast language combined with an in-depth knowledge of the people, history, and culture of the broadcast area. Historically, the BBG has experienced difficulty in finding and employing members of the domestic workforce possessing this unusual combination of skills to meet the United States Government's international broadcasting needs.

By creating a new special EB-4 subcategory, the IBE Act allows the BBG and its grantees to directly petition for alien broadcasters. Being able to offer immigrant status to an alien broadcaster and his or her spouse and children may assist the BBG in fulfilling its obligation as the international broadcasting conduit for the United States Government. Under section 203(b)(4) of the INA, only 100 such visas may be made available in any fiscal year to alien broadcasters coming to work for BBG or a BBG grantee. This numerical limitation does not apply, however, to the spouses and children of such immigrants.

Did the Former Service Receive Any Comments on the Interim Rule?

The former Service did not receive any comments during the 60-day comment period in response to the interim rule. Accordingly, the Department of Homeland Security (DHS) is now adopting the interim rule as a final rule without change.

Regulatory Flexibility Act
DHS has reviewed this regulation in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. The October 11, 2001, interim rule provided a special process that benefits individuals who will be coming to the United States to work as broadcasters. It did not affect small entities as that term is defined in 5 U.S.C. 601(6). Since this final rule does not make any changes to the interim rule, this final rule likewise will not affect small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is not considered by DHS to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, the Office of Management and Budget (OMB) has waived its review process under section 6(a)(3)(A).

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104-13, all Departments are required to submit to OMB, for review and approval, any reporting requirements inherent in a rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 204

Administrative practice and procedures, Aliens, Employment, Immigration, Petitions.
Accordingly, the interim rule amending 8 CFR part 204, which was published in the Federal Register at 66 FR 51819, on October 11, 2001, is adopted as a final rule without change.

Michael Chertoff,
Secretary.

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