

*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 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*

Although this rule is being promulgated in conjunction with the Immigration and Naturalization Service, a domestic agency, the Department of State does not consider this rule to be a "significant regulatory action" under Executive Order 12866, section (3)(f), Regulatory Planning and Review. Therefore, in accordance with the letter to the Department of State of February 4, 1994 from the Director of the Office of Management and Budget, it does not require review by the Office of Management and Budget.

*Executive Order 13132*

This regulation 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.

*Paperwork Reduction Act*

This rule does not impose any new reporting or record-keeping requirements under the Paperwork Reduction Act.

**List of Subjects in 22 CFR Part 42**

Aliens, Immigrants, Passports and visas.

■ For the reasons set forth in the preamble, the Department is amending the regulations at 22 CFR part 42 to read as follows:

**PART 42—[AMENDED]**

■ 1. The authority citation for part 42 is revised to read as follows:

**Authority:** 8 U.S.C. 1104; Pub. L. 107–56, sec. 421.

■ 2. Amend § 42.32(d) by adding a new paragraph (9) to read as follows:

**§ 42.32 Employment-based preference immigrants.**

\* \* \* \* \*

(d) \* \* \*

(9) Certain Victims of the September 11, 2001 terrorist attacks. (i) Entitlement to status. An alien shall be classifiable as a special immigrant under INA 203(b)(4) as specified in section 421 of Public Law 107–56, if:

(A) The consular officer has received a petition approved by the INS to accord such classification, or official notification of such an approval, and the consular officer is satisfied from the evidence presented that the alien is entitled to that classification; or

(B) The alien is the spouse or child of an alien so classified in paragraph (d)(9)(i) of this section and is accompanying or following to join the principal alien.

(ii) *Ineligibility exemption.* An alien classified under paragraph (d)(9)(i) of this section shall not be subject to the provisions of INA 212(a)(4).

(iii) *Priority date.* Aliens entitled to status under paragraph (d)(9)(i) of this section shall be assigned a priority date as of the date the petition was filed under INA 204 for classification under section INA 203(b)(4) and visas shall be issued in the chronological order of application submission. However, in the event that the annual limit for immigrants under INA 203 is reached, the alien may retain the earlier priority date of the petition that was revoked.

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Dated: January 3, 2003.

**Maura Harty,**

*Assistant Secretary for Consular Affairs,  
Department of State.*

[FR Doc. 03–11222 Filed 5–7–03; 8:45 am]

**BILLING CODE 4710–06–P**

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****23 CFR Parts 140 and 646**

[FHWA Docket No. FHWA–97–2681]

FHWA RIN 2125–AD86

**Railroad-Highway Projects**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FHWA adopts as final an interim final rule that amends the regulation on railroad-highway projects and reimbursement for railroad work on Federal-aid highway projects. The purpose of adopting the interim final rule as final is to reflect the statutory changes brought about by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and to provide State transportation departments with clarification and more flexibility in implementing current law.

**EFFECTIVE DATE:** June 9, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rudolph Umbs, Office of Safety (HSA–1), (202) 366–2177, or Mr. Raymond Cuprill, Office of the Chief Counsel (HCC–30), (202) 366–0791. Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:****Electronic Access**

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

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**Background**

The FHWA published an interim final rule on parts 140 and 646, on August 27, 1997, at 62 FR 45326. Interested persons were invited to submit comments to FHWA Docket No. FHWA–97–2681. The interim final rule amended the