

List of Subjects in 22 CFR Part 41

Aliens, Passports and visas.

■ Accordingly, the Department of State adopts as final the interim rule published on March 7, 2002 (67 FR 10322) that revised 22 CFR 41.112(d).

Dated: June 26, 2003.

Maura Harty,

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

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DEPARTMENT OF STATE**22 CFR Part 42**

[Public Notice 4446]

Documentation of Immigrants Under the Immigration and Nationality Act, As Amended: Electronic Petition for Diversity Immigrant Status

ACTION: Interim rule with request for comments.

SUMMARY: In this rule the Department changes the manner in which aliens may petition for the opportunity to participate in the Diversity Visa Program from a standard mail-in system, to an entirely electronic system that will utilize a specifically designated Internet website. This rule also makes minor technical and editorial changes to the existing rule for the purpose of greater clarity, uniformity and precision. The Department is implementing the new electronic system in order to make the process less prone to fraud, improve efficiency in the diversity visa petition process and significantly reduce the cost to the Government of the process. When the rule is published aliens petitioning to participate in the diversity visa program will be required to submit their petition to the Department exclusively via electronic means.

DATES: This rule becomes effective on August 18, 2003. Written comments must be received on or before October 17, 2003.

ADDRESSES: Written comments may be submitted to the Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520-0106, by fax to 202-663-3898, or by e-mail to VisaRegs@state.gov.

FOR FURTHER INFORMATION CONTACT: Ron Acker, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520-0106, 202-663-0102.

SUPPLEMENTARY INFORMATION:

What Is the Diversity Visa Program?

The Diversity Visa Program is an annual visa program administered by the Department of State pursuant to section 203(c) of the Immigration and Nationality Act (INA), 8 U.S.C. 1153(c). Aliens from eligible countries (as determined by the Department of Homeland Security) petition the Department for the opportunity to apply for one of 50,000* immigrant visas made available each year pursuant to section 201(e) of the INA, 8 U.S.C. 1151(e) (note that section 201(e) actually provides for 55,000 visas, however, the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA), Title II of P.L. 105-100, stipulated that 5,000 of the immigrant visas made available under section 201(e) would be set aside each year for aliens eligible to adjust their status to that of lawful permanent resident under that Act*). The Department selects and rank orders petitions at random from among those that meet all of the prescribed petition requirements. Aliens whose petitions are selected may then apply for visas in rank order on a first come, first served basis until all of the 50,000* visas for the fiscal year for which the petitions have been selected are issued, or the fiscal year ends, whichever comes first.

What Is the Current Petition Procedure for the Program?

Since the inception of the Diversity Visa Program, the Department has required that all petitions for acceptance of an alien into the program be submitted by mail during a thirty-day period in the fiscal year preceding the fiscal year for which petitioners seek eligibility for the program. To date, submission by any means other than regular mail has been prohibited.

According to the existing rule, individual petitioners have been instructed to include certain information about themselves and their family members on a sheet of paper and to submit that document, signed, along with signed photographs of themselves and family members to the Department at a specific mailing address. Petitions without the required information or signatures and those received before or after the dates of the mail-in period have been automatically disqualified from consideration. Further, the statute authorizing the program permits only one petition submission per applicant. Persons submitting multiple petitions also are disqualified from participation in the program. No fee has been charged at the time of submission of the petition, but recipients of diversity immigrant visas have been required at the time of

visa application to pay an additional processing fee beyond that paid by other classes of immigrant visa recipients.

How Will This Rule Change the Petition Procedure?

When this rule becomes effective, alien petitioners for the Diversity Visa Program will no longer be permitted to submit a petition by mail. Instead, the Department will require that all petitions be submitted to it in an electronic format, using an Internet website dedicated specifically to the submission and receipt of Diversity Visa Program petitions. The website will have contained in it a standard petition form which the petitioner, or someone acting for the petitioner, must fill out on-line and send electronically to the Department at a web address. The person completing the petition form will also be required to attach to the electronic petition individual digital photographs of the petitioner and the petitioner's spouse and unmarried children under 21 who will be seeking to accompany or follow to join the petitioner should the petitioner receive a diversity immigrant visa. The photographs will have specific requirements as to size, composition and quality. Fees will be handled as they are under the current rules for diversity program petitions. Because the petition must be submitted electronically, the current requirement that the petition and photographs be signed, is, necessarily, being eliminated.

Why Is the Department Changing the Petition Process in this Manner?

There are three principal reasons the Department believes an electronic petition process is preferable to the existing mail-in process.

Anti-fraud benefits: The Department believes that the electronic petition process will help eliminate the submission of multiple petitions, prohibited under INA section 204(a)(1)(I). Currently, despite the fact that only 50,000* visas are available each year, many millions of petitions are submitted. The Department uses its limited resources to crosscheck for multiple submissions and create records for only the number of correctly completed petitions sufficient to ensure a pool of visa applicants that will be large enough to guarantee use of all the visas. That number is only a small percentage of the overall total of petitions submitted. Therefore, the likelihood of an alien petitioner of being caught submitting more than one petition is much less than it would be if information from all of the petitions could be entered automatically into the