(ii) New activities may be exempted from the prohibitions in paragraphs 
(a)(2) through (8) of this section by the 
Director after consultation between the 
Director and the Department of Defense. 
If it is determined that an activity may 
be carried out such activity shall be 
carried out in a manner that avoids to 
the maximum extent practicable any 
adverse impact on Sanctuary resources 
and qualities. Civil engineering and 
other civil works projects conducted by 
the U.S. Army Corps of Engineers are 
excluded from the scope of this 
paragraph (d).

(2) The Department of Defense is 
prohibited from conducting bombing 
activities within the Sanctuary.

(3) In the event of threatened or actual 
destruction of, loss of, or injury to a 
Sanctuary resource or quality resulting 
from an untoward incident, including 
but not limited to spills and groundings 
causd by the Department of Defense, 
the Department of Defense shall 
promptly coordinate with the Director 
for the purpose of taking appropriate 
actions to respond to and mitigate the 
harm and, if possible, restore or replace 
the Sanctuary resource or quality.

(e) The prohibitions in paragraphs 
(a)(2) through (8) of this section do not 
apply to any activity executed in 
accordance with the scope, purpose, 
terms and conditions of a National 
Marine Sanctuary permit issued 
pursuant to §§ 922.48 and 922.153 or a 
Special Use permit issued pursuant to 
section 310 of the Act.

(f) Members of a federally recognized 
Indian tribe may exercise aboriginal 
and treaty-secured rights, subject to the 
requirements of other applicable law, 
without regard to the requirements of 
this part. The Director may consult with 
the governing body of a tribe regarding 
ways the tribe may exercise such rights 
consistent with the purposes of the 
Sanctuary.

(g) The prohibitions in paragraphs 
(a)(2) through (8) of this section do not 
apply to any activity authorized by any 
lease, permit, license, or other 
authorization issued after July 22, 1994, 
and issued by any Federal, State or local 
authority of competent jurisdiction, 
provided that the applicant complies 
with § 922.49, the Director notifies the 
applicant and authorizing agency that 
he or she does not object to issuance of 
the authorization, and the applicant 
complies with any terms and conditions 
the Director deems necessary to protect 
Sanctuary resources and qualities.

Amendments, renewals and extensions 
of authorizations in existence on the 
effective date of designation constitute 
authorizations issued after the effective 
date.

(h) Notwithstanding paragraphs (e) 
and (g) of this section, in no event may 
the Director issue a National Marine 
Sanctuary permit under §§ 922.48 and 
922.153 or a Special Use permit under 
section 310 of the Act authorizing, 
otherwise approve: The exploration for, 
development or production of oil, gas or 
minerals within the Sanctuary; the 
discharge of primary-treated sewage 
within the Sanctuary; the disposal of 
dredged material within the Sanctuary 
other than in connection with beach 
nourishment projects related to the 
Quillayute River Navigation Project; or 
bombing activities within the Sanctuary. 
Any purported authorizations issued by 
other authorities after July 22, 1994 for 
any of these activities within the 
Sanctuary shall be invalid.

5. Section 922.153 is revised to read as 
follows:

§ 922.153 Permit procedures and criteria.

(a) A person may conduct an activity 
prohibited by § 922.152(a)(2) through (8) 
if conducted in accordance with the 
scope, purpose, terms and conditions 
of a permit issued under this section and 
§ 922.48.

(b) Applications for such permits 
should be addressed to the Director, 
Office of National Marine Sanctuaries; 
Attn: Superintendent, Olympic Coast 
National Marine Sanctuary, 115 East 
Railroad Avenue, Suite 301, Port 
Angeles, WA 98362–2923.

(c) The Director, at his or her 
discretion, may issue a permit, subject 
to such terms and conditions as he or 
she deems appropriate, to conduct an 
activity prohibited by § 922.152(a)(2) 
through (8), if the Director finds that 
the activity will not substantially injure 
Sanctuary resources and qualities and will: 
Further research related to 
Sanctuary resources and qualities; 
the educational, natural or 
historical resource value of 
the Sanctuary; further salvage or recovery 
operations in or near the Sanctuary in 
connection with a recent air or marine 
casualty; assist in managing the 
Sanctuary; further salvage or recovery 
operations in connections with an 
abandoned shipwreck in the Sanctuary 
title to which is held by the State of 
Washington; or be issued to an 
American Indian tribe adjacent to the 
Sanctuary, and/or its designee as 
certified by the governing body of the 
tribe, to promote or enhance tribal self- 
determination, tribal government 
functions, the exercise of treaty rights, 
the economic development of the tribe, 
subsistence, ceremonial and spiritual 
activities, or the education or training of 
tribal members. For the purpose of this 
part, American Indian tribes adjacent to 
the sanctuary mean the Hoh, Makah, 
and Quileute Indian Tribes and the 
Quinault Indian Nation. In deciding 
whether to issue a permit, the Director 
can consider such factors as: The 
professional qualifications and financial 
ability of the applicant as related to the 
proposed activity; the duration of the 
activity and the duration of its effects; 
the appropriateness of the methods and 
procedures proposed by the applicant 
for the conduct of the activity; the 
extent to which the conduct of the 
activity may diminish or enhance 
Sanctuary resources and qualities; the 
cumulative effects of the activity; the 
end value of the activity; and the 
impacts of the activity on adjacent 
American Indian tribes. Where the 
issuance or denial of a permit is 
requested by the governing body of an 
American Indian tribe, the Director shall 
consider and protect the interests of the 
tribe to the fullest extent practicable in 
keeping with the purposes of the 
Sanctuary and his or her fiduciary 
duties to the tribe. The Director may 
also deny a permit application pursuant 
to this section, in whole or in part, if it 
is determined that the permittee 
or applicant has acted in violation of the 
terms or conditions of a permit or of 
these regulations. In addition, the 
Director may consider such other factors 
as he or she deems appropriate.

* * * * *

[FR Doc. 2011–27947 Filed 10–31–11; 8:45 am]
BILLING CODE 3510–NK–P

DEPARTMENT OF STATE

22 CFR Part 42

[Public Notice 7391]

RIN 1400–AC86

Visas: Documentation of Immigrants 
Under the Immigration and Nationality 
Act, as Amended

AGENCY: State Department.

ACTION: Interim final rule.

SUMMARY: This rule amends the 
Department of State’s regulations relating to 
adoptions in countries party to 
The Hague Convention on the 
Protection of Children and Co-operation 
in Respect of Intercountry Adoption, to 
include new adoption provisions from 
the International Adoption 
Simplification Act. This legislation 
provides for sibling adoption to include 
certain children who are under the age 
of 18 at the time the petition is filed on 
their behalf, and also certain children 
who attained the age of 18 or after April 1, 2008 and who are the
beneficiaries of a petition filed on or before November 30, 2012.

DATES:

Effective Date: This rule is effective November 1, 2011.

Comment Date: The Department will accept comments from the public up to December 1, 2011.

ADDRESSES:

You may submit comments by any of the following methods:

- Email: BeaumontTW@state.gov (Subject line must read IASA Sibling Reg.).
- Persons with access to the Internet may view this notice and provide comments by going to the regulations.gov Web site at: http://www.regulations.gov/index.cfm, and searching on the Public Notice number 7391.”

FOR FURTHER INFORMATION CONTACT:

Taylor W. Beaumont, Legislation and Regulation Division, Visa Services, Department of State, 2401 E Street, NW., Room L–603D, Washington, DC 20520–0106, who may be reached at (202) 663–1202.

SUPPLEMENTARY INFORMATION:

Definitions

As used in this public notice, the term “Convention” means The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption; the term “Convention country” means a country that is a party to the Convention and with which the Convention is in force for the United States; and the term “IASA” means the International Adoption Simplification Act, Public Law 111–287 (2010).

Why is the Department promulgating this rule?

On November 30, 2010, the President signed the IASA into law, modifying the Immigration and Nationality Act (INA) as regards adoptions from Convention countries. Among other changes, the IASA creates a new INA Section 101(b)(1)(G)(iii) to allow U.S. citizens to file an immediate relative petition for a child younger than 18 from a Convention country, provided that child is the natural sibling of a child concurrently or already adopted or being brought to the United States for adoption under INA Sections 101(b)(1)(E)(i), (F)(i), or (G)(i). To qualify as a child who is covered under INA Section 101(b)(1)(G)(iii), a child must be adopted abroad, or be coming to the United States for adoption, by the adoptive parent(s) or prospective adoptive parent(s) of his/her natural sibling. In addition, the child must be otherwise qualified as a Convention adoptee under INA Section 101(b)(1)(G)(i), except that the child is under 18 years of age rather than under 16 years of age, as is required for classification under INA Section 101(b)(1)(G)(i).

The IASA contains an exception at Section 4(b) necessitating a modification of the Department regulation contained in 22 CFR 42.24. Under that section, an alien who is older than 18 years of age nonetheless may be classified under INA Section 101(b)(1)(G)(ii) if he/she turned 18 years of age on or after April 1, 2008 and his/her immediate relative petition is filed not later than November 30, 2012. As currently written, the Department’s regulations pertaining to INA Section 101(b)(1)(G) cover exclusively those children whose adoptions will be governed by the Convention. Although aliens qualified under INA Section 4(b) will be emigrating from a Convention country, the Convention only governs the adoption of children under the age of 18. This rule is necessary to change Department regulations to cover aliens properly qualified under INA Section 4(b).

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as an interim final rule, and with an effective date less than 30 days from the date of publication, based on the “good cause” exceptions set forth at 5 U.S.C. 553(b) and 553(d)(3). Delaying implementation of this rule would be contrary to the public interest, due to the effect of recent legislation (the International Adoption Simplification Act). Because current Department regulations do not contemplate the adoption of children over the age of 18 in countries party to The Hague Convention on Intercountry Adoption, the lack of procedural certainty regarding 22 CFR 42.24 could foreseeably cause undue confusion and delay for American citizens pursuing their rights to adopt as provided by the IASA. The Department will accept public comments for 30 days after publication.

Regulatory Flexibility Act/Executive Order 13272: Small Business

The Department of State has reviewed this regulation and certifies that this rule will not have a significant economic impact on a substantial number of small entities. The Department of State notes that this regulation, as it exclusively facilitates adoptions by U.S. citizens, will have its greatest effect on individuals and not small businesses. While American Adoption Service Providers (ASPs) are essential to intercountry adoptions in Convention countries, this regulation will have a negligible effect on these ASPs, as the Department of State anticipates that this regulation will allow very few adoptions that would not have already been possible in the absence of this regulation.

The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

The Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. 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 adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

Executive Order 12866

The Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866. Consistent with Executive Order 12866, the Department does not consider the rule to be an economically significant action within the scope of section 3(f)(1) of the Executive Order since it is not likely to have an annual effect on the economy of $100 million or more or to adversely affect in a material way the economy, a sector of the economy, competition, jobs, the environment, public health or

(a) Except as described in paragraph (n), for purposes of this section, the definitions in 22 CFR 96.2 apply.

*n * * * * *

(n) Notwithstanding paragraphs (d) through (m) of this section, an alien described in paragraph (n)(1) of this section may qualify for visa status under INA section 101(b)(1)(G)(ii) without meeting the requirements set forth in paragraphs (d) through (m) of this section.

(1) Per Section 4(b) of the Intercountry Adoption Simplification Act, Public Law 111–287 (IASA), an alien otherwise described in INA section 101(b)(1)(G)(ii) who attained the age of 18 on or after April 1, 2008 shall be deemed to meet the age requirement imposed by INA section 101(b)(1)(G)(ii)(III), provided that a petition is filed for such child in accordance with DHS requirements not later than November 30, 2012.

(2) For any alien described in paragraph (n)(1) of this section, the “competent authority” referred to in INA section 101(b)(1)(G)(ii)(V)(aa) is the passport issuing authority of the country of origin.

Dated: October 21, 2011.

Janice L. Jacobs,
Assistant Secretary for Consular Affairs,
Department of State.

[FR Doc. 2011–28281 Filed 10–31–11; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 31 and 301

TD 9554

RIN 1545–BJ07

Extending Religious and Family Member FICA and FUTA Exceptions to Disregarded Entities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations amending 26 CFR parts 31 and 301. These regulations extend the exceptions from taxes under the Federal Insurance Contributions Act (“FICA”) and the Federal Unemployment Tax Act (“FUTA”) under sections 3121(b)(3) (concerning individuals who work for certain family members), 3127 (concerning members of religious faiths), and 3306(c)(5) (concerning persons employed by children and spouses of children under 21 employed by their parents) of the Internal Revenue Code (“Code”) to entities that are disregarded as separate from their owners for federal tax purposes. The temporary regulations also clarify the existing rule that the owners of disregarded entities, except for qualified subchapter S subsidiaries, are responsible for backup withholding and related information reporting requirements under section 3406. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the Federal Register.

DATES: Effective Date: These regulations are effective on November 1, 2011.

Applicability Date: For dates of applicability see §§ 31.3121(b)(3)–1T(e), 31.3127–1T(d), 31.3306(c)(5)–1T(e), 301.7701–2T(e)(5).

FOR FURTHER INFORMATION CONTACT: Joseph Perera (202) 622–6040 (not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains final and temporary regulations amending the Employment Tax Regulations (26 CFR part 31) and the Procedure and Administration Regulations (26 CFR part 301) to extend the FICA and FUTA exceptions for family members and religious sect members to certain entities that are disregarded as separate from their owners for federal tax purposes under § 301.7701–2(c). Section 301.7701–2(c)(2)(i) provides that generally, except as otherwise provided, a business entity that has a single owner and is not a corporation under § 301.7701–2(b) is disregarded as an entity separate from its owner. Prior to 2009, single-member entities disregarded as separate from their owners were generally disregarded for employment taxes and certain other requirements of law arising under subtitle C. An employer is generally defined as the person for whom an individual performs services as an employee. Sections 3401(d), 3121(d), and 3306(a). Prior to 2009, the owner of the disregarded entity was treated as the employer for purposes of employment tax liabilities and all other employment tax obligations related to wages paid to employees performing services for the disregarded entity.