

8 CFR § 204.2(h) Validity of approved petitions.

(1) General. Unless terminated pursuant to section [203\(g\)](#) of the Act or revoked pursuant to [Part 205](#) of this chapter, the approval of a petition to classify an alien as a preference immigrant under paragraphs (a)(1), (a)(2), (a)(3), or (a)(4) of [section 203](#) of the Act, or as an immediate relative under [section 201\(b\)](#) of the Act, shall remain valid for the duration of the relationship to the petitioner and of the petitioner's status as established in the petition. (Redesignated as paragraph (h), previously paragraph (g); 3/26/96; [61 FR 13061](#))

(2) Subsequent petition by same petitioner for same beneficiary. When a visa petition has been approved, and subsequently a new petition by the same petitioner is approved for the same preference classification on behalf of the same beneficiary, the latter approval shall be regarded as a reaffirmation or reinstatement of the validity of the original petition, except when the original petition has been terminated pursuant to section [203\(g\)](#) of the Act or revoked pursuant to [Part 205](#) of this chapter, or when an immigrant visa has been issued to the beneficiary as a result of the petition approval. A self-petition filed under section [204\(a\)\(1\)\(A\)\(iii\)](#) , [204\(a\)\(1\)\(A\)\(iv\)](#) , [204\(a\)\(1\)\(B\)\(ii\)](#) , 204(a)(1)(B)(iii) of the Act based on the relationship to an abusive citizen or lawful permanent resident of the United States will not be regarded as a reaffirmation or reinstatement of a petition previously filed by the abuser. A self-petitioner who has been the beneficiary of a visa petition filed by the abuser to accord the self-petitioner immigrant classification as his or her spouse or child, however, will be allowed to transfer the visa petition's priority date to the self-petition. The visa petition's priority date may be assigned to the self-petition without regard to the current validity of the visa petition. The burden of proof to establish the existence of and the filing date of the visa petition lies with the self-petitioner, although the Service will attempt to verify a claimed filing through a search of the Service's computerized records or other records deemed appropriate by the adjudicating officer. A new self-petition filed under section [204\(a\)\(1\)\(A\)\(iii\)](#) , [204\(a\)\(1\)\(A\)\(iv\)](#) , [204\(a\)\(1\)\(B\)\(ii\)](#) , or 204(a)(1)(B)(iii) of the Act will not be regarded as a reaffirmation or reinstatement of the original self-petition unless the prior and the subsequent self-petitions are based on the relationship to the same abusive citizen or lawful permanent resident of the United States. (Amended 3/26/96; [61 FR 13061](#))

8 CFR § 204.2 (i) Automatic conversion of preference classification.

(1) By change in beneficiary's marital status.

(i) A currently valid petition previously approved to classify the beneficiary as the unmarried son or daughter of a United States citizen under section [203\(a\)\(1\)](#) of the Act shall be regarded as having been approved for preference status under [section 203\(a\)\(3\)](#) of the Act as of the date the beneficiary marries. The beneficiary's priority date is the same as the date the petition for classification under section [203\(a\)\(1\)](#) of the Act was properly filed. (Redesignated as paragraph (i), previously paragraph (h); 3/26/96; [61 FR 13061](#))

(ii) A currently valid petition previously approved to classify a child of a United States citizen as an immediate relative under [section 201\(b\)](#) of the Act shall be regarded as having been

approved for preference status under [section 203\(a\)\(3\)](#) of the Act as of the date the beneficiary marries. The beneficiary's priority date is the same as the date the petition for [201\(b\)](#) classification was properly filed.

(iii) A currently valid petition classifying the married son or married daughter of a United States citizen for preference status under [section 203\(a\)\(3\)](#) of the Act shall, upon legal termination of the beneficiary's marriage, be regarded as having been approved under section [203\(a\)\(1\)](#) of the Act if the beneficiary is over twenty-one years of age. The beneficiary's priority date is the same as the date the petition for classification under [section 203\(a\)\(3\)](#) of the Act was properly filed. If the beneficiary is under twenty-one years of age, the petition shall be regarded as having been approved for classification as an immediate relative under section 201(b) of the Act as of the date the petition for classification under [section 203\(a\)\(3\)](#) of the Act was properly filed.

(iv) A currently valid visa petition previously approved to classify the beneficiary as an immediate relative as the spouse of a United States citizen must be regarded, upon the death of the petitioner, as having been approved as a Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant for classification under paragraph (b) of this section, if, on the date of the petitioner's death, the beneficiary satisfies the requirements of paragraph (b)(1) of this section. If the petitioner dies before the petition is approved, but, on the date of the petitioner's death, the beneficiary satisfies the requirements of paragraph (b)(1) of this section, then the petition shall be adjudicated as if it had been filed as a Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant under paragraph (b) of this section. (Added effective 7/21/06; [71 FR 35732](#))

(2) By the beneficiary's attainment of the age of twenty-one years. A currently valid petition classifying the child of a United States citizen as an immediate relative under [section 201\(b\)](#) of the Act shall be regarded as having been approved for preference status under section [203\(a\)\(1\)](#) of the Act as of the beneficiary's twenty-first birthday. The beneficiary's priority date is the same as the date the petition for section 201(b) classification was filed.

(3) By the petitioner's naturalization. Effective upon the date of naturalization of a petitioner who had been lawfully admitted for permanent residence, a currently valid petition according preference status under [section 203\(a\)\(2\)](#) of the Act to the petitioner's spouse and unmarried children under twenty-one years of age shall be regarded as having been approved for immediate relative status under [section 201\(b\)](#) of the Act. Similarly, a currently valid petition according preference status under [section 203\(a\)\(2\)](#) of the Act for the unmarried son or daughter over twenty-one years of age shall be regarded as having been approved under section [203\(a\)\(1\)](#) of the Act. In any case of conversion to classification under section [203\(a\)\(1\)](#) of the Act, the beneficiary's priority date is the same as the date the petition for classification under [section 203\(a\)\(2\)](#) of the Act was properly filed. A self-petition filed under section [204\(a\)\(1\)\(B\)\(ii\)](#) or 204(a)(1)(B)(iii) of the Act based on the relationship to an abusive lawful permanent resident of the United States for classification under [section 203\(a\)\(2\)](#) of the Act will not be affected by the abuser's naturalization and will not be automatically converted to a petition for immediate relative classification. (Amended 3/26/96; [61 FR 13061](#))