

MRN: 17 STATE 73352

Date/DTG: Jul 14, 2017 / 142214Z JUL 17

From: SECSTATE WASHDC

Action: SOMALIA, USMISSION ROUTINE;

ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE ROUTINE

E.O.: 13526

TAGS: CMGT, KPAO, PTER, KHLS, CVIS

Captions: SENSITIVE

Reference: A) 17 STATE 8708

B) 17 STATE 9516

C) 17 STATE 11004

D) 17 STATE 21026

E) 17 STATE 24800

F) 17 STATE 25814

G) 17 STATE 52856

H) 17 STATE 67952

I) 17 STATE 68300

Subject: REVISED GUIDANCE ON DETERMINING CLOSE FAMILY UNDER EXECUTIVE ORDER 13780 SECTION 2C

1. (SBU) This guidance supersedes that provided to the field in REFTEL I paragraph 12. This ALDAC updates the definition of "close family" exempt from Section 2(c) of Executive Order (E.O.) 13780 to further include "grandparents, grandchildren, brothers-in-law, sisters-in-law, aunts and uncles, nephews and nieces, and cousins."

2. (SBU) On July 13, the U.S. District Court in Hawaii issued a ruling regarding the definition of "close familial relationship," as that phrase was used in the Supreme Court's order on implementing Section 2(c) of E.O. 13780.

The U.S. District Court in Hawaii ruled that grandparents, grandchildren, brothers-in-law, sisters-in-law, aunts and uncles, nephews and nieces, and cousins also be included in the definition of "close familial relationship" and therefore, if otherwise eligible for a visa, considered exempt from Section 2(c) of the E.O. For this purpose, "cousins" are limited to first-cousins. For all relationships, half or step status is included (e.g., "halfbrother" or "step-sister"). Posts should immediately use this new expanded definition when adjudicating such cases. The Department will provide additional guidance as appropriate and provide updated media talking points and operational guidance related to E.O. 13780 on CA Web. CA will also update public-facing language on Travel.State.Gov.

3. (SBU) Because the court's order is prospective, posts need not reopen or readjudicate visa applications refused under Executive Order 13780 in accordance with the prior guidance regarding close family members. 22CFR 42.81(e) provides that an immigrant visa applicant has one year from the date of refusal to provide further evidence to overcome the ground

of ineligibility and have their case reconsidered without having to pay a new visa application fee. Likewise, 22 CFR 41.121 anticipates that nonimmigrant visa applicants may provide further evidence to overcome the ground of ineligibility. Posts should therefore reconsider and readjudicate a visa application refused solely based on the E.O. in which the applicant contacts the consular section claiming to have a close family member that exempts them from the E.O. on the basis of the new guidance. Please note that nonimmigrant visa refusals under INA section 214(b) and diversity visa refusals under INA section 212(a)(5) are not refusals based on the E.O.

4. (SBU) Posts with questions regarding this guidance should contact their post liaison officer in CA/VO/F.

5. (U) Minimize considered.

Signature: Tillerson