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## Conference Call

**REVIEW AUTHORITY: Barbara Nielsen, Senior Reviewer**

08 January 2008 16:30 Call: 1-334-323-1226

**Adoptions: Ensuring that adoptive children qualify as orphans**

- We want to make sure agencies are fully aware of the requirements that adoptive children truly qualify as orphans, as defined in the INA.
- In recent weeks we have seen cases that have raised concerns. They make us question whether some agencies understand this critical aspect of U.S. immigration law.
- When a consular officer reviews an application for an immigrant visa for an adopted child, he/she must confirm that the child qualifies as an orphan as defined by the INA. There is no more critical factor in our review than this one.
- We do not want to be in the position where we must decide not to approve an immigrant visa for an adopted child.
- It is essential that agencies that coordinate adoptions for American parents only refer children who qualify as orphans according to the INA. If agencies are unsure whether the children they acquire qualify as orphans, we urge them to contact us and review the circumstances with us.
- In most cases, the adopting parents have entered the process in good faith; they have complied with all the requirements, etc. They are relying upon the agency they have engaged to know U.S. immigration law and to refer to them only a child who qualifies as an orphan. They should be able to expect that their agency is competent to know the difference between an adoptable child and one that is not adoptable under U.S. immigration law.
- We are visiting adoption agencies now. The purpose is two-fold:
  - fact finding (learning more about the circumstances through which agencies acquire children) and
  - Consultative (clarifying for agency staff what the criteria are for an adoptable orphan).

- We are finding that some agencies know the law very well and have explicit procedures designed to ensure that only adoptable orphans are referred to American adoptable parents.
- We are also finding that some agencies do not seem to understand the criteria, or think that the criteria are not important, or are not enforced, or are flexible.
- 9 FAM 42.21 Notes provide all the definitions of an orphan. Google it!
- We are now reviewing some I-604 Forms (Request for and Report on Overseas Orphan Investigation) prior to the court decree.
- We are very interested in hearing from you:
  - Is it difficult for your agency to determine whether a child qualifies as an orphan?
  - How does your agency ensure that only adoptable orphans are referred?
  - Do you have suggestions as to how best to monitor how children are referred?
  - Are you aware of agencies that are cutting corners, how?, why?
  - What is the best way to educate these agencies?
  - How has the increase in numbers of inter-country adoptions changed the adoptions scene in Ethiopia?