

§ 40.93

for a visa for 10 years following departure from the United States.

(c) *Waiver.* If a visa applicant is inadmissible under paragraph (a) or (b) of this section but appears to the consular officer to meet the prerequisites for seeking the benefits of INA 212(a)(9)(B)(v), the alien shall be informed of the procedure for applying to INS for relief under that provision of law.

[62 FR 67568, Dec. 29, 1997]

§ 40.93 Aliens unlawfully present after previous immigration violation.

An alien described in INA 212(a)(9)(C)(i) is permanently ineligible for a visa unless the Attorney General consents to the alien's application for readmission not less than 10 years following the alien's last departure from the United States. Such application for readmission shall be made prior to the alien's reembarkation at a place outside the United States.

[62 FR 67568, Dec. 29, 1997]

§§ 40.94–40.99 [Reserved]

Subpart K—Miscellaneous

SOURCE: 56 FR 30422, July 2, 1991, unless otherwise noted. Redesignated at 61 FR 59184, Nov. 21, 1996.

§ 40.101 Practicing polygamists.

An immigrant alien shall be ineligible under INA 212(a)(9)(A) only if the alien is coming to the United States to practice polygamy.

§ 40.102 Guardian required to accompany excluded alien.

INA 212(a)(9)(B) is not applicable at the time of visa application.

§ 40.103 International child abduction.

An alien who would otherwise be ineligible under INA 212(a)(9)(C)(i) shall not be ineligible under such paragraph if the U.S. citizen child in question is physically located in a foreign state which is party to the Hague Convention on the Civil Aspects of International Child Abduction.

[61 FR 1833, Jan. 24, 1996]

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§ 40.104 Unlawful voters.

An alien who at any time has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance or regulation is ineligible for a visa under INA 212(a)(10)(D).

[62 FR 67568, Dec. 29, 1997]

§ 40.105 Former citizens who renounced citizenship to avoid taxation.

An alien who is a former citizen of the United States, who on or after September 30, 1996, has officially renounced United States citizenship and who has been determined by the Attorney General to have renounced citizenship to avoid United States taxation, is ineligible for a visa under INA 212(a)(10)(E).

[62 FR 67568, Dec. 29, 1997]

§§ 40.106–40.110 [Reserved]

Subpart L—Failure to Comply with INA

SOURCE: 56 FR 30422, July 2, 1991, unless otherwise noted. Redesignated at 61 FR 59184, Nov. 21, 1996.

§ 40.201 Failure of application to comply with INA.

(a) *Refusal under INA 221(g).* The consular officer shall refuse an alien's visa application under INA 221(g)(2) as failing to comply with the provisions of INA or the implementing regulations if:

(1) The applicant fails to furnish information as required by law or regulations;

(2) The application contains a false or incorrect statement other than one which would constitute a ground of ineligibility under INA 212(a)(6)(C);

(3) The application is not supported by the documents required by law or regulations;

(4) The applicant refuses to be fingerprinted as required by regulations;

(5) The necessary fee is not paid for the issuance of the visa or, in the case of an immigrant visa, for the application therefor;

(6) In the case of an immigrant visa application, the alien fails to swear to,