

## Department of State

## § 45.3

with INA 203(g), an alien's registration for an immigrant visa shall be terminated if, within one year after transmission of a notification of the availability of an immigrant visa, the applicant fails to apply for an immigrant visa.

(b) *Termination following visa refusal.* An alien's registration for an immigrant visa shall be terminated if, within one year following the refusal of the immigrant visa application under INA 221(g), the alien has failed to present to a consular officer evidence purporting to overcome the basis for refusal.

(c) *Notice of termination.* Upon the termination of registration under paragraph (a) or (b) of this section, the consular officer at the post where the alien is registered shall notify the alien of the termination. The consular officer shall also inform the alien of the right to have the registration reinstated if the alien, before the end of the second year after the missed appointment date if paragraph (a) applies, and before the end of the second year after the INA 221(g) refusal if paragraph (b) applies, establishes to the satisfaction of the consular officer that the failure to apply for an immigrant visa or to present evidence purporting to overcome the ineligibility under INA 221(g) was due to circumstances beyond the alien's control.

(d) *Reinstatement of registration.* If the consular officer is satisfied that an alien, as provided for in paragraph (c) of this section, has established that failure to apply as scheduled for an immigrant visa or to present evidence purporting to overcome ineligibility under INA 221(g) was due to circumstances beyond the alien's control, the consular officer shall reinstate the alien's registration for an immigrant visa. Any petition approved under INA 204(b) which had been automatically revoked as a result of the termination of registration shall be considered to be automatically reinstated if the registration is reinstated.

(e) *Interpretation of "circumstances beyond alien's control".* For the purpose of this section, the term "circumstances beyond the alien's control" includes, but is not limited to, an illness or other physical disability preventing the alien from traveling, a refusal by

the authorities of the country of an alien's residence to grant the alien permission to depart as an immigrant, and foreign military service.

[52 FR 42613, Nov. 5, 1987, as amended at 56 FR 49682, Oct. 1, 1991]

### PARTS 43–44 [RESERVED]

## PART 45—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER SECTION 124 OF PUBLIC LAW 101–649

### Sec.

- 45.1 General.
- 45.2 Priority date of applicants.
- 45.3 Control of numerical limitations.
- 45.4 Period of validity of immigrant visas.
- 45.5 Redetermination of admissibility if visa validity extended.
- 45.6 Issuance of immigrant visa upon redetermination of admissibility.

AUTHORITY: 8 U.S.C. 1104; 8 U.S.C. 1153 Note, unless otherwise noted.

SOURCE: 56 FR 32506, July 17, 1991, unless otherwise noted.

### § 45.1 General.

Except as specifically provided in this part, the provisions of the INA, as amended, and of parts 40 and 42 of this chapter shall apply to application for, consideration of, and issuance or refusal of, immigrant visas under section 124 of Public Law 101–649.

### § 45.2 Priority date of applicants.

The priority date of an alien who is the beneficiary of a petition approved by the Service to accord status under section 124 of Public Law 101–649 shall be the filing date of the approved petition, as determined by the Immigration and Naturalization Service. The priority date of the spouse or child, accompanying or following to join such an alien shall be the priority date of the alien spouse or parent.

### § 45.3 Control of numerical limitation.

(a) *Centralized control.* Centralized control of the numerical limitation specified in section 124 of Public Law 101–649 is established in the Department. In order to effect this control, the Department shall limit the number of immigrant visas and the number of adjustments of status that may be