

9 FAM 40.93

ALIENS UNLAWFULLY PRESENT AFTER PREVIOUS IMMIGRATION VIOLATION

(CT:VISA-978; 06-27-2008)

(Office of Origin: CA/VO/L/R)

9 FAM 40.93 RELATED STATUTORY PROVISIONS

(CT:VISA-978; 06-27-2008)

See INA 212(a)(9)(C) (8 U.S.C. 1182(a)(9)(C)).

INA 212(a)(9)(C)

- (9) Aliens previously removed
 - (C) Aliens unlawfully present after previous immigration violations
 - (i) In general Any alien who—
 - (I) has been unlawfully present in the United States for an aggregate period of more than 1 year, or
 - (II) has been ordered removed under section 235(b)(1) of this title, section 240 of this title, or any other provision of law, and who enters or attempts to reenter the United States without being admitted is inadmissible.
 - (ii) Exception Clause (i) shall not apply to an alien seeking admission more than 10 years after the date of the alien's last departure from the United States if, prior to the alien's reembarkation at a place outside the United States or attempt to be readmitted from a foreign contiguous territory, the Secretary of Homeland Security has consented to the alien's reapplying for admission.
 - (iii) Waiver The Secretary of Homeland Security may waive the application of clause (i) in the case of an alien who is a VAWA self-petitioner if there is a connection between—
 - (I) the alien's battering or subjection to extreme cruelty; and

- (II) the alien's removal, departure from the United States, reentry or reentries into the United States; or attempted reentry into the United States.

9 FAM 40.93 RELATED REGULATORY PROVISIONS

(CT:VISA-978; 06-27-2008)

See 22 CFR 40.93.

§ 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 Secretary of Homeland Security 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]