

(4) The alien's deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or the alien's parent or child.

§ 240.66 Eligibility for special rule cancellation of removal.

(a) *Applicable statutory provisions.* To establish eligibility for special rule cancellation of removal, the applicant must show he or she is eligible under section 309(f)(1) of IIRIRA, as amended by section 203 of NACARA. The applicant must be described in § 240.61, must be inadmissible or deportable, must not be subject to any bars to eligibility in sections 240(b)(7), 240A(c), or 240B(d) of the Act, or any other provisions of law, and must not have been convicted of an aggravated felony or be an alien described in section 241(b)(3)(B)(I) of the Act (relating to persecution of others).

(b) *General rule.* To establish eligibility for special rule cancellation of removal under section 309(f)(1)(A) of IIRIRA, as amended by section 203 of NACARA, the alien must establish that:

(1) The alien is not inadmissible under section 212(a)(2) or (3) or deportable under section 237(a)(2), (3) or (4) of the Act (relating to criminal activity, document fraud, failure to register, and security threats);

(2) The alien has been physically present in the United States for a continuous period of 7 years immediately preceding the date the application was filed;

(3) The alien has been a person of good moral character during the required period of continuous physical presence; and

(4) The alien's removal from the United States would result in extreme hardship to the alien, or to the alien's spouse, parent or child who is a United States citizen or an alien lawfully admitted for permanent residence.

(c) *Aliens inadmissible or deportable on criminal or certain other grounds.* To establish eligibility for special rule cancellation of removal under section 309(f)(1)(B) of IIRIRA, as amended by section 203 of NACARA, the alien must be described in § 240.61 and establish that:

(1) The alien is inadmissible under section 212(a)(2) of the Act (relating to

criminal activity), or deportable under paragraphs (a)(2) (other than section 237(a)(2)(A)(iii), relating to aggravated felony convictions), or (a)(3) of section 237 of the Act (relating to criminal activity, document fraud, and failure to register);

(2) The alien has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status constituting a ground for removal;

(3) The alien has been a person of good moral character during the required period of continuous physical presence; and

(4) The alien's removal from the United States would result in exceptional and extremely unusual hardship to the alien or to the alien's spouse, parent, or child, who is a United States citizen or an alien lawfully admitted for permanent residence.

§ 240.67 Procedure for interview before an asylum officer.

(a) *Fingerprinting requirements.* The Service will notify each applicant 14 years of age or older to appear for an interview only after the applicant has complied with fingerprinting requirements pursuant to § 103.2(e) of this subchapter, and the Service has received a definitive response from the FBI that a full criminal background check has been completed. A definitive response that a full criminal background check on an applicant has been completed includes:

(1) Confirmation from the FBI that an applicant does not have an administrative or criminal record;

(2) Confirmation from the FBI that an applicant has an administrative or a criminal record; or

(3) Confirmation from the FBI that two properly prepared fingerprint cards (Form FD-258) have been determined unclassifiable for the purpose of conducting a criminal background check and have been rejected.

(b) *Interview.* (1) The asylum officer shall conduct the interview in a non-adversarial manner and, except at the request of the applicant, separate and apart from the general public. The purpose of the interview shall be to elicit all relevant and useful information