

deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expeditiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall the alien or the relevant LEA have a right of appeal from any decision to deny.

(i) *Change of nonimmigrant status to perform labor in a health care occupation.* A request for a change of nonimmigrant status filed by, or on behalf of, an alien seeking to perform labor in a health care occupation as provided in 8 CFR 212.15(c), must be accompanied by a certificate as described in 8 CFR 212.15(f), or if the alien is eligible, a certified statement as described in 8 CFR 212.15(h). See 8 CFR 214.1(j) for a special rule concerning applications for change of status for aliens admitted temporarily under section 212(d)(3) of the Act and 8 CFR 212.15(n).

[36 FR 9001, May 18, 1971, as amended at 48 FR 14593, Apr. 5, 1983; 48 FR 41017, Sept. 13, 1983; 48 FR 44763, Sept. 30, 1983; 50 FR 25697, June 21, 1985; 59 FR 1466, Jan. 11, 1994; 60 FR 44271, Aug. 25, 1995; 65 FR 14779, 14780, Mar. 17, 2000; 65 FR 18432, Apr. 7, 2000; 67 FR 76280, Dec. 11, 2002; 68 FR 43921, July 25, 2003]

PART 249—CREATION OF RECORDS OF LAWFUL ADMISSION FOR PERMANENT RESIDENCE

Sec.

249.1 Waiver of inadmissibility.

249.2 Application.

249.3 Reopening and reconsideration.

AUTHORITY: 8 U.S.C. 1103, 1182, 1259; 8 CFR part 2.

§ 249.1 Waiver of inadmissibility.

In conjunction with an application under section 249 of the Act, an otherwise eligible alien who is inadmissible under paragraph (9), (10), or (12) of section 212(a) of the Act or so much of paragraph (23) of section 212(a) of the Act as relates to a single offense of simple possession of 30 grams or less of marijuana may request a waiver of such ground of inadmissibility under section 212(h) of the Act. Any alien within the classes described in subparagraphs (B) through (H) of section 212(a)(28) of the Act may apply for the benefits of section 212(a)(28)(I)(ii) in

conjunction with an application under section 249 of the Act.

[47 FR 44238, Oct. 7, 1982]

§ 249.2 Application.

(a) *Jurisdiction.* An application by an alien, other than an arriving alien, who has been served with a notice to appear or warrant of arrest shall be considered only in proceedings under 8 CFR part 240. In any other case, an alien who believes he or she meets the eligibility requirements of section 249 of the Act shall apply to the district director having jurisdiction over his or her place of residence. The application shall be made on Form I-485 and shall be accompanied by Form G-325A, which shall be considered part of the application. The application shall also be accompanied by documentary evidence establishing continuous residence in the United States since prior to January 1, 1972, or since entry and prior to July 1, 1924. All documents must be submitted in accordance with § 103.2(b) of this chapter. Documentary evidence may include any records of official or personal transactions or recordings of events occurring during the period of claimed residence. Affidavits of credible witnesses may also be accepted. Persons unemployed and unable to furnish evidence in their own names may furnish evidence in the names of parents or other persons with whom they have been living, if affidavits of the parents or other persons are submitted attesting to the residence. The numerical limitations of sections 201 and 202 of the Act shall not apply.

(b) *Decision.* The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor. If the application is granted, a Form I-551, showing that the applicant has acquired the status of an alien lawfully admitted for permanent residence, shall not be issued until the applicant surrenders any other document in his or her possession evidencing compliance with the alien registration requirements of former or existing law. No appeal shall lie from the denial of an application by the district director.