

§ 245.12

paragraph may not be renewed in subsequent removal proceedings.

[60 FR 44269, Aug. 25, 1995; 60 FR 52248, Oct. 5, 1995, as amended at 62 FR 10384, Mar. 6, 1997]

§ 245.12 Adjustment of status of certain Polish and Hungarian parolees under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(a) *Application.* Each person applying for adjustment of status under section 646(b) of Pub. L. 104-208 must file a completed Form I-485, Application to Register Permanent Residence or Adjustment Status, accompanied by the appropriate filing fee, with the district director having jurisdiction over the applicant's place of residence. Each application shall be accompanied by specific evidence that the applicant meets the requirements for eligibility under section 646 of Pub. L. 104-208; a Form I-643, Health and Human Services Statistical Data; and the results of the medical examination made in accordance with § 245.5; Form G-325A, Biographic Information, and, unless the applicant is under the age of 14 years or over the age of 79 years, a properly executed Form FD-258, Fingerprint Card.

(b) *Effect of departure.* Departure from the United States by an applicant for benefits under this provision shall be deemed an abandonment of the application as provided in § 245.2(a)(4)(ii).

[62 FR 28315, May 23, 1997]

§ 245.13 Adjustment of status of certain nationals of Nicaragua and Cuba under Public Law 105-100.

(a) *Aliens eligible to apply for adjustment.* An alien is eligible to apply for adjustment of status under the provisions of section 202 of Pub. L. 105-100, if the alien:

(1) Is a national of Nicaragua or Cuba;

(2) Except as provided in paragraph (c) of this section, has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date the application for adjustment is granted, excluding:

(i) Any periods of absence from the United States not exceeding 180 days in the aggregate; and

(ii) Any periods of absence for which the applicant received an Advance Authorization for Parole (Form I-512) prior to his or her departure from the United States, provided the applicant returned to the United States in accordance with the conditions of such Advance Authorization for Parole;

(3) Is not inadmissible to the United States for permanent residence under any provisions of section 212(a) of the Act, with the exception of paragraphs (4), (5), (6)(A), (7)(A) and (9)(B). If available, an applicant may apply for an individual waiver as provided in paragraph (c) of this section;

(4) Is physically present in the United States at the time the application is filed; and

(5) Properly files an application for adjustment of status in accordance with this section.

(b) *Qualified family members—(1) Existence of relationship at time of adjustment.* The spouse, child, or unmarried son or daughter of an alien eligible for adjustment of status under the provisions of Pub. L. 105-100 is eligible to apply for benefits as a dependent provided the qualifying relationship existed when the principal beneficiary was granted adjustment of status and the dependent meets all applicable requirements of sections 202(a) and (d) of Pub. L. 105-100.

(2) *Spouse and minor children.* If physically present in the United States, the spouse or minor child of an alien who is eligible for permanent residence under the provisions of Pub. L. 105-100 may also apply for and receive adjustment of status under this section, provided such spouse or child meets the criteria established in paragraph (a) of this section, except for the requirement of continuous physical presence in the United States since December 1, 1995. Such application may be filed concurrently with or subsequent to the filing of the principal's application but may not be approved prior to approval of the principal's application.

(3) *Unmarried adult sons and daughters.* An unmarried son or daughter of an alien who is eligible for permanent residence under the provisions of Pub. L. 105-100 may apply for and receive adjustment under this section, provided such son or daughter meets the criteria