

9 FAM 40.66

Subject of civil penalty.

(TL:VISA-515; 01-29-2003)

(a) General.

(TL:VISA-515; 01-29-2003)

See 22 CFR 40.66, INA 212(a)(6)(F), INA 212(d)(12), and INA 274(c)

An alien who is the subject of a final order imposing a civil penalty for a violation under INA 274C shall be ineligible for a visa under INA 212(a)(6)(F).

(b) Waiver of ineligibility.

(TL:VISA-177; 04-30-1998)

If an applicant is ineligible under paragraph (a) of this section, but appears to the consular officer to meet the prerequisites for seeking the benefits of INA 212(d)(12), the consular officer shall inform the alien of the procedure for applying to INS for relief under that provision of law. A visa may not be issued to the alien until the consular officer has received notification from INS of the approval of the alien's application under INA 212(d)(12).

9 FAM 40.66 Related Statutory Provisions

INA 212(a)(6)(F)

(TL:VISA-515; 01-29-2003)

(F) SUBJECT OF CIVIL PENALTY.—

(i) **IN GENERAL.**—An alien who is the subject of a final order for violation of section 274C is inadmissible.

(ii) **WAIVER AUTHORIZED.**—For provision authorizing waiver of clause (i), see subsection (d)(12).

INA 212(d)(12)

(TL:VISA-159; 12-20-96)

(12) The Attorney General may, in the discretion of the Attorney General for humanitarian purposes or to assure family unity, waive application of clause (i) of subsection (a)(6)(F)—

(A) in the case of an alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation or removal and who is otherwise admissible to the United States as a returning resident under section 211(b), and

(B) in the case of an alien seeking admission or adjustment of status under section 201(b)(2)(A) or under section 203(a), if no previous civil money penalty was imposed against the alien under section 274C and the offense was committed solely to assist, aid, or support the alien's spouse or child (and not another individual). No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this paragraph.

INA 274C PENALTIES FOR DOCUMENT FRAUD

(TL:VISA-515; 01-29-2003)

(a) **ACTIVITIES PROHIBITED.**—It is unlawful for any person or entity knowingly—

(1) To forge, counterfeit, alter, or falsely make any document for the purpose of satisfying a requirement of this Act, or to obtain a benefit under this Act,

(2) To use, attempt to use, possess, obtain, accept, or receive or to provide any forged, counterfeit, altered, or falsely made document in order to satisfy any requirement of this Act,

(3) To use or attempt to use or to provide or attempt to provide any document lawfully issued to or with respect to a person other than the possessor (including a deceased individual) for the purpose of satisfying a requirement of this Act or obtaining a benefit under this Act,

(4) To accept or receive or to provide any document lawfully issued to or with respect to a person other than the possessor (including a deceased individual) for the purpose of complying with section 274A(b) or obtaining a benefit under this Act,

(5) To prepare, file, or assist another in preparing or filing, any application for benefits under this Act, or any application for benefits under this Act, or any document required under this Act, or any document submitted in connection with such application or document, with knowledge or in reckless disregard of the fact that such application or document was falsely made or, in part, does not relate to the person on whose behalf it was or is being submitted, or

(6)(A) To present before boarding a common carrier for the purpose of coming to the United States a document which relates to the alien's eligibility to enter the United States, and (B) to fail to present such document to an immigration officer upon arrival at a United States port of entry.

(b) EXCEPTION.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of title 18, United States Code.