§ 40.64  Stowaways.

INA 212(a)(6)(D) is not applicable at the time of visa application.

§ 40.65  Smugglers.

(a) General. A visa shall not be issued to an alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or try to enter the United States in violation of law.

(b) Waiver of ineligibility—INA 212(d)(11). If an immigrant applicant is ineligible under INA 212(a)(6)(E) but is qualified to seek the benefits of INA 212(d)(11), the consular officer shall inform the alien of the procedure for applying to DHS for relief under that provision of law. A visa may not be issued to the alien until the consular officer has received notification from DHS of the approval of the alien’s application under INA 212(d)(11).

§ 40.66  Subject of civil penalty.

(a) General. 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. 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 DHS for relief under that provision of law. A visa may not be issued to the alien until the consular officer has received notification from DHS of the approval of the alien’s application under INA 212(d)(12).

§ 40.67  Student visa abusers.

An alien ineligible under the provisions of INA 212(a)(6)(G) shall not be issued a visa unless the alien has complied with the time limitation set forth therein.

§ 40.68  Aliens subject to INA 222(g).

An alien who, under the provisions of INA 222(g), has voided a nonimmigrant visa by remaining in the United States beyond the period of authorized stay is ineligible for a new nonimmigrant visa unless the alien complies with the requirements in 22 CFR 41.101 (b) or (c) regarding the place of application.