Department of Homeland Security

§ 245.5 Medical examination.

Pursuant to section 232(b) of the Act, an applicant for adjustment of status shall be required to have a medical examination by a designated civil surgeon, whose report setting forth the findings of the mental and physical condition of the applicant, including compliance with section 212(a)(1)(A)(ii) of the Act, shall be incorporated into the record. A medical examination shall not be required of an applicant for adjustment of status who entered the United States as a nonimmigrant spouse, fiancé(e), or fiancée of a United States citizen or the child of such an alien lawfully admitted for permanent residence in the United States who is prima facie eligible for adjustment of status to that of a lawful permanent resident under another provision of law. An applicant for the benefits of section 13 shall not be subject to the labor certification requirement of section 212(a)(14) of the Immigration and Nationality Act. The applicant shall be notified of the decision and, if the application is denied, of the reasons for the denial and of the right to appeal under the provisions of part 103 of this chapter. Any applications pending with the Service before December 29, 1961 must be resubmitted to comply with the requirements of this section.

§ 245.6 Interview.

Each applicant for adjustment of status under this section shall be interviewed by an immigration officer. This interview may be waived in the case of a child under the age of 14; when the applicant is clearly ineligible under section 245(c) of the Act or § 245.1 of this chapter; or when it is determined by the Service that an interview is unnecessary.


(a) Application. Each person applying for benefits under section 599E of Public Law 101–167, 103 Stat. 1195, 1263 must file an application on the form prescribed by USCIS with the fee prescribed in 8 CFR 106.2 and in accordance with the form instructions.

(b) Aliens eligible to apply for adjustment. The benefits of this section shall only apply to an alien who:

(1) Was a national of the Soviet Union, Vietnam, Laos, or Cambodia, and

(2) Was inspected and granted parole into the United States during the period beginning on August 15, 1988, and ending on September 30, 1990, after being denied refugee status.

(c) Eligibility. Benefits under Section 599E of Public Law 101–167 are limited to any alien described in paragraph (b) of this section who:

(1) Applies for such adjustment,

(2) Has been physically present in the United States for at least one year and is physically present in the United States on the date the application for such adjustment is filed,

(3) Is admissible to the United States as an immigrant, except as provided in paragraph (d) of this section, and

(4) Pays a fee for the processing of such application.

(d) Waiver of certain grounds for inadmissibility. The provisions of paragraphs (14), (15), (20), (21), (25), (28) (other than subparagraph (F), and (32) of section 212(a) of the Act shall not apply to adjustment under this section. The Attorney General may waive any other provision of section 212(a) (other than paragraph (23)(B), (27), (28), or (33)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(e) Date of approval. Upon approval of such an application for adjustment of status, the Attorney General shall create a record of the alien’s admission as a lawful permanent resident as of the date of the alien’s inspection and parole described in paragraph (b)(2) of this section.

(f) No offset in number of visas available. When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

§ 245.8 Adjustment of status as a special immigrant under section 101(a)(27)(K) of the Act.

(a) Application. Each person applying for adjustment of status as a special immigrant under section 101(a)(27)(K) of the Act must file a Form I-485, Application to Register Permanent Residence or Adjust Status. Benefits under this section are limited to aliens who have served honorably (or are enlisted to serve) in the Armed Forces of the United States for at least 12 years, and