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day period for submitting an appeal begins 3 days after the NOD is mailed. If a review of the Record of Proceeding (ROP) is requested by the alien or his or her legal representative, and an appeal has been properly filed, an additional 30 days will be allowed for this review from the time the ROP is photocopied and mailed.

(2) If an applicant's last known address of record was outside the United States, and the NOD was mailed to that foreign address, the appeal must be received by the Service within 60 calendar days after service of the NOD in accordance with the procedures of § 103.3(a) of this chapter. An appeal received after the 60 day period has tolled will not be accepted. The 60-day period for submitting an appeal begins 3 days after the NOD is mailed.

(c) *Motions*. The Service director who denied the application may reopen and reconsider any adverse decision *sua sponte*. When an appeal to the AAO has been filed, the director may issue a new decision that will grant the benefit that has been requested. Motions to reopen a proceeding or reconsider a decision shall not be considered under this Subpart B.

(d) *Certifications*. The Service director who adjudicates the application may, in accordance with § 103.4 of this chapter, certify a decision to the AAO when the case involves an unusually complex or novel question of law or fact.

(e) *Effect of final adjudication of application on aliens previously in proceedings*—(1) *Upon the granting of an application*. If the application for LIFE Legalization is granted, proceedings shall be deemed terminated or a final order of exclusion, deportation, or removal shall be deemed canceled as of the date of the approval of the LIFE Legalization application for adjustment of status.

(2) *Upon the denial of an application*—(i) *Where proceedings were administratively closed*. In the case of an alien whose previously initiated exclusion, deportation or removal proceeding had been administratively closed or continued indefinitely under § 245a.12(b)(1), the director shall make a request for recalendaring to the Immigration Court that had administratively closed the proceeding, or the Board, as appropriate, when there is a final decision denying the LIFE Legalization application. The Immigration Court or the Board will then recalendar the prior proceeding.

(ii) *Where final order was stayed*. If the application for LIFE Legalization is denied, the stay of a final order of exclusion, deportation, or removal afforded in § 245a.13(f) shall be deemed lifted as of the date of such denial.

[66 FR 29673, June 1, 2001, as amended at 67 FR 38352, June 4, 2002; 72 FR 19107, Apr. 17, 2007; 85 FR 46927, Aug. 3, 2020]

§ 245a.21 Confidentiality.

(a) No person other than a sworn officer or employee of the Department of Justice or bureau or agency thereof, will be permitted to examine individual applications. For purposes of this part, any individual employed under contract by the Service to work in connection with the LIFE Legalization provisions shall be considered an employee of the Department of Justice or bureau or agency thereof.

(b) No information furnished pursuant to an application for permanent resident status under this Subpart B shall be used for any purpose except:

(1) To make a determination on the application;

(2) For the enforcement of the provisions encompassed in section 245A(c)(6) of the Act, except as provided in paragraphs (c) of this section; or

(3) For the purposes of rescinding, pursuant to section 246(a) of the Act (8 U.S.C. 1256(a)), any adjustment of status obtained by the alien.

(c) If a determination is made by the Service that the alien has, in connection with his or her application, engaged in fraud or willful misrepresentation or concealment of a material fact, knowingly provided a false statement or document in making his or her application, knowingly made a false statement or representation, or engaged in any other activity prohibited by section 245A(c)(6) of the Act, the Service shall refer the matter to the United States Attorney for prosecution of the alien and/or of any person who created or supplied a false statement or document for use in an application for adjustment of status under this Subpart B.

(d) Information contained in granted files may be used by the Service at a later date to make a decision:

(1) On an immigrant visa petition or other status filed by the applicant under section 204(a) of the Act;

(2) On a naturalization application submitted by the applicant;

(3) For the preparation of reports to Congress under section 404 of the Immigration Reform and Control Act of 1986; or

(4) For the furnishing of information, at the discretion of the Attorney General, in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under 13 U.S.C. 8.

(e) Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

§ 245a.22 Rescission.

(a) Rescission of adjustment of status under LIFE Legalization shall occur only under the procedures of 8 CFR part 246.

(b) Information furnished by an eligible alien pursuant to any application filed under LIFE Legalization may be used by the Attorney General, and other officials and employees of the Department of Justice and any bureau or agency thereof, for purposes of rescinding, pursuant to 8 CFR part 246, any adjustment of status obtained by the alien.

§§ 245a.23–245a.29 [Reserved]

Subpart C—LIFE Act Amendments Family Unity Provisions

SOURCE: 66 FR 29673, June 1, 2001, unless otherwise noted.

§ 245a.30 Description of program.

This Subpart C implements the Family Unity provisions of section 1504 of the LIFE Act Amendments, Public Law 106–554.

§ 245a.31 Eligibility.

An alien who is currently in the United States may obtain Family Unity benefits under section 1504 of the LIFE Act Amendments if he or she establishes that:

(a) He or she is the spouse or unmarried child under the age of 21 of an eligible alien (as defined under § 245a.10) at the time the alien's application for Family Unity benefits is adjudicated and thereafter;

(b) He or she entered the United States before December 1, 1988, and resided in the United States on such date; and

(c) If applying for Family Unity benefits on or after June 5, 2003, he or she is the spouse or unmarried child under the age of 21 of an alien who has filed a Form I–485 pursuant to this Subpart B.

[66 FR 29673, June 1, 2001, as amended at 67 FR 38352, June 4, 2002]

§ 245a.32 Ineligible aliens.

The following categories of aliens are ineligible for Family Unity benefits under the LIFE Act Amendments:

(a) An alien who has been convicted of a felony or of three or more misdemeanors in the United States; or

(b) An alien who has ordered, incited, assisted, or otherwise participated in the persecution of an individual because of the individual's race, religion, nationality, membership in a particular social group, or political opinion; or

(c) An alien who has been convicted by a final judgment of a particularly serious crime and who is a danger to the community of the United States; or

(d) An alien who the Attorney General has serious reasons to believe has committed a serious nonpolitical crime outside the United States before the alien arrived in the United States; or

(e) An alien who the Attorney General has reasonable grounds to believe is a danger to the security of the United States.

§ 245a.33 Filing.

(a) *General.* An application for Family Unity benefits under section 1504 of the LIFE Act Amendments must be filed on a Form I–817, Application for Family Unity Benefits, with the National Benefit Center. A Form I–817 must be filed with the correct fee required in 8 CFR 106.2 and the required supporting documentation. A separate