

§ 204.314

8 CFR Ch. I (1–1–23 Edition)

an alien who will apply for adjustment of status, the USCIS officer with jurisdiction of the adjustment application has authority to grant this final approval upon receiving the Secretary of State's certificate under section 204(d)(2) of the Act.

(i) *Denial of Form I-800.* (1) A USCIS officer with authority to grant provisional or final approval will deny the Form I-800 if the officer finds that the child does not qualify as a Convention adoptee, or that 8 CFR 204.309(b) of this section requires denial of the Form I-800. Before denying a Form I-800, the officer will comply with the requirements of 8 CFR 103.2(b)(16)), if required to do so under that provision, and may issue a request for evidence or a notice of intent to deny under 8 CFR 103.2(b)(8).

(2) The decision will be in writing, specifying the reason(s) for the denial and notifying the petitioner of the right to appeal, if any, as specified in 8 CFR 204.314.

(3) If a Department of State officer finds, either at the provisional approval stage or the final approval stage, that the Form I-800 is “not clearly approvable,” or that 8 CFR 204.309(b) warrants denial of the Form I-800, the Department of State officer will forward the Form I-800 and accompanying evidence to the USCIS office with jurisdiction over the place of the child's habitual residence for review and decision.

[72 FR 56854, Oct. 4, 2007, as amended at 85 FR 46922, Aug. 3, 2020]

§ 204.314 Appeal.

(a) *Decisions that may be appealed.* (1) Except as provided in paragraph (b) of this section:

(i) An applicant may appeal the denial of a Form I-800A (including the denial of a request to extend the prior approval of a Form I-800A) and

(ii) A petitioner may appeal the denial of a Form I-800.

(2) The provisions of 8 CFR 103.3, concerning how to file an appeal, and how USCIS adjudicates an appeal, apply to the appeal of a decision under this subpart C.

(b) *Decisions that may not be appealed.* There is no appeal from the denial of:

(1) Form I-800A because the Form I-800A was filed during any period during which 8 CFR 204.307(c) bars the filing of a Form I-800A; or

(2) Form I-800A for failure to timely file a home study as required by 8 CFR 204.310(a)(3)(viii); or

(3) Form I-800 that is denied because the Form I-800 was filed during any period during which 8 CFR 204.307(c) bars the filing of a Form I-800;

(4) Form I-800 filed either before USCIS approved a Form I-800A or after the expiration of the approval of a Form I-800A.

PART 205—REVOCATION OF APPROVAL OF PETITIONS

Sec.

205.1 Automatic revocation.

205.2 Revocation on notice.

AUTHORITY: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1155, 1182, 1186a, and 1324a.

§ 205.1 Automatic revocation.

(a) *Reasons for automatic revocation.* The approval of a petition or self-petition made under section 204 of the Act and in accordance with part 204 of this chapter is revoked as of the date of approval:

(1) If the Secretary of State shall terminate the registration of the beneficiary pursuant to the provisions of section 203(e) of the Act before October 1, 1991, or section 203(g) of the Act on or after October 1, 1994;

(2) [Reserved]

(3) If any of the following circumstances occur before the beneficiary's or self-petitioner's journey to the United States commences or, if the beneficiary or self-petitioner is an applicant for adjustment of status to that of a permanent resident, before the decision on his or her adjustment application becomes final:

(i) *Immediate relative and family-sponsored petitions, other than Amerasian petitions.* (A) Upon written notice of withdrawal filed by the petitioner or self-petitioner with any officer of the Service who is authorized to grant or deny petitions.

(B) Upon the death of the beneficiary or the self-petitioner.

(C) Upon the death of the petitioner, unless: