

**PART 1249—CREATION OF
RECORDS OF LAWFUL ADMIS-
SION FOR PERMANENT RESI-
DENCE**

Sec.

1249.1 Waiver of inadmissibility.

1249.2 Application.

1249.3 Reopening and reconsideration.

AUTHORITY: 8 U.S.C. 1103, 1182, 1259; 8 CFR part 2.

SOURCE: Duplicated from part 249 at 68 FR 9843, Feb. 28, 2003.

EDITORIAL NOTE: Nomenclature changes to part 1249 appear at 68 FR 9846, Feb. 28, 2003.

§ 1249.1 Waiver of inadmissibility.

In conjunction with an application under section 249 of the Act, an otherwise eligible alien who is inadmissible under paragraph (9), (10), or (12) of section 212(a) of the Act or so much of paragraph (23) of section 212(a) of the Act as relates to a single offense of simple possession of 30 grams or less of marihuana may request a waiver of such ground of inadmissibility under section 212(h) of the Act. Any alien within the classes described in subparagraphs (B) through (H) of section 212(a)(28) of the Act may apply for the benefits of section 212(a)(28)(I)(ii) in conjunction with an application under section 249 of the Act.

[47 FR 44238, Oct. 7, 1982]

§ 1249.2 Application.

(a) *Jurisdiction.* An application by an alien, other than an arriving alien, who has been served with a notice to appear or warrant of arrest shall be considered only in proceedings under 8 CFR part 1240. In any other case, an alien who believes he or she meets the eligibility requirements of section 249 of the Act shall apply to the district director having jurisdiction over his or her place of residence. The application shall be made on Form I-485 and shall be accompanied by Form G-325A, which shall be considered part of the application. The application shall also be accompanied by documentary evidence establishing continuous residence in the United States since prior to January 1, 1972, or since entry and prior to July 1, 1924. All documents must be submitted in accordance with § 103.2(b)

of this chapter. Documentary evidence may include any records of official or personal transactions or recordings of events occurring during the period of claimed residence. Affidavits of credible witnesses may also be accepted. Persons unemployed and unable to furnish evidence in their own names may furnish evidence in the names of parents or other persons with whom they have been living, if affidavits of the parents or other persons are submitted attesting to the residence. The numerical limitations of sections 201 and 202 of the Act shall not apply.

(b) *Decision.* The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor. If the application is granted, a Form I-551, showing that the applicant has acquired the status of an alien lawfully admitted for permanent residence, shall not be issued until the applicant surrenders any other document in his or her possession evidencing compliance with the alien registration requirements of former or existing law. No appeal shall lie from the denial of an application by the district director. However, an alien, other than an arriving alien, may renew the denied application in proceedings under 8 CFR part 1240.

[52 FR 6322, Mar. 3, 1987, as amended at 62 FR 10386, Mar. 6, 1997; 68 FR 10359, Mar. 5, 2003]

§ 1249.3 Reopening and reconsideration.

An applicant who alleged entry and residence since prior to July 1, 1924, but in whose case a record was created as of the date of approval of the application because evidence of continuous residence prior to July 1, 1924, was not submitted, may have his case reopened and reconsidered pursuant to § 103.5 of 8 CFR chapter I. Upon the submission of satisfactory evidence, a record of admission as of the date of alleged entry may be created.

[29 FR 11494, Aug. 11, 1964, as amended at 68 FR 10359, Mar. 5, 2003]

**PART 1270—PENALTIES FOR
DOCUMENT FRAUD**

Sec.

1270.1 Definitions.