



Alert

On Nov. 2, 2020, the U.S. District Court for the Northern District of Illinois vacated the Inadmissibility on Public Charge Grounds final rule, 84 Fed. Reg. 41,292 (Aug. 14, 2019), as amended by Inadmissibility on Public Charge Grounds; Correction, 84 Fed. Reg. 52,357 (Oct. 2, 2019) (“Public Charge Final Rule”) nationwide. That decision was stayed by the U.S. Court of Appeals for the Seventh Circuit. On Mar. 9, 2021, the Seventh Circuit lifted its stay and the U.S. District Court for the Northern District of Illinois’ order vacating the Public Charge Final Rule went into effect.

USCIS immediately stopped applying the Public Charge Final Rule to all pending applications and petitions that would have been subject to the rule. USCIS continues to apply the public charge inadmissibility statute, including consideration of the statutory minimum factors in the totality of the circumstances, in accordance with the 1999 [Interim Field Guidance](#) that was in place before the Public Charge Final Rule was implemented on Feb. 24, 2020, to the adjudication of any application for adjustment of status. In addition, USCIS will no longer apply the separate, but related, “public benefits condition” to applications or petitions for extension of nonimmigrant stay and change of nonimmigrant status.

On or after Mar. 9, 2021, applicants and petitioners should not provide information required solely by the Public Charge Final Rule. That means that applicants for adjustment of status should not provide the Form I-944, Declaration of Self-Sufficiency, or any evidence or documentation required on that form with their Form I-485. Applicants and petitioners for extension of nonimmigrant stay and change of nonimmigrant status should not provide information related to the receipt of public benefits on Form I-129 (Part 6), Form I-129CW (Part 6), Form I-539 (Part 5), and Form I-539A (Part 3).

If an applicant or petitioner has already provided such information, and USCIS adjudicates the application or petition on or after Mar. 9, 2021, USCIS will not consider any information provided that relates solely to the Public Charge Final Rule, including, for example, information provided on the Form I-944, evidence or documentation submitted with Form I-944, or information on the receipt of public benefits on Form I-129 (Part 6), Form I-129CW (Part 6), Form I-539 (Part 5), and Form I-539A (Part 3).

If you received a Request for Evidence (RFE) or Notice of Intent to Deny (NOID) requesting information that is solely required by the Public Charge Final Rule, including but not limited to Form I-944, and your response is due on or after Mar. 9, 2021, you need not provide the information solely required by the Public Charge Final Rule. You do, however, need to respond to the aspects of the RFE or NOID that otherwise pertain to the eligibility for the immigration benefit sought. If USCIS requires additional information or evidence to make a public charge inadmissibility determination under the statute and consistent with the 1999 [Interim Field Guidance](#), it will issue a subsequent RFE or NOID. or information about the relevant court decisions, please see the [litigation summary](#).

USCIS will issue additional guidance regarding the use of affected forms. In the interim, USCIS will not reject any Form I-485 on the basis of the inclusion or exclusion of Form I-944, and will not reject Form I-129, Form I-129CW, Form I-539, or Form I-539A based on whether the public benefits questions (Form I-129 (Part 6), Form I-129CW (Part 6), Form I-539 (Part 5), and Form I-539A (Part 3) have been completed or left blank.



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On Sept. 11, 2020, the U.S. Court of Appeals for the Second Circuit issued a decision that allows DHS to resume implementing the [Public Charge Ground of Inadmissibility final rule](#) nationwide, including in New York, Connecticut and Vermont. The decision stays the July 29, 2020, [injunction](#), issued during the coronavirus (COVID-19) pandemic, that prevented DHS from enforcing the public charge final rule during a national health emergency.

Therefore, we will apply the public charge final rule and [related guidance](#) in the USCIS Policy Manual, Volumes [2](#), [8](#) and [12](#), to all applications and petitions postmarked (or submitted electronically) on or after Feb. 24, 2020. If you send your application or petition by commercial courier (for example, UPS, FedEx, or DHL), we will use the date on the courier receipt as the postmark date.

For information about the relevant court decisions, please see the public charge injunction [webpage](#).

In general, the grounds of inadmissibility apply to immigration benefits that require that the applicant be admissible to the United States.^[1] Unless the alien is requesting an immigration benefit or a classification that does not require admissibility, or that is exempt from the public charge ground of inadmissibility,^[2] an alien must establish that he or she is not inadmissible on the public charge ground.^[3]

Applicants for extension of stay and change of status are not subject to the public charge ground of inadmissibility,^[4] because [INA 212\(a\)\(4\)](#) specifically references applicants for visas, admission, or adjustment of status. Applicants for extension or change of status are not applying for a visa, admission, or adjustment of status. Therefore, the analysis outlined regarding public charge inadmissibility under the

totality of the circumstances is not applicable to nonimmigrants seeking to change or extend their status in the United States. They are, however, subject to the public benefits condition.^[5]

A. Applicants Seeking Admission

The public charge ground of inadmissibility^[6] generally applies to aliens seeking admission^[7] as an immigrant^[8] or a nonimmigrant, generally after the U.S. Department of State (DOS) issued the immigrant or nonimmigrant visa,^[9] unless they are specifically exempted by statute or regulations.^[10] U.S. Customs and Border Protection (CBP) inspects aliens applying for admission to the United States. When an applicant demonstrates admissibility, the applicant may be permitted to enter the United States as an immigrant or nonimmigrant.^[11]

B. Categories of Aliens Not Subject to Public Charge Inadmissibility

Certain aliens are not subject to the public charge inadmissibility ground. The regulation contains a list of who is exempt from the public charge inadmissibility ground.^[12] For a full list of categories that are subject to public charge see:

- [Appendix: Applicability of INA 212\(a\)\(4\) to Family-Based Adjustment of Status Applications;](#)
- [Appendix: Applicability of INA 212\(a\)\(4\) to Employment-Based Adjustment of Status Applications;](#)
- [Appendix: Applicability of INA 212\(a\)\(4\) to Special Immigrant Adjustment of Status Applications;](#)
- [Appendix: Applicability of INA 212\(a\)\(4\) to Refugee, Asylee, and Parolee Adjustment of Status Applications;](#) and
- [Appendix: Applicability of INA 212\(a\)\(4\) to Other Applicants.](#)

1. Applicants Seeking Refugee or Asylee Status

Applicants seeking refugee or asylee status are not subject to the public charge ground of inadmissibility.^[13]

2. Certain T Nonimmigrants^[14]

Aliens Seeking T Nonimmigrant Status

Aliens who are applying for T nonimmigrant status are exempt from the public charge ground of inadmissibility.^[15]

Pending Application for T Nonimmigrant Status or Granted T Nonimmigrant Status

The statute^[16] provides an exemption from the public charge ground for any benefit that requires the alien to establish admissibility, if the alien has been granted T nonimmigrant status or if the alien has a pending application that sets forth a prima facie case of eligibility for T nonimmigrant status.^[17]

As written in the Immigration and Nationality Act (INA), the exemption from public charge contained in [INA 212\(a\)\(4\)\(E\)](#) and the adjustment of status provision for those seeking adjustment based on T nonimmigrant status, [INA 245\(l\)\(2\)](#), are inconsistent when addressing public charge inadmissibility. Under INA 212(a)(4)(E), aliens granted T nonimmigrant status are mostly exempt from the public charge inadmissibility ground.^[18] However, under INA 245(l), public charge inadmissibility applies to those seeking adjustment as a T nonimmigrant, though the inadmissibility may be waived based on national interest. This inconsistency is due to Congress' failure to amend INA 245(l)(2) when it created INA 212(a)(4)(E) in its current form.^[19] Because the amendments to INA 212(a)(4)(E) occurred later in time than the creation of INA 245(l), DHS considers the text and exemption in INA 212(a)(4)(E) controlling.^[20]

Therefore, if an alien is seeking an immigration benefit that is subject to inadmissibility including adjustment of status under INA 245(a)^[21] and INA 245(l), the public charge ground of inadmissibility does not apply when establishing eligibility for the benefit, if the following conditions are met:

- The applicant has a pending application that sets forth a prima facie case of eligibility for T nonimmigrant status,^[22] or
- The applicant has been granted T nonimmigrant status, provided that he or she is in valid T nonimmigrant status at the time the benefit request^[23] is properly filed with USCIS and at the time a decision is made on the benefit request.

For purposes of the exemption from the public charge ground of inadmissibility, an applicant is in valid T nonimmigrant status if the application for T nonimmigrant status or derivative T nonimmigrant status appears as approved in the records available to USCIS or in the alien's file.

It may be possible that, at the time of filing for an immigration benefit, the applicant's T nonimmigrant status has expired, was revoked, or has otherwise been terminated. The officer should consult the systems available to USCIS to determine whether the applicant is in valid T nonimmigrant status, taking into consideration any extensions. If the applicant did not have valid T nonimmigrant status at the time of filing the benefit request or is no longer in valid T nonimmigrant status at the time USCIS makes a decision on the benefit request subject to public charge grounds, he or she is not exempt from the public charge ground of inadmissibility. The officer, in this case, should proceed with the public charge assessment, as outlined in this Part G.

If the applicant is seeking adjustment of status based on the T nonimmigrant status,^[24] the underlying T nonimmigrant status is considered extended until USCIS makes a decision on the adjustment application.^[25]

3. Certain U Nonimmigrants^[26]

Aliens Seeking U Nonimmigrant Status

Aliens who are petitioning for U nonimmigrant status are exempt from the public charge ground of inadmissibility.^[27]

Aliens Granted U Nonimmigrant Status

With one limited exception explained below,^[28] the statute provide an exemption from the public charge inadmissibility ground for any benefit that requires the alien to establish admissibility, if the alien has been granted U nonimmigrant status.^[29]

Therefore, U nonimmigrants who are seeking an immigration benefit for which admissibility is required, including adjustment of status under [INA 245\(a\)](#),^[30] are generally not subject to the public charge ground of inadmissibility^[31] for purposes of establishing eligibility for the immigration benefit.

For this exemption from the public charge ground of inadmissibility to apply, the alien must have been granted U nonimmigrant status, and be in valid U nonimmigrant status at the time the benefit request, such as an application for adjustment of status, is properly filed with USCIS and at the time USCIS makes a decision on the benefit request.

If the officer concludes that the alien does not have valid U nonimmigrant status, then the exemption from the public charge inadmissibility ground does not apply. The officer should adjudicate the application for the immigration benefit subject to the public charge ground of inadmissibility^[32] in accordance with the agency guidance.

An alien is in valid U nonimmigrant status if the petition for U nonimmigrant status, or derivative U nonimmigrant status, shows as approved in systems available to USCIS or in the alien's file. It may be possible that, at the time of filing for an immigration benefit, the alien's U nonimmigrant status has expired, was revoked, or has otherwise been terminated. The officer should check the records available to USCIS to ascertain whether the alien is in valid U nonimmigrant status, taking into consideration any extensions. If the applicant has a pending application for adjustment of status under INA 245(m) based on U nonimmigrant status, the underlying U nonimmigrant status is extended until USCIS makes a decision on the adjustment application.^[33] If the alien did not have valid U nonimmigrant status at the time of filing the benefit request or is no longer in valid U nonimmigrant status at the time USCIS makes a decision on the immigration benefit request subject to the public charge ground, he or she is not exempt from the public charge ground of inadmissibility. The officer, in this case, should proceed with the public charge assessment, as outlined in this Part G.

4. Limited Exemption^[34] for T and U Nonimmigrants, VAWA Self-Petitioners, and Qualified Aliens^[35]

In general, for purposes of public charge inadmissibility, the following provisions do not apply to qualified alien victims:^[36]

- Public charge inadmissibility, in general;^[37]
- Minimum factors to be considered in the public charge inadmissibility determination;^[38] and
- Inadmissibility for lack of sufficient affidavit of support in family-based immigration cases.^[39]

A qualified alien victim^[40] includes:

- A Violence Against Women Act (VAWA) self-petitioner;
- An alien who is an applicant for, or is granted, U nonimmigrant status;^[41] or
- A qualified alien,^[42] such as an alien who has a pending application establishing a prima facie case of eligibility for T nonimmigrant status or has been granted T nonimmigrant status.

When Congress created the current version of [INA 212\(a\)\(4\)\(E\)](#), it did not exempt qualified alien victims from the requirements under [INA 212\(a\)\(4\)\(D\)](#). INA 212(a)(4)(D) makes certain employment-based

immigrants inadmissible on public charge in employment-based cases, unless the alien has a properly executed [Form I-864](#).^[43] A sufficient Form I-864^[44] is required for employment-based immigrants if:

- The alien's relative^[45] filed the employment-based petition; or
- The alien's relative^[46] has a significant ownership interest (of 5 percent or more) in the business or entity that filed the employment-based petition.

Thus, if the alien is a qualified alien victim and is seeking adjustment of status based on an employment-based category for which an Form I-864 is required as described in INA 212(a)(4)(D), the officer does not have to conduct a full public charge inadmissibility assessment, but instead, ensures that a sufficient Form I-864 is submitted. If the alien does not present a sufficient Form I-864,^[47] then, the alien is inadmissible on account of public charge. If the alien submits a sufficient Form I-864, as required by INA 212(a)(4)(D), the alien is not inadmissible based on public charge.

If such an alien is required to submit the Form I-864, the applicant cannot submit a Declaration of Self-Sufficiency ([Form I-944](#)) to establish that the alien is not a public charge. The applicant must submit a sufficient Form I-864.

5. Other Categories Exempt from the Public Charge Ground of Inadmissibility^[48]

Examples of other categories not subject to the public charge ground of inadmissibility include, but are not limited to:^[49]

- Applicants seeking Temporary Protected Status;^[50]
- Aliens seeking registry;^[51] and
- Claimants seeking recognition as American Indians born in Canada.^[52]

For a full list of categories that are subject to public charge, see:

- [Appendix: Applicability of INA 212\(a\)\(4\) to Family-Based Adjustment of Status Applications;](#)
- [Appendix: Applicability of INA 212\(a\)\(4\) to Employment-Based Adjustment of Status Applications;](#)
- [Appendix: Applicability of INA 212\(a\)\(4\) to Special Immigrant Adjustment of Status Applications;](#)
- [Appendix: Applicability of INA 212\(a\)\(4\) to Refugee, Asylee, and Parolee Adjustment of Status Applications;](#) and
- [Appendix: Applicability of INA 212\(a\)\(4\) to Other Applicants.](#)

C. Adjustment of Status Applicants

The public charge ground of inadmissibility generally applies to applicants seeking adjustment of status to that of a lawful permanent resident (LPR). USCIS screens applicants for adjustment of status who are subject to public charge ground of inadmissibility in accordance with applicable statutory authority, regulations, and policy guidance.

Unless specifically exempt from the public charge ground of inadmissibility, the public charge inadmissibility determination is generally applicable to all applicants for adjustment of status, including:

- Family-sponsored applicants;
- Employment-based applicants; and
- Diversity visa immigrants.^[53]

Examples of categories of adjustment applicants exempt from the public charge ground of inadmissibility include, but are not limited to:^[54]

- Asylees and refugees;^[55]
- VAWA self-petitioners,^[56] except if seeking adjustment of status in certain employment-based categories;^[57]
- Special immigrant juveniles;^[58]
- Afghan or Iraqi interpreters or Afghan or Iraqi nationals employed by or on behalf of the U.S. government;^[59]
- American Indians born in Canada;^[60] and
- Applicants seeking adjustment under the Cuban Adjustment Act.^[61]

For a full list of categories that are subject to public charge, see:

- [Appendix: Applicability of INA 212\(a\)\(4\) to Family-Based Adjustment of Status Applications](#);
- [Appendix: Applicability of INA 212\(a\)\(4\) to Employment-Based Adjustment of Status Applications](#);
- [Appendix: Applicability of INA 212\(a\)\(4\) to Special Immigrant Adjustment of Status Applications](#);
- [Appendix: Applicability of INA 212\(a\)\(4\) to Refugee, Asylee, and Parolee Adjustment of Status Applications](#); and
- [Appendix: Applicability of INA 212\(a\)\(4\) to Other Applicants](#).

Footnotes

^[^1] See [8 CFR 212.20](#).

^[^2] See [INA 212\(a\)\(4\)](#).

^[^3] See [INA 291](#).

^[^4] See [INA 214](#). See [INA 248](#). See [8 CFR 214.1](#). See [8 CFR 248](#).

^[^5] For more information, see Volume 2, Nonimmigrants, Part A, Nonimmigrant Policies and Procedures, Chapter 4, Extension of Stay and Change of Status [[2 USCIS-PM A.4](#)].

[^6] See [INA 212\(a\)\(4\)](#).

[^7] See [INA 101\(a\)\(4\)](#) and [INA 101\(a\)\(13\)\(A\)](#).

[^8] An alien who is a lawful permanent resident (LPR) who travels abroad and seeks to enter the United States again is generally not seeking admission under the Immigration and Nationality Act (INA). See [INA 101\(a\)\(13\)\(C\)](#). Therefore, an LPR who travels abroad does not undergo another public charge inadmissibility determination upon return to the United States unless CBP determines that the returning LPR is an applicant for admission based on one of the criteria set forth in [INA 101\(a\)\(13\)\(C\)](#) (for example, CBP determines that the alien has been absent from the United States for more than 180 days).

[^9] DOS officers follow the guidance outlined in DOS regulations and the Foreign Affairs Manual. These determinations are not governed by DHS regulations.

[^10] See [8 CFR 212.23](#). For more information, see Section B, Categories of Aliens Not Subject to Public Charge Inadmissibility, Subsection 2, Certain T Nonimmigrants [[8 USCIS-PM G.3\(B\)\(2\)](#)] and Subsection 3, Certain U Nonimmigrants [[8 USCIS-PM G.3\(B\)\(3\)](#)].

[^11] See [INA 235](#). See [8 CFR 235](#). CBP follows CBP guidance on the determination, in accordance with DHS regulations at [8 CFR 212.20](#) to [8 CFR 212.23](#).

[^12] See [8 CFR 212.23](#). An exemption is not the same as a waiver of inadmissibility. If an applicant is exempt from an inadmissibility ground by law, then the inadmissibility does not apply by operation of law. In the case of a waiver, the law states that the applicant is subject to a ground of inadmissibility but if inadmissible, may allow the applicant to apply for a waiver. If the alien applies for the waiver and meets the waiver's requirements so that USCIS can grant the waiver, the alien is no longer inadmissible on the ground that was waived. For more information on the difference between exemptions and waivers, see Volume 9, Waivers and Other Forms of Relief, Part A, Waiver Policies and Procedures [[9 USCIS-PM A](#)].

[^13] See [INA 212.23\(a\)\(1\)](#) and [INA 212.23\(a\)\(2\)](#). See [INA 207](#) and [INA 208](#). See [8 CFR 207](#). Similarly, refugees and asylees seeking adjustment of status based on their refugee or asylee status are not subject to the public charge ground of inadmissibility. See Section C, Adjustment of Status Applicants [[8 USCIS-PM G.3\(C\)](#)].

[^14] See [INA 101\(a\)\(15\)\(T\)](#). See [INA 212\(d\)\(13\)\(A\)](#). See [INA 214\(o\)](#). See [8 CFR 212.16\(b\)](#). See [8 CFR 212.23](#). See [8 CFR 214.11](#).

[^15] See [INA 212\(d\)\(13\)\(A\)](#), which states that the Secretary of Homeland Security shall determine whether a ground of inadmissibility exists with respect to a nonimmigrant described in [INA 101\(a\)\(15\)\(T\)](#), except that the ground for inadmissibility described in [INA 212\(a\)\(4\)](#) shall not apply with respect to such nonimmigrant. See also [8 CFR 214.11](#) and [INA 212\(a\)\(4\)\(E\)](#).

[^16] See [INA 212\(a\)\(4\)\(E\)\(iii\)](#).

[^17] See [INA 212\(a\)\(4\)\(E\)\(iii\)](#). See [8 CFR 212.16\(b\)](#) and [8 CFR 212.23\(a\)\(17\)](#). [INA 212\(a\)\(4\)\(E\)\(iii\)](#) was amended by Section 804 of the Violence Against Women Act (VAWA) of 2013, [Pub. L. 113-4 \(PDF\)](#), 127 Stat 54, 111 (March 7, 2013). These amendments provided such public charge exemptions. Public charge inadmissibility is not exempted, however, if the T nonimmigrant seeks adjustment of status under an employment-based category in which adjustment and the petitioner is a relative or the relative has a significant ownership interest (5 percent) in the petitioning entity or business. See [INA 212\(a\)\(4\)\(D\)](#). For more information, see below in this Chapter 3, Applicability [[8 USCIS-PM G.3](#)].

[^18] See [INA 212\(A\)\(4\)\(E\)\(iii\)](#). An alien exempt under [INA 212\(a\)\(4\)\(E\)](#) is exempt from [INA 212\(a\)\(4\)\(A\)](#), [INA 212\(a\)\(4\)\(B\)](#), and [INA 212\(a\)\(4\)\(C\)](#), but not [INA 212\(a\)\(4\)\(D\)](#). See [INA 212\(d\)\(13\)\(A\)](#), which states that the Secretary of Homeland Security shall determine whether a ground of inadmissibility exists with respect to a nonimmigrant described in [INA 101\(a\)\(15\)\(T\)](#), except that the ground for inadmissibility described in subsection (a)(4) shall not apply with respect to such nonimmigrant.

[^19] See Section 804 of the Violence Against Women Act (VAWA) of 2013, [Pub. L. 113-4 \(PDF\)](#), 127 Stat 54, 111 (March 7, 2013). See [INA 245\(I\)](#) [created by the Victims of Trafficking and Violence Protection Act of 2000, [Pub. L. 106-386 \(PDF\)](#), 114 Stat. 1464 (October 8, 2000)].

[^20] See [84 FR 41292 \(PDF\)](#) (Aug. 14, 2019) (final rule), as amended by [84 FR 52357 \(PDF\)](#) (Oct. 2, 2019) (final rule; correction). Based on the same rationale, DHS also modified current [8 CFR 212.18\(b\)\(2\)](#) and [8 CFR 245.23\(c\)\(3\)](#) in the public charge rule to reflect Congress' amendments to [INA 212\(a\)\(4\)\(E\)](#) in 2013.

[^21] Except for employment-based adjustment cases in which the petitioner is a relative or the relative has a significant ownership interest (5 percent) in the petitioning entity or business. See [INA 212\(a\)\(4\)\(D\)](#).

[^22] See [INA 101\(a\)\(15\)\(T\)](#).

[^23] Including an adjustment of status application.

[^24] Under [INA 245\(I\)](#).

[^25] See [INA 214\(o\)\(7\)\(C\)](#).

[^26] See [INA 101\(a\)\(15\)\(U\)](#). See [INA 212\(a\)\(4\)\(E\)\(ii\)](#). See [8 CFR 212.23\(a\)\(19\)](#).

[^27] See [INA 212\(a\)\(4\)\(E\)\(ii\)](#). See [8 CFR 212.23\(a\)\(19\)\(i\)](#).

[^28] See Subsection 4, Limited Exception for T and U Nonimmigrants, VAWA Self-Petitioners, and Qualified Aliens [[8 USCIS-PM G.3\(B\)\(4\)](#)].

[^29] See [INA 212\(a\)\(4\)\(E\)\(ii\)](#). See [8 CFR 212.23](#). INA 212(a)(4)(E) was amended by Section 804 of the Violence Against Women Act (VAWA) of 2013, [Pub. L. 113-4 \(PDF\)](#), 127 Stat. 54, 111 (March 7, 2013), which excluded U nonimmigrants from the public charge ground of inadmissibility.

[^30] Except for a U nonimmigrant who seeks adjustment of status under an employment-based category in which the petitioner is a relative or the relative has a significant ownership interest (5 percent) in the petitioning entity or business. See [INA 212\(a\)\(4\)\(D\)](#). For more information, see entry further below in this chapter.

[^31] See [INA 212\(a\)\(4\)](#).

[^32] Under [INA 212\(a\)\(4\)](#). See [8 CFR 212.20](#) to [8 CFR 212.22](#).

[^33] See [INA 214\(p\)\(6\)](#).

[^34] See [8 CFR 212.23\(b\)](#).

[^35] See [8 U.S.C. 1641\(c\)](#).

[^36] See [INA 212\(a\)\(4\)\(E\)](#).

[^ 37] See [INA 212\(a\)\(4\)\(A\)](#).

[^ 38] See [INA 212\(a\)\(4\)\(B\)](#).

[^ 39] See [INA 212\(a\)\(4\)\(C\)](#).

[^ 40] As outlined in [INA 212\(a\)\(4\)\(E\)](#).

[^ 41] Under [INA 101\(a\)\(15\)\(U\)](#).

[^ 42] As described in [8 U.S.C. 1641\(c\)](#)

[^ 43] See [INA 212\(a\)\(4\)\(D\)](#) and [INA 203\(b\)](#).

[^ 44] Any reference to [Form I-864](#) includes a reference to Form I-864EZ, as applicable.

[^ 45] Relative as defined in [8 CFR 213a.1](#).

[^ 46] Relative as defined in [8 CFR 213a.1](#).

[^ 47] See [INA 212\(a\)\(4\)\(D\)](#) and [INA 212\(a\)\(4\)\(E\)](#).

[^ 48] See [8 CFR 212.23](#). For a full list of applicant categories and corresponding applicability, see [Appendix: Applicability of INA 212\(a\)\(4\) to Family-Based Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Employment-Based Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Special Immigrant Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Refugee, Asylee, and Parolee Adjustment of Status Applications](#); and [Appendix: Applicability of INA 212\(a\)\(4\) to Other Applicants](#). For information on the public charge condition that applies to certain nonimmigrants, see Volume 2, Nonimmigrants, Part A, Nonimmigrant Policies and Procedures, Chapter 4, Extension of Stay and Change of Status [[2 USCIS-PM A.4](#)].

[^ 49] For a full list of applicant categories and corresponding applicability, see [Appendix: Applicability of INA 212\(a\)\(4\) to Family-Based Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Employment-Based Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Special Immigrant Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Refugee, Asylee, and Parolee Adjustment of Status Applications](#); and [Appendix: Applicability of INA 212\(a\)\(4\) to Other Applicants](#).

[^ 50] See [8 CFR 244.3](#).

[^ 51] See [INA 249](#). See Volume 7, Adjustment of Status, Part O, Registration, Chapter 4, Aliens Who Entered the United States Prior to January 1, 1972 [[7 USCIS-PM O.4](#)].

[^ 52] See [INA 289](#). See *Akins v. Saxbe*, 380 F.Supp. 1210, 1219 (D. Me. 1974) (“the intent of Congress in enacting [INA 289] was to preserve the aboriginal right of American Indians to move freely throughout the territories originally occupied by them on either side of the American and Canadian border, and, thus, to exempt Canadian-born Indians from all immigration restrictions imposed on aliens by the Immigration and Nationality Act). See *Matter of Yellowquill*, 16 I&N Dec. 576, 578 (BIA 1978) (“American Indians born in Canada who are within the protection of section 289 of the Act are not subject to deportation on any ground.”). But see *Perrault v. Larkin*, No. 03-3069-RDR, 2005 WL 2455351 at *2 (D. Kan. 2005) (rejecting petitioner’s claim that he is exempt from removal as an American Indian born in Canada because

petitioner did not come forward with any evidence to support his claim and efforts by legacy Immigration and Naturalization Service to verify petitioner's membership in the Cree Tribe were unsuccessful).

[⁵³] Officers should refer to [Appendix: Applicability of INA 212\(a\)\(4\) to Family-Based Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Employment-Based Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Special Immigrant Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Refugee, Asylee, and Parolee Adjustment of Status Applications](#); and [Appendix: Applicability of INA 212\(a\)\(4\) to Other Applicants](#) for detailed information on whether a particular category of applicant is subject to the public charge ground of inadmissibility.

[⁵⁴] See [8 CFR 212.23](#). For a full list of applicant categories and corresponding applicability, see [Appendix: Applicability of INA 212\(a\)\(4\) to Family-Based Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Employment-Based Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Special Immigrant Adjustment of Status Applications](#); [Appendix: Applicability of INA 212\(a\)\(4\) to Refugee, Asylee, and Parolee Adjustment of Status Applications](#); and [Appendix: Applicability of INA 212\(a\)\(4\) to Other Applicants](#).

[⁵⁵] See [INA 209](#). See [8 CFR 209.1](#) and [8 CFR 209.2](#).

[⁵⁶] See [INA 101\(a\)\(51\)](#).

[⁵⁷] See [INA 212\(a\)\(4\)\(D\)](#).

[⁵⁸] See [INA 245\(h\)](#).

[⁵⁹] As described in Section 1059(a)(2) of the National Defense Authorization Act for Fiscal Year 2006, Section 1059 of [Pub. L. 109-163 \(PDF\)](#), 119 Stat. 3136, 3443-3444 (January 6, 2006), as amended, and Section 602(b) of the Afghan Allies Protection Act of 2009, [Pub. L. 111-8 \(PDF\)](#), Title VI (March 11, 2009), as amended, and Section 1244(g) of the National Defense Authorization Act for Fiscal Year 2008, as amended, Section 1244 of [Pub. L. 110-181 \(PDF\)](#), 122 Stat. 3, 396 (January 28, 2008).

[⁶⁰] As described in [INA 289](#).

[⁶¹] See [Pub. L. 89-732 \(PDF\)](#) (November 2, 1966).

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