

9 FAM 40.62 NOTES

(TL:VISA-239; 02-26-2001)

9 FAM 40.62 N1 BACKGROUND

(TL:VISA-239; 02-26-2001)

Division "C" of the Omnibus Consolidated Appropriations Act of 1997, the Illegal Immigration Reform and Immigrant Responsibility of 1996 (IIRIRA), Pub. L. 104-208, amended the Immigration and Nationality Act (INA) by essentially eliminating the old concepts of "entry" "exclusion" and "deportation" replacing them with the new concepts of "admission", "denied admission to "removal from". These new concepts respond to the perception that the INA was subject to abuse by enabling aliens to get in and remain in the United States unwarrantedly in large part because "deportation" included more procedural protection than "exclusion".

9 FAM 40.62 N2 DEFINITIONS

9 FAM 40.62 N2.1 "Admission and Admitted" Defined

(TL:VISA-239; 02-26-2001)

The INA defines the terms "admission" and "admitted" to mean, the lawful entry of an alien into the United States after inspection and authorization by an immigration officer. An alien who is paroled under section 212(d)(5) or permitted to land temporarily as an alien crewman shall not be considered to have been "admitted". Aliens who have entered without inspection, are not considered to have been "admitted" and are thus subject to "admission" proceedings.

9 FAM 40.62 N2.2 "Application for Admission" Defined

(TL:VISA-239; 02-26-2001)

The term "application for admission" refers to an alien's application for admission into the United States and not to the alien's application for the

issuance of a visa.

9 FAM 40.62 N3 FAILURE TO ATTEND REMOVAL PROCEEDINGS

(TL:VISA-239; 02-26-2001)

An alien placed in removal proceedings on or after April 1, 1997, who without reasonable cause, fails or refuses to attend or remain in attendance at hearings to determine the alien's inadmissibility or deportability shall not be issued a visa for five years following voluntary departure or deportation.