

9 FAM 40.66

SUBJECT OF CIVIL PENALTY

(CT:VISA-967; 06-11-2008)
(Office of Origin: CA/VO/L/R)

9 FAM 40.66 RELATED STATUTORY PROVISIONS

(CT:VISA-967; 06-11-2008)

See INA 212(a)(6)(F) (8 U.S.C. 1182(a)(6)(F)), INA 212(d)(12) (8 U.S.C. 1182(d)(12)), and INA 274(c) (8 U.S.C. 1324(c)).

INA 212(a)(6)(F)

- (6) Illegal entrants and immigration violators.-
 - (F) Subject of civil penalty.-
 - (i) In general.-An alien who is the subject of a final order for violation of section 274C is inadmissible.
 - (ii) Waiver authorized.-For provision authorizing waiver of clause (i), see subsection (d)(12).

INA 212(d)(12)

- (12) The Attorney General may, in the discretion of the Attorney General for humanitarian purposes or to assure family unity, waive application of clause (i) of subsection (a)(6)(F) of this section—
 - (A) in the case of an alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation or removal and who is otherwise admissible to the United States as a returning resident under section 211(b) of this title, and
 - (B) in the case of an alien seeking admission or adjustment of status under section 201 (b)(2)(A) of this title or under section 203(a) of this title, if no previous civil money penalty was imposed against the alien under section 274c of this title and the offense was committed solely to assist, aid, or support the alien's spouse or child (and not another individual). No court shall have

jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this paragraph.

INA 274(c)

- c. No officer or person shall have authority to make any arrest for a violation of any provision of this section except officers and employees of the Service designated by the Attorney General, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws.

9 FAM 40.66 RELATED REGULATORY PROVISIONS

(CT:VISA-967; 06-11-2008)

See 22 CFR 40.66.

40.66 Subject of civil penalty.

- (a) *General.* An alien who is the subject of a final order imposing a civil penalty for a violation under INA 274C shall be ineligible for a visa under INA 212(a)(6)(F).
- (b) *Waiver of ineligibility.* If an applicant is ineligible under paragraph (a) of this section but appears to the consular officer to meet the prerequisites for seeking the benefits of INA 212(d)(12), the consular officer shall inform the alien of the procedure for applying to DHS for relief under that provision of law. A visa may not be issued to the alien until the consular officer has received notification from DHS of the approval of the alien's application under INA 212(d)(12).

[62 FR 67567, Dec. 29, 1997]