

9 FAM 40.301 PROCEDURAL NOTES

*(CT:VISA-1556; 09-30-2010)
(Office of Origin: CA/VO/L/R)*

9 FAM 40.301 PN1 SUBMITTING WAIVER RECOMMENDATIONS

(CT:VISA-1556; 09-30-2010)

a. To submit INA 212(d)(3)(A)(i) *(8 U.S.C. 1182(d)(3)(A)(i))* waiver recommendations to the Admissibility Review Office (ARO), you must use the Admissibility Review Information Service (ARIS), located in the CCD (Consular Consolidated Database). You (consular officer) should select the "Request Waiver" link next to the appropriate applicant to open the Waiver Request Form and create a waiver request. Consular officers and managers may both initiate and submit new waiver requests as well as update and submit waiver requests with a status of Pending Manager Approval. Foreign Service nationals may only initiate cases before sending them to an officer for approval. The ARO will review the waiver recommendation and submit the response to post through the CCD along with an e-mail notification to the appropriate post. Once posts have installed Nonimmigrant Visas (NIV) 04.04.00, users will be able to directly access the ARIS Waiver Request form through the Association - Clearance option on the NIV Applicant Information window:

- (1) From the NIV Applicant Clearance window, users can click the new "ARIS Waiver Request" button that will take the user to the ARIS Waiver request form on the CCD from which they can complete and submit the request; and
- (2) Posts can check on the status of a waiver request through the NIV ARIS Request window and the NIV Clearance window. If a waiver request is pending for 30 days or longer, you can send a follow-up e-mail inquiry to the address that corresponds to your region.

The regional e-mail addresses are as follows:

- af.waiver.aro@dhs.gov
- eap.waiver.aro@dhs.gov
- eur.waiver.aro@dhs.gov
- nea.waiver.aro@dhs.gov

- sa.waiver.aro@dhs.gov
 - wha.waiver.aro@dhs.gov
- b. If you do not recommend that the alien be admitted temporarily but the applicant or an interested party insists on pursuing the request, you must submit an advisory opinion to CA/VO/L/A through the NIV System for non-security ineligibilities, and an security advisory opinion (SAO) to CA/VO/L/C for security grounds of inadmissibility INA 212(a)(3)(B),(D),(E),(F). Any classified information *must* be forwarded to Department of Homeland Security (DHS) in accordance with 9 FAM 40.301 N6.2.
- c. You cannot submit a waiver request to DHS if you are required to submit the waiver to the Department. See 9 FAM 40.301 N6.2. Submit waiver requests dealing with security grounds of inadmissibility to CA/VO/L/C as a request for a Visas Donkey SAO, and submit non-security related cases to CA/VO/L/A for an advisory opinion.

9 FAM 40.301 PN2 NOTATIONS TO BE PLACED IN VISA IN INA 212(D)(3)(A) WAIVER CASES

(CT:VISA-1556; 09-30-2010)

- a. When a ground of *inadmissibility* is waived under INA 212(d)(3)(A), the notation "INA 212(d)(3)(A)," followed by the number of the paragraph of INA 212(a) which has been waived, the duration of stay authorized, the port of entry (POE) (if specified in the order), and an indication of the purpose of the visit must be noted immediately below the visa stamp; for example:
- INA 212(d)(3)(A): INA 212(a)(6)(C) 3 months,
N.Y., N.Y., Conference,
Ford Motor Company
- b. If the order authorizes multiple entries, a notation regarding the initial POE is sufficient. (See 9 FAM 41.113 Exhibit II.) If the POE is not specified in the INA 212(d)(3)(A) waiver, do not enter a POE in the annotation.

9 FAM 40.301 PN3 DEPARTMENT OF HOMELAND SECURITY (DHS) WASHINGTON DISTRICT OFFICE PERMISSION REQUIRED

FOR ITINERARY CHANGES OR EXTENSION OF STAY

(CT:VISA-757; 08-09-2005)

In any case in which the DHS or the Department notifies you that permission of the Washington District Office is required for any change in itinerary or extension of temporary stay, "WAS" is to be inserted in the notation on the visa regarding the INA 212(d)(3)(A) authorized; for example:

INA 212(d)(3)(A): INA 212(a)(6)(C) WAS—4 months,
N.Y., N.Y., Conference,
Ford Motor Company

9 FAM 40.301 PN4 CASES WITH NUMBER OF ENTRIES AND/OR PERIOD OF VALIDITY AUTHORIZED BY WAIVER EXCEEDS RECIPROCITY

(CT:VISA-757; 08-09-2005)

If DHS grants a waiver for more entries or a longer period than the appropriate visa reciprocity schedule specifies, issue the visa for not more than the number of entries and validity period listed in the reciprocity schedule. (For example, if DHS grants a waiver for multiple entries for a six-month period and the reciprocity schedule calls for one entry of three months, issue the visa for one entry, three months). Subsequent visas may be issued in such cases until the waiver period has expired.