

## Appendix: Applicability of INA 212(a)(4) to Other Applicants

### Applicability of INA 212(a)(4) to Other Applicants Who Must be Admissible

Category	Subject to INA 212(a)(4)	INA 213A, and Form I-864, Affidavit of Support Under Section 213A of the INA, Required or Exempt?
Diplomats Section 13	Yes, per Section 13 of Pub. L. 85-316 (September 11, 1957), as amended by Pub. L. 97-116 (December 29, 1981); 8 CFR 245.3	Exempt, by statute, as they are not listed in INA 212(a)(4) as a category that requires Form I-864.
Persons Born in the United States under Diplomatic Status (NA-3), as described in 8 CFR 101.3	Yes, per INA 212(a)(4)	Exempt, per 8 CFR 101.3
Diversity, DV-1 diversity immigrant, spouse and child	Yes, per INA 212(a)(4)	Exempt, by statute, as they are not listed in INA 212(a)(4) as a category that requires Form I-864. Diversity visas are issued under INA 203(c) which do not fall under INA 212(a)(4)(C) or (D).
W-16 Entered without inspection before 1/1/82 W-26 Entered as nonimmigrant and overstayed visa before 1/1/82. Certain Entrants before January 1, 1982	Yes, per INA 212(a)(4), INA 245A(b)(1)(C)(i), and INA 245A(a)(4)(A).  Special Rule for determination of public charge - See INA 245A(d)(2)(B)(iii). Certain aged, blind or disabled persons as defined in Section 1614(a)(1) of the Social Security Act, 42 U.S.C. 1382c(a)(1), may apply for a	Exempt, by statute as they are not listed in INA 212(a)(4) as a category that requires an Form I-864

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	waiver of inadmissibility due to public charge. INA 245A(d)(2)(B)(ii).	
T, T-1 victim, spouse, child, parent, sibling INA 101(a)(15)(T), INA 212(d)(13)(A)	No, per INA 212(a)(4)(E)	Exempt, by statute as they are not listed in INA 212(a)(4) as a category that requires Form I-864. Adjustment of status based on T nonimmigrant status is under INA 245(l) which does not fall under INA 212(a)(4)(C) or (D).
American Indians - INA 289	No, per INA 289	Exempt, per INA 289
Texas Band of Kickapoo Indians of the Kickapoo Tribe of Oklahoma, Pub. L. 97-429 (Jan. 8, 1983)  KIC - Kickapoo Indian Citizen KIP - Kickapoo Indian Pass	No, per Pub. L. 97-429 (January 8, 1983)	Exempt, per Pub. L. 97-429 (January 8, 1983)
S (Noncitizen witness or informant)	Yes, but there is a waiver available - INA 245(j); INA 101(a)(15)(S); 8 CFR 214.2(t)(2); 8 CFR 1245.11 (Waiver filed on Inter-Agency Alien Witness and Informant Record (Form I-854))	Exempt, per INA 245(j); INA 101(a)(15)(S); 8 CFR 214.2(t)(2); 8 CFR 1245.11 (Waiver filed on Inter-Agency Alien Witness and Informant Record (Form I-854))
Private Immigration Bill providing for noncitizen's adjustment of status	Dependent on the text of the Private Bill	Dependent on the text of the Private Bill

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NACARA 202 <sup>1</sup> Principal NC-6, (NC 7-9) spouse and children	No, per Section 202(a) of Pub. L. 105-100, 111 Stat. 2193 (November 19, 1997) (as amended), 8 U.S.C. 1255	Exempt, per Section 202(a) of Pub. L. 105-100, 111 Stat. 2193 (November 19, 1997) (as amended), 8 U.S.C. 1255
NACARA 203 Cancellation of removal (Z-13) Battered spouses or children (Z-14) Salvadoran, Guatemalan and former Soviet bloc country nationals (Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Public Law 105-100 (NACARA))	No, per Section 203 of Pub. L. 105-100, 111 Stat. 2193 (November 19, 1997) (as amended), 8 U.S.C. 1255	Exempt, per Section 203 of Pub. L. 105-100, 111 Stat. 2193 (November 19, 1997) (as amended), 8 U.S.C. 1255
Lautenberg, LA-6 <sup>2</sup>	No, per Section 599E of Pub. L. 101-167, 103 Stat. 1195 (November 21, 1989), 8 U.S.C.A. 1255	Exempt. Section 599E of Pub. L. 101-167, 103 Stat. 1195 (November 21, 1989), 8 U.S.C.A. 1255
Registry, Z-66 - Noncitizens who entered the United States prior to January 1, 1972 and who meet the other conditions	No, per INA 249 and 8 CFR 249	Exempt, per INA 249 and 8 CFR 249
U, U-1 Crime Victim, spouse, children and parents, and siblings under INA 245(m)	No, per INA 212(a)(4)(E)	Exempt, per INA 212(a)(4)(E)
Temporary Protected Status (TPS)	No, per 8 CFR 244.3(a) <sup>3</sup>	Exempt, per 8 CFR 244.3(a) <sup>4</sup>

<sup>1</sup> Note that this program has a sunset date of April 1, 2000; however, some cases may still be pending.

<sup>2</sup> Note that this program sunset date of September 30, 2014, only applies to parole. Eligible applicants may still apply for adjustment of status.

<sup>3</sup> [INA 244\(c\)\(2\)\(ii\)](#) authorizes USCIS to waive any section 212(a) ground, except for those that Congress specifically noted could not be waived.

<sup>4</sup> See [INA 244\(c\)\(2\)\(ii\)](#).