



U.S. Department of Justice
Immigration and Naturalization Service
Western Region, Seattle District
SEADD 70/6.2.23

Office of the District Director

*1000 Second Avenue
Seattle, WA 98104
206-553-4147
Fax: 206-553-0936*

July 14, 2000

MEMORANDUM FOR: INSPECTIONS PERSONNEL

Bob Coleman

FROM: Robert S. Coleman Jr.
District Director

SUBJECT: Denials of Applications under the North American Free Trade Agreement

In October 1999, the Service amended its policy under which applications made in accordance with the North American Free Trade Agreement (NAFTA) were processed. Effective with the new policy, all such applications, except those that are so deficient that an inspector cannot properly evaluate them, must be approved or denied as appropriate "on the spot." Recently, Headquarters published a "NAFTA Handbook" which will eventually be used in training to be given on the inspection of NAFTA applicants. The Handbook has been provided to the American Immigration Lawyer's Association (AILA) and is available on the INS website. The Handbook is a significant improvement over the guidance in the Inspector's Field Manual but still does not adequately address the procedures to be followed in the event of a determination that a NAFTA application must be denied. This memo addresses that issue. Additionally, I want to remind all inspectors that all applicants for admission under NAFTA must be queried against the Service's lookout databases before their application can be approved.

When the applicant has provided insufficient evidence to enable the inspector to make a determination on the application, the inspector will:

- Advise the alien that the application is deficient,
- Inform the alien what additional evidence or action(s) are needed to overcome the deficiency,
- Prepare Form I-160A, Notice of Refusal/Parole listing the additional evidence or action(s) the alien has to accomplish before his application can be reconsidered, and
- Post the results of the inspection in IO95 on IBIS.

Denials of Applications under the North American Free Trade Agreement
Page 2

When the inspector has determined that the alien is ineligible to enter the United States, either because of inadmissibility under the INA, Section 212 or the person/position is not eligible for NAFTA, the inspector will:

- Advise the alien that he or she is inadmissible,
- Discuss with the alien other possible benefits under the INA,
- Advise the alien of his or her right to a hearing before an immigration judge,
- In the event of a determination of deniability of an L-1 petition, collect the application fee, issue a receipt, and inform the alien of his right of appeal. Forward the petition to the Service Center,
- Prepare Form I-160A, Notice of Refusal/Parole listing the additional evidence or action(s) the alien has to accomplish before his application can be reconsidered, and
- Post the results of the inspection in IO95 on IBIS.

Questions on the implementation of this policy should be addressed through the chain-of-command to the Assistant District Director for Inspections.