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she shall cause a notice of such revocation to be sent promptly to the consular office having jurisdiction over the visa application and a copy of such notice to be mailed to the petitioner's last known address.

[61 FR 13077, Mar. 26, 1996]

§ 205.2 Revocation on notice.

(a) *General.* Any Service officer authorized to approve a petition under section 204 of the Act may revoke the approval of that petition upon notice to the petitioner on any ground other than those specified in § 205.1 when the necessity for the revocation comes to the attention of this Service.

(b) *Notice of intent.* Revocation of the approval of a petition of self-petitioner under paragraph (a) of this section will be made only on notice to the petitioner or self-petitioner. The petitioner or self-petitioner must be given the opportunity to offer evidence in support of the petition or self-petition and in opposition to the grounds alleged for revocation of the approval.

(c) *Notification of revocation.* If, upon reconsideration, the approval previously granted is revoked, the director shall provide the petitioner or the self-petitioner with a written notification of the decision that explains the specific reasons for the revocation. The director shall notify the consular officer having jurisdiction over the visa application, if applicable, of the revocation of an approval.

(d) *Appeals.* The petitioner or self-petitioner may appeal the decision to revoke the approval within 15 days after the service of notice of the revocation. The appeal must be filed as provided in part 3 of this chapter, unless the Associate Commissioner for Examinations exercises appellate jurisdiction over the revocation under part 103 of this chapter. Appeals filed with the Associate Commissioner for Examinations must meet the requirements of part 103 of this chapter.

[48 FR 19156, Apr. 28, 1983, as amended at 58 FR 42851, Aug. 12, 1993; 61 FR 13078, Mar. 26, 1996]

8 CFR Ch. I (1-1-97 Edition)

PART 207—ADMISSION OF REFUGEES

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AUTHORITY: Secs. 101, 103, 201, 207, 209, and 212; (8 U.S.C. 1101, 1103, 1151, 1157, 1159, and 1182).

SOURCE: 46 FR 45118, Sept. 10, 1981, unless otherwise noted.

§ 207.1 Eligibility.

(a) *Presidential designation.* Before the beginning of each fiscal year the President determines (after appropriate consultation) the number and allocation of refugees who are of special humanitarian concern to the United States and who are to be admitted during the succeeding twelve months. Any alien who believes he/she is a "refugee" as defined in section 101(a)(42) of the Act, and is included in a refugee group of special humanitarian concern as designated by the President, may apply for admission to the United States by filing Form I-590 (Registration for Classification as Refugee) with the overseas Immigration and Naturalization Service's officer in charge responsible for the area where the applicant is located. In those areas too distant from an officer in charge, making direct filing impracticable, the Form I-590 may be filed preliminarily at a designated consular office.

(b) *Firmly resettled.* A refugee is considered to be "firmly resettled" if he/she has been offered resident status, citizenship, or some other type of permanent resettlement by a country other than the United States and has travelled to and entered that country as a consequence of his/her flight from persecution. Any applicant who has become firmly resettled in a foreign country is not eligible for refugee status under this chapter.

(c) *Not firmly resettled.* Any applicant who claims not to be firmly resettled in a foreign country must establish that the conditions of his/her residence in that country are so restrictive as to deny resettlement. In determining whether or not an applicant is firmly resettled in a foreign country, the officer reviewing the matter shall consider the conditions under which other residents of the country live: (1) Whether permanent or temporary housing is available to the refugee in the foreign country; (2) nature of employment available to the refugee in the foreign country; and (3) other benefits offered or denied to the refugee by the foreign country which are available to other residents, such as (i) right to property ownership, (ii) travel documentation, (iii) education, (iv) public welfare, and (v) citizenship.

(d) *Immediate relatives and special immigrants.* Any applicant for refugee status who qualifies as an immediate relative or as a special immigrant shall not be processed as a refugee unless it is in the public interest. The alien shall be advised to obtain an immediate relative or special immigrant visa and shall be provided with the proper petition forms to send to any prospective petitioners. An applicant who may be eligible for classification under sections 203(a)(1), (2), (3), (4), (5), (6), or (7) of the Act, and for whom a visa number is now available, shall be advised of such eligibility but is not required to apply.

(e) *Spouse and children.* The spouse of child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E) of the Act) of any refugee who qualifies for admission, shall if not otherwise entitled to admission and if not a person described in the second sentence of section 101(a)(42) of the Act, be entitled to the same status as such refugee if accompanying, or following to join such refugee. His/her entry shall be charged against the numerical limitation under which the refugee's entry is charged.

#### § 207.2 Applicant processing.

(a) *Forms.* Each applicant who seeks admission as a refugee shall submit an individual Form I-590 (Registration for Classification as Refugee). Additionally, each applicant 14 years old or

older must submit completed forms G-325C (Biographical Information) and FD-258 (Applicant Card).

(b) *Hearing.* Each applicant 14 years old or older shall appear in person before an immigration officer for inquiry under oath to determine his/her eligibility for admission as a refugee.

(c) *Medical examination.* Each applicant shall submit to a medical examination as required by sections 221(d) and 234 of the Act.

(d) *Sponsorship.* Each applicant must be sponsored by a responsible person or organization. Transportation for the applicant from his/her present abode to the place of resettlement in the United States must be guaranteed by the sponsor. The application for refugee status will not be approved until the Service receives an acceptable sponsorship agreement and guaranty of transportation in behalf of the applicant.

#### § 207.3 Inadmissible applicant.

(a) *Statutory exclusion.* An applicant within the class of aliens excluded from admission to the United States under paragraphs (27), (29), (33), or so much of paragraph (23) as it relates to trafficking in narcotics of section 212(a) of the Act, shall not be admitted as a refugee under section 207 of the Act. However, an applicant seeking refugee status under section 207 is exempt by statute from the exclusionary provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Act and a waiver of exclusion is not required.

(b) *Waiver of exclusion.* Except for the exclusionary and statutory exemption provisions noted in § 207.3(a) any other exclusionary provisions of section 212(a) of the Act may be waived for humanitarian purposes, to assure family unity, or when it is in the public interest. This authority is delegated to officers in charge who shall initiate the necessary investigations to establish the facts in each waiver application pending before them. Form I-602 (Application by Refugee for Waiver of Grounds of Excludability) may be filed with the officer in charge before whom the applicant's Form I-590 is pending. The burden is upon the applicant to show that the waiver should be granted based upon: (1) Humanitarian purposes, (2) family unity, or (3) public interest.