

judge. If the immigration judge determines that the alien is inadmissible to the United States for permanent residence under any provision of the Act, except section 212(a)(20), and that the alien is not entitled to the benefits of section 212 (g), (h), or (i) of the Act, the judge shall order the termination of the alien's conditional entry and make such further order as may be proper. The decision of the immigration judge may be appealed under §236.7 of this chapter.

[48 FR 8, Jan. 3, 1983, as amended at 58 FR 48778, Sept. 20, 1993]

§235.10 U.S. Citizen Identification Card.

(a) *General.* The U.S. Citizen Identification Card, Form I-197, is no longer issued by the Service but valid existing cards will continue to be acceptable documentation of U.S. citizenship. Possession of the identification card is not mandatory for any purpose. A U.S. Citizen Identification Card remains the property of the United States. Because the identification card is no longer issued, there are no provisions for replacement cards.

(b) *Surrender and voidance—(1) Institution of proceeding under section 236, 242 or 342 of the Act.* A U.S. citizen identification card must be surrendered provisionally to a Service office upon notification by the district director that a proceeding under section 236, 242 or 342 of the Act is being instituted against the person to whom the card was issued. The card shall be returned to the person if the final order in the proceeding does not result in voiding the card under this paragraph. A U.S. Citizen Identification Card is automatically void if the person to whom it was issued is determined to be an alien in a proceeding conducted under section 236 or 242 of the Act, or if a certificate, document, or record relating to that person is cancelled under section 342 of the Act.

(2) *Investigation of validity of identification card.* A U.S. Citizen Identification Card must be surrendered provisionally upon notification by a district director that the validity of the card is being investigated. The card shall be returned to the person who surrendered it if the investigation does not result

in a determination adverse to his or her claim to be a United States citizen. When an investigation results in a tentative determination adverse to the applicant's claim to be a United States citizen, the applicant shall be notified by certified mail directed to his or her last known address. The notification shall inform the applicant of the basis for the determination and of the intention of the district director to declare the card void unless within 30 days the applicant objects and demands an opportunity to see and rebut the adverse evidence. Any rebuttal, explanation, or evidence presented by the applicant must be included in the record of proceeding. The determination whether the applicant is a United States citizen must be based on the entire record and the applicant shall be notified of the determination. If it is determined that the applicant is not a U.S. citizen, the applicant shall be notified of the reasons, and the card deemed void. There is no appeal from the district director's decision.

(3) *Admission of alienage.* A U.S. Citizen Identification Card is void if the person to whom it was issued admits in a statement signed before an immigration officer that he or she is an alien and consents to the voidance of the card. Upon signing the statement the card must be surrendered to the immigration officer.

(4) *Surrender of void card.* A void U.S. Citizen Identification Card which has not been returned to the Service must be surrendered without delay to an immigration officer or to the issuing office of the Service.

(c) *U.S. Citizen Identification Card previously issued on Form I-179.* A valid U.S. Citizen Identification Card issued on Form I-179 continues to be valid subject to the provisions of this section.

[48 FR 9504, Mar. 7, 1983]

§235.11 Admission of conditional permanent residents.

(a) *General—(1) Conditional residence based on family relationship.* An alien seeking admission to the United States with an immigrant visa as the spouse or son or daughter of a United States citizen or lawful permanent resident

shall be examined to determine whether the conditions of section 216 of the Act apply.

If so, the alien shall be admitted conditionally for a period of two years. At the time of admission, the alien shall be notified that the alien and his or her petitioning spouse must file a Petition to Remove the Conditions on Residence (Form I-751) within the 90-day period immediately preceding the second anniversary of the alien's admission for permanent residence.

(2) *Conditional residence based on entrepreneurship.* An alien seeking admission to the United States with an immigrant visa as an alien entrepreneur (as defined in section 216A(f)(1) of the Act) or the spouse or unmarried minor child of an alien entrepreneur shall be admitted conditionally for a period of two years. At the time of admission, the alien shall be notified that the principal alien (entrepreneur) must file a Petition by Entrepreneur to Remove Conditions (Form I-829) within the 90-day period immediately preceding the second anniversary of the alien's admission for permanent residence.

(b) *Correction of endorsement on immigrant visa.* If the alien is subject to the provisions of section 216 of the Act, but the classification endorsed on the immigrant visa does not so indicate, the endorsement shall be corrected and the alien admitted as a lawful permanent resident on a conditional basis if otherwise admissible. Conversely, if the alien is not subject to the provisions of section 216, but the visa classification endorsed on the immigrant visa indicates that the alien is subject thereto (e.g., if the second anniversary of the marriage upon which the immigrant visa is based occurred after the issuance of the visa and prior to the alien's application for admission) the endorsement on the visa shall be corrected and the alien admitted as a lawful permanent resident without conditions, if otherwise admissible.

(c) *Expired conditional permanent resident status.* The lawful permanent resident alien status of a conditional resident automatically terminates if the conditional basis of such status is not removed by the Service through approval of a Petition to Remove the Conditions on Residence (Form I-751)

or, in the case of an alien entrepreneur (as defined in section 216A(f)(1) of the Act), a Petition by Entrepreneur to Remove Conditions (Form I-829). Therefore, an alien who is seeking admission as a returning resident subsequent to the second anniversary of the date on which conditional residence was obtained (except as provided in §211.1(b)(1) of this chapter) and whose conditional basis of such residence has not been removed pursuant to section 216(c) or 216A(c) of the Act, whichever is applicable, shall be placed under exclusion proceedings. However, in a case where conditional residence was based on a marriage, exclusion proceedings may be terminated and the alien may be admitted as a returning resident if the required petition (Form I-751) is filed jointly, or by the alien alone (if appropriate), and approved by the Service. In the case of an alien entrepreneur, exclusion proceedings may be terminated and the alien admitted as a returning resident if the required petition (Form I-829) is filed by the alien entrepreneur and approved by the Service.

[53 FR 30021, Aug. 10, 1988, as amended at 59 FR 26592, May 23, 1994]

§235.12 Northern Mariana identification card.

(a) *General.* A Northern Mariana identification card to identify the holder as a United States citizen, may be issued to the following persons and their children under 18 years of age, who were born on or before November 3, 1986, and were not citizens or nationals of the United States, and did not owe allegiance to any foreign state on that date:

(1) A person in the Northern Mariana Islands (NMI), and as of November 2, 1986, was a citizen of the Trust Territory of the Pacific Islands and was domiciled as of that date in the Commonwealth of the Northern Mariana Islands (CNMI) or the United States, or any territory or possession of the United States; or

(2) A citizen of the Trust Territory of the Pacific Islands on November 2, 1986, who had been domiciled continuously in the NMI for the preceding five years and who, unless under age, registered to vote in elections for the NMI