

approved, or its appeal of the termination decision is sustained by the Administrative Appeals Office. There is no waiting period for an organization to re-apply for credentialing status.

(n) *Transition.*—(1) *One year waiver.* (i) Pursuant to section 212(d)(3) of the Act (and, for cases described in paragraph (d)(1) of this section, upon the recommendation of the Secretary of State), the Secretary has determined that until July 26, 2004 (or until July 26, 2005, in the case of a citizen of Canada or Mexico who, before September 23, 2003, was employed as a TN or TC nonimmigrant health care worker and held a valid license from a U.S. jurisdiction), DHS, subject to the conditions in paragraph (n)(2) of this section, may in its discretion admit, extend the period of authorized stay, or change the nonimmigrant status of an alien described in paragraph (d)(1) or paragraph (d)(2) of this section, despite the alien's inadmissibility under section 212(a)(5)(C) of the Act, provided the alien is not otherwise inadmissible.

(ii) After July 26, 2004 (or, after July 26, 2005, in the case of a citizen of Canada or Mexico, who, before September 23, 2003, was employed as a TN or TC nonimmigrant health care worker and held a valid license from a U.S. jurisdiction), such discretion shall be applied on a case-by-case basis.

(2) *Conditions.* Until July 26, 2004 (or until July 26, 2005, in the case of a citizen of Canada or Mexico, who, before September 23, 2003, was employed as a TN or TC nonimmigrant health care worker and held a valid license from a U.S. jurisdiction), the temporary admission, extension of stay, or change of status of an alien described in 8 CFR part 212(d)(1) or (d)(2) of this section that is provided for under this paragraph (n) is subject to the following conditions:

(i) The admission, extension of stay, or change of status may not be for a period longer than 1 year from the date of the decision, even if the relevant provision of 8 CFR 214.2 would ordinarily permit the alien's admission for a longer period;

(ii) The alien must obtain the certification required by paragraph (a) of this section within 1 year of the date of decision to admit the alien or to extend

the alien's stay or change the alien's status; and,

(iii) Any subsequent petition or application to extend the period of the alien's authorized stay or change the alien's nonimmigrant status must include proof that the alien has obtained the certification required by paragraph (a) of this section, if the extension or stay or change of status is sought for the primary purpose of the alien's performing labor in a health care occupation listed in paragraph (c) of this section.

(3) *Immigrant aliens.* An alien described in paragraph (a) of this section, who is coming to the United States as an immigrant or is applying for adjustment of status pursuant to section 245 of the Act (8 U.S.C. 1255), to perform labor in a health care occupation described in paragraph (c) of this section, must submit the certificate or certified statement as provided in this section at the time of visa issuance or adjustment of status.

(4) *Expiration of certificate or certified statement.* The individual's certification or certified statement must be used for any admission into the United States, change of status within the United States, or adjustment of status within 5 years of the date that it is issued.

(5) *Revocation of certificate or certified statement.* When a credentialing organization notifies the DHS, via the Nebraska Service Center, that an individual's certification or certified statement has been revoked, the DHS will take appropriate action, including, but not limited to, revocation of approval of any related petitions, consistent with the Act and DHS regulations at 8 CFR 205.2, 8 CFR 214.2(h)(11)(iii), and 8 CFR 214.6(d)(5)(iii).

[68 FR 43915, July 25, 2003, as amended at 69 FR 43731, July 22, 2004]

§212.16 Applications for exercise of discretion relating to T nonimmigrant status.

(a) *Filing the waiver application.* An alien applying for the exercise of discretion under section 212(d)(13) or (d)(3)(B) of the Act (waivers of inadmissibility) in connection with an application for T nonimmigrant status shall submit Form I-192, with the appropriate fee in accordance with

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§103.7(b)(1) of this chapter or an application for a fee waiver, to the Service with the completed Form I-914 application package for status under section 101(a)(15)(T)(i) of the Act.

(b) *Treatment of waiver application.* (1) The Service shall determine whether a ground of inadmissibility exists with respect to the alien applying for T non-immigrant status. If a ground of inadmissibility is found, the Service shall determine if it is in the national interest to exercise discretion to waive the ground of inadmissibility, except for grounds of inadmissibility based upon sections 212(a)(3), 212(a)(10)(C) and 212(a)(10)(E) of the Act, which the Commissioner may not waive. Special consideration will be given to the granting of a waiver of a ground of inadmissibility where the activities rendering the alien inadmissible were caused by or incident to the victimization described under section 101(a)(15)(T)(i) of the Act.

(2) In the case of applicants inadmissible on criminal and related grounds under section 212(a)(2) of the Act, the Service will only exercise its discretion in exceptional cases unless the criminal activities rendering the alien inadmissible were caused by or were incident to the victimization described under section 101(a)(15)(T)(i) of the Act.

(3) An application for waiver of a ground of inadmissibility for T non-immigrant status (other than under section 212(a)(6) of the Act) will be granted only in exceptional cases when the ground of inadmissibility would prevent or limit the ability of the applicant to adjust to permanent resident status after the conclusion of 3 years.

(4) The Service shall have sole discretion to grant or deny a waiver, and there shall be no appeal of a decision to deny a waiver. However, nothing in this paragraph (b) is intended to prevent an applicant from re-filing a request for a waiver of a ground of inadmissibility in appropriate cases.

(c) *Incident to victimization.* When an applicant for status under section 101(a)(15)(T) of the Act seeks a waiver of a ground of inadmissibility under section 212(d)(13) of the Act on grounds other than those described in sections 212(a)(1) and (a)(4) of the Act, the applicant must establish that the activities

rendering him or her inadmissible were caused by, or were incident to, the victimization described in section 101(a)(15)(T)(i)(I) of the Act.

(d) *Revocation.* The Commissioner may at any time revoke a waiver previously authorized under section 212(d) of the Act. Under no circumstances shall the alien or any party acting on his or her behalf have a right to appeal from a decision to revoke a waiver.

[67 FR 4795, Jan. 31, 2002]

PART 213—ADMISSION OF ALIENS ON GIVING BOND OR CASH DEPOSIT

AUTHORITY: 8 U.S.C. 1103; 8 CFR part 2.

§213.1 Admission under bond or cash deposit.

The district director having jurisdiction over the intended place of residence of an alien may accept a public charge bond prior to the issuance of an immigrant visa to the alien upon receipt of a request directly from a United States consular officer or upon presentation by an interested person of a notification from the consular officer requiring such a bond. Upon acceptance of such a bond, the district director shall notify the U.S. consular officer who requested the bond, giving the date and place of acceptance and the amount of the bond. The district director having jurisdiction over the place where the examination for admission is being conducted or the special inquiry officer to whom the case is referred may exercise the authority contained in section 213 of the Act. All bonds and agreements covering cash deposits given as a condition of admission of an alien under section 213 of the Act shall be executed on Form I-352 and shall be in the sum of not less than \$1,000. The officer accepting such deposit shall give his receipt therefor on Form I-305. For procedures relating to bond riders, acceptable sureties, cancellation or breaching of bonds, see §103.6 of this chapter.

[29 FR 10579, July 30, 1964, as amended at 32 FR 9626, July 4, 1967; 62 FR 10349, Mar. 6, 1997]