

Department of Homeland Security

§ 212.14

(2) The Mariel Cuban violates any condition of parole;

(3) It is appropriate to enforce an order of exclusion or to commence proceedings against a Mariel Cuban; or

(4) The period of parole has expired without being renewed.

[52 FR 48802, Dec. 28, 1987, as amended at 59 FR 13870, Mar. 24, 1994; 65 FR 80294, Dec. 21, 2000]

§ 212.13 [Reserved]

§ 212.14 Parole determinations for alien witnesses and informants for whom a law enforcement authority ("LEA") will request S classification.

(a) *Parole authority.* Parole authorization under section 212(d)(5) of the Act for aliens whom LEAs seek to bring to the United States as witnesses or informants in criminal/counter terrorism matters and to apply for S classification shall be exercised as follows:

(1) *Grounds of eligibility.* The Commissioner may, in the exercise of discretion, grant parole to an alien (and the alien's family members) needed for law enforcement purposes provided that a state or federal LEA:

(i) Establishes its intention to file, within 30 days after the alien's arrival in the United States, a completed Form I-854, Inter-Agency Alien Witness and Informant Record, with the Assistant Attorney General, Criminal Division, Department of Justice, in accordance with the instructions on or attached to the form, which will include the names of qualified family members for whom parole is sought;

(ii) Specifies the particular operational reasons and basis for the request, and agrees to assume responsibility for the alien during the period of the alien's temporary stay in the United States, including maintaining control and supervision of the alien and the alien's whereabouts and activities, and further specifies any other terms and conditions specified by the Service during the period for which the parole is authorized;

(iii) Agrees to advise the Service of the alien's failure to report quarterly any criminal conduct by the alien, or any other activity or behavior on the alien's part that may constitute a

ground of excludability or deportability;

(iv) Assumes responsibility for ensuring the alien's departure on the date of termination of the authorized parole (unless the alien has been admitted in S nonimmigrant classification pursuant to the terms of paragraph (a)(2) of this section), provides any and all assistance needed by the Service, if necessary, to ensure departure, and verifies departure in a manner acceptable to the Service;

(v) Provide LEA seat-of-government certification that parole of the alien is essential to an investigation or prosecution, is in the national interest, and is requested pursuant to the terms and authority of section 212(d)(5) of the Act;

(vi) Agrees that no promises may be, have been, or will be made by the LEA to the alien that the alien will or may:

(A) Remain in the United States in parole status or any other nonimmigrant classification;

(B) Adjust status to that of lawful permanent resident; or

(C) Otherwise attempt to remain beyond the authorized parole. The alien (and any family member of the alien who is 18 years of age or older) shall sign a statement acknowledging an awareness that parole only authorizes a temporary stay in the United States and does not convey the benefits of S nonimmigrant classification, any other nonimmigrant classification, or any entitlement to further benefits under the Act; and

(vii) Provides, in the case of a request for the release of an alien from Service custody, certification that the alien is eligible for parole pursuant to § 235.3 of this chapter.

(2) *Authorization.* (i) Upon approval of the request for parole, the Commissioner shall notify the Assistant Attorney General, Criminal Division, of the approval.

(ii) Upon notification of approval of a request for parole, the LEA will advise the Commissioner of the date, time, and place of the arrival of the alien. The Commissioner will coordinate the arrival of the alien in parole status with the port director prior to the time of arrival.