

to trafficking in narcotics) for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. An application for the waiver may be filed on Form I-602 (Application by Refugee for Waiver of Grounds of Excludability) with the application for adjustment. An applicant for adjustment who has had the status of an exchange alien nonimmigrant under section 101(a)(15)(J) of the Act, and who is subject to the foreign resident requirement of section 212(e) of the Act, shall be eligible for adjustment without regard to the foreign residence requirement.

(c) *Application.* An application for the benefits of section 209(b) of the Act may be filed on Form I-485, with the correct fee, with the director of the appropriate Service office identified in the instructions to the Form I-485. A separate application must be filed by each alien. Every applicant who is 14 years of age or older must submit a completed Form G-325A (Biographic Information) with the Form I-485 application. Following submission of the Form I-485 application, every applicant who is 14 years of age or older will be required to execute a Form FD-258 (Applicant Fingerprint Card) at such time and place as the Service will designate. Except as provided in paragraph (a)(2) of this section, the application must also be supported by evidence that the applicant has been physically present in the United States for at least 1 year. If an alien has been placed in deportation or exclusion proceedings, the application can be filed and considered only in proceedings under section 240 of the Act.

(d) *Medical examination.* An alien seeking adjustment of status under section 209(b) of the Act 1 year following the grant of asylum under section 208 of the Act shall submit the results of a medical examination to determine whether any grounds of inadmissibility described under section 212(a)(1)(A) of the Act apply. Form I-693, Medical Examination of Aliens Seeking Adjustment of Status, and a vaccination supplement to determine compliance with the vaccination requirements described under section 212(a)(1)(A)(ii) of the Act must be completed by a designed civil surgeon in

the United States and submitted at the time of application for adjustment of status.

(e) *Interview.* Each applicant for adjustment of status under this part shall be interviewed by an immigration officer. The interview may be waived for a child under 14 years of age. The Service director having jurisdiction over the application will determine, on a case-by-case basis, whether an interview by an immigration officer is necessary to determine the applicant's admissibility for permanent resident status under this part.

(f) *Decision.* The applicant shall be notified of the decision, and if the application is denied, of the reasons for denial. No appeal shall lie from the denial of an application by the director but such denial will be without prejudice to the alien's right to renew the application in proceedings under part 240 of this chapter. If the application is approved, the director shall record the alien's admission for lawful permanent residence as of the date one year before the date of the approval of the application, but not earlier than the date of the approval for asylum in the case of an applicant approved under paragraph (a)(2) of this section.

[46 FR 45119, Sept. 10, 1981, as amended at 56 FR 26898, June 12, 1991; 57 FR 42883, Sept. 17, 1992; 63 FR 30109, June 3, 1998; 74 FR 55742, Oct. 28, 2009; 85 FR 23904, Apr. 30, 2020]

## PART 1211—DOCUMENTARY REQUIREMENTS: IMMIGRANTS; WAIVERS

AUTHORITY: 8 U.S.C. 1101, 1103, 1181, 1182, 1203, 1225, 1257; 8 CFR part 2.

EDITORIAL NOTE: Nomenclature changes to part 1211 appear at 68 FR 9846, Feb. 28, 2003.

### § 1211.4 Waiver of documents for returning residents.

(a) Pursuant to the authority contained in section 211(b) of the Act, an alien previously lawfully admitted to the United States for permanent residence who, upon return from a temporary absence was inadmissible because of failure to have or to present a valid passport, immigrant visa, reentry permit, border crossing card, or other document required at the time of

entry, may be granted a waiver of such requirement in the discretion of the district director if the district director determines that such alien:

(1) Was not otherwise inadmissible at the time of entry, or having been otherwise inadmissible at the time of entry is with respect thereto qualified for an exemption from deportability under section 237(a)(1)(H) of the Act; and

(2) Is not otherwise subject to removal.

(b) Denial of a waiver by the district director is not appealable but shall be without prejudice to renewal of an application and reconsideration in proceedings before the immigration judge.

[62 FR 10346, Mar. 6, 1997. Duplicated from § 211.4 at 68 FR 9835, Feb. 28, 2003]

## PART 1212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

Sec.

- 1212.1 Documentary requirements for nonimmigrants.
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- 1212.3 Application for the exercise of discretion under former section 212(c).
- 1212.4 Applications for the exercise of discretion under section 212(d)(1) and 212(d)(3).
- 1212.5 Parole of aliens into the United States.
- 1212.6 Border crossing identification cards.
- 1212.7 Waiver of certain grounds of inadmissibility.
- 1212.8 Certification requirement of section 212(a)(14).
- 1212.9 Applicability of section 212(a)(32) to certain derivative third and sixth preference and nonpreference immigrants.
- 1212.10 Section 212(k) waiver.
- 1212.11 Controlled substance convictions.
- 1212.12 Parole determinations and revocations respecting Mariel Cubans.
- 1212.13 Severability.
- 1212.14 Parole determinations for alien witnesses and informants for whom a law enforcement authority (“LEA”) will request S classification.
- 1212.15 Certificates for foreign health care workers.
- 1212.16 Applications for exercise of discretion relating to T nonimmigrant status.

AUTHORITY: 8 U.S.C. 1101 and note, 1102, 1103, 1182 and note, 1184, 1187, 1223, 1225, 1226, 1227, 1255; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458); Title VII of Pub. L. 110–229; Pub. L. 115–218.

SOURCE: 17 FR 11484, Dec. 19, 1952, unless otherwise noted. Duplicated from part 212 at 68 FR 9535, Feb. 28, 2003.

EDITORIAL NOTE: Nomenclature changes to part 1212 appear at 68 FR 9846, Feb. 28, 2003, and at 68 FR 10353, Mar. 5, 2003.

### § 1212.1 Documentary requirements for nonimmigrants.

A valid unexpired visa and an unexpired passport, valid for the period set forth in section 212(a)(26) of the Act, shall be presented by each arriving nonimmigrant alien except that the passport validity period for an applicant for admission who is a member of a class described in section 102 of the Act is not required to extend beyond the date of his application for admission if so admitted, and except as otherwise provided in the Act, this chapter, and for the following classes:

(a) *Canadian nationals, and aliens having a common nationality with nationals of Canada or with British subjects in Bermuda, Bahamian nationals or British subjects resident in Bahamas, Cayman Islands, and Turks and Caicos Islands.* A visa is not required of a Canadian national in any case. A passport is not required of such national except after a visit outside of the Western Hemisphere. A visa is not required of an alien having a common nationality with Canadian nationals or with British subjects in Bermuda, who has his or her residence in Canada or Bermuda. A passport is not required of such alien except after a visit outside of the Western Hemisphere. A visa and a passport are required of a Bahamian national or a British subject who has his residence in the Bahamas except that a visa is not required of such an alien who, prior to or at the time of embarkation for the United States on a vessel or aircraft, satisfied the examining U.S. immigration officer at the Bahamas, that he is clearly and beyond a doubt entitled to admission in all other respects. A visa is not required of a British subject who has his residence in, and arrives directly from, the Cayman Islands or the Turks and Caicos Islands and who presents a current certificate