of section 212(d)(3)(B) of the Act, the Immigration officer shall note on the arrival-departure record, Form I–94 (see §1.4), or crewman's landing permit, Form I–95, issued to the alien, the conditions and limitations imposed in the authorization.

(h) *Authorizations issued to crewmen without limitation as to period of validity.* When a crewman who has a valid section 212(d)(3) authorization without any time limitation comes to the attention of the Service, his travel document shall be endorsed to show that the validity of his section 212(d)(3) authorization expires as of a date six months thereafter, and any previously-issued Form I–184 shall be lifted and Form I–95 shall be issued in its place and similarly endorsed.

(i) *Revocation.* The Deputy Commissioner or the district director may at any time revoke a waiver previously authorized under section 212(d)(3) of the Act and shall notify the nonimmigrant in writing to that effect.

(j) *Alien witnesses and informants*—(1) *Waivers under section 212(d)(1) of the Act.* Upon the application of a federal or state law enforcement authority (''LEA''), which shall include a state or federal court or United States Attorney's Office, pursuant to the filing for nonimmigrant classification described in section 101(a)(15)(S) of the Act, USCIS will determine whether a ground of exclusion exists with respect to the alien for whom classification is sought and, if so, whether it is in the national interest to exercise the discretion to waive the ground of excludability, other than section 212(a)(3)(E) of the Act. USCIS may at any time revoke a waiver previously authorized under section 212(d)(1) of the Act. In the event USCIS decides to revoke a previously authorized waiver for an S nonimmigrant, the Assistant Attorney General, Criminal Division, and the relevant LEA shall be notified in writing to that effect. The Assistant Attorney General, Criminal Division, shall concur in or object to the decision. Unless the Assistant Attorney General, Criminal Division, objects within 7 days, he or she shall be deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expeditiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall the alien or the relevant LEA have a right of appeal from any decision to revoke.

(2) *Grounds of removal.* Nothing shall prohibit the Service from removing from the United States an alien classified pursuant to section 101(a)(15)(S) of the Act for conduct committed after the alien has been admitted to the United States as an S nonimmigrant, or after the alien's change to S classification, or for conduct or a condition undisclosed to the Attorney General prior to the alien's admission in, or change to, S classification, unless such conduct or condition is waived prior to admission and classification. In the event USCIS decides to remove an S nonimmigrant from the United States, the Assistant Attorney General, Criminal Division, and the relevant LEA shall be notified in writing to that effect. The Assistant Attorney General, Criminal Division, shall concur in or object to that decision. Unless the Assistant Attorney General, Criminal Division, objects within 7 days, he or she shall be deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expeditiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall the alien or the relevant LEA have a right of appeal from any decision to remove.

[29 FR 15252, Nov. 13, 1964, as amended at 30 FR 12330, Sept. 28, 1965; 31 FR 10413, Aug. 3, 1966; 32 FR 15469, Nov. 7, 1967; 35 FR 3065, Feb. 17, 1970; 35 FR 7637, May 16, 1970; 40 FR 30470, July 21, 1975; 51 FR 32295, Sept. 10, 1986; 53 FR 40867, Oct. 19, 1988; 60 FR 44264, Aug. 25, 1995; 60 FR 52248, Oct. 5, 1995; 67 FR 71448, Dec. 2, 2002; 73 FR 58030, Oct. 6, 2008; 76 FR 53787, Aug. 29, 2011; 78 FR 18472, Mar. 27, 2013; 85 FR 46923, Aug. 3, 2020]

§ 212.5 Parole of aliens into the United States.

(a) The authority of the Secretary to continue an alien in custody or grant parole under section 212(d)(5)(A) of the Act shall be exercised by the Assistant Commissioner, Office of Field Operations; Director, Detention and Removal; directors of field operations; port directors; special agents in charge;

deputy special agents in charge; associate special agents in charge; assistant special agents in charge; resident agents in charge; field office directors; deputy field office directors; chief patrol agents; district directors for services; and those other officials as may be designated in writing, subject to the parole and detention authority of the Secretary or his designees. The Secretary or his designees may invoke, in the exercise of discretion, the authority under section 212(d)(5)(A) of the Act.

(b) *Parole from custody.* The parole of aliens within the following groups who have been or are detained in accordance with §235.3(b) or (c) of this chapter would generally be justified only on a case-by-case basis for ''urgent humanitarian reasons'' or ''significant public benefit,'' provided the aliens present neither a security risk nor a risk of absconding:

(1) Aliens who have serious medical conditions in which continued detention would not be appropriate;

(2) Women who have been medically certified as pregnant;

(3) Aliens who are defined as minors in §236.3(b) of this chapter and are in DHS custody. The Executive Assistant Director, Enforcement and Removal Operations; directors of field operations; field office directors, deputy field office directors; or chief patrol agents shall follow the guidelines set forth in §236.3(j) of this chapter and paragraphs (b)(3)(i) through (ii) of this section in determining under what conditions a minor should be paroled from detention:

(i) Minors may be released to a parent, legal guardian, or adult relative (brother, sister, aunt, uncle, or grandparent) not in detention.

(ii) Minors may be released with an accompanying parent or legal guardian who is in detention.

(iii) If the Service cannot locate a relative in or out of detention to sponsor the minor, but the minor has identified a non-relative in detention who accompanied him or her on arrival, the question of releasing the minor and the accompanying non-relative adult shall be addressed on a case-by-case basis;

(4) Aliens who will be witnesses in proceedings being, or to be, conducted by judicial, administrative, or legislative bodies in the United States; or

(5) Aliens whose continued detention is not in the public interest as determined by those officials identified in paragraph (a) of this section.

(c) In the case of all other arriving aliens, except those detained under §235.3(b) or (c) of this chapter and paragraph (b) of this section, those officials listed in paragraph (a) of this section may, after review of the individual case, parole into the United States temporarily in accordance with section 212(d)(5)(A) of the Act, any alien applicant for admission, under such terms and conditions, including those set forth in paragraph (d) of this section, as he or she may deem appropriate. An alien who arrives at a port-of-entry and applies for parole into the United States for the sole purpose of seeking adjustment of status under section 245A of the Act, without benefit of advance authorization as described in paragraph (f) of this section shall be denied parole and detained for removal in accordance with the provisions of §235.3(b) or (c) of this chapter. An alien seeking to enter the United States for the sole purpose of applying for adjustment of status under section 210 of the Act shall be denied parole and detained for removal under §235.3(b) or (c) of this chapter, unless the alien has been recommended for approval of such application for adjustment by a consular officer at an Overseas Processing Office.

(d) *Conditions.* In any case where an alien is paroled under paragraph (b) or (c) of this section, those officials listed in paragraph (a) of this section may require reasonable assurances that the alien will appear at all hearings and/or depart the United States when required to do so. Not all factors listed need be present for parole to be exercised. Those officials should apply reasonable discretion. The consideration of all relevant factors includes:

(1) The giving of an undertaking by the applicant, counsel, or a sponsor to ensure appearances or departure, and a bond may be required on Form I–352 in such amount as may be deemed appropriate;

(2) Community ties such as close relatives with known addresses; and

(3) Agreement to reasonable conditions (such as periodic reporting of whereabouts).

(e) *Termination of parole*—(1) *Automatic.* Parole shall be automatically terminated without written notice (i) upon the departure from the United States of the alien, or, (ii) if not departed, at the expiration of the time for which parole was authorized, and in the latter case the alien shall be processed in accordance with paragraph (e)(2) of this section except that no written notice shall be required.

(2)(i) *On notice.* In cases not covered by paragraph (e)(1) of this section, upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in paragraph (a) of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States, parole shall be terminated upon written notice to the alien and he or she shall be restored to the status that he or she had at the time of parole. When a charging document is served on the alien, the charging document will constitute written notice of termination of parole, unless otherwise specified. Any further inspection or hearing shall be conducted under section 235 or 240 of the Act and this chapter, or any order of exclusion, deportation, or removal previously entered shall be executed. If the exclusion, deportation, or removal order cannot be executed within a reasonable time, the alien shall again be released on parole unless in the opinion of the official listed in paragraph (a) of this section the public interest requires that the alien be continued in custody.

(ii) An alien who is granted parole into the United States after enactment of the Immigration Reform and Control Act of 1986 for other than the specific purpose of applying for adjustment of status under section 245A of the Act shall not be permitted to avail him or herself of the privilege of adjustment thereunder. Failure to abide by this provision through making such an application will subject the alien to termination of parole status and institution of proceedings under sections 235 and 236 of the Act without the written notice of termination required by § 212.5(e)(2)(i) of this chapter.

(iii) Any alien granted parole into the United States so that he or she may transit through the United States in the course of removal from Canada shall have his or her parole status terminated upon notice, as specified in 8 CFR 212.5(e)(2)(i), if he or she makes known to an immigration officer of the United States a fear of persecution or an intention to apply for asylum. Upon termination of parole, any such alien shall be regarded as an arriving alien, and processed accordingly by the Department of Homeland Security.

(f) *Advance authorization.* When parole is authorized for an alien who will travel to the United States without a visa, the alien shall be issued an appropriate document authorizing travel.

(g) *Parole for certain Cuban nationals.* Notwithstanding any other provision respecting parole, the determination whether to release on parole, or to revoke the parole of, a native of Cuba who last came to the United States between April 15, 1980, and October 20, 1980, shall be governed by the terms of § 212.12.

(h) *Effect of parole of Cuban and Haitian nationals.* (1) Except as provided in paragraph (h)(2) of this section, any national of Cuba or Haiti who was paroled into the United States on or after October 10, 1980, shall be considered to have been paroled in the special status for nationals of Cuba or Haiti, referred to in section 501(e)(1) of the Refugee Education Assistance Act of 1980, Public Law 96–422, as amended (8 U.S.C. 1522 note).

(2) A national of Cuba or Haiti shall not be considered to have been paroled in the special status for nationals of Cuba or Haiti, referred to in section 501(e)(1) of the Refugee Education Assistance Act of 1980, Public Law 96–422, as amended, if the individual was paroled into the United States:

(i) In the custody of a Federal, State or local law enforcement or prosecutorial authority, for purposes of criminal prosecution in the United States; or

(ii) Solely to testify as a witness in proceedings before a judicial, administrative, or legislative body in the United States.

[47 FR 30045, July 9, 1982, as amended at 47 FR 46494, Oct. 19, 1982; 52 FR 16194, May 1, 1987; 52 FR 48802, Dec. 28, 1987; 53 FR 17450, May 17, 1988; 61 FR 36611, July 12, 1996; 62 FR 10348, Mar. 6, 1997; 65 FR 80294, Dec. 21, 2000; 65 FR 82255, Dec. 28, 2000; 67 FR 39257, June 7, 2002; 68 FR 35152, June 12, 2003; 69 FR 69489, Nov. 29, 2004; 76 FR 53787, Aug. 29, 2011; 84 FR 44525, Aug. 23, 2019; 87 FR 18220, Mar. 29, 2022]

§ 212.6 Border crossing identification cards.

(a) *Application for Form DSP–150, B–1/B–2 Visa and Border Crossing Card, issued by the Department of State.* A citizen of Mexico, who seeks to travel temporarily to the United States for business or pleasure without a visa and passport, must apply to the DOS on Form DS–156, Visitor Visa Application, to obtain a Form DSP–150 in accordance with the applicable DOS regulations at 22 CFR 41.32 and/or instructions.

(b) *Use*—(1) *Application for admission with Non-resident Canadian Border Crossing Card, Form I–185, containing separate waiver authorization; Canadian residents bearing DOS-issued combination B–1/B–2 visa and border crossing card (or similar stamp in a passport).* (i) A Canadian citizen or other person sharing common nationality with Canada and residing in Canada who presents a Form I–185 that contains a separate notation of a waiver authorization issued pursuant to § 212.4 may be admitted on the basis of the waiver, provided the waiver has not expired or otherwise been revoked or voided. Although the waiver may remain valid on or after October 1, 2002, the non-biometric border crossing card portion of the document is not valid after that date.

(ii) A Canadian resident who presents a combination B–1/B–2 visa and border crossing card (or similar stamp in a passport) issued by the DOS prior to April 1, 1998, that does not contain a machine-readable biometric identifier, may be admitted on the basis of the nonimmigrant visa only, provided it has not expired and the alien remains otherwise admissible.

(2) *Application for admission by a national of Mexico—Form DSP–150 issued by the DOS; DOS-issued combination B–1/B–2 visa and border crossing card (or similar stamp in a passport).* (i) The rightful holder of a Form DSP–150 issued by the DOS may be admitted under § 235.1(f) of this chapter if found otherwise admissible and if the biometric identifier contained on the card matches the appropriate biometric characteristic of the alien.

(ii) The bearer of a combination B–1/B–2 nonimmigrant visa and border crossing card (or similar stamp in a passport) issued by DOS prior to April 1, 1998, that does not contain a machine-readable biometric identifier, may be admitted on the basis of the nonimmigrant visa only, provided it has not expired and the alien remains otherwise admissible. A passport is also required.

(iii) Any alien seeking admission as a visitor for business or pleasure, must also present a valid passport with his or her border crossing card, and shall be issued a Form I–94 (see § 1.4) if the alien is applying for admission from:

(A) A country other than Mexico or Canada, or

(B) Canada if the alien has been in a country other than the United States or Canada since leaving Mexico.

(c) *Validity.* Forms I–185, I–186, and I–586 are invalid on or after October 1, 2002. If presented on or after that date, these documents will be voided at the POE.

(d) *Voidance for reasons other than expiration of the validity of the form*—(1) *At a POE.* (i) In accordance with 22 CFR 41.122, a Form DSP–150 or combined B–1/B–2 visitor visa and non-biometric border crossing identification card or (a similar stamp in a passport), issued by the DOS, may be physically cancelled and voided by a supervisory immigration officer at a POE if it is considered void pursuant to section 222(g) of the Act when presented at the time of application for admission, or as the alien departs the United States. If the card is considered void and if the applicant for admission is not otherwise subject to expedited removal in accordance with 8 CFR part 235, the applicant shall be advised in writing that he or she may request a hearing before an immigration judge. The purpose of the hearing shall be to determine his/her