

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305 and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901, note, and 1931 note, respectively; 8 CFR part 2.

§ 1214.1 Review of requirements for admission, extension, and maintenance of status.

Every nonimmigrant alien who applies for admission to, or an extension of stay in, the United States, shall establish that he or she is admissible to the United States, or that any ground of inadmissibility has been waived under section 212(d)(3) of the Act. Upon application for admission, the alien shall present a valid passport and valid visa unless either or both documents have been waived. However, an alien applying for extension of stay shall present a passport only if requested to do so by the Service. The passport of an alien applying for admission shall be valid for a minimum of six months from the expiration date of the contemplated period of stay, unless otherwise provided in this chapter, and the alien shall agree to abide by the terms and conditions of his or her admission. The passport of an alien applying for extension of stay shall be valid at the time of application for extension, unless otherwise provided in this chapter, and the alien shall agree to maintain the validity of his or her passport and to abide by all the terms and conditions of his extension. The alien shall also agree to depart the United States at the expiration of his or her authorized period of admission or extension, or upon abandonment of his or her authorized nonimmigrant status. At the time a nonimmigrant alien applies for admission or extension of stay he or she shall post a bond on Form I–352 in the sum of not less than \$500, to insure the maintenance of his or her nonimmigrant status and departure from the United States, if required to do so by the director, immigration judge or Board of Immigration Appeals.

§ 1214.2 Review of alien victims of severe forms of trafficking in persons; aliens in pending immigration proceedings.

(a) *Applications for T visas while in proceedings.* Individuals who believe they are victims of severe forms of trafficking in persons and who are in pending immigration proceedings must inform the Service if they intend to apply for T nonimmigrant status under this section. With the concurrence of Service counsel, a victim of a severe form of trafficking in persons in proceedings before an immigration judge or the Board of Immigration Appeals may request that the proceedings be administratively closed (or that a motion to reopen or motion to reconsider be indefinitely continued) in order to allow the alien to pursue an application for T nonimmigrant status with the Service. If the alien appears eligible for T nonimmigrant status, the immigration judge or the Board, whichever has jurisdiction, may grant such a request to administratively close the proceeding or continue a motion to reopen or motion to reconsider indefinitely. In the event the Service finds an alien ineligible for T–1 nonimmigrant status, the Service may recommence proceedings that have been administratively closed by filing a motion to re-calendar with the immigration court or a motion to reinstate with the Board. If the alien is in Service custody pending the completion of immigration proceedings, the Service may continue to detain the alien until a decision has been rendered on the application. An alien who is in custody and requests bond or a bond redetermination will be governed by the provisions of part 236 of this chapter.

(b) *Stay of final order of exclusion, deportation, or removal.* A determination by the Service that an application for T–1 nonimmigrant status is bona fide automatically stays the execution of any final order of exclusion, deportation, or removal. This stay shall remain in effect until there is a final decision on the T application. The filing of an application for T nonimmigrant status does not stay the

execution of a final order unless the Service has determined that the application is bona fide. Neither an immigration judge nor the Board of Immigration Appeals has jurisdiction to adjudicate an application for a stay of execution, deportation, or removal order, on the basis of the filing of an application for T nonimmigrant status.

§ 1214.3 Certain spouses and children of lawful permanent residents; aliens in proceedings; V visas.

An alien who is already in immigration proceedings and believes that he or she may have become eligible to apply for V nonimmigrant status should request before the immigration judge or the Board of Immigration Appeals, as appropriate, that the proceedings be administratively closed (or before the Board that a previously-filed motion for reopening or reconsideration be indefinitely continued) in order to allow the alien to pursue an application for V nonimmigrant status with the Service. If the alien appears eligible for V nonimmigrant status, the immigration judge or the Board, whichever has jurisdiction, shall administratively close the proceeding or continue the motion indefinitely. In the event that the Service finds an alien eligible for V nonimmigrant status, the Service can adjudicate the change of status under this section. In the event that the Service finds an alien ineligible for V nonimmigrant status, the Service shall recommence proceedings by filing a motion to re-calendar.

Chapter I, Subchapter B

PART 215—[DUPLICATED AS PART 1215]

Chapter V, Subchapter B

PART 1215—CONTROLS OF ALIENS DEPARTING FROM THE UNITED STATES

21. All sections in part 215 are duplicated in part 1215, as set out in the following table:

Part 215	Heading	Is duplicated as Part 1215
§ 215.1	Definitions	§ 1215.1
§ 215.2	Authority of departure-control officer to prevent alien's departure from the United States.	§ 1215.2
§ 215.3	Alien whose departure is deemed prejudicial to the interests of the United States	§ 1215.3
§ 215.4	Procedure in case of alien prevented from departing from the United States	§ 1215.4
§ 215.5	Hearing procedure before special inquiry officer	§ 1215.5
§ 215.6	Departure from the Canal Zone, the Trust Territory of the Pacific Islands, or outlying possessions of the United States.	§ 1215.6
§ 215.7	Instructions from the Administrator required in certain cases	§ 1215.7