

9 FAM 41.83

CERTAIN WITNESSES AND INFORMANTS

(CT:VISA-970; 06-12-2008)
(Office of Origin: CA/VO/L/R)

9 FAM 41.83 RELATED STATUTORY PROVISIONS

(CT:VISA-970; 06-12-2008)

See INA 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)), INA 212(d)(1) (8. U.S.C. 1182(d)(1)), and INA 214(k) (8 U.S.C. 1184(k)).

INA 101(a)(15)(S)

- (15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens
 - (S) subject to section 1184 (k) of this title, an alien—
 - (i) who the Attorney General determines—
 - (I) is in possession of critical reliable information concerning a criminal organization or enterprise;
 - (II) is willing to supply or has supplied such information to Federal or State law enforcement authorities or a Federal or State court; and
 - (III) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise; or
 - (ii) who the Secretary of State and the Attorney General jointly determine—
 - (I) is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation;
 - (II) is willing to supply or has supplied such information to Federal law enforcement authorities or a Federal court;

- (III) will be or has been placed in danger as a result of providing such information; and
- (IV) is eligible to receive a reward under section 2708 (a) of title 22,

INA 212(d)(1)

d. Temporary admission of nonimmigrants

- (1) The Attorney General shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(S) of this title. The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) of this section (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(S) of this title, if the Attorney General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting removal proceedings against an alien admitted as a nonimmigrant under section 101(a)(15)(S) of this title for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under section 101(a)(15)(S) of this title.

INA 214(k)

k. Numerical limitations; period of admission; conditions for admission and stay; annual report

- (1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(i) of this title in any fiscal year may not exceed 200. The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(ii) of this title in any fiscal year may not exceed 50.
- (2) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.
- (3) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant—
 - (A) shall report not less often than quarterly to the Attorney General such information concerning the alien's whereabouts and activities as the Attorney General may require;

- (B) may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission;
 - (C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of removal, any action for removal of the alien instituted before the alien obtains lawful permanent resident status; and
 - (D) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.
- (4) The Attorney General shall submit a report annually to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning—
- (A) the number of such nonimmigrants admitted;
 - (B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens;
 - (C) the number of terrorist acts prevented or frustrated resulting from cooperation of such aliens;
 - (D) the number of such nonimmigrants whose admission or cooperation has not resulted in successful criminal prosecution or investigation or the prevention or frustration of a terrorist act; and
 - (E) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (3)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.

9 FAM 41.83 RELATED REGULATORY PROVISIONS

(CT:VISA-970; 06-12-2008)

See 22 CFR 41.83

41.83 Certain witnesses and informants.

- (a) *General.* An alien shall be classifiable under the provisions of INA

101(a)(15)(S) if:

- (1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and
 - (2)
 - (i) The consular officer has received verification from the Department of State, Visa Office, that:
 - (A) in the case of INA 101(a)(15)(S)(i) the DHS has certified that the alien is accorded such classification, or
 - (B) in the case of INA 101(a)(15)(S)(ii) the Assistant Secretary of State for Consular Affairs on behalf of the Secretary of State and the DHS have certified that the alien is accorded such classification;
 - (ii) and the alien is granted an INA 212(d)(1) waiver of any INA 212(a) ground of ineligibility known at the time of verification.
- (b) *Certification of S visa status.* The certification of status under INA 101(a)(15)(S)(i) by the Secretary of Homeland Security or of status under INA 101(a)(15)(S)(ii) by the Secretary of State and the Secretary of Homeland Security acting jointly does not establish that the alien is eligible to receive a nonimmigrant visa.
- (c) *Validity of visa.* The period of validity of a visa authorized on the basis of paragraph (a) of this section shall not exceed the period indicated in the certification required in paragraph (b) and shall not in any case exceed the period of three years.

[61 FR 1838, Jan. 24, 1996, as amended at 71 FR 34521, June 15, 2006]