§ 214.2(h)

[Editorial Note: The final rule published on July 13, 2000, which amended 8 CFR part 103 (§ 103.1(f)(3)(iii)(J) and (W)) and part 214 (§§ 214.1(c)(1) and 214.2(h)(2), (5), (9), (10), (11), (12), (13), (14), (16) and (18)) and thereby delegated the adjudication of certain H-2A petitions for agricultural workers to the Department of Labor, was withdrawn on October 1, 2002. See 67 FR 61474, Oct. 1, 2002. This new rule nullified that transfer and maintained the status quo. To that extent all the listed regulatory provisions stand modified as of October 1, 2002, and should be read accordingly.]

(h) Temporary employees--

(1) Admission of temporary employees--

(A) An H-1C classification applies to an alien who is coming temporarily to the United States to perform services as a registered nurse, meets the requirements of section 212(m)(1) of the Act, and will perform services at a facility (as defined at section 212(m)(6) of the Act) for which the Secretary of Labor has determined and certified to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) of the Act. This classification will expire 4 years from June 11, 2001.

(B) An H-1B classification applies to an alien who is coming temporarily to the United States:

(i) To perform services in a specialty occupation (except agricultural workers, and aliens described in section 101(a)(15) (O) and (P) of the Act) described in section 214(i)(1) of the Act, that meets the requirements of section 214(i)(2) of the Act, and for whom the Secretary of Labor has determined and certified to the Attorney General that the prospective employer has filed a labor condition application under section 212(n)(1) of the Act;

(ii) To perform services of an exceptional nature requiring exceptional merit and ability relating to a cooperative research and development project or a coproduction project provided for under a Government-to-Government agreement administered by the Secretary of Defense;
(3) To perform services as a fashion model of distinguished merit and ability and for whom the Secretary of Labor has determined and certified to the Attorney General that the prospective employer has filed a labor condition application under section 212(n)(1) of the Act.

(C) An H-2A classification applies to an alien who is coming temporarily to the United States to perform agricultural work of a temporary or seasonal nature.

(D) An H-2B classification applies to an alien who is coming temporarily to the United States to perform nonagricultural work of a temporary or seasonal nature, if unemployed persons capable of performing such service or labor cannot be found in this country. This classification does not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession. The temporary or permanent nature of the services or labor to be performed must be determined by the Service. This classification requires a temporary labor certification issued by the Secretary of Labor or the Governor of Guam, or a notice from one of these individuals that such a certification cannot be made, prior to the filing of a petition with the Service.

(E) An H-3 classification applies to an alien who is coming temporarily to the United States:

(1) As a trainee, other than to receive graduate medical education or training, or training provided primarily at or by an academic or vocational institution, or

(2) As a participant in a special education exchange visitor program which provides for practical training and experience in the education of children with physical, mental, or emotional disabilities.

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PHYSICAL PRESENCE OR RESIDENCE

"Continuous physical presence"--definition, §§ 245a.1(f), 245a.4(a)(6)
Continuous physical presence from November 6, 1986 through May 4, 1988 for LIFE Act Legalization provisions, § 245a.16
Continuous physical presence since December 22, 1987 for adjustment of status of nationals of certain countries for which extended voluntary departure has been made available, § 245a.4(b)(12)
Continuous physical presence since November 6, 1986 for legalization, § 245a.16
"Continuous physical presence" for adjustment of status of nationals of certain countries for which extended voluntary departure has been made available, § 245a.4(a)(6)
Continuous residence for legalization, § 245a.2(h)
"Continuous residence" for adjustment of status of nationals of certain countries for which extended voluntary departure has been made available, §§ 245a.4(a)(4), 245a.4(b)(8)
Continuous residence in unlawful status since prior to January 1, 1982 through May 4, 1988 for LIFE Act legalization provisions, § 245a.15
"Continuously physically present"--definition, §§ 244.1, 1244.1
"Continuously resided"--definition, §§ 244.1, 1244.1
Evidence to demonstrate alien's physical presence in U.S. on a specific date, §§ 245.22, 1245.22
Physical presence of spouse in U.S. required for naturalization, § 319.1(c)
Physical presence on account of trafficking in persons, § 214.11(g)
"Resided continuously" for adjustment of status of nationals of certain countries for which extended voluntary departure has been made available, § 245a.4(a)(3)
Residence in United States for naturalization, § 316.5
Residence within outlying possessions counted for purposes of naturalization, § 325.3
Transition period provisions for tolling physical presence requirement for certain nationals of Nicaragua and Cuba, §§ 245.13(o), 1245.13(o)

PHYSICIANS

Adjustment of status of physicians (with approved Forms I-140) serving in medically underserved areas or at VA facility, §§ 245.18, 1245.18
--Counting 5-year or 3-year medical practice requirement, §§ 245.18(e), 1245.18(e)
--Documentary requirements for these particular alien physicians, §§ 245.18(c), 1245.18(c)
--Eligibility for Form I-766, Employment Authorization Document, §§ 245.18(d), 1245.18(d)
--Evidence needed to prove final compliance with the service requirement, §§ 245.18(h), 1245.18(h)
--Failure to comply with certain requirements of this section, §§ 245.18(i), 1245.18(i)
--Interview for adjustment of status, §§ 245.18(j), 1245.18(j)
--Physicians eligible for this benefit, §§ 245.18(a), 1245.18(a)
--Procedures for these particular alien physicians, §§ 245.18(c), 1245.18(c)
--Renewal of adjustment application in removal proceedings, §§ 245.18(l), 1245.18(l)
--Requirement to file evidence within certain time limit, §§ 245.18(g), 1245.18(g)
--Responsibility of INS to provide information about evidence and supplemental filings, §§ 245.18(f), 1245.18(f)
--Special time-related requirements for adjustment, §§ 245.18(b), 1245.18(b)
--Travel outside US permitted with advance parole during 3- or 5-year service period, §§ 245.18(k), 1245.18(k)

Inapplicability of ground of inadmissibility under § 212.15 for physicians, § 212.15(b)(1)
Criteria and documentary requirements for H-1B physicians, § 214.2(h)(4)(viii)
National interest waiver for second-preference immigrant physicians based on service in medically underserved area or VA facility, § 204.12
--Adjustment of status application, § 204.12(e)
--Effect on foreign residence requirement, § 204.12(g)
--Processing of petitions filed on different dates, § 204.12(d)
--Practicing clinical medicine in different underserved area, § 204.12(f)
--Qualifying physicians, § 204.12(a)
--Special requirements, § 204.12(c)
--Time limit to complete required medical service, § 204.12(b)

PILOT PROGRAMS
Certain employment-based immigrants qualifying for Labor Market Information Pilot Program, §§ 204.5(k)(4), 204.5(l)(3)
Establishment of pilot programs for charging of land border fee for inspection services, § 286.8
Immigrant investor pilot program, § 204.6(m)
Pilot programs for arriving and departing nonimmigrants, to provide fingerprints, photograph(s) or other specified biometric identifiers, §§ 215.8, 235.1(d)(1)(ii)