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## DEPARTMENT OF HOMELAND SECURITY

### 8 CFR Parts 212, 214, 245, and 274a

[CIS No. 2783–24; DHS Docket No. USCIS 2011–0010]

RIN 1615–AA59

#### Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for “T” Nonimmigrant Status; Correction

**AGENCY:** U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

**ACTION:** Final rule; correction.

**SUMMARY:** USCIS is correcting a final rule that published in the **Federal Register** on April 30, 2024. The final rule amended DHS regulations governing the requirements and procedures for victims of a severe form of trafficking in persons seeking T nonimmigrant status. These technical corrections will fix typographical and non-substantive technical errors.

**DATES:** Effective August 28, 2024.

**FOR FURTHER INFORMATION CONTACT:** Rená Cutlip-Mason, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 5900 Capital Gateway Dr., Camp Springs, MD 20746; telephone 240–721–3000 (this is not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On April 30, 2024, the Department of Homeland Security (DHS) published a final rule in the **Federal Register** at 89 FR 34864 (FR Doc. 2024–09022). The final rule amends DHS regulations governing the requirements and procedures for victims of a severe form of trafficking in persons seeking T nonimmigrant status. After review of the published document, DHS identified a

few errors in the preamble and regulatory text.

This document, in the section titled “Correction of Errors and Technical Amendments,” identifies and corrects several technical and typographical errors in the final rule. The provisions in this document are effective as if they had been included in the final rule that published in the **Federal Register** on April 30, 2024.

Accordingly, the corrections are effective on August 28, 2024 at 12 a.m. Eastern Time. This document does not change how DHS will apply the final rule, *i.e.*, DHS will apply the corrected provisions to applications pending on, or filed on or after, August 28, 2024.

#### II. Summary and Explanation of Technical Corrections

##### A. Minimum Contact With Law Enforcement

At 8 CFR 214.208(b), the final rule discusses what constitutes “minimum contact” with law enforcement for purposes of meeting the requirement that an applicant comply with any reasonable request for assistance from law enforcement. In one sentence in the preamble, the rule mistakenly refers to a minimum “conduct” requirement, rather than “contact.”<sup>1</sup> Therefore, on page 34882, second column, DHS removes the word “conduct” and replaces it with the word “contact” to correctly refer to the requirement that an applicant must have contact with law enforcement.

##### B. Any Credible Evidence

This document corrects an inadvertently omitted phrase in the regulatory text describing the “any credible evidence” provision.<sup>2</sup> The preamble states the rule makes clear that applicants can submit any credible evidence related to all the eligibility requirements for both principal applicants and derivative applicants, citing specifically to 8 CFR 214.204(c) and (l) as examples.<sup>3</sup> The regulation at 8 CFR 214.204(c)(2) reinforces the preamble’s discussion of the “any credible evidence” provision and is consistent with the regulatory text at 8 CFR 214.204(l), which emphasizes that applicants may submit such evidence to

establish any of the eligibility requirements.

At 8 CFR 214.204(c)(2), the final rule states an Application for T Nonimmigrant Status must include any credible evidence supporting any of the eligibility requirements set out in §§ 214.206 through 214.208. The eligibility requirements, however, extend through 8 CFR 214.209 (Extreme Hardship).

DHS inadvertently omitted this reference to extreme hardship as one of the eligibility requirements to be proven by any credible evidence,<sup>4</sup> as indicated by the specific preamble language referenced above, as well as by DHS’s clear intent throughout the preamble and regulatory text. Therefore, DHS is correcting the regulatory text at 214.204(c)(2) on page 34933, second column, to provide that an Application for T Nonimmigrant Status must include any credible evidence supporting any of the eligibility requirements set out in §§ 214.206 through 214.209.

##### C. Bona Fide Determinations (BFD)

DHS noted several technical and typographical errors in the portion of the final rule that creates a modified BFD process that generally applies only to applications that are filed on or after the effective date of the rule, August 28, 2024.<sup>5</sup> Through this process, USCIS may grant deferred action and employment authorization to applicants with bona fide Applications for T Nonimmigrant Status if they merit a favorable exercise of discretion.<sup>6</sup>

Effective Date of Modified Bona Fide Determination Process

In the preamble to the final rule, DHS indicated that this BFD process applies to cases filed “on or after the effective date” of the final rule.<sup>7</sup> The regulatory text, however, indicates that DHS will conduct bona fide reviews on applications “submitted after August 28, 2024.”<sup>8</sup> The regulatory text inadvertently omitted the text “on or” before the word “after” to indicate that the BFD process would apply to applications received on August 28, 2024. Therefore, DHS corrects the regulatory text, 8 CFR 214.205(a) (on

<sup>4</sup> See 89 FR at 34933.

<sup>5</sup> See 8 CFR 214.205.

<sup>6</sup> See 8 CFR 214.205; 89 FR at 34875.

<sup>7</sup> 89 FR at 34875.

<sup>8</sup> 8 CFR 214.205(a).

<sup>1</sup> 89 FR at 34882.

<sup>2</sup> See, e.g., 8 CFR 214.204(l); 89 FR at 34866, 34868, 34871, 34885.

<sup>3</sup> 89 FR at 34885.

page 34934, second column) to indicate that if an Application for T Nonimmigrant Status is submitted on or after August 28, 2024, USCIS will conduct an initial review to determine if the application is bona fide.<sup>9</sup>

#### Bona Fide Determination Employment Authorizations Documents (EAD)

This document corrects an erroneously omitted reference in the section describing the automatic conversion for previously filed applications for employment authorization to applications for the newly created BFD EAD classification.<sup>10</sup> DHS identified those previously filed applications as being under the categories (a)(16) or (25); however, there is no (a)(25) category. DHS inadvertently failed to include the “(c)” prior to “(25)” to signify the EAD category for T derivatives. Therefore, on page 34875, second column, DHS adds the text “(c)” in front of “(25)” to include the appropriate EAD category, thus indicating that DHS will automatically convert previously filed applications for employment authorization filed under 8 CFR 274a.12(a)(16) and (c)(25) to applications for the newly created BFD EAD classification.

#### Bona Fide Determinations for Applicants in Removal Proceedings

The final rule inadvertently omitted a reference to the Application for T Nonimmigrant Status in the section describing bona fide determinations for applicants in removal proceedings, which applies to individuals with Applications for T Nonimmigrant Status or Applications for Derivative T Nonimmigrant Status.<sup>11</sup> However, the next sentence indicates that in such cases, ICE may exercise prosecutorial discretion while USCIS adjudicates an Application for Derivative T Nonimmigrant Status, and does not mention an Application for T Nonimmigrant Status.<sup>12</sup> This omission was inadvertent, as the prior sentence clearly indicates the section should apply to both principal and derivative applications for T nonimmigrant status. Therefore, DHS is correcting the regulatory text at 8 CFR 214.205(f), on page 34935, first column, to indicate that ICE may exercise prosecutorial discretion while USCIS adjudicates an Application for T Nonimmigrant Status or an Application for Derivative T Nonimmigrant Status. This correction is

consistent with the remainder of the section and DHS’s intent.<sup>13</sup>

#### D. Age-Out Provisions

This document corrects an erroneously omitted change to regulatory text for consistency and clarity. The final rule contained new 8 CFR 214.211(e)(3), on page 34939, first column, which stated that the age-out protections apply to a derivative child applicant who is under age 21 at the time the principal filed the Application for T Nonimmigrant Status, but turns 21 during the pendency of the principal’s Application for T Nonimmigrant Status. This change conformed the regulatory provisions with INA section 214(o)(4), 8 U.S.C. 1184(o)(4), which only applies the age-out protections if the child turns 21 after the principal’s Application for T Nonimmigrant Status is filed, but while it is pending.<sup>14</sup> However, the final rule erroneously did not change 8 CFR 214.211(e)(2)(i), the age-out protection relating to principal applicants under the age of 21, to be consistent with identical age-out protection language at INA section 214(o)(5), 8 U.S.C. 1184(o)(5), which similarly preserves the eligibility of parents and siblings under the age of 18 as derivative applicants only if the principal applicant turns 21 after the Application for T Nonimmigrant Status is filed, but while it is pending.<sup>15</sup> Therefore, DHS is correcting the regulatory text at 8 CFR 214.211(e)(2)(i), on page 34938, third column, to clarify that the age-out protection only applies if the principal applicant turns 21 after the principal’s Application for T Nonimmigrant Status is filed, but while it is pending.

#### III. Administrative Procedure Act

Section 553(b) of the Administrative Procedure Act (APA) generally requires agencies to publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect. 5 U.S.C. 553(b). In addition, section 553(d) of the APA requires

<sup>13</sup> See 8 CFR 214.205(f).

<sup>14</sup> “An unmarried alien who seeks to accompany, or follow to join, a parent granted status under section 1101(a)(15)(T)(i) of this title, and who was under 21 years of age on the date on which such parent applied for such status, shall continue to be classified as a child for purposes of section 1101(a)(15)(T)(ii) of this title, *if the alien attains 21 years of age after such parent’s application was filed but while it was pending.*” INA section 214(o)(4); 8 U.S.C. 1184(o)(4) (emphasis added).

<sup>15</sup> “An alien described in clause (i) of section 1101(a)(15)(T) of this title shall continue to be treated as an alien described in clause (ii)(I) of such section *if the alien attains 21 years of age after the alien’s application for status under such clause (i) is filed but while it is pending.*” INA section 214(o)(5); 8 U.S.C. 1184(o)(5) (emphasis added).

agencies to delay the effective date of final rules by a minimum of 30 days after the date of their publication in the **Federal Register**. 5 U.S.C. 553(d). Both of these requirements can be waived if an agency finds, for good cause, that the notice and comment process and/or delayed effective date is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice. 5 U.S.C. 553(b)(B), (d)(3).

DHS believes there is good cause for publishing this document without prior notice and opportunity for public comment and with an effective date of less than 30 days because such procedures are unnecessary. This document corrects technical and typographic errors in the preamble and regulatory text and does not make substantive changes to the policies in the final rule. This document merely conforms erroneous portions of the final rule to the agency’s clearly expressed contemporaneous intent. Therefore, DHS believes that it has good cause to waive the notice and comment and effective date requirements of section 553 of the APA.

#### IV. Correction of Errors and Technical Amendments

Accordingly, the publication final rule at 89 FR 34864 (FR Doc. 2024–09022) is corrected as follows:

##### A. Correction of Errors in the Preamble

1. On page 34875, in the second column, lines 35–36, the language “8 CFR 274a.12(a)(16) and (25)” is corrected to read “8 CFR 274a.12(a)(16) and (c)(25).”

2. On page 34882, in the second column, line 36, remove the word “conduct” and add in its place the word “contact.”

3. On page 34886, in the first column, lines 50–52, remove the sentence “DHS has also amended new 8 CFR 214.211(e)(3) to state that the age-out protections apply to a child who may turn 21 during the pendency of the principal’s application for T nonimmigrant status” and add in its place the sentence “DHS has also amended new 8 CFR 214.211(e)(2) and (3) to state that the age-out protections apply to a child (principal or derivative) who may turn 21 during the pendency of the principal’s application for T nonimmigrant status.”

##### B. Correction of Errors in the Regulatory Text

■ 4. On page 34933, in the second column, in instruction 7 in Subpart C, at § 214.204, correct paragraph (c)(2) to read as follows:

<sup>9</sup> See 89 FR at 34934, second column.

<sup>10</sup> See 89 FR at 34875.

<sup>11</sup> See 214.204(f); 89 FR at 34935, first column.

<sup>12</sup> *Id.*

**§ 214.204 [Corrected]**

\* \* \* \* \*

(c) \* \* \*

(2) Any credible evidence that supports any of the eligibility requirements set out in §§ 214.206 through 214.209.

■ 5. On page 34934, in the second column, in instruction 7 in Subpart C, at § 214.205, correct paragraph (a) to read as follows:

**§ 214.205 [Corrected]**

(a) *Bona fide determinations for principal applicants for T nonimmigrant status.* If an Application for T Nonimmigrant Status is submitted on or after August 28, 2024, USCIS will conduct an initial review to determine if the application is bona fide.

\* \* \* \* \*

■ 6. On page 34935, in the first column, in instruction 7 in Subpart C, at § 214.205, correct paragraph (f) to read as follows:

**§ 214.205 [Corrected]**

\* \* \* \* \*

(f) *Bona fide determinations for applicants in removal proceedings.* This section applies to applicants whose Applications for T Nonimmigrant Status or Applications for Derivative T Nonimmigrant Status have been deemed bona fide and who are in removal proceedings under section 240 of the Act, or in exclusion or deportation proceedings under former sections 236 or 242 of the Act (as in effect prior to April 1, 1997). In such cases, ICE may exercise prosecutorial discretion, as appropriate, while USCIS adjudicates an Application for T Nonimmigrant Status or an Application for Derivative T Nonimmigrant Status.

\* \* \* \* \*

■ 7. On page 34938, in the third column, in instruction 7 in Subpart C, at § 214.211, correct paragraph (e)(2)(i) to read as follows:

**§ 214.211 [Corrected]**

\* \* \* \* \*

(e) \* \* \*

(2) *Age-out protection for eligible family members of a principal applicant under 21 years of age.* (i) If the T-1 principal applicant was under 21 years of age when they applied for T-1 nonimmigrant status but reached 21 years of age while the principal application was still pending, USCIS will continue to consider a parent or

unmarried sibling as an eligible family member.

\* \* \* \* \*

**Christina E. McDonald,**

*Associate General Counsel for Regulatory Affairs, Department of Homeland Security.*

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**NUCLEAR REGULATORY COMMISSION****10 CFR Part 37****[NRC-2023-0030]****Interim Enforcement Policy for Dispositioning Violations With Respect to Large Components or Robust Structures Containing Category 1 or Category 2 Quantities of Radioactive Material****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Policy statement; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing an Interim Enforcement Policy that allows staff to exercise enforcement discretion for certain violations of regulations involving robust structures containing category 1 or category 2 quantities of radioactive material, or to large components containing category 1 or 2 quantities of radioactive material, provided the licensee meets certain conditions.

**DATES:** The policy statement is effective on August 23, 2024.

**ADDRESSES:** Please refer to Docket ID NRC-2023-0030 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2023-0030. Address questions about NRC dockets to Helen Chang; telephone: 301-415-3228; email: [Helen.Chang@nrc.gov](mailto:Helen.Chang@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR)

reference staff at 1-800-397-4209, at 301-415-4737, or by email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov). The Enforcement Policy is available in ADAMS under Accession No. ML23333A447.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** David Furst, Office of Enforcement; U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-287-9087; email: [David.Furst@nrc.gov](mailto:David.Furst@nrc.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

On June 15, 2010 (75 FR 33901), the NRC issued the proposed rule "Physical Protection of Byproduct Material," for an initial public comment period. The agency subsequently published an extension notice on October 8, 2010 (75 FR 62330), which extended the public comment period until January 18, 2011.

Several commenters expressed concern about extending applicability for the proposed rule beyond byproduct material licensees to power reactor licensees. Specifically, the commenters stated that extending the requirements to large components or radioactive storage facilities located at power reactor plant sites appeared unwarranted. Accordingly, they recommended limiting the applicability of the rule to exclude large components and radioactive storage facilities and developing an appropriate threshold to exempt single items or items of aggregated quantities of large volume or weight, such that exemption requests would not be necessary and the security provisions of part 37 of title 10 of the *Code of Federal Regulations* (10 CFR) would not apply.

The NRC agreed, in part, with the commenters and determined that it is appropriate to include a partial exemption in the regulation instead of treating exemption requests on a case-by-case basis. The staff added paragraph (c) to § 37.11, "Specific exemptions," to address radioactive waste materials. The provision does require the application of some security measures to waste exempted under § 37.11, but the majority of 10 CFR part 37 requirements would not apply. Security measures include the use of continuous physical