

## § 1216.1

## 8 CFR Ch. V (1–1–08 Edition)

EDITORIAL NOTE: Nomenclature changes to part 1216 appear at 68 FR 9846, Feb. 28, 2003, and at 68 FR 10353, Mar. 5, 2003.

### § 1216.1 Definition of conditional permanent resident.

A *conditional permanent resident* is an alien who has been lawfully admitted for permanent residence within the meaning of section 101(a)(20) of the Act, except that a conditional permanent resident is also subject to the conditions and responsibilities set forth in section 216 or 216A of the Act, whichever is applicable, and part 216 of this chapter. Unless otherwise specified, the rights, privileges, responsibilities and duties which apply to all other lawful permanent residents apply equally to conditional permanent residents, including but not limited to the right to apply for naturalization (if otherwise eligible), the right to file petitions on behalf of qualifying relatives, the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed; the duty to register with the Selective Service System, when required; and the responsibility for complying with all laws and regulations of the United States. All references within this chapter to lawful permanent residents apply equally to conditional permanent residents, unless otherwise specified. The conditions of section 216 of the Act shall not apply to lawful permanent resident status based on a self-petitioning relationship under section 204(a)(1)(A)(iii), 204(a)(1)(A)(iv), 204(a)(1)(b)(ii), or 204(a)(1)(B)(iii) of the Act or based on eligibility as the derivative child of a self-petitioning spouse under section 204(a)(1)(A)(iii) or 204(a)(1)(B)(ii) of the Act, regardless of the date on which the marriage to the abusive citizen or lawful permanent resident occurred.

[53 FR 30018, Aug. 10, 1988, as amended at 59 FR 26590, May 23, 1994; 61 FR 13079, Mar. 26, 1996]

### § 1216.2 Notification requirements.

(a) *When alien acquires status of conditional permanent resident.* At the time an alien acquires conditional permanent residence through admission to the United States with an immigrant

visa or adjustment of status under section 245 of the Act, the Service shall notify the alien of the conditional basis of the alien's status, of the requirement that the alien apply for removal of the conditions within the ninety days immediately preceding the second anniversary of the alien's having been granted such status, and that failure to apply for removal of the conditions will result in automatic termination of the alien's lawful status in the United States.

(b) *When alien is required to apply for removal of the conditional basis of lawful permanent resident status.* Approximately 90 days before the second anniversary of the date on which the alien obtained conditional permanent residence, the Service should notify the alien a second time of the requirement that the alien and the petitioning spouse or alien entrepreneur must file a petition to remove the conditional basis of the alien's lawful permanent residence. Such notification shall be mailed to the alien's last known address.

(c) *Effect of failure to provide notification.* Failure of the Service to provide notification as required by either paragraph (a) or (b) of this section does not relieve the alien and the petitioning spouse, or alien entrepreneur of the requirement to file a petition to remove conditions within the 90 days immediately preceding the second anniversary of the date on which the alien obtained permanent residence.

[53 FR 30018, Aug. 10, 1988, as amended at 59 FR 26590, May 23, 1994]

### § 1216.3 Termination of conditional resident status.

(a) *During the two-year conditional period.* The director shall send a formal written notice to the conditional permanent resident of the termination of the alien's conditional permanent resident status if the director determines that any of the conditions set forth in section 216(b)(1) or 216A(b)(1) of the Act, whichever is applicable, are true, or it becomes known to the government that an alien entrepreneur who was admitted pursuant to section 203(b)(5) of the Act obtained his or her investment capital through other than legal means (such as through the sale