Questions and Answers

June 30, 2009

RE-ENTRY PERMITS AND REFUGEE TRAVEL DOCUMENTS

Questions and Answers

Q. What is a travel document and who needs one?
A. If you are not a U.S. citizen, you may need permission to return to the U.S. after traveling abroad. This permission is granted through a travel document. Travel documents are also given to foreign nationals who want to travel, but cannot get a passport from their country of nationality.

Q. What is Advance Parole?
A. Advance Parole is permission for certain foreign nationals, who do not have a valid immigrant visa, to re-enter the U.S. after traveling abroad. Such foreign nationals must be approved for Advance Parole before leaving the U.S. If you have not obtained Advance Parole prior to traveling abroad, you will not be permitted to re-enter the U.S. upon your return.

Whether to grant advance parole is a matter of USCIS discretion. If an alien with a pending Form I-485 requests an advance parole document, and USCIS grants it, USCIS normally issues a 1-year, multiple-use advance parole document. If the foreign national leaves prior to issuance of the advance parole document, his or her application for adjustment of status will be considered abandoned. There are certain exceptions to this consequence as listed below.

Q. Do I need Advance Parole?
A. As a foreign national in the U.S., you should, prior to departure, obtain Advance Parole if you have:

- Been granted Temporary Protected Status (TPS);
- A pending application for adjustment of status to be a lawful permanent resident;
- A pending application for relief under section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA 203);
- A pending asylum application.

Q. Who may not be issued Advance Parole?

A. USCIS will not grant an advance parole document to an alien who is in the United States if the foreign national is:

- In the United States illegally;
- An exchange alien subject to the foreign residence requirement;
- In exclusion, deportation, removal, or rescission proceedings.

Issuance of an advance parole document does not guarantee admission into the United States. An alien who has an advance parole document will generally be paroled into the United States, rather than

admitted and are still subject to immigration inspection at the port of entry. A separate decision whether to parole an alien is made each time the person presents himself or herself for inspection at a port of entry with an advance parole document.

If an applicant is granted an advance parole document, but is determined upon return to the United States to be inadmissible (and parole is not appropriate), he or she will be placed in removal proceedings challenging their admissibility.

The following individuals, who have a pending application for adjustment of status, may depart the United States without an advance parole document and without having their adjustment-of-status application considered abandoned:

- Individuals in H-1B (Specialty Workers) and L-1 (Intracompany Tranferee) status, and their dependents (H-4 and L-2), who maintain their status and possess valid visas;
- Individuals in V-2/3 visa status who maintain valid V nonimmigrant status and possess a valid V visa or who will obtain a V visa before applying for readmission to the United States;
- Individuals in K-3/4 nonimmigrant status who have maintained their status and possess a valid nonimmigrant visa or obtain a valid K-3/4 nonimmigrant visa before applying for readmission to the United States. (Note: Upon returning to the United States, you must present your valid H, L, K, or V nonimmigrant visa and continue to be eligible for that status.)

Refugees and asylees who have applied to adjust to permanent resident status under section 209 of the Act may travel outside the United States on a valid Refugee Travel Document and do not need to apply for an advance parole document.

Q. How do I file for Advance Parole?
A. You must file Form I-131, Application for a Travel Document, supporting documentation, biometrics and applicable fees with USCIS.

Q. What are the documents required to file for Advance Parole?
A. The documents required for Advance Parole are:

- A copy of any document issued to you by the Service showing present status in the U.S.;
- An explanation or other evidence demonstrating the circumstances that warrant issuance of Advance Parole;
- If you are basing your eligibility for Advance Parole on a separate application such as an application for Adjustment or asylum, then you must also attach a copy of the filing receipt for that application

Q. What is the purpose of obtaining Advance Parole?
A. It enables you to come back to the U.S. after traveling abroad without obtaining a visa to the U.S. It also preserves the status of your application pending at the USCIS.

Q. What is the processing time for Advance Parole?
A. Applicants for Advance Parole can anticipate processing times of about 90 days, depending on the USCIS office location. USCIS publishes the estimated processing times for each Service Center every month on the USCIS public website.

Q. What is the validity period of Advance Parole document?

A. An Advance Parole document is generally valid for multiple entries into the U.S. for one year from the date of issue.

Q. When should I apply for Advance Parole?
A. You must apply for Advance Parole before leaving the U.S. Failure to do so may cause you to lose permission to re-enter the U.S. and lead to the denial of any other applications.

Q. Does Advance Parole guarantee me admission into the U.S.?
A. No, Advance Parole does not guarantee you admission into the U.S. Foreign nationals with Advance Parole are still subject to the immigration inspection process at the port of entry.

Q. How can I appeal a denial of Advance Parole?
A. If your application for Advance Parole is denied, you will receive a letter that will tell you why the application was denied. You will not be allowed to appeal a negative decision to a higher authority. However, you may submit a motion to reopen or a motion to reconsider with the office that made the unfavorable decision. By filing these motions, you may ask the office to reexamine or reconsider their decision.

A motion to reopen must state the new facts that are to be provided in the reopened proceeding and must be accompanied by affidavits or other documentary evidence.

A motion to reconsider must establish that the decision was based on an incorrect application of law or USCIS policy, and further establish that the decision was incorrect based on the evidence in the file at the time the decision was made.

Q. Can travel abroad still have severe consequences, even if I have obtained Advance Parole?
A. Yes, travel abroad can still have severe consequences if you:

- Depart the U.S. after being unlawfully present in the U.S. for a certain period, you may be barred from admission, even if you have obtained Advance Parole;
- Were unlawfully present in the U.S. for more than 180 days but less than one year and depart voluntarily before the start of removal proceedings, you may be inadmissible for three years;
- Were unlawfully present in the U.S. for one year or more, you may be inadmissible for ten years.

Q. Can I apply for Advance Parole if I am out of Unites States?

A. No. You need to be in the US on the date the advance parole application is filed by you or your attorney. This is true for both initial advance parole applications and any renewals that may follow. You should apply for your advance parole before you travel.

Q. Under what circumstances should I apply for a re-entry permit?
A. There are a number of situations where you may apply for a re-entry permit. These situations include:

- If you intend to remain outside the U.S. for a period of more than one year but no longer than two years, and do not intend to abandon residence in the U.S., may apply in order to establish your intention to return to the U.S. after the temporary absence from the country.

- If you are in possession of Form I-551 and intend to remain outside the U.S. for less than one year you do not need a reentry permit, however if you are an individual who is "stateless" or

unable to obtain a passport from the country of your nationality, you may apply for a reentry permit for use as a travel document.

- If you are visiting a certain country and that country does not honor the passport from your country of nationality, you may apply for a reentry permit.

- You may apply for a reentry permit for any other valid reason.

Q. Under what circumstances will a re-entry permit not be needed for an absence from the U.S. for more than year?
A. Certain individuals can re-enter the U.S. with only their Form I-551 even after an absence of more than one year. These individuals include:

- Civilian employees of U.S. Government agencies returning from assignments abroad on official orders;

- Spouse or child of a civilian employee of the U.S. Government or;

- A spouse or child of a member of the U.S. Armed Forces as described in 8 CFR 211.1(a)(6).

In addition, the spouse or child of an individual in the U.S. Armed Forces or U.S. Government does not require a visa if they resided abroad with the spouse while on duty;

Q. What are the new biometric changes for re-entry permits and refugee travel documents?
A. The new instructions for the Form I-131 require that applicants between the ages of 14-79 must provide biometrics for re-entry permits and refugee travel documents before departing from the United States. Applicants are strongly encouraged to apply well in advance of their anticipated travel dates to allow time for their ASC appointments and to receive their travel documents. Shortly after filing a Form I-131 for a refugee travel document or a re-entry permit, USCIS will mail the applicant their receipt and an ASC scheduling notice.

Certain USICS offices overseas may accept and adjudicate Form I-131 filed only for a refugee travel document, where the applicant has failed to apply while in the U.S. (*see* 8 C.F.R. § 223.2(b)(2)(ii)). However, if it is evident that an individual could have applied while in the U.S. and attended their biometrics appointment, offices overseas may not agree to accept and adjudicate the Form I-131.

Q. Is there a fee for the new biometrics requirement for individuals applying for re-entry permits and refugee travel documents?
A. If you are applying for a re-entry permit or refugee travel document, between the ages of 14-79 and in the United States, you must pay the $80 biometrics services fee, or submit a biometrics fee waiver request with sufficient documentation to support of your inability to pay the fee.

It is also important to know that the application fee for Form I-131 cannot be waived.

Q. What are the procedures for requesting an expedited adjudication of the Form I-131?
A. If you need expedited processing, the Form I-131 instructions provide specific information for submitting pre-paid express mailers with your Form I-131 for USCIS to send your receipt and ASC appointment notice, as well as the completed re-entry permit or refugee travel document, if approved. A request for expedited processing should contain your reasons for such processing so that USCIS may determine whether you qualify for expedited processing.

Q. Do the revised Form I-131 instructions require advance parole applicants to complete biometrics?
A. Applicants for advance parole are not required to submit biometrics at this time. An applicant for advance parole must continue to submit two identical color photographs of the applicant taken within 30 days of the filing of the Form I-131 application.

Q. Is e-filing available for individuals applying for a re-entry permit or a refugee travel document on the USCIS website?
A. Currently, only those who are seeking to e-file Form I-131 for advance parole would be able to use the e-filing option. The system is currently unable to accept the additional biometrics fees that are required for refugee travel documents and re-entry permits. Therefore, customers are encouraged to file via paper until the system is changed. Once the system is in place, e-filing of Form I-131 will be available for all categories.

Q. Does an applicant need to be physically present in the United States at the time of filing their Form I-131 application re-entry permit or refugee travel document?
A. Applicants filing for re-entry permits must be physically present in the United States when they file the re-entry permit application. *See* 8 C.F.R. § 223.2(b)(1). Offices overseas do not have authority to accept applications for re-entry permits.

An individual applying for a refugee travel document may under certain circumstances file their Form I-131 application with an USCIS overseas office. However, it is strongly recommended not to file overseas since overseas offices have discretionary authority, are not required to accept a Form I-131 application and could possibly deny a request for a travel document. *See* 8 C.F.R. § 223.2 (b)(2)(ii). Individuals should apply for a refugee travel document in the United States and provide biometrics before you leave in order to return after temporary travel abroad.

USCIS or a U.S. Department of State Embassy or Consulate can deliver re-entry permits and refugee travel documents to the applicant at an overseas office if the applicant requests so at the time of filing Form I-131. *See* 8 C.F.R. § 223.2(f).

Q. May an I-131 applicant for a re-entry permit or refugee travel document complete biometrics outside of the United States?
A. If an applicant files their Form I-131 at the Nebraska Service Center, their biometrics must be completed at an Application Support Center (ASC) in the U.S. or the Form I-131 will be denied. Applicants for re-entry permits must go to their biometric appointment at the designated ASC or request to reschedule by writing the ASC. If the applicant departs the United States before the biometrics are collected, the application may be denied.

Although all applicants are encouraged to file before leaving the United States, Form I-131 instructions provide guidance to applicants for refugee travel documents who are abroad at the time of filing to visit a U.S. Embassy or Consulate to complete biometrics. Since certain overseas offices have the discretion to accept and adjudicate applications for refugee travel documents, an applicant for a refugee travel document may complete biometrics outside of the United States if their application for a travel document was accepted at the overseas office.

As discussed earlier, certain overseas USCIS offices may adjudicate Form I-131 filed for a refugee travel document (but not re-entry permits), where the applicant has failed to apply while in the U.S. S*ee* 8 C.F.R. § 223.2(b)(2)(ii). However, applicants for refugee travel documents should not count on the overseas offices adjudicating their Form I-131 in all cases. If it is evident that an individual could have

applied while in the U.S. and attended his or her biometrics appointment, a refugee travel document request can be denied.

Q. Will Form I-131 re-entry permit or refugee travel document be denied if the applicant leaves the U.S. after the application has been filed and receipted but before biometrics are completed?
A. Form I-131 form instructions state, "Departure from the United States before a decision is made on an application for a Re-entry Permit usually does not affect the application. However, where biometric collection is required and the applicant departs the United States before the biometrics are collected, the application may be denied." Travel is not advisable before your biometrics have been collected. If an applicant leaves and comes back, their application may be denied while abroad, and may not be able to get back into the country.

Even though an overseas USCIS office may take the biometrics of an applicant for a refugee travel document if the I-131 is filed at the overseas office, there is no guarantee that the office will necessarily take the biometrics. Again, for this reason, an I-131 applicant who's biometrics will be required to file their applications are encouraged to file well in advance of their scheduled departure dates. Applicants are suggested to apply for a travel document at least 60 days prior to the date of travel.

Q. I am a Lawful Permanent Resident (LPR) who will be out of the US for more than 1 year? What documents will I need to return to the US?
A. To re-enter the U.S. an LPR normally needs to present his or her green card (Permanent Resident Card, Form I-551). A re-entry permit is needed for re-entry from absence outside the U.S. greater than one year but less than two years. If an LPR anticipates remaining outside the U.S. for longer than one year they will need to apply for a re-entry permit while they are still in the U.S. *See* 8 C.F.R. § 223.2(b)(1). Re-entry permits may be approved if they are filed by an individual in the U.S. at the time of application. An application is not complete until the applicant has provided their biometrics (e.g., fingerprints and photographs). The newly revised Form I-131 instructions also provide procedures for requesting an expedited ASC appointment for biometrics collection and for requesting expedited delivery of a travel document.

The majority of LPRs who live abroad will be able to re-enter the U.S. using their Permanent Resident Cards. LPRs who currently live abroad, and know they will need to apply for a re-entry permit when they return to the U.S. because they plan to leave the U.S. again for more than a year and will need a re-entry permit the next time they come to the U.S. are encouraged to anticipate their need for a re-entry permit sufficiently in advance of their travel and, if necessary, follow the procedures for obtaining an expedited ASC appointment. If a LPR departs from the U.S while their Form I-131 is pending, before biometrics are taken, then the adjudication of the I-131 re-entry permit application will not be affected as long as the applicant returns to the U.S. to attend the biometrics appointment at the time specified on the notice. In such situations, the LPR could apply for reentry to the U.S. using only his or her I-551 Permanent Resident Card between the time of filing the Form I-131 and date of their biometrics appointment. If necessary, the LPR may make arrangements to have their re-entry permit delivered to them through a U.S. Consulate or USCIS office abroad. *See* 8 C.F.R. 223.2(f).

Q. Is there a place for me to call with further questions?
A. Please contact the USCIS National Customer Service Center by calling (800) 375-5283 or (800) 767-1833 (TTY).