

presents himself or herself as an applicant for admission under section 217 of the Act, who applies for asylum in the United States must be issued a Form I-863, Notice of Referral to Immigration Judge, for a proceeding in accordance with § 208.2(b)(1) and (2) of this chapter.

(2) The removal of an alien under this section may be deferred if the alien is paroled into the custody of a Federal, State, or local law enforcement agency for criminal prosecution or punishment. This section in no way diminishes the discretionary authority of the Attorney General enumerated in section 212(d) of the Act.

(3) Refusal of admission under paragraph (a)(1) of this section shall not constitute removal for purposes of the Act.

(b) *Determination of deportability.* (1) An alien who has been admitted to the United States under the provisions of section 217 of the Act and of this part who is determined by an immigration officer to be deportable from the United States under one or more of the grounds of deportability listed in section 237 of the Act shall be removed from the United States to his or her country of nationality or last residence. Such removal shall be determined by the district director who has jurisdiction over the place where the alien is found, and shall be effected without referral of the alien to an immigration judge for a determination of deportability, except that an alien admitted as a Visa Waiver Pilot Program visitor who applies for asylum in the United States must be issued a Form I-863 for a proceeding in accordance with § 208.2(b)(1) and (2) of this chapter.

(2) Removal by the district director under paragraph (b)(1) of this section is equivalent in all respects and has the same consequences as removal after proceedings conducted under section 240 of the Act.

(c)(1) *Removal of inadmissible aliens who arrived by air or sea.* Removal of an alien from the United States under this section may be effected using the return portion of the round trip passage presented by the alien at the time of entry to the United States as required by section 217(a)(7) of the Act. Such removal shall be on the first available means of transportation to the alien's

point of embarkation to the United States. Nothing in this part absolves the carrier of the responsibility to remove any inadmissible or deportable alien at carrier expense, as provided in the carrier agreement.

(2) *Removal of inadmissible and deportable aliens who arrived at land border ports-of-entry.* Removal under this section will be by the first available means of transportation deemed appropriate by the district director.

[53 FR 24901, June 30, 1988, as amended at 56 FR 32953, July 18, 1991; 62 FR 10351, Mar. 6, 1997]

§ 217.5 [Reserved]

§ 217.6 Carrier agreements.

(a) *General.* The carrier agreements referred to in section 217(e) of the Act shall be made by the Commissioner on behalf of the Attorney General and shall be on Form I-775, Visa Waiver Pilot Program Agreement.

(b) *Termination of agreements.* The Commissioner, on behalf of the Attorney General, may terminate any carrier agreement under this part, with 5 days notice to a carrier, for the carrier's failure to meet the terms of such agreement. As a matter of discretion, the Commissioner may notify a carrier of the existence of a basis for termination of a carrier agreement under this part and allow the carrier a period not to exceed 15 days within which the carrier may bring itself into compliance with the terms of the carrier agreement. The agreement shall be subject to cancellation by either party for any reason upon 15 days' written notice to the other party.

[62 FR 10352, Mar. 6, 1997]

PART 221—ADMISSION OF VISITORS OR STUDENTS

AUTHORITY: 8 U.S.C. 1101, 1103, 1201; 8 CFR part 2.

§ 221.1 Admission under bond.

The district director having jurisdiction over the intended place of residence of an alien may accept a bond on behalf of an alien defined in section 101(a)(15)(B) or (F) of the Act prior to the issuance of a visa to the alien or

upon receipt of a request directly from a U.S. consular officer or upon presentation by an interested person of a notification from the consular officer requiring such a bond; such a bond also may be accepted by the district director with jurisdiction over the port of entry or preinspection station where inspection of the alien takes place. Upon acceptance of such a bond, the district director shall notify the United States consular officer who requested the bond, giving the date and place of acceptance and amount of the bond. All bonds given as a condition of admission of an alien under section 221(g) of the Act shall be executed on Form I-352. For procedures relating to bond riders, acceptable sureties, cancellation, or breaching of bonds, see §103.6 of this chapter.

[32 FR 9626, July 4, 1967, as amended at 34 FR 1008, Jan. 23, 1969; 62 FR 10352, Mar. 6, 1997]

PART 223—REENTRY PERMITS, REFUGEE TRAVEL DOCUMENTS, AND ADVANCE PAROLE DOCUMENTS

Sec.

223.1 Purpose of documents.

223.2 Processing.

223.3 Validity and effect on admissibility.

AUTHORITY: 8 U.S.C. 1103, 1181, 1182, 1186a, 1203, 1225, 1226, 1227, 1251; Protocol Relating to the Status of Refugees, November 1, 1968, 19 U.S.T. 6223 (TIAS) 6577; 8 CFR part 2.

SOURCE: 59 FR 1464, Jan. 11, 1994, unless otherwise noted.

§ 223.1 Purpose of documents.

(a) *Reentry permit.* A reentry permit allows a permanent resident to apply for admission to the United States upon return from abroad during the period of the permit's validity without the necessity of obtaining a returning resident visa.

(b) *Refugee travel document.* A refugee travel document is issued pursuant to this part and article 28 of the United Nations Convention of July 29, 1951, for the purpose of travel. Except as provided in §223.3(d)(2)(i), a person who holds refugee status pursuant to section 207 of the Act, or asylum status pursuant to section 208 of the Act, must have a refugee travel document to return to the United States after

temporary travel abroad unless he or she is in possession of a valid advance parole document.

[59 FR 1464, Jan. 11, 1994, as amended at 62 FR 10352, Mar. 6, 1997]

§ 223.2 Processing.

(a) *General.* An application for a reentry permit, refugee travel document, or advance parole document must be filed on Form I-131, with the fee required in §103.7 of this chapter and with the initial evidence required on the application form.

(b) *Eligibility—(1) Reentry permit.* Except as otherwise provided in this section, an application may be approved if filed by a person who is in the United States at the time of application and is a lawful permanent resident or conditional permanent resident.

(2) *Refugee travel document—(i) General.* Except as otherwise provided in this section, an application may be approved if filed by a person who is in the United States at the time of application, and either holds valid refugee status under section 207 of the Act, valid asylum status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his or her asylum or refugee status.

(ii) *Discretionary authority to adjudicate an application from an alien not within the United States.* As a matter of discretion, a district director having jurisdiction over a port-of-entry or a preinspection station where an alien is an applicant for admission, or an overseas district director having jurisdiction over the place where an alien is physically present, may accept and adjudicate an application for a refugee travel document from an alien who previously had been admitted to the United States as a refugee, or who previously had been granted asylum status in the United States, and who had departed from the United States without having applied for such refugee travel document, provided:

(A) The alien submits a Form I-131, Application for Travel Document, with the fee required under §103.7(b)(1) of this chapter;

(B) The district director is satisfied that the alien did not intend to abandon his or her refugee status at the