

## Adjudicator's Field Manual

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### Chapter 53 Refugee Travel Documents.

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## 53.1 Background.

### (a) Historical Background.

Effective August 1, 1973, the Service adopted regulations which authorized the issuance of refugee travel documents (RTDs) to certain refugees in the United States. This action was a result of the U.S. Government's acceptance (in 1968) of the 1967 Protocol adopting the U.N. Convention on Refugees. Under the Convention, the contracting states undertook to issue travel documents to refugees staying in their territories.

Originally, RTDs were adjudicated and produced in local INS offices. On October 4, 1993, all RTD adjudication and production functions were consolidated at the Nebraska Service Center.

### (b) Validity.

A refugee travel document may be valid (generally) for not more than one year from the date of issuance, but may not be renewed. One exception is that if an RTD is issued to an alien who is a Conditional Permanent Resident, it may not be issued beyond the date on which his or her conditional residence status is due to expire (i.e., two years from the date of admission or adjustment of status) or one year from the RTD's issuance date, whichever comes first.

(**Note** While it is extremely rare, it is possible for someone who had been granted refugee or asylee status to adjust to permanent residence on some other basis, such as through marriage to a citizen. If the adjustment to permanent residence occurred within two years of the asylee/refugee's marriage to a citizen, the residence would be conditional in accordance with **section 216** of the Act. Such alien would be eligible either a reentry permit or a refugee travel document, but not both at the same time.)

### (c) Overseas Applications.

Regulations which became effective on April 1, 1997, allow (under limited circumstances) an alien to

apply for, and USCIS to approve, an RTD filed after the alien's departure. This procedure is discussed in **subchapter 53.5**.

(d) Inspection of Applicant for Admission Bearing an RTD.

See **Chapter 16** of the *Inspector's Field Manual*.

## **53.2 Filing and Receipting Procedures.**

### **(a) Eligibility .**

Although any alien who is physically present in the United States and who believes he/she is a refugee may apply for a refugee travel document, only aliens who establish that they meet the standards set forth in law and regulations may be issued an RTD. Aliens who are in the United States for a brief period of time, such as crewmen or aliens in transit, are generally not eligible to receive refugee travel documents. A refugee travel document should be issued only to an alien who is lawfully present in the United States, unless compelling reasons of national security or public order dictate otherwise.

### **(b) Form .**

A request for the issuance of a refugee travel document is filed on a Form I-131, Application for Travel Document. (This form is also used for requests for the issuance of reentry permits and requests for advanced parole – See AFM Chapter 52 and AFM Chapter 54, resp.) With two exceptions, all applications should be filed with USINS, Nebraska Service Center, P.O. Box 87131, Lincoln, NE 68501-7131. The first exception allows an application to be filed at a local USCIS office in circumstances warranting expedited processing; the second allows an application to be filed at a port of entry or an overseas DHS office if the alien failed to apply for an RTD prior to his/her departure from the United States. Both exceptions are discussed under Special Considerations in Chapter 53.5 .

The applicant must submit the appropriate fee in accordance with 8 CFR 103.7(b) and two photographs meeting the specifications in the instructions to the form.

### 53.3 Adjudication.

#### (a) Adjudication Actions.

##### (1) Fee.

Verify that the fee has been paid and the application is signed.

##### (2) Completion.

Review the application for completion of all necessary items and check against data in USCIS, on the I-551 or in the alien's file. If any data are incorrect, inaccurate, or left out, and if you are satisfied that there is no fraud on the part of the applicant, you may insert the correct information. Any such changes or insertions should be made in red ink.

##### (3) Address.

Check the address to which the applicant wants the RTD sent. RTDs may only be delivered to the U.S. address of the applicant, the U.S. address of an authorized representative of the applicant (supported by a Form G-28), or a U.S. Embassy, Consulate, or DHS office abroad. RTDs may not be delivered to the applicant's foreign address or to an unauthorized representative. Any application showing the applicant's address to be that of a travel agency, should be returned to the applicant for the residence address of the applicant.

##### (4) Identity.

Verify the identity of the applicant. If the name of the applicant has changed from that in the records, the applicant should produce documentation showing the change of name, such as a marriage certificate, adoption decree, or court order, etc. (See Issues)

(5) Status.

Check the application to ascertain the applicant's current status in the United States. Under no circumstances may a permit be issued without verification of the applicant's status as a refugee or asylee. The applicant can be either:

- A refugee;
  
- An asylee;
  
- A lawful permanent resident who received LPR status as a direct result of his/her asylee/refugee status;  
or
  
- A parolee who was paroled in the United States under a refugee program. (See Issues: Paroled, but not as a refugee.)

The best source for verification of status is the alien's A-file, but if that is not available, you may verify the applicant's status:

- Through USCIS;
  
- Through RAPS (if the alien is an asylee);
  
- If the applicant is a LPR, the USCIS record or a photocopy of the applicant's Form I-551 can be used to verify his/her status. The following are acceptable LPR codes for refugees/asylees: RE1, RE2, RE3, RE6, RE7, RE8, R86, IC6, IC7, AS1, AS2, AS3, AS6, AS7, and AS8. This list is not all inclusive, you should check the ADIT manual (M-226) for older codes; or

· By requesting additional documentation from the applicant such as the alien's Form I-94, the order issued by an immigration judge granting such status or the approval letter or an Employment Authorization Document (EAD) issued as a result of the applicant having been granted asylum status.

If any doubts exist regarding the alien's status in the United States, the A-file should be obtained and reviewed. If the file does not contain evidence of refugee or asylee status and the applicant claims such status, you should request a manual search. In emergent cases, you may request verification telephonically. Written verification should follow the telephonic verification.

Normally, once an alien becomes a refugee or asylee, he or she retains that status until he or she becomes a permanent resident. However, under certain circumstances, a refugee or asylee may lose status or voluntarily re-avail him/herself of the protection of his/her country of nationality. In such case, the alien may well lose eligibility for an RTD. (See: Adjudications Issues: Loss of status and Alien re-availed him/herself of protection of country of nationality.)

#### (6) Lookouts.

Check the name in the lookout system. If the alien is listed, take appropriate action in accordance with that listing. If the alien is inadmissible, refer the applicant to the local USCIS for a sworn statement (see paragraph (b)(10) of this field manual chapter).

#### (b) Adjudication Issues.

##### (1) Alien Re-availed Himself of Protection of Country of Persecution.

If the applicant has voluntarily re-availed himself/herself of the protection of the country of persecution, the definition of refugee would cease to apply and the application should be denied. There are three requirements for voluntary re-availment:

- Voluntariness: the refugee must act voluntarily;
- Intention: the refugee must intend by his action to re-avail himself of the protection of the country of his nationality; and
- Re-availment: the refugee must actually obtain such protection.

If it appears that an applicant for an RTD has voluntarily re-availed him or herself of the protection of his or her country of nationality, the Nebraska Service Center should contact the Headquarters Refugee and Asylum Unit and/or Office of General Counsel for guidance. If after such consultation it still appears that the alien has voluntarily re-availed him or herself of the protection of the country of persecution, the application should be referred from the Nebraska Service Center to the local office having jurisdiction over the alien's residence. The alien should be requested to appear for an interview at the local office where a sworn statement will be taken regarding the possible re-availment. If all three of the required elements for re-availment exist, the local office should deny the application in accordance with the procedures set forth in section 53.3(c) of this field manual, and notify the Nebraska Service Center so that CLAIMS may be updated accordingly.

(2) Alien Has A Travel Document From His/Her Country.

Similarly, if the applicant is in possession of a valid travel document from the country of nationality, the Form I-131 may also be deniable. There is no absolute prohibition against issuing a travel document to permit a refugee to travel to the country of last residence or nationality; however, travel to that country may preclude the alien from establishing eligibility for permanent residence under **section 209** of the Act.

In the absence of proof to the contrary, a refugee who applies for and obtains a national passport or its renewal will be presumed to have intended to re-avail or return to the protection of the country of persecution. However, obtaining other documents, such as birth or marriage records, cannot be regarded as re-availment of protection. Some countries may issue passports without intending any protection to the recipient.

(3) Alien Intends to Visit Home Country.

There is no prohibition against issuing a travel document to permit a refugee to travel to the country of last residence or nationality; however, travel to that country may raise doubts about whether the alien has re-availed (or intends to re-avail) him or herself of the protection of the country of persecution. It may also preclude the alien from establishing eligibility for permanent residence under section 209. Each case must be judged on its own merits. For example, visiting an old or sick parent should be considered a more worthy reason for visiting one's home country than regular visits on holidays or business trips. The applicant should therefore be referred to the local USCIS office for interview and the possible taking of a sworn statement.

#### (4) Refugee Document Issued by a Third Country.

If the alien is in possession of a refugee travel document, titre de voyage, laissez-passer, certificate of identity, or similar document issued by a country other than the United States, doubts arise regarding whether the alien is firmly resettled elsewhere and the I-131 may be deniable.

#### (5) Invalid Refugee Travel Documents.

In the case of an alien in possession of a refugee travel document, that document shall be considered invalid if the alien is ordered excluded or deported, or if the alien is no longer a refugee (i.e., if the definition of refugee contained in section 101(a)(42) of the Act does not apply or ceases to apply to the alien). An invalid refugee travel document should be surrendered to an immigration officer (to be routed to the relating "A" file); except, if the alien is abroad, he/she may be permitted to retain it until return to the United States prior to its expiration date in order to pursue his case before an immigration judge in proceedings.

#### (6) Alien Requested Wrong Type of Form.

The applicant will be issued the document he/she requested, if eligible. However, if the applicant has merely checked the wrong block and is clearly eligible for issuance of a different travel document, the application will **not** be denied. If the applicant can be issued a reentry permit, approve the application and have the reentry permit issued. If it appears the applicant is eligible for advance parole, return the application to the applicant, advising him/her to submit the application to his/her local USCIS office

(unless the alien falls within one of the special situations wherein the Service Center has authority over the advance parole request).

(7) Applicant Is Neither an Asylee or a Refugee.

If the alien has not previously been found to be a refugee or asylee, check appropriate systems (or send an RFE to the alien) to determine if an I-589 is pending before an immigration judge or an asylum officer. If an I-589 is so pending, hold the I-131 in abeyance pending adjudication of the I-589 and notify the applicant that no decision can be made on the RTD application until one has been made on the asylum application. If no asylum application is pending, deny the application for an RTD (without prejudice to the filing of a new application if the alien is granted asylum) and send him/her an I-589 with instructions to file it with the appropriate service center (if the alien is not in removal proceedings) or with the immigration judge (if removal proceedings have been initiated).

(8) Alien Needs Document Immediately (Expedite Procedures).

See “special considerations” in **section 53.5**.

(9) Alien Will Travel Before Issuance of Document.

See "delivery" under “Closing Actions” in **section 53.3(c)**.

(10) Alien Is Inadmissible (Or Possibly Inadmissible) to the U.S.

As in the case of applicants for reentry permits, an applicant for a refugee travel document may be inadmissible on return to the United States; however, this is not necessarily a ground for denying the application. If such a situation exists, the applicant should be notified concerning this possible inadmissibility. If the applicant nevertheless desires the document, place a memorandum to that effect in the file and note the travel document [e.g., “Sec. 212(a)(2)(a)(I)(i)”]. If appropriate, also place a lookout (see Chapter 31.5 of the *Inspector’s Field Manual*, Possible Excludability). As in the case of applicants for reentry permits, an applicant for a refugee travel document may be excludable on return to the United States;

however, this is not a ground for denying the application. 8 CFR 240.35(c) sets forth the grounds of inadmissibility under which the holder of a valid unexpired refugee travel document may be ordered excluded:

(c) Holders of Refugee Travel Documents.

Aliens who are the holders of valid unexpired refugee travel documents may be ordered excluded only if they are found to be inadmissible under section 212(a)(2), 212(a)(3), or 212(a)(6)(E) of the Act, and it is determined that on the basis of the acts for which they are inadmissible there are compelling reasons of national security or public order for their exclusion. If the immigration judge finds that the alien is inadmissible but determines that there are no compelling reasons of national security or public order for exclusion, the immigration judge shall remand the case to the district director for parole.

It is worthy of note that on the basis of these grounds an alien may be excluded only if there are also compelling grounds of national security or public order. If such a situation exists, the applicant should be notified concerning this possible inadmissibility (but should not be advised of any classified information). If the applicant nevertheless desires the document, place a memorandum to that effect in the file and annotate the travel document

(11) Alien Intends to Visit a Country Which Is Under Restrictions.

On occasion, travel to certain countries may be restricted for U.S. residents. This is more likely to apply to persons bearing U.S. passports or U.S. re-entry permits, since those documents are not affected by international conventions. Nevertheless, if an applicant for a refugee travel document indicates an intention to travel to a restricted country, the application should be referred to the Nebraska Service Center's Special Operations Unit, which should then contact the Headquarters Office of International Affairs Refugee and Asylum Unit (which will in turn consult with the Office of General Counsel) for additional instructions.

(12) Prior Refugee Travel Documents.

If a previously issued RTD was not surrendered by the applicant, you should request the alien return it or explain in detail the reason he/she cannot. You should resolve this matter satisfactorily before delivering the new RTD. Normally, the surrendered RTD should be retained in the A-file. However, an expired RTD may be returned to the bearer if it contains valid visas or other endorsements. A corner of the cover and

identity page must be clipped before returning the RTD (with the booklet closed, seam or fold at the top, cut the lower right corner of the travel document).

**Note:**

A new RTD will not be issued to an alien in possession of a reentry permit, unless the reentry permit is first surrendered, since an alien may not possess both a RTD and a reentry permit simultaneously.

(13) Multiple Applications from the Same Address.

Several applications from apparently unrelated individuals with the same address, may indicate fraud and should be referred to the local office for field examination or investigation (depending on the local office procedures) through Service Center Operations.

(14) Paroled As A Public Interest Parolee, But Not As A Refugee.

The Office of Refugee and Asylum Affairs has advised that individuals paroled into the United States as Public Interest Parolees (PIPs), **have not** been paroled into the United States under a refugee program. Accordingly, they would not qualify as refugees for the issuance of a refugee travel document.

(15) Applicant Is Not Eligible for an RTD, but Is Eligible for a Reentry Permit or Advance Parole.

The applicant will be issued the document he/she requested, if eligible. However, if the applicant has merely checked the wrong block and is clearly eligible for issuance of a different travel document, the application will **not** be denied. If the applicant can be issued a reentry permit, approve the application and have the reentry permit issued. If it appears the applicant is eligible for advance parole, return the application to the applicant, advising him/her to submit the application to his/her local USCIS office.

(16) Alien Wants RTD Issued In A Different Name than Other USCIS Documents.

Normally, the permit should be issued under the same name as the alien's other USCIS documentation (e.g., in the case of an LPR who qualifies for an RTD, the alien's I-551); however, there is nothing to preclude issuance of the RTD in a different name, provided the alien has no fraudulent intent. For example, if a female alien wishes USCIS to issue the RTD in her married name, but does not want to change her other documentation from her maiden name, USCIS may do so.

(17) Alien Requests Additional Pages for RTD.

Occasionally, the holder of a valid refugee travel document whose pages are “full” may request additional pages for the affixation of foreign visas and entry cache stamps. USCIS no longer issues supplemental pages for the RTD. If an alien runs out of pages for his or her RTD, he or she may file an application for a new one. In doing so, he or she must submit the old one, which may be returned to the alien along with the new RTD, but only after the old RTD has been invalidated and the corner has been clipped (with the booklet closed, seam or fold at the top, cut the lower right corner of the travel document).

(c) Closing Actions.

(1) Approval.

If you approve the application:

(A) Affix the approval stamp along with your signature in the appropriate box on the form.

(B) Check the refugee travel document block on the form and annotate the form to indicate the status the applicant is to be accorded on return to the United States. See Appendix 16-1 of the *Inspector's Field Manual* for the proper annotations. (You may also refer to that Appendix regarding actions to be taken by the inspecting officer on return of the alien to the United States.)

(C) Mail the RTD. RTDs may only be delivered to the U.S. address of the applicant, the U.S. address of an authorized representative of the applicant (supported by a Form G-28), or a U.S. Embassy, Consulate, or

DHS office abroad. RTDs may not be delivered to the applicant's foreign address. Do not send an RTD to the U.S. Embassy at the Hague; an RTD for the Netherlands should be sent to the Consulate at either Amsterdam or Rotterdam, as appropriate.

(2) Denial.

If the application for issuance of a refugee travel document is denied:

(A) Notify the alien of the denial using Form I-292. The denial is appealable to the Administrative Appeals Unit, Washington, D.C.

(B) Prepare a Notice to Appear (Form I-862) placing the alien in removal proceedings if the alien is not lawfully in the United States. You may institute proceedings and serve the alien the denial at the same time.

## **53.4 Production and Delivery.**

### (a) Production.

The refugee travel document shall be issued on Form I-571. The Nebraska Service Center uses a computer program to print the RTDs. This I-131 program automatically pulls the data from CLAIMS pertaining to the application. This data must be verified and updated as necessary prior to printing the RTD.

Examine the RTD carefully before delivery to insure that the validity date and all notations are correct, and that the photograph is attached and stamped properly. (The following blocks on the RTD need not be completed: country of claimed nationality, eyes, hair, height and visible scars and marks.) A photograph on an RTD should conform to the same requirements for issuance of Form I-551. Since any erasure or alteration renders the RTD null and void, a permit containing an erasure or alteration shall not be issued.

### (b) Abroad.

When a refugee travel document is to be delivered abroad, it shall be forwarded to a DHS office abroad if one is located where delivery is to be made; otherwise, it shall be forwarded to a United States embassy or consulate. The refugee travel document shall be accompanied by Form G-94, and shall be forwarded abroad by registered mail.

## 53.5 Special Considerations.

### (a) Expedited Approval and Issuance.

Applications for RTDs can only be filed and adjudicated at the Nebraska Service Center, except as provided in sections 53.5(a) and (b) of this field manual. If an alien having an emergency situation which necessitates immediate travel presents a completed I-131 application at a USCIS office other than the Nebraska Service Center, the director or officer in charge of that office may choose to contact the Nebraska Service Center for instructions on how to accept the filing fee, fax a copy of the application to the Nebraska Service Center, and forward the application (including the requisite photographs and a copy of the fee receipt) to the Nebraska Service Center for adjudication, production, and overseas forwarding of the RTD.

### (b) Procedures and Principles for Overseas Adjudication of a Refugee Travel Document Application.

#### (1) Background.

Regulatory provisions allowing for the overseas adjudication of an application for a refugee travel document (RTD) were added as an indirect result of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). IIRIRA amended the Act by adding a provision at section 208(c)(1)(C) whereby USCIS may allow an alien granted asylum to travel abroad with the prior consent of the Attorney General. (Prior to IIRIRA, the authority to issue an RTD rested only on federal regulations.) Since the United States does not exercise departure control, the new statutory provision was taken to mean that the alien may be allowed to return from travel abroad provided the alien had been granted the Service's prior consent.

The Service also recognized that there had been a long-standing problem relating to refugees and asylees who departed the United States without first applying for an RTD. Such departures were often due to a family emergency which necessitated immediate travel or to the alien's ignorance of the regulatory requirement for applying in advance. Because the Service was without the ability to accept and adjudicate RTD applications once the alien had departed the U.S., the alien was stranded abroad. This situation created significant difficulties for the alien so stranded, for the country in which he or she was stranded, and for the Service.

Accordingly, it was decided that in implementing the new statutory provision the Service would also

address the stranded refugee problem by allowing the alien to apply for an RTD from abroad. It is important to remember that this new procedure was not intended as the routine method of obtaining the document; rather, it was intended only to address the problem of a bona-fide refugee or asylee who travels overseas in an emergency (e.g., gravely ill family member) or who legitimately did not understand the requirement.

Furthermore, it should be noted that the provision applies only to RTDs and not to re-entry permits.

## (2) Procedures.

An alien seeking an RTD through a DHS office outside the U.S. or at a port of entry must file the application (Form I-131) IN PERSON with that DHS overseas office (or if there is no DHS office in the country where the alien is located, at the nearest U.S. consulate) or port of entry within one year of the date on which the alien departed the U.S. The applicant may not submit the application by mail, through a legal representative or in any other fashion except in person. The applicant must also submit photo graphs (in accordance with the instructions on the form), which a USCIS officer or consular officer must verify as a true likeness of the alien at time of submission. The application must be accompanied by the required fee in accordance with **8 CFR 103.7**. It is most important that the receiving DHS office, consular post, or port of entry have the complete address and telephone number outside the United States where the alien may be contacted once the application has been adjudicated. Once the application has been filed, the alien must wait overseas or in a contiguous territory until the application has been approved and he or she has received either the document or a boarding letter based on the approved application (see paragraph (b)(6)). If the application has been filed at a consular post, the application must be sent to the overseas DHS office having jurisdiction for adjudication. The overseas DHS office or consular post CANNOT issue a boarding letter to allow the alien to return to the U.S. in order to apply for an RTD at a port of entry or elsewhere.

The overseas DHS office or port of entry must request the alien's A-file, or have the pertinent portions thereof transmitted from the relevant USCIS Files Control Office by photophone or other method guaranteed to provide a clear and distinct photograph. Transmission by fax will not normally be sufficient due to the inherent lack of clarity of fax transmissions. Once the overseas office or port of entry has received the file, or an appropriate electronic transmission thereof, that office or POE may adjudicate the application. If the overseas DHS office has not received the alien's file (or transmitted portions thereof) within 90 days of the request, the office may adjudicate the application without the file only if the office is fully satisfied as to the identity of the applicant and the bona fides of the application. In addition to the provisions of **8 CFR 223.2(b)(2)(ii)**, all other standards for adjudication apply, exactly as if the application had been submitted to the Nebraska Service Center prior to departure.

## (3) Validity.

The approval must indicate the date of the alien's most recent departure from the U.S. and it must indicate the expiration date of the RTD which is to be no more than two years after the alien's departure.

(4) Fraud potential.

The potential for fraud in this type of application is quite high. Detection and deterrence of fraud MUST be the primary concern of the overseas office or port of entry. Any and all doubts MUST be resolved prior to approval of the application. Remember that regardless of his or her reason, the alien erred by not submitting an application to the Nebraska Service Center prior to departure. The overseas office or port of entry should not take any shortcuts in adjudicating the application.

(5) Notification of Decision.

On approving the application, the overseas DHS office or port of entry should advise the alien that the proper procedure to follow should he or she need an RTD in the future is to apply prior to departure from U.S.

(6) Actions.

(A) Approval.

Once the alien's identity and status as a refugee have been verified, the overseas office or port of entry may approve the application. As indicated above, the approval must indicate the one year anniversary date of the alien's departure so the Nebraska Service Center will know when the RTD is to expire. Furthermore, the overseas office should indicate on the approved application whether a boarding letter has been issued to the alien to allow his or her return prior to production and delivery of the RTD.

(B) Production.

The overseas office should forward the approved application to the Nebraska Service Center for issuance. That Service Center must issue the RTD document to expire no later than one year from the date of the alien's departure from the U.S. However, if because of delays in the adjudication process, the Nebraska Service Center receives the approved application too late to issue it before the one year expires, the service center may so annotate the application and notify the alien (who presumably re-entered the United States on a boarding letter issued by the overseas DHS office) that due to the passage of time the RTD cannot be issued. Such notification is without prejudice to the alien's applying for, and being granted, a new RTD based on a new application.

(C) Delivery of Document Prior to Alien's Return to the United States.

If the alien is to remain overseas long enough, the refugee travel document should be delivered to him or her through a DHS office or American consulate using the G-94 procedure.

(D) Alien's Return to the United States Prior to Delivery of Document.

If the alien cannot wait overseas for issuance of the document, the overseas DHS office may, once the application has been approved and forwarded to the Nebraska Service Center for production, issue a boarding letter to allow the alien to return to the U.S. and be admitted as a returning refugee. Once the Service Center has produced the RTD, it would then mail the document to the alien's home address in the U.S., if time allows (see above). When issuing a boarding letter under these circumstances, the overseas office should take all possible precautions to prevent the use of the boarding letter by an impostor.

If the alien is an applicant for admission at a port of entry, he or she may be admitted to the United States as a returning refugee. The RTD will then be mailed to the alien's home in the United States.

(7) Denial and Appeal.

Denial actions are the same as with other RTDs (see above), with the Administrative Appeals Unit having jurisdiction over any such appeal.