



NEWS RELEASE

March 21, 2000

INS Publishes Final Regulations for HRIFA ***INS Extends Parole Requests for Eligible Haitians Beyond March 31, 2000***

WASHINGTON— The Immigration and Naturalization Service (INS) today announced the publication of final regulations governing the procedures under which eligible Haitian nationals may apply for benefits under the Haitian Immigration Fairness Act (HRIFA). These final regulations will be published in the *Federal Register* on March 23, 2000 and will take effect that same date. They replace the interim rules published May 12, 1999.

The Service also announced today that effective April 1, 2000, and until further notice, the INS Nebraska Service Center will continue to accept and process requests for advance parole authorization filed by qualifying Haitian dependents of persons who have applied for adjustment of status under the Haitian Refugee Immigration Fairness Act (HRIFA).

Signed into law on October 21, 1998, HRIFA provides immigration benefits and relief from deportation to certain Haitian nationals. HRIFA allows eligible Haitians to obtain lawful permanent residence (LPR) status—the right to live and work in the United States permanently—without applying for an immigrant visa at a U.S. consular office overseas, and waives many of the usual requirements for this benefit. INS estimates that approximately 50,000 Haitians are eligible for HRIFA benefits.

Following a 60-day public comment period and a thorough review by officials of the Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) and INS, the following changes were made to the HRIFA rules:

The Final Rule:

- The regulation allows the applicant to submit a letter showing that documentation from Haiti (e.g., birth certificate) has been requested instead of having the documentation in hand. The applicant needs to bring this document to the interview with the INS official. A Service officer or Immigration Judge may consider other evidence to obtain documents if an attempt is unsuccessful.
- Provides that the local police clearance requirement may be waived if a locality is known not to provide such documentation.
- Provides for the determination of whether an applicant qualifies as a "child without parents in the United States" on the existence of a parent/child relationship and not the physical location of the parent in the United States.

- Broadens the definition of "orphan" to include those individuals where one parent was lost and presumed dead by the Haitian government and the sole remaining parent is unable to provide proper care and provides a written release to the child for immigration to the United States.
- Broadens the term "orphan" to include those whose parents died after the child reached the age of 21, if the child meets all other requirements of HRIFA.
- Provides that an applicant does not need to submit evidence that he or she has been officially declared an abandoned child, but may submit evidence demonstrating that he or she meets the requirements of laws governing abandonment in state of residence.
- Provides that in adjudicating 212(g) and waiver requests from statutorily eligible persons, INS and the Executive Office for Immigration Review (EOIR) will take into account conditions in Haiti at the time of departure and whether a person was paroled to receive HIV/AIDS medical treatment.
- The final rule removes the "90-days guideline" which requires applicants to provide one document every 3 months to demonstrate continuity of physical presence in the United States.

Changes in Procedures for HRIFA

- Given the tight deadline, applications may be submitted at a local INS district office, sub-office or service center during the March 27-31, 2000 time period.
- On Friday, March 31, 2000 only these offices will make special arrangements for last minute HRIFA filers up until midnight that day.
- If a principal applicant submits his or her application before the filing deadline (March 31, 2000) with a request for a waiver of the filing fee, but that fee waiver request is subsequently denied by the INS, the applicant will be sent written notice of that decision. He or she will then have 30 days from the date of the decision in which to submit the required filing fee. If the fee is submitted within that 30-day period, the application will be considered to have been filed by the statutory filing deadline, even if the fee is received after April 1, 2000.

Advance Parole Authorization

An eligible individual who seeks an advance parole authorization under HRIFA should file INS Form I-131, Application for Travel Document, with the USINS Nebraska Service Center, P.O. Box 87245, Lincoln, NE 68501-7245. The application must be accompanied by the filing fee of \$95 for Form I-131 and a photocopy of the complete INS Form I-485, Application to Register Permanent Resident or Adjust Status, which the requestor will file once he or she arrives in the United States. The applicant must include photocopies of all the supporting documentation listed on Forms I-485 and I-485 Supplement C, HRIFA Supplement to Form I-485 Instructions. However, the applicant should not submit the filing fee for the Form I-485, the medical report, the fingerprint card or the local police clearances.

HRIFA Eligibility Requirements

To be eligible for HRIFA benefits, a Haitian must belong to one of the five classes specified in section 902 (b) of HRIFA; must have been continuously physically present in the United States since December 31, 1995; and must not be inadmissible to the United States under any grounds of inadmissibility for which HRIFA does not specifically provide an exception. Certain dependents are also eligible. The classes described in section 902 (b) include any Haitian national who:

- Filed for asylum before December 31, 1995;
- Was paroled into the United States before December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergency reasons or reasons deemed strictly in the public interest; or
- Was a child (i.e., unmarried and under 21) at the time of their arrival and on December 31, 1995; and
- Arrived in the United States without parents and has remained in the United States without parents; or
- Became orphaned after arriving in the United States; or
- Was abandoned by their parents or guardians prior to April 1, 1998, and has remained abandoned.

"Continuously physically present" is defined as no more than a total of 180 days outside the United States between December 31, 1995 and the date the HRIFA adjustment application is granted. INS regulations provide limited circumstances under which absences may not count toward the 180-day limit.

Additionally, certain dependents (i.e., the Haitian spouse, child or unmarried son or daughter) of a principal applicant for adjustment under HRIFA may apply for adjustment of status under HRIFA. The March 31 deadline does not apply to such dependents. Dependents of HRIFA principal applicants are reminded that in order to be eligible for HRIFA adjustment, spouses and children "under age 21" must be physically present in the United States at the time they apply, and unmarried sons or daughters age 21 or older must establish that they have been continuously physically present in the United States since December 31, 1995.

Dependent children who are approaching their 21st birthday and cannot demonstrate that they have been continuously physically present in the United States since December 31, 1995 are advised that the Service will deny an applicant's parole request if it determines that it is not feasible to process the request and issue the travel document in sufficient time for the applicant to travel to the United States, file a HRIFA adjustment application and have that application completely adjudicated before the applicant's 21st birthday.

Further information regarding HRIFA can be obtained by accessing the INS Web site, **www.ins.usdoj.gov**, or through INS' customer service number, 1-800 375-5283, or TTY, 1-800 767-1833, (Monday – Friday, 8 a.m. to 6 p.m. Eastern Time). All HRIFA forms can be obtained through the INS Web site or by calling the INS toll-free number 1-800-870-3676, 24 hours a day.