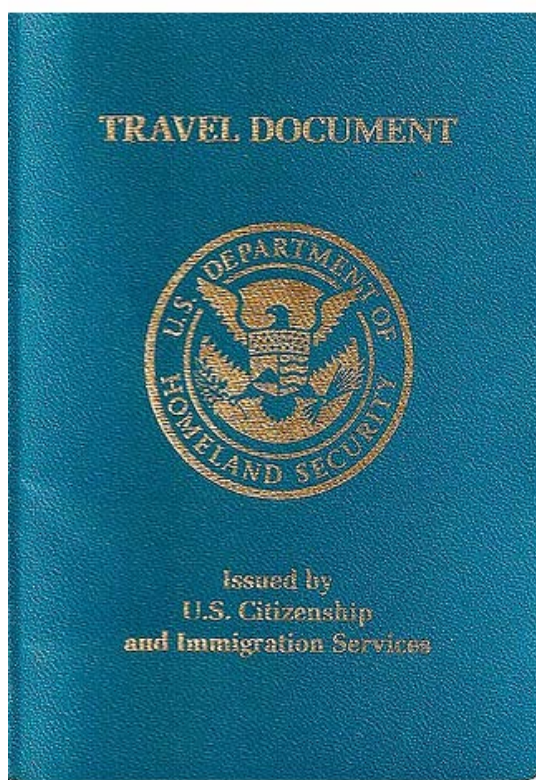


Guide to Reentry Permits for Lawful Permanent Residents

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Our firm makes an effort to understand each client's goals. We're savvy, innovative, and focused on getting results that meet those goals. That's how we establish lasting client relationships.

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1. INTRODUCTION

1.1 WHO SHOULD APPLY FOR A REENTRY PERMIT?

If you are a U.S. lawful permanent resident (LPR), there are at least three situations where applying for a reentry permit may be beneficial: (a) if you will be abroad for one year or more; (b) if you will be abroad for more than six months for two consecutive years; and (c) if you have been warned by U.S. Customs and Border Inspection (CBP) officer that you are at risk of abandoning your permanent resident status.¹

1.2 PERSONS WHO WILL BE ABROAD ONE YEAR OR MORE

A Form I-551, Permanent Resident Card (i.e., green card) is only valid for entry after an absence from the U.S. of less than one year.² If you have been abroad for one year or more, the CBP officer at the port of entry won't let you enter by merely showing the I-551.³

In contrast, a reentry permit can be valid for reentry to the U.S. for a period of up to two years.⁴ So, if there is a significant chance that you will be abroad for a year or more, we recommend applying for a reentry permit before leaving the U.S.

1.3 IF YOU WILL BE ABROAD FOR MORE THAN SIX MONTHS FOR TWO YEARS IN A ROW

¹ In addition, if you are “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. Or 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 for use as a travel document. USCIS, Questions and Answers: Re-entry Permits and Refugee Travel Documents (June 30, 2009).

² 8 C.F.R. § 211.1(a)(2). This one-year limit does not apply to a civilian or military employee of the U.S. Government who was abroad on official orders, or to their accompanying spouses or children. 8 C.F.R. § 211.1(a)(6).

³ If you find yourself in this unfortunate situation of being abroad for over one year with no reentry permit, you may be able to apply to a U.S. Consulate for a SB-1 returning resident visa or to CBP for a waiver of the entry document requirement. Our firm can provide further advice on these issues.

⁴ 8 C.F.R. § 223.2.

To allow you to reenter the U.S. as an LPR, the CBP officer at the port of entry must determine that you are returning from a “temporary” trip abroad.⁵ If the trip abroad wasn’t temporary, then you have “abandoned” your LPR status, making you ineligible for readmission.

When is a trip abroad “temporary”? According to the courts, a trip abroad is temporary only if you possess an intention at the time of departure and throughout the entire trip to return to the U.S. as a place of employment or business or as an actual home “within a period relatively short, fixed by some early event.”⁶ If the return date “hing[es] on a contingency,” that contingency must have a “reasonable possibility of occurring” within a short period of time.⁷ It’s not enough that the intent to be to return “at some indefinite time in the possibly distant future.”⁸ And it’s not enough to intend to retain your LPR status.⁹

Since CBP has no direct way to determine intention, a number of factors are used to try to deduce your intention, including:¹⁰

- purpose for departing
- termination date of travel abroad
- place of employment
- place of actual home and property ties
- family ties to the U.S.;
- payment of U.S. income taxes as a U.S. resident;
- the proportion of time you are in the U.S. versus abroad.

Many LPRs believe that by visiting the U.S. every year or every six months they can avoid abandonment of LPR status.¹¹ But that is pure myth.¹² Such persons’ stay abroad isn’t “temporary” because they lack the intention to return to live in the U.S. within a relatively short period of time.

In other cases, it’s difficult to determine whether a planned stay abroad is temporary. For example, what about going abroad to care for sick relative who may or may not recover within two years? What about going abroad to start a business that may or may not be self-sustaining enough to allow you to return to the U.S. in three years?

⁵INA § 211(b) allows an LPR to seek readmission to the U.S. without an immigrant visa if the LPR meets the definition of a returning resident found in INA § 101(a)(27)(A) (“an immigrant, lawfully admitted for permanent residence, who is returning from a temporary visit abroad.”).

⁶*Matter of Kane*, 15 I.& N. Dec. 258, 263 (BIA 1975).

⁷*Chavez-Ramirez v. INS*, 792 F.2d 932, 936 (9th Cir. 1986)

⁸*Angeles, v. District Director, INS*, 729 F. Supp. 479, 484 (D. Md. 1990).

⁹*Alvarez v. District Director*, 539 F.2d 1220, 1225 (9th Cir. 1976).

¹⁰*Matter of Kane*, 15 I.& N. Dec. 258 (BIA 1975).

¹¹See, e.g., *Matter of Huang*, 19 I&N 749 (BIA 1988).

¹²USCIS helps to perpetuate such myths by making misleading statements such as the following: “If you do not obtain a Reentry Permit and remain outside the United States for one year or more, we may determine that you have abandoned your permanent or conditional resident status.” Form I-131 Instructions at 2 (rev. Feb. 12, 2010).



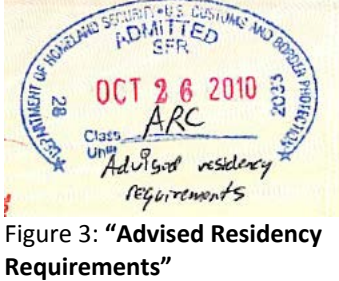
In such cases, there is a benefit to applying for a reentry permit. If the permit is issued, there is a legal *presumption* that the approved trip is “temporary.”¹³ So, applying for a reentry permit can reduce the risk that a CBP officer at the airport or other port of entry could determine you have abandoned LPR status by making a non-temporary trip abroad.

Our recommendation: if you will be outside the U.S. for more than 6 months for two consecutive years, there is a significant risk CBP may determine your stay abroad is not temporary, so you should apply for a reentry permit.

1.4 IF CBP HAS WARNED THAT YOU ARE AT RISK OF ABANDONMENT

Another situation where you should obviously consider applying for a reentry permit is if a CBP officer has warned you that you are at risk for abandonment. This can happen at the port of entry when you are returning to the U.S. from abroad. The officer may notice that you have been abroad for a significant period of time and advise you that you a non-temporary trip abroad will lead to abandonment of your LPR status. The officer may place a stamp that looks like this in your passport:

¹³INA § 223(e) (A reentry permit “show[s] that the alien to whom it was issued is returning from a temporary visit abroad.”); 8 C.F.R. § 223.3(d) (An LPR with a valid reentry permit “shall not be deemed to have abandoned status based solely on the duration of an absence or absences while the permit is valid.”); *Moin v. Ashcroft*, 335 F.3d 415 (5th Cir. 2003) (LPR status abandoned despite valid reentry permit); *Iodice v. Wixon*, 56 F.2d 824 (2d Cir. 1932) (reentry permit has no effect except to show that the holder is returning from a temporary visit abroad); *Zachrias v. McGrath*, 105 F. Supp. 421 (D. D.C. 1952) (Reentry permit is “prima facie evidence” LPR status not abandoned.).

		
<p>Figure 1. “Advised”: This means that the LPR holder was advised that non-temporary trips abroad may result in abandonment.</p> <p>Note: ARC means the individual presented an alien registration card, i.e., a green card.</p>	<p>Figure 2. “Out 5 months, 29 days.”</p>	<p>Figure 3: “Advised Residency Requirements”</p>

1.5 RELATED ISSUES NOT COVERED IN THIS ARTICLE

This article covers the requirements and procedures to apply for a reentry permit, as well as the terms and conditions of residence permits. Related issues that are not covered in this article include:

1. As explained above, a reentry permit is presumptive but not conclusive evidence that LPR status hasn’t been abandoned during a trip abroad. You should collect and make available to the CBP inspector additional evidence of the temporary nature of any extended stay abroad.
2. An LPR seeking readmission to the U.S. is subject to the grounds of inadmissibility. These grounds prohibit the admission of certain classes, such as persons convicted of specified crimes or likely to become public charges.¹⁴
3. Extended stays abroad may impact your eligibility for naturalization.
4. An LPR who has been absent from the U.S. for one year or more and who has no reentry permit may be eligible to apply at a U.S. Consulate abroad for an SB-1 returning resident visa or may be eligible to apply to CBP for a waiver of the entry document requirement.

Our law firm can provide advice on these topics.

¹⁴ But see INA § 101(a)(13)(C) (certain LPRs absent from the U.S. for under 180 days are not subject to the grounds of inadmissibility).

2. ELIGIBILITY REQUIREMENTS

USCIS may, as a matter of discretion, issue a reentry permit to a person meeting the following requirements:

1. You have been lawfully admitted to the U.S. as an LPR or conditional resident.¹⁵
2. You have not abandoned that status, as discussed above.
3. You intend in good faith to make a temporary trip abroad.¹⁶
4. You must be physically present in the United States at the time of filing.¹⁷ For this purpose, the United States means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.¹⁸
5. Departing the U.S. after you file has no effect on the application,¹⁹ although as explained below you would need to return to the U.S. for a biometrics appointment if you are between ages 14 and 79.²⁰
6. Issuance would not be contrary to the U.S. national interest.²¹

¹⁵ INA § 223(a); 8 C.F.R. § 223.2(b).

¹⁶ INA § 223(a), (b).

¹⁷ 8 C.F.R. § 223.2(b)(1) (applicant “must file ... while in the United States”). Further, “an application or petition is not considered properly filed until accepted by USCIS.” Form I-131 instructions at p.9 (rev. Nov. 5, 2011). *See* INA § 223 (applicant must “propose” and “intend” to depart the U.S.)

¹⁸ INA § 101(a)(38).

¹⁹ 8 C.F.R. § 223.2(d).

²⁰ The biometrics requirement is stated in the Form I-131 at 5 (Nov. 5, 2011). The instructions state that if you “depart[] the United States before the biometrics are collected, the application may be denied.” *Id.* at 2. This instruction is misleading because it directly conflicts with the regulations. In the authors’ experience, departing the U.S. before the biometrics appointment will not result in denial of the application, so long as you return to attend the appointment. *But cf.* Jill A. Apa, Implementation of Biometrics Collection for I-131 Refugee Travel Document and Reentry Permit Applications (2008 Lexis Emerging Issues 2306) (“[U]ntil a challenge [to the USCIS Instructions] proves successful, practitioners must continue to advise clients” that departing the U.S. before the biometrics appointment may result in denial of the reentry permit application.)

²¹ INA § 223(b). Pursuant to that statutory authority, DHS may publish in the Federal Register a notice precluding the issuance of reentry permits for travel to certain areas. Form I-131 Instructions at 2 (rev. Feb. 12, 2010); AFM 52.3(b)(1). No such notice is currently issued.

3. PROCEDURES TO APPLY FOR A REENTRY PERMIT

3.1 WHERE TO FILE

The application is filed by mail with the USCIS lockbox in Phoenix or Dallas, depending on the state where you live.²² E-filing is not available.²³

USCIS will then forward the application to the USCIS Nebraska Service Center for adjudication.²⁴

3.2 WHAT TO FILE

The initial documentation that must be filed with the reentry permit application includes²⁵:

1. Filing Fee: \$360 for Form I-131 and \$85 for biometrics (for applicants age 14 through 79)
2. Form I-131, Application for Travel Document
3. A copy of the front and back of Form I-551 (or other evidence of LPR status per the Form I-131 instructions)
4. A copy of a second official photo identity document clearly showing your photo, name, and date of birth. (Example: passport ID page, prior reentry permit, a valid government-issued driver's license; passport identity page; or any other official identity document.)

In applicable cases, it may be helpful to file the following additional documents:

1. Form G-28, Notice of Entry of Appearance as Attorney, to notify USCIS that our firm represents you.
2. Form G-1145, E-Notification of Application Acceptance. This is a request that USCIS notify the applicant by email or SMS when the case is accepted for filing.
3. Any previously issued but unexpired reentry permit or refugee travel document should be returned to USCIS so that it can be voided.²⁶

²²Form I-131 Instructions at 8 (rev. Feb. 12, 2010).

²³USCIS, Questions and Answers: Re-entry Permits and Refugee Travel Documents (June 30, 2009).

²⁴AFM 3.5(e).

²⁵8 C.F.R. § 223.1(a); Form I-131 Instructions at 4 (rev. Feb. 12, 2010).

²⁶INA § 223(d) (expired permit should be returned to USCIS); 8 C.F.R. § 223.2(c)(1) (I-131 will be denied if the prior permit is still valid, unless it was returned to USCIS or it is demonstrated that it was lost); I-131 Instructions at 2 (same); AFM 52.3(b)(2) (If a previously issued reentry permit was not surrendered to the Service or USCIS by the applicant, you should request the alien return it or explain in details the reason he or she cannot. You should resolve this issue before delivering the new permit. Retain the

4. Evidence of any name change²⁷
5. Form I-797C, Receipt Notice, for any pending Form I-751, Petition to Remove the Condition of Residence. (This notice will show the date to which your LPR status has been extended.)
6. Evidence the travel abroad will be temporary: USCIS adjudicators are instructed to determine whether the applicant intends to travel abroad temporarily based on review of the application and the A-file, considering factors such as “the applicant’s previous absences, the intended absence, and whether the applicant has ties (property, family employment, etc.) in the U.S.”²⁸ It’s curious, then, that USCIS doesn’t request that the initial filing include related evidence or encourage adjudicators to solicit related documents through a request for evidence. We speculate that USCIS conceives of the I-131 as a mere declaration of the applicant’s intent, whereas later when the applicant seeks admission to the U.S. based on the reentry permit CBP will have an opportunity to review evidence to determine whether the stay abroad was *in fact* temporary. Usually we don’t file evidence of temporariness with the I-131. Still, there may be cases where it is helpful to submit evidence the travel abroad will be temporary.²⁹
7. If you fall within the grounds of inadmissibility, you may be able to file a waiver application with your reentry permit application.³⁰
8. If you are applying for a reentry permit immediately after entering the U.S., it may be helpful to submit a copy of your passport, including the page stamped by U.S. Customs and Border Protection upon your entry to the U.S. plus your boarding pass for your flight to the U.S.
9. If you are under age 14 or over age 79, it can be helpful to submit 2 U.S.-passport style photos. Otherwise, USCIS will require that you attend a biometrics appointment to be photographed.³¹
10. Documents in support of any request for expedited processing, such as
 - a) FedEx label and envelope to forward the biometrics appointment notice to applicant
 - b) Statement why expedited processing is sought
 - c) Evidence of need for expedited processing.

surrendered permit in the A-file.”); USCIS Form M-608, *I am a Permanent Resident. How Do I ... Get a Reentry Permit* (Aug. 2008) (If you have a valid reentry permit in your possession, you will need to send it in when you apply for a new one. You need not send in an expired reentry permit).

²⁷AFM 52.3(a)(1)(B)

²⁸AFM 52.3(b)(3).

²⁹For example, if the applicant believes the A-file may contain derogatory evidence, it may be helpful to submit rebuttal evidence.

³⁰AFM 52.3(b)(6).

³¹ NSC Liaison Practice Pointer on Reentry Permits and Refugee Travel Documents, Oct. 9, 2012, AILA Inofnet Doc. No. 12100960; NSC Stakeholder Call (Student and School Issues Product Line, Sept. 13, 2012, AILA Infonet Doc. No. 12092748.

3.3 RECEIPT NOTICE

Within about two weeks of filing the application, USCIS should issue a Form I-797C, Receipt Notice.

3.4 BIOMETRICS APPOINTMENT

After the receipt notice, applicants will receive a notice to attend a biometrics appointment. Applicants age 14 to 79 will be fingerprinted, photographed, and provide a signature. Applicants outside that age range will need to be photographed unless they have provided two clear, printed U.S. passport-style photos with their application.³²

The biometrics appointment will be scheduled at a USCIS Application Support Center (ASC) with jurisdiction over your U.S. residence. The biometrics appointment cannot be completed abroad.³³

It normally takes about 4-6 weeks from filing to the biometrics appointment.³⁴ So we recommend applying for a reentry permit as early as possible before travel.

Failure to appear for a biometrics appointment may result in denial of the reentry permit application, unless the appointment is rescheduled.

3.5 OPTIONS TO WAITING IN THE U.S. FOR THE BIOMETRICS APPOINTMENT

What if you can't wait in the U.S. the normal 4-6 weeks from the time of filing until the time of the biometrics appointment? You have other options: request expedited processing, walk in to the local ASC or a different one (even Guam, Saipan, or Honolulu); leave the U.S. and come back for your appointment; or reschedule the appointment.

³² NSC Liaison Practice Pointer on Reentry Permits and Refugee Travel Documents, Oct. 9, 2012, AILA Inofnet Doc. No. 12100960; NSC Stakeholder Call (Student and School Issues Product Line, Sept. 13, 2012, AILA Inofnet Doc. No. 12092748.

³³ USCIS, Questions and Answers: Re-entry Permits and Refugee Travel Documents (June 30, 2009). *But see* Q&A from AILA-USCIS Meeting, at 21 Oct. 5, 2011, AILA InfoNet Doc. No. 11100570 (DHS offices in Rome and Athens will take biometrics in “compelling circumstances.”). It’s possible that USCIS rethink this issue. The agency has removed from its regulations references to specific offices where biometrics appointments must take place “to allow USCIS greater flexibility for handling such matters.” 76 Fed. Reg. 53764, 53771 (Aug. 29, 2011).

³⁴ According to USCIS, “in most cases you will receive your appointment notice within 30 days of submitting your application. We will send your appointment notice approximately 14 days ahead of your scheduled appointment.”

<https://egov.uscis.gov/cris/Dashboard/CaseStatus/BucketDescriptions.do#1>.

You also have the option of leaving the U.S. after your I-131 has been **received and accepted** by USCIS, then returning in time for the biometrics appointment.

EXPEDITED APPOINTMENT

USCIS may expedite a biometrics appointment as a matter of discretion. In this case, it can take 7 to 14 days from filing to the appointment.³⁵

To request expedited processing, you should include with your application a written explanation of the reason your travel abroad is urgent.³⁶ This should be supported by any available evidence of the urgency.

USCIS has stated that an applicant who lives abroad will ordinarily qualify for expedited scheduling, subject to availability of appointment slots at the ASC.³⁷ USCIS will review your request to determine whether it meets or more of the following criteria:³⁸

- Severe financial loss to company or individual
- Extreme emergent situation
- Humanitarian situation
- Nonprofit status of requesting organization in furtherance of the cultural and social interests of the United States
- Department of Defense or National Interest Situation (Note: Request must come from official United States Government entity and state that delay will be detrimental to our Government)
- USCIS error
- Compelling interest of USCIS

To request an expedited biometrics appointment, notate the outside of the envelope and top of Form I-131 with the word EXPEDITE. Include a pre-paid, self-addressed express mailer, to send you the biometrics appointment notice. Also provide your email address and a fax number.³⁹

Additionally, it may be helpful to specify any dates you prefer the appointment or are unavailable for the appointment.

³⁵The 7 to 14 days delay is, in large part, because of mailing time—mailing the application from the Lockbox to the USCIS Nebraska Service Center, where the decision is made whether or not to expedite the biometrics appointment, and mailing the biometrics appointment notice from the Service Center to the applicant. *See* USCIS, *Executive Summary: Listening Session with the Office of Intake and Document Production*, Oct. 12, 2010.

³⁶USCIS, Questions and Answers: Re-entry Permits and Refugee Travel Documents (June 30, 2009).

³⁷ AILA NSC Liaison Committee Practice Tip on Biometrics Appointment Scheduling for Reentry Permit Applications, AILA InfoNet Doc. No. 08122960 (Dec. 29, 2008).

³⁸USCIS, Expedite Criteria (Dec. 14, 2009), <http://bit.ly/4CMY2F>.

³⁹ Form I-131 Instructions at 6 (rev. Feb. 12, 2010);

WALK IN TO THE LOCAL ASC OR A DIFFERENT ONE (EVEN GUAM, SAIPAN, OR HONOLULU)

Even if you are unable to expedite your biometrics appointment, it may be possible to walk in to the ASC with jurisdiction over your place of residence at a different time. You'll need to explain your situation, bring your biometrics appointment notice (if you have one), and at some ASCs you'll need to provide proof of your departure date and urgent need to depart (such as a letter from your employer).⁴⁰

It may also be possible to go to a different ASC. If you live in Asia, it may be more convenient to attend a biometrics appointment at the ASC in Honolulu (Hawaii), Saipan, or Guam⁴¹ than to travel to the continental U.S.

Allowing biometrics processing without an appointment is a matter within each ASC's discretion, so ask your lawyer to check whether it's currently possible.⁴²

RESCHEDULE YOUR BIOMETRICS APPOINTMENT

If the appointment time is inconvenient, you can request that it be rescheduled. Follow the instructions on the appointment notice. The request can be made by phone to the USCIS National Customer Service Center.⁴³ In the alternative, the request can be made by mail to the address shown on the appointment notice. If by mail, attach the *original* appointment notice and keep a copy for your records.⁴⁴ Also attach a reasonable excuse for failure to appear for the initially scheduled appointment.⁴⁵ You can specify your preferred date for the rescheduled appointment, although USCIS may or may not be able to honor your request. Note that USCIS' scheduling system only allows setting appointments no more than 30 days out.⁴⁶ In addition, your request can be for an appointment at a different ASC if you file a change of address.⁴⁷

Note that the rescheduling request must be made *prior to* the originally scheduled appointment date. Late requests will not be honored. Instead, the application will

⁴⁰ AILA NSC Liaison Committee Practice Tip on Biometrics Appointment Scheduling for Reentry Permit Applications, AILA InfoNet Doc. No. 08122960 (Dec. 29, 2008).

⁴¹ AILA Bangkok District Chapter-USCIS Agana (Guam) Field Office Liaison Agenda, Sept. 23, 2013.

⁴² AILA Liaison Practice Pointer: I-130s, I-601s, & Overseas Biometrics (Oct. 17, 2012), AILA InfoNet Doc. No. 12101590. This is true despite the standard note on the Form I-131 receipt notice that "You must wait to receive your biometrics appointment notice before going to the ASC for biometrics processing."

⁴³ AILA, *Practice Pointer: Instructions for Rescheduling ASC Appointments* (Apr. 25, 2013), AILA Infonet Doc. No. 13042543.

⁴⁴ *Id.*

⁴⁵ Revision of NSC Biometrics Reschedule Request Procedures for Reentry Permit Applications, AILA InfoNet Doc. No. 09061771 (June 17, 2009).

⁴⁶ Revision of NSC Biometrics Reschedule Request Procedures for Reentry Permit Applications, AILA InfoNet Doc. No. 09061771 (June 17, 2009).

⁴⁷ USCIS National Stakeholder Meeting, June 24, 2008.

be considered abandoned and denied.⁴⁸ Also, an application will be considered abandoned in any case where the biometrics appointment hasn't taken place within 120 days of filing the I-131.⁴⁹ A motion to reopen may be entertained by USCIS on a case-by-case basis.⁵⁰

3.6 INTERVIEW

USCIS may require that you appear for an interview on your application for a reentry permit,⁵¹ but in practice this is rare.

3.7 PROCESSING TIMES

Currently, USCIS Nebraska Service Center is taking about 3 months to adjudicate a reentry permit application.⁵²

3.8 ADJUDICATION AND DELIVERY

If the application is approved, the reentry permit will be mailed to you at the address requested in Form I-131. You can choose on the form delivery to the applicant's U.S. address, the attorney's address, or to a U.S. Consulate or DHS office abroad.⁵³ Reentry permits may not be delivered to a foreign address.

If the application is denied, USCIS will explain why and provide an opportunity to appeal.⁵⁴ If the denial is on the basis that the applicant has abandoned LPR status, USCIS may refer the case to investigations to consider instituting removal (i.e., deportation) proceedings or post a lookout notice that can be seen by CBP at ports of entry.⁵⁵

The reentry permit comes in the form of a passport-style booklet that contains blank pages for CBP to place admission stamps. Some countries will allow use of the reentry permit in lieu of a passport, so foreign visas and admission stamps can also be placed on these blank pages.

⁴⁸ AILA NSC Liaison Committee Practice Tip on Biometrics Appointment Scheduling for Reentry Permit Applications, AILA InfoNet Doc. No. 08122960 (Dec. 29, 2008).

⁴⁹ Revision of NSC Biometrics Reschedule Request Procedures for Reentry Permit Applications, AILA InfoNet Doc. No. 09061771 (June 17, 2009).

⁵⁰ Revision of NSC Biometrics Reschedule Request Procedures for Reentry Permit Applications, AILA InfoNet Doc. No. 09061771 (June 17, 2009).

⁵¹ Form I-131 Instructions at 4 (rev. Feb. 12, 2010).

⁵² USCIS Processing Time Information, <https://egov.uscis.gov/cris/processTimesDisplayInit.do> (last visited Aug. 10, 2010).

⁵³ AFM 42.3(a)(1)(C).

⁵⁴ 8 C.F.R. § 223.1.

⁵⁵ AFM 52.3(c)(2).

KEY DATA ON THE REENTRY PERMIT'S ID PAGE

[illegible]

Key data to look for on the ID page of a reentry permit includes:

- **Personal Data:** Check to make sure that all of your personal data is correct. This includes your name, date of birth, passport number, gender, etc.
- **Category:** This should read “PR,” assuming you are a permanent resident.
- **Personal #:** This should be the same A# as on your green card.
- **Issuance and Expiration Dates:** Check the issuance and expiration dates to be sure they are as expected.
- **Entries:** This should read “M” for multiple.
- **Restrictions:** There should be none.

4. TERMS AND CONDITIONS OF THE REENTRY PERMIT

4.1 VALIDITY

A reentry permit is generally valid for a maximum period of two years,⁵⁶ except:

- A permit issued to a conditional resident will not be valid beyond the date that conditional resident status expires, as shown on the I-551 or the receipt notice issued upon filing the Form I-751, Petition to Remove the Conditions of Residence.⁵⁷
- If you have been outside the U.S. for more than 4 of the last 5 years since becoming an LPR, the reentry permit will be limited to 1 year (except that the permit will be valid for 2 years in the case of an LPR who is a professional athlete, traveling on U.S. government orders, or employed by a public international organization).⁵⁸
- A reentry permit is voided if you are removed (i.e., deported or excluded) from the U.S.⁵⁹

The period of validity commences on the date of issuance and not on the date the application for the permit was filed.⁶⁰ During the period of validity, such permit can be used for multiple reentries into the US.⁶¹

A reentry permit cannot be extended,⁶² although a subsequent application can be filed.⁶³

4.2 SEEKING ADMISSION TO THE U.S. WITH A REENTRY PERMIT

To seek readmission to the U.S. at an international airport or other port of entry, present your reentry permit to the inspector. Carry your green card and passport too. The reentry permit will serve as a valid entry document, and it is

⁵⁶INA § 223(b). Interestingly, the permit is regarded as unexpired if you embark or enplane before its expiration, provided that the vessel arrives in the U.S. on a continuous voyage, not counting scheduled stops or emergency stops or layovers for connecting flights. 8 C.F.R. § 211.3.

⁵⁷8 C.F.R. § 223.3(a). “A reentry permit issued to a conditional permanent resident shall be valid for 2 years from the date of issuance, or to the date the conditional permanent resident must apply for removal of the conditions on his or her status, whichever comes first.” Further, “USCIS confirms that a re-entry permit will be issued to an individual who has already applied to remove the condition on his or her status (and has been issued a receipt as a result of the I-751 filing that extends the validity of the I-551 card for a period of one year) with a validity date that includes the automatic one year extension of the expiration date of the underlying CR alien registration card for the period the applicant is entitled up to the statutory limit of 2 years of a re-entry permit.” *Q&A from AILA-USCIS Service Center Operations Directorate (SCOPS) Call* (Aug. 12, 2009), AILA InfoNet Doc. No. 09082077.

⁵⁸Form I-131 Instructions at 2 (rev. Feb. 12, 2010).

⁵⁹8 C.F.R. § 223.3(b).

⁶⁰8 C.F.R. § 223.2.

⁶¹8 U.S.C. §1203(c).

⁶²8 C.F.R. § 223.3(c).

⁶³The prior INS practice of attaching additional pages to a reentry permit if there was no more space for the affixation of foreign visas has been discontinued. AFM 52.4 n.2.

presumptive—but not conclusive—evidence that you have not abandoned LPR status.

Inspection could be brief, or the officer could take you to a separate office for detailed questioning, perhaps under oath. The officer may interview you to determine issues such as:

- Whether you fall within any of the grounds of inadmissibility.
- Whether your reentry permit application contained any material false misrepresentation or concealment, which would void the permit.⁶⁴
- Whether your reentry permit was issued in error.⁶⁵
- Whether there is strong evidence overcoming the presumption that you haven't abandoned LPR status.⁶⁶

As mentioned above, the officer may ask for additional documentation that your trip abroad was temporary.⁶⁷ You should prepare such evidence before your trip and pack it in your carry-on luggage. This should include evidence that you were actually abroad for the reasons stated in your Form I-131. For example, if you are abroad for temporary work, it may be appropriate to present the temporary work contract and a recent paycheck stub. This should also include evidence that you have retained ties to the U.S. consistent with an intention to return to the U.S. as your main residence, such as evidence of an actual home and property ties in the U.S., family ties in the U.S., and payment of U.S. income taxes.

If the officer is satisfied, you will be admitted and the officer should stamp the reentry permit to show this.⁶⁸

But if the officer is not satisfied that your trip abroad has been merely temporary, the officer has several options:

- Refer you to deferred inspection to further investigate the matter.
- Allow you to withdraw your application for admission and return abroad.
- Allow you to relinquish your LPR status and be admitted as a nonimmigrant.

⁶⁴8 C.F.R. § 223.3(b); *see* INA § 223(b) (application must be made in “good faith”).

Forgery, counterfeiting, impersonation, or falsification in connection with a reentry permit is a crime, punishable by a fine and/or imprisonment. 18 U.S.C. § 1546.

⁶⁵*Matter of M*, 4 I.& N. Dec. 189 (BIA 1950) (reentry permit invalid where issued in error in that holder wasn't LPR).

⁶⁶It appears to be an open question as to what effect the reentry permit has if it explains one reason for a temporary trip abroad but subsequently your plans change and you stay abroad for a different reason. Presumably the presumption that the trip was temporary no longer applies, meaning that the safest plan would be to return to the U.S. and apply for a new permit.

⁶⁷IFM 13.1.

⁶⁸IFM 13.1.

- Issue a notice to appear for a removal (i.e., deportation or exclusion) hearing in Immigration Court.

Our law firm represents clients in preparing for seeking readmission to the U.S. when there is any doubt eligibility for readmission with the reentry permit.