



U.S. Department of Justice
Immigration and Naturalization Service

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Office of the Executive Associate Commissioner

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MEMORANDUM FOR REGIONAL DIRECTORS
DIRECTOR OF INTERNATIONAL AFFAIRS
OFFICER DEVELOPMENT AND TRAINING
FACILITY, GLYNCO
OFFICER DEVELOPMENT AND TRAINING
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FROM: Johnny N. Williams
Executive Associate Commissioner
Office of Field Operations

SUBJECT: Deferred Inspections Policy - IFM Update IN02-03

Effective immediately, the policies and procedures outlined in this document shall be followed when processing deferred inspections at ports-of-entry. To reflect these requirements and reiterate the proper procedures, the Inspectors Field Manual (IFM) will be updated in a future release of INSERTS. Please direct any questions relating to this policy to Floyd Sam Farmer, Assistant Chief Inspector at (202) 305-8153.

Chapter 17.1 of the IFM is revised to read as follows:

17.1 Deferred Inspection.

(a) General. A deferred inspection may be used when an immediate decision concerning admissibility cannot be made at a port-of-entry and the officer has reason to believe that the alien can overcome a finding of inadmissibility by presenting additional evidence or by further review of the case. In such cases the inspecting officer shall defer inspection to the office having jurisdiction over the area where the alien will be staying. Deferred inspections may be necessary in order to review an existing Service file or some other documentary evidence essential to clarifying admissibility. Deferral shall be for a specific purpose, not used as a way to transfer a difficult case to another office, and should normally only be used when it appears the case would probably be resolved in the alien's favor. Any alien who is not expected to establish his or her admissibility shall not be deferred. Before an alien is deferred, the inspecting officer shall consider the likelihood that the alien will abscond or pose a security risk. All persons being

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deferred shall be queried in the appropriate databases including, but not limited to, the interagency Border Inspection System (IBIS), the National Crime Information Center (NCIC) and the National Automated Immigration Lookout System (NAIIS)

These database queries shall be completed in order to determine if any adverse information exists that would preclude the alien from being paroled into the United States for deferred inspection and to provide additional information regarding the case. The results shall be noted on Form I-546, Order to Appear for Deferred Inspection.

Factors that may be considered when making a decision on whether to defer the inspection may include the following:

1. The likelihood that the alien will be able to establish admissibility;
2. The types of documents lacking, and the ability to obtain necessary documentation;
3. The good faith efforts on the part of the alien to obtain necessary documents prior to arrival at the port-of-entry;
4. The verification or establishment of the alien's identity and nationality.
5. Age, health, and family ties;
6. Other humanitarian considerations;
7. The likelihood that the alien would appear;
8. The nature of possible inadmissibility (i.e. criminal history, previous violations, etc.); and
9. The potential danger posed to society if the alien were to be paroled.

If the alien is clearly inadmissible or may pose a security risk or danger to society, the inspection shall not be deferred. The alien shall be placed in removal proceedings or allowed to withdraw his or her application for admission.

(b) Deferral procedures. Express approval of the District Director, Deputy District Director, Assistant District Director for Inspections, or Assistant District Director for Examinations is required before any inspection can be deferred. Current field guidance on approval authority can be found in Headquarters memorandum "Deferred Inspection, Parole and Waivers of Documentary Requirements" dated November 14, 2001. Current guidance states, in part, that aliens shall not be paroled for deferred inspection without the express approval of the District Director, Deputy District Director, Assistant District Director for Inspections, or Assistant District Director for Examinations (copy attached).

If an "A" file does not exist, one shall be opened. To determine if an "A" file exists, a query of the Central Index System (CIS) should be made. If there is an existing "A" file, the file number and files control office should be identified based on the CIS query so that the onward office can locate or request the file before the alien appears. In the event of an existing "A" file, all documentation shall be placed in a temporary "A" file. The "A" file or temporary "A" file shall be forwarded to the onward office along with the Form I-546.

An inspection shall be deferred using the new version of Form I-546 (Order to Appear for Deferred Inspection) revised date 12/12/01; Form I-259 (Notice to Detain, Remove or Present Alien), if appropriate; Form FD-249 (Fingerprint Card - Red); and Form I-94 (Arrival/Departure Record). The I-94 shall be stamped with a parole stamp and endorsed to show "DE, Deferred Inspection," the onward office code and date to which deferred, as well as the officer's admission stamp number, port, and action date. Parole the applicant for a brief period (not to exceed 30 days), sufficient for the paperwork to arrive at the onward office and for the applicant to obtain any necessary evidence to establish admissibility (additional guidelines related to parole can be found in Chapter 16.1 of the IFM). Inspectors shall complete the Interagency Border Information System (IBIS) secondary screen indicating a deferral. In the remarks section, enter the office deferred to, date of inspection, and reason for deferral. Each applicant whose inspection is deferred shall be photographed. Each alien whose inspection is deferred shall be fingerprinted on Form FD-249. Only one set needs be completed. The set of fingerprints shall be maintained with the other information related to the alien and forwarded to the onward office in the "A" file. This set of fingerprints is kept in the "A" file or temporary "A" file and used if the alien fails to appear for his or her scheduled deferred inspection. A copy of Form I-546 shall be maintained at the deferring office for a period of one year. For deferral procedures related to the Visa Waiver Program (VWP) see the Inspector's Field Manual chapter 15.7(g)(5).

The applicant shall be given the departure section of the Form I-94 and the appointment copy of the Form I-546 with a specific reporting date and a time block, rather than a specific time. Also provide the applicant with the telephone number of the onward office's deferred inspection unit. A complete list of deferred office addresses, phone numbers, and hours of operation are located in Appendix 17-1 of the Inspectors Field Manual.

Some local offices conduct deferred inspections only on certain days of the week, or during certain hours, and may have specific room numbers for deferred applicants. Secondary stations at ports-of-entry should have current information on office hours, addresses and room numbers, telephone numbers and jurisdictions of various sub-offices and satellite offices which handle deferrals. (See Appendix 17-1 for a list of deferred inspection locations.) A deferred inspection places additional unscheduled work on the onward office. Appearance for deferred inspection may place additional burdens on the applicant who may, in many cases, be required to spend considerable time and money to comply with the required deferral procedures. Ensure that the

Information provided to the onward office is sufficient to allow the onward office to complete the deferred inspection in a single appearance.

The remarks block on the Form I-546 should contain complete, accurate information for the inspector at the onward office. The deferring officer (recommending officer) should state specifically the purpose of the deferral and identify any documentation that the applicant is expected to produce. All relevant information, such as local address (a P.O. Box number is not an acceptable address) and phone numbers shall be included on Form I-546. The supervisory district will verify that the details on the form are correct, annotate the name of the appropriate district official approving the deferred inspection and sign the Form I-546. Include all forms in the "A" file along with any other documents relevant to the inspection, and forward to the onward office. Follow local procedures for deferrals within the same district.

In all air and sea cases, Form I-259 shall be served on the affected carrier or on the captain of a private aircraft or vessel. The officer should check the fourth block (Notice of potential liability under section 241(c), (d), or (e) of the Act). In the event the alien is formally ordered removed, an amended Form I-259 should be created by checking the second box (Notice to Remove the Alien from The United States on ___ at ___). The amended Form I-259 should be issued to the carrier responsible for removing the alien to the last port of embarkation to the United States. Aliens granted voluntary departure are responsible for costs associated with travel to the port of their arrival to the United States. However, if placed under INS control the Service will not hold the carrier responsible for the alien's detention and related expenses prior to the alien being delivered to the responsible carrier for removal from the United States. Once custody is transferred, any cost associated with detention or removal of the alien shall be borne by the carrier. Follow local guidelines and procedures for authorization to detain an alien for removal. Attach copies of the amended Form I-259 to the Form I-546 in the "A" file and forward a copy to the deferring POE.

The Form G-22.1 should be completed to indicate the category and reason for the deferred inspection. Instructions for completion of Form G-22.1 can be found in INSERTS.

(Go to INSERTS, click on Statistics handbook, next click on Operational statistics, then click on G-23 Procedures. After you click on G-23 Procedures, you will be at the table of contents, then select number 3. INSPECTIONS ACTIVITY WORKLOAD RECORDS (G-22.1F) PROCEDURES.)

(c) Processing a deferred inspection. The inspecting officer at the onward office should have received the deferral paperwork in advance of the applicant's appearance. An already existing Service file should be located and reviewed prior to the applicant's appearance. If the applicant is found admissible, a new Form I 94 shall be executed using the office symbol of the onward

office and the current date as the date of admission. The officer should ensure that the name, date of birth and country of citizenship written on the new Form I-94 is exactly the same as the information recorded on the Form I-94 issued at the time of the deferred inspection. If the inspecting officer concludes that the alien is inadmissible, the officer shall complete processing according to appropriate guidelines, which can be found in Chapters 17.2 through 17.17 of the IFM. Upon completion of the deferred inspection, use IO-95 to create a new record within IBIS to show the deferred inspection results. Indicate the disposition on the Form I-546 included in the "A" file and send one copy to the deferring office. Forward the original deferred Form I-94 departure section and the new arrival section to the recipient indicated in Appendix 15-8 for data entry.

The Form G-22.1 should be completed to indicate the disposition of the deferred inspection. The disposition shall be noted on the Form G-22.1 under other (PORT = Other) secondary inspections operation report, columns A-L, any applicable lines 46-126, and hour's lines 142-205. Instructions for completion of Form G-22.1 can be found in INSERTS as noted above.

(d) No shows. If an alien fails to appear for his or her deferred inspection, a Form I-862, Notice to Appear shall be executed using the information listed on the Form I-546 and mailed to the address provided. All information related to the case shall be added to the "A" file. A lookout must be posted in NAILS. All aliens who have lookouts posted shall be reported on line 65 of the G-22.1. Criminal penalties and the possible pursuit of a criminal warrant under 8 U.S.C. 1325 shall be pursued on a case-by-case basis. All related information shall be forwarded to the Senior Inspector Unit and/or the Criminal Investigations Unit to allow further follow-up of the case. All aliens who fail to appear and for whom prosecution is pursued shall be reported on line 69 (Prosecutable cases referred to INV) of the Form G-22.1.

(e) Attorney representation at deferred inspection. At a deferred inspection, an applicant for admission is not entitled to representation. See 8 CFR 292.5(b). However, an attorney may be allowed to be present upon request if the supervisory inspector on duty deems it appropriate. The role of the attorney in such a situation is limited to that of observer and consultant to the applicant.

(f) Medical deferrals. When deferring inspection for ground of inadmissibility under INA Section 212(a)(1) (medical), consult with the Public Health Service (PHS) before permitting the alien to proceed. If the alien is required to submit to further medical examination prior to reporting to the onward office, return all medical documents including local PHS certification and x-rays to the applicant in a sealed envelope for presentation to the doctor, medical clinic, or PHS facility as instructed. If the alien is to report first to the onward INS office, forward the medical documents with the deferral papers directly to the onward office.

Attachments (2)