

New USCIS Rules on the Horizon: Proposed Rule on Permanent Resident Card Replacements

Contributed by Igbanugo Partners International Law Firm
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The U.S. Citizenship & Immigration Services issued a proposed rule on Aug. 22, 2007 that would require permanent residents with the older version of Form I-551 (green card), with no expiration date, to apply for a new card. Green cards have carried expiration dates since 1989. The older versions are still valid unless and until a final rule goes into effect. Those holding permanent resident cards with no expiration date may replace their cards now, but are not yet required to do so.

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USCIS is now reviewing the 298 comments received on the proposed rule during the public comment period. The final rule, once published, will explain the process to replace the older green cards. The final rule will also set the time period during which USCIS will accept applications to replace these cards. To date, no time frame has been set. The Form I-90 application is used for replacing green cards, whether or not they have expiration dates.

When the filing period for applications has ended, USCIS will determine how long it will take to adjudicate the applications received. USCIS will then publish a notice in the Federal Register setting the date after which permanent resident cards with no expiration date are no longer valid.

The USCIS states, "This will ensure that affected customers who have submitted their applications will receive their new cards before the validity of their old cards expires."

Replacement of these cards promises to increase security of the immigration process. New cards will give the agency an opportunity to update the photograph and biometrics on the card. It will also provide the cardholder with a card containing greater security features and remove from circulation different versions of the same card.

DOS Publishes Interim Final Rule on Visa Fee Increase

The U.S. Department of State published an Interim Final Rule on Dec. 20, 2007, raising the fee charged for processing of immigrant and nonimmigrant visa applications, as well as Border Crossing Cards at consulates. The rule is effective Jan. 1, 2008 and comments are due Feb. 29, 2008.

In particular, the rule raises the fee charged for the processing of an application for a nonimmigrant visa (MRV) and Border Crossing Card (BCC) from \$100 to \$131, and increases the immigrant visa fee by \$20. The DOS states that it is increasing the fees as an emergency measure to ensure that sufficient resources are available to meet the costs of processing non-immigrant and immigrant visas in light of increased security measures put in place since 2004 and fee collection mandates on behalf of the Federal Bureau of Investigation.

USCIS Announces Revised Form I-9

On Nov. 7, 2007, USCIS announced that a revised Employment Eligibility Verification Form (I-9) is available for use as well as the M-274, Handbook for Employers, Instructions for Completing the Form I-9. Key to the revision is the removal of five documents for proof of both identity and employment eligibility. They include: Certificate of U.S. Citizenship (Form N-560 or N-570); Certificate of Naturalization (Form N-550 or N-570); the old Alien Registration Receipt Card (Form I-151); the Reentry Permit (Form I-327); and the Refugee Travel Document (Form I-571). While the USCIS encourages use of the new form immediately, this will not be required until notice is published in the Federal Register.

Proposed Rule Regarding Temporary Admission for HIV Positive Non-immigrants

The U.S. Department of Homeland Security (DHS) proposes to amend regulations related to admission of certain non-immigrants to the United States. In particular, this rule proposes to authorize short-term, nonimmigrant visas and temporary admission for foreign nationals who are inadmissible solely because they are HIV positive.

The proposed rule would provide, on a limited and categorical basis, a more streamlined process to authorize these non-immigrants to enter the United States as visitors (for business or pleasure) for up to thirty days, without being required to seek such admission under the more complex (individualized, case-by-case) process provided under the current DHS policy. The proposed rule would provide an additional avenue for temporary admission of HIV-positive non-immigrants while minimizing costs to the government and the risk to public health.

HIV-positive non-immigrants would still be subject to certain conditions that govern their admission and departure. For example, while in the United States, they would be required to use proper medication when medically appropriate and avoid behavior that can transmit the infection. Non-immigrants who do not meet the specific circumstances of these clarifying instructions or who do not wish to consent to the conditions that would be imposed by this proposed rule may still elect a case-by-case determination of their eligibility for a waiver of the nonimmigrant visa requirements for aliens infected with HIV.

Nothing in this article should be taken as legal advice for an individual case or situation. The information is intended to be general and should not be relied upon for any specific situation. For legal advice, consult an attorney experienced in immigration law.

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