NEWS RELEASE

March 21, 2000

INS Issues Final Regulations for HRIFA

1. **Does a Haitian applicant have to provide documentation from Haiti with the submission of their application or is their flexibility in this regard?**

   A. The final regulation allows the applicant to submit a letter showing that documentation from Haiti (e.g., birth certificate) has been requested. The applicant needs to bring this document to the interview with the INS official.

2. **What happens if an applicant has requested official documents from Haiti and has not received them yet?**

   A. The adjudicating officer or Immigration Judge may consider secondary information regarding nationality if the applicant has made an unsuccessful attempt to obtain official (Haitian) record. Some of the documents that may be presented are: baptismal and other religious records, passport, information in INS files, and other evidence and statements.

3. **Must all HRIFA applications submit police clearance with applications? What do you do with city or police jurisdictions that do not cooperate?**

   A. The final rule provides that the police clearance requirement will be waived if a community is known not to provide such documentation. Where applicable, however, applicants are required to provide a local police clearance for all locations where an applicant has lived for 6 months or longer since 14 years of age.

4. **How has the definition of "orphan" been relaxed? If so, how? Have the requirements to prove abandonment been relaxed, if so how?**

   A. The term "orphan" has been broadened to include those whose parents died before the child reached the age of 21, if the child meets all other requirements of HRIFA. The statute only requires the applicant be a child up until December 31, 1995. The final regulation provides that an applicant need not submit evidence that he or she has been officially declared an abandoned child. The applicant may submit evidence demonstrating that he or she meets the requirements of laws governing abandonment in the state of residence.

5.   **What is the policy on eligible Haitians who came from Guantanamo, Cuba by the INS with HIV/AIDS? Have the requirements for a waiver of inadmissibility on health related grounds been changed? If so, how?**

A. In adjudicating a 212(g) waiver requests from otherwise 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 the applicant is a person who was paroled to receive HIV/AIDS related medical treatment into the United States from Guantanamo, Cuba.

6.   **What provisions will be made locally for late filers who are filing on the last day? How late can they file? Will the Nebraska Service Center accept Fed-Ex mail through midnight March 31, 2000?**

A. March 31, 2000, is the deadline for filing applications for adjustment of status for principal applicants under HRIFA. According to INS regulations, applications by persons who are not currently in proceedings before Immigration Court can only be filed at the Nebraska Service Center. However, as the filing deadline approaches, there is a concern that some otherwise eligible persons may not be able to complete and file their applications in time for them to be received at the designated service center on or before March 31, 2000. Therefore, to avoid this possibility, all INS district offices, suboffices and service centers in the United States will accept applications for adjustment of status under the HRIFA programs, provided such applications meet the filing requirements during the week of March 27-31.

On Friday, March 31, 2000, each INS district office, suboffice and service center in the United States will make special provisions for receiving applications for adjustment of status under the and HRIFA programs through midnight.

7.   **Is a family cap or fee waiver in place for HRIFA applicants? How does an applicant apply?**

A. The Department of Justice considered but decided not to create a family cap fee for adjustment of status applicants under HRIFA. DOJ believes that a fee waiver is a more equitable procedure, which incorporates the Federal Poverty Guidelines. Fee waivers take into account family size and do not require a separate fee analysis. Furthermore, DOJ believes that a fee waiver would provide assistance to indigent families regardless of the family size. On the other hand, family cap benefits are for those who have large families, regardless of their financial situation. Also, a family cap would require a new fee structure, which requires a separate fee analysis.

8.   **What will happen if an applicant submits an application before the filing deadline with a request for a waiver of the filing fee and the waiver request is subsequently denied by INS?**

A. 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 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.

9.   **Is there a current deadline for advance parole for dependents under HRIFA? How will they be processed?**

A. No, there is no deadline. The Service announced 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). The Nebraska Service Center had previously been authorized to process advance parole requests until March 31, 2000, through an interim rule published in the Federal Register on May 12, 1999. INS has now authorized the Nebraska Service Center to continue to provide advance parole requests without interruption.