

7 FAM 1300 APPENDIX N PASSPORT WAIVERS, TRAVEL LETTERS AND EMERGENCY AFTER HOURS PASSPORT SERVICES

*(CT:CON-268; 10-15-2008)
(Office of Origin: CA/OCS/PRI)*

7 FAM 1310 APPENDIX N INTRODUCTION

(CT:CON-268; 10-15-2008)

- a. This Appendix addresses the rare situation when U.S. citizens/nationals have an urgent need to travel in life and death situations, either departing the United States or returning to the United States, or law enforcement related travel of fugitives under escort, when the issuance of a passport is not possible.
 - (1) The ability of the Department to issue passports quickly has decreased the use of both passport waivers (issued in the United States for travel abroad to certain countries) and travel letters (issued by posts abroad);
 - (2) Nevertheless, crisis situations abroad and unexpected emergency travel abroad in connection with the death or critical illness of an immediate relative occasionally require that the Department invoke these procedures.
 - (3) The issuance of a passport waiver or travel letter is an accommodation of last resort. If at all possible the person should obtain a U.S. passport.
- b. Cards of Identity and Registration are obsolete and are no longer issued. (See 7 FAM 1100 Appendix C (under development).)
- c. Verification of Citizenship and Identity: The passport authorizing officer must be satisfied as to the citizenship and identity of the person to whom a passport waiver (domestic) or travel letter (overseas) is issued. Also, the applicant's name must be cleared in the Consular Lookout and Support System (CLASS). Information establishing identity and citizenship may be obtained from (but are not limited to) a combination of the following:
 - (1) Passport Image Electronic Records System (PIERS);

- (2) Documents in the applicant's possession such as the previous passport, birth certificate and driver's license; or
 - (3) Statements of U.S. citizen identifying witness traveling companions (see 7 FAM 1327.1);
- d. Information establishing the critical emergency may be obtained from:
- (1) Conversations with and/or fax/email from the applicant, attending physician, clergy, funeral director, etc.;
 - (2) Conversations with U.S. consular officers or the Consular Affairs Passport Services (CA/PPT) or Consular Affairs Overseas Citizens Services (CA/OCS) duty officers; or
 - (3) Statements with and/or fax/e-mail submissions from family members or relatives of the applicant (usually a U.S. resident) in the United States directly with posts or with the CA/PPT or CA/OCS duty officers about the critical emergency.
- e. The loss or theft of a passport is not, in and of itself, a basis for the issuance of passport waiver or travel letter. (See 7 FAM 1370.)

7 FAM 1320 APPENDIX N AUTHORITIES

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- a. Section 215(b) INA (Immigration and Nationality Act of 1952, as amended) (8 U.S.C. 1185);
- b. 22 CFR 53.1, which provides "it is unlawful for a citizen of the United States, unless excepted under 22 CFR 53.2, to enter or depart, or attempt to enter or depart, the United States, without a valid U.S. passport."
- c. The provisions applicable to passport waivers and travel letters are found in 22 CFR 53.2A(f), 22 CFR 53.2A(h) and 22 CFR 53.2A(i), which provide: A U.S. citizen is not required to bear a valid U.S. passport to enter or depart the United States:
 - "(f) When the U.S. citizen bears another document, or combination of documents, that the Secretary of Homeland Security has determined under Section 7209(b) of Public Law 108-458 (8 U.S.C. 1185 note) (the Intelligence Reform and Terrorism Prevention Act of 2004) to be sufficient to denote identity and citizenship."
 - "(h) When the Department of State waives, pursuant to Executive Order 13323 of December 30, 2003, Section 2, the requirement with respect to the U.S. citizen because there is an unforeseen emergency; or

- “(i) When the Department of State waives, pursuant to Executive Order 13323 of December 30, 2003, Section 2, the requirement with respect to the U.S. citizen for humanitarian or national interest reasons.”
- d. See 22 CFR 53.2 as revised, 71 Federal Register 68430, Nov. 24, 2006.

7 FAM 1330 APPENDIX N AFTER HOURS EMERGENCY PASSPORT ISSUANCE

(CT:CON-268; 10-15-2008)

- a. Domestically, Passport Services' National Duty Officer handles calls from individuals with passport emergencies after normal office hours. The National Duty Officer Program is managed by the Field Coordination Division, Office of Field Operations (CA/PPT/FO/FC). The Passport National Duty Officer in Washington DC can:
- (1) Make the determination that a domestic emergency after hours issuance of a passport is warranted and possible; and
 - (2) Decide when a passport agency must open after-hours to issue a passport.
- b. The National Duty Officer may be contacted outside of normal working hours through the Department of State's switchboard (202-647-4000) or the Department's Operations Center (202-647-1512).
- c. Non-emergency after-hours passport services are not generally provided by posts abroad. It is a post management decision whether a duty officer should issue passports after hours. Because of the technical and systems knowledge necessary to issue a passport, and security issues related to opening a post after hours, this may not be feasible. This type of service is generally reserved for life and death emergencies or international crisis evacuations. (See 7 FAM 1350 Appendix N.)

7 FAM 1340 APPENDIX N PROCEDURES FOR ISSUANCE OF A DOMESTIC PASSPORT WAIVER FOR TRAVEL ABROAD

(CT:CON-268; 10-15-2008)

- a. A passport waiver is an exception to the passport requirement applicable in the case of an unforeseen life or death emergency. A passport waiver only exempts a U.S. citizen from U.S. law and does not constitute permission from the United States Government for a U.S. citizen to enter

a foreign country's territory. The destination country's immigration officials make the final decision on admission of an undocumented traveler.

- b. Since September 11, 2001, almost all airlines have denied requests to board passengers leaving the United States without valid passports, and therefore the waiver of the passport requirement has diminished markedly. Only one country, Israel, now permits the entry of U.S. citizens traveling in an emergency on the basis of a passport waiver, subject to secondary inspection.
- c. Domestically, only the Passport Services' employee specifically designated as the after hours National Duty Officer can make the determination that a passport waiver is warranted and possible. The National Duty Officer:
 - (1) Decides when a passport agency must open after-hours to issue a passport to an applicant who does not qualify for a passport waiver;
 - (2) Arranges for emergency searches of passport files for other offices in the Department of State; and
 - (3) Contacts the Duty Officer Program Coordinator and/or appropriate CA/PPT officials to deal with after-hours matters that require management or policy attention.
- d. Criteria for Domestic Passport Waiver. Domestic passport waivers are granted only when it is impossible for the applicant to obtain a passport prior to his or her departure from the United States on emergency travel and if the country to which the person is traveling accepts passport waivers.
- e. A passport waiver may only be authorized when:
 - (1) The applicant is traveling to a country with which the United States has an informal agreement permitting entry of a traveler without a passport (currently, only Israel); and
 - (2) There is a life or death situation that requires the applicant's immediate presence abroad. This is normally confined to the death, serious illness or serious injury of a member of the applicant's immediate family, life partner, etc. (An immediate family member includes the applicant's parents, siblings, spouse and children. Situations concerning the applicant's extended family members, such as grandparents or other relatives, will be managed on a case-by-case basis); or
 - (3) There is a case of "national interest" in which travel, normally of a U.S. Government employee, is necessary for the conduct of urgent United States Government business at the direction of a senior Bureau of Consular Affairs official; or

- (4) An error by Passport Services puts the applicant in a situation requiring a waiver of the passport requirement.
- f. Once the National Duty Officer has determined that a passport waiver may be authorized, has verified that the applicant's identity and citizenship, and cleared the applicant through CLASS, he or she:
- (1) Advises the applicant that the passport waiver exempts him or her from U.S. law (8 U.S.C. 1185) and is not a waiver of the foreign entry requirements of the country to which he or she is traveling;
 - (2) Advises the applicant that the United States cannot guarantee that he or she will be permitted to enter the foreign country;
 - (3) Gives the applicant an assessment of the destination country's attitude and procedures concerning U.S. citizens/nationals who arrive without proper documentation in accordance with duty guidance;
 - (4) Advises that the domestic National Duty Officer and U.S. consular officers overseas do not have authority to require any airline to board a passenger without a valid passport. In cases where a passport waiver is authorized but the airline refuses to board the passenger, the National Duty Officer should make alternative arrangements for emergency passport issuance at a domestic passport agency as soon as possible;
 - (5) Advises the applicant that he or she cannot return to the United States on the passport waiver but must obtain a U.S. passport;
 - (6) Contacts (calls, faxes or emails) the airline to inform them that the U.S. Government is granting the applicant a waiver of the passport requirement; and
 - (7) Sends a fax/email to the U.S. embassy or consular at the port of entry asking that they contact the appropriate officials in the destination country's Government and notify them of the applicant's imminent arrival.
- g. Contact Information. The National Duty Officer may be contacted outside of normal working hours through the Department of State's switchboard (202-647-4000) or the Department's Operations Center (202-647-1512).

7 FAM 1350 APPENDIX N PROCEDURES FOR ISSUANCE OF A TRAVEL LETTER BY U.S. EMBASSIES AND CONSULATES ABROAD

(CT:CON-268; 10-15-2008)

- a. Posts should issue travel letters only in rare or unusual circumstances described in this Appendix, where it is impossible to issue a passport. These circumstances include:
- (1) Law enforcement related travel letters *in situations other than extradition*. Such travel letters must be expressly authorized by CA/PPT/L/LA, which works with the U.S. law enforcement authority on matters related to revocation of the passport of the subject of an outstanding federal warrant. (See 7 FAM 1380 Passport Denial, Revocation, Restriction, Limitation and Surrender.)
 - (2) Travel letters generally should not be used in deportation situations (see 7 FAM 1625.5), or prisoner transfer situations (see 7 FAM 485.3-2), as these cases are not emergencies and there is usually sufficient time for the post to issue a limited validity passport to the applicant. If an extraditee refuses to sign a passport application, the consular officer can sign it without recourse, attach an explanation, issue the passport and furnish it to the U.S. law enforcement escort.
 - (3) *Extradition Related Travel Letters. In rare emergency situations when it is not possible to issue a passport limited for direct return to the United States, posts may issue travel letters in extradition situations with the authorization of CA/OCS/PRI as liaison with the Departments of Justice and Homeland Security and the Office of the Legal Adviser for Law Enforcement and Intelligence (L/LEI).*
- NOTE: The U.S. Department of Homeland Security, Customs and Border Protection has confirmed to CA/OCS/PRI that travel letters are sufficient for extradition related travel of a fugitive under law enforcement escort, the Western Hemisphere Travel Initiative (WHTI) notwithstanding.*
- (4) Crisis travel (life or death) related travel letters: Such travel letters may be authorized by post without Department approval.
 - (5) Catastrophic event (bombing, earthquake, etc.) which makes it impossible for the U.S. embassy or consulate to issue passports.
- b. Because a travel letter is neither a secure document nor proof of U.S. citizenship or identity, border security considerations require that the use of these documents be extremely rare. It facilitates the citizen's departure from the host country and provides immigration officials at the port of entry (POE) with information necessary to admit the traveler. However the bearer may still encounter difficulty on entering the United States.
- c. Travel letters will not be issued on weekends to facilitate routine travel. The applicant should be instructed to visit the embassy or consulate the

next business day during working hours to apply for a locally issued Emergency Photo Digitized Passport (EPDP) passport. In this context, extreme personal and financial hardship must involve significantly more than the inconvenience of a missed flight or expense of a lost airline ticket.

- d. Before developing post procedures for issuing travel letters, consultations should be conducted with host country and area transportation line officials to verify that this procedure can be used in unforeseen emergency situations.
- e. The consular officer should inform the officer in charge of U.S. Customs and Border Protection (CBP) at the POE of the prospective arrival of the U.S. citizen in need of a waiver. Provide the CBP officer with the citizen/national's arrival date and time, the name of the carrier and any other relevant travel data. If there is a U.S. CBP officer assigned to the U.S. embassy or consulate or other CBP office outside the United States, the post should coordinate with that office.
- e. Third Country Travel: When the subject of a travel letter is traveling to a third country, the consular or duty officer should contact his or her counterpart in the U.S. embassy in the third country, prior to the U.S. citizen's travel, to ascertain whether the immigration authorities of that country will permit a U.S. citizen to enter on the basis of a travel letter. If third country officials will not permit entry or transit with a travel letter, it would be inappropriate to issue one. If permitted, provide the U.S. consular/duty officer with the name of the traveler, the arrival date and time, name of carrier and any other relevant travel data. Modify the text of the travel letter in 7 FAM 1300 Appendix N Exhibit 1 to address the third country immigration authorities.
- f. Posts generally may not process requests for travel letters solely on the basis of telephone conversations with airline or immigration personnel who have an alleged U.S. citizen in front of them at these points of departure. A face-to-face interview of the applicant is usually essential in making a determination to issue a travel letter. (See 7 FAM 1390 Appendix N for guidance regarding what to do when there is a critical need to travel and there is no U.S. embassy or consulate in the country where the U.S. citizen is located.)

7 FAM 1360 APPENDIX N FORMAT AND COPIES OF THE TRAVEL LETTER

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- a. Consular Affairs suggests that the travel letter format be similar to the one shown in 7 FAM 1300 Appendix N Exhibit 1. It may be adapted for

local requirements as necessary.

- b. The CBP requires that the letter contain the citizen's name, date and place of birth, photo, a reason why the passport is not available, and that it be signed and sealed by the consular officer.
- d. Comply with host country or carrier requirements, and provide translations of the documents as needed for host country officials.
- e. Photograph: The bearer's photograph should be affixed to the lower left-hand corner of each of the four letters (host country immigration, carrier, CBP and post). The embassy or consulate dry seal should be impressed over the photograph. Any photograph which presents a good likeness of the person is acceptable, including photo machine strips, other instant photos, digital photographs, etc. The photos on the letters do not need to be identical. A digital photo printed on a portable black and white printer is sufficient in emergencies. 7 FAM 1300 Appendix E Passport Photographs provides guidance on photo requirements.
- f. The travel letter should be prepared in quadruplicate: One copy for host country immigration officials, one copy for the airline officials, one copy for the applicant to present to CBP at the POE and one copy for the post's files. Seal the first three copies in separate official envelopes, each addressed to the appropriate authority. Place a consular seal (wet seal) on the envelope seam and cover with a strip of clear tape to prevent tampering.
- g. If the traveler must transit other countries en route to a direct flight to the United States, or must change planes or otherwise deal with immigration officials of a third (or fourth) country, the consular or overseas post duty officer should contact his/her counterpart(s) in the country(ies) to be transited to ascertain whether the immigration authorities of such country(ies) will permit a U.S. citizen to transit on the basis of a travel letter. If yes, additional copies of the travel letter should be prepared for the immigration officials of such country(ies). If not, it is inappropriate to issue a travel letter.

7 FAM 1370 APPENDIX N FEES FOR PASSPORT WAIVER OR TRAVEL LETTERS

(CT:CON-268; 10-15-2008)

- a. No fee is charged for the issuance of a passport waiver or travel letter.
- b. After-hour surcharges and out of office charges (22 CFR 22.1 item 70) apply only to fee services and therefore cannot be charged.

7 FAM 1380 APPENDIX N OVERSEAS CRISIS CASE WHEN IT IS NOT POSSIBLE TO ISSUE A PASSPORT OR TRAVEL LETTER

(CT:CON-268; 10-15-2008)

- a. In a dire emergency such as a mass evacuation under gun fire or natural disaster victims may be transported from the scene of the danger and processed for evacuation in a third country. In these circumstances, while triage is conducted at the first embarkation point, the evacuees may not be issued passports or travel letters until they reach a safe haven third country. CA/OCS will give authorization and guidance for this procedure.
- b. Alert CA/OCS, if the destination is the United States, or the post in a safe haven country where the evacuation flight is scheduled to land. When necessary, CA/OCS or the Consular Crisis Task Force or Working Group will assist posts in clearing names through CLASS and verifying citizenship records in PIERS or otherwise adjudicating the case. (See 7 FAM 1800 Consular Crisis Management and 12 FAH-1.)

7 FAM 1390 APPENDIX N CRITICAL NEED TO TRAVEL - NO U.S. EMBASSY OR CONSULATE IN THE COUNTRY OR TERRITORY WHERE THE CITIZEN/NATIONAL IS LOCATED

(CT:CON-268; 10-15-2008)

- a. The Department is mindful that some consular districts include jurisdictions in countries hundreds or thousands of miles away from the U.S. embassy or consulate, which is in fact located in another country. The consular district of the U.S. Embassy in Fiji, for example, encompasses seven countries and territories scattered across 4 million square miles of ocean, and plane connections between these locations are often cumbersome, infrequent, indirect and very expensive.
- b. CA/OCS is willing to grant some latitude to U.S. embassies and consulates in such circumstances. However, posts' authority to issue such travel letters is limited to cases in which the applicant is boarding a flight to the United States or to the location of the U.S. embassy or consulate, (Suva, Fiji, for example), where the applicant can then apply for an emergency passport for an onward destination. Posts must have explicit authorization from CA/OCS/ACS to issue travel letters under these circumstances. This general authorization (post specific, not case by

case) will be provided by telegram after CA/OCS/ACS assesses the post's proposed justification for the exception to the general policy, which must be submitted by telegram. Authorization will be provided by the Director of CA/OCS/ACS.

- c. Before issuing a travel letter, the post's consular officer must be totally satisfied of the applicant's identity and his or her claim to U.S. citizenship. Previous passport issuance should be checked through PIERS and the subject must clear the CLASS name check system.
- d. Posts should cultivate and rely on trustworthy contacts within the local airlines security offices and the local immigration service and law enforcement community to assist with establishing identity. Whenever possible, local authorities should be asked to transmit to post a clear photo of the applicant through electronic means or fax to enable the consular officer to make a positive identification and to provide a documentary basis for establishing the subject's identity. This may allow the consular officer to compare a photograph with imaged passport data available through the PIERS system.
- e. If distance and flight availability preclude a face-to-face interview, the consular officer may conduct an interview by phone, ideally with the participation of the local airline security official or immigration/law enforcement official.
- f. While CA/OCS recognizes that the nature of a consular district such as Suva's might make issuance of travel letters appropriate more frequently than in other districts, the consular officer should decide each case on its own merits, considering the urgency for the applicant's travel and the feasibility of requiring a passport applicant to apply by mail if post is authorized to do so (see 7 FAM 1362) or in person. Posts should keep in mind the emergency nature of a travel letter and the Department's strong preference for issuing an emergency limited passport in lieu of a travel letter when at all possible.
- g. Questions about this procedure should be directed to post's liaison officer in CA/OCS/ACS. Legal or policy questions may be directed to CA/OCS/PRI at ASKPRI@state.gov.

7 FAM 1300 APPENDIX N EXHIBIT 1 SAMPLE TRAVEL LETTER

(CT:CON-268; 10-15-2008)

Post Letterhead

Memorandum

Date

Reply to the attention of: U.S. Embassy -----, Consular Section

Subject: Waiver of U.S. Passport Requirement 22 CFR 53.2(h)

To: Officer in Charge: U.S. Customs and Border Protection Port of Entry (U.S. airport, city) and Immigration Authorities at (Foreign Airport) and (Air Carrier)

The bearer of this letter is (insert name), a U.S. citizen born on (date) at (place of birth) who does not presently possess a valid passport. The bearer has a critical need to travel because:

- The applicant is the subject of an emergency medical evacuation.
- He or she has a life or death situation abroad ... (insert text).
- He or she is the subject of an extradition deportation order traveling under U.S. law enforcement escort.
- He or she is the subject of a prisoner transfer traveling under U.S. law enforcement escort.
- He or is is being evacuated due to natural disaster or crisis.
- The U.S. Embassy is unable to issue a passport because (insert text)

His/her name cleared the Consular Lookout and Support System (CLASS). Because of the bearer's urgent need to travel to the United States before normal passport services can be provided during regular business hours of the U.S. Embassy, it would be appreciated if the passport requirement in this case be waived under the regulatory guidelines of 22 CFR 53.2(h). For further information about this matter contact the undersigned (or OCS Duty Officer) at (phone/email address.)

Signature of Consular Officer or Duty Officer

Typed Name of Consular Officer or Duty Officer

Title of Consular Officer or Duty Officer

Name of Post

Date

Photo of Subject with Seal