

March 11, 2011

MEMORANDUM FOR: Directors, Field Operations
Office of Field Operations

Director, Preclearance
Operations

FROM: Executive Director /s/
Admissibility and Passenger Programs

SUBJECT: VWP Departures Interrupted by the Japan Earthquake

The earthquake in Japan has resulted in the delay or cancellation of many flights to that area. Many temporary visitors from the affected region have entered the United States under the Visa Waiver Program (VWP). There is no provision under U.S. law to extend the stay of an alien admitted under the VWP. The only form of relief for an alien admitted under the VWP who is unable to depart timely due to emergent circumstances is the exercise of Satisfactory Departure.

Pursuant to Title 8 Code of Federal Regulations section 217.3(a), if an emergency prevents an alien admitted under the VWP from departing the United States within the period of authorized stay, a period of Satisfactory Departure may be granted not to exceed 30 days provided that the request is made during the period of admission and the alien is still in status at the time of the request. If departure is made within that period, the alien is regarded as having made a timely departure without overstaying the allowed time. In emergent circumstances, requests for Satisfactory Departure may be granted if the alien is out of status but can prove the intent was to depart timely.

Requests for Satisfactory Departure are generally adjudicated by U.S. Citizenship and Immigration Services. However, in extraordinary circumstances, CBP may adjudicate requests for Satisfactory Departure. Many aliens admitted under the VWP may be stranded at U.S airports due to cancelled flights. Where appropriate CBP should grant Satisfactory Departure if the alien is awaiting a cancelled flight and the period of VWP admission is expiring prior to the traveler's ability to depart.

Authority to grant Satisfactory Departure is delegated to a second-line Supervisory CBP officer. CBP officers with 1-94 maintenance authority must update DHS databases to indicate the additional time period authorized and the reason for the additional time in a "Comments" or "Itinerary" field.

The provisions of Satisfactory Departure apply only to those individuals admitted under the VWP. All other aliens applying for an extension of stay must do so through U.S. Citizenship and Immigration Services using Form 1-539.

Questions or concerns regarding the VWP and Satisfactory Departure procedures may be directed to

[REDACTED]

Attachment

Weekly Muster

Date: March 11, 2011

Topic: VWP Departures Interrupted by the Japan Earthquake

Headquarters POC: (b) (7)(C), (b) (6)

Office: Admissibility and Passenger Programs/Electronic System for Travel Authorization

- Due to the earthquake in Japan, many aliens admitted under the Visa Waiver Program (VWP) may be stranded at U.S airports due to cancelled flights.
- Satisfactory Departure is the only form of relief for an alien admitted under the VWP who is unable to depart timely due to emergent circumstances.
- Under section 217.3 of Title 8 Code of Federal Regulations, if an emergency prevents an alien admitted under the VWP from departing the United States within the period of authorized stay, Satisfactory Departure may be granted not to exceed 30 days provided that the request is made during the period of admission and the alien is still in status at the time of the request.
- Authority to grant Satisfactory Departure is delegated to a second-line Supervisory CBP officer.
- CBP officers with I-94 maintenance authority must update DHS databases to indicate the additional time period authorized, and the reason for the additional time in a (b) (7)(E) (b) (7)(E)
- The provisions of satisfactory departure apply only to those individuals admitted under the VWP. All other aliens applying for an extension of stay must do so through U.S. Citizenship and Immigration Services using Form I-539.