

## § 235.12

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Form I-829, Petition by Entrepreneur to Remove Conditions, within the 90-day period immediately preceding the second anniversary of the alien's admission for permanent residence.

(b) *Correction of endorsement on immigrant visa.* If the alien is subject to the provisions of section 216 of the Act, but the classification endorsed on the immigrant visa does not so indicate, the endorsement shall be corrected and the alien shall be admitted as a lawful permanent resident on a conditional basis, if otherwise admissible. Conversely, if the alien is not subject to the provisions of section 216 of the Act, but the visa classification endorsed on the immigrant visa indicates that the alien is subject thereto (e.g., if the second anniversary of the marriage upon which the immigrant visa is based occurred after the issuance of the visa and prior to the alien's application for admission) the endorsement on the visa shall be corrected and the alien shall be admitted as a lawful permanent resident without conditions, if otherwise admissible.

(c) *Expired conditional permanent resident status.* The lawful permanent resident alien status of a conditional resident automatically terminates if the conditional basis of such status is not removed by the Service through approval of a Form I-751, Petition to Remove the Conditions on Residence or, in the case of an alien entrepreneur (as defined in section 216A(f)(1) of the Act), Form I-829, Petition by Entrepreneur to Remove Conditions. Therefore, an alien who is seeking admission as a returning resident subsequent to the second anniversary of the date on which conditional residence was obtained (except as provided in § 211.1(b)(1) of this chapter) and whose conditional basis of such residence has not been removed pursuant to section 216(c) or 216A(c) of the Act, whichever is applicable, shall be placed under removal proceedings. However, in a case where conditional residence was based on a marriage, removal proceedings may be terminated and the alien may be admitted as a returning resident if the required Form I-751 is filed jointly, or by the alien alone (if appropriate), and approved by the Service. In the case of an alien entrepreneur, removal proceedings may

be terminated and the alien admitted as a returning resident if the required Form I-829 is filed by the alien entrepreneur and approved by the Service.

[62 FR 10360, Mar. 6, 1997]

### § 235.12 Global Entry program.

(a) *Program description.* The Global Entry program is a voluntary international trusted traveler program consisting of an integrated passenger processing system that expedites the movement of low-risk air travelers into the United States by providing an alternate inspection process for pre-approved, pre-screened travelers. In order to participate, a person must meet the eligibility requirements specified in this section, apply in advance, undergo pre-screening by CBP, and be accepted into the program. The Global Entry program allows participants expedited entry into the United States at selected airports identified by CBP at [www.globalentry.gov](http://www.globalentry.gov). Participants will be processed through the use of CBP-approved technology that will include the use of biometrics to validate identity and to perform enforcement queries.

(b) *Program eligibility criteria—(1) Eligible individuals.* The following individuals, who hold a valid, machine-readable passport, a valid, machine-readable U.S. Lawful Permanent Resident Card (Form I-551), or other appropriate travel document as determined by CBP, may apply to participate in Global Entry:

(i) U.S. citizens, U.S. nationals, and U.S. lawful permanent residents absent any of the disqualifying factors described in paragraph (b)(2) of this section.

(ii) Certain nonimmigrant aliens from countries that have entered into arrangements with CBP concerning international trusted traveler programs absent any of the disqualifying factors described in paragraph (b)(2) of this section, and subject to the conditions set forth in the particular arrangement. Individuals from a country that has entered into such an arrangement with CBP may be eligible to apply for participation in Global Entry only after CBP announces the arrangement by publication of a notice in the

FEDERAL REGISTER. The notice will include the country, the scope of eligibility of nonimmigrant aliens from that country (*e.g.*, whether only citizens of the foreign country or citizens and non-citizens are eligible) and other conditions that may apply based on the terms of the arrangement. CBP may change or terminate these arrangements without prior notice to the public, but will announce such actions as soon as practicable on [www.globalentry.gov](http://www.globalentry.gov) and by publication of a notice in the FEDERAL REGISTER.

(iii) Persons under the age of 18 who meet the eligibility criteria of paragraph (b)(1)(i) or (ii) of this section must have the consent of a parent or legal guardian to participate in Global Entry and provide proof of such consent in accordance with CBP instructions.

(2) *Disqualifying factors.* An individual is ineligible to participate in Global Entry if CBP, at its sole discretion, determines that the individual presents a potential risk for terrorism, criminality (such as smuggling), or is otherwise not a low-risk traveler. This risk determination will be based in part upon an applicant's ability to demonstrate past compliance with laws, regulations, and policies. Reasons why an applicant may not qualify for participation include:

(i) The applicant provides false or incomplete information on the application;

(ii) The applicant has been arrested for, or convicted of, any criminal offense or has pending criminal charges or outstanding warrants in any country;

(iii) The applicant has been found in violation of any customs, immigration, or agriculture regulations, procedures, or laws in any country;

(iv) The applicant is the subject of an investigation by any federal, state, or local law enforcement agency in any country;

(v) The applicant is inadmissible to the United States under applicable immigration laws or has, at any time, been granted a waiver of inadmissibility or parole;

(vi) The applicant is known or suspected of being or having been engaged in conduct constituting, in preparation

for, in aid of, or related to terrorism; or

(vii) The applicant cannot satisfy CBP of his or her low-risk status or meet other program requirements.

(c) *Participating airports.* The Global Entry program allows participants expedited entry into the United States at the locations identified at [www.globalentry.gov](http://www.globalentry.gov). Expansions of the Global Entry program to new airports will be announced by publication in the FEDERAL REGISTER and at [www.globalentry.gov](http://www.globalentry.gov).

(d) *Program application.* (1) Each applicant must complete and submit the program application electronically through an approved application process as determined by CBP. The application and application instructions for the Global Entry program are available at [www.globalentry.gov](http://www.globalentry.gov).

(2) Each applicant must pay a non-refundable fee in the amount set forth at 8 CFR 103.7(b)(1)(ii)(M) for "Global Entry" at the time of application. The fee is to be paid to CBP at the time of application through the Federal Government's on-line payment system, Pay.gov or other CBP-approved process.

(3) Every applicant accepted into Global Entry is accepted for a period of 5 years provided participation is not suspended or terminated by CBP prior to the end of the 5-year period. Each applicant may apply to renew participation up to one year prior to the close of the participation period.

(4) Each applicant may check the status of his or her application through his or her account with the application system in use for Global Entry.

(e) *Interview and enrollment.* (1) After submitting the application, the applicant will be notified by CBP to schedule an in-person interview at a Global Entry enrollment center.

(2) Each applicant must bring to the interview with CBP the original of the identification document specified in his or her application. During the interview, CBP will collect biometric information from the applicant (*e.g.*, a set of ten fingerprints and/or digital photograph) to conduct background checks or as otherwise required for participation in the program.

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(3) CBP may provide for alternative enrollment procedures, as necessary, to facilitate enrollment and ensure an applicant's eligibility for the program.

(f) *Valid machine-readable passport or valid lawful permanent resident card.* Each participant must possess a valid, machine-readable passport, a valid, machine-readable U.S. Lawful Permanent Resident Card (Form I-551), or other appropriate travel document as determined by CBP.

(g) *Arrival procedures.* In order to utilize the Global Entry program upon arrival in the United States, each participant must:

(1) Use the Global Entry kiosk and follow the on-screen instructions;

(2) Declare all articles being brought into the United States pursuant to 19 CFR 148.11. A Global Entry participant will be redirected to the nearest open passport control primary inspection station if the participant declares any of the following:

(i) Commercial merchandise or commercial samples, or items that exceed the applicable personal exemption amount;

(ii) More than \$10,000 in currency or other monetary instruments (checks, money orders, *etc.*), or foreign equivalent in any form; or

(iii) Restricted/prohibited goods, such as agricultural products, firearms, mace, pepper spray, endangered animals, birds, controlled substances, fireworks, Cuban goods, and plants.

(h) *Application for entry, examination and inspection.* Each successful use of Global Entry constitutes a separate and completed inspection and application for entry by the participant on the date that Global Entry is used. Pursuant to the enforcement provisions of 19 CFR Part 162, Global Entry participants may be subject to further CBP examination and inspection at any time during the arrival process.

(i) *Pilot participant enrollment.* Upon implementation of the Global Entry Program, participants in the Global Entry pilot will be automatically enrolled in the Global Entry Program for 5 years from the date of enrollment in the pilot.

(j) *Denial, removal and suspension.*

(1) If an applicant is denied participation in Global Entry, CBP will notify

the applicant of the denial, and the reasons for the denial. CBP will also provide instructions regarding how to proceed if the applicant wishes to seek additional information as to the reason for the denial.

(2) A Global Entry participant may be suspended or removed from the program for any of the following reasons:

(i) CBP, at its sole discretion, determines that the participant has engaged in any disqualifying activities under the Global Entry program as outlined in § 235.12(b)(2);

(ii) CBP, at its sole discretion, determines that the participant provided false information in the application and/or during the application process;

(iii) CBP, at its sole discretion, determines that the participant failed to follow the terms, conditions and requirements of the program;

(iv) CBP, at its sole discretion, determines that the participant has been arrested or convicted of a crime or otherwise no longer meets the program eligibility criteria; or

(v) CBP, at its sole discretion, determines that such action is otherwise necessary.

(3) CBP will notify the participant of his or her suspension or removal in writing. Such suspension or removal is effective immediately.

(4) An applicant or participant denied, suspended, or removed does not receive a refund, in whole or in part, of his or her application processing fee.

(k) *Redress.* An individual whose application is denied or whose participation is suspended or terminated has three possible methods for redress. These processes do not create or confer any legal right, privilege or benefit on the applicant or participant, and are wholly discretionary on the part of CBP. The methods of redress are:

(1) *Enrollment center.* The applicant/participant may contest his or her denial, suspension or removal by writing to the enrollment center where that individual's interview was conducted. The enrollment center addresses are available at [www.globalentry.gov](http://www.globalentry.gov). The letter must be received by CBP within 30 calendar days of the date provided as the date of suspension or removal. The individual should write on the envelope "Redress Request RE: Global Entry."

The letter should address any facts or conduct listed in the notification from CBP as contributing to the denial, suspension or removal and why the applicant/participant believes the reason for the action is invalid. If the applicant/participant believes that the denial, suspension or revocation was based upon inaccurate information, the individual should also include any reasonably available supporting documentation with the letter. After review, CBP will inform the individual of its redress decision. If the individual's request for redress is successful, the individual's eligibility to participate in Global Entry will resume immediately.

(2) *DHS Traveler Redress Inquiry Program (DHS TRIP)*. The applicant/participant may choose to initiate the redress process through DHS TRIP. An applicant/participant seeking redress may obtain the necessary forms and information to initiate the process on the DHS TRIP Web site at [www.dhs.gov/trip](http://www.dhs.gov/trip), or by contacting DHS TRIP by mail at the address on this Web site.

(3) *Ombudsman*. Applicants (including applicants who were not scheduled for an interview at an enrollment center) and participants may contest a denial, suspension or removal by writing to the CBP Trusted Traveler Ombudsman at the address listed on the Web site [www.globalentry.gov](http://www.globalentry.gov).

[77 FR 5690, Feb. 6, 2012]

**PART 236—APPREHENSION AND DETENTION OF INADMISSIBLE AND DEPORTABLE ALIENS; REMOVAL OF ALIENS ORDERED REMOVED**

**Subpart A—Detention of Aliens Prior to Order of Removal**

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AUTHORITY: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1227, 1231, 1362; 18 U.S.C. 4002, 4013(c)(4); 8 CFR part 2.

SOURCE: 62 FR 10360, Mar. 6, 1997, unless otherwise noted.

**Subpart A—Detention of Aliens Prior to Order of Removal**

**§ 236.1 Apprehension, custody, and detention.**

(a) *Detainers*. The issuance of a detainer under this section shall be governed by the provisions of § 287.7 of this chapter.

(b) *Warrant of arrest—(1) In general*. At the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest. A warrant of arrest may be issued only by those immigration officers listed in § 287.5(e)(2) of this chapter and may be served only by those immigration officers listed in § 287.5(e)(3) of this chapter.

(2) If, after the issuance of a warrant of arrest, a determination is made not to serve it, any officer authorized to issue such warrant may authorize its cancellation.

(c) *Custody issues and release procedures—(1) In general*. (i) After the expiration of the Transition Period Custody Rules (TPCR) set forth in section 303(b)(3) of Div. C of Pub. L. 104-208, no alien described in section 236(c)(1) of the Act may be released from custody during removal proceedings except pursuant to section 236(c)(2) of the Act.

(ii) Paragraph (c)(2) through (c)(8) of this section shall govern custody determinations for aliens subject to the TPCR while they remain in effect. For