

3/15/2013

MEMORANDUM FOR: Directors, Field Operations
Director, Preclearance Operations
Office of Field Operations

FROM: Executive Director /s/
Admissibility and Passenger Programs

SUBJECT: Alien Admitted as a Non-Controlled Visitor Without an I-94

The Office of Field Operations (OFO) is clarifying guidance for aliens admitted as Non-Controlled Visitors without an I-94.

The Immigration and Nationality Act (INA) section 212(a)(9)(B)(ii) provides that an alien is “deemed to be unlawfully present in the United States if the alien is present in the United States after the expiration of the period of stay authorized or is present in the United States without being admitted or paroled.” The definition of the term “expiration of the period of stay authorized” is perceived to be problematic in the instance of an alien admitted as a non-controlled temporary visitor for business or pleasure.

The INA 212(a)(9)(B)(i)(I) and 212 (a)(9)(B)(i)(II) considers that an alien who remains in the United States beyond the authorized period to be unlawfully present and becomes subject to the 3 or the 10 year bar. The I-94 reflects the terms and conditions of an admission, but the terms and conditions of the admission do not change if the alien was not issued an I-94 at entry.

Where sufficient evidence exists through a sworn statement, or system checks to establish that a non-controlled nonimmigrant has remained in the United States beyond the authorized period of stay, and may be inadmissible under 212(a)(9)(B)(i)(I) and 212 (a)(9)(B)(i)(II), CBP Officers should

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Please ensure that this memorandum is disseminated to all ports of entry within your jurisdiction.

If you have any questions or require additional information, please contact (b) (6), (b) (7)(C) Deputy Executive Director, Admissibility and Passenger Programs at (b) (6), (b) (7)(C)

Weekly Muster

Week of Muster: Upon receipt

Topic: Alien Admitted as a Non-Controlled Visitor Without an I-94

HQ POC/Office: (b) (6), (b) (7)(C)

Office: Enforcement Programs

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~~-Law Enforcement Sensitive
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