



**U.S. Customs and
Border Protection**

DEC 16 2008

MEMORANDUM FOR: Executive Directors, Field Operations
Directors, Field Operations
Director, Preclearance

FROM: Executive Director (b) (6), (b) (7)(C)
Jon Admissibility and Passenger Programs

SUBJECT: Changes to Admission under the Religious Worker (R-1)
Classification Resulting from the Final Religious Worker Rule
Published in the Federal Register on 11/26/2008

On November 26, 2008, a final rule on religious workers was published in the Federal Register and immediately became effective. This memo outlines changes in the requirements and terms of admission for religious workers.

These changes are a result of U.S. Citizenship and Immigration Services (USCIS), Final Rule, 8 CFR 214.2(r)(4)(i). The rule allows USCIS an earlier opportunity to review whether the petitioning religious organization and the religious worker have met their respective requirements, prior to the beneficiary receiving religious worker status, either through change of status, extension of stay, or admission on an R-1 visa. The final rule is designed to improve the Department of Homeland Security's ability to (b) (7)(E)

(b) (7)(E) Previously, religious workers were able to request an R-1 religious worker visa at a consular post without any prior stateside review of the religious organization or job offer. The final rule requires applicants seeking admission to the United States through the nonimmigrant religious worker program to provide a consular post abroad an approved Form I-129, Petition for Alien Worker. Stateside review of the petition will allow USCIS to verify that the petitioner and the job offer are legitimate prior to the issuance of a visa and admission of the religious worker to the United States through a port-of-entry.

Initial Admission:

Effective November 26, 2008, nonimmigrant religious workers will no longer be issued R-1 visas unless they are the beneficiary of an approved R-1 nonimmigrant visa petition. The requirement of an approved petition also applies to visa exempt religious workers, e.g., Canadians. See 8 CFR 214.2(r)(4)(i), which states in part that, if visa exempt, the R-1 applicant for admission must present original documentation of the I-797 Notice of Petition Approval. Therefore, visa exempt religious workers seeking initial admission to the United States in R-1 classification after November 26, 2008, must present evidence of an approved R-1 petition.

~~For Official Use Only~~

The final rule has also changed the initial period of authorized stay from three years to up to thirty (30) months. Therefore, persons making an initial application for admission as an R-1 should be admitted for the length of the petition, but not more than 30 months. Religious workers will be allowed one extension of up to an additional 30 months.

Readmission-

Effective 11/26/08 the readmission for an R-1 is dependent on the date of initial entry to the United States:

- Readmission for those whose initial entry was on or before 11/25/08:
 - R-1s may be readmitted to the United States for the remainder of their unused time on their period of authorized stay in increments of 3 years up to the 5 year maximum, provided they are otherwise admissible.
 - No evidence of an approved I-797 petition is required for the readmission of these R-1 nonimmigrants.

- Readmission for those whose initial entry is after 11/26/08:
 - R-1 applicants whose initial admission was after 11/26/08 and who meet the requirements for readmission must also meet the same requirements as for initial admission and provide evidence of an approved petition or a nonimmigrant visa.

A religious worker is defined as an individual engaged in and, according to the denomination's standards, qualified for a religious occupation or vocation, whether or not in a professional capacity, or as a minister.

The R-1 nonimmigrant that has spent five years in the U.S. in R-1 status may not be readmitted to the United States under the R visa classification unless the individual has resided abroad and has been physically present outside of the United State for the immediate prior year.

The limitations in this paragraph shall not apply to R-1 individuals who did not reside continually in the United States and whose employment in the U.S. was seasonal or intermittent.

The final rule retains the petitioning requirement, but continues to allow an alien seeking special immigrant religious worker status to submit a petition (Form I-360) on his or her behalf. A nonimmigrant alien seeking R-1 status cannot self-petition, but must have an employer submit a petition (Form I-129) on his behalf.

Religious Worker Guidance Memo
Page 3

Verification of an approved petition can be made by the presentation of form I-797, annotation of the petition number on the face of the visa, or checking in (b) (7)(E) for approval.

For more information on the final rule, visit the Federal Register website where you can access the rule in PDF format: <http://federalregister.gov/page2.aspx> or the National Customer Service Center at (800) 375-5283 or contact (b) (6), (b) (7)(C), Program Manager, at (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C)

Please ensure the attached muster is briefed as soon as possible.

Attachments

~~For Official Use Only~~

Weekly Muster

Week of Muster: **Immediately**

Topic: **Changes to the Religious Workers (R-1) Classification**

Reference Materials: **8 CFR Parts 204, 214.2(r)(4)(i) and 214.2r(7) and 299**

Headquarters POC: **(b) (6), (b) (7)(C)**
Office of Field Operations

- Effective 11/26/08, R-1s will no longer be issued R-1 visas unless they are the beneficiary of an approved R-1 nonimmigrant visa petition.
- Effective 11/26/08, an R-1 who meets all the requirements may be admitted to the U.S. for an initial period of up to 30 months from the date of initial admission, provided they are otherwise admissible.
- If visa exempt, all R-1 and R-2 applicants must present original documentation of an approved R-1 petition (Form I-797).
- Effective 11/26/08 the readmission for an R-1 is dependent on the date of initial entry to the United States:
- Readmission for those whose initial entry was on or before 11/25/08:
 - R-1s may be readmitted to the United States for the remainder of their unused time on their period of authorized stay in increments of up to the 5 year maximum, provided they are otherwise admissible.
 - No evidence of an approved I-797 petition is required for the readmission of these R-1 nonimmigrants.
- Readmission for those whose initial entry is after 11/26/08:
 - R-1 applicants whose initial admission was after 11/26/08 and who meet the requirements for readmission must also meet the same requirements as for initial admission and provide evidence of an approved petition or a nonimmigrant visa.
- For informational purposes: A religious worker is defined as an individual engaged in and according to the denomination's standards, qualified for a religious occupation or vocation, whether or not in a professional capacity, or as a minister.