

### **Inspector's Field Manual**

You must ensure that each nonimmigrant alien presents the correct version of Form I-94. Aliens seeking admission with a nonimmigrant visa must never submit a green Form I-94W. Only nonimmigrant aliens seeking entry under the Visa Waiver Program (VWP) may use this version of Form I-94. Conversely, an alien seeking entry under the Visa Waiver Program must never submit a white Form I-94. You must not process an alien for admission if they present the incorrect version of Form I-94.

A valid B-1/B-2 visa takes precedence over any application for admission made under the VWP. Thus, if a national from a VWP country presents a Form I-94W but has a valid B-1/2 visa in his or her passport, the alien must be issued a regular Form I-94 and processed as a B-1/2 visitor.

In particular, it is critical that all arriving aliens that are required to be documented on Form I-94 or I-94W provide an adequate address in the United States. An adequate address is one at which any law enforcement official could locate the nonimmigrant alien without undue delay. Nonimmigrant aliens who claim to be touring (e.g. by bicycle or car) must still provide an adequate address for their first night's lodging. In some situations, the address provided might be that of another person who will know the actual whereabouts or itinerary of the named nonimmigrant alien. Nearly all travelers know where they are going - how else are they going to give a taxi driver directions? Many carry printed itineraries from travel agents, or receipts from Internet web sites. They also usually know a relative or sponsor's phone number or address.

You must not process an alien until and unless they provide full and correct information on Form I-94 or I-94W. If you encounter an alien with an incomplete or improperly completed Form I-94, as the situation warrants and depending on local operating conditions, you should first refer these aliens to carrier personnel for assistance in completing the arrival and departure information properly. If this does not result in an acceptable Form I-94, you may refer nonimmigrants that are unwilling to provide complete arrival and departure Form I-94 information, including an adequate address, for secondary processing so they do not delay primary inspection processing.

(B) Land Border Processing: During the primary inspection, determine if additional documentation is required. If so, refer the alien to secondary inspection for further review and processing. Aliens seeking entry under the Visa Waiver Program must be documented on a green Form I-94W. You must document those aliens seeking admission with a nonimmigrant visa, and aliens applying for nonimmigrant classification other than a visitor status and exempt nonimmigrant visas on a white Form I-94. Generally, the inspector will complete the Form I-94, Form I-94W or I-94A, where available. However, there are no restrictions preventing the alien or a third party from filling out the form (except for the Form I-94A). Review the data to ensure that it is complete, legible, and accurately reflects the nonimmigrant's passport or other appropriate travel document information. It is critical that all arriving aliens who are required to be documented on Form I-94, Form I-94W or Form I-94A provide an adequate address in the United States. An adequate address is one at which any law enforcement official could locate the nonimmigrant alien without undue delay.

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Nonimmigrant aliens who claim to be touring (e.g. by bicycle or car) must still provide an adequate address for their first night's lodging, unless the alien is making a short day trip to visit or shop.

(2) Securing Form I-94: Once you complete your primary inspection and separate the departure and arrival portions of Form I-94, you must staple the departure portion of the Form I-94 to the nonimmigrant alien's passport at the bottom edge of the form, at or next to the words "STAPLE HERE." The departure Form I-94 contains this perforated tab specifically for stapling. Do not staple the departure portion of Form I-94 in any other manner. Advise the alien of the requirement to surrender the Form I-94 upon departure, as instructed on the reverse side of the form. When the alien departs the United States, carrier personnel can easily remove the departure card from the alien's passport by tearing along the perforation, without damaging the important information on the departure card.

(3) Special Endorsements: The reverse of Form I-94 contains a series of blocks that must be completed by the inspecting officer in certain instances. Specific requirements are included below, in the discussion of each nonimmigrant category – see Chapter 15.4. This information is entered into CBP automated records. CBP uses these records for a variety of reports to Congress and others. Thus, accurate entry of data into these fields is very important. Item 18 on Form I-94 is of particular Congressional interest and is required for a variety of international agreements. The following table explains the usage of each block on the reverse of Form I-94.

| # | Block Title         | Usage                                                                                           |
|---|---------------------|-------------------------------------------------------------------------------------------------|
| 1 | Occupation          | Complete for principal H, J, L, O, P, Q, R, and NAFTA                                           |
| 1 | Waivers             | Insert section of law for any type of waiver granted                                            |
| 2 | INS file            | Insert any known "A" number relating to this alien                                              |
| 2 | INS FCO             | Insert files control office (FCO) when known                                                    |
| 2 | Petition Number     | Complete for H, L, O, P, and Q principals. For F, J, and M record the 10 digit SEVIS ID number. |
| 2 | Program Number      | Complete for J-1                                                                                |
| 2 | Bond                | Check block if bond posted                                                                      |
| 2 | Prospective Student | Check block if prospective student status was indicated by the alien or the U.S. consulate      |

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|                      |                                                 |
|----------------------|-------------------------------------------------|
| 2 Itinerary/Comments | Various (see notes for each nonimmigrant class) |
|----------------------|-------------------------------------------------|

(4) Exemptions to Form I-94 Requirements: A Form I-94 is not required for the following classes of nonimmigrants:

(A) A Canadian national or other nonimmigrant described in 8 CFR 212.1(a) or 22 CFR 41.33 admitted as a visitor for pleasure or business or in transit through the U.S.;

(B) A nonimmigrant alien residing in the British Virgin Islands admitted solely to the U.S. Virgin Islands for business or pleasure under 8 CFR 212.1(b);

(C) A Mexican national seeking admission for business or pleasure, within 25 miles of the Mexican border, for less than 72 hours, holding a valid Mexican Border Crossing Card (any form) or valid Mexican passport and multiple entry B-1 or B-2 visa;

(D) A Mexican national seeking admission for business or pleasure through the Arizona land border ports-of-entry at Naco, Sasabe, Nogales, Mariposa, and Douglas, traveling within 75 miles of the Mexican border, for less than 72 hours, who holds either a valid Mexican Border Crossing Card (any form) or valid Mexican passport and multiple entry B-1 or B-2 visa;

(E) A Mexican national, holder of a diplomatic or official passport, as described in 8 CFR 212.1(c)(1); or

(F) Certain NATO nonimmigrant aliens described at 8 CFR 214.2, who are exempt from the control provision of the Act (refer to 8 CFR 235.1(c)).

You will handle other Department of Homeland Security (DHS) documents that are used as primary data entry documents, notably for employment authorization and alien registration. In any situation where you are required to enter data on such forms or capture a signature specimen, fingerprint, or photograph, review the materials carefully to insure full compliance with the specifications for the form. Historically, the ports-of-entry have had a high rejection rate for such forms, resulting in extra work for the agency and serious inconvenience for travelers. Take the time to review data collection forms before the applicant leaves the area. Periodically review local data collection and quality control procedures to insure full compliance with set standards.

(5) Departure Form I-94 in Passport of Arriving Nonimmigrant Alien: If a nonimmigrant alien arrives with an unexpired Form I-94 that will not be replaced during the course of the inspection due to automatic revalidation provisions as discussed in Chapter 15.3(b), you may readmit for the time remaining after you are satisfied that the alien is admissible.

Special Note for Students: You must issue a new Form I-94 to:

- Academic students (F-1) and their dependents (F-2) in possession of a properly

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endorsed SEVIS Form I-20, Certificate of Eligibility for Nonimmigrant Student Status, who are returning from other than contiguous territory or adjacent islands, or who are returning from contiguous territory or adjacent islands from a departure of more than 30 days, unless the alien is continuing as a student returning from a single break between classes/semesters and has not departed beyond those contiguous territories or adjacent islands during the break.

- Vocational students (M-1) and their dependents (M-2) in possession of a properly endorsed SEVIS Form I-20 who are returning from other than contiguous territory, or who are returning from contiguous territory from a departure of more than 30 days. You must not use the initial or previously issued Form I-94 and former admission number upon readmission. Endorse the new Form I-94 in the manner described below.



(6) Signifying departure on Form I-94 with a CBP Admission Stamp: In the routine course of operations, you will receive departure portions of Form I-94, Form I-94W or Form I-94A. This may occur when individual aliens seek to report their departure, or carriers and border management officials return departure Forms I-94 under a local operating agreement.

Regardless of the method you received the departure Form I-94

if this date is entered as the departure date during the data entry process, the system may determine that the alien overstayed his or her earlier authorized period of admission. This error could have serious implications for the nonimmigrant for future travel to the United States. However, in some circumstances, at some locations, border control officials from Canada or Mexico may apply their admission stamp to the reverse of a departure Form I-94. If the date on a Canadian or Mexican admission stamp reflects a current departure from the U.S. and entry to contiguous foreign territory, this is acceptable as evidence of departure from the U.S. Forward these Form I-94s for data entry.

(c) Procedures for Processing Form I-94s: All arrival Forms I-94 collected by CBP officers and departure Forms I-94 collected by carrier personnel (or, at land borders directly by CBP) must be promptly routed for data entry to the CBP contractor. See handling procedures in Chapters

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21.8 (land), 22.7 (airport), and 23.4 (seaport).

In addition, remove all staples, paper clips, or other foreign materials from any Form I-94 prepared for sending to data entry before bundling with other Forms I-94. The only exceptions are that Form I-94 should remain stapled to Form I-736, Guam Visa Waiver Information. The properly annotated, sorted, and bundled arrival and departure Forms I-94 and I-94W for all nonimmigrant aliens must be shipped daily, but not later than the following business day, via overnight express package delivery services, or fastest available surface mail service to the CBP data entry contractor at the address contained at Appendix 15-8.

(d) Miscellaneous Procedures for Handling Certain Form I-94s: In addition to Forms I-94 encountered at the ports-of-entry during routine primary inspection processing, you may frequently encounter situations which cause serious complications if arrival and departure records are not corrected or properly recorded to the IBIS. These situations and procedures for addressing them include:

(1) Departure Form I-94 not immediately available: When a nonimmigrant visitor asks how to return a departure Form I-94 that a carrier failed to collect on departure, you should advise the nonimmigrant alien that, if he/she returned home with the Form I-94/Form I-94A (white) or Form I-94W (green) in their passport, he/she must correct CBP records. He/she must provide CBP sufficient information to enable us to connect their claimed departure to their original arrival into the United States, so we can close the prior record. Provide the alien(s) the material contained at **IFM** Appendix 15-10.

(2) Correcting "Confirmed" Overstay Lookouts: When a previously recorded, but allegedly erroneous, Form I-94 arrival or departure date causes an automatic lookout entry because the system determined a confirmed overstay condition existed, CBP must try to determine the correct arrival and departure date sequence. Once the arrival or departure date is entered to the IBIS, only the CBP Lookout Unit can change these dates. There are internal procedures to accommodate this. These situations frequently occur as written complaints from aliens, Congressional inquiries, or letters from attorneys or employers.

To address these alleged mistakes, officers handling complaints or inquiries must advise the alien or their representative to submit the information referenced in (d)(1) above to the local port-of-entry or local CBP office, not directly to the CBP contractor, specified at Appendix 15-10. When the alien or their representative return the supporting information, personnel at the local port-of-entry or field office must forward the information, with an explanation of the issue, the current facts contained in IBIS, and a formal request to the CBP Lookout Unit to request the Lookout Unit to modify the dates shown in the IBIS database.

Under no circumstances are CBP personnel to advise aliens or members of the public to communicate with or write to the Lookout Unit directly.

## 15.2 Passports.

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Except where specifically exempted, each arriving nonimmigrant must present a valid passport. Generally, a passport (defined in section 101(a)(30) of the Act) must be valid for 6 months beyond the period of initial admission [See section 212(a)(7)(B) of the Act and 8 CFR 214.1(a)(3)]. There are a number of countries with which the Department of State has concluded agreements providing for return of the holder to his or her country of origin up to 6 months beyond the nominal expiration date of the passport. If a country is listed on this "6-month" list, his or her passport needs to be valid only until the date to which the alien is being admitted. The "6-month" list is contained in Appendix 15.2. General passport requirements and exceptions are discussed in 8 CFR 212.1 and 22 CFR 41.1.

In addition to determining the validity of each passport presented, you must inspect the document to determine if it has been altered through data eradication, photo substitution, page substitution, or counterfeiting. You also must compare the photograph to the person presenting the passport, to ensure it is not an imposter. The Service makes available various passport studies to assist you in this process. These should be available at Ports-of-Entry for your reference. Instances of passport fraud often occur in batches. [REDACTED]

[REDACTED] Use local port intelligence for trends to assist you in focusing on documents with a high probability of fraud.

Ordinarily, Service officers may endorse the passport of a nonimmigrant applicant for admission only with the admission stamp and specifically authorized notations such as those specified in Chapter 15.3(d), or notations which cancel a visa, when INS officers are specifically empowered to do so. Additional unauthorized passport notations must be avoided.

During the primary inspection at Sea and Air POEs, the inspecting officer shall ensure that the passport number for each applicant for admission who presents a passport (with the exception of a returning resident alien in possession of an I-551 or temporary evidence of such, Re-Entry Permit or Refugee Travel Document) is queried in IBIS/APIS as part of the primary query.

In cases where no APIS record relating to the applicant has been transmitted, the primary IBIS query shall consist of the Applicant's Last Name(s), First Name(s), Date of Birth, and passport number, or A-number (entered into the document # field). In cases where an APIS record relating to the applicant has been transmitted, but the record does not contain document number information, the APIS record must be modified to include the applicant's correct passport number, or A-number (entered in the document # field after the record is selected for modification).

Regardless of whether an APIS record relating to the applicant has been transmitted, when either the biographical page of a machine readable passport or a machine readable nonimmigrant visa is scanned on primary, the system automatically incorporates the passport number into the primary query, and modifies the corresponding APIS record, if necessary. When an I-551 or temporary evidence of such, Re-Entry Permit or a Refugee Travel Document is scanned, the system automatically incorporates the A-number into the primary query, and modifies the corresponding APIS record, if necessary.

When manually entering the passport number on primary, if the passport has a perforated

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number, inspectors shall enter this number into the document # field on primary. If the document does not have a perforated number, the individual booklet number that is preprinted at time of production (as opposed to the number added at the time of issuance) shall be entered. If the document has neither a perforated number nor a pre-printed booklet number, the inspecting officer shall enter the number found in the passport/document number field on the biographical/photograph page of the passport.

(Revised IN99-27)

### **15.3 Visas.**

(a) General. With certain exceptions, each arriving nonimmigrant must present a valid visa. The exceptions are specified in 8 CFR 212.1 and 22 CFR 41.1 and discussed below. As with passports, you must examine each visa for alteration, photo substitution, or page substitution. The Machine-Readable Visa (MRV) has replaced the previously issued red, green, and blue "Burroughs-style" visas. Visas issued by most consular posts indicate "bearer(s)" while those at high fraud posts will specify the name of the person to whom the visa was issued. DHS periodically releases document alerts to help identify genuine visas as well as recently encountered counterfeit and altered visas. These should be readily available at ports-of-entry for reference. Appendix 15-6 includes a list of consular posts and the dates on which they converted to the MRV format.

(b) Automatic revalidation. Specific requirements and restrictions outlined in 8 CFR 214.1 and 22 CFR 41.112 provide for the automatic revalidation of expired nonimmigrant visas of aliens who have been out of the United States for 30 days or less in contiguous territory and have a Form I-94, Arrival-Departure Record, showing the DHS authorization of an unexpired period of admission. Such aliens may apply for readmission in the same classification or in a new classification authorized by DHS prior to their departure. In the latter case, the revalidation includes a conversion to the new classification. In the case of a qualified F-1 student or J-1 exchange visitor who has a remaining period of authorized stay, the absence may have been in either contiguous territory or adjacent islands other than Cuba. Automatic revalidation is applicable only in the case of a nonimmigrant alien who is (Revised by CBP 3-04):

- In possession of a Form I-94, Arrival-Departure Record, endorsed by DHS to show an unexpired period of initial admission or extension of stay; or,
  - A qualified F-1 student or the accompanying spouse or child of such an alien, in possession of a current SEVIS Form I-20AB, Certificate of Eligibility for Non-immigrant (F-1) Student Status – For Academic and Language Students, issued by a school authorized by DHS for attendance by foreign students, and endorsed by the issuing school official to indicate the period of initial admission or extension of stay authorized by the DHS; or,

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- A qualified J-1 exchange visitor or the accompanying spouse or child of such an alien in possession of a valid SEVIS-generated Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status issued by a Department of State designated program sponsor indicating the period of initial admission or extension of stay authorized by DHS.
- Is applying for readmission after an absence not exceeding 30 days solely in contiguous territory (Canada or Mexico), or, in the case of an F-1 student or J-1 exchange visitor or accompanying spouse or child meeting the stipulations above, after an absence not exceeding 30 days in contiguous territory or adjacent islands other than Cuba;

Note: An M-1 student must be applying for readmission after an absence solely in contiguous territory and must present their original Form I-94 and a properly endorsed SEVIS Form I-20MN, Certificate of Eligibility for Nonimmigrant (M-1) Student Status – For Vocational Students.

- Has maintained and intends to resume nonimmigrant status;
- Is applying for readmission within the authorized period of initial admission or extension of stay;
- Is in possession of a valid passport, unless exempt presentation of a passport;
- Does not require a discretionary waiver of inadmissibility under INA 212(d)(3);
- Has not applied for a new visa while abroad as annotated "Application Received at specific post on date" on the last page of the passport by the Consulate or Embassy abroad; and

[REDACTED]

Automatic revalidation does not apply to the Visa Waiver Program. Readmission after departure to contiguous territory or adjacent islands for Visa Waiver Program applicants is covered under 8 CFR 217.3(b).

The Director, Field Operations may parole into the United States or grant a waiver of any documentary requirements only on a case-by-case basis. Pursuant to the memorandum "Exercise of Discretion – Additional Guidance" issued July 20, 2004, this authority has been delegated to the port director, assistant port or chief inspector at the GS-13 level or above. [REDACTED]

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[REDACTED]

[REDACTED]

(c) Valid visa in expired passport. An applicant for admission may use a valid visa in an expired passport, provided he or she also presents a valid passport. The new, valid travel document need not be issued by the same authority which issued the document containing the valid visa. For example, an alien may present an expired Hong Kong Certificate of Identity with a valid nonimmigrant visa plus a valid Hong Kong Special Administrative Region passport. See 22 CFR 41.112.

(d) Admission procedures. Nonimmigrant visas may be issued for single entry, a specified number of entries or multiple entries during the period of validity. Upon admission of single or specially limited entry visas, place your admission stamp on the visa page or the adjacent page to indicate its use.

[REDACTED]

[REDACTED] This will complicate any attempted alteration. No other endorsement of the admission stamp is authorized except the file number for a "K" alien, the I-94 number for an "F" and "M" alien, and, where the admission stamp is placed in a new passport and the visa is in an expired passport, the admission class and a notation indicating the original visa number, consulate, and date of issuance.

(e) Visa notations.

(1) General. Some nonimmigrant visas will bear a notation from a consular official. The notations are intended to provide you with additional information upon which to base your inspection. You are not bound by conditions set forth in these informal notations, but they may well influence your decision. Common notations include proposed destinations within the U.S., port-of-entry restrictions, and duration of stay. Specific notations relating to certain visa categories are discussed below, in the sections relating to each nonimmigrant category.

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[REDACTED]

(3) PR/VI limitations. An alien who is admitted solely to Puerto Rico or the Virgin Islands, based on a notation on his or her nonimmigrant visa, may be permitted to travel to other parts of the U.S. upon bonafide request. The inspecting officer should note this authorization on the reverse of the I-94.

(4) Restrictions for certain United Nations visitors. Certain nonimmigrants inadmissible pursuant to provisions of section 212(a)(3) may have restricted visas permitting travel only to the immediate area of the United Nations (within 25 mile radius of Columbus Circle, NY). Deviations from this itinerary are permitted in connection with confirmed departure reservations and if the alien has any required visa for entry into the country to which he or she is destined. The Director, Field Operations, New York City, may relax such restrictions in an individual case, upon consultation with the Visa Office of the Department of State. Such aliens are issued Form ER-142.

(f) Revocation or Cancellation by DHS officers. (1) Revocation. In specific instances, DHS officers are delegated authority to revoke valid nonimmigrant visas issued by the Department of State. These are specified in 22 CFR 41.122 and discussed further in Chapter 17.

(2) Cancellation of old indefinite visas. The Department of State has revoked all indefinite "Burroughs-style" nonimmigrant visas that are more than 10 years old. Refer to secondary the holder of such visa, other than a border crossing stamp. These visas are being phased out and replaced with the Machine-Readable Visas (MRV) and are to be canceled upon the admission of the holder. When a visa is canceled in this manner, give the alien a copy of the Department of State's announcement concerning the program. Endorse the passport, next to the canceled visa, "Revoked pursuant to section 221(i) of the INA--Canceled without Prejudice." [REDACTED]

[REDACTED] Until further notice, readmit, without application or fee, persons whose visas were previously canceled under this program. A list of countries whose nationals may, prior to May 5, 1997, have been issued indefinite visas, is included in Appendix 15-2.

(3) Cancellation of visas voided pursuant to section 222(g). For guidance on the

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cancellation of nonimmigrant visas under section 222(g) of the Act, refer to Chapter 15.15. (Paragraph (f)(3) added IN99-08)

(g) Citizens of Canada or Bermuda. The waiver of passport and visa requirements provided by 8 CFR 212.1(a) is applicable only to citizens of Canada or the British Overseas Territory of Bermuda. The waiver is not available to the bearer of a Certificate of Identity or other "stateless person's" document issued by the governments of the above countries as such person is not considered a national of the country that issued the document. Effective March 17, 2003, the waiver of passport and nonimmigrant visa is no longer available to landed immigrants of Canada or residents of Bermuda having common nationality.

(h) Adjacent Islands. This term is defined in section 101(b)(5) of the Act. Cuba is excluded only when the specific reference so states. For purposes of 8 CFR 212 only, the term includes both Surinam and French Guiana.

## 15.4 Requirements and Procedures for Nonimmigrant Classes.

Each nonimmigrant class has specific restrictions and requirements. Below is a summary of the specific requirements for each. Specific definitions for nonimmigrant classes are included in section 101(a)(15) of the Act, and limited by sections 212(m) and (n) and 214 of the Act.

### (a) Foreign government officials.

(1) Classification: **A-1** Ambassador, public minister, career diplomatic or consular officer, and members of the immediate family. See also section 102 of the Act.

Documents required: Passport valid only to date of application for admission. Nonimmigrant visa (A-1).

Qualifications: Must be an individual listed in the general description. Inadmissible only under section 212(a)(3)(A), (B), or (C) of the Act. See section 102 of the Act.

Terms of admission: Admit A-1 for Duration of Status.

Notations on I-94: A-1, D/S

### Special notes:

(A) Presumption of eligibility. Presentation of an A-1 visa is *prima facie* evidence that the alien is entitled to that status.

(B) Dependents. For A-1 nonimmigrants, dependents are entitled to the same

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classification as the principal. "Dependents" include more than just the spouse and children. See definition of "Immediate family" in 22 CFR 41.21. Dependent employment may be authorized under 8 CFR 274a.12(c) and 214.2(a).

(C) Temporary assignments. "TDY" noted on the NIV after "A-1" means the alien is on temporary assignment of 90 days or less - admit D/S. Note "TDY" in block 26 on the reverse of the I-94.

(2) Classification: **A-2** Other foreign government official or employee, and members of the immediate family.

Documents required: Passport valid only to the date of application for admission. Nonimmigrant visa (A-2).

Qualifications: Must be an individual listed in the general description. Inadmissible only under section 212(a)(3)(A), (B), or (C). See section 102 of the Act.

Terms of admission: Admit A-2 for duration of status.

Notations on I-94: A-2, D/S

#### Special notes:

(A) Presumption of eligibility. Presentation of an A-2 visa is prima facie evidence that the alien is entitled to that status.

(B) Canadian military personnel. A-2 category may include Canadian military personnel on temporary assignment in the U.S. and not traveling on NATO orders.

(C) Dependents. For A-2 nonimmigrants, dependents are entitled to the same classification. "Dependents" include more than just the spouse and children. See definition of "Immediate family" in 22 CFR 41.21. Dependent employment may be authorized under 8 CFR 274a.12(c) and 214.2(a).

(D) Temporary assignments. "TDY" noted on the visa after "A-2" means the alien is on temporary assignment of 90 days or less - admit D/S. Note "TDY" in block 26 on the reverse of the I-94.

(3) Classification: **A-3** Attendant, servant, or personal employee of A-1 and A-2 nonimmigrants, and members of their immediate family.

Documents required: Passport must be valid for 6 months beyond authorized admission. Nonimmigrant visa (A-3).

Qualifications: Subject to all grounds of inadmissibility applicable to nonimmigrants.

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Terms of admission: Admit as A-3 for a period not in excess of three years.

Notations on I-94: A-3, (date to which admitted). Note employer's name in block 26, on the reverse of the I-94.

Special notes:

(A) Presumption of eligibility. Presentation of an A-3 visa is prima facie evidence that the alien is entitled to that status.

(B) Dependents. For A-3 nonimmigrants, dependents entitled to the same classification include more than just the spouse and children. "Immediate family" is defined in 22 CFR 41.21.

(C) Attendants and personal servants defined. The terms "attendants" and "personal employees" are defined in 22 CFR 41.21.

(b) Visitors.

(1) Classification: **B-1** Visitor for business.

Documents required: Passport valid for a minimum of 6 months beyond the period of admission unless otherwise provided for or waived. Nonimmigrant B-1 visa unless waived.

Qualifications: Alien has a residence in a foreign country which he or she does not intend to abandon. Subject to all nonimmigrant grounds of inadmissibility. Alien intends to enter the U.S. for a temporary visit to engage in legitimate activities relating to business. Applicant has made financial arrangements to carry out the purpose of the visit and depart the United States.

Terms of admission: Maximum admission is 1 year. A B-1 will be admitted for a period of time which is fair and reasonable for completion of the purpose of the visit. Extensions are permitted in increments of 6 months (1 year for missionaries).

Notations on I-94: B-1 (date to which admitted). If seaman joining vessel, enter vessel name on reverse.

Special notes:

(A) Restricted admission period. Arbitrarily small admission periods needlessly increase the volume of extension applications and should be avoided. Ordinarily, B-1 admission should be granted for the time requested or longer, in order to reduce needless extension requests.

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(B) Determining eligibility. Consider the source of remuneration and also the actual place of accrual of profits for services rendered by an alien in determining whether an alien is classifiable as a B-1 (See Chapter 15.5 for special NAFTA B-1 instructions). Each of the following has been determined to be permissible B-1 activity if the alien is to receive no salary or other remuneration from a U.S. source (other than an expense allowance or other reimbursement for expenses incidental to the temporary stay):

- (1) An alien coming to the U.S. to: engage in commercial transactions (i.e., buying or selling) which do not involve gainful employment in the US; negotiate contracts; consult with business associates, including attending meetings of the Board of Directors of a U.S. corporation; litigate; participate in scientific, educational, professional, or business conventions, conferences, or seminars; or undertake independent research;
- (2) An alien coming to engage in activities that would be classifiable under H-3 except that there is no U.S. employer involved, and is either studying at a foreign medical school and is seeking to enter the U.S. temporarily to taken an "elective clerkship" (practical experience and instruction in the various disciplines of the practice of medicine under the supervision and direction of faculty physicians) at a U.S. medical school's hospital without remuneration from that hospital or undertaking training at the behest of a foreign employer by whom the alien is already employed abroad and from whom the alien will continue to receive his or her salary while in training in the United States;
- (3) An alien coming to install, service, or repair commercial or industrial equipment or machinery purchased from a company outside the U.S. or to train U.S. workers to perform such services. (However, in such cases the contract of sale must specifically require the seller to provide such services or training, and the alien must possess specialized knowledge essential to the seller's contractual obligation to perform the services or training and must receive no remuneration from a U.S. source. These provisions do not apply to an alien seeking to perform building or construction work, whether on-site or in-plant except for an alien who is applying as a B-1 for the purpose of supervising or training other workers engaged in building or construction work, but not actually performing any such building or construction work);
- (4) A professional athlete, such as a golfer or tennis player, who receives no salary or payment other than prize money for his or her participation in a tournament or sporting event;
- (5) An athlete or team member who seeks to enter the U.S. as a member of a foreign-based team in order to compete with another sports team (provided: the foreign athlete and the foreign sports team have their principal place of business or activity in a foreign country; the income of the foreign based team and the salary of its players are principally accrued in a foreign country; and the foreign based sports team is a member of an international sports league or the sporting activities involved

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have an international dimension);

(6) An amateur team sports player who is asked to join a professional team during the course of the regular professional season or playoffs for brief try-outs (The teams may provide only for such expenses as round-trip fare, hotel room, meals, and other try-out transportation costs);

(7) A professional entertainer coming to: (i) participate only in a cultural program sponsored by the sending country; who will be performing before a nonpaying audience; and all of whose expenses, including per diem, will be paid by the member's government; or (ii) participate in a competition for which there is no remuneration other than a prize (monetary or otherwise) and expenses;

(8) Crewman of a private yacht, regardless of the nationality of the private yacht, provided the yacht will be sailing out of a foreign home port and cruising in U.S. waters;

(9) An alien coming to perform his or her responsibilities as a "coasting officer" (A coasting officer is used when an officer of a foreign vessel is granted home leave while the vessel is in U.S. ports. The vessel does not remain in U.S. waters for more than 29 days, and the original officer returns in time to depart with the vessel. The coasting officer may then repeat the process with another vessel of the same foreign line);

(10) An alien seeking investment in the U.S. which would qualify him or her for E-2 status (Such alien is precluded from performing productive labor or from actively participating in the management of the business prior to being granted E-2 status);

(11) An alien performing services pursuant to the Outer Continental Shelf Lands Act Amendments of 1978 (The consular officer will annotate "OCS" on the B-1 visa). Alien construction workers who are entering to work from a derrick barge to construct an oil platform on the outer continental shelf are considered to man and crew the barge, not the platform. Foreign-owned barges are exempt from the requirements of 43 U.S.C. 1356(a)(3) which requires that any vessel, rig, platform, or structure used in regulated operations on the outer continental shelf be manned or crewed by U.S. citizens or lawful permanent residents. The Immigration and Nationality Act does not apply to aliens who are manning or crewing foreign-owned derrick barges on the outer continental shelf. Such aliens passing through the U.S. enroute to the outer continental shelf must have an appropriate visa, usually a B-1 visa. ( In 1997, the Supreme Court denied certification of a D.C. circuit court decision on this issue);

(12) A personal or domestic servant who is accompanying or following to join a U.S. citizen employer who has a permanent home or is stationed in a foreign country, and who is visiting the U.S. temporarily, provided the employer-employee relationship existed prior to the commencement of the employer's visit to the United States;

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- (13) A personal or domestic servant who is accompanying or following to join a U.S. citizen employer temporarily assigned to the United States (The consular officer will annotate "personal or domestic servant of U.S. citizen (employer's name)" on the B-1 visa);
- (14) A personal or domestic servant who is accompanying or following to join a foreign employer who seeks admission into or is already in the U.S. in B, E, F, H, I, J, L, M, O, P, or R nonimmigrant status (The consular officer will annotate "personal or domestic servant of nonimmigrant alien (employer's name)" on the B-1 visa);
- (15) An alien seeking to enter the U.S. for employment with a foreign airline engaged in international transportation of passengers and freight in an executive, supervisory, or highly technical capacity who meets the requirements for E visa classification but is precluded from entitlement to E classification solely because there is no treaty of friendship, commerce, and navigation in effect between the U.S. and the country of the alien's nationality or because he or she is not a national of the airline's country of nationality;
- (16) An alien coming to perform services on behalf of a foreign based employer as a jockey, sulky driver, trainer, or groom (Such alien is not allowed to work for any other employer);
- (17) An alien coming to open or be employed in a new branch, subsidiary, or affiliate of the foreign employer, if the alien will become eligible for status as an L-1 upon securing proof of acquisition of physical premises;
- (18) An employee of a foreign airline coming to pick-up aircraft if he or she is not transiting the U.S. and is not admissible as a crewman (The alien must present a letter from the foreign airline verifying the employment and official capacity of the applicant in the United States);
- (19) An alien coming exclusively to observe the conduct of business or other professional or vocational activity, provided the alien pays for his or her own expenses;
- (20) An alien coming to participate in any program of furnishing technical information and assistance under section 635(f) of the Foreign Assistance Act of 1961 (75 Stat. 424);
- (21) An alien coming to participate in the training of Peace Corps volunteers or coming under contract pursuant to sections 9 and 10(a)(4) of the Peace Corps Act (75 Stat. 612), unless the alien qualifies for "A" classification;
- (22) An alien coming to participate in the United Nations Institute for Training and Research (UNITAR) internship program, who is not an employee of a foreign

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government;

(23) An alien coming to plan, construct, dismantle, maintain, or be employed in connection with exhibits at international fairs or expositions if he or she is an employee of a foreign exhibitor and is not a foreign government representative and does not qualify for "A" classification; and

(24) An alien coming to participate in a voluntary service program benefiting U.S. local communities, who establishes that he or she is a member of and has a commitment to a particular recognized religious or nonprofit charitable organization and that no salary or remuneration will be paid from a U.S. source, other than an allowance or other reimbursement for expenses incidental to the volunteer's stay in the United States. (The alien must present to the officer a written statement indicating his or her name, date and place of birth, the foreign permanent residence address, the name and address of initial U.S. destination, and anticipated duration of assignment).

(25) An alien employee of an international bridge commission coming to plan, construct, maintain or operate bridge facilities at a port of entry within the immediate confines of the bridge area. (Added 9/15/97; IN97-02)

(26) An alien employee of the International Boundary Commission coming during the field season to maintain a demarcated boundary line between the United States and Canada by clearing brush, cutting trees, etc., including both supervisors for field crews and temporary employees comprising the crew. Employees of the IBC are eligible to cross the border without formal inspection. If encountered at ports of entry, alien employees are classifiable as B-1 business visitors, if otherwise admissible.

(C) Representative from the Vatican. It was formerly the case that the representative to the United States from the Holy See was known as an Apostolic Delegate, since the United States and the Holy See did not have formal diplomatic relations. Members of the Apostolic Delegation were issued B-1 visas, and admitted B-1 D/S. Since the United States and the Holy See now do have formal diplomatic relations, the Mission of the Holy See is now a Nunciature, which is the equivalent to an Embassy. Aliens who are assigned to the Nunciature in positions that qualify for an A nonimmigrant status should be admitted as provided in the discussion of A nonimmigrant admissions.

(2) Classification: **B-2** Visitor for pleasure.

Documents required: Passport valid for a minimum of 6 months beyond the period of admission, unless otherwise provided for or waived. Nonimmigrant visa (B-2) unless waived.

Qualifications: Has a residence in a foreign country which the alien does not intend to

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abandon. Subject to all nonimmigrant grounds of inadmissibility. Intends to enter the U.S. for a temporary visit. Will engage in legitimate activities relating to pleasure. Has made financial arrangements to carry out the purpose of the visit to, and departure from, the United States.

Terms of admission: Maximum admission is 1 year. If admissible, a B-2 is generally admitted for 6 months.

Notations on I-94: B-2, (date to which admitted).

#### Special notes:

(A) Minimum admission period. Unless specifically authorized by a supervisory inspector, the admission period shall be no less than 6 months.

(B) Determining eligibility. If otherwise admissible, admit the following as B-2:

(1) An alien coming for purposes of tourism or to make social visits to relatives or friends;

(2) An alien coming for health purposes;

(3) An alien coming to participate in conventions, conferences, or convocations of fraternal, social or service organizations;

(4) An alien coming primarily for tourism who also incidentally will engage in a short course of study;

(5) An amateur coming to engage in an amateur entertainment or athletic activity, even if the incidental expenses associated with the visit are reimbursed;

(6) A dependent of an alien member of any branch of the U.S. Armed Forces temporarily assigned to duty in the United States;

(7) A dependent of a category "D" visa crewman who is coming to the U.S. solely for the purpose of accompanying the principal alien;

(8) An alien spouse or child, including an adopted alien child, of a U.S. citizen or resident alien, if the purpose of the visit is to accompany or follow to join the spouse or parent for a temporary visit;

(9) A dependent of a nonimmigrant who is not entitled to derivative status, such as in the case of an elderly parent of an E-1 alien, or a domestic partner (Revised by CBP 3-04);

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(10) An alien coming to marry a U.S. citizen or lawful permanent resident with the intent to return to a residence abroad soon after the marriage;

(11) An alien coming to meet the alien's fiancé(e)'s family (to become engaged; to make arrangements for a wedding; or to renew a relationship with the prospective spouse);

(12) A spouse married by proxy to an alien in the U.S. in a nonimmigrant status who will apply for a change of status after consummation of the marriage;

(13) An alien who is entitled to the benefits of section 329 of the Act (Naturalization) and who seeks to take advantage of such benefits irrespective of the foreign residence abroad requirement of section 101(a)(15)(B);

(14) A dependent of an alien member of the U.S. Armed Forces who qualifies for naturalization under section 328 of the Act and whose primary intent is to accompany the spouse or parent on the service member's assignment to the United States;

(15) An alien destined to attend courses for recreational purposes; or

(16) An alien seeking to enter the U.S. in emergent circumstances, when he or she is otherwise entitled to lawful permanent resident status. For example: a permanent resident alien employed by a U.S. corporation is temporarily assigned abroad but has necessarily remained more than 1 year and may not use Form I-551 in order to travel to the U.S. for an emergency and then return abroad. The alien has never relinquished permanent residence, has continued to pay U.S. income taxes, and perhaps even maintains a home in the United States. The alien may be issued a nonimmigrant visa for this purpose and Form I-551 need not be surrendered.

(C) Prospective students. You may encounter an applicant for admission with a B-2 visa noted "prospective student." Such a visa is issued to an alien who is otherwise eligible for F-1 status but who has not selected a school and obtained an SEVIS Form I-20. If otherwise admissible, admit the alien for 6 months and note the I-94 "prospective student." Advise the alien to apply for a change of status on Form I-539 as soon as the SEVIS Form I-20 is obtained.

Occasionally, you may encounter an applicant who, in good faith, presents a B-2 visa but intends to attend school. Before denying admission, consider all circumstances surrounding the case, such as the reasons for not getting a student visa abroad, financial ability, and any possibly fraudulent activity on the part of the alien. If you are satisfied the alien is otherwise *bona fide*, defer inspection to allow the applicant to obtain a SEVIS Form I-20 and any other required documentation and apply for a visa waiver.

(D) "VISAS 93" notation. See Chapter 16.2 for special admission procedures.

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### (c) Transits.

#### (1) **C-1** Aliens in transit through the United States.

Documents required: Passport valid for 6 months beyond the date to which admitted, unless exempt. Nonimmigrant visa (C-1), unless exempt.

Qualifications: Alien must be coming for transit through the United States. All nonimmigrant grounds of inadmissibility apply. Must have sufficient funds, ticket or other means for travel, and permission to enter foreign country.

Terms of admission: Admit C-1 up to a maximum of 29 days.

Notations on I-94: C-1, (date to which admitted).

#### Special notes:

(A) Limitations: Not eligible for extension of stay. Not eligible for change of status; and

(B) Crewmembers in Transit. If C-1 visa is issued to a crewmember joining a vessel, review letter from shipping line to insure the validity of the request. Admit such crewmembers for 29 days, since many vessels do not leave U.S. territory immediately.

#### (2) Classification: **C-2** Alien in transit to the United Nations Headquarters District.

Documents required: Passport valid only until the date of admission. Nonimmigrant visa (C-2).

Qualifications: Must be coming to the U.S. to proceed directly to the immediate vicinity of the United Nations Headquarters District. Inadmissible only on 212(a)(3)(A), (B), and (C), and 212(a)(7)(B).

Terms of admission: Admit C-2 for duration of status at the United Nations.

Notations on I-94: C-2, D/S at U.N.

Special notes: Travel limited to a 25 mile radius of Columbus Circle, New York City, New York. See 8 CFR 214.2(c)(2) for more information and Chapter 15.3(e)(4).

(3) Classification: **C-3** Foreign government official, members of immediate family, attendant, servant, or other personal employee of official in transit through the United States.

Documents required: Passport valid for at least 30 days from date of admission. Nonimmigrant visa (C-3).

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Qualifications: Must meet the classification description above. Inadmissible only on 212(a)(3)(A),(B), and (C), and 212(a)(7)(B).

Terms of admission: Admit C-3 up to a maximum of 29 days.

Notations on I-94: C-3, (date to which admitted).

(d) Crewmembers See Chapters 22.2 and 23.

(e) Traders and Investors.

(1) Classification: E-1 Treaty trader, spouse, and children entering the U.S. under provisions of a treaty of friendship, commerce and navigation (i.e., involving trade, commerce and service) to which the U.S. and the alien's country are signatory.

Documents required: Passport valid for 6 months beyond the date to which admitted, unless exempt. Nonimmigrant visa (E-1) (including Canadians).

Qualifications: The company must be majority owned by nationals of the treaty country and the alien must be a national of that country. For a list of treaty countries, see Appendix 32.1 of the Adjudicator's Field Manual. Alien must engage in duties of an executive or supervisory character, or if employed in a lesser capacity have special qualifications that make the alien's service essential to the efficient operation of the enterprise. All nonimmigrant grounds of inadmissibility apply. See qualifications in 8 CFR 214.2(e) and 22 CFR 41.51.

Terms of admission: Admit E-1 for up to 2 years; unless E-1, TECRO, then admit D/S (see special notes section).

Notations on I-94: Front: E-1, (date to which admitted); unless the alien is a TECRO then use "E-1, D/S TRA 4(a)". Reverse: Annotate the remarks section of the dependent's I-94 with the dependent's specific relationship to the principal and the principal's name (e.g., "Spouse of John Jones" or "Child of John Jones").

### Special notes:

(A) Dependents. Admit spouse and children as E-1. Their period of admission is up to 2 years or to coincide with the stay of the principal alien. The spouse and children may accompany or follow to join but may not precede the principal alien. Spouse and children may attend school without changing status. The spouse of an E-1 may apply for and be issued an employment authorization document, but the child(ren) of an E-1 (other than "TECRO" cases) may not engage in employment.

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(B) TECRO. The Taipei Economic and Cultural Representative Office (TECRO) represents Taiwan in the United States in the absence of diplomatic relations. Persons possessing a Taiwan passport who are assigned for more than 90 days to the TECRO offices in the United States and their dependents are issued E-1 visas annotated "Employee [or Dependent] of TECRO accorded courtesies and Duration of Status (D/S) per TRA4(a)". (The term "TRA 4(a)" indicates section 4(a) of the Taiwan Relations Act.)

Unmarried dependent sons and daughters of TECRO employees over the age of 21 may be issued E visas so long as they continue to meet the definition of "immediate family"; unmarried sons and daughters, whether by blood or adoption, who are not members of other households, and who will reside regularly in the household of the principle alien.

Other immediate family members (e.g., parents, parent-in-law, etc.) who are members of the same household may be issued B-2 visas. Personal employees of TECRO personnel may be issued B-1 visas.

(2) Classification: E-2 Treaty investor, spouse, and children entering the U.S. under provisions of a treaty between the U.S. and the alien's country of nationality to develop and direct an enterprise in which the alien has invested or is actively in the process of investing a substantial amount of money.

Documents required: Passport valid for 6 months beyond the date to which admitted, unless exempt. Nonimmigrant visa (E-2), (including Canadians).

Qualifications: Must be national of the treaty country, within the general description above. May be investor or qualifying employee of investor. All nonimmigrant grounds of inadmissibility apply. See list of treaty countries in Appendix 31-2 of the Adjudicator's Field Manual. Specific requirements for E-2 investors are contained in 8 CFR 214.2(e) and 22 CFR 41.51.

Terms of admission: Admit E-2 for up to 2 years.

Notations on I-94: Front: E-2, (date to which admitted). Reverse: Annotate the remarks section of the dependent's I-94 with the dependent's specific relationship to the principal and the principal's name (e.g., "Spouse of John Jones" or "Child of John Jones").

#### Special notes:

(A) Dependents. Admit spouse and children as E-2. Their period of admission is up to 2 years or to coincide with the stay of the principal alien. The spouse and children may accompany or follow to join but may not precede the principal alien. Spouse and children may attend school without changing status. The spouse of an E-2 may apply for and be issued an employment authorization document, but the child(ren) of an E-2 may not engage in employment. Nationality of the spouse and children is not material.

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(B) Employee E-2s. If the alien is an employee of an E-2, he or she must be of the same nationality as the investor and must engage in duties of an executive or supervisory character, or if employed in a lesser capacity have special qualifications that make the alien's service essential to the efficient operation of the enterprise.

(Paragraph (e) revised IN 02-12)

(f) Students. (Amended by CBP 4-04)

(1) Classification: **F-1** Students are those who seek to enter the United States to pursue a full course of study at one of the following types of academic institutions which is approved by the Department of Homeland Security for attendance by foreign students:

- Established college or university;
- Seminary or conservatory;
- Academic high school or elementary school;
- Other academic institution; or,
- Language training program. [See restrictions in section 214(m) of the Act, added by IIRIRA].

Documents required: Passport valid for 6 months, unless exempt. Nonimmigrant visa (F-1), unless exempt. SEVIS Form I-20AB. Presentation or submission of a SEVIS Form I-20 indicates that the alien has been accepted to a school that has been authorized by the DHS to participate in the SEVIS program.

[REDACTED] The form may be a single page document printed front/back or two-page document printed on one side only. Documentary evidence of financial support.

Students making an initial entry into the United States may be admitted for a period up to 30-days before the indicated report date or program start date listed on the SEVIS Form I-20AB. Discretion can be used in those instances where in coming flights are limited and the student is arriving a few days early. There are no restrictions on how early a returning student may enter the United States. This includes continuing students that are transferring to a new school and are re-entering the United States in order to start the program at the transfer-in school.

Initial entry foreign students exempt visa requirements issued a SEVIS Form generated on or after **September 1, 2004** should present either Form I-797, Receipt Notice or Internet Receipt Notice confirming payment of the SEVIS fee. Refer to Special Notes G for details.

Qualifications: Alien must be coming to pursue a full course of study at an approved school as identified in Special Note B, unless qualified for a reduced course load as a commuter student as identified in Special Note D or to resume authorized employment for practical

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training after a temporary absence as identified in Special Note F. All nonimmigrant grounds of inadmissibility apply. See requirements in 8 CFR 214.2(f) and 22 CFR 41.61.

Terms of admission: Admit F-1 for duration of status, except for part-time border commuter students refer to Special Note D. A student making an initial entry may be admitted for a period up to 30 days before the indicated report date or program start date listed on the SEVIS Form I-20AB. There is no restriction on a returning student.

Form I-94: Front: F-1, D/S. Reverse: Record the SEVIS Identification number as it appears on the SEVIS Form I-20. Note in box 22 "N" and the 10-digit SEVIS number. DO NOT WRITE SEVIS. Record the same number on the "Record of Changes" lines provided on the reverse portion of the Form I-94, Departure Record.

Processing initial entry students. Upon initial admission, an F-1 should present a SEVIS Form I-20AB. Review the form for completeness and accuracy. Ensure that both the Designated School Official (DSO) and student have signed and dated the form. If the student is admissible:

Endorse the SEVIS Form I-20AB in the following manner:

- Stamp the "For Immigration Official Use" block with the admission stamp.
- Record the appropriate class of admission and period of authorized stay "F-1 D/S".
- Neatly and legibly record the admission number from the Form I-94 in the space provided.

On the Non-immigrant visa (NIV):

- Endorse with the admission stamp in a manner that will include a portion of the stamp overlapping the NIV.
- Record the SEVIS ID Number on the visa page, if not already annotated.

Upon completion, affix the Form I-94, Departure Record to the student's passport, if not exempt. The SEVIS Form I-20AB and the passport containing the Form I-94 are to be given to the student.

Readmission. Upon subsequent entries, a student with a SEVIS Form I-20AB may have a separate page issued by the DSO authorizing travel or for providing certification or recommendation for practical training. The DSO is required to endorse the SEVIS Form I-20AB confirming that the student is enrolled and attending the school. The SEVIS computer record will be updated by the DSO each term or session to reflect that the student is still registered at the institution and maintaining status. Therefore, if a student travels outside the United States during an ongoing semester, the POE can refer to SEVIS to confirm a student's enrollment status. Alternatively, the POE should refer to the travel

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authorization mentioned above to verify the status of the student. To process the returning student, review the SEVIS Form I-20AB for completeness and for the signatures of both the DSO and the student:

- The CBP officer is not required to place an additional admission stamp on the SEVIS Form I-20AB.
- Endorse the NIV with the admission stamp near the NIV and record the SEVIS ID Number on the visa page, if not already annotated.
- Complete the Form I-94 as noted above.
- The SEVIS Form I-20AB is to be returned to the student.

A student re-entering to begin another program level at the same institution or transferring to another school is not held to the 30-day prior to admission restriction. The SEVIS Form I-20AB should indicate "initial" and the NIV should indicate previous entry. SEVIS should have two records: the first record from the previous program, the second for the new program.

Recording Admission. The admission of the F-1 student making an initial entry to the United States with a SEVIS issued form that has been not been endorsed with an admission stamp is to be entered into SEVIS. Refer to Chapter 15.16 Student and Exchange Visitor Processing.

- Air/sea POEs: The SEVIS record will be updated by entering specific information in the COA screens for all admission.
- Land POEs: The secondary officer will record the student's initial entry directly into SEVIS. Properly documented returning students may be released on primary, if otherwise admissible.

Special notes: [For general information for F-1 students see 8 CFR 214.2(f).]

(A) Certain Students with Expired Visas. F-1 students and dependents with expired visas who have been outside the U.S. for less than 30 days solely to contiguous territory or adjacent islands may be readmitted if they have their original Form I-94, Departure Record or a valid SEVIS Form I-20AB. [See 8 CFR 214.1(b)(1) and 22 CFR 41.112]. This provision does not apply to:

• [REDACTED]

(B). Full Course of Study. A full course of study is generally defined as 12 credit hours or 18-22 weekly clock hours per term or session. Definition varies by program type. Additional information is available in 8CFR214.2(f)(6). Successful completion of a study

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must lead to the attainment of a specific educational or professional objective. A full course of study may be any of the following:

- Postgraduate study or postdoctoral study at a college or university;
- Undergraduate or postgraduate study at a conservatory or religious seminary;
- Full-time undergraduate study at a college or university (i.e., at least 12 semester or quarter hours of instruction per academic term or equivalent);
- Study at a postsecondary language, liberal arts, fine arts, or other non-vocational program at a school that confers associate or other degrees or whose credits are accepted by accredited institutions of higher learning.

(C) Limitation on Public School Attendance. Section 214(m) of the Act prohibits attendance by F-1 nonimmigrant students at public elementary schools and public adult education programs. Attendance at public secondary education programs is limited to 12 months and requires the student to pay the full-unsubsidized cost of such education.

(D) Reduced Course Load-Commuter Students from Canada & Mexico. Canadian or Mexican nationals who are enrolled, or will enroll, in a course of study are eligible for admission to pursue part-time study provided the alien meets all other F-1 requirements, with the following accommodations. The alien must maintain actual residence and place of abode in the country of nationality, must apply for admission at a land POE, and must be enrolled in a United States school within 75 miles of the international border. After paying the prescribed fee, the alien will be issued a multiple-entry Form I-94 with an admission period that reflects the current semester or term of study, as noted in the alien's SEVIS Form I-20. The DSO will issue all reduced course load students a new SEVIS Form I-20 for each new semester or term that the student is enrolled at the school. A new multiple-entry Form I-94 is required for each new semester or term, with fee.

(E) Lacking SEVIS Form I-20AB. Whenever possible, POEs should attempt to obtain the proper SEVIS documentation (faxed copy is acceptable) in order to admit the student rather than issue a Form I-515A, Notice to Student or Exchange Visitor or defer the inspection. However, a Form I-515A may be issued to a student not in possession of a valid SEVIS form, if the individual presents a valid visa (if required) and the status can be verified in SEVIS. Refer to Chapter 15.16 for Form I-515A processing guidelines.

#### (F) Employment

(i) On Campus Employment: On-campus employment is employment performed on the school's premises (including on- location commercial firms which provide student services on campus, such as a school cafeteria), or an off-campus location which is educationally affiliated with the school (like some school bookstores).

- Any F-1 student in good standing can work on campus incident to status, full time when school is not in session and during annual breaks, and part time while school is in session.

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- Because this employment is authorized incident to the F-1 student status, the student does not need specific authorization from either DHS or a DSO to engage in such employment.
- DHS does not require the DSO to collect this information from students. However, on-campus employment information is not a reportable field in SEVIS.
- Some schools may choose to have the F students notify the DSO prior to engaging in on-campus employment, but this is not a DHS requirement.

See 8 CFR 214.2(f)(9)(i)

(ii) Off-Campus Employment: A student in good standing can apply to USCIS for authorization to work off-campus with a firm that is unassociated with the school if:

- The student has been continuously enrolled as an F-1 student for at least one full academic year (approximately 9 months).
- There is no on-campus employment available.
- The student faces severe economic hardship without such authorization to work.
- To obtain off-campus employment:
  1. The DSO makes the recommendation for employment in the SEVIS system, specifying any known information about the employment in a free-text field.
  2. The student then files a Form-I-796 with the SEVIS Form I-20AB to the USCIS Service Center.
  3. If approved, the USCIS Service Center will issue the student an Employment Authorization Document (EAD) that specifies the dates for which the employment is approved (usually 1-year intervals). This EAD will not specify the name/place of the employer.
  4. SEVIS is updated by the Service Center's system to show that the employment was approved.

(iii) Curricular Practical Training (CPT): CPT is employment that is a required part of a student's specified curriculum. In most cases, CPT involves internships and similar work experience specifically required by the student's program. See 214.2(f)(10)(i).

- F-1 students (other than those enrolled in an English language program) that have been enrolled full time in an approved school for at least 9 consecutive months can be authorized for CPT.
- The DSO can authorize CPT; DHS authorization is not required.
- The DSO must authorize CPT before the student begins work. The DSO authorizes CPT in SEVIS as an update to the student's record. Authorized CPT information, which can be seen on both the student information screen in SEVIS, and on page three of the printed SEVIS Form I-20, identifies the employer, employment dates, and whether the employment is full or part time.

(iv) Optional Practical Training (OPT): OPT is employment that is related to a student's specified curriculum, but not required by it.

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- OPT must be recommended by the DSO and authorized by USCIS before the student begins work. See 8 CFR 214.2(f)(10)(ii)
- Students in English language programs are not eligible for OPT.
- Eligible F-1 students get up to 12 months of full-time OPT at each program level. Part-time OPT can be approved while a student is in school. Full-time OPT can be approved in the period following completion of the student's program. However, such "post-completion" OPT must be completed within 14 months of the program end date.
- The DSO recommends OPT in SEVIS as an update to the student's record. The OPT recommendation, which will appear on the student information screen and on page 3 of the student's printed SEVIS Form I-20, includes the employment dates and whether the employment is full- or part-time. (It may also identify an employer, if known.)
- The student may remain in the U.S. (and re-enter the U.S.) while the OPT is pending adjudication, and once it has been approved. This is true both for pre-completion and post-completion OPT.
- Once approved, the USCIS Service Center will issue the student an EAD that specifies the dates of employment (but not the type or place of employment) and SEVIS is updated to show that the employment has been approved.

(G) SEVIS FEE Initial entry foreign students exempt visa requirements issued a SEVIS Form generated on or after **September 1, 2004** should present either Form I-797, Receipt Notice or an Internet Receipt Notice confirming payment of the SEVIS fee. If unavailable, the POE should refer to the student's SEVIS record to verify fee payment. The receipt information in SEVIS is located on the Student information page. There is a block entitled "I-901 Fee Payment Information". There is a lapse between the time the student pays the fee and when the confirmation appears in SEVIS, which allows ICE to process the payment (approximately 10-days). The receipt is not required if payment can be verified in SEVIS. If payment status indicates, "cancelled", the POE should still accept this as proof of payment. (Added by CBP 4-04)

(2) Classification: **F-2** Spouse and children of F-1 student.

Documents required: Passport valid for 6 months, unless exempt. Nonimmigrant visa (F-2), unless exempt. SEVIS Form I-20AB. SEVIS will generate a separate Form I-20 for each F-2, which can be identified by [REDACTED] and will include the dependent's and the principal's biographical information. When processing F-2 dependents, endorse the SEVIS Form I-20AB and return it to the alien.

The eligible spouse and minor children of a student or exchange visitor with a valid SEVIS Form must individually present an original SEVIS Form issued in the name of each dependent issued by a SEVIS authorized school.

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Qualifications: Must be an individual listed in general description. All nonimmigrant grounds of inadmissibility apply. Must be accompanying or following to join the F-1.

Terms of admission: Admit F-2 for duration of status. Except for dependent of part-time border students as referenced in Special Note D.

Notations on Form I-94: F-2, D/S. Same as F-1 principal. However in box 18 (occupation) identify dependent as spouse or child, as appropriate.

Special notes: See notes on F-1 above.

Dependent employment: Dependents may not engage in employment.

Study: The F-2 spouse of an F-1 student may not engage in full time study, and the F-2 child may only engage in full time study if the study is an elementary or secondary school (kindergarten through twelfth grade). The F-2 spouse and child may engage in study that is avocational or recreational in nature.

### (g) Representatives to, and employees of, international organizations.

(1) Classification: **G-1** Designated principal **resident** representative of a foreign government to an international organization, staff, and members of the immediate family.

Documents required: Passport valid only to date of application for admission. Nonimmigrant visa (G-1).

Qualifications: Must be an international organization recognized by the President or State Department. Inadmissible only under 212(a)(3)(A), (B), or (C). See §102 of the Act.

Terms of admission: Admit G-1 for Duration of Status.

Notations on I-94: G-1, D/S. If visa is marked "TDY" include that notation in block 26 on the reverse of the I-94.

Special notes:

(A) Presumption of eligibility. Presentation of an G-1 visa is prima facie evidence that the alien is entitled to that status.

(B) Dependents. For G-1 nonimmigrants, dependents are entitled to the same classification as the principal. "Dependents" include more than just the spouse and children. See definition of "Immediate family" in 22 CFR 41.21.

(C) Restricted admission periods. Occasionally, a "G" nonimmigrant visa will be noted

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by a consular official: "authorized stay limited to 45 (or some other specified number) days". Do not admit such nonimmigrants for D/S; limit the admission as specified on the visa.

(2) Classification: **G-2** Temporary representatives of recognized foreign member governments to an international organization and members of the immediate family.

Documents required: Passport valid only to date of application for admission. Nonimmigrant visa (G-2).

Qualifications: Must be an international organization recognized by the President or State Department and foreign government must be a member of the international organization. Inadmissible only under 212(a)(3)(A), (B), or (C). See section 102 of the Act.

Terms of admission: Admit G-2 for Duration of Status.

Notations on I-94: G-2, D/S. If visa is marked "TDY" include that notation in block 26 on the reverse of the I-94.

#### Special notes:

(A) Presumption of eligibility. Presentation of an G-2 visa is prima facie evidence that the alien is entitled to that status.

(B) Dependents. For G-2 nonimmigrants, dependents are entitled to the same classification as the principal. "Dependents" include more than just the spouse and children. See definition of "Immediate family" in 22 CFR 41.21.

(C) Restricted admission periods. Occasionally, a "G" nonimmigrant visa will be noted by a consular official: "authorized stay limited to 45 (or some other specified number) days". Do not admit such nonimmigrants for D/S; limit the admission as specified on the visa.

(3) Classification: **G-3** Representatives of non-recognized or nonmember governments to an international organization and members of the immediate family.

Documents required: Passport valid only to date of application for admission. Nonimmigrant visa (G-3).

Qualifications: Must be an international organization recognized by the President or State Department and foreign government is a non-member of the international organization or non-recognized by the United States. Inadmissible only under 212(a)(3)(A), (B), or (C) [See section 102 of the Act.].

Terms of admission: Admit G-3 for Duration of Status.

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Notations on I-94: G-3, D/S. If visa is marked "TDY" include that notation in block 26 on the reverse of the I-94.

### Special notes:

(A) Presumption of eligibility. Presentation of an G-3 visa is prima facie evidence that the alien is entitled to that status.

(B) Dependents. For G-3 nonimmigrants, dependents are entitled to the same classification as the principal. "Dependents include more than just the spouse and children. See definition of "Immediate family" in 22 CFR 41.21.

(C) Restricted admission periods. Occasionally, a "G" nonimmigrant visa will be noted by a consular official: "authorized stay limited to 45 (or some other specified number) days". Do not admit such nonimmigrants for D/S; limit the admission as specified on the visa.

(4) Classification: **G-4** Officers or employees of a recognized international organization and members of the immediate family.

Documents required: Passport valid only to date of application for admission. Nonimmigrant visa (G-4).

Qualifications: Must be an employee of an international organization (not a member state) recognized by the President or State Department. Alien is employee of the organization, not an employee of a member state. Inadmissible only under 212(a)(3)(A), (B), or (C). See section 102 of the Act.

Terms of admission: Admit G-4 for Duration of Status.

Notations on I-94: G-4, D/S. If visa is marked "TDY" include that notation in block 26 on the reverse of the I-94.

### Special notes:

(A) Presumption of eligibility. Presentation of a G-4 visa is prima facie evidence that the alien is entitled to that status.

(B) Dependents. For G-4 nonimmigrants, dependents are entitled to the same classification as the principal. "Dependents" include more than just the spouse and children. See definition of "Immediate family" in 22 CFR 41.21.

(C) United Nations travel documents. A G-4 visa may be placed in a United Nations Laissez-Passer if the alien is traveling on official U.N. business.

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(D) Restricted admission periods. Occasionally, a "G" nonimmigrant visa will be noted by a consular official: "authorized stay limited to 45 (or some other specified number) days". Do not admit such nonimmigrants for D/S; limit the admission as specified on the visa.

(5) Classification: G-5 Attendants, servants, or personal employees of G-1 through G-4 and members of their immediate family.

Documents required: Passport valid for 6 months beyond the date to which admitted. Nonimmigrant visa (G-5).

Qualifications: Must be attendant, servant, or employee of G-1 through G-4. All nonimmigrant grounds of inadmissibility apply.

Terms of admission: Admit G-5, up to 3 years.

Notations on I-94: G-5, (date to which admitted). Include the employer's name in block 26 on the reverse of the I-94.

### Special notes:

(A) Presumption of eligibility. Presentation of a G-5 visa is prima facie evidence that the alien is entitled to that status.

(B) Dependents. For G-5 nonimmigrants, dependents are entitled to the same classification as the principal. "Dependents include more than just the spouse and children. See definition of "Immediate family" in 22 CFR 41.21.

(C) Attendants and personal servants defined. The terms "attendants" and "personal employees" are defined in 22 CFR 41.21.

### (h) Temporary workers.

(1) Classification: **H-1B**. Specialty occupations (professional), Department of Defense project employees, and fashion models.

Documents required: Passport valid for 6 months beyond admission date, unless exempt. Nonimmigrant visa (H-1B), unless exempt. Approved I-129 petition. May present Form I-797, Notice of Action, or the visa may be annotated with approval information by the consular officer. An amended H-1B petition shall not be required where the petitioning employer is involved in a corporate restructuring, including but not limited to, a merger, acquisition, or consolidation, where a new corporate structure entity succeeds to the immigration-related interests and obligations of the

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original H-1B petitioning employer and where the terms and conditions of the beneficiary's employment remain the same but for the identity of the petitioner.

An H-1B applicant for admission who no longer works for the original H-1B petitioner, and who now works for a new corporate entity claiming exemption from the requirement to file an amended petition, may be admitted at the port-of-entry if the alien:

- (a) is otherwise admissible;
- (b) is in possession of a passport valid for 6 months beyond the admission date, unless exempt, and a valid nonimmigrant visa; and,
- (c) presents a letter from the new corporate entity stating that:
  - (i) the new corporate entity has succeeded to the immigration-related interests and obligations of the original H-1B petitioning employer; and
  - (ii) the terms and conditions of the H-1B nonimmigrant's employment have remained the same.

**Note:** An amended I-797 reflecting the new corporate entity's name is not required. (Revised IN01-19)

Qualifications: Alien must be qualified for and coming to be employed in a specialty occupation as defined in section 214(i)(1) of the Act, be a fashion model, or be employed in a Department of Defense cooperative research and development project. All nonimmigrant grounds of inadmissibility apply.

Terms of admission: Admit H-1B for validity of petition plus a maximum of 10 days prior to the validity date of the petition and up to 10 days after the expiration date [8 CFR 214.2(h)(13)].

Notations on I-94: **Front:** H-1B, (date to which admitted). **Reverse:** petition number and occupation from the list in Appendix 31-1 of the *Adjudicator's Field Manual*.

#### Special notes:

(A) Foreign residence requirement. H-1B does not have to establish foreign residency.

(B) Petitions. The approved petition is forwarded by the service center to the visa issuing post or, when no visa is required, to the proposed first POE of the

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beneficiary. Petition approval may also be sent via facsimile or cable. Information on petition approval may be verified by checking the CLAIMS database. Petitions may be valid initially for up to 3 years (DOD projects, 5 years), and may be extended for up to 6 years (DOD projects, 10 years).

(C) Dependents. Dependents are admitted as H-4. Dependents may not work but may attend school without changing status.

(D) Refusal for fraud. If the alien beneficiary of an H-1B petition is refused admission due to fraud, there are certain additional steps that must be taken at the POE. Please refer to Chapter 17.3 of this manual for further instructions on the procedures required to revoke an H-1B visa obtained through fraud.

(Redesignated IN02-05)

(E) Certification of Health Care Workers. If the alien beneficiary is seeking admission for the primary purpose of performing labor in a covered health care occupation, the alien must present, at time of issuance of the visa and upon each application for admission at a port of entry, a certificate or certified statement from an approved credentialing organization listed in 8 CFR 212.15(e) or (h). The covered health care occupations requiring valid certification include nurses (licensed practical nurses, licensed vocational nurses, and registered nurses), occupational therapists, physical therapists, speech language pathologists and audiologists, medical technologists (clinical laboratory scientists), medical technicians (clinical laboratory technicians), and physician assistants. This requirement does not apply to aliens admitted to perform services in a non-clinical health care occupation in which the alien is not required to perform direct or indirect patient care (e.g., teachers, researchers, or managers of health care facilities), aliens coming to receive training in health care worker occupations (e.g., F-1s, H-3s, or J-1s), or to spouses and dependent children. [See 8 CFR 212.15 and AFM Ch. 30.12] The Secretary of Homeland Security will continue to exercise his discretion to waive the certificate requirement up to and including July 25, 2005, for Canadian and Mexican health care workers, who, before September 23, 2003, were employed as "trade NAFTA" (TN) or "trade Canada" (TC) nonimmigrant health care workers and held valid licenses from a United States jurisdiction. Until that date, DHS will admit health care workers and approve applications for extension of stay and/or change of status subject to the following conditions (Added by CBP 3-04):

- (1) The admission, extension of stay, or change of status may not be for a period longer than 1 year, even if the relevant provision of 8 CFR 214.2 would ordinarily permit the alien's admission for a longer period;
- (2) The alien must obtain the requisite health care worker certification within 1

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year of the date of admission, or the date of the decision to extend the alien's stay or change status; and

- (3) Any subsequent petition or application to extend the period of authorized stay or change the alien's status must include proof that the alien has obtained the health care worker certification if the extension of stay or change of status is sought for the primary purpose of the alien performing labor in an affected health care occupation.

(2) Classification: **H-1B1.** Includes Free Trade Professionals from Chile and Singapore. Free Trade Agreements with Chile and Singapore became effective on January 1, 2004.

Documents required: Valid passport. Both Chile and Singapore are members of the six-month club and may be admitted until the expiration date of the applicant's passport (NTE 1 year). A nonimmigrant visa (H-1B1) is required. There are no petition requirements on behalf of Chileans or Singaporeans desiring H-1B1 status.

Qualifications: For purposes of the two trade agreements, a "professional" is defined as:

"a national of (Chile or Singapore) who is engaged in a specialty occupation requiring (a) theoretical and practical application of a body of specialized knowledge; and (b) attainment of a post-secondary degree in the specialty requiring four or more years of study (or the equivalent of such a degree) as a minimum for entry into the occupation."

Terms of admission: Admit H-1B1 initially for a maximum of one year.

Notations on I-94: **Front:** H-1B1, (date to which admitted). **Reverse:** Occupation and employer.

Special notes:

(A) Foreign residence requirement: H-1B1 does not have to establish foreign residency. H-1B1 professionals may be admitted initially for a maximum of one year, and may extend stay in one-year increments indefinitely, as long as they continue to demonstrate that they do not intend to remain permanently. There is no "dual intent" provision.

(B) Petitions: There is no petition requirement. An individual not in the United States applies directly to an American Consulate for a nonimmigrant visa. The Nebraska Service Center will adjudicate requests for change or extension of

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H-1B1 status. CLAIMS 3 will track Chilean and Singaporean H-1B1s as "HSC" until CLAIMS 3 is modified to track the H-1B1 nonimmigrant code. Approval notices for requests for change and extension of status will show an "HSC" code, until CLAIMS 3 is modified to reflect the H-1B1 code.

(C) Dependents. Dependents are admitted as H-4. Dependents may not work but may attend school without changing status.

(D) License Requirements: The H-1B1 category does not require possession of a relevant professional license as a condition to admission. H-1B1 professionals will be expected to comply with all applicable state and federal licensure requirements for engaging in their professions following their admission.

(E) Certification of Health Care Workers. Aliens performing labor in the United States as a registered nurse must present, at time of issuance of the visa and upon each application for admission at a port of entry, a certificate or certified statement from a credentialing organization described in 8 CFR 212.5(e) or (h). [See 8 CFR 212.15 and AFM Ch. 30.12.] The Secretary of Homeland Security will continue to exercise his discretion to waive the certificate requirement up to and including July 25, 2005, for Canadian and Mexican nurses, who, before September 23, 2003, were employed as "trade NAFTA" (TN) or "trade Canada" (TC) nonimmigrant health care workers and held valid licenses from a United States jurisdiction. Until that date, DHS will admit registered nurses and approve applications for extension of stay and/or change of status subject to the following conditions (Added by CBP 3-04):

- The admission, extension of stay, or change of status may not be for a period longer than 1 year, even if the relevant provision of 8 CFR 214.2 would ordinarily permit the alien's admission for a longer period;
- The alien must obtain the requisite health care worker certification within 1 year of the date of admission, or the date of the decision to extend the alien's stay or change status; and
- Any subsequent petition or application to extend the period of authorized stay or change the alien's status must include proof that the alien has obtained the health care worker certification if the extension of stay or change of status is sought for the primary purpose of the alien performing labor in an affected health care occupation.

(3) Classification: **H-1C**. Includes registered nurses entering the U.S. to perform nursing services at a facility which provides health care.

Documents required: Passport valid for 6 months beyond admission date, unless

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exempt. Nonimmigrant visa (H-1C), unless exempt. Approved I-129 petition. May present Form I-797 or the NIV may be annotated with approval information by the consular officer.

Qualifications: Must be a registered nurse and meet licensure requirements in section D below. All nonimmigrant grounds of inadmissibility apply.

Terms of admission: Admit H-1C for validity of petition plus a maximum of 7 days prior to the validity date of the petition and up to 10 days after the expiration date [8 CFR 214.2(h)(13)(ii)].

Notations on I-94: **Front:** H-1C, (date to which admitted). **Reverse:** petition number and occupation "registered nurse." See general requirements in 8 CFR 214.2(h).

#### Special notes:

(A) Foreign residence requirement. H-1C does not have to establish he or she has a foreign residence.

(B) Petitions. The approved petition is forwarded by the service center to the visa issuing post or, when no visa is required, to the proposed first POE of the beneficiary. Petition approval may also be sent via facsimile or cable. Information on petition approval may be verified by checking the CLAIMS database. Petitions may be valid for up to 3 years. Once the H-1C has reached the 3-year maximum period, he or she is no longer eligible for admission.

(C) Dependents. Dependents are admitted as H-4. Dependents may not work but may attend school without changing status.

(D) License Requirements. Any alien granted H-1C classification must be fully qualified to work as a registered nurse in the state of intended employment. If the alien does not already possess a full and unrestricted license to practice professional nursing in the state of intended employment, the alien must, upon admission to the United States, be able to obtain temporary license or other temporary authorization to practice as a registered nurse in the state of intended employment.

(Added IN 02-05)

(E) Certification of Health Care Workers. Aliens performing labor in the United States as a registered nurse must present, at time of issuance of the visa and upon each application for admission at a port of entry, a certificate or certified statement from a credentialing organization described in 8 CFR 212.15(e) or (h). [See 8 CFR 212.15 and AFM Ch. 30.12.] The Secretary of Homeland Security

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will continue to exercise his discretion to waive the certificate requirement up to and including July 25, 2004. Until that date, DHS will admit registered nurses and approve applications for extension of stay and/or change of status subject to the following conditions:

- The admission, extension of stay, or change of status may not be for a period longer than 1 year, even if the relevant provision of 8 CFR 214.2 would ordinarily permit the alien's admission for a longer period;
- The alien must obtain the requisite health care worker certification within 1 year of the date of admission, or the date of the decision to extend the alien's stay or change status; and
- Any subsequent petition or application to extend the period of authorized stay or change the alien's status must include proof that the alien has obtained the health care worker certification if the extension of stay or change of status is sought for the primary purpose of the alien performing labor in an affected health care occupation.

(4) Classification: **H-2A**. Temporary agricultural workers.

Documents required: Passport valid for 6 months beyond admission date, unless exempt. Nonimmigrant visa (H-2A), unless exempt. Approved I-129 petition. May present Form I-797, Notice of Action, or the visa may be noted with approval information by the consular officer.

Qualifications: Coming **temporarily** to perform **temporary** services for which workers are not available in the United States. All nonimmigrant grounds of inadmissibility apply.

Terms of admission: Admit H-2A for validity of petition plus 10 days prior to validity date and up to 10 days after the expiration date [See 8 CFR 214.2(h)(13).].

Notations on I-94: **Front**: H-2A, (date to which admitted). **Reverse**: Petition number and occupation "agricultural."

#### Special notes:

(A) Dual temporary issue. Unlike H-1 nonimmigrants, who do not have to show a foreign residence and who may be coming temporarily to fill positions which are permanent by nature, the H-2 must have a foreign residence and must be coming only to fill a position which is itself temporary or seasonal [See definitions in 8 CFR 214.2(h)(2).].

(B) Petitions. The approved petition is forwarded by the service center to the visa

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issuing post or, when no visa is required, to the proposed first port of entry of the beneficiary. Petition approval may also be sent via facsimile or cable. Information on petition approval may be verified by checking the CLAIMS database. Petitions may be valid for up to 3 years. Petition and visa validity generally coincide.

(C) Multiple beneficiaries. H-2A petitions may be issued for multiple unnamed beneficiaries working in the same occupation. Because of the need to control the number of entries on multiple beneficiary petitions, local ports-of-entry should have specific procedures in place.

(D) Liquidated damages. Employers are frequently required to enter into a liquidated damages agreement to insure maintenance of status and departure of agricultural workers. Arrival and departure of agricultural workers must be closely monitored for accuracy to insure compliance with and enforcement of these agreements.

(E) Dependents. Dependents are admitted as H-4. Dependents may not work but may attend school without changing status.

(5) Classification: H-2B. Non-agricultural workers coming **temporarily** to perform services of a **temporary** nature.

Documents required: Passport valid for 6 months beyond admission date, unless exempt. Nonimmigrant visa (H-2B), unless exempt. May present Form I-797, Notice of Action, or the visa may be notated with approval information by the consular officer.

Qualifications: Must be coming temporarily to provide services of a temporary nature for which qualified U.S. workers are not available. All nonimmigrant grounds of inadmissibility apply.

Terms of admission: Admit H-2B for validity of petition plus a maximum of 7 days prior to the validity date of the petition and up to 10 days after the expiration date [8CFR 214.2(h)(5)(viii)(B)]. [Revised IN00-35]

Notations on I-94: **Front**: H-2B, (date to which admitted). **Reverse**: Petition number and occupation from the list in Appendix 31-1 of the Adjudicator's Field Manual.

#### Special notes:

(A) Dual temporary issue. Unlike H-1 nonimmigrants, who do not have to show a foreign residence and who may be coming temporarily to fill positions which are permanent by nature, the H-2B must have a foreign residence and must be

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coming only to fill a position which is itself temporary or seasonal. See definitions in 8 CFR 214.2(h)(2).

(B) Petitions. The approved petition is forwarded by the service center to the visa issuing post or, when no visa is required, to the proposed first port of entry of the beneficiary. Petition approval may also be sent via facsimile or cable. Information on petition approval may be verified by checking the CLAIMS database. Petitions may be valid for up to 3 years. Petition and visa validity generally coincide.

(C) Multiple beneficiaries. H-2B petitions may be issued for multiple unnamed beneficiaries working in the same occupation. Because of the need to control the number of entries on multiple beneficiary petitions, local ports-of-entry should have specific procedures in place.

(D) Dependents. Dependents are admitted as H-4. Dependents may not work but may attend school without changing status.

(E) Canadian loggers. See Chapter 21.8 for special control procedures.

(6) Classification: **H-3**. Aliens entering for the purpose of receiving instruction in any field of endeavor, other than graduate medical education or training.

Documents required: Passport valid for 6 months beyond admission date, unless exempt. Nonimmigrant visa (H-3), unless exempt. Approved I-129 petition. May present Form I-797, Notice of Approval, or the visa may be noted with approval information by the consular officer.

Qualifications: Must be coming temporarily for training unavailable in home country. Must have foreign residence. Productive employment may be only incidental to the training. Other specific limitations discussed in 8 CFR 214.2(h)(7). All nonimmigrant grounds of inadmissibility apply.

Terms of admission: Admit H-3 for validity of petition plus 10 days prior to validity date and up to 10 days after the expiration date [See 8 CFR 214.2(h)(13)].

Notations on I-94: **Front**: H-3, (date to which admitted). **Reverse**: petition number and occupation from the list in Appendix 31-1 of the Adjudicator's Field Manual.

#### Special notes:

(A) Special training in education of disabled children. Section 223 of Pub L. 101-649, the Immigration Act of 1990, provides for the admission of trainees for the purpose of receiving training in the education of children with physical,

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mental, or emotional disabilities. These trainees are limited to an 18-month admission, but do not have many of the same restrictions as other H-3 nonimmigrants. See 8 CFR 214.2(h)(7) for specific distinctions.

(B) Petitions. The approved petition is forwarded by the service center to the visa issuing post or, when no visa is required, to the proposed first port of entry of the beneficiary. Petition approval may also be sent via facsimile or cable. Information on petition approval may be verified by checking the CLAIMS database. Petitions may be valid for up to 18 months. Petition and visa validity generally coincide.

(C) Multiple beneficiaries. H-3 petitions may be issued for multiple unnamed beneficiaries receiving the same training.

(D) Dependents. Dependents are admitted as H-4. Dependents may not work but may attend school without changing status.

(7) Classification: **H-4**. Includes spouse and children of aliens classified H-1 through H-3.

Documents required: Passport valid for 6 months beyond admission date, unless exempt. Nonimmigrant visa (H-4), unless exempt.

Qualifications: Must be accompanying or following to join a principal alien and have qualifying relationship (spouse or minor unmarried child). All nonimmigrant exclusion grounds apply.

Terms of admission: Admit H-4 for same period as principal.

Notations on I-94: H-4, (date to which admitted).

Special notes: See notes on "dependents" for H-1 through H-3, above.

(i) Representatives of information media.

Classification: I [Representative of foreign information media, and immediate family].

Documents required: Passport valid for 6 months at time of entry unless exempt. Nonimmigrant visa (I) unless exempt.

Qualifications: Representative of foreign press, radio, film, television, or other information media. All nonimmigrant grounds of inadmissibility apply.

Terms of admission: Admit I for Duration of Status.

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Notations on I-94: I, D/S. Enter the employer's name in block 26 on the reverse of the I-94.

### Special notes:

(A) Defining the Term "Representatives of Foreign Press, Radio, Film, or Other Information Media." For classification under section 101(a)(15)(I) of the Act, the term "representatives of foreign press, radio, film or other foreign information media" includes aliens whose activities are essential to the foreign information media function (for example, media reporters, media film crews, video tape editors, and persons in similar occupations). Others associated with, but not directly involved in, such activities (a proofreader, for example) may qualify for admission under another classification, such as under section 101(a)(15)(H) of the Act.

(B) Dependent Spouse and Children. Admit the spouse and children of the principal alien as "I" nonimmigrants. Dependents may attend school without changing status but may not engage in employment.

(C) Prohibition on Commercial Film Crews. Camera crews producing films for commercial entertainment or advertising must qualify under section 101(a)(15)(O) or section 101(a)(15)(P) [or in some cases, section 101(a)(15)(H- 2B)] of the Act even though they will receive no remuneration from a U.S. source and the film is produced solely for foreign distribution.

(D) Informational or Educational Film/Video Distinguished From Entertainment Material. A nonimmigrant alien may be classified under section 101(a)(15)(I) of the Act only when engaged in the production or distribution of film/video of informational or educational films or video tapes. An alien intending to work on entertainment-oriented materials must be classified under sections 101(a)(15)(H)(2), 101(a)(15)(O) or 101(a)(15)(P) of the Act.

(E) Employee of Independent Production Company ("Independents"). "I" classification may be accorded to an employee of an independent production company if such employee holds a credential issued by a professional journalistic association, the film will be used to disseminate news or information, and the film will not be used primarily for commercial entertainment or advertising purposes.

(F) Employee of Foreign Government Tourist Bureau. A duly accredited representative of a tourist bureau controlled, operated, or subsidized in whole or in part by a foreign government, who engages primarily in disseminating factual tourist information about that country, is entitled to classification under section 101(a)(15)(I) of the Act.

(G) Member of Foreign Government Trade Promotion Mission. Since an employee or accredited representative in the United States of a trade promotional mission of a foreign government is engaged primarily in commercial/economic activities, "I" classification would not be appropriate. Both groups described in this note might include some foreign government officials. [See 22 CFR 41.22(b)]

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(H) Employee of Organization Which Disseminates Technical Industrial Information. "I" classification may be given to an employee in the United States offices of an organization which distributes technical industrial information.

(I) Free Lance Media Worker. Aliens holding a credential issued by a professional journalistic organization, if working under contract on a product to be used abroad by an information or cultural medium to disseminate information or news not primarily intended for commercial entertainment or advertising, are classifiable under section 101(a)(15)(I) of the Act. However, an alien holding an "I" visa should possess a valid contract of employment.  
(Revised IN01-08)

(j) Exchange visitor. (Amended by CBP 4-04)

(1) Classification: **J-1** Foreign nationals who have been selected by a Department of State (DOS) authorized program sponsor to participate in an exchange visitor program in the United States. The program is designed to promote mutual understanding between the U.S. and another countries through the interchange of persons, knowledge, and skills in the fields of education, art and science. Participants include students (secondary and post-secondary), trainees, teachers, professors, and research scholars. The Exchange Visitor Program includes international visitor, alien physician, government visitor, short-term scholar, specialists, camp counselors, au pairs, and summer work/travel.

Documents required: Passport valid for 6 months at time of entry unless exempt. Nonimmigrant visa (J-1) unless exempt. Student Exchange Visitor Information System (SEVIS)-generated Form DS-2019. The SEVIS-generated Form DS-2019 contains a two-dimensional bar code on the top right side of the form and the word "J-1" or "J-2" printed above the bar code. The SEVIS-generated Form DS-2019 is a single page document, rather than the previous multi-color carbonless Form DS-2019. The form may be a single-page document printed front/back or a two-page document printed on one side only.

The program sponsor must endorse the SEVIS-generated Form DS-2019. The signature is to easily identify an original form from a fax or photocopy.

Exchange participants making an initial entry into the United States may be admitted for a period up to 30-days before the report date or start of the approved program listed on the SEVIS-generated Form DS-2019. Discretion can be used in those instances where incoming flights are limited and the exchange visitor is arriving a few days early. There are no restrictions on how early a returning exchange participant may enter the United States. CBP officers may consult SEVIS to verify the correct program start date.

Initial entry exchange visitors visa exempt issued a SEVIS DS-2019 generated after **September 1, 2004** should present Form I-797, Receipt Notice or an Internet Receipt Notice confirming payment of the SEVIS fee. See Special Note G for details.

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Qualifications: The exchange participant must have a program sponsor authorized by the DOS as indicated on the SEVIS-generated Form DS-2019 and be entering for the purpose specified on the SEVIS-generated Form DS-2019. All nonimmigrant grounds of inadmissibility apply.

Terms of admission: Admit J-1 for Duration of Status (D/S).

Notations on Form I-94: Front: J-1, D/S. Reverse: In box 18 (occupation), record the exchange visitor category as shown in block 4 on the SEVIS-generated DS-2019. Record the SEVIS Identification number as it appears on the SEVIS-generated Form DS-2019. In box 22, note "N" and the 10-digit SEVIS number. DO NOT WRITE SEVIS. Record the same number on the "Record of Changes" line provided on the reverse portion of the Form I-94, Departure Record. In box 23, record the Program Number listed in block 2 on the SEVIS-generated Form DS-2019.

Under no circumstances should an admission number be crossed out and replaced with a previously issued admission number.

Processing SEVIS-generated Forms DS-2019 Upon Initial Entry. Upon initial admission, a J-1 should present a SEVIS-generated Form DS-2019. Review the form for completeness and the signatures of both the program sponsor and the exchange visitor.

(i) If the exchange participant is admissible endorse the SEVIS-generated Form DS-2019 in the following manner:

- Place an admission stamp in Box 6 entitled "U.S. Department of State/INS Use or Certification by Responsible Officer That A Notification Copy Of This Form Has Been Provided To The U.S. Department of State (Include Date)".
- Record the class of admission and period of authorized stay "J-1 D/S".
- If not already completed by the consular official at the time of visa issuance, execute the "Preliminary Endorsement" block in the lower right corner above consulate adjudication.

(ii) On the Non-immigrant visa (NIV):

- Endorse the NIV with the admission stamp in a manner that will include a portion of the stamp overlapping the NIV.
- Record the SEVIS ID Number on the visa page, if not already annotated.

(iii) Upon completion, affix the Form I-94, Departure Record to the exchange visitor's passport, if not exempt. The SEVIS-generated Form DS-2019 and the passport containing the Form I-94 are to be given to the exchange visitor.

Processing returning exchange visitors: Review the SEVIS-generated Form DS-2019 for completeness and for the signatures of both the program sponsor and the exchange visitor. The program sponsor is required to endorse the SEVIS-generated DS-2019 in BLUE ink.

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- The CBP officer is not required to place an additional admission stamp on the form.
- Endorse the NIV with the admission stamp near the NIV and record the SEVIS ID Number on the visa page, if not already annotated.
- Complete the Form I-94 as noted above.

Recording Admission. The admission of the J-1 exchange visitor making an initial entry to the United States with a SEVIS issued form that has not been endorsed with an admission stamp is to be entered into SEVIS. Refer to Chapter 15.16 Student and Exchange Visitor Processing.

- Air/sea POEs: The SEVIS record will be updated by entering specific information in the COA screens for all admission.
- Land POEs: The secondary officer will record the exchange visitor's initial entry directly into SEVIS. Properly documented returning exchange visitors may be released on primary, if otherwise admissible.

#### Special notes:

(A) Certain exchange visitors with expired visas. J-1 exchange visitors and dependents with expired visas who have been outside the U.S. for less than 30 days solely to contiguous territory or adjacent islands may be readmitted if they have a valid SEVIS-generated Form DS-2019 or Form I-94 showing the unexpired period of the alien's stay. [See 8 CFR 214.1(b)(1) and 22 CFR 41.112.]. This provision does not apply to:

- [REDACTED]
- [REDACTED]

(B) Employment authorization. J nonimmigrants may work in several circumstances. J-1 employment under the terms of the exchange program, at the sponsor's work site, does not require issuance of an employment authorization document (EAD). See 8 CFR 274a.12(a). J-1 aliens entitled to academic training and those whose programs provide for "open market" employment, and dependent J-2 aliens seeking employment under 8 CFR 214.2(j)(1)(v) may be issued an EAD. [See 8 CFR 274a.12(c)]. Note: only J-2s are required to apply for an EAD; SEVIS-generated Form DS-2019 is all the work authorization normally required for J-1.

(C) Two-Year Foreign Residence Requirement. Form DS-2019 includes a block, which is endorsed by the consular official issuing the visa or by the inspecting officer, containing a determination whether the exchange visitor is subject to the 2-year foreign residence requirement of section 212(e) of the INA. An alien may be subject to the foreign residence requirement for any of four reasons:

- if the exchange program is financed by the U.S. government;

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- if the exchange program is financed by the foreign government;
- if the alien's occupation is on the "Skills List" for his or her country of nationality or last residence; or,
- if the purpose of the trip is to receive graduate medical education or training.

In most instances the consular official who issued the visa will have made the determination whether the individual is subject. If there is no endorsement on the SEVIS-generated Form DS-2019 regarding this matter, then the POE must make the determination at the time of inspection. The list of governmentally financed programs and the "Skills List" needed in order to make this determination are contained in Appendix 15-1. This procedure is most critical when inspecting J aliens who are visa exempt. Such persons will not have had the foreign residence requirement explained by a consular official and, therefore, may be entirely unaware of the potential consequences of entry as an exchange visitor.

(D) Lacking SEVIS-generated Form DS-2019. Whenever possible, POEs should attempt to obtain the proper SEVIS documentation in order to admit the exchange participant rather than issue a Form I-515A, Notice to Student or Exchange Visitor or defer the inspection. However, a Form I-515A may be issued to an exchange participant not in possession of a valid SEVIS-generated Form, if the individual presents a valid visa (if required) and the status can be verified in SEVIS. Refer to Chapter 15.16 for Form I-515A guidelines.

(E) Summer Work/Travel programs do not always require that a student have a job prior to entering the United States.

(F) Special Exchange Notations. Exchange visitors from the People's Republic of China and former Soviet bloc countries may have their J-1 visas noted "CHINEX" or "SILEX". This notation must be placed on the Form I-94, in block 26 on the reverse. Program participants with these notations are specially controlled by the DoS.

(G) SEVIS FEE Initial entry exchange visitors visa exempt issued a SEVIS DS-2019 generated after September 1, 2004 should present Form I-797, Receipt Notice or an Internet Receipt Notice confirming payment of the SEVIS fee. If unavailable, the POE should refer to the exchange visitors SEVIS record to verify fee payment. The receipt information in SEVIS is located on the Exchange Visitor information page. There is a block entitled "I-901 Fee Payment Information". There is a lapse between the time the exchange visitor pays the fee and when the confirmation appears in SEVIS which allows ICE to process the payment (approximately 10-days). The paper receipt is not required if payment can be verified in SEVIS. If payment status indicates, "cancelled", the POE should still accept this as proof of payment. (Added by CBP 4-04)

(H) Certification of Health Care Workers. If the alien beneficiary is seeking admission for the primary purpose of performing labor in a covered health care

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occupation, the alien must present, at time of issuance of the visa and upon each application for admission at a port of entry, a certificate or certified statement from an approved credentialing organization listed in 8 CFR 212.15(e) or (h). The covered health care occupations requiring valid certification include licensed practical nurses, licensed vocational nurses, registered nurses, occupational therapists, physical therapists, speech language pathologists and audiologists, medical technologists (clinical laboratory scientists), medical technicians (clinical laboratory technicians), and physician assistants. This requirement does not apply to aliens admitted to perform services in a non-clinical health care occupation in which the alien is not required to perform direct or indirect patient care (e.g., teachers, researchers, or managers of health care facilities), aliens coming to receive training in health care worker occupations (e.g., F-1s, H-3s, or J-1s), or to spouses and dependent children. [See 8 CFR 212.15 and AFM Ch. 30.12.] The Secretary of Homeland Security will continue to exercise his discretion to waive the certificate requirement up to and including July 25, 2005, for Canadian and Mexican health care workers, who, before September 23, 2003, were employed as "trade NAFTA" (TN) or "trade Canada" (TC) nonimmigrant health care workers and held valid licenses from a United States jurisdiction. Until that date, DHS will admit health care workers and approve applications for extension of stay and/or change of status subject to the following conditions (Added by CBP 3-04):

- The admission, extension of stay, or change of status may not be for a period longer than 1 year, even if the relevant provision of 8 CFR 214.2 would ordinarily permit the alien's admission for a longer period;
- The alien must obtain the requisite health care worker certification within 1 year of the date of admission, or the date of the decision to extend the alien's stay or change status; and
- Any subsequent petition or application to extend the period of authorized stay or change the alien's status must include proof that the alien has obtained the health care worker certification if the extension of stay or change of status is sought for the primary purpose of the alien performing labor in an affected health care occupation.

(2) Classification: **J-2** Spouse and children of aliens classified J-1. (Revised 5/16/05; CBP 9-05)

Qualifications: Must have the necessary relationship to the principal exchange participants (J-1) provided by 22CFR 62.2. All nonimmigrant grounds of inadmissibility apply.

- Terms of admission: Admit J-2 for duration of status (D/S), unless the principal alien's stay as been limited. The dependent's status is derived from the principal alien.

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Documents required: Passport valid for 6 months beyond the date of admission, unless exempt; non-immigrant visa (J-2), unless exempt.

The eligible spouse and minor children of an exchange visitor must individually present an original SEVIS-generated Form DS-2019 issued by a SEVIS authorized program sponsor in the name of each dependent. The form will contain the biographical information of both the principal and the dependent.

Upon initial admission, review the form for completeness and the signatures of both the program sponsor (blue ink) and the dependent of the exchange visitor.

(i) If the dependent of the exchange participant is admissible, endorse the SEVIS-generated Form DS-2019 in the following manner:

- Place an admission stamp in Box 6 entitled "U.S. Department of State/INS Use or Certification by Responsible Officer That A Notification Copy Of This Form Has Been Provided To The U.S. Department of State (Include Date)".
- Record the class of admission and period of authorized stay "J-2 D/S", unless the principal alien's stay as been limited to a specific date. The dependent's status is derived from the principal alien.

(ii) On the non-immigrant visa (NIV):

- Endorse the NIV with the admission stamp in a manner that will include a portion of the stamp overlapping the NIV.
- Record the SEVIS ID Number on the visa page, if not already annotated.

(iii) Notations on Form I-94: J-2, D/S, unless stay is limited to a specific date. Same as J-1 principal. However in box 18 (occupation) identify dependent as spouse or child, as appropriate.

(iv) Upon completion, affix the Form I-94, Departure Record to the exchange visitor's passport, if not exempt. The SEVIS-generated Form DS-2019 and the passport containing the Form I-94 are to be given to J-2 nonimmigrant.

### **Special notes:**

(A) May accompany or follow to join J-1. If the J-1 has not been admitted to the United States, the dependent is not eligible for J-2 status. SEVIS may be searched to determine the principal's J-1 status.

(B) Dependent J-2 aliens seeking employment under 8 CFR 214.2(j)(1)(v) may apply for an Employment Authorization Document (EAD) with U.S. Citizenship and Immigration Services (USCIS). [See 8 CFR 274a.12(c)].

(k) Fiancé(s) of U.S. Citizens and Nonimmigrant Spouses of U.S. Citizens.

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(1) Classification: **K-1** Fiancees and fiances of U.S. citizens.

Documents required: Valid passport. Nonimmigrant visa (K-1) (including Canadians and others who would otherwise be exempt a visa). Valid petition (Form I-129F).

Qualifications: Alien must be coming to conclude a valid marriage to the citizen petitioner within 90 days. All nonimmigrant grounds of inadmissibility apply.

Terms of admission: Admit K-1 for 90 days.

Notations on I-94: **Front**: K-1, date 90 days from day of admission. **Reverse**: "A" number and FCO code.

Special notes:

(A) Employment Authorization. All K aliens, including dependents, may be issued an EAD under 8 CFR 274a.12(a) for a period of 90 days.

(B) Handling the K-1 petition. Verify the complete address of the intended place of residence as shown on the face of the I-129F. Stamp the back of the petition to reflect the admission of the beneficiary and any accompanying children. If there are accompanying K-2 children, circle their names in item #11 of the petition and note beneath the admission stamp the following: "includes children whose names are circled." Forward the petition and supporting documents to the files control office having jurisdiction over the K-1's intended place of residence.

(C) Visa cables. When the American consul has issued a K visa on the basis of receipt of a cable prior to the receipt of the approved visa petition, the American consul will place a copy of the wire into the sealed envelope in lieu of the petition. The admitting officer must verify the address, place the admission stamp on the cable with the above mentioned endorsements and forward the entire packet to the appropriate files control office.

(2) Classification: **K-2** Children of alien fiancees and fiances of U.S. citizens.

Documents required: Valid passport. Nonimmigrant visa (K-2) (including Canadians). Valid petition (Form I-129F).

Qualifications: Must be accompanying or following to join the K-1 parent. All nonimmigrant grounds of inadmissibility apply.

Terms of admission: Admit K-2 for 90 days.

Notations on I-94: K-2, date 90 days from day of admission.

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### Special notes:

(A) General. See notes above for admission and employment authorization

(B) Petition handling procedures. In the case of a following-to-join K-2 child, lift the sealed envelope furnished the child by the American consul, affix the medical report contained therein with the admission stamp showing the K-2 classification and the date until admitted. Ascertain the name and address of the K-1 alien parent to whom the child is destined, and the date on which such K-1 parent was admitted to the U.S. to the best of the child's knowledge. Prepare a memorandum which includes this information and forward it, together with the lifted report of the K-2 child's medical examination (and any other papers contained in the sealed envelope) to the files control office having jurisdiction over the child's destination.

(C) Delayed arrivals. With the concurrence of the Service, the Department of State has authorized consular officers to issue K-2 visas to the following-to-join children of a K-1 alien up to 1 year after the issuance of the K-1 visa to the principal alien. Issuance of the K-2 visa within that period (and admission as a K-2 nonimmigrant during the validity of that visa, if otherwise admissible) is authorized, even though the K-1 principal may have already married the U.S. citizen petitioner and acquired lawful permanent residence under section 214(d) of the Act.

(3) Classification: K-3: Spouse of a U.S. citizen who is the principal beneficiary of a Form I-130, Petition for Alien Relative.

Documents required: Valid, unexpired K visa issued by a consular officer and the K-3/K-4 visa packet. The normal passport validity requirements of section 212(a)(7)(B) of the INA apply. The State Department will issue 10-year, multiple entry K-3/K-4 visas, and will give the applicant a K-3/K-4 visa packet, similar to the K-1/K-2 visa packet except that the Form I-129F will be a scanned copy. Inspectors should forward the scanned copy of the Form I-129F, along with the supporting documentation, to the FCO identified in CIS. The original Form I-129F will be stored at the Nonimmigrant Visa Center in Portsmouth, New Hampshire.

Qualifications: To be eligible for the K-3 nonimmigrant classification, three requirements must be satisfied:

- (1) the alien must be the spouse of a U.S. citizen;
- (2) the alien must be the beneficiary of a Form I-130; and,
- (3) the alien must be seeking to enter the United States to await the approval of such petition and the availability of an immigrant visa.

Terms of Admission: Admit K-3 for 2 years.

Special Notes:

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(A) Multiple NIVs in Passport. Although an alien may only be admitted to the United States in one nonimmigrant status at any one time, nothing precludes an alien from possessing more than one nonimmigrant visa. Therefore, when admitting an alien in the K-3 classification, there is no requirement to lift or cancel a "laser" visa or any other nonimmigrant visa held by a K nonimmigrant. Such visas may only be cancelled in accordance with 22 CFR 41.122(h).

(B) Change of Status. There is no provision in the law to allow a nonimmigrant to change status to that of a K-3.

(C) Unlawful Presence. Aliens who have been unlawfully present in the United States for more than 180 days and depart trigger section 212(a)(9)(B) of the INA, the ground of inadmissibility relating to unlawful presence. K-3 aliens are not exempt from section 212(a)(9)(B) of the INA.

(D) Terms and conditions of "K" nonimmigrant status: Aliens in the United States in K nonimmigrant status must comply with the terms and conditions of that status as set forth in section 214 of the INA. Aliens admitted to the United States as K-3 nonimmigrants may reside in the United States during their period of admission. Nonimmigrant K-3 aliens are authorized to remain in the United States until their authorized period of admission expires, or until 30 days after the date one of the following is denied or revoked, whichever comes first:

- (i) the Form I-130 filed on the principal alien's behalf;
- (ii) the alien's application for adjustment of status; or
- (iii) the alien's application for an immigrant visa.

If the principal alien's status is terminated for any of these reasons, the status of any derivative child shall also be simultaneously terminated.

(E) Terminated or Revoked I-130. An alien will also no longer be eligible for K-3 status if the qualifying marriage that is the basis for the Form I-130 is terminated. In addition, if the Form I-130 is revoked under section 205 of the INA, the alien is then no longer eligible for classification as a K-3 nonimmigrant.

(F) Employment Authorization. An alien admitted to the United States in K-3 nonimmigrant status may obtain employment authorization in 2-year increments on the basis of that status under 8 CFR 274a.12(a)(9). The Form I-94 shall **not** be annotated "employment authorized." An Employment Authorization Document (EAD) issued under the (a)(9) code is required and is valid for the entire period of K-3 admission unless the Form I-130 is denied or revoked, or the application for adjustment of status or an immigrant visa is denied. An EAD may only be requested subsequent to K-3 admission by filing an INS Form I-765, Application for Employment Authorization, with the currently prescribed application fee.

(G) Travel Requirements: An alien in K-3 nonimmigrant status may travel abroad and be

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readmitted to the United States for the duration of the original 2-year admission period if he or she possesses a valid and unexpired K-3 nonimmigrant visa or otherwise qualifies for automatic revalidation pursuant to 22 CFR 41.112. Once a K-3 nonimmigrant has properly filed an application for adjustment of status (based on the approval of the qualifying Form I-130), he or she is not required to obtain advance parole in order to preserve the adjustment application upon departure and to permit the alien to return to the United States. Inspectors should refer to the initial admission stamp and admit the alien only to the date of the initial authorized stay, which should be 2 years from the date of initial admission. The alien should **not** be given an additional 2-year period of admission upon reentry into the United States. If the date of the initial authorized stay has passed, the inspection of the K-3 should be deferred to the INS office having jurisdiction over his or her current place of residence for a final determination in the case.

(4) Classification: **K-4:** Child accompanying or following to join the principal alien.

Documents required: Valid, unexpired K visa issued by a consular officer and the K-4 visa packet. The normal passport validity requirements of section 212(a)(7)(B) of the INA apply. The State Department will issue 10-year, multiple entry K-4 visas, and will give the applicant a K-4 visa packet, similar to the K-2 visa packet except that the Form I-129F will be a scanned copy. Inspectors should forward the scanned copy of the Form I-129F, along with the supporting documentation, to the FCO identified in CIS. The original Form I-129F will be stored at the Nonimmigrant Visa Center in Portsmouth, New Hampshire.

Qualifications: To be eligible for the K-4 nonimmigrant classification, an alien must be the unmarried child of a K-3 alien who is accompanying or following to join him or her. A K-4 nonimmigrant visa may only be issued to a derivative dependent of a K-3 nonimmigrant. Section 101(a)(15)(K) of the Immigration and Nationality Act (INA) does not require a pending Form I-130 for K-4 nonimmigrants to follow to join a K-3 nonimmigrant. However, in order to adjust status to LPR, a K-4 must have an approved Form I-130 filed on his or her behalf.

Terms of Admission: Admit K-4 for 2 years, unless "aging out."

Terms of Admission of Aging Out K-4: If alien is 19 years of age or older and applies for admission to the United States as a K-4 nonimmigrant, he or she shall be given an admission period ending on the day before the alien's twenty-first birthday.

#### Special Notes:

(A) Other Nonimmigrant Visa(s) in Passport. Although an alien may only be admitted to the United States in one nonimmigrant status at any one time, nothing precludes an alien from possessing more than one nonimmigrant visa. Therefore, when admitting an alien in the K-4 classification, there is no requirement to lift or cancel a "laser" visa or any other nonimmigrant visa held by a K nonimmigrant. Such visas may only be cancelled in accordance with 22 CFR 41.122(h).

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(B) Change of Status: There is no provision in the law to allow a nonimmigrant to change status to that of a K-4.

(C) Unlawful Presence: Aliens who have been unlawfully present in the United States for more than 180 days and depart trigger section 212(a)(9)(B) of the INA, the ground of inadmissibility relating to unlawful presence. K-4 aliens are not exempt from section 212(a)(9)(B) of the INA.

(D) Terms and conditions of "K" nonimmigrant status: Aliens in the United States in K nonimmigrant status must comply with the terms and conditions of that status as set forth in section 214 of the INA. Aliens admitted to the United States as K-4 nonimmigrants may reside in the United States during their period of admission. Nonimmigrant K-4 aliens are authorized to remain in the United States until their authorized period of admission expires, or until 30 days after the date one of the following is denied or revoked, whichever comes first:

- (i) the Form I-130 filed on the principal alien's behalf;
- (ii) the alien's application for adjustment of status; or
- (iii) the alien's application for an immigrant visa.

If the principal alien's status is terminated for any of these reasons, the status of any derivative child shall also be simultaneously terminated.

(E) Pending I-130 Not Required for Dependent. While section 101(a)(15)(K) of the INA does not require a pending Form I-130 for K-4 nonimmigrants to follow to join a K-3 alien, a Form I-130 must be filed on behalf of the K-4 nonimmigrant for adjustment purposes. It should be noted, however, that an alien will also no longer be eligible for K-4 status if the qualifying marriage that is the basis for the Form I-130 is terminated or the child who accompanied or followed to join a principal beneficiary either reaches the age of 21 or marries. In addition, if the Form I-130 is revoked under section 205 of the INA, the alien is then no longer eligible for classification as a K-4 nonimmigrant.

(F) Employment Authorization. An alien admitted to the United States in K-4 nonimmigrant status may obtain employment authorization in 2-year increments on the basis of that status under 8 CFR 274a.12(a)(9). The Form I-94 shall **not** be annotated "employment authorized." An Employment Authorization Document (EAD) issued under the (a)(9) code is required and is valid for the entire period of K-4 admission unless the Form I-130 is denied or revoked, or the application for adjustment of status or an immigrant visa is denied. An EAD may only be requested subsequent to K-4 admission by filing an INS Form I-765, Application for Employment Authorization, with the currently prescribed application fee.

(G) Travel Requirements: An alien in K-4 nonimmigrant status may travel abroad and be readmitted to the United States for the duration of the original 2-year admission period if he or she possesses a valid and unexpired K-4 nonimmigrant visa or otherwise qualifies

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for automatic revalidation pursuant to 22 CFR 41.112. Once a K-4 nonimmigrant has properly filed an application for adjustment of status (based on the approval of the qualifying Form I-130), he or she is not required to obtain advance parole in order to preserve the adjustment application upon departure and to permit the alien to return to the United States. Inspectors should refer to the initial admission stamp and admit the alien only to the date of the initial authorized stay, which should be 2 years from the date of initial admission. The alien should **not** be given an additional 2-year period of admission upon reentry into the United States. If the date of the initial authorized stay has passed, the inspection of the K-4 should be deferred to the INS office having jurisdiction over his or her current place of residence for a final determination in the case.

#### **(I) Intracompany Transferees.**

(1) Classification: **L-1** Includes aliens entering to render services to a branch, parent, subsidiary, or affiliate of the company of previous employment outside the United States. (Revised IN01-06)

Documents required: Passport valid for 6 months at time of entry unless exempt. Nonimmigrant visa (L-1) unless exempt. Must have evidence of approved I-129 petition in the form of a notation on the nonimmigrant visa indicating the petition number and employer's name, or a Notice of Action, Form I-797, indicating approval, unless the applicant is a Canadian citizen. In that case, the alien may file the I-129 at a Canadian pre-flight station or Canadian land border port-of-entry at the time he or she applies for admission. If arriving at an airport without having been inspected preflight, a Canadian applicant must have evidence of petition approval, Form I-797.

Qualifications: Must be in a managerial, executive, or specialized knowledge capacity but may be transferred from any one of the capacities to another (e.g. from managerial to executive). All nonimmigrant grounds of inadmissibility apply. Must have worked for the company (branch, parent, subsidiary, or affiliate) outside the U.S. for at least 1 continuous year within the preceding 3 years [See 8 CFR 214.2(l) and 22 CFR 41.54.].

(A) Blanket Petition. Aliens may qualify for L visas after having worked for the company (branch, parent, subsidiary, or affiliate), outside the United States, for 6 months within the preceding 3 years if the company has filed a blanket L petition and has met the blanket petitions' requirements. (Revised IN 02-12)

Terms of admission: If the alien is otherwise admissible as an individual L-1, admit for validity of petition (up to 3 years initially). If the alien is otherwise admissible as a Blanket L-1, initially admit for 3 years, regardless of the expiration date of the petition, provided the petition is valid at the time of the initial admission. If the alien is seeking readmission as a Blanket L-1, the Blanket Petition is still valid, and the alien is otherwise admissible, admit for an additional three years regardless of the balance of the time left on the original admission. (IN01-06)

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Notations on I-94: **Front:** L-1, (date to which admitted). **Reverse:** Petition number and occupation from list in Adjudicator's Field Manual Appendix 31-1.

### Special notes:

(A) Dependents. Admit the spouse and children as L-2.

(B) Petition limitations. Petition may be approved for up to 3 years, except start-up companies which are limited initially to 1 year. Expiration date of visa will usually be the same as the validity of the petition. The maximum stay in the U.S. for an L-1 specialized knowledge employee is 5 years. The maximum stay in the U.S. for an L-1, executive or manager is 7 years.

(C) Blanket petitions. Some L aliens may be admitted on blanket petitions, which are petitions approved for large companies where corporate requirements are not readjudicated with each individual L alien. A blanket L-1 alien may apply for admission or readmission to the United States as long as the blanket petition is valid at the time of admission. A blanket L-1 should be admitted for 3 years, unless that period of time will exceed the statutory limitations on the L-1 alien's stay in the United States. An L-1 alien who has spent either seven years in the United States in a managerial or executive capacity or five years in a specialized knowledge capacity may not be readmitted to the United States as an L-1 unless the alien has resided and been physically present outside the United States for the immediate previous year. Blanket petition applicants will have Form I-129S, Certificate of Eligibility for Intracompany Transferee Under a Blanket Petition, in their possession.

Aliens may qualify for L visas after having worked for the company (branch, parent, subsidiary, or affiliate), outside the United States, for 6 months within the preceding 3 years if the company has filed a blanket L petition and has met the blanket petitions' requirements. (Prior to Pub. L. 107-125 of January 16, 2002, the law required that a beneficiary of a Blanket L petition, within three years preceding the time of his application for admission into the United States, had to have been employed abroad continuously for one-year by the petitioning company.)

(Revised IN 02-12)

(D) NAFTA L aliens. Under the North American Free Trade Agreement (NAFTA), a Canadian citizen may file an I-129 for an L-1 classification in conjunction with his/her application for admission at certain land border ports-of-entry and preflight inspection stations. Because of this, officers must be completely familiar with the adjudication process of an I-129 petition for L-1 benefits. The following procedure may serve as a guideline:

- (1) Determine applicant to be a Canadian citizen and otherwise eligible for admission;

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- (2) Be sure the I-129 is completed in duplicate and signed;
- (3) Determine qualifying relationship between the U.S. and Canadian entities. Very often a great volume of material is not necessary;
- (4) Verify that the applicant was employed abroad by the Canadian entity in a qualifying capacity for a period of 1 year during the prior 3 years immediately preceding the date of application for admission;
- (5) The job offer by the U.S. entity must place the applicant in a qualifying managerial, executive or specialized knowledge capacity. Examine supporting documentation. Form M-332, Instructions for Filing I-129 Petition for Intracompany Transferee, is a good source of information concerning acceptable supporting documentation;
- (6) Collect fee, place fee stamp, approval stamp, and officer signature in proper places on the I-129;
- (7) Prepare I-94 multiple entry for 1 year if the alien is coming to a new office, (i.e. in business for less than 1 year) 3 years if other than new office;
- (8) Make sure alien receives the I-94, a receipt for the fee paid, Form I-9 and M-279 for initial admission. Advise the alien that he or she will receive an I-797, Notice of Action, from the service center; and
- (9) Attach arrival copy of I-94 to "record of proceedings," (original I-129 with supporting documents) and forward to the Service Center that has jurisdiction over your port-of-entry.

(2) Classification: L-2 Includes spouse and children of L-1.

Documents required: Passport valid for 6 months at time of entry unless exempt. Nonimmigrant visa (L-2) unless exempt.

Qualifications: Must have the required family relationship with the principal alien. Must be accompanying or following to join the principal L-1. All nonimmigrant grounds of inadmissibility apply.

Terms of admission: Admit L-2, same period as principal.

Notations on I-94: Front: L-2, (date to which admitted). Reverse: Annotate the remarks section of the dependent's I-94 with the dependent's specific relationship to the principal and the principal's name (e.g., "Spouse of John Jones" or "Child of John Jones").

Special notes:

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(A) Employment authorization: Spouse and children may attend school without changing status. The spouse may apply for and be issued an employment authorization document, but the child(ren) may not work as L-2.

(B) NAFTA L dependents. Under the North American Free Trade Agreement, only the principal applicant need be a Canadian/Mexican citizen.

(Paragraph (l)(2) revised IN 02-12)

(m) Vocational students. (Amended by CBP 4-04)

(1) Classification: **M-1** students who seek to enter the United States to pursue a full course of study at one of the following types of nonacademic institutions (other than language training programs) which is approved by the Department of Homeland Security (DHS) for attendance by foreign students:

- A community college or junior college which provides vocational or technical training and which awards recognized associate degrees;
- A vocational or other nonacademic high school;
- A post-secondary vocational or business school;
- A school which provides vocational or nonacademic training other than language training; or,
- A school that offers both vocational and academic courses provided the student's primary intent is to study vocational courses.

Language training qualifies only when taken at the same school for the purpose of enabling the student to understand the vocational or technical course of study.

Documents required: Passport valid for a minimum of 6 months beyond the period of admission, unless otherwise provided for or waived. Nonimmigrant visa (M-1), unless exempt. SEVIS-Form I-20MN. Presentation or submission of a SEVIS Form I-20MN issued from SEVIS indicates that the individual has been accepted to a school that has been authorized by the DHS to participate in the SEVIS program. Any Form I-20 issued by SEVIS will contain a two-dimensional bar code on the right side of the form and the word "SEVIS" printed above the bar code. The SEVIS Form I-20 is a single page student document rather than the previous carbon Form I-20MN with a separate student and school page. The form may be a single page document printed front/back or two-page document printed on one side only. Evidence of financial support.

Students making an initial entry into the United States may be admitted for a period up to 30-days before the report date or start date of the course of study listed on the SEVIS Form I-20MN. Discretion can be used in those instances where in coming flights are limited and the exchange visitor is arriving a few days early.

There are no restrictions on how early a returning student may enter the United States.

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Returning students who have transferred to another school or are pursuing a higher level degree are not required to obtain a new NIV.

Initial entry foreign students exempt visa requirements issued a SEVIS Form generated on or after **September 1, 2004** should present either Form I-797, Receipt Notice or Internet Receipt Notice confirming payment of the SEVIS fee. See Special Notes G for details.

Qualifications: Must be coming to pursue full course of study at an approved "M" school, unless qualified for a reduced course load as a commuter student as identified in Special Note B below. Must have sufficient financial resources. All nonimmigrant grounds of inadmissibility apply.

Terms of Admission: Admit as M-1 to the end date of the course, as specified on the SEVIS Form I-20MN plus 30-days, not to exceed one year, or to the validity date of the passport, less six months, if not exempt. A student making an initial entry may be admitted for a period up to 30 days before the indicated report date or program start date listed on the SEVIS Form I-20MN. There is no restriction on a returning student.

Notations on Form I-94: Front:: M-1, ending date of course plus 30 days not to exceed 1 year, except for part-time border commuters see Special Note B. Reverse: Record the SEVIS Identification number as it appears on the SEVIS Form I-20MN. Note in box 22 "N" and the 10-digit SEVIS number. DO NOT WRITE SEVIS. Record the same number on the "Record of Changes" lines provided on the reverse portion of the Form I-94, Departure Record.

Under no circumstances should [REDACTED]

Processing initial entry students. Upon initial admission, an M-1 should present a SEVIS Form I-20MN. Review the form for completeness and accuracy. Ensure that both the Designated School Official (DSO) and student have signed and dated the form. If the student is admissible:

Endorse the SEVIS Form I-20MN in the following manner:

- Stamp the "For Immigration Official Use" block with the admission stamp.
- Record the appropriate class of admission and period of authorized stay "M-1 Date Certain".
- Neatly and legibly record the admission number from the Form I-94 in the space provided.

On the Non-immigrant visa (NIV):

- Endorse with the admission stamp in a manner that will include a portion of the stamp overlapping the NIV.
- Record the SEVIS ID Number on the visa page, if not already annotated.

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