



NEWS RELEASE

April 8, 2002 (Rev.)

INS Proposes Significant Changes to Rules Governing Visitors and Students

Proposed Rule Would Also Establish Procedures Requiring Aliens to Surrender for Removal Within 30 Days of a Final Order

WASHINGTON, DC – In its continuing effort to enhance homeland security and strengthen and control immigration in the United States, the Immigration and Naturalization Service (INS) is immediately implementing rule changes governing an alien's ability to begin a course of study and proposing significant changes to the rules governing the period of time visitors are permitted to remain in the United States. Additionally, INS is proposing procedures that would require an alien with a final order of removal to surrender to the Service within 30 days of the issuance of that order. Under the new proposed rule, aliens disregarding this duty will be prohibited from acquiring future immigration benefits. INS is forwarding all three rules to the *Federal Register* for publication and public comment.

The interim rule prohibiting non-immigrants admitted in B visitor status from pursuing a course of study prior to obtaining approval of a change to student status takes effect immediately upon publication in the *Federal Register*. The change ensures that those aliens seeking to remain in the United States in student status will have received the appropriate security checks before beginning a course of study.

The proposed rule governing B non-immigrant visitors will:

1. eliminate the minimum 6-month admission period for B-2 non-immigrant visitors, and instead base the admission period on the amount of time needed to accomplish the purpose of the trip (in many cases 30 days);
2. reduce the maximum initial admission period for all B non-immigrant visitors from one year to six months;
3. limit the conditions for which an extension of stay in B non-immigrant visitor status can be granted and reduce the maximum length of that extension;
4. prohibit non-immigrants admitted in B visitor status from changing to student status unless they state an intention to study at the time of admission; and
5. deny discretionary relief to persons with a final order of removal who fail to surrender for removal within 30 days of the final order.

“These new rules strike the appropriate balance between INS’ mission to ensure that our nation’s immigration laws are followed and stop illegal immigration and our desire to welcome legitimate visitors to the United States,” said INS Commissioner James Ziglar. “While we recognize that the overwhelming majority of people who come to the United States as visitors are honest and law abiding, the events of September 11 remind us that there will always be those who seek to cause us harm.”

– INS –



FACT SHEET

4/8/02 (Rev.)

INS Proposes Significant Changes to Rules Governing Visitors and Students

Millions of visitors are admitted to the United States each year under business visitor (B-1) and tourist (B-2) visas. To gain greater control over their presence, the Immigration and Naturalization Service (INS) is proposing several changes to the rules governing visitor admissions.

Prohibition On Attending School Prior to Approval

A new rule, which will be published separately as an interim rule, takes effect immediately upon publication, but will still allow for public comment. The rule prohibits non-immigrant visitors admitted under B-1 or B-2 visas from pursuing a course of study at a school in the United States prior to receiving INS approval of their request to change non-immigrant status to that of an F (academic) or M (vocational) student. To facilitate this process, INS has set a target processing time of 30 days for all requests to change or extend non-immigrant status, with all four Service Centers achieving that target within the next 60 days.

Minimum Admission Period Eliminated

The proposed rule will eliminate the current minimum six months admission period for B-2 visitors for pleasure, replacing it with "*a period of time that is fair and reasonable for the completion of the purpose of the visit.*" When B visa holders apply for entry to the

United States, they will be required to explain to an INS Immigration Inspector the nature and purpose of their visit so the Inspector can determine the appropriate length of stay. While INS Inspectors will make every effort to determine a fair and reasonable time period, the burden of proof rests with the alien. When the time needed to accomplish the purpose of the visit cannot be determined, INS will grant a 30-day period of admission.

Changes to Standards for Extension of Stay

The proposed rule will limit the conditions under which a B visitor can obtain an extension of stay, and will reduce the maximum extension period that can be granted. Persons in B status will be eligible to extend their stay in cases that have resulted from "*unexpected or compelling humanitarian reasons,*" such as medical treatment or a delay in the conclusion of a business matter. The request using Form I-539 (Application to Extend/Change Nonimmigrant Status) must be properly filed on a

timely basis and be non-frivolous, and the alien must prove there are adequate financial resources to continue to stay in the United States and that he or she is maintaining a residency abroad. The rule also reduces the maximum extension that can be granted from one year to six months.

As nearly all visitors with legitimate business or tourism interests are able to complete their stay within a reasonable admission period, these changes should not adversely affect them. INS does recognize that some visitors, such as certain retirees who own vacation homes in the United States, may wish to remain for longer than six months. The proposed rules will allow extensions of stay in such cases. The proposed changes to admission and extension of stay are part of a strategy to improve national security and reduce the probability that an alien will establish permanent ties in the United States, and thus remain in the country illegally.

New Requirements for Change of Status

Individuals planning to attend school in the United States are expected to obtain the proper student visa prior to their admission to the United States. However, INS does recognize that some intending students will want to visit the United States first for bona fide visitor purposes, such as touring campuses or interviewing for admission. The proposed rule will establish new requirements for B non-immigrant visitor visa holders who wish to become students. Persons admitted under B non-immigrant visitor status will still be able to change their status to that of a student, but only if they stated their intent to study in the United States when they initially applied for admission and presented any I-20 forms they may have been issued. Inspectors will be required to note that the alien is a prospective student and make the proper notation on the alien's I-94 form (Arrival/Departure Record). This rule will impact only those students admitted in B status after the rule's effective date.

Existing rules allowing the commencement of studies before a change of status is approved will continue to apply to those already in the United States in B non-immigrant visitor status, since they may have already started a course of study in reliance upon existing rules.



FACT SHEET

Mandatory Surrender Proposed for Persons With Final Removal Orders

The Immigration and Naturalization Service (INS) is proposing a rule that will require aliens who are subject to final orders of removal to surrender himself or herself within 30 days to INS once those orders become final. Anyone who fails to surrender as required will be denied discretionary relief from removal—including asylum, adjustment to permanent resident status, change of status, waivers of inadmissibility for immigrants, cancellation of removal, voluntary removal, registration of LPR status—at any time while he or she remains in the United States, and for a period of ten years after the alien's departure from the United States. This rule also establishes procedures for surrender to INS.

In the past, 89 percent of non-detained individuals with final orders of removal failed to surrender for deportation when ordered to do so. Under this rule, persons not detained at the time an order of removal becomes final will have a legal obligation to surrender to INS within 30 days of the issuance of an administratively final order of removal.

The proposed rule will be published in the Federal Register for public comment. This rule is substantially the same as a proposed rule published by former Attorney General Janet Reno on September 4, 1998. However, that rule only would have applied to individuals facing removal orders in the future, after publication of the final rule. It consequently would have exempted hundreds of thousands of individuals currently in removal proceedings, even though there would be many opportunities to provide the necessary notice to the alien. The new proposed rule includes aliens already in proceedings because they will receive legally adequate notice.