



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

MAR 16 2009

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

FROM: Acting Executive Director (b)(6), (b)(7)(C) (b)(6), (b)(7)(C)
Admissibility and Passenger Program (b)(6), (b)(7)(C)

SUBJECT: Processing of L-1 Nonimmigrants

This is a reminder to the field regarding the proper term of admission for nonimmigrant visitors in the L-1 (intra-company transferee) classification. There are four significant factors that affect the term of admission for an L-1. If the applicant for admission is otherwise admissible as an individual L-1, the factors are: the validity of passport (if a passport is required); the validity of the L-1 visa for the purpose of applying for admission at a port of entry (if a visa is required); the validity of the L-1 Petition; and, the approved regulatory maximum period of stay as an L-1 in the United States.

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.

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 Intra-Company Transferee under a Blanket Petition, in their possession.

Exceptions. If the passport expires prior to the expiration of the petition, then admit the alien to the validity of the passport; or, if the alien will reach the maximum period of admission in the United States for the L-1 classification, then admit the alien to the time when he or she reaches

Guidance Memorandum on Processing L-1 Nonimmigrants

Page 2

the maximum period of admission. The maximum period of admission in the United States is seven years if an L-1 nonimmigrant is in an Executive or Managerial capacity and five years if in a Specialized Knowledge capacity. Normally, petitions will not be valid beyond the maximum period of stay.

Notations on Form I-94: (b)(2)(high)

For citizens of Canada, the travel documents presented must be in compliance with the Western Hemisphere Travel Initiative document requirements for the mode of travel into the United States. A citizen of Canada is not required to have an L-1 nonimmigrant visa; however, the person must be in possession of evidence indicating that an L-1 petition has been approved on his or her behalf. A Canadian citizen may also apply for admission as an L-1 at a port of entry with Form I-129, Petition for an Alien Worker, and other supporting documentation.

Please disseminate this memo and attached muster to all ports of entry within your area of responsibility. Questions or concerns regarding this memo may be directed to (b)(2),(b)(6),(b)(7)(C)

(b)(2),(b)(6),(b)(7)(C)

Attachment

Weekly Muster

Week of: Upon Receipt
Topic: Processing of L-1 Nonimmigrants
References: 8 CFR 214.1(c)(i), 8 CFR 214.2(l)(11), and 8 CFR 214.2(l)(12).
Inspector's Field Manual Chapter 15.4(l)
Headquarters POC: (b)(2), (b)(6), (b)(7)(C)
Office: Admissibility and Passenger Programs

This is a reminder regarding the appropriate term of admission processing for nonimmigrant visitors in the L-1 (intra-company transferee) classification. There are four significant factors that effect the term of admission for an L-1. The factors are if the applicant for admission is otherwise admissible for an L-1:

- Must be in possession of a valid Passport (if a passport is required);
- Must be in possession of a valid L-1 Visa in order to apply for admission (if a visa is required);
- Must present a valid L-1 Petition; and,
- Must admit for validity of petition (up to 3 years initially).
- Has the alien reached or is about to reach the regulatory maximum time in the United States?

Term of Admission for an L-1 nonimmigrant entering as the beneficiary of an Individual or Blanket Petition:

- Admit to the validity of the petition, (not the validity of the visa) and not to exceed three years, unless:
 - The passport expires prior to the expiration of the petition, then admit the alien to the validity of the passport;
 - The alien will reach the maximum period of admission in the United States for the L-1 classification, and then admit to the date at which the alien reaches the maximum period of admission.
 - 7 Years – Executive and Managerial (Annotated as L-1A on I-797)
 - 5 Years – Specialized Knowledge (Annotated as L-1B on I-797)
 - ❖ Normally, petitions will not be valid beyond the maximum period of stay.

For citizens of Canada, the travel documents presented must be in compliance with the Western Hemisphere Travel Initiative (WHTI) document requirements for the mode of entry into the United States. A citizen of Canada is not required to have an L-1 nonimmigrant visa; however, the person must be in possession of evidence that they are the beneficiary of an approved L-1 petition. A Canadian citizen may also apply for admission as an L-1 at a port of entry with Form I-129, Petition for an Alien Worker, and supporting documentation.

References

Documentary Requirements under Western Hemisphere Travel Initiative (WHTI)

Effective January 31, 2008, oral declarations of citizenship alone are no longer sufficient to establish identity and citizenship for entry into the United States. U.S. and Canadian citizens ages 19 and older are asked to present a government-issued photo ID, such as a driver's license, along with proof of citizenship, such as a birth certificate or naturalization certificate. Children ages 18 and under are currently asked only to present proof of citizenship, such as a birth certificate. Passports and trusted traveler cards, such as NEXUS, SENTRI and FAST, are considered WHTI-compliant documents and are being consistently accepted for cross-border travel.

The transition period between January 31, 2008 and June 1, 2009, is designed to lessen the impact on individuals and allow time for travelers to become accustomed to the change and obtain the appropriate documents. Full implementation of WHTI, which will further narrow the type of accepted documents, will take place on June 1, 2009.

General Requirements for ALL Nonimmigrants

8 CFR 214.1(a)(3)(i) –

(3) **General requirements.** (i) Every nonimmigrant alien who applies for admission to, or an extension of stay in, the United States, must establish that he or she is admissible to the United States, or that any ground of inadmissibility has been waived under section 212(d)(3) of the Act. Upon application for admission, the alien must present a valid passport and valid visa unless either or both documents have been waived. A nonimmigrant alien's admission to the United States is conditioned on compliance with any inspection requirement in section 235.1(d) or of this chapter. **The passport of an alien applying for admission must be valid for a minimum of six months from the expiration date of the contemplated period of stay**, unless otherwise provided in this chapter, and the alien must agree to abide by the terms and conditions of his or her admission. An alien applying for extension of stay must present a passport only if requested to do so by the Department of Homeland Security. The passport of an alien applying for extension of stay must be valid at the time of application for extension, unless otherwise provided in this chapter, and the alien must agree to maintain the validity of his or her passport and to abide by all the terms and conditions of his extension. (Paragraph (a)(3) revised 1/5/04; 69 FR 468) (Emphasis Added)

Terms of Admission for an L-1 Applicant for Admission

8 CFR 214.2(l)(11) –

(11) Admission. A beneficiary may apply for admission to the United States only while the individual or blanket petition is valid. The beneficiary of an individual petition **shall not be admitted for a date past the validity period of the petition**. The beneficiary of a blanket petition may be admitted for three years even though the initial validity period of the blanket petition may expire before the end of the three-year period. If the blanket petition will expire

while the alien is in the United States, the burden is on the petitioner to file for indefinite validity of the blanket petition or to file an individual petition in the alien's behalf to support the alien's status in the United States. The admission period for any alien under section 101(a)(15)(L) **shall not exceed three years** unless an extension of stay is granted pursuant to paragraph (I)(15) of this section. (Emphasis Added)

8 CFR 214.2(I)(12) –

(12) L-1 limitation on period of stay.

(i) Limits. An alien who has spent five years in the United States in a specialized knowledge capacity or seven years in the United States in a managerial or executive capacity under section 101(a)(15)(L) and/or (H) of the Act may not be readmitted to the United States under section 101(a)(15)(L) or (H) of the Act unless the alien has resided and been physically present outside the United States, except for brief visits for business or pleasure, for the immediate prior year. Such visits do not interrupt the one year abroad, but do not count towards fulfillment of that requirement. In view of this restriction, a new individual petition may not be approved for an alien who has spent the maximum time period in the United States under section 101(a)(15)(L) and/or (H) of the Act, unless the alien has resided and been physically present outside the United States, except for brief visits for business or pleasure, for the immediate prior year. The petitioner shall provide information about the alien's employment, place of residence, and the dates and purpose of any trips to the United States for the previous year. A consular or Service officer may not grant L classification under a blanket petition to an alien who has spent five years in the United States as a professional with specialized knowledge or seven years in the United States as a manager or executive, unless the alien has met the requirements contained in this paragraph.

(ii) Exceptions. The limitations of paragraph (I)(12)(i) of this section shall not apply to aliens who do not reside continually in the United States and whose employment in the United States is seasonal, intermittent, or consists of an aggregate of six months or less per year. In addition, the limitations will not apply to aliens who reside abroad and regularly commute to the United States to engage in part-time employment. The petitioner and the alien must provide clear and convincing proof that the alien qualifies for an exception. Clear and convincing proof shall consist of evidence such as arrival and departure records, copies of tax returns, and records of employment abroad.