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DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

[CIS No. 2835–25; DHS Docket No. USCIS–USCIS–2025–0403]

RIN 1615–AD02

Improving Continuity for Religious Organizations and Their Employees

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule (IFR) amends U.S. Department of Homeland Security (DHS) regulations to remove the requirement that R–1 religious workers who have reached the maximum period of stay must reside abroad and be physically present outside the United States for one year before being eligible for readmission in R–1 status after departing from the United States upon reaching the maximum admission period. The purpose of this change is to promote stability and minimize disruptions to the vital services that R–1 religious workers provide to U.S. churches, mosques, synagogues, and other bona fide nonprofit religious organizations.

DATES: This IFR is effective on January 16, 2026. Written comments and related material must be submitted on or before March 17, 2026. The electronic Federal Docket Management System will accept comments prior to midnight Eastern Time at the end of that day.

ADDRESSES: You may submit comments on the entirety of this rulemaking package, identified by DHS Docket No. USCIS–2025–0403, through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the website instructions for submitting comments.

Comments must be submitted in English, or an English translation must be provided. Comments that will provide the most assistance to USCIS in implementing these changes will reference a specific portion of the interim final rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. Comments submitted in a manner other than the one listed above, including emails or letters sent to DHS or USCIS officials, will not be considered comments on the interim final rule and may not receive a response from DHS. Please note that DHS and USCIS cannot accept any comments that are hand-delivered or couriered. In addition, USCIS cannot accept comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. USCIS is also not accepting mailed comments at this time.

If you cannot submit your comment by using *http://www.regulations.gov,* please contact Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by telephone at (240) 721–3000 for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Business and Foreign Workers Division, Office of Policy & Strategy, U.S. Citizenship and Immigration Services (USCIS), DHS, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone (240) 721–3000.

SUPPLEMENTARY INFORMATION:

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Table of Abbreviations

APA—Administrative Procedure Act
CFR—Code of Federal Regulations
CRA—Congressional Review Act
DHS—Department of Homeland Security
E.O.—Executive Order
FY—Fiscal Year
IFR—Interim final rule
INA—Immigration and Nationality Act
NEPA—National Environmental Policy Act
OMB—Office of Management and Budget
PRA—Paperwork Reduction Act
SBREFA—Small Business Regulatory Enforcement Fairness Act of 1996
Secretary—Secretary of Homeland Security
State—Department of State
UMRA—Unfunded Mandates Reform Act of 1995
U.S.C.—United States Code
USCIS—U.S. Citizenship and Immigration Services

I. Public Participation

DHS invites all interested parties to participate in this rulemaking by submitting written data, views, comments and arguments on all aspects of this rule. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this rule. Comments must be submitted in English, or an English translation must be provided. Comments that will provide the most assistance to USCIS will reference a specific portion of the rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. Comments submitted in a manner other than the one listed above, including emails or

letters sent to DHS or USCIS officials, will not be considered comments on the interim final rule and may not receive a response from DHS.

Instructions: If you submit a comment, you must include the agency name (U.S. Citizenship and Immigration Services) and the DHS Docket No. USCIS–2025–0403 for this rulemaking. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy and Security Notice available at *http://www.regulations.gov.*

Docket: For access to the docket and to read background documents or comments received, go to *http://www.regulations.gov,* referencing DHS Docket No. USCIS–2025–0403. You may also sign up for email alerts on the online docket to be notified when comments are posted or a final rule is published.

II. Background

A. Purpose of the Regulatory Action

The Immigration and Nationality Act (INA or Act) allows for admission to the United States as nonimmigrants certain aliens who are members of a religious denomination with a bona fide nonprofit religious organization in the United States and who seek to enter temporarily to perform qualifying religious work. INA 101(a)(15)(R); 8 U.S.C. 1101(a)(15)(R). These aliens are known as R–1 religious workers.

The purpose of this rulemaking is to enhance stability and significantly reduce disruptions for U.S. religious organizations and their employees, including those who are impacted by long waits for immigrant visas caused by demand in the fourth employment-based preference category (EB–4) [1] that far exceeds the numerical limits established by Congress. Specifically, this interim final rule (IFR) amends 8 CFR 214.2(r)(6) to remove the requirement that an R–1 religious worker, who has exhausted his or her maximum period of stay as an R–1, must reside abroad and be physically present outside the United States for one year before being eligible for readmission in R–1 status. While an R–1 religious worker is still required to depart the United States at the end of the maximum admission period, there is no longer a minimum period for residing and being physically present outside the United States before seeking readmission in R–1 status. Thus, this rule may significantly reduce the time that religious organizations and their communities must wait before their religious workers, on whom they have come to depend on for services, are able to return. DHS believes that this rule will enhance stability and significantly reduce disruptions to the religious organizations with respect to their activities in providing vital services at U.S. churches, mosques, synagogues, and other places of worship.

B. Legal Authority

The Secretary of Homeland Security's authority for the regulatory amendment is found in various sections of the INA, 8 U.S.C. 1101 *et seq.* and the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135 (codified in part at 6 U.S.C. 101 *et seq.*). General authority for issuing this IFR is found in section 103(a) of the INA, 8 U.S.C. 1103(a), which authorizes the Secretary to administer and enforce the immigration and nationality laws and establish such regulations as the Secretary deems necessary for carrying out such authority,[2] as well as sections 102 of the HSA, 6 U.S.C. 112, which vests all of the functions of DHS in the Secretary and authorizes the Secretary to issue regulations.[3] Further authority is found in section 101(a)(15)(R) of the Act, 8 U.S.C. 1101(a)(15)(R), which establishes the R–1 nonimmigrant classification, and section 214(a) of the INA, 8 U.S.C. 1184(a), which authorizes the Secretary to prescribe by regulation the conditions on aliens admitted as nonimmigrants.

C. Framework for the Religious Worker Programs

1. Religious Worker Nonimmigrant Classification

In 1990, as part of a comprehensive overhaul of the immigration system, Congress created new immigration classifications for religious workers, that is the R–1 nonimmigrant classification and the special immigrant religious worker classification.[4] Prior to that, nonimmigrant religious workers were admitted into the United States under various business-related classifications, such as the B–1 (Business Visitor), H (Temporary Worker), and L–1 (Intracompany Transferee).

By creating the new religious worker classifications, Congress acknowledged that the existing visa classifications traditionally used by religious workers were not suited to the unique characteristics and needs of the religious workers and religious

[1] *See* INA sec. 203(b)(4), 8 U.S.C. 1153(b)(4). In addition to special immigrant religious workers, the EB–4 category includes many other classifications, including special immigrant juveniles, certain broadcasters, certain retired officers or employees of a G–4 international organization or NATO–6 civilian employees, certain U.S. government employees who are abroad, members of the U.S. armed forces, Panama Canal company or Canal Zone government employees, certain physicians licensed and practicing medicine in a U.S. state as of Jan. 9, 1978, and aliens who have supplied information concerning a criminal organization or enterprise or a terrorist organization, enterprise, or operation (S nonimmigrants). Special immigrant juveniles account for the overwhelming majority of demand within the EB–4 category.

[2] *See* 6 U.S.C. 522 (''Nothing in [the HSA], any amendment made by [the HSA], or in section 1103 of Title 8, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.'').

[3] Although several provisions of the INA discussed in this IFR refer exclusively to the ''Attorney General,'' such provisions are now to be read as referring to the Secretary of Homeland Security by operation of the HSA. *See* 6 U.S.C. 202(3), 251, 271(b), 542 note, 557; 8 U.S.C. 1103(a)(1) and (g), 1551 note; *Nielsen* v. *Preap,* 586 U.S. 392, 397 n.2 (2019).

[4] *See* Immigration Act of 1990 (IMMACT 90), Public Law 101–649, sec. 209, 104 Stat. 4978, 5027 (Nov. 29, 1990) (creating new section 101(a)(15)(R) of the Act, 8 U.S.C. 1101(a)(15)(R)); *see also* IMMACT 90 sec. 151 (creating new section 101(a)(27)(C) of the Act, 8 U.S.C. 1101(a)(27)(C)). Special immigrant religious workers are classified under the fourth employment-based preference category (EB–4). *See* INA sec. 203(b)(4), 8 U.S.C. 1153(b)(4).

organizations.[5] In 1991, the former Immigration and Naturalization Service promulgated implementing regulations for the new nonimmigrant R–1 religious worker classification in a final rule, ''Aliens in Religious Occupations (R–1 Nonimmigrants),'' 56 FR 66965 (Dec. 27, 1991).[6] Current regulations can be found at 8 CFR 214.2(r).

The R–1 classification allows alien religious workers to temporarily perform services in the United States as a minister or in a religious occupation or vocation.[7] In order to obtain R–1 religious worker status, a U.S. employer must file a Petition for a Nonimmigrant Worker (Form I–129) on behalf of the alien. The R–1 nonimmigrant petition must, among other things, demonstrate that the petitioner is a bona fide non-profit religious organization (or a bona fide organization that is affiliated with the religious denomination) and that the alien has been a member of the same type of religious denomination as the petitioner for the immediately preceding two years.[8]

If the petition is approved, the alien may be admitted as a nonimmigrant R–1 religious worker[9] for a period of up to 30 months from the date of initial admission. *See* 8 CFR 214.2(r)(4). USCIS may grant one extension for up to 30 months, with the total period of stay not to exceed the statutory maximum of 60 months (five years). *See* section 101(a)(15)(R)(ii) of the INA, 8 U.S.C. 1101(a)(15)(R)(ii) and 8 CFR 214.2(r)(5).

The spouse and any unmarried child under the age of 21 of an R–1 religious worker can be admitted to the United States in R–2 nonimmigrant status in order to accompany, or follow to join, the principal R–1 religious worker. R–2 nonimmigrants are admitted for the same period and subject to the same limits as the principal, regardless of the time such spouse and child may have spent in the United States in R–2 status. *See* 8 CFR 214.2(r)(4)(ii).

If otherwise eligible, the R–1 religious worker, spouse, and children may seek to immigrate permanently to the United States under the special immigrant religious worker category during the R–1 religious worker's stay.

2. The 1-Year Foreign Residence Requirement Under 8 CFR 214.2(r)(6)

Currently, R–1 religious workers who have reached the 5-year maximum period of stay may not be readmitted or receive an extension of stay in R–1 status until they have resided abroad and been physically present outside the United States for one year. This is due to the one-year foreign residence requirement in 8 CFR 214.2(r)(6).

The one-year foreign residence requirement does not apply to R–1 religious workers who did not reside continually in the United States and whose employment in the United States was seasonal or intermittent or was for an aggregate of six months or less per year.[10] It also does not apply to R–1 religious workers who reside abroad and regularly commute to the United States to engage in part-time employment. *See* 8 CFR 214.2(r)(6).[11]

Because these exceptions to the one-year requirement are limited, the vast majority of R–1 religious workers who reach the end of the five-year period, and have not filed their Form I–485, Application to Register Permanent Residence or Adjust Status, to immigrate permanently to the United States, are required to depart the United States and remain outside the United States for at least one year before being eligible to return to the United States to work as an R–1 religious worker.[12]

The status of an R–2 dependent of a principal R–1 religious worker is subject to the same period of stay and limitations as the principal beneficiary. *See* 8 CFR 214.2(r)(4)(ii)(A). Therefore, the spouse or child of the R–1 religious worker cannot be readmitted into the United States as the spouse and the child of an R–1 religious worker until the R–1 religious worker has complied with the one1-year foreign residence requirement.[13]

3. Process To Immigrate Permanently to the United States as a Special Immigrant Religious Worker

An R–1 religious worker may not need to depart the United States if a petition is filed for the R–1 religious worker to permanently immigrate to the United States, the petition is approved, and the R–1 religious worker subsequently applies to adjust his or her status to lawful permanent resident. United States immigration laws generally provide avenues for employers to petition for aliens to come to, or remain in, the United States permanently to live and work. Section 203(b) of the INA, 8 U.S.C. 1153(b), establishes categories of aliens who may be classified as employment-based immigrants and allocates the allowable number of immigrant visas in a given fiscal year among those categories. These are referred to as the first through the fifth employment-based (EB)

[5] *See* H.R. Rep. 101–723, 101st Cong., 2d Sess. 1990, 1990 U.S.C.C.A.N. 6710, 6755, 1990 WL 200418 (''Currently, nonimmigrant religious workers are required to pursue business-related visas, such as B, H, and L, for admission to the United States and immigrant religious workers are admitted as special immigrants.''); *see also* Gordon, Mailman, Yale-Loehr, Immigration Law and Procedure (rel. 107–12/04), Section 26.2, Background (''For various reasons, these other nonimmigrant categories often were unavailable to or inappropriate for temporary religious workers. A primary problem was that religious occupations and jobs with nonprofit religious organizations required qualifications different from those used in filling professional positions or management positions within multinational cooperations.'').

[6] DHS later updated these regulations. *See* Special Immigrant and Nonimmigrant Religious Workers, 73 FR 72276 (Nov. 26, 2008).

[7] The INA defines a religious nonimmigrant worker as an ''alien, and the spouse and children of the alien if accompanying or following to join the alien, who—(i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and (ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).'' *See* INA sec. 101(a)(15)(R), 8 U.S.C. 1101(a)(15)(R); *see also* 8 CFR 214.2(r).

[8] *See* INA sec. 101(a)(15)(R)(i), 8 U.S.C. 1101(a)(15)(R)(i); *see also* 8 CFR 214.2(r).

[9] The alien may also obtain a change of status to R–1 nonimmigrant classification. *See* section 248 of the Act, 8 U.S.C. 1258; 8 CFR 248.1.

[10] In practice, these aliens will never reach the 5-year limitation during a single stay in the United States. These exceptions were added in a final rule in 2008. While the NPRM sought comments on the proposed change without providing an explanation for the change, the final rule did not further discuss the exceptions as there were no comments on that issue. *See* Special Immigrant and Nonimmigrant Religious Workers, 72 FR 20442, 20448 (Apr. 25, 2007) (NPRM); Special Immigrant and Nonimmigrant Religious Workers, 73 FR 72276 (Nov. 26, 2008) (Final Rule). Thus, these R–1 nonimmigrants are not subject to the 5-year limit and are not required to reside abroad and be physically present outside the United States for the immediate prior year before being readmitted in R–1 nonimmigrant status. This rule does not change these exceptions.

[11] The petitioner and the alien must provide clear and convincing proof that the alien qualifies for such an exception. *See* 8 CFR 214.2(r).

[12] Following departure upon the end of the 5-year period, in order to return to the United States in R–1 status, the alien must be the beneficiary of an approved Form I–129 petition and must, with few exceptions, have been granted an R–1 nonimmigrant visa from the U.S. Department of State (State). State will not issue an R–1 nonimmigrant visa until the alien has met the 1-year foreign residence requirement. *See* 9 FAM 402.16–16(b), Admission, Extension of Stay, and Readmission (''An individual who has spent five years in the United States in R status as described in 9 FAM 402.16–14(B) above may not be issued a visa or be readmitted to the United States as an R nonimmigrant unless they have resided and been physically present outside the United States for the previous year, except for brief visits for business or pleasure. Such visits do not end the period during which an individual is residing abroad, but time spent in the United States during such visits does not count towards fulfilling the one-year abroad requirement.'').

[13] A former R–2 nonimmigrant is not precluded from being readmitted as a R–1 nonimmigrant in his or her own right or changing his or her status to an R–1 nonimmigrant category if he or she qualifies for this classification. In this case, the former R–2 nonimmigrant is not subject to the 1-year foreign resident requirement.

preference categories.[14] In 1990, along with the R–1 nonimmigrant classification, Congress also created the special immigrant religious worker classification under the EB–4 category. Similar to the R–1 nonimmigrant classification, the special immigrant religious worker classification allows alien religious workers to perform services in the United States as a minister or in a religious occupation or vocation, but in a permanent position.

R–1 religious workers—and the religious organizations that employ them—often use the special immigrant religious worker classification under the EB–4 category to obtain lawful permanent residence for the religious worker. The eligibility requirements for R–1 nonimmigrant religious workers and special immigrant religious workers are generally similar. Both classifications, among other requirements, require the alien to have at least 2 years of denominational membership, work as a minister (or in a religious vocation or occupation), and be employed in the United States by either a bona fide non-profit religious organization or a bona fide organization affiliated with the religious organization.[15]

A religious organization that seeks to petition for an alien beneficiary in the special immigrant religious worker classification must file Form I–360, Petition for Amerasian, Widow(er), or Special Immigrant.[16] A special immigrant religious worker may also petition for him or herself.[17] Approval of an immigrant petition does not give the alien beneficiary any lawful immigration status in the United States (*i.e.,* does not change the requirement that the R–1 religious worker must depart the United States at the end of five years). Once the petition is approved, the beneficiary of the approved petition must take steps to apply for and obtain lawful permanent resident status by either applying for an immigrant visa abroad, or by seeking adjustment of status in the United States.[18] The alien, however, may only apply for an immigrant visa or adjustment of status if an immigrant visa is available.

Under sections 201 through 203 of the INA, 8 U.S.C. 1151–1153, Congress set annual numerical limits for each preference category. In a typical year, 9,940 visas are allocated for the fourth employment-based preference category, which are shared among the various classifications that are assigned to the fourth preference category, including special immigrant religious workers.[19] Section 203(e) of the INA, 8 U.S.C. 1153(e), and section 203(g) of the INA, 8 U.S.C. 1153(g), contain provisions establishing that the Secretary of State must maintain a waiting list of applicants for immigrant visas, make reasonable estimates on anticipated numbers of visas to be issued, and rely upon those estimates in issuing visas.

Immigrant visas, including many employment-based preference categories, are made available to potential immigrants based on the order in which an immigrant petition or labor certification, as applicable, is filed on their behalf (the applicable filing date is referred to as the priority date).[20] Congress also established a numerical limit on the issuance of visas in the family-sponsored and employment-based preference categories based on the alien's country of origin. This per-country limit for these preference immigrants is set at 7 percent of the total annual family-sponsored and employment-based preference limits, or about 25,620 in a typical fiscal year.[21]

The U.S. Department of State (State) publishes in the monthly State Bureau of Consular Affairs Visa Bulletin relevant dates that determine who may apply for or be approved for an immigrant visa or adjustment of status. Those with a priority date that precedes the relevant date may apply for or be approved for the visa or adjustment of status.[22] These dates are generally arranged according to preference category and any applicable subcategories or country-specific limitations. Once the R–1 religious worker's priority date precedes the relevant Visa Bulletin date, the R–1 religious worker may then apply for an immigrant visa abroad or seek adjustment of status in the United States.

D. Need for This Rulemaking

As noted previously, special immigrant religious workers are one of many types of immigrants classified under EB–4.[23] For several fiscal years, demand for immigrant visas within the EB–4 category has exceeded the number of visas available in this category, meaning that visas cannot be provided immediately to every alien otherwise eligible to receive one. Therefore, aliens classified under this category have had to wait until a visa number is available before they are eligible to apply for an immigrant visa abroad or seek adjustment of status in the United States.

Visas were generally available without any wait in EB–4 for aliens from all countries until May 2016 and remained available without any wait for aliens from all but a few countries until December 2022. Beginning in December 2022, the Visa Bulletin reflected that aliens from all countries would have to wait before receiving EB–4 visas.[24] For aliens from most countries within the EB–4 category, wait times for visas then greatly increased in the spring of 2023, as demonstrated by retrogression of the Final Action Dates for EB–4 in the Visa Bulletin.[25] This followed a legal

[14] *See* INA sec. 203(b), 8 U.S.C. 1153(b).

[15] *See* INA sec. 101(a)(15)(R), (27)(C), 8 U.S.C. 1101(a)(15)(R), (27)(C); *see also* 8 CFR 204.5(m), 8 CFR 214.2(r). Notable differences include a requirement that special immigrants have been employed in a qualifying position as a religious worker for the 2 years preceding the filing of the petition, and that the work be full-time employment of at least 35 hours per week, while R–1 nonimmigrants may work in a part-time position of at least 20 hours per week. *Compare* 8 CFR 214.2(r)(1)(ii), *with* 8 CFR 204.5(m)(1) and (2). Also, while special immigrant religious workers must receive salaried or non-salaried compensation, R–1 nonimmigrants may, in limited circumstances, engage in uncompensated missionary work. *Compare* 8 CFR 214.2(r)(11), especially (r)(11)(ii), *with* 8 CFR 204.5(m)(10).

[16] INA sec. 204, 8 U.S.C. 1154, contains provisions relating to the filing and adjudication of immigrant petitions. Implementing regulations can be found at 8 CFR 204.5.

[17] 8 CFR 204.5(m)(6).

[18] For immigrant visas processed by State, *see* INA secs. 221, 222, 8 U.S.C. 1201, 1202; for adjustment of status, *see* INA sec. 245, 8 U.S.C. 1255.

[19] Of the visas allocated to the fourth preference, no more than 5,000 each year may be made available for non-minister religious workers. INA sec. 203(b)(4), 8 U.S.C. 1153(b)(4).

[20] *See* INA sec. 203(e), 8 U.S.C. 1153(e). Certain employment-based potential immigrants may file petitions on their own behalf. *See* INA sec. 203(b)(1)(A), 8 U.S.C. 1153(b)(1)(A) (aliens of extraordinary ability); INA sec. 203(b)(2)(B), 8 U.S.C. 1153(b)(2)(B) (waivers of job offer based on the national interest); *see also* INA secs. 101(a)(27)(C) and 203(b)(4), 8 U.S.C. 1101(a)(27)(C) and 1153(b)(4) (special immigrant religious workers).

[21] *See* INA sec. 202, 8 U.S.C. 1152.

[22] The Visa Bulletin can be accessed on State's website at *https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html* (last visited Sep. 11, 2025).

[23] *See* INA sec. 203(b)(4), 8 U.S.C. 1153(b)(4).

[24] Reflected by the establishment of dates for aliens from all countries in the ''Final Action Dates for Employment-Based Preference Cases'' in the December 2022 Visa Bulletin.

[25] Retrogression is the term used to describe the backwards movement of a Final Action Date for a particular country or category from one month to the next in the Visa Bulletin. For example, in the March 2023 Visa Bulletin the Final Action Date for Philippines EB–4 was February 1, 2022. However, in the April 2023 Visa Bulletin the Final Action Date for Philippines EB–4 retrogressed to September 1, 2018. The effect of retrogression is to make visas available to a smaller population of applicants (including, in cases where the annual limit has been reached, to no applicants at all). State retrogresses a particular Final Action Date to ensure that visa use remains within the limits established by Congress and that visas within a particular queue (based on category and country of chargeability) are generally allocated to those with the earliest priority dates.

correction by State, in how immigrant visas are allocated within the employment-based preference categories for nationals of countries who have not reached the per-country limit under section 202(a)(2) of the INA, 8 U.S.C. 1152(a)(2). On March 28, 2023, State issued a **Federal Register** notice,[26] explaining that this change was required to bring its practice into compliance with applicable statutory provisions.[27] Prior to April 2023, aliens chargeable to El Salvador, Guatemala, and Honduras had been listed separately with their own country-specific final action dates. In the April 2023 Visa Bulletin, State corrected this approach, consistent with its March 2023 **Federal Register** notice, and eliminated the separate final action dates for these three countries, thus moving all aliens chargeable to those countries to the subcategory represented by the ''All Chargeability Areas Except Those Listed'' column.[28]

The Visa Bulletin correction has significantly impacted the EB–4 availability and specifically the religious communities in the United States. Members of Congress have recently called the impact on R–1 religious workers a real crisis.[29] Based on the historical low numbers of Form I–129 petitions filed for religious workers who exceeded the maximum five-year period, DHS understands that R–1 religious workers and religious organizations have historically used the special immigrant religious worker classification under the EB–4 category to obtain lawful permanent residence for the R–1 religious worker within the first five years of obtaining R–1 status.[30] This means that the R–1 religious worker had either obtained lawful permanent residence or had a pending application to adjust status to that of a lawful permanent resident, either of which provided the ability to remain and work in the United States past the maximum five year time period.[31] Therefore, prior to December 2022, many R–1 religious workers did not have to rely on having R–1 status in order to continue serving their communities for more than five years and never had to leave the United States to satisfy the regulatory one-year foreign residence requirement.

Now, however, the very long waits for visas in the EB–4 category means that R–1 religious workers are not able to obtain permanent residence or file an adjustment of status application within the first five years of obtaining R–1 status. Because the current and projected demand for immigrant visas in the EB–4 category greatly exceeds the available supply, R–1 religious workers who are also the beneficiaries of an approved special immigrant religious worker petition will generally reach their five-year maximum period of stay in R–1 nonimmigrant status well before an immigrant visa becomes available to them. At the end of fiscal year 2022, there were fewer than 63,000 approved petitions in the EB–4 category with priority dates on or after the established Final Action Dates in the Visa Bulletin.[32] As of March 2025, the number of approved petitions where no visa was immediately available in the EB–4 category had grown to approximately 217,500.[33] Since in a typical year only 9,940 visas are available in the EB–4 category,[34] and significantly more than 9,940 aliens enter the queue each year, barring a statutory change or fundamental shift in filing patterns, this long wait for visas is expected to grow even longer over time. Given the significant wait for visas in the EB–4 visa category, it is possible that a religious worker who is the beneficiary of a Form I–360 petition filed today may not be able to obtain an immigrant visa for at least two decades.

As a result, without either an extended nonimmigrant visa status or the ability to file an adjustment of status application based on an available immigrant visa, these aliens generally will have to leave the United States for the one-year period required by current regulations before they can, based on a new R–1 petition approval, reenter the United States in R–1 status to continue to provide their services on behalf of their religious organization for their congregation, community, and the American public.[35]

E. Faith-Based Executive Orders and Faith-Based Organizations

On February 7, 2025, President Trump issued Executive Order (E.O.) 14205, Establishment of the White House Faith Office, 90 FR 9499 (Feb. 12, 2025), highlighting the important work that religious workers perform in faith-based entities, community organizations and houses of worship. The E.O. states that these organizations have tremendous ability to serve individuals, families, and communities through means that are different from those of government, and are essential to

[26] *See* Employment-Based Preference Immigrant Visa Final Action Dates and Dates for Filing for El Salvador, Guatemala, and Honduras, 88 FR 18252 (Mar. 28, 2023).

[27] *See* INA sec. 202(a), 8 U.S.C. 1152(a).

[28] *See* State, Visa Bulletin for April 2023, *https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2023/visa-bulletin-for-april-2023.html* (Mar. 21, 2023)).

[29] *See* Press Release, April 8, 2025, Kaine, Collins, Risch Introduce Religious Workforce Protection Act, *https://www.kaine.senate.gov/press-releases/kaine-collins-risch-introduce-religious-workforce-protection-act* (''When Maine parishes where I attend mass started losing their priests, I saw this issue creating a real crisis in our state . . . Our bill would help religious workers of all faith traditions continue to live and serve here in the United States while their applications for permanent residency are being fully processed . . . Many Mainers and Americans cannot imagine their lives without the sense of community and services their local religious organizations provide.'').

[30] See Section IV. B. 1.c., Table 1, Table 1: Annual Number of R–1 Nonimmigrants Who Have Petitions filed on their behalf for New R–1 Status within 5 to 6½ Years after the Initial Approval, by Fiscal Year of First Approval, FY 2015–2019; see also Section IV.B.1.c., Table 2.: Annual Number of I–360, Petition for Amerasian, Widow(er), or Special Immigrant, Religious Worker Approvals without I–485 Filing by Fiscal Year, FY 2019–2025 (as of Aug. 26).

[31] Public information confirms DHS' assessment of the typical filing behavior and circumstances that R–1s and their employers have historically faced. *See, e.g.,* Congress.gov Religious Workforce Protection Act (Executive Session); Congressional Record Vol. 171, No. 63, S2464–2466, *https://www.congress.gov/congressional-record/volume-171/issue-63/senate-section/article/S2464-3* (last visited Sept. 10, 2025) (''The R–1 visa lasts for 5 years. Often, during the course of that 5 years, the faith congregation decides, 'Here is somebody who is really great; we would like to keep him'-or her-and they apply for an EB–4 visa, which is a more extended visa. And the idea would be you would apply, and the application process would finish before your R–1 visa expires.''); *see also* Newsweek, Green-Card Changes Threaten Pastor's Ability to Remain in the US, *https://www.newsweek.com/green-card-changes-threatens-pastors-ability-remain-2105229* (''Many religious workers come to the U.S. on R–1 visas, which are valid up to five years, and can apply for an EB–4 visa, which gives them lawful permanent resident status. After five years, R–1 visa holders are required to return to their home country if they do not obtain a green card. A backlog created by that 2023 [change] means that the once-shorter processing time has gone up for religious workers, according to the Associated Press.''); CLINIC, The Religious Workforce Protection Act: Helping Religious Workers Stay and Aide Their Communities, *https://www.cliniclegal.org/resources/religious-immigration-law/religious-workforce-protection-act-helping-religious-workers.*

[32] *See* USCIS, ''Form I–140, I–360, I–526 Approved EB Petitions Awaiting Visa Final Priority Dates (Fiscal Year 2022, Quarters 3 and 4),'' *https://www.uscis.gov/sites/default/files/document/data/EB_I140_I360_I526_performancedata_fy2022_Q3_Q4.pdf.*

[33] *See* USCIS, ''Form I–140, I–360, I–526 Approved EB Petitions Awaiting Visa Final Priority Dates (Fiscal Year 2025, Quarter 2),'' *https://www.uscis.gov/sites/default/files/document/data/eb_i140_i360_i526_performancedata_fy2025_q2.xlsx* (last visited Aug. 1, 2025). USCIS data indicate that, since fiscal year 2023, there are an average of approximately 1,700 EB–4 religious workers per year on whose behalf a Form I–360 has been approved but who have not yet been able to file a Form I–485. This is a significant increase from the average of approximately 550 per year in the 4 years prior to fiscal year 2023. *See* Table 3 below. Source: DHS, USCIS, Office of Performance and Quality, CLAIMS3 & ELIS, queried 08/2025, PAER0018660.

[34] *See* INA sec. 203(b)(4), 8 U.S.C. 1153(b)(4).

[35] *See* 8 CFR 214.2(r)(6).

strengthening families and revitalizing communities.[36] The E.O. reiterates the importance of E.O. 13397, Responsibilities of the Department of Homeland Security With Respect to Faith-based and Community Initiatives), 71 FR 12275 (Mar. 9, 2006), and directs DHS to help strengthen faith-based and other community organizations.[37]

R–1 religious workers are a significant portion of the religious workers in the United States. According to the May 2023 National Occupational Employment and Wage Estimates, there were approximately 91,770 people employed as religious workers in the United States.[38] In the 30 months prior to May 2023, 11,199 aliens were approved for new employment R–1 visas and approximately 7,789 additional aliens were approved for continuation of previous R–1 employment.[39] These 19,000 (approximately) R–1 visa holders account for approximately 21 percent of the religious workers in the United States.[40] These R–1 religious workers help serve the approximately 41 percent of the U.S. population that attend religious services about once a month or more often.[41]

Many religious organizations depend on alien religious workers to provide crucial services and spiritual support to communities in the United States. Apart from performing duties reserved to members of the clergy, religious workers and organizations also perform services such as providing support to the neediest, caring for and ministering to the sick, aged, and dying in hospitals and special facilities, assisting religious leaders who lead their congregations, counseling victims of trauma or hardship, and supporting families and individual members in crisis. Religious workers and organizations also work with adolescents and young adults, and serve as principals, teachers, and school support staff. National organizations representing a variety of religious denominations and faith traditions report that some traditions must rely on the services of alien religious workers because they do not have established institutions in the United States to recruit and train the workers they require. Consequently, their presence is vital for religious organizations to serve those in need and respond effectively to the dynamic intercultural realities of modern America.[42]

The important work of faith-based entities is being increasingly disrupted by the very long wait for EB–4 immigrant visas combined with the regulatory one-year foreign residence requirement for R–1 religious workers. As a result, many R–1 religious workers serving vital roles in their communities have been forced to leave the country for at least one year due to delays in transitioning to permanent residence.[43] This disruption has negatively impacted religious organizations by creating staffing shortages, hindering their ability to provide essential services, and limiting their outreach efforts.[44] It is impacting religious congregations of many faiths all across the country.[45] For example, Idaho's religious communities risk losing up to a quarter of their clergy due to the very long wait for EB–4 visas and the one-year foreign residence requirement.[46] Faith leaders report that hospitals will go without chaplains, schools will go without teachers, and seminaries will go without instructors if this situation is not addressed expeditiously.[47]

This crisis comes at a time when American religious institutions are already struggling on multiple fronts. Faith communities across the nation report at an alarming rate that they do not have enough clergy to lead congregations, in particular in rural areas, in part because clergy are retiring and dying faster than new ones are entering the ministry.[48] Congregations continue to raise the alarm, and DHS has received multiple letters regarding these issues.[49] In April 2025, Congress highlighted the problem and the urgency by introducing bipartisan and bicameral measures confirming broad support in resolving the issue that this rulemaking seeks to resolve.[50]

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[36] *See* section 1 of the E.O.

[37] E.O. 13397, as amended by E.O. 14205, directs the Secretary of Homeland Security to establish within DHS a Center for Faiths with the goal of coordinating agency efforts to eliminate regulatory and other obstacles to the participation of faith-based and other community organizations in the provision of social and community services. *See* secs. 2 and 3 of E.O 13397; *see also* secs. 1 and 4 of E.O. 14205 (establishing the White House Faith Office, which shall make recommendations and advise on the implementation regarding changes to policies, programs and practices and aspects of the Administration's policy agenda that affect the ability of faith-based entities, community organizations and houses of worship to serve families and communities).

[38] DOL, Bureau of Labor Statistics, May 2023 National Occupational Employment and Wage Estimates Religious Workers (21–2000), Employment, *https://www.bls.gov/oes/2023/may/oes_nat.htm* (last visited August 18, 2025).

[39] The period used to calculate this population is November 2020 to April 2023. Source: DHS, USCIS, Office of Performance and Quality (OPQ), CLAIMS3 & ELIS, queried 08/2025, PAER 0018648.

[40] Calculation: 11,199 new employment + 7,789 continuing employment = 18,988, or approximately 19,000.

Calculation: approximately 19,000 R–1 religious worker/91,770 religious workers in the United States = 0.2070 (rounded) or approximately 21%.

[41] *See* Gallup ''Church Attendance Has Declined in Most U.S. Religious Groups'' (Mar. 25, 2024), *https://news.gallup.com/poll/642548/church-attendance-declined-religious-groups.aspx.*

Calculation: 21% attend every week + 9% attend almost every week + 11% attend about once a month = 41% attending about once a month or more often.

[42] *See* Interfaith Letter on Policy Change Impacting EB–4 Visas (May 25, 2023), *https://www.usccb.org/resources/Interfaith%20Letter%20on%20Policy%20Change%20Impacting%20EB-4%20Visas.pdf.*

[43] *See* CLINIC, The Religious Workforce Protection Act: Helping Religious Workers Stay and Aide Their Communities, *https://www.cliniclegal.org/resources/religious-immigration-law/religious-workforce-protection-act-helping-religious-workers* (last updated July 1, 2025) (noting that these delays have ''led to many religious communities across the country being in dire straits as their religious workers have been forced to leave''); United States Conference of Catholic Bishops, Letter to Congress on the Religious Workforce Protection Act (April 10, 2025), *https://www.usccb.org/resources/letter-congress-religious-workforce-protection-act-april-10-2025.*

[44] *See* Archdiocese of Milwaukee, Due to green card backlog, Archdiocese of Milwaukee at risk of losing 24 internationally-born priests (Nov. 14, 2024), *https://spectrumnews1.com/wi/milwaukee/news/2024/11/07/green-card-processing-backlog-archdiocese-of-milwaukee* (Noting that the Archdiocese of Milwaukee was at risk of losing 24 priests and that ''[t]heir absence would create a hardship for dioceses having to operate with fewer priests, including an interruption in outreach ministries'').

[45] *See* Interfaith Letter to Congress on the Religious Workforce Protection Act (June 23, 2025), *https://www.usccb.org/resources/interfaith-letter-congress-religious-workforce-protection-act-june-23-2025* (noting that the requirement for a religious worker to remain outside the United States for at least 1 full year ''poses tremendous hardship for religious organizations'').

[46] *See* Press Release, April 8, 2025, Kaine, Collins, Risch Introduce Religious Workforce Protection Act, *https://www.kaine.senate.gov/press-releases/kaine-collins-risch-introduce-religious-workforce-protection-act.*

[47] *See* CatholicVote, Religious worker visa crisis prompts bipartisan response in Congress, May 21, 2025, *https://catholicvote.org/religious-worker-visa-crisis-prompts-bipartisan-response-congress/.*

[48] *See* NPR, Churches in America are having a hard time finding pastors, Nov. 25, 2024, *https://www.npr.org/2024/11/25/nx-s1-5193755/churches-in-america-are-having-a-hard-time-finding-pastors.*

[49] *See, e.g.,* Letter dated May 25, 2023, from multiple national organizations representing many different religious denominations and faith traditions, available in the regulatory docket.

[50] *See* section 4 of H.R.2672—Religious Workforce Protection Act (introduced Apr. 7, 2025) *at https://www.congress.gov/bill/119th-congress/house-bill/2672/text?s=2&r=1&q=%7B%22search%22%3A%22H.r.+2672%22%7D* (last visited Aug. 13, 2025); S. 1298—Religious Workforce Protection Act (introduced Apr. 3, 2025) *at https://www.congress.gov/bill/119th-congress/senate-bill/1298/text* (last visited Sept. 9, 2025); *see also* Newsweek, ''Green-Card Changes Threatens Pastors' ability to Remain in U.S.'' (July 28, 2025), *https://www.newsweek.com/green-card-changes-threatens-pastors-ability-remain-2105229* (describing that the situation related to the visa waitlist and the 1-year period that a religious worker has to stay outside, has significantly upended religious communities across the country that rely on foreign workers).

III. Discussion of the Interim Final Rule

DHS believes that removing the one-year foreign residence regulatory requirement for religious workers may significantly reduce the time that a religious organization is without its trusted clergy and non-ministerial religious workers. As the waitlist for EB–4 visas may continue to grow without Congressional action to increase visa availability for these essential religious workers in the United States, this rulemaking can significantly reduce damaging losses to religious organizations and American religious communities. DHS strongly believes that this action must be taken to address the immediate needs of religious organizations and to avert a further crisis. Given the broad public and congressional support, DHS believes this IFR is the appropriate measure to provide immediate relief to the American community while providing the public the opportunity for further input post-promulgation.

A. General Discussion

DHS is amending 8 CFR 214.2(r)(6) to remove the requirement that a nonimmigrant religious worker (R–1), who has exhausted the five-year maximum period of stay as an R–1 religious worker, must reside abroad and be physically present outside the United States for one year before being eligible for readmission as an R–1 religious worker.[51]

By statute, R–1 religious workers may not continuously remain in the United States in that status for more than five years.[52] The statute does not state that an R–1 religious worker must remain physically present outside of the United States for any specific period of time after being admitted for five years as an R–1 religious worker in the United States.[53] However, the current regulation at 8 CFR 214.2(r)(6) states that an alien who has spent five years in the United States in R–1 nonimmigrant status may not be readmitted to or receive an extension of stay in the United States under the R–1 nonimmigrant visa classification unless the alien has resided abroad and has been physically present outside the United States for the immediate prior year.

This one-year period was established in a 1991 rulemaking and was based on the one-year period that an H–1 or L–1 nonimmigrant is required to remain outside the United States under the same circumstances.[54] In response to a comment asking for longer periods between nonimmigrant stays, the 1991 Final Rule stated that because a one-year period outside the United States applied to H–1 and L–1 nonimmigrants, the same period was sufficient for R–1 nonimmigrants.[55]

DHS is now amending 8 CFR 214.2(r)(6) to remove the requirement that an alien who has spent five continuous years in the United States as an R–1 religious worker must reside abroad and be physically present outside of the United States for the immediate year prior to being readmitted or receiving an extension of stay as an R–1 religious worker.[56] This regulatory requirement has become disruptive due to the very long wait for EB–4 immigrant visas. The goal of this change is to significantly reduce disruptions for religious organizations who want to retain R–1 religious workers that have reached five years in R–1 status.[57]

DHS is executing a very narrowly tailored solution to provide a reasonable and rational solution to the problem at hand.[58] In carrying out its broad statutory authorities and responsibility to administer immigration laws, promulgate regulatory provisions, and prescribe conditions on nonimmigrant admissions,[59] DHS has determined that the impact of the very long waits for EB–4 immigrant visas on R–1 religious workers and their faith communities and ministries is best addressed through the amendment of the regulatory requirement specified above.

DHS notes that there are no specific statutory requirements imposed on R–1 religious workers[60] or on special immigrant religious workers as to how long R–1 religious workers have to remain outside the United States after the five-year maximum period of stay has passed.[61] Section 101(a)(15)(R)(ii) of the Act, 8 U.S.C. 1101(a)(15)(R)(ii), does not mention or mandate a one-year period. Further, other than providing for the statutory limit of the period of stay for five years, Congress has conferred expansive delegated authority to DHS to set by regulation the conditions of admission of nonimmigrants.[62]

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[51] *See* 8 CFR 214.2(r)(6). As explained above, that provision also states that the limitations contained in paragraph (r)(6) do not apply to R–1 religious workers who do not reside continually in the United States and whose employment in the United States is for an aggregate of less than 6 months per year or is seasonal or intermittent. The limitations also do not apply to R–1 religious workers who reside abroad and regularly commute to the United States to engage in part time employment. *See id.* This rule does not change these exceptions.

[52] *See* INA sec. 101(a)(15)(R)(ii), 8 U.S.C. 1101(a)(15)(R)(ii) (''seeks to enter the United States for a period not to exceed 5 years''); *see also* 8 CFR 214.2(r)(6).

[53] INA sec. 101(a)(15)(R)(ii), 8 U.S.C. 1101(a)(15)(R)(ii).

[54] *See* Final Rule, Aliens in Religious Occupations (R–1 Nonimmigrants), 56 FR 66965 (December 27, 1991). Prior to the publication of the final rule, INS published a proposed rule, which did not provide a justification for the one-year approach. *See* Proposed Rule, Aliens in Religious Occupations (R–1 Nonimmigrants), 56 FR 33886, 33887 (July 24, 1991) (''A religious worker who has remained in the United States in R nonimmigrant status for five years will not be readmitted to the United States in that classification unless he/she has resided and been physically present outside the United States, except for brief visits for business or pleasure, for the immediate prior year. This limitation on admission is found in paragraph (r)(7).'').

[55] ''Finally, although the Service must require an alien to leave the United States between stays as a religious worker, since the Act mandates that such stays shall not exceed five years, one year outside the United States is a sufficient minimum period. That period has previously been used satisfactorily for H–1 and L–1 nonimmigrants, and the Service will also use it for R nonimmigrants.'' *See* 56 FR 66965, 66966–66967.

[56] This IFR falls within the statutory language of sec.101(a)(15)(R) of the INA, 8 U.S.C. 1101(a)(15)(R), which among other things, does not require an R–1 nonimmigrant to have a foreign residence that he or she has no intention of abandoning. This proposal does not change any of State's longstanding practices relating to R–1 nonimmigrants. R–1 nonimmigrants will still have to meet section 214(b) of the INA, 8 U.S.C. 1181(b), and the requirements outlined by State in their Foreign Affairs Manual to receive their R–1 visa from State after USCIS sends the approved R–1 petition to the applicable consulate. *See* 9 FAM 402.16–6, INA sec. 214(b) Refusals and R Nonimmigrants, *see generally* 9 FAM 402.16, Religious Occupations, *https://fam.state.gov/fam/09FAM/09FAM040216.html* (last updated Mar. 6, 2024).

[57] Because a religious organization is able to file a new Form I–129 petition for a R–1 religious worker before the 5-year maximum period is reached, the petition could be filed early enough so that it would possibly be approved by the time the R–1 worker needs to depart the United States and apply for a visa with State to reenter the United States as an R–1 worker with a new maximum 5-year period of admission.

[58] The change in this rule does not modify the amount of a time an R–1 religious worker would need to wait for an EB–4 special immigrant religious worker visa number to be available. It also does not give priority to EB–4 special immigrant religious workers in the allocation of EB–4 visas or otherwise displace other immigrant visa applicants who are also awaiting a priority date in the EB–4 category. Finally, this change does not change the number of visas available to those in the EB–4 category or allocate more visas than assigned by Congress.

[59] *See* INA secs 101(a)(15)(R), 103(a)(1), (3), 214(a)(1), 8 U.S.C. 1101(a)(15)(R), 1103(a)(1), (3), 1184(a)(1); *see also* HSA secs. 451(a)(3), (b); 6 U.S.C. 271(a)(3), (b) (establishing the Bureau of Citizenship and Immigration Services, now USCIS, and transferring to USCIS the authority to adjudicate benefit requests and set national immigration services policies and priorities).

[60] *See* INA sec. 101(a)(15)(R), 8 U.S.C. 1101(a)(15)(R).

[61] *See* INA sec. 101(a)(27)(C), 8 U.S.C. 1101(a)(27)(C).

[62] *See* INA secs. 103(a)(1), (3), 214(a)(1), 8 U.S.C. 1103(a)(1), (3), 1184(a)(1); *see also* HSA secs. 451(a)(3), (b); 6 U.S.C. 271(a)(3), (b) (establishing the Bureau of Citizenship and Immigration Services, now USCIS, and transferring to USCIS the authority to adjudicate benefit requests and set

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As noted above, DHS created the one-year requirement to remain outside the United States for R–1 nonimmigrants to be consistent with the H–1B and L–1 nonimmigrant classifications. However, DHS does not believe that there are specific similarities between the R–1 nonimmigrant classification and the H–1B [63] and L–1 nonimmigrant classifications that support the requirement that R–1 nonimmigrants need to remain outside the United States for the same time period as the H–1B and L–1 nonimmigrant classifications before being eligible for a renewed period of eligibility. DHS believes R–1 nonimmigrants are distinguishable from H–1B and L–1 nonimmigrants, and it is, therefore, not necessary to similarly require R–1 nonimmigrants to remain outside of the United States for a specified period. First, H–1B nonimmigrants, by definition, are coming to the United States to perform services in a specialty occupation or as fashion models of distinguished merit and ability.[64] L–1 nonimmigrants are coming to the United States temporarily in order to continue rendering services to the same employer (including a parent, subsidiary, or affiliate) in managerial, executive, and specialized knowledge capacities.[65] In general, the positions filled by R–1 nonimmigrant workers tend not to have those characteristics. By definition, R–1 nonimmigrant workers are driven by their commitment to their particular religion and likely wish to serve that religion in some way regardless of the type of position or compensation.[66] One way this commitment is demonstrated is by the requirement that the nonimmigrant has been a member of the denomination for at least two years immediately preceding the application for admission.[67] As religious workers generally must have this commitment to their faith in order to serve their religious denomination, employers of R–1 workers cannot easily replace such religious workers.[68] Thus, these employers draw from a smaller pool of workers than H–1B or L–1 nonimmigrant employers do.

In addition, certain workers in H–1B nonimmigrant status can extend their nonimmigrant status beyond the general statutory limits if they have reached certain benchmarks in their lawful permanent residence process, which is a flexibility that is not present in any other nonimmigrant classification, including the R–1 nonimmigrant classification.[69]

Finally, the recent increased waiting period for an immigrant visa in the EB–4 category does not impact H–1B and L–1 nonimmigrants in the same way that it does the R–1 nonimmigrants applying for lawful permanent residence because H–1B and L–1 nonimmigrants generally apply for lawful permanent residence under the EB–1, EB–2, or EB–3 categories.[70] Because of the differences between these classifications and the limited use of the EB–4 category by H–1B and L–1 nonimmigrants intending to apply for lawful permanent residence, it is not appropriate to treat the R–1 nonimmigrant classification like these classifications for determining the required period an R–1 religious worker must remain outside the country before reapplying.

Treating R–1 nonimmigrants consistent with the category of nonimmigrants that do not require a minimum period outside of the United States is more appropriate. There is precedent to not require a minimum period of time outside the United States before a nonimmigrant may be readmitted to the United States for a new initial period of stay after departing due to a statutory maximum period of stay. For example, the statutory provisions for the P–1 (athlete) nonimmigrant classification do not require a specific period outside the United States for athletes who have reached the 10-year maximum period of stay.[71] The regulation at 8 CFR 214.2(p) sets limits on the incremental and total periods that a P–1 nonimmigrant may remain in P–1 status but is silent as to how long the P–1 nonimmigrant must remain outside the United States. In 2009, USCIS issued policy guidance stating that P–1 nonimmigrants who have been in the United States for 10 years must depart the United States and reapply for admission as a P–1 nonimmigrant for a new initial period of stay, but there is no required minimum period of time that the nonimmigrant must be physically present abroad.[72]

DHS is now taking a similar approach for the R–1 nonimmigrant classification.[73] Under this rule, an R–1 nonimmigrant who has been physically present in the United States for five continuous years would still be required to depart the United States.[74] However, once a new R–1 nonimmigrant petition has been approved and sent to the appropriate consulate (if applicable), and the consulate issues a new R–1 nonimmigrant visa to the alien (unless visa exempt), the alien will be able to apply for admission under that petition as an R–1 nonimmigrant for a new initial period of stay. Under this rule,

national immigration services policies and priorities).

[63] The 1991 final rule referred to the H–1 and L–1 nonimmigrant visa categories, when justifying the 1-year foreign residence requirement. *See* 56 FR 66965, 66966–66967. At the time, the H category also contained the H–1A classification. However, the H–1A classification was eliminated with the repeal of INA section 101(a)(15)(H)(i)(a), 8 U.S.C. 1101(a)(15)(H)(i)(a), by section 2(c) of the Nursing Relief for Disadvantaged Areas Act of 1999 (NRDAA of 1999), Public Law 106–95, 113 Stat. 1312 (Nov. 12, 1999). At the same time, Congress created the H–1C category for registered nurses working in a health professional shortage area. *See* section 2 of the NRDAA of 1999. However, that nonimmigrant visa category expired on December 20, 2009, when Congress did not renew section 2 of the NRDAA of 1999 after it reauthorized the program until December 20, 2009, under the Nursing Relief for Disadvantage Areas Reauthorization Act of 2005, Public Law 109–423, 120 Stat. 2900 (Dec. 30, 2006). Therefore, this rule is only referring to the current H–1B category.

[64] *See* INA sec. 101(a)(15)(H)(i)(b), 8 U.S.C. 1101(a)(15)(H)(i)(b); 8 CFR 214.2(h).

[65] *See* INA sec. 101(a)(15)(L), 8 U.S.C. 1101(a)(15)(L); 8 CFR 214.2(l).

[66] *See* 8 CFR 214.2(r)(11) (requiring either salaried or in-kind compensation but not establishing a minimum required compensation).

[67] 8 CFR 214.2(r)(1)(i).

[68] *See, e.g.,* Elizabeth Evans, ''As Churches Shrink and Pastors Retire, Creative Workarounds are Redefining Ministry'' (July 31, 2023) *https://www.washingtonpost.com/religion/2023/07/31/churches-shrink-pastors-retire-creative-workarounds-are-redefining-ministry.*

[69] *See* American Competitiveness in the Twenty-First Century Act of 2000, Public Law 106–313, sec. 106(a), 114 Stat. 1251, 1253–54; 21st Century Department of Justice Appropriations Authorization Act, Public Law 107–273, sec. l1030A(a), 116 Stat. 1758, 1836–37 (2002).

[70] *See, e.g.,* Congressional Research Service, U.S. Employment-Based Immigration Policy (Jul. 21, 2022), page 13 and footnote 53 *https://www.congress.gov/crs_external_products/R/PDF/R47164/R47164.5.pdf* (''Together, H–1B and L–1 workers and their families account for the majority of nonimmigrant adjustments to LPR status under the EB1, EB2, and EB3 categories''); Congressional Research Service, U.S. Employment-Based Immigration Policy (Nov. 19, 2024), page 15 *https://www.congress.gov/crs_external_products/R/PDF/R47164/R47164.7.pdf.*

[71] *See* INA sec. 101(a)(15)(P), 214(a)(2)(B), 8 U.S.C. 1101(a)(15)(P), 1184(a)(2)(B). Section 214(a)(2)(B) of the Act, 8 U.S.C. 1184(a)(2)(B) states: ''In the case of nonimmigrants admitted as individual athletes under section 101(a)(15)(P), the period of authorized stay may be for an initial period (not to exceed 5 years) during which the nonimmigrant will perform as an athlete and such period may be extended by the [Secretary of Homeland Security] for an additional period of up to 5 years.''

[72] *See* USCIS, ''Procedures for Applying the Period of Authorized Stay for P–1 Nonimmigrant Individual Athletes'' HQ 70/6.2.19 (Mar. 6, 2009).

[73] As discussed in Section III.A. and elsewhere in this rule, religious workers need to be members of their religious denominations and have a commitment to their faith in order to serve their religious denomination, and thus, employers of R–1 workers cannot easily replace such religious workers. Similarly, P–1 individual athletes, among other numerous requirements under 8 CFR 214.2(p)(1), need to perform at specific athletic competition as an athlete at an internationally recognized level of performance, and accordingly both could not be readily replaced by other individuals.

[74] *See* new 8 CFR 214.2(r)(6).

there is no requirement for the alien to reside and be physically present outside the United States for any specific period of time before being readmitted as an R–1 nonimmigrant under the new approved petition.

This change is intended to significantly reduce disruptions for R–1 nonimmigrants and U.S. employers who want to retain R–1 nonimmigrant workers. It is also intended to specifically provide relief for those religious workers who have been awaiting an immigrant visa under the EB–4 category because the change will permit them to return as a temporary R–1 nonimmigrant without having to reside abroad and be physically present outside the United States for a year, and to continue to pursue the permanent immigration status in the United States once the worker's EB–4 priority date becomes current. This is particularly important because the wait for EB–4 visas is growing.[75]

DHS believes that removing the requirement that an R–1 nonimmigrant religious worker, who has exhausted the five-year maximum period of stay as an R–1, must reside abroad and be physically present outside the United States for one year before being eligible for readmission as an R–1 nonimmigrant will enhance stability and significantly reduce disruptions to religious organizations with respect to their activities in providing vital services at U.S. churches, mosques, synagogues, and other places of worship.

B. Description of Regulatory Changes: Amending 8 CFR 214.2(r)(6)

With this IFR, DHS is amending 8 CFR 214.2(r)(6) to remove the requirement that an alien who has spent five years in the United States in R–1 status must reside abroad and be physically present outside the United States for one year before being readmitted to or receiving an extension of stay in the United States under the R visa classification. Correspondingly, DHS is removing the reference to readmission in the first sentence of the paragraph to clarify that, although the IFR does not remove the requirement that the alien be physically present outside the United States prior to readmission in R–1 status after spending five years in the United States in R–1 status, it does remove any minimum period of time that the alien must be physically present outside the United States before readmission.

Additionally, DHS is retaining the reference to the extension of stay in the first sentence of the paragraph and adding a new second sentence that explicitly requires departure of the alien when reaching the maximum five-year period of stay in the United States in R–1 status. Therefore, under new 8 CFR 214.2(r)(6), an alien in the R–1 nonimmigrant category who has spent five years in the United States in R–1 status cannot receive an extension of stay in the United States pursuant to 8 CFR 214.1. Rather, the alien must depart the United States and, upon having a new Form I–129 approval from USCIS and a new R–1 nonimmigrant visa from State (if applicable), may be readmitted to the United States as an R–1 nonimmigrant without having to wait outside the United States for a particular time period. *See* new 8 CFR 214.2(r)(6).

DHS is not substantively changing the regulation with respect to R–1 nonimmigrants who do not continually reside in the United States and whose employment in the United State was seasonal or intermittent or was for an aggregate of six month or less, and with respect to R–1 nonimmigrants who reside abroad and regularly commute to the United States to engage in part-time employment. *See* 8 CFR 214.2(r)(6).

DHS is also making updates throughout 8 CFR 214.2(r)(6) to replace the term ''shall,'' which may be ambiguous depending on the context in which it is used, with ''will'', if appropriate, to clarify the meaning of the provision. These changes are technical in nature and do not substantively impact the regulated public. They enhance the usability and readability of the provision. Additionally, DHS is removing the term ''shall'' in the last sentence of the paragraph, and changing the infinitive form of the verb ''consist'' to the third person singular present tense. By using ''such as,'' the sentence intends to covey that arrival and departure records, transcripts of processed income tax returns and records of employment abroad are examples of proof that an alien may submit. That is consistent with longstanding interpretation of USCIS.[76] The modifications are intended to help reduce confusion.

IV. Statutory and Regulatory Requirements

A. Administrative Procedure Act

DHS is invoking the ''good cause'' exceptions of the APA under 5 U.S.C. 553(b)(B) and (d)(3) and issuing this rule without prior notice-and-comment and without a 30-day delayed effective date. Furthermore, DHS finds that the regulatory amendment involves a foreign affairs function under 5 U.S.C. 553(a)(1), thereby exempting this rule from all requirements of 5 U.S.C. 553. Notwithstanding the explanation below, DHS nonetheless welcomes post-promulgation comment on all aspects of this IFR.

1. Good Cause and Bypassing the Delayed Effective Date

An agency may forgo notice and comment rulemaking when the agency ''for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). Likewise, section 553(d)'s requirement of 30-day advanced publication may be waived by the agency for good cause found and published with the rule, or if the rule relieves a restriction. *See* 5 U.S.C. 553(d)(1), (3).

The ''impracticable'' prong of the good cause exception excuses notice and comment in emergency situations, or where the delay caused by the APA's notice and comment procedures would result in real harm.[77] An agency may also bypass notice and comment procedures if notice and comment would be ''unnecessary''. Typically, this standard is satisfied if a rule or amendment is relatively minor and the public is not particularly interested.[78] Courts, for example, have stated that the prong is usually confined to those situations, in which the administration rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.[79] However, courts have also

[75] As explained in Section II.D. of this preamble, although new visa numbers became available as of the beginning of fiscal year 2026 (starting Oct. 1, 2025), the fact that the number of approved petitions without available EB–4 visas has exceeded 217,000 and that Congress only allocated about 9,940 EB–4 immigrant visas per fiscal year, renders it a virtual certainty that an R–1 Religious Worker would not be able to obtain an immigrant visa as a special immigrant religious worker prior to the expiration of their 5-year limitation of stay.

[76] *See* USCIS Policy Manual, Volume 2, Part O, Chapter 7 (''Such proof generally consists of evidence such as: Arrival/Departure Records (Form I–94), transcripts of processed income tax returns, and records of employment abroad.''), *https://www.uscis.gov/policy-manual/volume-2-part-o-chapter-7* (last visited Aug. 28, 2025).

[77] *See, e.g., Sorenson Comms., Inc.* v. *FCC,* 755 F.3d 702, 707 (D.C. Cir. 2014); *Jifry* v. *FAA,* 370 F.3d 1174, 1197 (D.C. Cir. 2004).

[78] *See* Attorney General's Manual on the Administrative Procedure Act (1947), at 31, *https://www.regulationwriters.com/downloads/AttorneyGeneralsManual.pdf* (last visited Aug. 13, 2025).

[79] *See Mack Trucks,* 682 F.3d at 94 (quoting *Utility Solid Waste Activities Grp.,* 236 F.3d at 755); *see also* Senate Report, No. 752, 79th Cong. 1st Sess. at 14 (1945), pg. 200 (''Unnecessary means unnecessary so far the public is concerned, as would be the case if a minor or merely technical

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found that the unnecessary could be satisfied if, for example, the rescission of a rule had been consistent with legislation or judicial decision and leaving no room for public debate over the agency's course of action.[80]

An agency may invoke the good cause exemption if providing notice and comment would be contrary to the public interest. 5 U.S.C. 553(b)(B). The question is not whether *dispensing* with notice and comment would be contrary to the public interest, but whether *providing* notice and comment would be contrary to the public interest.[81] The public interest prong of the good cause exception is met only in the rare circumstance when ordinary procedures under the APA—generally presumed to serve in the public interest—would in fact harm that interest.[82] The good cause inquiry is inevitably fact- or context-dependent and assessed on a case-by-case basis [83] and the need for notice and comment gains in importance the more expansive the regulatory reach of the agency rule.[84] Finally, in determining whether to invoke the exception to the 30-day delay in effective date under 5 U.S.C. 553(d)(3), some courts call for the agency to balance the necessity for immediate implementation against the principles of fundamental fairness which requires that all affected persons be afforded a reasonable time to prepare for its ruling.[85] Although the good cause exception for the 30-day effective date in 5 U.S.C. 553(d) mirrors the ''good cause'' language of 5 U.S.C. 553(b), the good cause exception from the 30-day effective date requirement is easier to meet because these provisions have different purposes.[86] Unlike the notice and comment requirement, which is designed to ensure public participation in rulemaking, the 30-day waiting period is intended to give affected parties time to adjust their behavior before the final rule takes effect. *See Riverbend Farms,* 958 F.2d at 1485.

For the reasons explained below, DHS believes that, based on the totality of the circumstances, it has good cause to bypass ordinary notice-and-comment procedures.

As discussed in the preamble, religious organizations are facing a crisis affecting not only their religious workers but also the communities they serve and the American public at large. Because of the converging circumstances related to the long wait for visas in the EB–4 category, the current regulatory one-year foreign residence requirement, DHS, consistent with its missions and responsibilities, is immediately taking measures to ensure that the religious worker program is administered in a manner that averts harm to the public. Engaging in the APA's notice and comment requirement under 5 U.S.C. 553(b) in this situation would impede the due execution of DHS's missions and responsibilities, including the responsibilities as outlined in the directive of E.O.s 14205 and 13397, to administer the religious worker nonimmigrant and immigrant programs effectively and to strengthen faith-based organizations, and would result in real and serious harm to religious organizations and American religious communities. Unless DHS acts immediately, every day that goes by, there is a risk that another religious organization has an R–1 pastor or religious worker who must depart the United States, and who is unable to return for at least 1 year as an R–1 worker on account of the one-year foreign residence requirement. The current harm and the risk of future harm is tremendous, considering that R–1 religious workers account for approximately 21 percent of all religious workers in the United States that are serving and providing crucial services and spiritual support to 41 percent of the U.S. population.[87] As explained in Section II of this preamble in detail, DHS reasonably believes, based on the numerous accounts of the faith community, news reports, and Congressional action, that this regulation will bring immediate relief and significantly reduce the disruption and harm that the very long wait for EB–4 immigrant visas and the one-year foreign residence requirement causes for affected religious workers, religious organizations, and the public at large, who bear no fault in the current situation.

DHS anticipates that, without this action, the number of religious workers who have to leave the United States may significantly increase, further impacting religious organizations and American faith communities by reducing the ability for these communities to receive the essential services these workers provide.[88] Any delay in action to provide advance opportunity for notice and comment, therefore, would risk further harm and unnecessarily burden religious workers, religious organizations and the American public at large. In these circumstances, DHS believes that providing advance notice and comment procedures is impracticable and not in the public interest.

DHS also believes that bypassing notice and comment procedure is warranted because of the narrow scope of the rule, providing a limited fix by eliminating the unique element of the one-year foreign residence requirement. Additionally, this rulemaking is

amendment in which the public is not particularly invested were involved.'').

[80] *See EME Homer City Generation, LP* v. *EPA,* 795 F.3d 118, 134–35 (D.C. Cir. 2015) (EPA had good cause to issue interim rule rescinding agency prior regulatory approvals of certain state implementation plans under the Clean Air Act, consistent with D.C. Circuit decision holding those approvals have been erroneous, as commenters would have had little to say.'').

[81] *See Mack Trucks, Inc.* v. *EPA,* 682 F.3d 87, 95 (D.C. Cir. 2012).

[82] *See id.*

[83] *See, e.g., Am. Fed'n of Govt. Emp., AFL–CIO* v. *Block,* 655 F.2d 1153, 1157 (D.C. Cir. 1981) (concluding that the agency's good cause finding was a reasonable response to avoid economic harm to certain poultry processors and likely shortages and increases in consumer prices); *Nat'l Venture Capital Ass'n* v. *Duke,* 291 F. Supp. 3d 5, 18 (D.D.C. 2017) (reasoning that fiscal injury to an agency may be less likely to support a good cause finding than fiscal injury to third parties).

[84] *See Mid-Tex Elec. Co-op., Inc.* v. *FERC,* 822 F.2d 1123, 1132 (D.C. Cir. 1987) (''But public notice and comment, we have also said, gain in importance ''the more expansive the regulatory reach of [agency] rules'').

[85] *See, e.g., N. Arapahoe Tribe* v. *Hodel,* 808 F.2d 741, 752 (10th Cir. 1987).

[86] *See, e.g., Riverbend Farms, Inc.* v. *Madigan,* 958 F.2d 1479, 1485 (9th Cir. 1992); *see also U.S. Steel Corp.* v. *EPA,* 605 F.2d 283, 289–90 (7th Cir.1979) (good cause more easily found as to 30-day waiting period).

[87] *See* Section II.D, Need for this Rulemaking, of this preamble.

[88] As explained more fully in Section II.D and Section IV.B.1.c of this preamble, religious organizations have historically sought to use the EB–4 category to obtain lawful permanent residence for the religious workers within the first 5 years of the religious worker obtaining R–1 status. This population did not have to rely on obtaining R–1 status for their R–1 workers beyond the 5-year maximum period of stay. Because of the long wait for visas in the EB–4 category, it is likely that most special immigrant religious workers will not have current priority dates for a significant amount of time; thus R–1s who may have approved EB–4 religious worker petitions cannot promptly file an adjustment of status application, Form I–485, that would have allowed them to remain in the United States and continue to pursue their vocation while the Form I–485 was pending. Because they are unable to file a Form I–485, it is thus possible that this provision, which eliminates the 1-year foreign residence requirement, would result in an increase in the number of Form I–129 petitions filed for R–1 nonimmigrant religious workers to allow them to quickly return to the United States and continue working. Table 2 in Section IV.B.1.c shows that since fiscal year 2023, there are an average of approximately 1,700 religious workers per year on whose behalf a Form I–360 EB–4 petition has been approved, but who have not yet filed an adjustment of status application (*i.e.,* Form I–485). This is a significant increase from the average of approximately 550 per year in the 4 years prior to fiscal year 2023. Finally, as the wait for EB–4 immigrant visas continues to increase each year since more than 9,940 (the number of visas available each year) aliens enter the queue each year, it will be even more difficult for a religious worker to use the EB–4 petition and subsequent adjustment of status application process as a means to remain in the United States without relying on multiple 5-year R–1 period of stays.

informed by the public's urging to remedy the current situation. DHS firmly believes that, under these circumstances, advance notice and comment procedures are unnecessary and seeking post-promulgation comments is reasonable.

As explained above, courts have noted that the need for notice and comment gains in importance the more expansive the regulatory reach of the agency rule, and that the scope of the rule, while itself not determinative, is an important consideration in the good cause assessment.[89] As explained throughout the preamble, the scope of this rulemaking is addressing a narrowly scoped population (religious workers) and a single solution (removing the one-year foreign residence requirement) that is suitably tailored to avert the harm. The reach of this regulatory change is even smaller when considering that those most affected by this provision will be the narrow class of religious workers who are about to exhaust their maximum period of stay and would otherwise need to remain outside the United States for at least one year before they can return in R–1 status.[90] This rule does not require more green cards, does not displace other potential green card applicants in the EB–4 category, and does not change the amount of time that an R–1 visa holder will need to wait to become current for an EB–4 visa. It also does not eliminate the requirement that these religious workers have to obtain the approval of a Form I–129 (including submitting to all of the vetting and security checks), and if necessary, obtain a visa with State before returning to the United States. The measure merely provides for the elimination of the regulatorily imposed one-year period during which an R–1 has to wait outside the United States before being eligible to return to the United States as an R–1 worker, thereby increasing the possibility that the R–1 worker can return to his or her religious organization or congregation earlier.

The narrow scope of the change in practice therefore supports DHS's approach of seeking post-promulgation comments rather than advanced notice-and-comment procedures. Furthermore, the approach of bypassing advanced notice-and-comment procedures and having an immediate effective date is further supported by the tremendous positive direct and indirect benefits of the measure, as well as the fact that DHS, by removing the one-year foreign residence requirement, lessens a restriction without further imposing additional requirements. As explained in Section II of this preamble, removing the one-year foreign residence requirement for religious workers may allow them to return to the United States as soon as possible and resume their positions of providing critical services to the religious organization and the American public. This rulemaking may, thus, bring immediate relief and decrease the significant burden that the current converging situations create, providing not just stability and continuity to religious organizations and congregations, but also schools, hospitals, and other social institutions where religious workers perform their essential work with compassion and dedication. Letters received by the DHS,[91] bi-partisan [92] action taken in Congress extending, among other things, a virtually similar measure as in this rulemaking,[93] as well as news reports [94] underscore the importance and need for immediate action, and also highlight the reasonable, uncontroversial,[95] and effective nature of DHS's approach to seek post-promulgation comments, rather than advance notice and comment. The fact that Congress felt compelled to introduce measures in both the Senate and the House to address and to change the one-year foreign residence requirement further supports the need for swift action of removing this regulatory requirement. Contrary to the goal of this rulemaking, engaging in advance notice-and-comment procedures would only prolong the harm this current regulatory provision causes, in light of the long wait for EB–4 visas. In this situation, engaging in advanced notice and comment procedures to take this common-sense and uncontroversial measure is thus unnecessary, impracticable, and contrary to the public interest.

DHS notes that in some cases, regarding the good cause standards, courts have concluded that an agency's claim of good cause and emergency was undermined because the agency delayed the implementation of a decision.[96] DHS has not delayed at all. As explained in Section II of this preamble, in 2023 State determined that it was required by law to correct its practices as it related to visa allocation in the employment-based preference categories to countries who have not reached the annual per-country

[89] *See Mid-Tex,* 822 F.2d at 1132 (stating that public notice and comment gain in importance the more expansive the regulatory reach of an agency's rule and that courts, therefore, have consistently recognized that a rule's temporally limited scope is among the key considerations in evaluating an agency's ''good cause'' claim).

[90] This sentiment is echoed, for example, by a senator, as part of the bill introduced with bi-partisan support providing, among other things, a similar solution to the one provided for in this rulemaking: ''Immigration bills are tough in the current political climate, but this is a narrow fix for a specific group of individuals.'' *See* CatholicVote, Religious worker visa crisis prompts bipartisan response in Congress (May 21, 2025), *https://catholicvote.org/religious-worker-visa-crisis-prompts-bipartisan-response-congress/.*

[91] *See, e.g.,* Letter dated May 25, 2023, from multiple national organizations representing many different religious denominations and faith traditions, available in the regulatory docket.

[92] *See* Newsweek, ''Green-Card Changes Threatens Pastors' ability to Remain in U.S.'' (July 28, 2025) (''Even as immigration issues are controversial and sometimes they run afoul of partisan politics, we think this fix is narrow enough, and the stakeholder group we have is significant enough, that we're hoping we can get this done.'') *See also* Press Release from Senators Kaine, Collins, and Risch, addressing the detrimental impact on parishes and faith community when they are losing their trusted religious workforce, *https://www.kaine.senate.gov/press-releases/kaine-collins-risch-introduce-religious-workforce-protection-act* (dated April 8, 2025).

[93] *See* section 4 of H.R.2672—Religious Workforce Protection Act (introduced Apr. 7, 2025). *https://www.congress.gov/bill/119th-congress/house-bill/2672/text* (last visited Aug. 13, 2025); *see also* the identical S. 1298—Religious Workforce Protection Act (introduced Apr. 3, 2025).

[94] *See, e.g.,* Newsweek, ''Green-Card Changes Threatens Pastors' ability to Remain in U.S.'' (July 28, 2025), *https://www.newsweek.com/green-card-changes-threatens-pastors-ability-remain-2105229* (describing that the situation related to the visa waitlist and the 1-year period that a religious worker has to stay outside, has significantly upended religious communities across the country that rely on foreign workers).

[95] *See* Kaine, Collins, Risch Introduce Religious Workforce Protection Act (Apr. 8, 2025) (providing supporting statements from various faith groups); *see also* Church and Society, The United Methodist Church, Action Alert: Tell Congress to Support the Religious Workforce Protection Act (2025)—H.R. 2672/S. 1298 (May 13, 2025), *https://www.umcjustice.org/latest/action-alert-tell-congress-to-support-the-religious-workforce-protection-act-2025-h-r-2672-s-1298-6083;* AP, Faith leaders hope bill will stop the loss of thousands of clergy from abroad servicing U.S. communities (July 27, 2025), *https://apnews.com/article/immigration-congress-green-card-pastors-bill-f637a65f1deec769d7c3b7dc6ffe570d.*

[96] Many of the leading cases involve circumstances where the agency cited a need to meet an imminent statutory or administrative deadline. *See Envtl. Def. Fund, Inc.* v. *EPA,* 716 F.2d 915 (D.C. Cir. 1983) (rejecting a claim of good cause to suspend certain reporting requirements before they entered into effect, because the agency had almost a year earlier deferred such requirements and announced that it intended to rescind them); *Council of S. Mountains, Inc.* v. *Donovan,* 653 F.2d 573, 580–82 (D.C. Cir. 1981) (stating that ''only in exceptional circumstances'' may ''the imminence of [a legal or administrative] deadline'' for taking a particular action ''permit[ ] avoidance of APA procedures,'' because otherwise the agency could delay in acting and then claim an emergency); *NRDC* v. *Abraham,* 355 F.3d 179, 205 (2d Cir. 2004) (rejecting the agency's claim of an emergent need to review and reconsider certain standards prior to an impending and self-imposed administrative deadline).

limit under section 202(a)(2) of the INA, 8 U.S.C. 1152(a)(2).

Moreover, and as explained in Section II.D, that wait is expected to grow considering the fact that there are only 9,940 EB–4 visas available in a typical fiscal year, and as of March 2025, the number of approved petitions where no visa was immediately available in the EB–4 category had grown to approximately 217,500 (compared to the 63,000 approved petitions at the end of fiscal year 2022). Furthermore, on March 3, 2025, State announced that it had issued all available immigrant visas in the EB–4 category, which includes visas made available to special immigrant religious workers, and the category was unavailable.[97] Since that announcement, visa numbers for the EB–4 category had remained unavailable from April 2025 through September 2025.[98] Thus, the urgency and impact is only recent and DHS is now taking immediate action to remedy the situation with this rulemaking. DHS also notes that the harm that the agency seeks to remedy directly is befalling religious workers and religious organizations who for many years reasonably relied on a consistent ability to retain their alien religious workers for more than five years, and are faithfully complying with immigration law and regulations, including the one-year foreign residence requirement.

Finally, DHS believes it is unnecessary to delay this final rule's effective date under 5 U.S.C. 553(d). First and foremost, a delayed effective date is unnecessary because the IFR relieves a restriction that is beneficial to religious workers, their employers and the faith-community at large as it reduces the interruption and costs that the one-year foreign residence requirement causes. *See* 5 U.S.C. 553(d)(1).[99] There is no need to give affected parties additional time to adjust their behavior before this final rule takes effect. A delayed effective date would serve no purpose but create further harm to the religious organizations and the communities the R–1 nonimmigrant workers serve. Additionally, as explained in this section, DHS has, for good cause, found that the delay in effective date is not warranted. *See* 5 U.S.C. 553(d)(3).

In sum, for the reasons outlined above, DHS believes that bypassing the ordinary notice and comment procedures and the delayed effective date requirement is justified, under the totality of the circumstances, and given that immediate action is necessary, is consistent with DHS' statutory mission to take regulatory action to administer the religious worker nonimmigrant and immigrant benefits effectively, and the President's directives in E.O. 13397 and E.O. 14205. Nevertheless, recognizing the value of public comments, DHS is publishing this rule as an IFR with a request for public comment.

2. Foreign Affairs Exemption

Agencies may forgo notice and comment rulemaking and a delayed effective date when the rulemaking involves ''a military or foreign affairs function of the United States.'' *See* 5 U.S.C. 553(a)(1). The Secretary of State, on February 21, 2025,[100] determined that ''all efforts conducted by any agency of the federal government to control the status, entry and exit of people, and the transfer of goods, services, data, technology, and other items across the borders of the United States, constitutes a foreign affairs function of the United States under the Administrative Procedure Act, 5 U.S.C. 553, 554.''

DHS finds that this rulemaking is directly connected to the alien's status or authorized period of stay such that it constitutes a foreign affairs function. Removing the one-year foreign residence requirement in 8 CFR 214.2(r)(6) allows a religious worker that has departed the United States after having exhausted the five-year period to be readmitted under the R classification as soon as possible. Thus, this rulemaking is related to the control of the entry and exit of aliens across the borders of the United States and falls within the Secretary's foreign affairs determination.[101] Because this rule implicates the foreign affairs policy of the United States and notice and comment procedure as well as a 30-day delayed effective date would definitely result in undesirable consequences, DHS is issuing this rule without engaging in notice and public procedures and with an immediate effective date. DHS is nevertheless publishing this rulemaking as an IFR and seeking post-promulgation public comments.

B. Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14192 (Unleashing Prosperity Through Deregulation)

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the

[97] *See* State, Visa Bulletin for April 2025, (Mar. 3, 2025) *https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2025/visa-bulletin-for-april-2025.html* (''The State Department, working in close collaboration with U.S. Citizenship and Immigration Services, has issued all available immigrant visas in the Employment-Based Fourth Preference (EB–4) category, which includes visas made available to certain religious workers under the SR visa category, for fiscal year 2025 and the category was made unavailable on February 28, 2025. Since all available EB–4 visas for fiscal year 2025 have been used, embassies and consulates may not issue visas in these categories for the remainder of the fiscal year. The annual limits will reset with the start of the new fiscal year (fiscal year 2026) on October 1, 2025. At that point, embassies and consulates may resume issuing immigrant visas in this category to qualified applicants.'').

[98] *See id.* State Visa Bulletins for April through September 2025 are *https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html* (last visited Sep. 11, 2025); *see also* USCIS, When to File Your Adjustment of Status Application for Family-Sponsored or Employment-Based Preference Visas: April 2025, *https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/when-to-file-your-adjustment-of-status-application-for-family-sponsored-or-employment-based-111* (last updated Mar. 10, 2025)); USCIS, When to File Your Adjustment of Status Application for Family-Sponsored or Employment-Based Preference Visas: May 2025, *https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/when-to-file-your-adjustment-of-status-application-for-family-sponsored-or-employment-based-112* (last updated Apr. 11, 2025); USCIS, When to File Your Adjustment of Status Application for Family-Sponsored or Employment-Based Preference Visas: June 2025, *https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/when-to-file-your-adjustment-of-status-application-for-family-sponsored-or-employment-based-113* (last updated May 13, 2025); USCIS, When to File Your Adjustment of Status Application for Family-Sponsored or Employment-Based Preference Visas: July 2025, *https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/when-to-file-your-adjustment-of-status-application-for-family-sponsored-or-employment-based-114* (last updated Jun. 10, 2025); USCIS, When to File Your Adjustment of Status Application for Family-Sponsored or Employment-Based Preference Visas: August 2025, *https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/when-to-file-your-adjustment-of-status-application-for-family-sponsored-or-employment-based-115* (last updated Jul. 14, 2025); USCIS, When to File Your Adjustment of Status Application for Family-Sponsored or Employment-Based Preference Visas: September 2025, *https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/when-to-file-your-adjustment-of-status-application-for-family-sponsored-or-employment-based-116* (last updated Aug. 12, 2025).

[99] See also Section IV.B.1.e., Cost savings and benefits associated with the provision to remove the requirement that a nonimmigrant R–1 religious worker remain outside the United States for 1 year before being readmitted as an R–1, of this preamble.

[100] *See Determination: Foreign Affairs Functions of the United States,* 90 FR 12200 (Mar. 14, 2025).

[101] The Secretary of State's determination references and implements numerous Presidential actions reflecting the President's top foreign policy priorities, including E.O. 14161. *See Determination: Foreign Affairs Functions of the United States,* 90 FR 12200 (Mar. 14, 2025). *See, e.g., Yassini* v. *Crosland,* 618 F.2d 1356, 1361 (9th Cir. 1980) (because an immigration directive ''was implementing the President's foreign policy,'' the action ''fell within the foreign affairs function and good cause exceptions to the notice and comment requirements of the APA'').

costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that ''any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.''

The Office of Management and Budget (OMB) has designated this rule a ''significant regulatory action,'' under section 3(f) of Executive Order 12866, although not economically significant under section 3(f)(1). Accordingly, the rule has been reviewed by OMB.

This rule is not an Executive Order 14192 regulatory action because it is being issued with respect to an immigration-related function of the United States.[102] The rule's primary direct purpose is to implement or interpret the immigration laws of the United States (as described in section 101(a)(17) of the INA, 8 U.S.C. 1101(a)(17)) or any other function performed by the U.S. Federal Government with respect to aliens. *See* OMB Memorandum M–25–20, ''Guidance Implementing Section 3 of Executive Order 14192, titled 'Unleashing Prosperity Through Deregulation.' '' (Mar. 26, 2025).

1. Provision To Remove the Requirement That a Nonimmigrant R–1 Religious Worker Remain Outside the United States for 1 Year Before Being Readmitted as an R–1

a. Summary

This rule would affect R–1 workers and their employers when these workers have reached their five-year maximum period of stay in the U.S. Due to changes in the availability of EB–4 immigrant visas, a growing number of R–1 religious workers have been impacted by the regulatory requirement of exiting the U.S. and waiting abroad for a one-year period before being readmitted. Based on the number of R–1 Nonimmigrants between FY 2015 and FY 2019 who had petitions filed for new R–1 status within 5 to 6½ years after initial approval, USCIS estimates between 92 and 127 religious workers and their employers may take advantage of the flexibilities offered by this rule per year.[103] However, USCIS acknowledges the number of R–1 workers could be much higher due to the removal of the one-year foreign residence burden. This is because there are approximately 1,150 additional religious workers waiting for an available visa annually. In the absence of this final rule, this larger population of religious workers, their sponsoring organizations, and the communities they serve will be affected by the uncertainty of the impending one-year foreign residence burden. While the R–1 workers still must travel abroad, their time abroad may be shortened significantly, and they would not incur transition costs for relocating to another country or finding short-term work. USCIS anticipates this could result in an increased number of R–1 religious workers and their employers reapplying for the R–1 visa to get up to an additional five years of religious work in the U.S.

The main benefit of this rule is to reduce disruptions for religious organizations who want to retain R–1 workers that have reached five years in R–1 status, and to reduce disruptions for the public who are served by these organizations. This rule allows religious workers to continue their service in the United States without the cost and logistical challenges of relocating abroad for a year, thereby permitting employers and their R–1 religious workers greater continuity of employment. The employer, the R–1 religious worker, and the community they serve benefit from the retained entity-specific human capital as a result of the shortened break in employment. USCIS expects this worker retention to result in increased productivity for employers and R–1 religious workers.

b. Baseline and Assumptions

As discussed above, under the current regulatory requirement, an R–1 nonimmigrant who has exhausted the five-year maximum period of stay, must reside abroad and be physically present outside the United States for one year before being eligible for readmission as an R–1 nonimmigrant. Prior to December 2022, most R–1 workers and their employers who wanted to continue their religious work in the U.S. were able to apply for lawful permanent residency, which effectively allowed them to remain in the U.S. without reaching the five-year maximum period for R–1. However, since December 2022, the availability of the EB–4 visa has dramatically dropped for R–1 workers, and more R–1 workers have become burdened by the current regulatory requirement of leaving the U.S. for a one-year period before readmittance. There are costs associated with moving to and residing in the destination country and post one-year transitioning back to the United States for those returning as R–1 nonimmigrant workers. Without this rule, R–1 workers may simply not return to the U.S. as transition costs to move back and forth after a year may be prohibitive. Employers may have to hire new workers rather than retain their R–1 workers' positions for a year, which they may find cost prohibitive. Further, employers holding the positions vacant could result in lost services for their community. Employers who hire new religious workers may incur hiring and training costs for these replacement workers.

As discussed earlier, R–1 employers have recently faced challenges in retaining their R–1 workers, as previously these R–1 workers were able to remain in the United State by taking certain steps towards obtaining lawful permanent residency. However, the unavailability of the EB–4 visa has changed the baseline conditions for employers, creating challenges to long-term worker retention. In summary, the newly realized burdens for employers and R–1 workers to remain in the United States past the five-year time-period has significantly increased in recent years and will continue to do so. DHS is issuing this IFR to address these additional burdens.

c. Population Affected

The rule will remove the requirement that an R–1 nonimmigrant, who has exhausted the maximum period of stay, remain outside of the United States for one year before being eligible for readmission as an R–1 nonimmigrant. The rule will not change the requirements that these nonimmigrants travel abroad for consular processing as an R–1 nonimmigrant and return to the United States with a new R–1 status, including employment authorization incident to that status.

DHS expects two populations to be affected by this rule. The first population consists of those religious organizations and religious workers that would have filed for a renewed R–1 status in the absence of this rule. This population is estimated below.

The second population consists of those who may be induced into seeking renewed R–1 status as a result of this

[102] *See* E.O. 14192, Unleashing Prosperity Through Deregulation (Jan. 31, 2025), 90 FR 9065 (Feb. 6, 2025).

[103] Source: DHS, USCIS, Office of Performance and Quality, CLAIMS3 & ELIS, queried 08/2025, PAER0018665.

rule. We believe this population is composed of those religious workers on whose behalf there is an approved Form I–360 but there is not an EB–4 visa available for them to adjust status. We estimate this portion of the population below. Additionally, the population consists of R–1 workers that have exhausted their five years in the United States but would not seek to renew their R–1 status in the absence of this rule. However, we do not have enough information to be able to estimate this portion of the population. As noted above, there are exceptions to the one-year rule; these exceptions are not included in these populations.

While the removal of the one-year foreign residence requirement will apply to all R–1 nonimmigrants, the group most affected by this provision will be those who are about to exhaust their maximum period of stay with a desire to continue their current work. This population currently must remain outside of the United States for one year and then be admitted again in R–1 status in order to maintain continuity in employment. Due to the recent changes in the availability of special immigrant status visas, commenters have indicated there would be an increase in the number of R–1 workers who would be required to depart the United States for one year and have to decide whether to return.[104] Because the change has happened in recent years, DHS does not have information about how many R–1 workers would choose to return under the R–1 visa given the removal of the one-year requirement. DHS is aware that historically many R–1 workers have applied for special immigrant visas to continue to work in the United States as a religious worker and apply to adjust status to an LPR before their five-year limit with the R–1 visa is exhausted. Given the historical behavior of R–1 workers to extend their residency in the U.S. and maintain continuity in employment, DHS assumes there could be an increase in the number of R–1 workers who choose to return with an R–1 visa as a result of the changes in this rule. DHS has attempted to estimate the number of R–1 visa holders that would leverage the flexibilities offered in this rule; however, there is limited data that reflect the recent changes in policy.

We identify this group by looking at R–1 nonimmigrants who have Form I–129 petitions filed for them, in fiscal years 2015 to 2019.[105] Next, we identify those that were then approved for R–1 status, and new employment within 5 to 6½ years after the initial approval.[106] These aliens would have exhausted the maximum period of stay and sought to return within a short period of time after having to leave the United States. Based on this calculation, we estimate between 92 and 127 aliens may be directly affected by this provision annually.[107] Table 1 shows the annual number of R–1 nonimmigrants who have petitions filed on their behalf for new R–1 status, including employment authorization incident to such status, within 5 to 6½ years after the initial approval, by fiscal year of first approval.

TABLE 1—ANNUAL NUMBER OF R–1 NONIMMIGRANTS WHO HAVE PETITIONS FILED ON THEIR BEHALF FOR NEW R–1 STATUS WITHIN 5 TO 6½ YEARS AFTER THE INITIAL APPROVAL, BY FISCAL YEAR OF FIRST APPROVAL, FY 2015–2019

Fiscal year	Workers in religious occupations (R–1) [a]	Number of R–1 nonimmigrants who have petitions filed, on their behalf, for new R–1 status within 5 to 6½ years after the initial approval [b]
2015	14,110	74
2016	14,280	98
2017	14,360	127
2018	14,670	89
2019	14,820	70
5-year Average	14,448	92

Source:
[a] DHS, USCIS, Office of Performance and Quality, CLAIMS3 & ELIS, queried 08/2025, PAER0018665.
[b] DHS, OHSS, Yearbook of Immigration Statistics, Yearbook 2023, *https://ohss.dhs.gov/topics/immigration/yearbook/2023/table25* (last visited October 23, 2025).

Elimination of the requirement that R–1 nonimmigrants reside and are physically present outside of the United States for one year after exhausting the maximum period of stay before readmission as an R–1 nonimmigrant will result in those R–1 nonimmigrants seeking readmission being permitted to return up to one year earlier than in the absence of this provision. Accordingly, DHS expects a 1-year acceleration in some of these petitions for R–1 status and employment authorization incident to such status as an R–1 nonimmigrant. This increase is expected to be between 92 and 127 petitions annually.

Given the recent increase in wait times for EB–4 visas and the information DHS received about the impact of this change from religious communities, DHS anticipates that this rule could benefit significantly more aliens than between the 92 and 127 who file petitions annually identified based on prior year experience. As explained more fully in Section 3 of the Background section of the preamble, prior to December 2022, R–1 nonimmigrants and religious organizations have historically sought to use the EB–4 category to obtain lawful permanent residence for the religious workers within the first 5 years of obtaining R–1 status. However, due to the long wait for EB–4 immigrant visa availability, most special immigrant religious workers will likely face long wait times before the priority date of their special immigrant petition (Form

[104] Public information confirms DHS' understanding of the circumstances that R–1s and their employers face. *See, e.g., Congress.gov* Religious Workforce Protection Act (Executive Session); Congressional Record Vol. 171, No. 63, S2464–2466, *https://www.congress.gov/congressional-record/volume-171/issue-63/senate-section/article/S2464-3* (last visited Sept. 10, 2025).

[105] DHS used the lookback period of FY 2015–2019 to have enough time to account for R–1 nonimmigrants that have reached their 5-year maximum period of stay.

[106] To evaluate R–1 worker interest in remaining in the United States, DHS used a period that exceeds the 5-year maximum but also would be close enough to the one-year bar from returning. DHS recognizes that it could have chosen a different or longer period to evaluate and requests comment on this assumption.

[107] The estimated range is based on the five-year average of 92 and the five-year maximum. The data illustrates an upper ward trend; to reflect that upward trend we use the maximum value as an upper bound estimate.

I–360) is current. As a result, R–1 religious workers who have been approved for classification as special immigrant religious workers under the EB–4 category cannot immediately file a Form I–485, Application to Register Permanent Residence or Adjust Status, that would have allowed them to remain in the United States and work while their adjustment of status application was adjudicated.[108]

Thus, because R–1 workers are unable to file a Form I–485 within their five-year maximum period of stay, which historically they could and allowed them to remain in the United States after their R–1 maximum period of stay had been reached, it is possible that this rule, which eliminates the one-year foreign residence requirement, would result in an increase in the number of R–1 nonimmigrants interested in obtaining new R–1 status to allow them to return to the United States significantly earlier. Table 2 demonstrates that there is a growing number of R–1 workers who would like to stay in the United States but have not been able to due to visa limitations. This could be an indication of the growing interest of R–1 workers to return to the United States under the beneficial conditions of this rule.

As shown below, since fiscal year 2023, there is an average of approximately 1,700 religious workers per year on whose behalf a Form I–360 EB–4 petition has been approved, but who have not yet filed an adjustment of status application (*i.e.,* Form I–485). This population has been growing steadily since 2022. This is a significant increase from the average of approximately 550 per year in the four years prior to fiscal year 2023.

TABLE 2—ANNUAL NUMBER OF I–360, PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT, RELIGIOUS WORKER APPROVALS WITHOUT I–485 FILING BY FISCAL YEAR, FY 2019–2025

[As of Aug. 26]

Fiscal year	Number of I–360, petition for Amerasian, widow(er), or special immigrant, religious worker approvals without a Form I–485 filing with R–1-basis
2019	534
2020	252
2021	150
2022	1,279
2023	1,522
2024	1,709
2025 (as of Aug. 26)	1,921
2019–2022 average	554
2023–2025 average	1,717

Source: DHS, USCIS, Office of Performance and Quality, CLAIMS3 & ELIS, queried 08/2025, PAER0018660.

Historically, religious organizations have sponsored some of their R–1 nonimmigrant religious workers as Special Immigrants using Form I–360. After the Form I–360 is approved, these religious workers wait until an EB–4 visa becomes available to file a Form I–485 to adjust status from nonimmigrant to immigrant. As shown in Table 2, the population of religious workers with an approved Form I–360 that have not yet filed for adjustment of status (*i.e.,* file a Form I–485) has grown from an average of approximately 550 to over 1,700. This difference of approximately 1,150 additional religious workers suggests that a larger population of R–1 nonimmigrants that have exhausted, or are close to exhausting, their five-year period in the United States may also benefit from the reduced disruptions effected by this rule. While the one-year acceleration of some R–1 petitions is a direct impact of the estimated population in Table 1, the rule may result in a larger number of religious organizations petitioning for an additional period of work for their R–1 religious workers using Form I–129.

d. Impacts of the IFR

The rule is expected to result in at least between 92 and 127 petitions filing a Form I–129 a year earlier than without this rule, and could potentially be much more. There has been an increase of approximately 1,150 religious workers annually that have an approved Form I–360 but have not yet been able file a Form I–485 to adjust status. It is expected some portion of these religious workers will take advantage of this rule change, though we do not have an estimate of how many will. DHS believes any costs associated with filing this form a year earlier are de minimis.

The rule will allow R–1 nonimmigrants who have exhausted their maximum period of stay to return to the United States in R–1 status sooner. Accordingly, it may also increase the number of R–1 workers who choose to return with an R–1 visa. This rule does not alter the requirement for these aliens to travel abroad before they return to the United States with a new R–1 status.

Further, to minimize the aliens' time abroad, employers are permitted to file a new Form I–129 before their R–1 religious workers reach their five-year maximum period of stay.[109] Doing so would provide USCIS time to review the R–1 petition and potentially approve it before an R–1 religious worker's departure. This approval could also allow the alien to schedule consulate processing for his or her visa application earlier, which could also minimize wait time outside the U.S.

The main benefit of this rule is to reduce disruptions for religious

[108] The Visa Bulletin can be accessed on State's website at *https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html* (last visited Sep. 11, 2025). *See generally* State, Visa Bulletin for September 2025, *https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2025/visa-bulletin-for-september-2025.html* (Aug. 4, 2025) (showing the unavailability of EB–4 religious worker visas in the Final Action Date) *and* USCIS website, Adjustment of Status Filing Charts from the Visa Bulletin, *https://www.uscis.gov/green-card/green-card-processes-and-procedures/visa-availability-priority-dates/adjustment-of-status-filing-charts-from-the-visa-bulletin* (last visited August 28, 2025) (stating that all employment-based preference categories must use the Final Action Date section).

[109] Consistent with form instructions, a Form I–129 petition may generally be filed up to 6 months prior to the date that the relevant employment is scheduled to begin. *See* USCIS, Form I–129, Instructions for Petition for Nonimmigrant Worker (Jan. 20, 2025), *https://www.uscis.gov/sites/default/files/document/forms/i-129instr.pdf.*

organizations who want to retain R–1 workers who have reached five years in R–1 status, and to reduce disruptions for the communities who are served by these organizations. This rule allows religious workers to resume their service in the United States without the cost and logistical challenges of relocating abroad for at least one full year. The employer, the R–1 religious worker, and the community they serve benefit from the retained entity-specific human capital as a result of the shortened break in employment. USCIS expects this increased worker retention to result in increased productivity for employers and R–1 religious workers.

We recognize that these aliens would be generating benefits during the time outside of the United States, however, DHS does not attempt to estimate comparative utility analysis between the United States and other countries. Observing that these aliens voluntarily return to work in the United States provides sufficient evidence of comparatively greater welfare from additional time as an R–1 nonimmigrant. Similarly, organizations employing those religious workers who return to work in the United States faster may benefit indirectly from this productivity occurring sooner, but DHS has not quantified these effects.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). The RFA's regulatory flexibility analysis requirements apply only to those rules for which an agency is required to publish a general notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other law. *See* 5 U.S.C. 604(a). DHS did not issue a notice of proposed rulemaking for this action. Therefore, a regulatory flexibility analysis is not required for this rule.

D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and Tribal governments. Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed rule, or final rule for which the agency published a proposed rule, that includes any Federal mandate that may result in a $100 million or more expenditure (adjusted annually for inflation) in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector.[110]

The inflation adjusted value of $100 million in 1995 is approximately $206 million in 2024 based on the Consumer Price Index for All Urban Consumers (CPI–U).[111] This rule does not contain a Federal mandate as the term is defined under UMRA.[112] The requirements of title II of UMRA, therefore, do not apply, and DHS has not prepared a statement under UMRA.

E. Congressional Review Act

The Congressional Review Act (CRA) enacted as part of section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, 110 Stat. 847, 868 *et seq.,* generally delays the effective date of a ''major rule'' as defined by the CRA for at least 60 days. *See* 5 U.S.C. 801(a)(3). Based on DHS's assessment, the Office of Information and Regulatory Affairs has determined that this IFR is not a major rule as defined under the CRA, as this rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or an ability of the United States-based companies to compete with foreign-based companies in domestic and export markets. *See* 5 U.S.C. 804(2). DHS will submit this IFR to both houses of Congress and the Comptroller General before the rule takes effect.

F. Executive Order 13132 (Federalism)

This rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, Federalism, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. Executive Order 12988 (Civil Justice Reform)

This IFR was drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform. This IFR was written to provide a clear legal standard for affected conduct and was reviewed carefully to eliminate drafting errors and ambiguities, so as to minimize litigation and undue burden on the Federal Court system. DHS has determined that this rule meets the applicable standards provided in section 3 of Executive Order 12988.

H. Family Assessment

DHS has reviewed this rule in line with the requirements of section 654 of the Treasury and General Appropriations Act, 1999.[113] DHS has systematically reviewed the criteria specified in section 654(c)(1), by evaluating whether this regulatory action: (1) impacts the stability or safety of the family, particularly in terms of marital commitment; (2) impacts the authority of parents in the education, nurture, and supervision of their children; (3) helps the family perform its functions; (4) affects disposable income or poverty of families and children; (5) only financially impacts families, if at all, to the extent such impacts are justified; (6) may be carried out by State or local government or by the family; or (7) establishes a policy concerning the relationship between the behavior and personal responsibility of youth and the norms of society. If the agency determines a regulation may negatively affect family well-being, then the agency must provide an adequate rationale for its implementation.

With this IFR, DHS is removing the requirement that a nonimmigrant religious worker (R–1) who has exhausted the maximum period of stay as an R–1 must reside abroad and be physically present outside the United States for one year before being eligible for readmission as an R–1 nonimmigrant. The purpose of this change is to enhance stability and significantly reduce disruptions to the vital services that nonimmigrant religious workers provide to U.S.

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[110] *See* 2 U.S.C. 1532(a).

[111] *See* BLS, ''Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. city average, all items, by month,'' *https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202412.pdf* (last visited Sep. 24, 2025). Calculation of inflation: (1) Calculate the average monthly CPI–U for the reference year (1995) and the current year (2024); (2) Subtract reference year CPI–U from current year CPI–U; (3) Divide the difference of the reference year CPI–U and current year CPI–U by the reference year CPI–U; (4) Multiply by 100 = [(Average monthly CPI–U for 2024 − Average monthly CPI–U for 1995) ÷ (Average monthly CPI–U for 1995)] × 100 = [(313.689 − 152.383) ÷ 152.383] = (161.306/152.383) = 1.059 × 100 = 105.86%percent = 106 percent (rounded). Calculation of inflation-adjusted value: $100 million in 1995 dollars × 2.06 = $206 million in 2024 dollars.

[112] The term ''Federal mandate'' means a Federal intergovernmental mandate or a Federal private sector mandate. *See* 2 U.S.C. 1502(1), 658(6).

[113] *See* Public Law 105–277, 112 Stat. 2681 (1998).

churches, mosques, synagogues, and other religious organizations.

DHS has determined that the implementation of this regulation does not negatively affect family well-being as outlined in section 654 of the Treasury General Appropriations Act, 1999. To the contrary, DHS believes that the consequence of the rule—the fact that religious workers who are trusted members of their faith communities and organizations may return faster and are no longer required to comply with the 1-year foreign residence requirement, positively impacts the community at large, and given the essential work performed of religious workers, the well-being of families overall.

I. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

This IFR does not have Tribal implications under Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

J. National Environmental Policy Act

DHS and its components analyze final actions to determine whether the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* applies to them and, if so, what degree of analysis is required. DHS Directive 023–01, Rev. 01 ''Implementing the National Environmental Policy Act'' (Directive 023–01) and Instruction Manual 023–01–001–01 Revision 01, Implementation of the National Environmental Policy Act'' (Instruction Manual) [114] establishes the policies and procedures that DHS and its components use to comply with NEPA.

NEPA allows Federal agencies to establish, in their NEPA implementing procedures, categories of actions (''categorical exclusions'') that experience has shown do not, individually or cumulatively, have a significant effect on the human environment and, therefore, do not require an environmental assessment or environmental impact statement.[115] The Instruction Manual, Appendix A lists the DHS Categorical Exclusions.[116]

Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.[117]

This IFR amends DHS regulations to remove the requirement that R–1 religious workers, who have reached the maximum period of stay must, reside abroad and be physically present outside the United States for one year before being eligible for readmission in R–1 status. While R–1 nonimmigrants must still depart the United States upon reaching the maximum admission period, there is no longer a mandated duration for residing and being physically present outside the United States before seeking readmission in R–1 status. The purpose of this change is to promote stability and minimize disruptions to the vital services that nonimmigrant religious workers provide to U.S. churches, mosques, synagogues, and other religious organizations.

This final rule is strictly administrative and procedural because it is only amending existing DHS regulations governing eligibility for readmission as an R–1 nonimmigrant. DHS has reviewed this IFR and finds that no significant impact on the environment, or any change in environmental effect will result from the amendments being promulgated in this final rule.

Accordingly, DHS finds that the promulgation of this final rule's amendments to current regulations clearly fits within categorical exclusion A3 established in DHS's NEPA implementing procedures as an administrative change with no change in environmental effect, is not part of a larger Federal action, and does not present extraordinary circumstances that create the potential for a significant environmental effect. Therefore, these regulatory amendments are categorically excluded from further NEPA review.

K. Paperwork Reduction Act

This IFR does not propose any new or revise any existing ''collection[s] of information'' as that term is defined under the paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 13200. This IFR will eliminate the 1-year foreign residence requirement under 8 CFR 214.2(r)(6), and USCIS has determined there is no need to update the Petition for Nonimmigrant Worker (Form I–129) or any other information collection related to religious workers.

List of Subjects and Regulatory Amendments

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

Accordingly, for the reasons set forth in the preamble, DHS amends 8 CFR part 214 as follows:

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305, 1357, and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1806).

■ 2. Amend § 214.2 by revising paragraph (r)(6) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(r) * * *

(6) *Limitation on total stay.* An alien who has spent five years in the United States in R–1 status may not receive an extension of stay in the United States as an R–1 nonimmigrant. The alien must depart the United States after reaching the maximum five-year admission period of being physically present in the United States to be eligible to be readmitted as an R–1 nonimmigrant. There is no minimum period of time that the alien must remain outside of the United States after reaching the maximum five-year admission period before seeking readmission as an R–1 nonimmigrant, provided all other eligibility requirements are met. The limitations in this paragraph will not apply to R–1 aliens who did not reside continually in the United States and whose employment in the United States was seasonal or intermittent or was for an aggregate of six months or less per

[114] The Instruction Manual contains DHS' procedures for implementing NEPA and was issued Nov. 6, 2014. *See* DHS, Publication Library, DRAFT Revised NEPA Implementing Procedures (June, 2014), *https://www.dhs.gov/publication/draft-revised-nepa-implementing-procedures-instruction-manual-023-01-001-01-rev01-june.*

[115] *See* 42 U.S.C. 4336(a)(2), 4336e(1).

[116] *See* Instruction Manual, Appendix A, Table 1.

[117] *See* Instruction Manual at V.B(2)(a)–(c).

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. To qualify for this exception, both the petitioner and the alien must provide clear and convincing proof that the alien qualifies for such an exception. Such proof consists of evidence such as arrival and departure records, transcripts of processed income tax returns, and records of employment abroad.

* * * * *

Kristi Noem,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2026–00830 Filed 1–14–26; 11:15 am]

BILLING CODE 9111–97–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–1110; Project Identifier AD–2025–00166–T; Amendment 39–23234; AD 2026–01–06]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 787–9 and 787–10 airplanes. This AD was prompted by reports of multiple supplier notices of escapement (NOEs) indicating that multiple cargo barrier fitting links were possibly manufactured with an incorrect titanium alloy material. This AD requires a high frequency eddy current (HFEC) or handheld X-ray fluorescence (XRF) spectrometer inspection of the cargo barrier fitting link to determine the titanium alloy material and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 20, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 20, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–1110; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2025–1110.

FOR FURTHER INFORMATION CONTACT: Joseph Hodgin, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3962; email: *joseph.j.hodgin@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 787–9 and 787–10 airplanes. The NPRM was published in the **Federal Register** on June 25, 2025 (90 FR 26945). The NPRM was prompted by reports of multiple supplier NOEs indicating that multiple cargo barrier fitting links (both left and right) were possibly manufactured with an incorrect titanium alloy material. In the NPRM, the FAA proposed to require an HFEC or handheld XRF spectrometer inspection of the cargo barrier fitting link to determine the titanium alloy material and applicable on-condition actions. The FAA is issuing this AD to address cargo barrier fitting links possibly manufactured with the incorrect titanium alloy material, which, if not addressed, could fail in the event of a rapid decompression in the aft fuselage and could result in damage to the aft electronic equipment bay and consequent loss of continued safe flight and landing.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from the Air Line Pilots Association, International, (ALPA) and United Airlines who supported the NPRM without change.

The FAA received additional comments from American Airlines (American) and Boeing. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Revise the Number of Affected Airplanes

Boeing requested the FAA revise the estimated number of affected airplanes of U.S. registry from 23 to 25 in the Costs of Compliance paragraph of the proposed AD and adjust the costs accordingly. Boeing noted that Boeing Alert Requirements Bulletin B787–81205–SB530089–00 RB, Issue 001, dated February 7, 2025, includes 25 airplanes of U.S. registry. Boeing explained that the two additional airplanes are currently operated by foreign operators but remain on the U.S. registry.

The FAA agrees with the request and has revised the Costs of Compliance section of this AD accordingly.

Request To Clarify Inspection Instructions

American requested the FAA revise paragraph (g) of the proposed AD to state that either an XRF or HFEC inspection method is acceptable for compliance with the proposed AD. The commenter expressed concern that paragraph (g) of the proposed AD specifies doing all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB530089–00 RB, Issue 001, dated February 7, 2025, but the inspection instructions in the requirements bulletin do not clearly state that doing an HFEC inspection to determine the type of titanium alloy material negates the need for an XRF inspection (for example, see task 1, table 1, More Data notes 1 and 2). The commenter stated it cannot accomplish the XRF inspection because the equipment is unavailable.

The FAA disagrees with the request. Tables 1 through 3 the Accomplishment Instructions of the requirements bulletin specify to do an HFEC or handheld XRF spectrometer inspection of the cargo barrier fitting link to determine the titanium alloy material. In addition, More Data note 2 of the corresponding