

TO BE RESCINDED

5101:2-49-06

Determination of refugee and Cuban/Haitian entrant status.

(A) A "refugee" is defined by law as any person who meets the requirements of both paragraphs (A)(1) and (A)(2) of this rule.

(1) A "refugee" is a person who is either:

(a) Outside the country of his nationality.

(b) Outside the country in which he had last habitually resided, if he claims he has no nationality.

(2) A "refugee" is a person who is unable or unwilling to return to or have the protection of that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

(B) In order to be eligible for refugee resettlement program (RRP) social services, a person must hold one of the immigration and naturalization service (INS) statuses listed in paragraph (B)(1) or (B)(2) of this rule. In order to be eligible for Cuban/Haitian entrant program (CHEP) social services, a person must hold one of the statuses listed in paragraph (B)(3) of this rule. In addition, this status must be verified using the INS document listed for that status.

(1) A "person who received refugee assistance or refugee social services prior to September 1, 1981" is a refugee who received Indochinese refugee assistance, code "G" ADC or medicaid, or Indochinese refugee assistance program social services. He meets the refugee status requirement if he has one of the following statuses.

(a) Parole status, which is indicated on INS I-94 (arrival-departure record).

(b) Voluntary departure status, which is indicated on INS I-94.

(c) Conditional entry status, which is indicated on INS I-94.

(d) Permanent resident status which is indicated on either INS I-151 or INS I-551 (alien registration receipt cards).

(2) A person who did not receive refugee assistance or social services prior to

September 1, 1981 must have one of the INS statuses listed in paragraphs (B)(2)(a) to (B)(2)(f) of this rule and must meet the conditions required for that status.

- (a) Parole status: The person must have an INS I-94 indicating that he has been paroled under section 212(d)(5) of the Immigration and Nationality Act. He must meet both of the following conditions:
 - (i) The person is from Cambodia, Vietnam, or Laos.
 - (ii) The person's date of arrival in the United States is prior to June 1, 1980.
- (b) Paroled as a refugee or asylee: The person must have an INS I-94 indicating he has been paroled as a refugee or asylee under section 212(d)(5) of the Immigration and Nationality Act.
 - (i) The person is from Cambodia, Vietnam, or Laos, and the INS I-94 was issued on or after June 1, 1980.
 - (ii) The person is from Cuba and entered the U.S. on or after October 1, 1978.
 - (iii) The person is from any country other than Cambodia, Vietnam, Laos, or Cuba and entered the United States at any time.
- (c) Conditional entrant status: The person must have an INS I-94 indicating that he has been admitted as a conditional entrant under section 203(a)(7) of the Immigration and Nationality Act.
- (d) Refugee status: The person must have an INS I-94 indicating that he has been admitted as a refugee under section 207 of the Immigration and Nationality Act.
- (e) Granted asylum status: The person must have an INS I-94 indicating that he has been granted asylum under section 208 of the Immigration and Nationality Act.
- (f) Status adjusted to permanent resident alien status: The person previously held one of the five statuses indicated in paragraphs (B)(2)(a) to (B)(2)(e) of this rule and now has INS I-151 or I-551 identifying the

person as a resident alien. The person must provide documentation to substantiate that he held one of the five statuses indicated in paragraphs (B)(2)(a) to (B)(2)(e) of this rule before the adjustment of his status to that of resident alien. An example of such documentation is a photocopy of an INS I-94 indicating the status previously held by the person.

- (3) Certain Cuban and Haitian individuals who do not have one of the INS statuses described in paragraph (B)(2) of this rule are eligible under provisions of title V of the Refugee Education Assistance Act of 1980 (PL 96-422). These Cuban and Haitian individuals must have one of the INS statuses listed below and must meet the conditions required for that status.
- (a) Cuban/Haitian entrant (status pending): The person must have an INS I-94 which is stamped "Cuban/Haitian entrant (status pending)."
- (b) Paroled: The person must have an INS I-94 which states the person is a citizen of Haiti who has been paroled; or the person must have an INS I-94 which meets all of the following requirements:
- (i) States that the person is a citizen of Cuba.
 - (ii) States that the person has been paroled.
 - (iii) Indicates the person either entered the United States after, or was paroled after, April 20, 1980.
 - (iv) Does not contain the words "outstanding order of exclusion."
- (c) Subject of exclusion or deportation proceedings: The person must have an INS I-94 which states that he is a citizen of Cuba and indicates that he is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act. As an indication that the person is the subject of exclusion or deportation proceedings, his I-94 contains the initials "OOE" in the lower left-hand corner.
- (d) Voluntary departure: The person must have an INS I-94 which states that the person is a citizen of Haiti who has been granted voluntary departure.
- (e) Applicant for asylum: The person must have an INS I-94 which states that the person is a citizen of Cuba or Haiti who has an application for

asylum pending with the immigration and naturalization service.

- (4) A person holding one of the following four INS statuses is not eligible for RRP or CHEP social services.
- (a) Applicant for asylum: A person from any country other than Cuba or Haiti who has applied for asylum but has not been granted asylum is not eligible for RRP or CHEP social services.
 - (b) Final nonappealable, and legally enforceable order of exclusion: A Cuban or Haitian who entered the United States on or after October 11, 1980 and whose INS deportation hearing result is a "final nonappealable, and legally enforceable order of exclusion" is not eligible for RRP or CHEP social services.
 - (c) Resident alien not previously adjusted: A person from any country who entered the United States as a resident alien and did not previously have one of the statuses indicated in paragraph (B)(1), (B)(2), or (B)(3) of this rule is not eligible for RRP or CHEP social services. A person who received refugee assistance prior to September 1, 1981 and who has permanent resident status is eligible for RRP or CHEP social services.
 - (d) Outstanding order of exclusion: A Cuban who entered the United States and whose INS I-94 contain the words "outstanding order of exclusion" is not eligible for CHEP social services.

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Certification

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