

# Performing in the US or Canada 101: What AFM Members Need to Know

by Liana White, AFM Canada Director of Administrative Services

## Part 1: Work Permits for Canadian Musicians Performing in the US

### You're planning on performing in the US. What's the first thing you must do?

Get a passport! If you already have a passport—*great!* However, it must be valid for a minimum of six-months after the date you intend to return from your professional activities in the US. When the expiry date on your passport is getting close, don't push it. Apply for a new one (prior to the expiry date) sooner rather than later.

### Okay, you've got your passport in order. What's next?

You need confirmed gigs. Evidence of work in the US is required to qualify for any artist work permit. You cannot obtain a permit to look for gigs.

### Confirmed gigs—check! Now, what are your work permit options?

- **P-1 Visa:** for bands who are internationally recognized
- **P-2 Visa:** for musicians (soloists, groups, orchestras) who are emerging artists, as well as those of international recognition who qualify under a USCIS approved Reciprocal Exchange Program. If you're an AFM member, no matter your present career status, you fall under the AFM Canada/AFM USA USCIS approved Reciprocal Exchange Program
- **P-3 Visa:** for soloists or groups that are culturally unique; i.e., musicians performing folk music of their home country
- **O-1 Visa:** for an *individual* musician who is internationally recognized (the back-up band/support crew, etc., would apply for an O-2 Visa)

### For how long is the permit valid?

O-1 Visas may be approved for up to three years. P-1, P-2, and P-3 Visas may be approved for up to one year. Subject to USCIS approval, all visa classifications allow the possibility of a one-year extension after the initial approval period. The general rule of thumb is that the permit will be approved for the time necessary to complete the work. For example, you won't get a P-2 for one year if you only have two months of work.

### What is the cost and how long does it take to process?

The two commonalities amongst all P and O Classifications are cost and processing time.

The cost is \$320 US. When applying for essential support persons, i.e., crew and others such as a tour manager, back-up singers, and dancers, this fee is doubled.

For members who have applied for P2s before, but needed to pay the additional \$1,000 US Premium Processing Fee, you will be happy to know that, provided you have a minimum of 35 days prior to your gig, this extra fee is no longer necessary. However, if you have less than 35 days, we still recommend filing with the Premium fee. In any event, if the member wants to take the risk that the permit may not come through on time, we will still file the petition through the regular (versus premium) process.

As an aside, it took the AFM, as part of a coalition with other US-based arts organizations, the better part of nine years to see this reduction in processing time (thereby eliminating the need for premium processing, in most circumstances). So a *big thank you* to AFM Legislative Director Hal Ponder for his tireless efforts with this coalition in advocating on behalf of his Canadian brothers and sisters.

While USCIS will process your petition within 14 calendar days of receipt, the AFM suggested processing time is 35 calendar days. Permanent Residents (i.e., non-citizens) of Canada and musicians who are required to include a US (criminal) waiver with their petition, can expect processing times of up to 55 calendar days, and sometimes longer. If either situation affects you, please e-mail [afmcan@afm.org](mailto:afmcan@afm.org) for more information.

Following the suggested time frames will ensure you receive the hard copy/original approval document back from USCIS prior to the date of travel. Having the original paperwork in-hand upon entry to the US, provides for better ease of entry.

### How do you actually get a US work permit?

**P-2 Visas:** In short, contact the AFM.

You will need to provide: completed applications, a copy of your passport, contracts and/or a detailed tour itinerary, and USCIS processing and AFM administrative fees. The AFM administration fee\* is \$35 for musicians only, and \$70 to process an additional petition for essential support workers (example of such persons provided above, under fees).

*\*Note: the AFM Administration Fee is subject to increase effective January 2011. Advance notice will be sent to all locals and members (for whom we have valid addresses).*

You may read more on the process, and down-

load the applications from [www.afmcanada.org](http://www.afmcanada.org). If you follow the checklist exactly you will have all the information needed to complete your application.

**O-1, P-1, and P-3 Visas:** You will need a visa processing agent or immigration lawyer for assistance in obtaining these permits. These professional service fees range from \$1,500 to as high as \$6,000, which is above the cost of the USCIS processing fee.

Although AFM does not specifically petition for these permits, at this time, USCIS requires a union consultation letter from the appropriate union. For artists and groups that feature instrumental music as its main component, the AFM is the appropriate union.

### You've been asked to perform with multiple Canadian bands that are touring the US around the same time. Should you apply with one band or with all?

You may only hold one permit at a time, so you'll need your own personal permit to cover all of your performances. You do not apply along with the band(s). If Band A applied for your permit, and after you receive that permit, Band Z decides to hire you, the permit issued for performances with Band A does not cover the new performances with Band Z.

So, you will need a signed acknowledgment from each bandleader, band manager, or booking agent, which outlines how many US performances you will be needed for and what your role and compensation will be with each respective band. A copy of the contract or tour itinerary from each band is also required.

### You've been engaged by a US band. How do you proceed?

Essentially, as above, but you'll only need a signed acknowledgement from the US bandleader, agent, or manager, and a copy of the itinerary/contracts.

### You've been invited to showcase and won't be paid for the performance. It's a great opportunity, but you don't have the money for a permit. What do you do?

You enter the US under B-1 Business Visitor status. There is no charge to enter under B-1 status and it is all processed at the border upon entry.

The AFM will provide support letters for B-1 Visa entry for the following showcase-type performances: a) closed to the general public, with industry professional only audiences (e.g., labels, managers); b) free to public audiences or parking lot performances (e.g.,

outside record stores); c) when a Canadian government entity (e.g., Travel Nova Scotia) is engaging a Canadian musician for their convention that is being held in the US and the musician is paid in Canadian dollars and solely by a Canadian entity.

Also if you plan to record a CD at a US studio, or if you wish to enter for the purposes of a very limited-time (no more than two months) songwriting collaboration and you *will not be paid* for these activities, you would qualify for B-1 entry. However, if a performance tour (promotional or otherwise) overlaps (or supports/promotes) your recording and/or songwriting activities, then a work permit is required.

Unfortunately, not all unpaid showcase events qualify for B-1 status. When entry fees are charged by the venue and/or any form of compensation is given (accommodation, flight, music conference badges, etc.), a work permit is required. An example of a showcase/music festival performance that would require a permit is South by Southwest (SXSW). Another instance where a permit is usually required, is for house concerts with a pass-the-hat type of compensation.

### So, you've got your permit, but you've picked up a few new gigs since then. The new gigs will be covered under my present P-type visa, right?

*No!* USCIS must be made aware of every gig prior to the date of performance. What you must do if you pick up a new gig is notify your petitioner (i.e., the AFM, lawyer, agent), and pay again to update your permit to include the new work. Bottom line: If USCIS is not previously advised of your performances, you are technically performing those specific engagements illegally. There is more flexibility under the O category, provided, of course, you qualify for that classification.

### Okay, you've got your permit and you're ready to go. How do you ensure your instruments and other musical equipment will be easily transported in/out of the US?

Simply prepare a manifest (or log) of all instruments/equipment you are travelling with. Include the make, model, and serial number of each piece and present it to the border officer when entering the US. Ensure they stamp or initial the manifest, so you can present it when you are re-entering Canada, and there will be no question that these are professional items you brought with you into the US.

Also, if your gear is not insured, we strongly

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recommend taking out insurance especially prior to travelling. The AFM has negotiated a terrific insurance plan for Canadian members with Hub and Intact Insurance—see the website for more information.

### That's great! But what about your merchandise? You've got T-shirts and CDs that the club is letting you sell after the show.

Follow these steps:

- 1) Prepare an inventory list indicating what is inside each box (e.g., 50 CDs, 20 shirts) and place it on each box of merchandise. Make sure the boxes aren't sealed because the immigration officer is going to want to look inside.
- 2) On the inventory list, include the wholesale cost of the items you are selling, as well as how much you are selling the items for. (e.g., CDs cost \$10 to make and are selling for \$15 each).
- 3) Present the list to the border officer. You will then be charged for duty on all pieces and provided with a receipt.
- 4) Upon re-entry to Canada, show the customs officer the unsold stock and your original receipt, which clearly states the amount of stock you originally brought into the US and how much the cost of both the duty (charged in advance) and the stock was (explained in the first three steps).
- 5) You will receive reimbursement for the duty charges, on all items you paid duty on, which are being returned to their country of manufacture (Canada).

## Part 2: Work Permits for US Musicians Performing in Canada

### You're planning to perform in Canada. What's the first thing you must do?

Get a passport! So I'm not entirely redundant, the same passport validity rules apply to US citizens and Canadians, so go back to the very beginning of this article for this information.

### You've got confirmed gigs in Canada. How long is the process to get a work permit?

You'll only need about seven days to enter Canada. As an AFM member, your engager will not have to go through the Service Canada pre-clearance procedure, which involves completing a form known as a Labour Market Opinion (LMO) form.

You will simply complete the AFM Canada application forms, and AFM Canada will then provide a letter of support that will fully accommodate your entry to Canada.

### That's it? Are you sure?

Yes! We're sure! Under the Canadian Citizenship and Immigration Foreign Worker Policy,

the AFM US/Canada Reciprocal Exchange program is fully recognized, which is why US member-musicians are exempt from first completing (the otherwise mandatory) Labour Market Opinion, as explained above.

Upon arrival to the border you simply present the AFM concurrence letter and identification, along with copies of your contracts/itinerary to the customs officer.

### What is the cost?

The concurrence letter from AFM Canada will cost \$40\*. The work permit is paid for directly at the border, and can be paid by Canadian dollar money order to the Receiver General of Canada, by cash, or by MasterCard. The fees are: \$450 for a group of three to 14, which are all travelling together; \$150 for soloists; or \$300 for duos, which are processed separately.

*\*Also subject to increase in January 2011*

### You've heard about work permit exemptions. Is this true?

Yes, there are instances where work permits are not necessary.

If your performing entourage (including musicians and supplemental workers) amounts to 15 individuals or more, then you will not need a work permit to enter Canada, but you'll still need a letter of concurrence from AFM Canada, so follow the application procedures provided above.

### You're a little worried because you've had a previous criminal charge. Will you experience any trouble?

Not much trouble, but you'll definitely need about a year to ensure you have the proper permit/clearance in your situation. As this is a very detailed process (too much to explain in this limited space), if this situation affects you or anyone in your entertainment unit, please e-mail me at [lwhite@afm.org](mailto:lwhite@afm.org).

### What about transporting instruments and merchandise across the border?

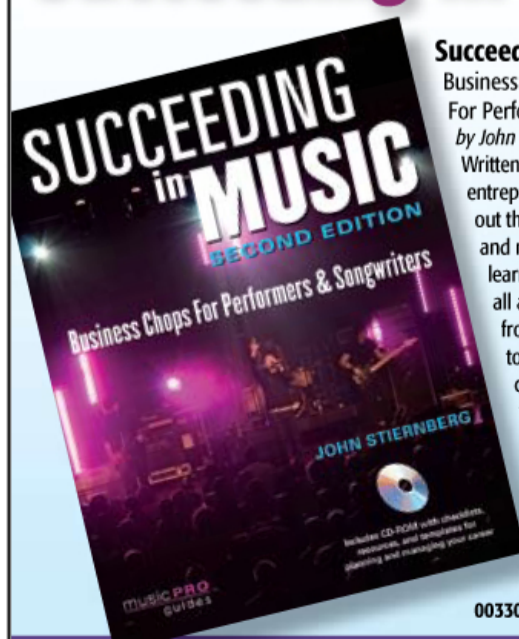
Bringing in your professional equipment/instruments, and any merchandise, is basically the same process as is required for your Canadian brothers and sisters entering the US, so again, please refer to the above information for guidance and/or e-mail me with any additional questions.

Again, insuring your instruments/equipment prior to travel is something you should look into. For US members, the AFM has insurance plans through Union Plus, which offer preferred rates for members. See the website [www.afm.org](http://www.afm.org) for more information.

Now you should be ready to go! Wishing you safe and lucrative cross-border travels.

From author John Stienberg

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