

## Code of Federal Regulations

(d) Automatic extension of validity at ports of entry.

(1) Provided that the requirements set out in paragraph (d)(2) of this section are fully met, the following provisions apply to nonimmigrant aliens seeking readmission at ports of entry:

(i) The validity of an expired nonimmigrant visa issued under INA 101(a)(15) may be considered to be automatically extended to the date of application for readmission; and

(ii) In cases where the original nonimmigrant classification of an alien has been changed by DHS to another nonimmigrant classification, the validity of an expired or unexpired nonimmigrant visa may be considered to be automatically extended to the date of application for readmission, and the visa may be converted as necessary to that changed classification.

(2) The provisions in paragraph (d)(1) of this section are applicable only in the case of a nonimmigrant alien who:

(i) Is in possession of a Form I-94, Arrival-Departure Record, endorsed by DHS to show an unexpired period of initial admission or extension of stay, or, in the case of a qualified F or J student or exchange visitor or the accompanying spouse or child of such an alien, is in possession of a current Form I-20, Certificate of Eligibility for Nonimmigrant Student Status, or Form IAP-66, Certificate of Eligibility for Exchange Visitor Status, issued by the school the student has been authorized to attend by DHS, or by the sponsor of the exchange program in which the alien has been authorized to participate by DHS, and endorsed by the issuing school official or program sponsor to indicate the period of initial admission or extension of stay authorized by DHS;

(ii) Is applying for readmission after an absence not exceeding 30 days solely in contiguous territory, or, in the case of a student or exchange visitor or accompanying spouse or child meeting the stipulations of paragraph (d)(2)(i)

of this section, after an absence not exceeding 30 days in contiguous territory or adjacent islands other than Cuba;

(iii) Has maintained and intends to resume nonimmigrant status;

(iv) Is applying for readmission within the authorized period of initial admission or extension of stay;

(v) Is in possession of a valid passport;

(vi) Does not require authorization for admission under INA 212(d)(3); and

(vii) Has not applied for a new visa while abroad.

(3) The provisions in paragraphs (d)(1) and (d)(2) of this section shall not apply to the nationals of countries identified as supporting terrorism in the Department's annual report to Congress entitled Patterns of Global Terrorism.

22 CFR 41.112(d)

State Dept. Regulation on validity of visas, and automatic revalidation at port of entry.

DOES NOT APPLY to

1. persons without a visa
2. persons with a canceled visa
3. persons who applied for a visa while abroad, but did not receive it (Passport stamped "application received" by consul)
4. persons from Cuba, Iran, Iraq, Libya, North Korea, Sudan or Syria

## **9 FAM 41.112 N4 AUTOMATIC REVALIDATION OF A NONIMMIGRANT VISA**

### **9 FAM 41.112 N4.1 "Expired Nonimmigrant Visa"**

*(TL:VISA-385; 04-04-2002)*

With regard to the automatic extension of validity of expired nonimmigrant visas at ports of entry pursuant to 22 CFR 41.112(d), an "expired nonimmigrant visa" means a visa which is no longer valid due to the passage of time or because the maximum number of entries for which the visa is valid has been reached.

### **9 FAM 41.112 N4.2 Certain Aliens Excluded from Use of Automatic Revalidation**

*(TL:VISA-385; 04-04-2002)*

The Department has excluded aliens who apply for new visas during short visits to contiguous territory or adjacent islands and aliens who are nationals of countries identified as state sponsors of terrorism from the benefits of automatic revalidation of an expired nonimmigrant visa. The regulation also excludes nationals of countries identified as supporting terrorism, i.e., Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

### **9 FAM 41.112 N4.3 Use of "Application Received" Stamp in Passports of Aliens Excluded from Automatic Revalidation Benefit**

*(TL:VISA-464; 09-23-2002)*

Because of the exclusion of aliens who apply for but do not receive new visas from revalidation benefits, it is especially important that consular officers scrupulously follow the procedures concerning the use of the "Application Received" stamp (see 9 FAM 41.121 PN1.2-13 and PN1.2-14), including in cases deferred for an advisory opinion or any other reason (see 9 FAM 41.121 PN3.) The stamp is often the only way an immigration inspector at the port of entry will know that an alien has applied for a visa and is thus ineligible for the benefits of 22 CFR 41.112(d).

## **9 FAM 41.112 N5 ISSUANCE OF TWO-ENTRY VISA IN LIEU OF RECIPROCAL SINGLE-ENTRY VISA**