

9 FAM 41.112 VALIDITY OF VISA

*(CT:VISA-1287; 09-09-2009)
(Office of Origin: CA/VO/L/R)*

9 FAM 41.112 RELATED STATUTORY PROVISIONS

(CT:VISA-1287; 09-09-2009)

See INA 221 (c) (8 U.S.C. 1201(c)).

INA 221(c)

(c) Period of Validity: Requirement of Visa

An immigrant visa shall be valid for such period, not exceeding six months, as shall be by regulations prescribed, except that any visa issued to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business. A nonimmigrant visa shall be valid for such periods as shall be by regulations prescribed. In prescribing the period of validity of a nonimmigrant visa in the case of nationals of any foreign country who are eligible for such visas, the Secretary of State shall, insofar as practicable, accord to such nationals the same treatment upon a reciprocal basis as such foreign country accords to nationals of the United States who are within a similar class; except that in the case of aliens who are nationals of a foreign country and who either are granted refugee status and firmly resettled in another foreign country or are granted permanent residence and residing in another foreign country, the Secretary of State may prescribe the period of validity of such a visa based upon the treatment granted by that other foreign country to alien refugees and permanent residents, respectively, in the United States. An immigrant visa may be replaced under the original number during the fiscal year in which the original visa was issued for an immigrant who establishes to the satisfaction of the consular officer that he was unable to use the original immigrant visa during the period of its validity because of reasons beyond

his control and for which he was not responsible: *Provided*, that the immigrant is found by the consular officer to be eligible for an immigrant visa and the immigrant pays again the statutory fees for an application and an immigrant visa.

9 FAM 41.112 RELATED STATUTORY PROVISIONS

(CT:VISA-973; 06-12-2008)

See 22 CFR 41.112

41.112 Validity of Visa.

- (a) **Significance of period of validity of visa.** The period of validity of a nonimmigrant visa is the period during which the alien may use it in making application for admission. The period of visa validity has no relation to the period of time the immigration authorities at a port of entry may authorize the alien to stay in the United States.
- (b) Validity of visa and number of applications for admission.
- (1) Except as provided in paragraphs (c) and (d) of this section, a nonimmigrant visa shall have the validity prescribed in schedules provided to consular officers by the Department, reflecting insofar as practicable the reciprocal treatment accorded U.S. nationals, U.S. permanent residents, or aliens granted refugee status in the U.S. by the government of the country of which the alien is a national, permanent resident, refugee or stateless resident.
 - (2) Notwithstanding paragraph (b)(1) of this section, United States nonimmigrant visas shall have a maximum validity period of 10 years.
 - (3) An unexpired visa is valid for application for admission even if the passport in which the visa is stamped has expired, provided the alien is also in possession of a valid passport issued by the authorities of the country of which the alien is a national.
- (c) **Limitation on validity.** If warranted in an individual case, a consular officer may issue a nonimmigrant visa for:
- (1) A period of validity that is less than that prescribed on a basis of reciprocity,

- (2) A number of applications for admission within the period of the validity of the visa that is less than that prescribed on a basis of reciprocity,
 - (3) Application for admission at a specified port or at specified ports of entry, or
 - (4) Use on and after a given date subsequent to the date of issuance.
- (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 *and* 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 (*F-1*) Student Status - *for Academic and Language Students*, 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.

(52 FR 42597, Nov. 5, 1987; 53 FR 9112, 9172, Mar. 21, 1988, as amended at 55 FR 36028, Oct. 31, 1990; 62 FR 24332, May 5, 1997; 66 FR 38543, July 25, 2001; 67 FR 10323, Mar. 7, 2002; 67 FR 66046, Oct. 30, 2002)