

## **9 FAM APPENDIX H, 100 DEPARTMENT OF HOMELAND SECURITY (DHS)**

*(CT:VISA-1837; 05-29-2012)*  
*(Office of Origin: CA/VO/F/P)*

### **9 FAM APPENDIX H, 101 EXTENSION OF STAY**

*(CT:VISA-1118; 11-17-2008)*

A nonimmigrant in the United States who wishes to remain beyond the period of time for which initially admitted by the Department of Homeland Security (DHS) must apply to DHS for an extension of stay before the authorized period of stay expires. DHS may grant extensions of stay for periods not exceeding the maximum periods of initial admission set forth in the reciprocity schedule for a lesser period determined by DHS to be appropriate.

### **9 FAM APPENDIX H, 102 FEES FOR EXTENSION OF STAY**

*(CT:VISA-1118; 11-17-2008)*

There is a fee for an extension of stay application in most nonimmigrant classifications. Some visa applicants' stay will be restricted to less than they might need because of the limited duration of their passports (see 9 FAM 41.104 N2), and they may therefore have to seek an extension. Information on fees is available at the U.S. Citizenship and Immigration Services (USCIS) Web site.

### **9 FAM APPENDIX H, 103 EXTENSION OF STAY FOR NONIMMIGRANTS IN H OR L STATUS**

*(CT:VISA-1118; 11-17-2008)*

In every case in which an employer or trainer seeks H-1, H-2, H-3, or L-1 classification initially for an alien or group of aliens, DHS requires the filing of a petition, Form I-129, Petition for a Nonimmigrant Worker, or Form I-129-S, Nonimmigrant Petition Based on Blanket L Petition, as appropriate, in the alien(s)' behalf. Aliens admitted to the United States in H or L status, or who acquire that status after admission, are authorized a period of stay not to exceed the validity of the petition. Extensions may be granted, following application by the employer on

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Form I-129 for extension of both petition validity and stay by the alien, if they intend to continue performing the same services for, or receiving training from, the same petitioner.

## **9 FAM APPENDIX H, 104 USE OF FORM I-797, NOTICE OF ACTION**

*(CT:VISA-1118; 11-17-2008)*

DHS uses Form I-797, Notice of Action, when a change of status or extension of stay is approved for an H or L alien. The Form I-797-A is sent along with the requested classification. The Form I-797-B is used to notify the Department of State or U.S. Customs and Border Protection (CBP) of an approved petition. The Form I-797-C notifies the petitioner that the petition is approved or an extension is granted. The petitioner may furnish the form to the employee to use to facilitate entry into the United States in H or L status, either initially or after a temporary absence abroad during the authorized stay in H or L status. The Form I-797 is also used for a blanket L approval.

## **9 FAM APPENDIX H, 105 CHANGE IN NONIMMIGRANT CLASSIFICATION AFTER ADMISSION**

*(CT:VISA-1118; 11-17-2008)*

If an alien admitted into the United States in one nonimmigrant classification desires to engage in another principal activity (one appropriate to a different nonimmigrant classification), the alien may apply to DHS for a change of nonimmigrant classification pursuant to INA 248. Information on how to submit a change of classification can be found at the USCIS Web site. An alien admitted under certain nonimmigrant classes is, however, ineligible for a change of status, specifically one entering:

- (1) Under INA 101(a)(15)(C), (D), or (K);
- (2) As an alien in transit without a visa under INA 238(d);
- (3) Under INA 101(a)(15)(J) for graduate medical education or training (whether or not the foreign residence requirement is applicable);
- (4) Under INA 101(a)(15)(J) (other than under (3) above) who is subject to the foreign residence requirement and for whom that requirement has not been waived, unless the change is to a classification under INA 101(a)(15)(A) or (G);
- (5) Under the Visa Waiver Program; or

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(6) Under the Guam Visa Waiver Program.

## **9 FAM APPENDIX H, 106 INQUIRIES ABOUT STATUS OF PETITIONS**

*(CT:VISA-1118; 11-17-2008)*

Posts normally should not send messages to the Department or directly to DHS, whether or not by interested party, inquiring about the status of petitions. As an alternative, the consular officer should advise an alien seeking such assistance to ask the petitioner to obtain the information on the pending visa petition directly from DHS. Petitioners should direct such information inquiries to the Service Center with which the petition was filed. Posts may submit to the Department cases which have public relations significance, however, stating the reasons for such action in the post's telegram.

## **9 FAM APPENDIX H, 107 ACCEPTANCE OF EMPLOYMENT BY DEPENDENT OF TREATY ALIEN**

*(CT:VISA-1118; 11-17-2008)*

While DHS is not in a position to authorize the nonimmigrant spouse and children of a treaty trader to accept employment while in E status, the dependents will not be deemed to be deportable for having violated status if employed. So long as the principal E nonimmigrant is maintaining status, no action will be taken to require their departure. However, DHS does consider aliens who accept such unauthorized employment to be ineligible for later adjustment of status to permanent resident. (See 8 CFR 245.1(b).)

## **9 FAM APPENDIX H, 108 FORM I-275, WITHDRAWAL OF APPLICATION FOR ADMISSION/CONSULAR NOTIFICATION**

*(CT:VISA-1837; 05-29-2012)*

*In January 2012, DHS began sending electronically to the CCD Form I-275, Withdrawal of Application for Admission/Consular Notification, which is created at ports of entry. In the CCD, the Form I-275 is matched to the visa record for the visa that was presented at the port of entry and an I-275 link is created at the bottom of the CCD visa record. When this link is created, a banner is inserted at the top of the CCD record that reads as follows: "Visa May Have Been Cancelled by DHS - See I-275 Link Below." Posts may use the CCD report called I-275 Lookup to review multiple I-275 records, including I-275 records created for Visa Waiver*

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*Program (VWP) travelers, which will not be attached to any visa records in the CCD. Posts can find Forms I- 275 for VWP travelers by completing the nationality field in the I-275 report.*

## **9 FAM APPENDIX H, 109 DHS ARRIVAL DEPARTURE INFORMATION SYSTEM (ADIS)**

*(CT:VISA-1655; 05-23-2011)*

In October 2002, ADIS began recording limited U.S. arrival and departure records, which have become more complete as time has passed. ADIS arrival and departure records are based primarily on airline flight manifests and passenger vessel manifests. Arrivals at land borders are recorded in ADIS if the traveler obtains a Form I-94, Arrival-Departure Record, or if the Customs and Border Protection Officer swipes the Border Crossing Card of the traveler. Departure records across the land border are not automatically recorded in ADIS, but may be recorded if the traveler sends in the Form I-94, Arrival-Departure Record. Because land border departures are not usually recorded in ADIS, and airlines have not always provided departure manifests, some departure records are missing from ADIS. ADIS does not record the travel of U.S. citizens.

### **9 FAM Appendix H, 109.1 How ADIS Automated Query Works**

*(CT:VISA-1655; 05-23-2011)*

An automated query is sent to ADIS for every visa applicant, using the applicant's passport number, country of passport issuance, and date of birth. In addition, a search is conducted in the CCD for any previous visa records for the applicant, from which any different passport numbers are also used to search ADIS. If the passport number queries do not obtain results from ADIS, a second query is sent using the applicant's Last Name and DOB. All query fields must match in ADIS for records to be returned.

### **9 FAM Appendix H, 109.2 How to See Results of Automated ADIS Checks**

*(CT:VISA-1655; 05-23-2011)*

From NIV, use keys Alt+O (the letter O) to go directly to the applicant's record in the CCD. Scroll down to the bottom right-hand side and click on the ADIS Results link, which will open the ADIS query results. If the link is grayed out and not available, it means ADIS results were not received. From IVO, click on the CCD button on the Applicant Tab to go to the applicant's record in the CCD. Scroll down to the Applicant Summary section and the ADIS Results link is located on the

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line with the Namecheck Detail and other clearance results. In the ADIS Results, the exits and entries are listed in reverse chronological order. CBP observations will be listed, such as the results of a person being sent to secondary inspection. Name variances and different documents used and captured in ADIS will also be listed. The ADIS Results focus on summarizing entries and exits and do not include data from the Student and Exchange Visitor Information System (SEVIS) or the Computer Linked Automated Information System, Version 3 (CLAIMS-3). If an applicant was granted a change to nonimmigrant status or an extension of the authorized period of stay in the United States, these will not be reflected in the summarized ADIS Results, but should be accessible through the standalone ADIS accounts available to the Fraud Prevention Unit (see Appendix H, 109.4 below).

### **9 FAM Appendix H, 109.3 How to Conduct Ad Hoc Queries of ADIS**

*(CT:VISA-1655; 05-23-2011)*

Post may see a record in IDENT of a US-VISIT entry, but no ADIS results displayed in the CCD. One reason for this may be that the information sent in the automated query did not get an exact match in ADIS. If the applicant has a previous CCD record with a somewhat different name and a different passport number, the previous record may not have been found in the CCD because of the name difference; therefore, no query would be sent to ADIS with the different passport number. In order to see the ADIS record for such a case, post should copy the passport number from the IDENT record and enter it, along with the country of issuance, into the Send ADIS Request report in the CCD under the Cross Applications tab. Post need not enter Last Name and DOB with the query. This ad hoc query should return the ADIS records for the applicant. Posts may send ad hoc queries using the Send ADIS Request report to obtain the available U.S. travel records of any alien. It is best to enter the passport number and country of issuance in the Send ADIS Request report, but if the passport number is not available, post may also query by using the Last Name and DOB. In a small percentage of cases, if a query finds multiple Person IDs for the same person in ADIS, no results are returned. US-VISIT is working to correct this problem.

### **9 FAM Appendix H, 109.4 FPU and Standalone ADIS Accounts**

*(CT:VISA-1655; 05-23-2011)*

Fraud Prevention Units (FPUs) should take note that the Send ADIS Request report is not a replacement for the standalone ADIS accounts distributed by CA/FPP. The Send ADIS Request report does not provide the same level of flexibility with searches, nor are batch searches possible, as they are with standalone ADIS accounts. In addition, the results from the automated query of ADIS and from the Send ADIS Request report do not include data from SEVIS or CLAIMS-3, as do

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results from queries sent through the standalone ADIS accounts. The CA goal is to improve the Send ADIS Request report so that CA/FPP can eventually stop distributing the standalone ADIS accounts. In the meantime, FPU should continue to use standalone ADIS accounts, particularly for small validation studies (large studies should still be sent to CA/FPP for batch processing with US-VISIT).

### **9 FAM Appendix H, 109.5 Review of ADIS Records is not a Requirement**

*(CT:VISA-1655; 05-23-2011)*

The ADIS query is not a clearance; there is no requirement for the consular officer to review ADIS results. Visa Lookout Accountability (VLA) does not apply to reviewing ADIS results. The automated ADIS query is a tool to make U.S. travel records in ADIS available for review by consular officers in cases in which this information may be helpful in reaching a decision. For example, posts may check the ADIS Results for applicants who report a previous visa lost or stolen if there is concern that the purpose of the "loss" was to conceal a U.S. overstay. Posts may consult the ADIS results more or less frequently, depending on the particular circumstances of the visa applicants whose cases are being adjudicated.

### **9 FAM Appendix H, 109.6 Enhancements to ADIS**

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The ADIS checks may not always return results, even though the person has a U.S. travel record. A small percentage of ADIS records contain multiple Person IDs for the same person, which causes no records to be returned by the ADIS check. For such cases, when posts click on the ADIS Results link, it will display "Multiple Person IDs Found." To view the ADIS records for such cases, it is necessary to use the standalone ADIS accounts in the Fraud Prevention Units. CA is continuing to work with DHS US-VISIT through the ADIS Project Team to seek improvements to the ADIS checks. CA is also planning to enhance the ADIS checks by making the ADIS Results available to consular officers in the Clearance Window of the NIV and the IVO systems, which will make it more convenient to review these results.