9 FAM 41.112
NOTES

(CT:VISA-1867; 09-06-2012)
(Office of Origin: CA/VO/L/R)

9 FAM 41.112 N1 VISA VALIDITY VERSUS PERIOD OF ADMISSION

(CT:VISA-1138; 01-06-2009)

a. A visa is not the same as immigration status. Many travelers confuse the two. A visa does not entitle the bearer to enter or remain in the United States.

b. The validity of a visa refers to the time in which an applicant may make application to an immigration officer at a port of entry for admittance into the United States. It has no bearing on the length of time for which the alien may be admitted. For example, an alien whose B-1 visa may expire a month after entry into the United States, could be admitted by a Department of Homeland Security (DHS) officer at a port of entry (POE) for a stay of up to one year. On the other hand, an alien whose B-1 visa has a validity of one year may be granted a stay of only one month, as may be determined by a DHS official at a port of entry.

9 FAM 41.112 N2 VALIDITY OF NONIMMIGRANT VISA

9 FAM 41.112 N2.1 Maximum Period of Validity

(CT:VISA-1138; 01-06-2009)

The maximum validity of any nonimmigrant visa (NIV) is 10 years, but may be limited to less than 10 years on the basis of reciprocity. (See 9 FAM 41.111 and Visa Reciprocity and Country Documents Finder.) Reciprocity schedules apply to nationals, permanent residents, refugees, and stateless residents of the countries concerned.

9 FAM 41.112 N2.2 Posts Encouraged to Issue Full Validity Visas

(CT:VISA-1138; 01-06-2009)

Posts are encouraged to issue full validity visas. The routine issuance of limited validity visas runs contrary to that policy. Although 22 CFR 41.112(c) gives you the discretion to limit visa validity, this authority should be used very sparingly, preferably under the guidance of an experienced consular manager, in cases where the applicant's current circumstances meet the requirements for visa issuance but may not continue to do so in the long term.

9 FAM 41.112 N2.2-1 Reasons Behind Issuing Full Validity Visas

(CT:VISA-1138; 01-06-2009)

The validity of and authorized number of entries in a U.S. visa are based on the principle of reciprocity. Visas are issued to nationals of another country based on the visa policy of the government of that country towards U.S. citizens. In addition, if you determine an applicant is qualified under the law for a visa that decision should apply to future trips as well. If you are not convinced the applicant would fulfill the terms of his or her visa in the future, you should refuse the visa under INA 214(b).

9 FAM 41.112 N2.2-2 Ramifications of Limiting Validity of Visas

(CT:VISA-1138; 01-06-2009)

The practice of limiting visa validity of a country's applicants may lead the host government to raise an objection that the United States is not according reciprocal treatment to its nationals. This could create the unfortunate situation where the host government may retaliate against our restrictive issuances by imposing more stringent visa validities and numbers of entries on U.S. travelers to that country. Therefore, limitation of visa validity should not be undertaken without good reason, nor should it become standard practice toward all nationals of a given country.

9 FAM 41.112 N2.3 When Visa Validity May be Limited

(CT:VISA-1867; 09-06-2012)

a. You must exercise with caution the discretionary authority accorded by 22 CFR 41.112(c)(1) and (2) when limiting the validity of visas. The routine practice of limiting visa validity may lead to complaints by the host government that consular officers are biased and the United States has failed to accord reciprocal treatment to the host government's nationals. Such a practice may also result in an unnecessary increase in workload. The reapplication rate of

aliens with limited visas is relatively high at many posts. Therefore, the period of time and the number of applications for admission for which a nonimmigrant visa is valid must not be restricted without due cause to less than that permitted by the reciprocity schedules.

b. You should restrict a visa to less than full validity only if you believe the applicant qualifies as a nonimmigrant for a limited period of time or a limited number of visits. You should not limit visas when you have doubts of the applicant's bona fides. Such applications should rightly be refused under INA 214(b). Limitations of visa validity are best done when the applicant's bona fides in the immediate near term are not in question, but the stability of the applicant's longer-term ties to his or her residence abroad are in doubt. At most posts, such cases should constitute only a small percentage of the nonimmigrant visa caseload. (See 9 FAM 41.113 *PN12* for procedures on annotating visas when limiting validity in accordance with this Note.)

c. A visa may be limited in accordance with 22 CFR 41.112(c)(4) in cases of aliens whose purpose of entry falls under the MANTIS procedures. (See 9 FAM Appendix G and the Reciprocity Schedule for the country concerned.) You may also limit a visa in any other case in which you believe a delayed validity period is warranted. (See 9 FAM 41.112 N2.5)

9 FAM 41.112 N2.4 Visa Validity and Clearances in Out-of-District Cases

(CT:VISA-1138; 01-06-2009)

You are encouraged to issue full validity visas to aliens who qualify for a nonimmigrant visa, even when the application is made away from the alien's normal place of residence. Pre-clearances with another post on out-of-district applicants need be done only when required by the Department's regulations or instructions, or when you consider it necessary in order to establish the applicant's eligibility. Such a clearance is not required, for example, in the case of an alien from a traditionally low-risk country whose bona fides are evident to the officer. Post-checks (after visa issuance) are of limited use and may be dispensed with, unless specifically required by regulations or instructions.

9 FAM 41.112 N2.5 Delayed Validity Period

(CT:VISA-1138; 01-06-2009)

A visa may be issued several weeks or more prior to the alien's anticipated date of entry. Unless the visa classification is subject to restriction regarding how far in advance an alien may enter the United States, there is no need to annotate the visa with expected travel dates. In the case of F, M, and J visas, participants may not enter the United States more than 30 days before their program begins; in

these cases, posts may annotate the visa with the program start date and alert the traveler about the restrictions on entry.

9 FAM 41.112 N2.6 Validity of A-3 and G-5 Visas

(CT:VISA-1138; 01-06-2009)

a. As a matter of policy, the standard and customary practice is to issue A-3, G-5, and NATO-7 visas for a maximum period of 24 months, or less, if so called for by the Reciprocity Schedule of the country concerned.

b. The validity of an A-3, G-5, or NATO-7 visa may not exceed the validity of the visa held by the employer, who would be the bearer of an A-1, A-2, G-1 through G-4, or NATO-1 through NATO-6 visa.

9 FAM 41.112 N2.7 Validity of G-4 Visa Issued in U.N. Laissez-Passer

(CT: VISA-1138; 01-06-2009)

See 9 FAM 41.24 N5.2.

9 FAM 41.112 N2.8 Validity of B-1 Visa Issued to Personal Servant or Employee

(CT:VISA-1533; 09-23-2010)

The validity of a B-1 visa issued to a personal employee who is accompanying a nonimmigrant employer must not exceed the validity of the visa issued to the employer. (See 9 FAM 41.31 N9.3-3 for cases in which the B-1 classification is authorized for personal employees of nonimmigrant employers.)

9 FAM 41.112 N2.9 Individual D Visas

(CT:VISA-1533; 09-23-2010)

Individual D visas should be issued for the full period of validity and number of applications for admission indicated by the Reciprocity Schedule, but only after all necessary clearances have been received.

9 FAM 41.112 N3 SINGLE-ENTRY VERSUS MULTIPLE-ENTRY VISAS

(CT:VISA-1533; 09-23-2010)

Posts should not routinely issue single-entry visas when the Reciprocity Schedule allows the issuance of multiple-entry visas. Such a practice increases workload for

posts and could cause problems for travelers and ports of entry; for example, Caribbean cruise ships often stop at several foreign and U.S. ports (including the U.S. Virgin Islands and Puerto Rico) during a single trip, requiring multiple-entry visas. Passengers with single entry visas may be denied boarding by a cruise line that may be subject to a fine for carrying non-admissible passengers. However, consular managers have the discretion to issue single-entry visas when the alien's itinerary indicates that only a single entry is needed and unusual circumstances surrounding the application argue for such a restriction.

9 FAM 41.112 N4 ISSUANCE OF TWO-ENTRY VISA IN LIEU OF RECIPROCAL SINGLE-ENTRY VISA

9 FAM 41.112 N4.1 Same Purpose Required for Each Entry in Two-Entry Visa

(CT:VISA-1138; 01-06-2009)

An alien who wishes to make more than one application for admission during the course of a single journey may be issued a two-entry visa, even though the appropriate Reciprocity Schedule limits the validity of the visa to a single application. The alien must, on each occasion, be seeking admission for the same principal purpose, and the visa may not be valid for more than two applications for admission. This provision is applicable to all categories of nonimmigrant visas, except K visas.

9 FAM 41.112 N4.2 Double Fee Prescribed

(CT:VISA-1138; 01-06-2009)

When a reciprocity fee is prescribed in the Reciprocity Schedule for a single-entry visa, then that fee must be doubled when a visa is issued for two applications for admission. In addition to the reciprocity fee prescribed in the Reciprocity Schedule, the machine-readable visa (MRV) fee listed in the Schedule of Fees in 22 CFR 22.1 must also be paid, but the MRV fee is not to be doubled.

9 FAM 41.112 N5 PASSPORT MUST BE VALID 6 MONTHS BEYOND INITIAL PERIOD OF STAY

(CT:VISA-1138; 01-06-2009)

A nonimmigrant visa is only to be issued in passports that are valid for at least 6 months beyond the initial period of contemplated stay in the United States, except in the following circumstances:

(1) The alien is within the purview of 22 CFR 41.21(b) exceptions from passport validity requirements for certain A, G, and NATO aliens;

(2) The passport requirement has been waived in the alien's case pursuant to INA 212(d)(4) (8 U.S.C. 1182(d)(4));

(3) The alien has F (student) classification and is granted admission for the period required to complete the course of study indicated on Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status. Note that the student's passport should maintain a validity of at least six months beyond the anticipated departure date; or

(4) The alien's passport was issued by a country having entered into an agreement with the United States for the extension of the validity of their passports for a period of six months beyond the expiration date specified in the passport. (See 9 FAM 41.104 N2.1.) The countries listed in 9 FAM 41.104 Exhibit I have an agreement with the United States whereby their passports are recognized as valid for return to the country concerned for a period of six months beyond the expiration date specified in the passport.

9 FAM 41.112 N6 VISA VALID IN EXPIRED PASSPORT

(CT:VISA-1138; 01-06-2009)

a. When a passport containing a valid visa expires, the expiration of the passport has no effect on the validity of that visa. The holder, however, shall be informed, at the time of application for admission, of the need for a new or renewed passport.

b. The passport should be valid for a minimum period of 6 months from the expiration date of the initial period of admission or contemplated period of stay in the United States. The passport may be either the one in which the visa stamp has been placed, or a new passport. Thus, an alien can present two passports; one which fulfills the visa requirement and the other the passport requirement. The alien's nationality, as indicated in the new passport, must be the same as that shown in the passport bearing the visa foil.

9 FAM 41.112 N7 AUTOMATIC INVALIDATION OF VISAS UNDER INA 222(G)

9 FAM 41.112 N7.1 Definition of 222(g)

(CT:VISA-1533; 09-23-2010)

a. Section 222(g) provides that an alien who was admitted on a nonimmigrant

visa and who remains in the United States beyond the period of stay authorized by the Attorney General becomes subject to 222(g). When the alien is subject to 222(g), the nonimmigrant visa becomes automatically void at the conclusion of the authorized period of stay, unless the alien filed an application for extension of stay or change of status that would otherwise fall within the tolling provisions under section 212(a)(9)(B)(iv) of the Act or be deemed a period of stay authorized by the Attorney General. In addition, aliens who remain in the United States beyond the period of stay authorized by the Attorney General accrue unlawful presence towards the three and ten year bars under section 212(a)(9)(B)(i)(I) and (II) of the Act.

b. However, DHS and the Department have adopted essentially the same interpretation of "remain in the United States beyond the period of stay authorized by the Attorney General" for unlawful presence under sections 212(b)(9)(B) and the automatic voidance of nonimmigrant visas under section 222(g). DHS has designated as a period of stay authorized by the Attorney General the entire period during which a timely filed, nonfrivolous application has been pending with DHS, provided the alien has not engaged in any unauthorized employment. This period of stay authorized by the Attorney General covers the 120-day tolling period described in section 212(a)(9)(B)(iv) of the Act, and continues until the date DHS issues a decision.

c. Please note that 222(g) has no relevance in IV cases; it applies only to NIV holder and applicants. In addition, 222(g) does not apply to previous overstays relating to entries made without a visa. Aliens who overstay after being admitted under the Visa Waiver Program or the visa exemption for Canadian citizens, or in parole status, are not subject to 222(g). Lastly, 222(g) does not apply to aliens who entered without inspection.

9 FAM 41.112 N7.2 Effective Date and Application of INA 222(g)

(CT:VISA-1533; 09-23-2010)

Section 222(g) of the Immigration and Nationality Act became effective on September 30, 1996, and applies to any alien seeking admission to the United States in a nonimmigrant status on or after that date.

9 FAM 41.112 N7.3 Result of Overstay

(CT:VISA-1533; 09-23-2010)

Under INA 222(g), if an alien overstays on a nonimmigrant visa, that visa is automatically voided. In addition, the alien must apply for future nonimmigrant visas in his or her country of nationality, unless the alien qualifies for an "extraordinary circumstances" exemption.

9 FAM 41.112 N7.3-1 Classes of Aliens Subject to INA 222(g)

(CT:VISA-1533; 09-23-2010)

An alien who was admitted to the United States on a nonimmigrant visa and who remained beyond the period of authorized stay, even by one day, is subject to INA 222(g). When an alien is subject to INA 222(g), the nonimmigrant visa becomes automatically void, and the alien may not be admitted to the United States unless he or she obtains, or has already obtained, another visa in the country of his or her nationality.

9 FAM 41.112 N7.3-2 Classes of Aliens not Subject to INA 222(g)

(CT:VISA-1533; 09-23-2010)

a. Section 222(g) has no relevance in immigrant visa cases, nor does it apply to previous overstays relating to an alien who entered the United States without a visa. Specifically, Section 222(g) does not apply to the following:

   (1) Aliens who entered the United States without inspection;

   (2) Aliens who remain in the United States beyond the period of parole authorization;

   (3) Aliens who were admitted with an Form I-865, Sponsor's Notice of Change of Address or Form I-586, Border Crossing Card (Canadian or Mexican Border Crossing Card (BCC)), and remain in the United States beyond the authorized period of admission;

   NOTE: Aliens admitted with a combination B-1/B-2 NIV/BCC issued by the Department are subject to INA 222(g) if they remain in the United States beyond the authorized admission;

   (4) Aliens who are exempt from the nonimmigrant visa requirements under 8 CFR 212.1(c), (c-1), (c-2), (d), (e), (f), (i), and (j) and admitted without a nonimmigrant visa;

   (5) Aliens who remain in the United States beyond the period of admission authorized under the Visa Waiver Program (VWP);

   (6) Aliens who were granted Temporary Protective Status (TPS) before their nonimmigrant stay expired; and

   (7) Aliens who violated their status in some way other than remaining in the United States beyond the period of stay authorized by the Attorney General.

b. INA 222(g) can be used to deny visa processing only if the alien is a nonresident third-country national (TCN). INA 222(g) also does not apply to certain foreign government officials and representatives of international organizations. (See 9 FAM 41.112 N7.8.)

9 FAM 41.112 N7.4 Visas Automatically Voided Under INA 222(g)

(CT:VISA-1533; 09-23-2010)

Under INA 222(g), if an alien overstays the period of authorized stay as determined by DHS on Form I-94, Arrival and Departure Record, that visa is automatically voided. In addition, the alien must apply for future nonimmigrant visas (NIVs) in his and/or her country of nationality, unless the alien qualifies for an "extraordinary circumstances" exemption. (See 9 FAM 41.112 N7.6.)

9 FAM 41.112 N7.5 Canceling Voided Visas Under INA 222(g)

(CT:VISA-1533; 09-23-2010)

Consular officers and immigration officers who encounter aliens in possession of nonimmigrant visas (NIV) that have become automatically void under INA 222(g) must physically cancel those visas. The officer canceling the visa should write the word "Canceled" across the face of the visa and annotate the passport page next to the canceled visa: "Canceled pursuant to section 222(g) of the INA." Aliens subject to INA 222(g) may obtain a new visa in a third country only when the Department finds extraordinary circumstances. (See INA 222(g)(2)(B) and 9 FAM 41.112 N7.6).

9 FAM 41.112 N7.6 "Extraordinary Circumstances" for Third-Country NIV Applicants Outside the United States

(CT:VISA-1533; 09-23-2010)

Under INA 222(g)(2)(B), if there is a finding that "extraordinary circumstances" exist, an alien subject to INA 222(g) may apply for a new nonimmigrant visa (NIV) in a third country, rather than have to return to his or her country of nationality.

9 FAM 41.112 N7.6-1 Blanket Waivers

(CT:VISA-1533; 09-23-2010)

a. The Department has approved the following blanket extraordinary circumstances exemptions:

   (1) Third-Country Nationals: TCNs who are resident in the country in which they are applying.

   (2) Applicants with pending extension of stay (E/S) change of status (C/S) applications: Aliens admitted until a certain date who timely filed a non-frivolous application for an E/S or a C/S, and who departed the United States while that application was pending are eligible for the blanket

exception. A non-frivolous application is one that is not on its face a groundless excuse for the applicant to remain in the United States to engage in activities incompatible with his or her status. You need not determine whether or not DHS would have approved the application for the application to be considered non-frivolous. This exemption would be merited only if the alien did not work without authorization either before the application was filed or while it was pending.

(3) H-1B applicants denied C/S due to H-1B cap: A blanket exemption is available for aliens who timely filed a non-frivolous application for a change of status to H-1B, but who were precluded from changing status because the annual ceiling on H-1B visas had been reached. This exemption would be merited only if the alien did not work without authorization either before the application was filed or while it was pending.

(4) Doctors serving medically underserved areas: Certain foreign medical graduates (FMGs) who received a waiver of the two-year foreign residence requirement under INA 212(e) may seek the blanket exception under INA 222(g) based on extraordinary circumstances. In order to qualify for the blanket exception, the FMG must satisfy the following requirements:

(a) The waiver must have been requested by an interested U.S. Government agency or a State Department of Public Health;

(b) The FMG must also be applying for an H-1B visa to fulfill the three-year obligation to work in a medically under-served area, as required under INA 214(l); and

(c) The FMG must have filed the H-1B petition with DHS, or initiated the waiver request with the interested Federal agency or State Department of Public Health before his or her J-1 status expired (or in the case of a J-2 dependent applying for an H-4 visa, before the principal J-1's status expired).

b. Because J-1 exchange visitors (and their dependents) are now routinely admitted for duration of status, they will not be subject to INA 222(g) in any event, unless DHS or an immigration judge finds a status violation. This blanket exception is only of importance to those FMGs who were admitted until a specific date as opposed to duration of status.

9 FAM 41.112 N7.6-2 Individual Exceptions

(CT:VISA-1533; 09-23-2010)

Aliens not eligible for the blanket 222(g)(2)(B) extraordinary circumstances exception may seek the exception on a case-by-case basis. If it appears to you that compelling humanitarian or national interests may exist or that an exception may be necessary for the effective administration of the immigration laws, you have the discretionary authority to recommend to the Deputy Assistant Secretary for Visa Services (VO DAS) that exceptional circumstances be found in the

individual case. In determining whether to make a favorable recommendation to the VO DAS, keep in mind that extraordinary circumstances shall not be found upon the basis of convenience or financial burden to the alien, the alien's relative, or the alien's employer. If the VO DAS determines that extraordinary circumstances exist, an individual exception will be granted.

(1) When INA 222(g)(2)(B) exception is granted: When a nonimmigrant visa is issued to a third country applicant based on the extraordinary circumstances exception in INA 222(g)(2)(B) (blanket or individual exception), the new visa is to be annotated "INA section 222(g) overcome under extraordinary circumstances." This annotation indicates that INA 222(g) was overcome and that the alien was allowed to apply for the nonimmigrant visa in a third country; or

(2) When INA 222(g)(2)(B) exception is denied: When an alien subject to INA 222(g) files a nonimmigrant visa application in a third country, and that application is denied, you will place a notation in the Consular Lookout and Support System (CLASS) under code "222." The notation "222" means the applicant was instructed to obtain a visa at a consular office located in the country of his or her nationality.

9 FAM 41.112 N7.7 Applying for INA 212(d)(4) Waiver

(CT:VISA-1533; 09-23-2010)

Aliens arriving at a port of entry with a visa that has become automatically void under INA 222(g) may apply to DHS for a waiver under INA 212(d)(4) in limited circumstances.

9 FAM 41.112 N7.8 INA 222(g) not Applicable to Foreign Government Officials

(CT:VISA-1533; 09-23-2010)

Foreign government officials and representatives of international organizations applying for A-1, A-2, C-2, C-3, G-1, G-2, G-3, or G-4 visas, or for visas under NATO-1 through NATO-6 to transact official business on behalf of the foreign government or international organization they represent, are not subject to INA 222(g). This determination was based on INA 102 and INA 212(d)(8). Also see 22 CFR 41.21(d). In addition, an alien who was previously admitted to the United States on a nonimmigrant visa until a certain date, who remained in the United States beyond the authorized period of stay, and who then applies in a third country for one of the nonimmigrant visas listed in this paragraph in his or her capacity as a foreign official or a representative of an international organization, is not subject to INA 222(g).

9 FAM 41.112 N7.9 Alien Admitted Until a Specified

Date vs. Admitted Duration Status (D/S)

(CT:VISA-1533; 09-23-2010)

The treatment accorded nonimmigrants under INA 212(a)(9)(B) and INA 222(g) depends on whether the aliens were admitted until a specified date, or whether they were admitted for duration of status (D/S).

9 FAM 41.112 N7.9-1 Aliens Admitted Until a Specified Date

(CT:VISA-1533; 09-23-2010)

Nonimmigrants who were admitted until a specific date are subject to INA 222(g) when they remain in the United States after the date noted on their Form I-94, Arrival-Departure Record. They are subject to INA 222(g) before the Form I-94 expiration date only if there is a formal finding of a status violation in termination of the alien's period of authorized stay. Such a finding may occur when the alien requests a change of status, extension of stay, etc.

9 FAM 41.112 N7.9-2 Alien Admitted for Duration of Status (D/S)

(CT:VISA-1533; 09-23-2010)

Nonimmigrants who were admitted D/S are subject to INA 222(g) only when there is a formal finding of a status violation by the DHS or by an immigration judge, resulting in the termination of the period of authorized stay.

9 FAM 41.112 N7.10 Alien in Possession of More Than One Nonimmigrant Visa

(CT:VISA-1533; 09-23-2010)

When an alien is in possession of more than one nonimmigrant visa, the nonimmigrant visa (NIV) under which the alien was admitted and overstayed becomes automatically void and must be canceled. (See 9 FAM 41.112 N7.3.) The alien may be readmitted to the United States only on a visa issued in his or her country of nationality unless an extraordinary circumstances exception is granted under INA 222(g)(2)(B). While the other NIV does not become automatically void, it may be used for admission only if it was issued in the alien's country of nationality. Therefore, if the other NIV was not issued in the country of the alien's nationality, it, too, must be canceled.

9 FAM 41.112 N7.11 Effect on INA 222(g) Departure Pending Extension of Stay, Change of Status Application, or Voluntary Departure

(CT:VISA-1533; 09-23-2010)

a. Aliens admitted until a specific date: Nonimmigrants admitted to the United States until a specific date who apply for a change of status (C/S) or an extension of stay (E/S), but who leave the United States after the Form I-94, Arrival-Departure Record, expires and before a decision on the application has been issued, are not subject to INA 222(g) if they can establish, to the satisfaction of the consular officer, that they were in a period of stay authorized by the Attorney General prior to departure. The application must be timely, nonfrivolous, and the alien must not have engaged in unauthorized employment. When these requirements have been met, the alien's nonimmigrant visa should not be canceled.

b. Aliens admitted D/S: Nonimmigrants admitted D/S (Duration of Stay) who leave the United States while the extension of stay or change of status application is pending, are not subject to INA 222(g), provided that no status violation was found that would have resulted in the termination of the period of stay authorized. In addition, D/S nonimmigrants whose extension of stay or change of status applications were denied for reasons other than a status violation are not subject to INA 222(g).

c. Aliens Granted Voluntary departure: INA 222(g) applies even if the alien was granted voluntary departure.

9 FAM 41.112 N7.12 Cancellation of Voided Combination Nonimmigrant Visa/Border Crossing Cards (NIV/BCC)

(CT:VISA-1533; 09-23-2010)

The combination B-1/B-2 NIV/BCCs are subject to INA 222(g) and become automatically void when the alien remains in the United States beyond the authorized admission date. Combination B-1/B-2 NIV/BCCs that have become automatically void under INA 222(g) must be physically canceled. (See 9 FAM 41.112 N7.5.) BCCs, however, as defined in INA 101(a)(26) are not nonimmigrant visas per se, and do not become automatically void under INA 222(g) when the alien remains in the United States beyond the period of authorized stay.

9 FAM 41.112 N8 AUTOMATIC REVALIDATION OF A NONIMMIGRANT VISA

9 FAM 41.112 N8.1 Eligibility for Automatic Revalidation

(CT:VISA-1138; 01-06-2009)

According to 22 CFR 41.112 (d), the validity of an expired nonimmigrant visa may be considered to be automatically extended to the date of application for readmission for a nonimmigrant alien who:

(1) 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 valid Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status - for Academic and Language Students, or Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status;

(2) 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, after an absence not exceeding 30 days in contiguous territory or adjacent islands other than Cuba;

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

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

(5) Has a valid passport;

(6) Does not require a waiver of ineligibility under INA 212(d)(3); and

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

9 FAM 41.112 N8.2 Eligibility for Automatic Revalidation After Change of Status

(CT:VISA-1705; 09-22-2011)

Automatic Revalidation is available to aliens who have changed status in the United States and seek to use an expired nonimmigrant visa (in addition to a valid nonimmigrant visa).

9 FAM 41.112 N8.3 Certain Aliens Excluded from Use of Automatic Revalidation

(CT:VISA-1181; 04-07-2009)

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 NIV. The regulation also excludes nationals of countries identified as supporting terrorism: Cuba, Iran, Sudan, and Syria.

9 FAM 41.112 N8.4 "Expired Nonimmigrant Visa"

(CT:VISA-1138; 01-06-2009)

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 N9 LIMITATIONS ON VISAS REQUIRING POSTING OF BOND

9 FAM 41.112 N9.1 Limitation for One Entry and Six Months

(CT:VISA-1138; 01-06-2009)

In cases where a bond has been required and posted, you must limit the visa to one entry, valid for six months. This will enable DHS to cancel bonds upon request without communicating with the visa-issuing post. (See 9 FAM 41.113 PN10.2.)

9 FAM 41.112 N9.2 Sponsor's Request for Cancellation of Visa in Order to Withdraw Bond

(CT:VISA-1138; 01-06-2009)

a. In some cases, the sponsor may request cancellation of the alien's visa in order to withdraw the bond. After physically canceling the visa, (see 22 CFR 41.122(c)), you will notify the DHS office concerned by letter or interested party telegram that the bond may be canceled and the money released.

b. The communication shall contain the applicant's full name, date and place of birth, nationality, the amount of the bond, the applicant's "A" serial number (which will have been shown on DHS notification that the bond was posted), and the date on which the visa was canceled. You must annotate Form DS-156, Nonimmigrant Visa Application, which should reflect the amount of the bond, the alien's "A" serial number and the date on which the visa was canceled.

9 FAM 41.112 N10 NO DISTINCTION BETWEEN INVALIDATION AND REVOCATION

(CT:VISA-1533; 09-23-2010)

Regulations no longer distinguish between invalidation and revocation in cases when it is determined that the bearer of a visa is ineligible. The visa should be revoked in accordance with 22 CFR and 9 FAM 41.122 Related Statutory Provisions and 9 FAM 41.122 Notes and Procedural Notes.