

§41.113

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(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-Departure Record, endorsed by DHS to show an unexpired period of initial admission or extension of stay, *provided that* in the case of a qualified F student or the accompanying spouse or child of such student, is in possession of a current Form I-20, Certificate of Eligibility for Nonimmigrant Student Status, issued by the school that the student has been authorized to attend by DHS and endorsed by the issuing school official to indicate the period of initial admission or extension of stay authorized by DHS, and *provided that* in the case of a qualified J exchange visitor or the accompanying spouse or child of such exchange visitor, is in possession of a current Form DS-2019, Certificate of Eligibility for Exchange Visitor Status (J-NON-IMMIGRANT), issued and endorsed by

the Department of State-designated sponsor of the exchange program, to indicate the period of initial admission authorized by DHS or the extension of stay authorized by the Department of State;

(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 24322, May 5, 1997; 66 FR 38543, July 25, 2001; 67 FR 10323, Mar. 7, 2002; 67 FR 66046, Oct. 30, 2002; 86 FR 55693, Oct. 7, 2021]

§41.113 Procedures in issuing visas.

(a) *Evidence of visa.* Except as provided in paragraph (b) of this section, a nonimmigrant visa shall be evidenced by a physical visa placed in the alien's passport or by an electronic visa located in the Department's records. The appropriate symbol as prescribed in § 41.12, showing the classification of the alien, shall be entered on the visa.

(b) *Cases in which a physical visa is not placed in passport.* In the following cases a physical visa shall be placed on the prescribed Form DS-232. In issuing such a visa, a notation shall be made on the Form DS-232 on which the visa is placed, specifying the pertinent subparagraph of this paragraph under which the action is taken.

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(1) The alien's passport was issued by a government with which the United States does not have formal diplomatic relations, unless the Department has specifically authorized the placing of the visa in such passport;

(2) The passport requirement has been waived; or

(3) In other cases as authorized by the Department.

(c) *Visa format.* A machine-readable visa shall be in the format designated by the Department, and contain, at a minimum, the following data:

- (1) Full name of the applicant;
- (2) Visa type/class;
- (3) Location of the visa issuing office;
- (4) Passport number;
- (5) Sex;
- (6) Date of birth;
- (7) Nationality;
- (8) Number of applications for admission authorized, or the letter "M" for multiple applications for admission authorized;
- (9) Date of issuance;
- (10) Date of expiration;
- (11) Visa control number.

(d) *Insertion of name, petition, and derivative status notation.* (1) The surname and given name of the visa recipient shall be shown on the visa in the space provided.

(2) If the visa is being issued upon the basis of a petition approved by the Secretary of Homeland Security, the number of the petition, if any, the period for which the alien's admission has been authorized, and the name of the petitioner shall be reflected in the annotation field on the visa.

(3) In the case of an alien who derives status from a principal alien, the name of the principal alien and of the petitioner shall be reflected in the annotation field of the visa.

(e) *Period of validity.* If a nonimmigrant visa is issued for an unlimited number of applications for admission within the period of validity, the letter "M" shall be shown under the word "entries". Otherwise the number of permitted applications for admission shall be identified numerically. The date of issuance and the date of expiration of the visa shall be shown at the appropriate places in the visa by day, month, and year in that order. The

standard three letter abbreviation for the month shall be used in all cases.

(f) *Restriction to specified port(s) of entry.* If a nonimmigrant visa is valid for admission only at one or more specified ports of entry, the names of those ports shall be entered in the annotation field. In cases where there is insufficient room to list the port(s) of entry, they shall be listed by hand on a clean passport page. Reference shall be made in the visa's annotation field citing the passport page upon which the port(s) of entry are listed.

(g) *Delivery of visa.* In issuing a nonimmigrant visa, the consular officer should deliver the passport containing the visa, or the prescribed Form DS-232 which bears the visa, to the alien or to the alien's authorized representative. Any relevant evidence furnished by the alien in accordance with § 41.103(b) should be retained, as required or necessary.

(h) *Disposition of supporting documents.* Original supporting documents furnished by the alien should be returned for presentation, if necessary, to the immigration authorities at the port of entry. Duplicate copies may be retained in the consular system, as required or necessary.

(i) *Review of nonimmigrant visa issuances.* Nonimmigrant visa issuances must be reviewed, in accordance with guidance by the Secretary of State, by consular supervisors, or a designated alternate, to ensure compliance with applicable laws and procedures.

[80 FR 67315, Nov. 2, 2015]

Subpart L—Refusals and Revocations**§ 41.121 Refusal of nonimmigrant visas.**

(a) *Grounds for refusal.* Nonimmigrant visa refusals must be based on legal grounds, such as one or more provisions of INA 212(a), INA 212(e), INA 214(b) or (f) or (l) (as added by Section 625 of Pub. L. 104-208), INA 221(g), INA 222(g), or other applicable law. Certain classes of nonimmigrant aliens are exempted from specific provisions of INA 212(a) under INA 102 and, upon a basis of reciprocity, under INA 212(d)(8).