



## IMMIGRATION UPDATE - MAY 09, 2022

*Posted on May 9, 2022 by Cyrus Mehta*

### Headlines:

#### [USCIS Increases Automatic Work Permit Extension Period for Certain Applicants](#)

– USCIS announced a temporary final rule, effective May 4, 2022, that increases to up to 540 days the automatic extension period for work authorization and Employment Authorization Documents (EADs) available to certain EAD renewal applicants. The rule is expected to affect approximately 87,000 workers who have filed for renewal of their work authorization and whose 180-day automatic extension periods have expired or are about to expire.

#### [State Dept. Appeals Four Court Orders on Diversity Visa Adjudications and Processing](#)

– The Department of State released a statement summarizing four court orders regarding the reservation of numbers for and/or adjudication of DV-2020 and DV-2021 diversity visas, and announcing that it is appealing the orders "because the Department believes the courts misinterpreted the law."

#### [Case Processing Info Changes Announced](#)

– Users can now immediately find processing time information for their particular type of case rather than seeing an aggregate of all related case types.

#### [CBP Urges Travelers to Apply for I-94 Online Before Arriving at U.S. Land Borders](#)

– To reduce wait times, U.S. Customs and Border Protection is urging travelers who require a Form I-94, Arrival/Departure Record, to apply and prepay online before arriving at a U.S. land border.

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### **USCIS Increases Automatic Work Permit Extension Period for Certain Applicants**

U.S. Citizenship and Immigration Services (USCIS) announced a temporary final

rule, effective May 4, 2022, that increases to up to 540 days the automatic extension period for work authorization and Employment Authorization Documents (EADs) available to certain EAD renewal applicants.

USCIS said the increased extension period "will help avoid gaps in employment for noncitizens with pending EAD renewal applications and stabilize the continuity of operations for U.S. employers." The rule is expected to affect approximately 87,000 workers who have filed for renewal of their work authorization and whose 180-day automatic extension periods have expired or are about to expire.

USCIS released the following details:

- The TFR, which only applies to those EAD categories currently eligible for an automatic 180-day extension, will temporarily provide up to 360 days of additional automatic extension time (for a total of 540 days) to eligible applicants with a timely filed Form I-765 renewal application pending during the 18-month period after publication of the temporary final rule "while USCIS continues to work through pending caseloads that were exacerbated by the COVID-19 pandemic," USCIS said. Beginning October 27, 2023, automatic extensions of employment authorization and EAD validity will revert to the up-to-180-day period for eligible applicants who timely file Form I-765 renewal applications.
- Noncitizens with a pending EAD renewal application whose 180-day automatic extension has lapsed and whose EAD has expired will be granted an additional period of employment authorization and EAD validity, beginning on May 4, 2022 and lasting up to 540 days from the expiration date of their EAD, such that they may resume employment if they are still within the up to 540-day automatic extension period and are otherwise eligible. Noncitizens with a pending renewal application still covered under the 180-day automatic extension will be granted an additional up to 360-day extension, for a total of up to 540 days past the expiration of the current EAD. Noncitizens with a pending renewal application and valid EAD on May 4, 2022, or who timely file an EAD renewal application before October 27, 2023, will be granted an automatic extension of up to 540 days if their EAD expires before the renewal application is processed.
- The automatic extension generally will end upon notification of a final

decision on the renewal application or the end of the up-to-540-day period (i.e., up to 540 days after the expiration date on the applicant's facially expired EAD), whichever comes earlier.

- Certain noncitizens who are in the United States may file a Form I-765, Application for Employment Authorization, with USCIS to request employment authorization and an EAD. Other noncitizens whose immigration status authorizes them to work in the United States without restrictions may also use Form I-765 to apply for an EAD that shows such authorization.
- Systematic Alien Verification for Entitlements (SAVE) will generally verify employment authorization or this EAD auto-extension as part of initial verification. Additional verification may be required in limited instances such as when the applicant's data provided by the user agency does not match federal immigration records.

#### Details:

- USCIS news release, May 3, 2022, <https://www.uscis.gov/newsroom/news-releases/uscis-increases-automatic-extension-period-of-work-permits-for-certain-applicants>
- "DHS Publishes Rule Temporarily Increasing Automatic Extension Period of Employment Authorization and/or EADs for Certain Individuals" (includes information on documentation benefit applicants will have whose work authorization and/or EADs are extended up to 540 days), USCIS (SAVE), May 4, 2022, <https://www.uscis.gov/save/whats-new/dhs-publishes-rule-temporarily-increasing-automatic-extension-period-of-employment-authorization>
- "Automatic Employment Authorization Document (EAD) Extension," USCIS, updated May 4, 2022, <https://www.uscis.gov/eadautoextend>
- USCIS temporary final rule, 87 Fed. Reg. 26614 (May 4, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-05-04/pdf/2022-09539.pdf>
- "USCIS Issues New Rule on Employment Authorization," Forbes, <https://www.forbes.com/sites/stuartanderson/2022/05/03/uscis-issues-new-rule-on-employment-authorization/?sh=9f27ebd10b13>

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## State Dept. Appeals Four Court Orders on Diversity Visa Adjudications and Processing

The Department of State (DOS) released a statement summarizing four court orders regarding the reservation of numbers for and/or adjudication of DV-2020 and DV-2021 diversity visas, and announcing that it is appealing the orders "because the Department believes the courts misinterpreted the law."

DOS explained that while the appeal is pending, the courts have granted stays with respect to adjudicating visas from prior years, meaning that "the Department is not required to adjudicate visas from prior years until the appeals court issues its decision." DOS explained that the courts, however, required the Department to complete the systems modifications necessary to process DV cases from prior years, which DOS said it will do in compliance with the orders.

DOS said it will publish additional public guidance regarding these cases "should it be necessary to do so."

### Details:

- DOS news release, May 3, 2022, <https://travel.state.gov/content/travel/en/News/visas-news/diversity-visa-2020-and-2021-updates.html>

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## Case Processing Info Changes Announced

U.S. Citizenship and Immigration Services (USCIS) announced changes to case processing information available online. Users can now immediately find processing time information for their particular type of case rather than seeing an aggregate of all related case types. Additional changes include:

- Adding drop-down options for form categories to help narrow results to the processing times that are relevant to a case;
- Adding a case inquiry tool where the user can insert their receipt date and get an immediate answer on whether they should contact USCIS with questions about their particular case; if so, benefit requestors will be provided a link to submit a case inquiry online;
- Displaying a single 80<sup>th</sup>-percentile processing time (rather than a range) to

simplify the information provided and improve the ability of users to estimate how long it is likely to take USCIS to process a benefit request; and

- Revising, streamlining, and adding more content to the processing times webpages, including a new FAQ page.

#### Details:

- USCIS news release, May 5, 2022, <https://www.uscis.gov/newsroom/news-releases/uscis-simplifying-improving-communication-of-case-processing-data>

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### **CBP Urges Travelers to Apply for I-94 Online Before Arriving at U.S. Land Borders**

To reduce wait times, U.S. Customs and Border Protection (CBP) is urging travelers who require a Form I-94, Arrival/Departure Record, to apply and prepay online before arriving at a U.S. land border.

An I-94 is needed by all visitors except U.S. citizens, returning residents, those with immigrant visas, and most Canadian citizens visiting or in transit. Travelers are issued an I-94 during the admission process at the port of entry.

#### Details:

- CBP release, Apr. 29, 2022, <https://bit.ly/3w9aMZX>
- Travel information, CBP, <https://www.cbp.gov/travel>
- Advisories and wait times, CBP, <https://www.cbp.gov/travel/advisories-wait-times>

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