



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

December 29, 2014

Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Policy and Strategy
Chief, Regulatory Coordination Division
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Submitted via E-mail: uscisfrcomment@uscis.dhs.gov
Docket ID No. USCIS-2012-0006

Re: USCIS Final Rule and Request for Comments: Notices of Decisions and Documents Evidencing Lawful Status
OMB Control No.: 1615-0026

Dear Chief, Regulatory Coordination Division:

The American Immigration Lawyers Association (AILA) submits the following comments in response to the above-referenced final rule on notices of decisions and documents evidencing lawful status, which will take effect on January 27, 2015.¹

AILA is a voluntary bar association of more than 13,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to comment on this final rule and believe that our members' collective expertise provides experience that makes us particularly well-qualified to offer views that will benefit the public and the government.

AILA commends USCIS for issuing this final rule, along with the relevant changes made to the Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative in May 2014.² Providing a represented party with the opportunity to have all notices and secure documentation delivered to the business address of his or her attorney of record or accredited representative is a welcome change that we fully support. Individuals and employers who retain the services of a qualified immigration attorney or accredited representative do so in order to navigate the extraordinarily complicated U.S. immigration system and many would prefer that original documents, including secure items such as travel documents, employment authorization

¹ 79 Fed. Reg. 64299 (October 29, 2014).

² 79 Fed. Reg. 28757 (May 19, 2014).

documents (EADs), and permanent resident cards, be sent to their attorney or representative. Though USCIS launched the Secure Mail Initiative (SMI) in an effort to ensure the safe delivery of these and other important documents, documents delivered under the SMI do not require a signature. As a result, AILA regularly receives reports from members whose clients have not moved and who have not received an approved EAD card or I-551 permanent residence card. According to USCIS policy, applicants must file for a new EAD or file an I-90 with the appropriate filing fee, unless USCIS systems show that the card was returned as undeliverable to USCIS. This places a heavy financial and emotional burden on applicants who are at no fault in the delivery failure. Allowing the represented party to elect to have all secure documents delivered to the attorney's business should go a long way in rectifying this problem.

We note, however, that according to the 60-day Notice and Request for Comments on the Notice of Entry of Appearance as Attorney or Accredited Representative (Form G-28),³ a represented party may elect to change how they want documents delivered "at any future date through written notice to DHS." Without additional information as to the process, it is difficult to understand how this will work. We encourage USCIS to reach out to stakeholders with a proposed process and request feedback prior to launching the new form.

AILA also appreciates that USCIS will send two original notices and documents in the case of represented parties, instead of the current practice of sending one original and one courtesy copy.⁴ However, we are concerned that applicants who file electronically will have to choose whether they want to receive notices or decisions electronically or receive paper notices or decisions in the mail.⁵ We encourage USCIS to allow these applicants to elect to receive both paper and electronic notices and decisions. Allowing for both electronic and paper notification will encourage individuals who might be wary of electronic filing to do so by providing added assurance that they will receive timely notice of decisions, Requests for Evidence, and other important documents, at minimal cost to the government.

AILA appreciates the opportunity to comment on this final rule, and we look forward to a continuing dialogue with DHS on these issues.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION

³ *Id.*

⁴ 79 Fed. Reg. at 64302.

⁵ *Id.* at 64301.