

§ 41.1

border crossing identification cards and B-1/B-2 visitor visa.

41.33 Nonresident alien Canadian border crossing identification card (BCC).

Subpart E—Crewman and Crew-List Visas

41.41 Crewmen.

41.42 Crew-list visas.

Subpart F—Business and Media Visas

41.51 Treaty trader or treaty investor.

41.52 Information media representative.

41.53 Temporary workers and trainees.

41.54 Intracompany transferees (executives, managers, and specialists).

41.55 Aliens with extraordinary ability.

41.56 Athletes, artists and entertainers.

41.57 International cultural exchange visitors and visitors under the Irish Peace Process Cultural and Training Program Act (IPPCTPA).

41.58 Aliens in religious occupations.

41.59 Professionals under the North American Free Trade Agreement.

Subpart G—Students and Exchange Visitors

41.61 Students—academic and nonacademic.

41.62 Exchange visitors.

41.63 Two-year home-country physical presence requirement.

Subpart H—Transit Aliens

41.71 Transit aliens.

Subpart I—Fiance(e)s and Other Nonimmigrants

41.81 Fiancé or spouse of a U.S. citizen and derivative children.

41.82 Certain parents and children of section 101(a)(27)(I) special immigrants. [Reserved]

41.83 Certain witnesses and informants.

41.86 Certain spouses and children of lawful permanent resident aliens.

Subpart J—Application for Nonimmigrant Visa

41.101 Place of application.

41.102 Personal appearance of applicant.

41.103 Filing an application and Form OF-156.

41.104 Passport requirements.

41.105 Supporting documents and fingerprinting.

41.106 Processing.

41.107 Visa fees.

41.108 Medical examination.

Subpart K—Issuance of Nonimmigrant Visa

41.111 Authority to issue visa.

22 CFR Ch. I (4–1–02 Edition)

41.112 Validity of visa.

41.113 Procedures in issuing visas.

Subpart L—Refusals and Revocations

41.121 Refusal of individual visas.

41.122 Revocation of visas.

AUTHORITY: 8 U.S.C. 1104; 8 U.S.C. 1181, 1201, 1202; Pub. L. 105-277, 112 Stat. 2681 *et seq.*

SOURCE: 52 FR 42597, Nov. 5, 1987, unless otherwise noted.

Subpart A—Passport and Visas Not Required for Certain Nonimmigrants

§ 41.1 Exemption by law or treaty from passport and visa requirements.

Nonimmigrants in the following categories are exempt from the passport and visa requirements of INA 212(a)(7)(B)(i)(I), (i)(II):

(a) *Alien members of the U.S. Armed Forces.* An alien member of the U.S. Armed Forces in uniform or bearing proper military identification, who has not been lawfully admitted for permanent residence, coming to the United States under official orders or permit of such Armed Forces (Sec. 284, 86 Stat. 232; 8 U.S.C. 1354).

(b) *American Indians born in Canada.* An American Indian born in Canada, having at least 50 per centum of blood of the American Indian race (Sec. 289, 66 Stat. 234; 8 U.S.C. 1359.)

(c) *Aliens entering from Guam, Puerto Rico, or the Virgin Islands.* An alien departing from Guam, Puerto Rico, or the Virgin Islands of the United States, and seeking to enter the continental United States or any other place under the jurisdiction of the United States (Sec. 212, 66 Stat. 188; 8 U.S.C. 1182.)

(d) *Armed Services personnel of a NATO member.* Personnel belonging to the armed services of a government which is a Party to the North Atlantic Treaty and which has ratified the Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces, signed at London on June 19, 1951, and entering the United States under Article III of that Agreement pursuant to an individual or collective movement order issued by an appropriate agency of the sending state or of NATO (TIAS 2846; 4 U.S.T. 1792.)

Department of State

§41.2

(e) *Armed Services personnel attached to a NATO headquarters in the United States.* Personnel attached to a NATO Headquarters in the United States set up pursuant to the North Atlantic Treaty, belonging to the armed services of a government which is a Party to the Treaty and entering the United States in connection with their official duties under the provisions of the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty (TIAS 2978; 5 U.S.T. 875.)

(f) *Aliens entering pursuant to International Boundary and Water Commission Treaty.* All personnel employed either directly or indirectly on the construction, operation, or maintenance of works in the United States undertaken in accordance with the treaty concluded on February 3, 1944, between the United States and Mexico regarding the functions of the International Boundary and Water Commission, and entering the United States temporarily in connection with such employment (59 Stat. 1252; TS 994.)

[52 FR 42597, Nov. 5, 1987, as amended at 56 FR 30428, July 2, 1991; 61 FR 1835, Jan. 24, 1996]

§41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.

Pursuant to the authority of the Secretary of State and the Attorney General under INA 212(d)(4), the passport and/or visa requirements of INA 212(a)(7)(B)(i)(I), (i)(II) are waived as specified below for the following categories of nonimmigrants:

(a) *Canadian nationals.* A passport is not required except after a visit outside the Western Hemisphere. A visa is not required.

(b) *Aliens resident in Canada or Bermuda having a common nationality with nationals of Canada or with British subjects in Bermuda.* A passport is not required except after a visit outside the Western Hemisphere. A visa is not required.

(c) *Bahamian nationals and British subjects resident in the Bahamas.* A passport is required. A visa is not required if, prior to the embarkation of such an alien for the United States on a vessel

or aircraft, the examining U.S. immigration officer at Freeport or Nassau determines that the individual is clearly and beyond a doubt entitled to admission.

(d) *British subjects resident in the Cayman Islands or in the Turks and Caicos Islands.* A passport is required. A visa is not required if the alien arrives directly from the Cayman Islands or the Turks and Caicos Islands and presents a current certificate from the Clerk of Court of the Cayman Islands or the Turks and Caicos Islands indicating no criminal record.

(e) *British, French, and Netherlands nationals and nationals of certain adjacent islands of the Caribbean which are independent countries.* A passport is required. A visa is not required of a British, French or Netherlands national, or of a national of Antigua, Barbados, Grenada, Jamaica, or Trinidad and Tobago, who has residence in British, French, or Netherlands territory located in the adjacent islands of the Caribbean area, or has residence in Antigua, Barbados, Grenada, Jamaica, or Trinidad and Tobago, if the alien:

(1) Is proceeding to the United States as an agricultural worker; or

(2) Is the beneficiary of a valid, unexpired, indefinite certification granted by the Department of Labor for employment in the Virgin Islands of the United States and is proceeding thereto for employment, or is the spouse or child of such an alien accompanying or following to join the alien.

(f) *Nationals and residents of the British Virgin Islands.* (1) A national of the British Virgin Islands and resident therein requires a passport but not a visa if proceeding to the United States Virgin Islands.

(2) A national of the British Virgin Islands and resident therein requires a passport but does not require a visa to apply for entry into the United States if such applicant:

(i) Is proceeding by aircraft directly from St. Thomas, U.S. Virgin Islands;

(ii) Is traveling to some other part of the United States solely for the purpose of business or pleasure as described in INA 101(a)(15)(B);

(iii) Satisfies the examining U.S. Immigration officer at that port of entry