

DEPARTMENT OF JUSTICE**Immigration and Naturalization Service****8 CFR Parts 212, 231, 235 and 286**

[INS No. 2202-02]

RIN 1115-AG68

Removal of Visa and Passport Waiver for Certain Permanent Residents of Canada and Bermuda**AGENCY:** Immigration and Naturalization Service, Justice.**ACTION:** Interim rule with request for comments.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations by providing that residents of Canada or Bermuda having a common nationality with Canadian nationals or with British subjects in Bermuda will be required to present a valid passport and visa when applying for admission to the United States. Nationals of Ireland and British Commonwealth countries, who reside in Canada, will be affected by this change. The Service is taking this action, revoking the prior passport and visa exemption for these individuals, in conjunction with the Department of State. (See Department of State regulations published elsewhere in this issue of the **Federal Register**.) This rule is intended to increase security and safeguard the United States.

DATES: *Effective date:* This rule is effective March 17, 2003.

Comment date: Written comments must be submitted on or before April 1, 2003.

ADDRESSES: Please submit written comments to the Director, Regulations, Forms and Services Division, Immigration and Naturalization Service, 425 I Street, NW., Room 4034,

Washington, DC, 20536. To ensure proper handling, please reference the INS No. 2202-02 on your correspondence. You may also submit comments electronically to the Service at insregs@usdoj.gov. When submitting comments electronically, please include INS No. 2202-02 in the subject box. Comments are available for public inspection at the above location by calling (202) 514-3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT:

Joyce Broughman, Assistant Chief Inspector, Office of Inspections, Immigration and Naturalization Service, 425 I Street, NW., Room 4064, Washington, DC 20536, telephone (202) 514-3019.

SUPPLEMENTARY INFORMATION:**Background**

Section 212(d)(4)(B) of the Immigration and Nationality Act (Act) permits the Attorney General and the Secretary of State (acting jointly) to waive the passport and visa requirements of section 212(a)(7)(B)(i) of the Act, 8 U.S.C. 1182(a)(7), for admission to the United States in nonimmigrant status. This waiver may be granted on the basis of reciprocity with respect to nationals of foreign contiguous territories or adjacent islands or for residents of those territories or islands who have a common nationality with those nationals.

Service regulations at 8 CFR 212.1(a) implement this waiver authority for Canadian citizens, British subjects in Bermuda and certain aliens from other islands. In addition, the current regulations provide a waiver of the passport and visa requirements for residents of Canada or Bermuda who have a common nationality with citizens of Canada or with British

subjects in Bermuda. This latter waiver includes citizens of British Commonwealth countries as well as citizens of Ireland. Nationals of 54 countries who reside in Canada or Bermuda currently benefit from this waiver. Country List "A" following the chart Current versus New Documentary Requirements lists the British Commonwealth countries as of the publication date of this regulation.

This rule eliminates the existing waiver for aliens, who are nationals of Ireland or the British Commonwealth countries listed above, who reside in either Canada or Bermuda and are not citizens of Canada or the British Overseas Territory of Bermuda.

Residents of Canada or Bermuda who are nationals of a designated Visa Waiver country listed in § 217.2(a), who present a valid passport issued by that country, may continue to be admitted without a visa if they are entering the United States for less than 90 days for business or pleasure. Countries that have been designated as eligible for the Visa Waiver Program may be found in Country List "B" after the chart "Current versus New Documentary Requirements".

This rule does not alter existing waivers of passport and visa for Canadian citizens or for British subjects in Bermuda. In amending § 212.1(a), it is broken into subsections (1) through (4) to make the documentary requirements clearer to the reader. This rule makes no changes to the current documentary requirements for Bahamian nationals or British subjects resident in The Bahamas or British subjects resident in the Cayman Islands or in the Turks and Caicos Islands.

The following chart shows the current and new documentary requirements for residents of Canada and Bermuda.

CURRENT VERSUS NEW DOCUMENTARY REQUIREMENTS

<i>If you are:</i>	<i>And the purpose of your visit to the U.S. (and time of stay, if applicable) is:</i>	<i>Then the change this rule makes from current INS regulations is:</i>	<i>And you will need the following to enter the U.S.:</i>
1. Canadian citizen	Non-immigrant visitor (except E-1, E-2—treaty trader—and K-1 through K-4—spouses and fiancé(e)s of U.S. citizens)	No change from current regulations	Identification; If coming from outside the Western Hemisphere a passport is required. (The following nonimmigrant classifications require a passport and visa: E-1, E-2, K-1, K-2, K-3, K-4. See INA Section 101(a).)
2. Permanent resident of Canada or Bermuda who is a citizen of a British Commonwealth country—Country List "A"	Non-immigrant	Change to now require a valid passport and valid nonimmigrant visa	Valid passport and valid non-immigrant visa.
3. Citizen of a country participating in the Visa Waiver Program (VWP) regardless of place of residence—Country List "B"	Non-immigrant visitor for business or pleasure for less than 90 days	No change from current regulations	Valid passport.