

CURRENT VERSUS NEW DOCUMENTARY REQUIREMENTS—Continued

<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>
4. 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 <i>more than</i> 90 days or for any other non-immigrant purpose	No change from current regulations.	Valid passport and valid visas in the appropriate classification (Section 101(a)(15) of the INA).
5. Citizen of the British Overseas Territory of Bermuda	Nonimmigrant	No change from current regulations	Evidence of citizenship; if coming from outside the Western Hemisphere a passport is required.
6. Citizen of an country, other than Canada or Bermuda, not listed in Country List “B”, Visa Waiver Countries	Nonimmigrant	No change from current regulation	Valid passport and valid non-immigrant visa.

The following list of countries comprises Country List “A”—British Commonwealth Countries: Antigua and Barbuda, Australia, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Cameroon, Cyprus, Dominica, Fiji Islands, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, Maldives, Malta, Mauritius, Mozambique, Namibia, Nauru, New Zealand, Nigeria, Pakistan, Papua New Guinea, Samoa, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Sri Lanka, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Swaziland, The Bahamas, The Gambia, Tonga, Trinidad and Tobago, Tuvalu, Uganda, United Kingdom, United Republic of Tanzania, Vanuatu, Zambia, and Zimbabwe

The following list of countries comprises Country List “B”—Visa Waiver Program countries (see 8 CFR 217.2): Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, the United Kingdom, and Uruguay. The United Kingdom refers only to British citizens who have the unrestricted right of permanent abode in the United Kingdom (England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man); it does not refer to British overseas citizens, British dependent territories’ citizens, or citizens of British Commonwealth countries.

Elimination of the Passport and Visa Waiver for Nationals of Commonwealth Countries or of Ireland who are Residents of Canada or Bermuda

In light of the terrorist attacks of September 11, 2001, the Service, in conjunction with the Department of State, has determined that it is in the

public interest to reconsider the existing waiver for such aliens. Because the Department of State requires special clearance procedures for nationals of some countries that are beneficiaries of the waiver, the Department of State and the Service have determined that requiring a passport and visa for these aliens will provide a higher level of security for the United States. Current beneficiaries of the waiver include nationals from countries with high rates of documentary and immigration fraud and abuse and nationals from countries with high nonimmigrant refusal rates. In many cases, documents presented by beneficiaries of the waiver do not meet current document security standards.

In view of these determinations, the Service is amending its current nonimmigrant documentary regulations in § 212.1(a) to eliminate the passport and visa waiver for residents of Canada or Bermuda who have a common nationality with citizens of Canada or with British subjects in Bermuda. Accordingly, such nationals will be required to present visas and passports when applying for admission to the United States. The Service also notes that, as a result of eliminating this existing waiver, these aliens will now be subject to 8 CFR 235.1(f)(1) and upon arrival shall be issued, upon payment of the appropriate fee for land border admissions, a Form I-94 Arrival/Departure Record as evidence of the terms of their admission.

Other Regulation Changes

In addition, the Service is changing the reference to “British subjects in Bermuda” to British Overseas Territory citizens in accordance with the British Overseas Territories Act of 2002.

In view of the elimination of the existing passport and visa waiver, this rule makes necessary changes to other portions of the regulations.

The interim rule amends § 231.1(d) to require the residents of Canada and

Bermuda who are nationals of Ireland or British Commonwealth countries, who are entering the United States for business or pleasure to complete the Form I-94, Arrival/Departure Record.

As a result of the requirement for a passport and nonimmigrant visa, residents of Canada who must present those documents for admission to the United States will no longer be eligible for a Canadian Border Boat Landing Permit (Form I-68) described in § 235.1(e). United States citizens, Canadian citizens and those residents of Canada who are nationals of a designated Visa Waiver country listed in § 217.2(a) will continue to be eligible for the Canadian Boat Landing Permit.

Service regulations at 8 CFR 286.9(b) regarding the payment of a fee for a Form I-68, Canadian Border Boat Landing Permit, § 286.9(b) are being revised to remove the reference to lawful permanent resident of Canada having a common nationality with Canadians since this group of aliens will no longer be eligible for the program.

Good Cause Exception

The Service’s implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based on the “good cause” exceptions found at 5 U.S.C. 553(b)(B).

Implementation of this rule as an interim rule is necessary to ensure the national security needs of the United States. Specifically, the implementation of the passport and visa requirement on aliens residing in Canada or Bermuda including those aliens who are nationals of countries that require special clearance procedures, nationals of countries with high rates of documentary and immigration fraud and abuse, and nationals from countries with high nonimmigrant refusal rates, will ensure that these applicants for admission are properly screened via the Department of State’s visa issuance process prior to arrival at a port-of-entry