

Canada who is a national of a designated Visa Waiver Program country listed in § 217.2(a) of this chapter, entry may be made under this program only for a purpose as described in section 101(a)(15)(B)(ii) of the Act as a visitor for pleasure. Persons seeking to enter the United States for any other purpose must do so at a port-of-entry staffed by immigration inspectors. Persons aboard a vessel which has crossed the international boundary between the United States and Canada and who do not intend to land in the United States, other than at a staffed port-of-entry, are not required to be in possession of Form I-68, Canadian Border Boat Landing Permit, or evidence of enrollment in an Alternative Inspections program merely because they have crossed the international boundary. However, the Service retains the right to conduct inspections or examinations of all persons applying for admission or readmission to or seeking transit through the United States in accordance with the Act.

(1) \* \* \*

(v) A permanent resident of Canada who is a national of a Visa Waiver Program may apply for admission simultaneously with the Form I-68 application and thereby obtain a Form I-94 or I-94W.

\* \* \* \* \*

(5) \* \* \*

(ii) \* \* \* Participants who are permanent residents of Canada who are nationals of a Visa Waiver Program country listed in § 217.2(a) of this chapter must also be in possession of proper documentation as described in paragraph (e) of this section.

\* \* \* \* \*

## PART 286—IMMIGRATION USER FEE

7. The authority citation for part 286 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1356; 8 CFR part 2.

8. Section 286.9 is amended by revising paragraph (b)(4).

The revision reads as follows:

### § 286.9 Fee for processing applications and issuing documentation at land border Ports-of-Entry.

\* \* \* \* \*

(b) \* \* \*

(4) A citizen or lawful permanent resident alien of the United States or a Canadian citizen or permanent resident of Canada who is a national of a designated Visa Waiver Program country listed in § 217.2(a) of this chapter who requests Form I-68, Canadian Border Boat Landing Permit, pursuant to § 235.1(e) of this chapter, for

entry to the United States from Canada as an eligible pleasure boater on a designated body of water, must remit the required fee at the time of application for Form I-68.

Dated: January 24, 2003.

**Michael J. Garcia,**

*Acting Commissioner, Immigration and Naturalization Service.*

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## DEPARTMENT OF STATE

### 22 CFR Part 41

[Public Notice 4163]

RIN 1400-AB43

### Visas: Removal of Visa and Passport Waiver for Certain Permanent Residents of Canada and Bermuda

**AGENCY:** Department of State.

**ACTION:** Interim rule, with request for comments.

**SUMMARY:** This rule amends the Department of State's regulation that allows certain permanent residents of Canada and Bermuda who share a common nationality with nationals of Canada or with British subjects in Bermuda to enter the United States without a passport or visa. The Department is taking this action in conjunction with the Immigration and Naturalization Service of the Department of Justice (INS) due to the heightened border security concerns following the events of September 11, 2001. Aliens affected by this change will hereafter be required to present a passport and a visa when applying for entry into the United States. The Department is also changing the reference in the current regulation to "British subjects in Bermuda". In the amended regulation, in accordance with recent legislation adopted by the United Kingdom, those persons will instead be referred to as "citizens of the Overseas Territory of Bermuda". Canadian nationals and citizens of the Overseas Territory of Bermuda will retain their current waiver privileges.

**DATES:** *Effective Date:* This rule is effective 45 days from the date of publication in the **Federal Register**.

*Comment Date:* Interested persons should submit comments on or before 60 days from date of publication in the **Federal Register**.

**ADDRESSES:** Submit comments, in duplicate, to H. Edward Odom, Chief, Legislation and Regulations Division, Visa Services, Department of State,

Washington, DC 20522-0113; or by e-mail to [visaregs@state.gov](mailto:visaregs@state.gov).

**FOR FURTHER INFORMATION CONTACT:** For information regarding the publication of this regulation under the Administrative Procedures Act contact Patrick A. Chairge, Legislation and Regulations Division, Visa Office, Room L603-C, SA-1, Department of State, Washington, DC 20520-0106, (202) 663-1260; or e-mail: [chairgepa@state.gov](mailto:chairgepa@state.gov). For information regarding the possible effect of this regulation on individual visa applicants or any group of applicants contact the Public Inquiries Division of the Directorate for Visa Services at (202) 663-1225, or by e-mail to [usvisa@state.gov](mailto:usvisa@state.gov).

### SUPPLEMENTARY INFORMATION:

#### On What Authority Has the Department Granted This Waiver?

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

#### Who Currently Benefits From This Waiver?

Currently, subsection (b) of 22 CFR 41.2 benefits Canadian permanent residents who have a common nationality with Canadians, British subjects in Bermuda and aliens who have a common nationality with such subjects. The waiver thus includes citizens of Commonwealth countries as well as citizens of Ireland. Nationals of 54 countries currently benefit from this waiver.

#### Why Is the Department Removing Part of This Waiver?

In light of the terrorist attacks of September 11, 2001, the Department has determined that it is in the public interest to reconsider this waiver, in part. Findings from the Department's review indicate that some beneficiaries of the waiver who are lawful permanent residents of Canada or Bermuda include nationals from countries requiring special clearance procedures. Beneficiaries also include nationals from countries with high rates of fraud and abuse and nationals from countries with high nonimmigrant refusal rates. In view of these determinations, the Department is removing that part of its