

current regulation that benefits Canadian and Bermudan non-citizen residents who have a common nationality with Canadian and Bermudan citizens. Those non-citizen residents will be required to present visas and passports when attempting to enter the United States, except those entering pursuant to the permanent Visa Waiver Program who will require a passport but not a visa.

#### **Why Has the Department Changed the Reference to "British Subjects in Bermuda"?**

The "British Overseas Territory Act of 2002" changed former references to "dependent territories", including Bermuda, to "British Overseas Territories" and established the citizenship of such territories as "British Overseas Territories Citizenship". Therefore citizens of Bermuda will now be referred to in the regulation as "citizens of the British Overseas Territory of Bermuda", rather than "British subjects in Bermuda".

#### **Request for Comments**

The Department is seeking public comments regarding this interim rule. The Department welcomes comments on all topics contained within this interim rule.

#### **Interim Rule**

This interim rule amends the Department's regulation at 41.2(b) that grants visa and passport waivers to certain Canadian permanent residents, British subjects in Bermuda and certain permanent residents of Bermuda by removing from its application Canadian and Bermudan permanent residents.

#### **Regulatory Analysis and Notices**

##### **Administrative Procedure Act**

The Department's implementation of this regulation as an interim rule, with a provision for public comments, is based upon the "good cause" exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The Department believes that immediate implementation of this regulation is in the public interest to ensure public safety in light of ongoing security concerns following the terrorist attacks of September 11, 2001. Some beneficiaries of the visa and passport waiver 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. The Department has established a 45-day post publication effective date for this rule in order to allow sufficient time to those Canadian and Bermudan residents affected by it to obtain the documentation that it requires they present when applying for entry into the United States. In this manner the Department hopes to minimize any disruption to travel along the border and also to minimize strain on INS and Department resources that might otherwise occur if significant numbers of aliens did not have sufficient time to obtain proper documentation.

#### **Regulatory Flexibility Act**

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities.

#### **Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### **Executive Order 12866**

The Department of State considers this rule to be a "significant regulatory

action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Therefore, it was submitted for review by the Office of Management and Budget.

#### **Executive Order 13132**

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### **Paperwork Reduction Act**

This rule does not impose any new reporting or record-keeping requirements.

#### **List of Subjects in 22 CFR Part 41**

Aliens, Nonimmigrants, Passports and visas.

Accordingly, amend 22 CFR part 41 as follows:

#### **Part 41—[AMENDED]**

1. The authority citation for Part 41 continues to read as follows:

**Authority:** 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681 *et seq.*

2. Revise paragraph (b) of 41.2 to read as follows:

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

\* \* \* \* \*

(b) Citizens of the British Overseas Territory of Bermuda. A passport is not required except after a visit outside the Western Hemisphere. A visa is not required.

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Dated: January 23, 2003.

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