

Department of State

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AUTHORITY: 8 U.S.C. 1104; Pub. L. 105-277, 112 Stat. 2681-795 through 2681-801; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108-458, as amended by section 546 of Pub. L. 109-295).

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

EDITORIAL NOTE: Nomenclature changes to part 41 appear at 71 FR 34521 and 34522, June 15, 2006.

Subpart A—Passport and Visas Not Required for Certain Non-immigrants

§ 41.0 Definitions.

For purposes of this part and part 53: *Adjacent islands* means Bermuda and the islands located in the Caribbean Sea, except Cuba.

Cruise ship means a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories.

Ferry means any vessel operating on a pre-determined fixed schedule and route, which is being used solely to provide transportation between places that are no more than 300 miles apart and which is being used to transport passengers, vehicles, and/or railroad cars.

Pleasure vessel means a vessel that is used exclusively for recreational or personal purposes and not to transport passengers or property for hire.

United States means “United States” as defined in section 215(c) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1185(c)).

U.S. citizen means a United States citizen or a U.S. non-citizen national.

United States qualifying tribal entity means a tribe, band, or other group of Native Americans formally recognized by the United States Government which agrees to meet WHTI document standards.

[73 FR 18418, Apr. 3, 2008]

§ 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) [Reserved]

(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.)

(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

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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; 71 FR 68430, Nov. 24, 2006; 73 FR 18418, Apr. 3, 2008]

§41.2 Exemption or waiver by Secretary of State and Secretary of Homeland Security of passport and/or visa requirements for certain categories of nonimmigrants.

Pursuant to the authority of the Secretary of State and the Secretary of Homeland Security under the INA, as amended, a passport and/or visa is not required for the following categories of nonimmigrants:

(a) *Canadian citizens.* A visa is not required for an American Indian born in Canada having at least 50 percentum of blood of the American Indian race. A visa is not required for other Canadian citizens except for those who apply for admission in E, K, V, or S nonimmigrant classifications as provided in paragraphs (k) and (m) of this section and 8 CFR 212.1. A passport is required for Canadian citizens applying for admission to the United States, except when one of the following exceptions applies:

(1) *NEXUS program.* A Canadian citizen who is traveling as a participant in the NEXUS program, and who is not otherwise required to present a passport and visa as provided in paragraphs (k) and (m) of this section and 8 CFR 212.1, may present a valid NEXUS program card when using a NEXUS Air kiosk or when entering the United States from contiguous territory or adjacent islands at a land or sea port-of-entry. A Canadian citizen who enters

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the United States by pleasure vessel from Canada under the remote inspection system may present a NEXUS program card.

(2) *FAST program.* A Canadian citizen who is traveling as a participant in the FAST program, and who is not otherwise required to present a passport and visa as provided in paragraphs (k) and (m) of this section and 8 CFR 212.1, may present a valid FAST card at a land or sea port-of-entry prior to entering the United States from contiguous territory or adjacent islands.

(3) *SENTRI program.* A Canadian citizen who is traveling as a participant in the SENTRI program, and who is not otherwise required to present a passport and visa as provided in paragraphs (k) and (m) of this section and 8 CFR 212.1, may present a valid SENTRI card at a land or sea port-of-entry prior to entering the United States from contiguous territory or adjacent islands.

(4) *Canadian Indians.* If designated by the Secretary of Homeland Security, a Canadian citizen holder of an Indian and Northern Affairs Canada (“INAC”) card issued by the Canadian Department of Indian Affairs and North Development, Director of Land and Trust Services (LTS) in conformance with security standards agreed upon by the Governments of Canada and the United States, and containing a machine readable zone, and who is arriving from Canada, may present the card prior to entering the United States at a land port-of-entry.

(5) *Children.* A child who is a Canadian citizen who is seeking admission to the United States when arriving from contiguous territory at a sea or land port-of-entry, may present certain other documents if the arrival meets the requirements described in either paragraph (i) or (ii) of this section.

(i) *Children under age 16.* A Canadian citizen who is under the age of 16 is permitted to present an original or a copy of his or her birth certificate, a Canadian Citizenship Card, or a Canadian Naturalization Certificate when arriving in the United States from contiguous territory at land or sea ports-of-entry.

(ii) *Groups of children under age 19.* A Canadian citizen who is under age 19 and who is traveling with a public or