

Country/locality	Common name	Botanical name	Plant part(s)
India	Litchi	<i>Litchi chinensis</i>	Fruit (Prohibited entry into Florida due to litchi rust mite. Cartons in which litchi are packed must be stamped "Not for importation into or distribution in FL").
Zimbabwe	Apricot	<i>Prunus armeniaca</i>	Fruit.
	Nectarine	<i>Prunus persica</i>	Fruit.
	Peach	<i>Prunus persica</i>	Fruit.
	Plum	<i>Prunus domestica</i>	Fruit.

§ 319.56-2aa [Amended]

7. In § 319.56-2aa, the section heading and the introductory text are amended by adding the words "and cantaloupe" after the word "melons".

8. Section 319.56-2aa is amended by adding the words "or cantaloupe" after the word "melons" in the following places:

(a) In paragraph (a) in the first sentence and both times it appears in the second sentence.

(b) In paragraph (b).

(c) In paragraph (c).

9. A new § 319.56-2ee is added to read as follows:

§ 319.56-2ee Administrative instructions: conditions governing the entry of Ya variety pears from China.

Ya variety pears may be imported into the United States from China only under the following conditions:

(a) *Growing and harvest conditions.*

(1) The pears must have been grown by growers registered with the Chinese Ministry of Agriculture in an APHIS-approved export growing area in Hebei Province.

(2) Field inspections for signs of pest infestation must be conducted by the Chinese Ministry of Agriculture during the growing season.

(3) The registered growers shall be responsible for following the phytosanitary measures agreed upon by APHIS and the Chinese Ministry of Agriculture, including applying pesticides to reduce the pest population and bagging the pears on the trees to reduce the opportunity for pests to attack the fruit during the growing season. The bags must remain on the pears through the harvest and during their movement to the packing house.

(4) The packing houses in which the pears are prepared for exportation shall not be used for any fruit other than Ya

variety pears from registered growers during the pear export season. The packing houses shall accept only those pears that are in intact bags as required by paragraph (a)(3) of this section. The pears must be loaded into containers at the packing house and the containers then sealed before movement to the port of export.

(b) *Treatment.* The pears must be cold treated for *Bactrocera dorsalis* in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

(c) Each shipment of pears must be accompanied by a phytosanitary certificate issued by the Chinese Ministry of Agriculture stating that the conditions of paragraphs (a) and (b) of this section have been met.

Done in Washington, DC, this 26th day of September 1995.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95-24332 Filed 9-28-95; 8:45 am]

BILLING CODE 3410-34-P

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the Immigration and Naturalization Service (Service) regulations: To allow for implementation of additional land border inspection fee projects designed to facilitate the entry of identified, low-risk, legitimate border crossers on the northern border; to allow for the implementation of a pilot dedicated commuter lane (DCL) to facilitate the entry of identified, low-risk, legitimate border crossers on the California-Mexico border; to incorporate into 8 CFR 235.13 those provisions currently set forth in 8 CFR 286.8 pertaining to port designations and inspections of persons applying for admission to the United States; to increase the pool of eligible participants in pilot projects; and to clarify fee and application requirements of project participants. This rule is necessary to enhance inspection services at land border Ports-of-Entry (POEs) on the northern border and on the California-Mexico border, while still safeguarding those borders.

DATES: This interim rule is effective September 29, 1995. Written comments must be received on or before November 28, 1995.

ADDRESSES: Please submit written comments, in triplicate, to the Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536, Attn: Public Comment Clerk. To ensure proper handling, please reference INS No. 1675-94 on your correspondence. Comments are available for public inspection at this location by calling (202) 514-3048 to arrange for an appointment.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 235, 286 and 299

[INS No. 1675-94]

RIN 1115-AD82

Collection of Fees Under the Dedicated Commuter Lane Program; Port Passenger Accelerated Service System (PORTPASS) Program

AGENCY: Immigration and Naturalization Service, Justice.

FOR FURTHER INFORMATION CONTACT:

Robert A. Mocny, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street, NW., Room 7228, Washington, DC 20536, telephone (202) 514-3275.

SUPPLEMENTARY INFORMATION: The provisions of Public Law 101-515, dated November 5, 1990, authorized the establishment of pilot projects at land border POEs for which a fee may be charged and collected for inspection services provided at land border POEs. The implementing regulation which established pilot programs for the charging of a land border user fee for inspection services was published by the Service on May 13, 1991, at 56 FR 21917-21920. The interim rule placed all eligibility requirements, application processes, and compliance requirements pertaining to inspection user fees in § 286.6.

All land border pilot projects were originally scheduled to terminate on September 30, 1993. This deadline was extended to September 30, 1996, by Public Law 103-121, October 27, 1993. Public Law 103-121 also limited land border pilot projects to the northern border of the United States. On August 26, 1994, Congress passed Public Law 103-217, permitting land border pilot projects on the California-Mexico border. This interim rule, therefore, also amends Service regulations as necessary to implement a pilot DCL on the California-Mexico border.

In addition to adding a variety of border inspection pilot projects to selected POEs on the northern and southern land borders, this rule will move application and eligibility requirements for those persons seeking to participate in any of the pilot projects to part 235 of this chapter. By expanding and testing pilot projects on land borders, the entry of low-risk, legitimate border crossers will be facilitated and integrity of the United States land borders maintained.

Port Passenger Accelerated Service System (PORTPASS) Program

This rule seeks to expand the testing of land border inspection pilot programs, hereinafter collectively known as the Port Passenger Accelerated Service System (PORTPASS) Program. It will add a new § 235.13, in which general criteria used by the Service to establish pilot inspection programs on the northern and California-Mexico border will be set forth. PORTPASS program eligibility requirements, application procedures, and compliance requirements will be included in the new § 235.13 because

these program elements are inspection functions. The present provisions in § 286.8, relating to the collection of land border inspection pilot program fees, will be retained in the immigration user fee section only for the purposes of clarity and uniformity.

By identifying eligible, low-risk border crossers and providing a means for rapid entry of those individuals into the United States, PORTPASS will lessen the time required for all persons to cross the border at large POEs. PORTPASS will also benefit those persons who typically use the smaller, more geographically remote POEs which have limited hours of operation by designating certain POEs as Automated Permit Ports (APPs). Eligible persons who apply for, and are approved for use of, an APP may enter the United States when the APP is not staffed.

Participation in PORTPASS, including advance screening, inspection and identification, and subsequent lawful entry through a DCL or APP by an enrolled participant, will satisfy the reporting requirement of 8 CFR 235.1(a), which states that “[a]pplication to enter the United States shall be made in person to an immigration officer at a U.S. port of entry enumerated in 8 CFR part 100 at a time when the immigration office at the port is open for inspection.”

PORTPASS participants will not be permitted to import merchandise or transport controlled or restricted items through the PORTPASS program. Violation of the rules governing the PORTPASS program, or violating any immigration, customs, agricultural or other law or regulation, may result in revocation of the permit access authorization and other sanctions, including, but not limited to, criminal and/or administrative prosecution and deportation, seizure of goods and/or vehicles.

The Form I-823, entitled, “Application—Dedicated Commuter Lane Program,” has been revised and retitled to, “Application—Inspections Facilitation Program.” Each applicant applying for use of a Dedicated Commuter Lane as part of the PORTPASS program on the northern or California-Mexico border will be required to file the new form and submit the required application fee, currently \$25. Under certain circumstances, the \$25 application fee may be waived by the district director having jurisdiction over the POE where the applicant requests access. This rule will also amend §§ 299.1 and 299.5 to reflect the change in the title of the application. In establishing the Land Border Inspection Pilot Program, Congress identified the need to counterbalance the inspection of

passengers and vehicles with the need to halt the flow of illegal drugs and illegal aliens into the United States. Therefore, in addition to filing the I-823, applicants may be required to submit fingerprints in order to determine eligibility as a low-risk border crosser. If a fingerprint check is required, the applicant will be assessed the additional processing fee.

This rule expands the pool of eligible persons who may be permitted to use the PORTPASS system. One of the stated purposes of the land border inspections pilot program is the alleviation of traffic congestion at land border POEs. Therefore, it is necessary to allow the greatest number of identified, low-risk border crossers to participate. Currently, only citizens and legal permanent residents of the United States and citizens of Canada and landed immigrants of Canada who are citizens of the commonwealth nations are eligible applicants for the DCL project on the northern border. This rule would also make other non-immigrants as determined by the Commissioner of the Service, eligible for participation in all PORTPASS projects. Many third-country citizens and nationals are admitted to the United States for extended periods of time and may live in the United States but commute across the border to work, attend school, or conduct business. Third-country nationals who are citizens of countries other than the commonwealth nations are admitted to Canada as permanent residents and may also require access to the United States for similar purposes. Through the application process set forth in the regulation, admissibility and suitability of an applicant for entry to the United States will readily be determined. The application process will be more thorough than that required by any person who applies for admission at a land border POE, and will include a check of computer databases. Additionally, each applicant will be personally inspected and positively identified by an immigration officer to further determine admissibility prior to approval of his or her application. The applicant will also be required to permit random checks and inspections to be conducted by the Service at any time or location, to ensure compliance.

Currently, only the principal applicant must pay the required fee upon approval for the DCL application, although other persons may be listed on the principal's application. This rule will amend the regulation by requiring a separate application and application fee from all applicants to a PORTPASS project, including DCL programs

currently operable. A family cap of \$50, family defined to include husband, wife and/or children under the age of 18 years of age, will be imposed so as to not unduly burden families who often travel together across the border. Applicants under the age of 14 will be required to complete and submit the application, but will not be required to pay the application fee. Additionally, a "system costs fee" will be assessed to approved applicants who wish to participate in the system to cover the costs of additional technology. Information about the fee, including the amount, will be included in publications made available to the public prior to and/or during the application process. Law enforcement and security concerns peculiar to the southern border of the United States, in addition to the additional documentation required of Mexican nationals by the Immigration and Nationality Act, augments the degree that specialized devices, decals, technologies, and other methods are necessary to inspect applicants for entry. The use of technology, decals, and other devices or methods used to identify and inspect persons through DCL's on the southern border increases the cost to the INS of a DCL on that border. By charging a system costs fee for each vehicle using the DCL, the cost of operating the DCL will be fairly distributed among users of the DCL. All revenue generated by the PORTPASS program will directly support inspections on the land border, and facilitate traffic flow through designated POEs. Fees collected will cover the costs of:

- (1) Hiring additional immigration inspectors, including all associated personnel costs;
- (2) Expanding, operating and maintaining information systems for nonimmigrant control;
- (3) Construction costs, including those associated with the addition of new primary traffic lanes (with the concurrence of the General Services Administration);
- (4) Procuring detection devices and conducting training in the identification of fraudulent documents used by applicants for illegal entry into the United States;
- (5) Other costs associated with the operation of the PORTPASS program; and
- (6) Costs associated with the administration of the Land Border Inspection Fee Account.

The Service's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based on the "good cause" exception

found at 5 U.S.C. 553(d)(3). The reason and necessity for immediate implementation of this interim rule are as follows: Expanding the pilot program will directly benefit the traveling public by expediting their entry into the United States. In order to evaluate the effectiveness and utility of the PORTPASS project, and make a determination whether to continue and/or expand such projects, data must be collected. Pilot projects are due to expire September 30, 1996. Therefore, it is in the best interest of the traveling public to expand the land border user fee pilot program as soon as possible. All pilot projects are focused on the traveling public as customers and are designed to directly benefit large populations. Proceeding with an interim regulation at this time will allow the affected agencies and the public to gain maximum benefits from the pilot program.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, 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 because of the following factors. The rule applies to individuals, not small entities, and provides a clear benefit to participants by allowing expeditious passage through a POE. Although there is a fee charged for this service, participation is voluntary.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulations proposed herein 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 Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12606

The Commissioner of the Immigration and Naturalization Service certifies that she has addressed this rule in light of the criteria in Executive Order 12606 and has determined that it will have no effect on family well-being.

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The clearance number for this collection is contained in 8 CFR 299.5, Display of control numbers.

List of Subjects

8 CFR Part 103

Administrative practice and procedures, Aliens, Authority delegations (Government agencies), Freedom of Information, Privacy Act, Reporting and recordkeeping requirements.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Passport and visas.

8 CFR Part 286

Fees, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 299

Administrative practice and procedure, Aliens, Forms, Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by revising the entry for "Form I-823", to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

Form I-823. For application to an Inspections Facilitation Program under section 286 of the Act—\$25.00, with the maximum amount of \$50.00 payable by a family (husband, wife, and minor children under 18 years of age). This fee may be waived for applicants seeking

access through an Automated Permit Port (APP) on the northern border. If fingerprints are required, a separate fingerprint processing fee will be charged.

* * * * *

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

3. The authority citation for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, and 1252.

§ 235.1 [Amended]

4. In § 235.1, paragraph (a) is amended by:

(a) Adding the word "either" between the words "made" and "in person", and by

(b) Removing the period after the word "inspection" and adding the phrase "or as provided in § 235.13."

5. A new § 235.13 is added to read as follows:

§ 235.13 Automated inspection services.

(a) *PORTPASS Program.* (1) *Definitions.* (i) *Port Passenger Accelerated Service System (PORTPASS).* A system in which certain ports-of-entry (POEs) are identified and designated by the Service as providing access to the United States for a group of identified, low-risk, border crossers. Participants in the PORTPASS program are inspected, identified, and screened in advance of approval for participation in the program by an immigration officer, and may apply to enter the United States through a dedicated commuter lane (DCL) or through an automated permit port (APP). Such advance inspection and identification, when the enrolled participant also satisfies the conditions and requirements set forth in § 235.13(b), satisfies the reporting requirements of § 235.1(a). Each use of the PORTPASS system constitutes a separate application for entry by the program participant.

(ii) *Automated Permit Port (APP).* A POE designated by the Service to provide access to the United States by an identified, low-risk, border crosser through the use of automation when the POE is not staffed. An APP has limited hours of operation and is located at a remote location on a land border. This program is limited to the northern border of the United States.

(iii) *Dedicated Commuter Lane (DCL).* A special lane set apart from the normal flow of traffic at a busier land border POE which allows an accelerated inspection for identified, low-risk

travelers. This program is limited to the northern border of the United States and the California-Mexico border.

(iv) *System costs fee.* A fee charged to participants to cover the cost of implementing the PORTPASS system.

(2) *Designation of POEs for PORTPASS access.* The following criteria shall be used by the Service in the selection of a POE if classifying that POE as having PORTPASS access under the pilot program:

(i) The location has an identifiable group of low-risk border crossers;

(ii) The institution of PORTPASS access will not significantly inhibit normal traffic flow;

(iii) The POE selected for access via a DCL has a sufficient number of Service personnel to perform primary and secondary inspection functions.

(3) *General eligibility requirements for PORTPASS program applicants.*

Applicants must be citizens or lawful permanent residents of the United States, or other non-immigrants as determined eligible by the Commissioner of the Service. Non-United States citizens must meet all applicable documentary and entry eligibility requirements of the Act. Applicants must agree to furnish all information requested on the application, and must agree to terms set forth for use of the PORTPASS program. Notwithstanding the provisions of 8 CFR part 264, applicants may be required to submit fingerprints on Form FD-258 or in the manner prescribed by the Service for the purpose of determining eligibility for participation in the PORTPASS program.

(4) *Application.* (i) Application for PORTPASS access shall be made on Form I-823, Application—Inspections Facilitation Program. Applications may be submitted during regular working hours at the port-of-entry having jurisdiction over the port-of-entry for which the applicant requests access. Applications may also be submitted by mail. Each applicant must present himself or herself for inspection and positive identification prior to approval of the application. Each person seeking PORTPASS access must file a separate application."

(ii) Applications must be supported by evidence of citizenship, and, in the case of lawful permanent residents of the United States, evidence of legal permanent resident status in the United States. Evidence of residency must be submitted by all applicants. Alien applicants requiring a valid visa must be in possession of such documentation and any other documentation as required by the Act at the time of the application, at the time of each entry,

and at all times while present in the United States.

(iii) A completed application must be accompanied by the fee as prescribed in § 103.7(b)(1) of this chapter. Each PORTPASS applicant 14 years of age or older must complete the application and pay the application fee. Applicants under the age of 14 will be required to complete the application, but will not be required to pay the application fee. The district director having jurisdiction over the POE where the applicant requests access may, in his or her discretion, waive the application fee.

(iv) Each vehicle registered by a PORTPASS participant must be inspected and approved by the Service prior to use in the PORTPASS system.

(v) An application may be denied in the discretion of the district director having jurisdiction over the POE where the applicant requests access. Notice of such denial shall be given to the applicant. There is no appeal from the denial, but denial is without prejudice to reapplying for this or any other Service benefit.

(vi) Applications approved by the Service will entitle the applicant to seek entry via a designated PORTPASS Program POE for a period of 1 year from the date of approval of the application unless approval is otherwise withdrawn.

(5) In addition to the conditions set forth in § 235.13(b), participants must agree to the following:

(i) The installation and/or use of any and all decals, devices, technology or other methodology deemed necessary by the Service to ensure inspection of the person(s) seeking entry through a DCL, in addition to any monetary deposit assessed by the Service pending return of any and all such decals, devices, technology, and other methodology in undamaged condition;

(ii) The payment of a system costs fee as determined by the Service as necessary to cover the costs of any and all decals, devices, technology, or other methodology used to identify and inspect persons seeking access through the DCL.

(6) The district director having jurisdiction over the POE where the participant has access may, in his or her discretion, waive the deposit and "system costs fee."

(b) *Conditions for participation in the PORTPASS Program.* Upon being inspected and positively identified by an immigration officer and found admissible and eligible for participation in the PORTPASS program, a participant in the PORTPASS program must agree to abide by the following conditions:

(1) APP-approved participants who wish to enter the United States through a POE other than one designated as an APP through which they may pass must present themselves for inspection or examination by an immigration officer during normal business hours. Entry to the United States during hours when an APP port is not staffed may be made only through a POE designated as an APP.

(2) Each occupant of a vehicle entering through a POE providing PORTPASS access must have applied for participation in the PORTPASS Program and must have been approved for that purpose.

(3) Participants must be in possession of any authorization documents issued for PORTPASS access and any other entry documents as required by the Act or by regulation at time of each entry to the United States.

(4) Participants must positively identify themselves in the manner prescribed by the Service at the time of each application for entry via the PORTPASS system. Each use of the PORTPASS system constitutes a separate application for entry to the United States.

(5) Participants must agree to an initial inspection of any vehicle prior to use of the PORTPASS access lane.

(6) Participants may not import merchandise or transport controlled or restricted items while entering the United States under the PORTPASS Program. The entry of any merchandise or goods must be in accordance with the laws and regulations of all other federal inspection agencies.

(7) Participants must agree to random checks or inspections that may be conducted by the Service at any time and at any location, to ensure compliance.

(8) Participants agree to abide by all federal, state and local laws regarding the importation of alcohol or agricultural products or the importation or possession of controlled substances as defined in section 101 of the Controlled Substance Act (21 U.S.C. 802).

(9) Participant acknowledges that all devices, decals, or other equipment, method, or technology used to identify or inspect persons or vehicles seeking entry via any PORTPASS program remains the property of the United States Government at all times, and must be surrendered upon request by the Service. Participant agrees to abide by the terms set forth by the Service for use of any device, decal, or other equipment, method or technology, including but not limited to the payment of any deposit for use of same.

(10) Participant agrees to abide by all conditions required for use of the special access lane.

(11) Participant agrees to notify the Service if a vehicle approved for use in a PORTPASS program is sold, stolen, damaged, or disposed of otherwise. If a vehicle is sold, it is the responsibility of the participant to remove or obliterate any identifying device or other authorization for participation in the program before or at the time of sale unless otherwise notified by the Service. If any license plates are replaced on an enrolled vehicle, the participant must submit a properly executed Form I-823, Application—Inspections Facilitation Program, without fee, prior to use of the vehicle in the PORTPASS program.

(c) *Violation of condition of the PORTPASS Program.* A PORTPASS Program participant who violates any condition of the PORTPASS Program, or who has violated any immigration law or regulation, or a law or regulation of the United States Customs Service or other Federal Inspection Service, or who is otherwise determined by an immigration officer to be inadmissible to the United States, may have the PORTPASS access revoked at the discretion of the district director or the chief patrol agent and may be subject to other applicable sanctions, such as criminal and/or administrative prosecution or deportation, as well as possible seizure of goods and/or vehicles.

PART 286—IMMIGRATION USER FEE

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

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

6. Section 286.8 is revised to read as follows:

§ 286.8 Establishment of pilot programs for the charging of a land border fee for inspection services.

Under the provisions of section 286(q) of the Act, the Service may establish pilot programs at one or more land border ports-of-entry to charge fees for immigration inspection services to be collected by the Commissioner. Individual ports-of-entry selected by the Commissioner to participate in such pilot programs may charge a fee to enhance inspection services and to recover the cost of:

(a) Hiring additional immigration inspectors, including all associated personnel costs such as salary, benefits, and overtime;

(b) Expansion, operation, and maintenance of information systems for nonimmigrant control;

(c) Construction costs, including those associated with adding new primary traffic lanes (with the concurrence of the General Services Administration);

(d) Procuring detection devices and conducting training to identify fraudulent documents used by applicants for entry to the United States; and

(e) Other administrative costs associated with the PORTPASS Program.

PART 299—IMMIGRATION FORMS

7. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

8. Section 299.1 is amended by revising the entry for the "Form I-823" to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
I-823	08-24-95	Application—Inspections Facilitation Program.

* * * * *

9. Section 299.5 is amended by revising the entry for the "Form I-823" to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
I-823	Application—Inspections Facilitation Program	1115-0174

* * * * *

Dated: September 26, 1995.
 Doris Meissner,
*Commissioner, Immigration and
 Naturalization Service.*

Appendix to the preamble—Form I-823,
 Application—Inspections Facilitation
 Program.
BILLING CODE 4410-10-M

Note: This appendix will not appear in the
 Code of Federal Regulations.

U.S. Department of Justice
Immigration and Naturalization Service

OMB NO. 1115-0174
Application - Inspections Facilitation Program

INSTRUCTIONS

Read carefully -- fee will not be refunded. Failure to follow instructions may require return of your application and delay final action.

1. **Preparation of Application.** Fill in application in single copy only, by typewriter, or print in block letters using only dark ink. Do not use pencil or red ink. Do not leave any question unanswered. Mark any question which does not apply to you "N/A"

2. **Who Can Apply:**

Citizens and Lawful Permanent Residents of the United States, citizens of Canada and Landed Canadian Immigrants who are citizens of British Commonwealth countries are eligible to apply for all programs. Additional eligibility criteria for each program are indicated below:

- A. **Dedicated Commuter Lane Program** - Certain citizens of Mexico and certain non-immigrants.
- B. **Automated Permit Port Program** - Certain non-immigrants.
- C. **INSPASS Land Border** - Holders of Mexican Border Crossing Cards and citizens of Visa Waiver Program countries.
- D. **INSPASS Airport** - Citizens of Visa Waiver Program countries or any other country approved for participation by the Commissioner, INS.

Each participant in each program must submit a separate application. Persons under 14 years of age may not enroll in either INSPASS Program.

3. **Where to Submit This Application.** Applications may be submitted in person or by mail to the U.S. Port-of-Entry sponsoring the Dedicated Commuter Lane for which you are applying, or at the Port-of-Entry having jurisdiction over the Automated Permit Port for which you request access. INSPASS applicants may apply at any INSPASS Port-of-Entry in person or by mail.

4. **Submission of Application.** Each application must be supported by evidence of citizenship, and in the case of lawful permanent residents of the United States or Canada, evidence of legal resident status and other documentary requirements as specified in the Immigration and Nationality Act (Act). Photocopies of passports, naturalization certificates, or other evidence of eligibility may be submitted (do not send originals in mail).

5. **Final Approval.** Your application will be reviewed and an interview may be scheduled prior to acceptance. You will be required to produce your original evidence of eligibility at that time. Approval for participation is valid for one year unless otherwise revoked.

6. **Denial.** An application for participation in a program may be denied at the discretion of the District Director without appeal. All applicants denied shall be so notified. Applications submitted without the required documentation or which are incomplete will be returned without action.

7. **Application Fee.**

- A. The fee for the Dedicated Commuter Lane Program is \$25.00 (U.S.) with a maximum amount payable by a family (husband, wife, and any minor children) of \$50.00 (U.S.). If fingerprints are required, there will be an additional fee.
- B. Presently, there is no fee for the Automated Permit Port Program or for either INSPASS Program.

Payment may be made by check or money order in the exact amount. All checks and money orders must be payable in U.S. currency at a financial institution in the United States. Make check or money order payable to "Immigration and Naturalization Service." A charge of \$5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

8. **Privacy Act Statement.** The authority to collect this information is contained in Title 8, United States Code. Furnishing the information on this form is voluntary; however, failure to provide all of the requested information may result in the delay of a final decision or denial of your request. The information collected will be used to make a determination on your application. It may also be provided to other government agencies (Federal, state, local and/or foreign).

9. **Penalties for False Statements in Applications.** Severe penalties are provided by law for knowingly and willfully falsifying or concealing a material fact or using any false document in the submission of this application. Also, a false representation may result in the denial of this application and any other application you may make for any benefit under the immigration laws of the United States.

10. **Random compliance checks.** Periodic random checks will be conducted to ensure compliance with the conditions of each program. Any person violating the conditions and terms of the program may be subject to severe penalties, including revocation of the permit; seizure of the vehicle and/or goods as applicable; as well as possible fines and/or criminal prosecution and deportation.

11. **Reporting Burden.** We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: 1) learning about the form, and reading and understanding U.S. Customs Publications 28 minutes; 2) completing the form, 8 minutes; 3) fingerprinting 30 minutes; and 4) assembling and mailing the application, 4 minutes, for an estimated average of 70 minutes per response. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Immigration and Naturalization Service, 425 I Street, N.W.; Room 5307, Washington, D.C. 20536. **Do not mail your completed application to this address.**

U. S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0174
Application - Inspections Facilitation Program

START HERE - PLEASE TYPE OR PRINT

Application Type: (Check one) [] Dedicated Commuter Lane Program [] Automated Permit Port Program [] INSPASS Airport [] INSPASS Land

1. Name: (Last) (First) (Middle Name)			2. Date of Birth: (MM/DD/YY)	
3. U.S. Social Security Number (If applicable)		4. U.S. Alien Registration No. (If applicable)		5. Gender: () Male () Female
6. Place of Birth: (City) (State) (Country)				

7. Permanent Address (Street Number and Name):

City:	State/Province/Country:	Zip/Postal Code:	8. Country of Citizenship:
9. Driver's License No. (If applicable):	State/Province/Country of Issuance:	10. Frequency of cross/border travel (Per year): <input type="checkbox"/> 0-5 <input type="checkbox"/> 11-100 <input type="checkbox"/> 6-10 <input type="checkbox"/> More than 100	

11. Usual purpose of Entry:

12. Port-of-Entry where you intend to enter the United States:

13. Have you ever been:

- a. Arrested or convicted of a criminal offense, anywhere? Yes__ No__
- b. Granted a conditional discharge or pardon? Yes__ No__
- c. Found to be in violation of any immigration law? Yes__ No__
- d. Found to be in violation of any customs law? Yes__ No__
- e. Refused admission to the United States? Yes__ No__
- f. Denied any other immigration benefit, whether you applied for the benefit directly, or the benefit was sought on your behalf? Yes__ No__

If yes, please explain: _____

For Government Use Only

Identification Document(s) Presented _____ Expiration Date: _____

Type of Application: Initial Renewal Replacement Card

Remarks: _____

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0174
Application - Inspections Facilitation Program

AUTOMATED PERMIT PORT PARTICIPANTS

1. Participant acknowledges that he/she is a citizen or permanent resident of the United States, or a citizen of the country contiguous to the Port-of-Entry sponsoring the permit port program in which the applicant seeks to participate, or a Landed Canadian Immigrant who is a citizen of the Commonwealth countries, or is a citizen of a country designated by the Commissioner of the Immigration and Naturalization Service as eligible to participate in the PORTPASS Program.
2. Participant agrees to a full inspection of the registered vehicle(s) listed on the application prior to initial use of the Automated Permit Port, if requested by any government agency.
3. Participant agrees to submit to a full and complete vehicular and passenger inspection, for compliance purposes, at any time or location while using the Automated Permit Port.
4. Participant agrees to pay an annual fee for the use of the Automated Permit Port, if required.
5. Participant agrees to abide by all conditions imposed. These conditions include, but are not limited to, the following:
 - a. Transportation of only enrolled PORTPASS participants when entering a location designated as an Automated Permit Port during a time that location is normally closed to non-PORTPASS participants;
 - b. State and Federal laws regarding the importation of alcohol or agricultural products;
 - c. All Federal, state and local laws pursuant to Sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Immigration and Nationality Act regarding possession and importation of controlled substances; and,
 - d. All other pertinent regulations under the jurisdiction of any other Federal inspection agency.
6. Participant agrees that he/she will not be exempt from the normal examination process when entering at an open, designated Port-of-Entry or while transporting persons who are not enrolled in the PORTPASS Program.
7. Participant agrees to retain the Automated Permit Port authorization document when crossing the border and to produce such document and personal identification, including any required passport, visa, or Border Crossing Card, upon request.
8. Participant acknowledges that the Automated Permit Port may not be used when importing merchandise or transporting controlled or restricted items.
9. Participant acknowledges that a violation of the conditions listed above for use of the Automated Permit Port may result in removal from the program and may result in the imposition of any other applicable fines, penalties, or sanctions as provided by law.
10. Participant acknowledges that he/she has read and understood U.S. Customs publication 512, "Know Before You Go", for U.S. resident applicants, or U.S. Customs publication 511-A, "Customs Hints", for non-resident applicants. If there is anything to be declared in the vehicle by anyone, beyond entitled exemptions, the vehicle cannot use the Automated Permit Port.
11. Vehicle Information (*List several if applicable*):

Vehicle License:	_____	State/Province:	_____
Vehicle Identification Number:	_____	Vehicle Make/Model:	_____
Vehicle Year:	_____	Vehicle Color:	_____
Vehicle License:	_____	State/Province:	_____
Vehicle Identification Number:	_____	Vehicle Make/Model:	_____
Vehicle Year:	_____	Vehicle Color:	_____
Vehicle License:	_____	State/Province:	_____
Vehicle Identification Number:	_____	Vehicle Make/Model:	_____
Vehicle Year:	_____	Vehicle Color:	_____

CERTIFICATION:

I certify that I have read, understood, and agree to abide by all conditions listed above for use of the Automated Permit Port. I also certify that the information given is true and complete. I understand that all information may be shared with other government agencies.

(Signature of Applicant)

(Date)

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0174
Application - Inspections Facilitation Program

DEDICATED COMMUTER LANE PARTICIPANTS

1. Participant acknowledges that he/she is a citizen or permanent resident of the United States, or a citizen of the country contiguous to the Port-of-Entry sponsoring the commuter lane program in which the applicant seeks to participate, or a Landed Canadian Immigrant who is a citizen of the Commonwealth countries, or is a citizen of a country designated by the Commissioner of the Immigration and Naturalization Service as eligible to participate in the PORTPASS Program.
2. Participant agrees to a full inspection of the registered vehicle(s) listed on the application prior to initial use of the Dedicated Commuter Lane, if requested by any government agency.
3. Participant further agrees to submit to a full and complete vehicular and passenger inspection, for compliance purposes, at any time or location while using the Dedicated Commuter Lane.
4. Participant agrees to pay a system costs fee and/or deposit, as determined necessary by the Service pursuant to regulations, for the use of the Dedicated Commuter Lane. All devices, decals, or other equipment, method or technology used to identify persons or vehicles in the DCL program remains the property of the U.S. Government and must be surrendered upon request to the Service.
5. Participant agrees to abide by all conditions imposed. These conditions include, but are not limited to, the following:
 - a. The transportation of only enrolled PORTPASS participants while using the Dedicated Commuter Lane;
 - b. State and Federal laws regarding the importation of alcohol or agricultural products;
 - c. All Federal, state and local laws pursuant to Sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Immigration and Nationality Act regarding possession and importation of controlled substances; and,
 - d. All other pertinent regulations under the jurisdiction of any other Federal inspection agency.
6. Participant agrees to retain the Dedicated Commuter Lane authorization document when crossing the border and to produce such document and personal identification, including any required passport, visa, or Border Crossing Card, upon request.
7. Participant acknowledges that the Dedicated Commuter Lane may not be used when importing merchandise or transporting controlled or restricted items.
8. Participant acknowledges that a violation of the conditions listed above for use of the Dedicated Commuter Lane may result in removal from the program and, in addition, may result in the imposition of any other applicable fines, penalties, or sanctions as provided by law.
9. Participant acknowledges that he/she has read and understood U.S. Customs publication 512, "Know Before You Go", for U.S. resident applicants, or U.S. Customs publication 511-A, "Customs Hints", for nonresident applicants. If there is anything to be declared in the vehicle by anyone, beyond entitled exemptions, the vehicle cannot use the Dedicated Commuter Lane.
10. Vehicle Information (*List several if applicable*):

Vehicle License:	_____	State/Province:	_____
Vehicle Identification Number:	_____	Vehicle Make/Model:	_____
Vehicle Year:	_____	Vehicle Color:	_____
Vehicle License:	_____	State/Province:	_____
Vehicle Identification Number:	_____	Vehicle Make/Model:	_____
Vehicle Year:	_____	Vehicle Color:	_____
Vehicle License:	_____	State/Province:	_____
Vehicle Identification Number:	_____	Vehicle Make/Model:	_____
Vehicle Year:	_____	Vehicle Color:	_____

CERTIFICATION:

I certify that I have read, understood, and agree to abide by all conditions listed above for use of the Dedicated Commuter Lane. I also certify that the information given is true and complete. I understand that all information may be shared with other government agencies.

(Signature of Applicant)

(Date)

U.S. Department of Justice
 Immigration and Naturalization Service

OMB No. 1115-0174
 Application - Inspections Facilitation Programs

INSPASS AIRPORT PARTICIPANTS

1. Participant acknowledges he/she is a citizen or permanent resident of the United States, a citizen of Canada, a Landed Canadian Immigrant who is a citizen of a British Commonwealth country, a citizen of a Visa Waiver Program country, or any other country approved for participation by the Commissioner, Immigration and Naturalization Service.
2. Participant may not use the INSPASS card when entering the United States for a purpose other than that stated in this application.
3. Participant will not be exempt from the normal examination process when entering for any other purpose.
4. Participant agrees to abide by all conditions imposed. These conditions include, but are not limited to, the following:
 - a. State and federal laws regarding the importation of alcohol or agricultural products;
 - b. All federal, state, and local laws relating to Section 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Immigration and Nationality Act regarding possession and importation of controlled substances; and,
 - c. All other pertinent regulations under the jurisdiction of any other federal inspection agency.
5. Participant agrees to produce any required passport, and visa, if required, or Border Crossing Identification Card, or Alien Registration Card, upon request during periodic random checks or inspections for compliance purposes.
6. INSPASS does not relieve the holder of compliance with documentary requirements. The traveler must be in possession of a valid passport, visa, Border Crossing Card, or Alien Registration Card, if required. The INSPASS Card remains the property of the United States and may be revoked or cancelled at anytime without notice.
7. Participant acknowledges that a violation of the conditions listed above may result in removal from the program and may result in the imposition of any other applicable fines, penalties, or sanctions as provided by law.

INSPASS SUPPLEMENTAL QUESTIONS:

Passport Number: _____ Expiration Date: _____
 Country Issuing Passport: _____
 Employer's Name: _____
 Occupation: _____
 Admission Classification: _____
 Language Preference: _____

NON UNITED STATES CITIZENS <i>(If you are a United States Citizen do not complete this section)</i>			
Visa Class <i>(If Applicable)</i>	Visa Number	Place of Visa Issuance (City or Country)	Date of Visa Issuance
Date of Visa Expiration		Country of Residence	
Contact Address in the United States <i>(Street number and name, City, State and Zip Code)</i>			

CERTIFICATION: *(All applicants must sign)*

I certify that I have read, understood, agree to abide by all conditions listed above for use of the INSPASS. I also certify that the information is true and complete. I understand that all information may be shared with other government agencies.

(Signature of Applicant)

(Date)

VISA WAIVER PARTICIPANTS *(To be completed by Visa Waiver Program Applicants Only)*

- | | YES | NO |
|---|--------------------------|--------------------------|
| A. Do you have a communicable disease; physical or mental disorder; or are you a drug abuser or addict? | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Have you ever been arrested or convicted for an offense or crime involving moral turpitude or a violation related to a controlled substance; or been arrested or convicted for two or more offenses for which the aggregate sentence to confinement was five years or more; or been a controlled substance trafficker; or are you seeking entry to engage in criminal or immoral activities? | <input type="checkbox"/> | <input type="checkbox"/> |
| C. Have you ever been or are you now involved in espionage or sabotage; or in terrorist activities; or genocide; or were you involved, in any way, between 1933 and 1945 in persecutions associated with Nazi Germany or its allies? | <input type="checkbox"/> | <input type="checkbox"/> |
| D. Are you seeking to work in the United States; or have you ever been excluded and deported or previously removed from the United States; or have you ever procured or attempted to procure a visa or entry into the United States by fraud or misrepresentation? | <input type="checkbox"/> | <input type="checkbox"/> |
| E. Have you ever detained, retained, or withheld custody of a child from a United States Citizen granted custody of the child? | <input type="checkbox"/> | <input type="checkbox"/> |
| F. Have you ever been denied a United States visa or entry into the United States or had a United States visa cancelled?
If yes, when? _____ Where? _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| G. Have you ever asserted immunity from prosecution? | <input type="checkbox"/> | <input type="checkbox"/> |

I understand that I am not entitled to any review or appeal of an immigration officer's determination as to my admissibility, nor am I entitled to contest any determination of deportability other than on the basis of an application for asylum.

(Signature of Applicant)

(Date)

WARNING: You may not accept unauthorized employment; or attend school; or represent the foreign information media during your visit under this program. You are authorized to stay in the United States for 90 days or less. You may not apply for: 1) a change of nonimmigrant status; 2) adjustment of status to temporary or permanent resident, unless eligible under section 201(b) of the Immigration and Nationality Act (INA); or 3) an extension of stay. Violation of these terms will subject you to deportation.

U.S. Department of Justice
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INSPASS LAND BORDER PARTICIPANTS

1. Participant acknowledges that he/she is a citizen, or Lawful Permanent Resident of the United States, a citizen of Canada, a Landed Canadian Immigrant who is a citizen of a British Commonwealth country, is the holder of an unexpired Border Crossing Card, or is a national of a Visa Waiver Program country. Border Crossing Card holders are restricted to an entry not to exceed 72 hours in duration and travel of less than 25 miles from the Port-of-Entry to the United States.
2. Participant may not use the INSPASS card when entering the United States for a purpose other than that stated in this application.
3. Participant will not be exempt from the normal examination process when entering for any other purpose.
4. Participant agrees to abide by all conditions imposed. These conditions include, but are not limited to, the following:
 - a. State and federal laws regarding the importation of alcohol or agricultural products;
 - b. All federal, state, and local laws relating to Section 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Immigration and Nationality Act regarding possession and importation of controlled substances; and,
 - c. All other pertinent regulations under the jurisdiction of any other federal inspection agency.
 - d. Participant cannot bring in any agricultural products of any kind irregardless of it being processed, treated, frozen, or fresh including products normally permissible by U.S. Department of Agriculture Animal and Plant Health Inspection Service.
5. Participant agrees to produce personal identification, including any required passport, visa, Alien Registration Card, or Border Crossing Identification Card, upon request during periodic random checks or inspections for compliance purposes.
6. Participant acknowledges that the INSPASS Card authorizes entry only for the card holder, not goods, and may not be used when importing merchandise or transporting controlled or restricted items. Children may not accompany the card holder through the INSPASS inspection lane.
7. INSPASS does not relieve the holder of compliance with documentary requirements. The traveler must still be in possession of a valid passport, visa, Border Crossing Card, or Alien Registration Card, if required. The INSPASS Card remains the property of the United States and may be revoked or cancelled at anytime without notice.
8. Participant acknowledges that a violation of the conditions listed above may result in removal from the program and may result in the imposition of any other applicable fines, penalties, or sanctions as provided by law.

INSPASS SUPPLEMENTAL QUESTIONS:

Passport Number: _____ Expiration Date: _____

Country Issuing Passport: _____

Employer's Name : _____

Occupation: _____

Admission Classification: _____

Language Preference: _____

CERTIFICATION: *(All applicants must sign)*

I certify that I have read, understood, agree to abide by all conditions listed above for use of the INSPASS. I also certify that the information is true and complete. I understand that all information may be shared with other government agencies.

(Signature of Applicant)

(Date)

VISA WAIVER PARTICIPANTS *(To be completed by Visa Waiver Program Applicants Only)*

- | | YES | NO |
|---|--------------------------|--------------------------|
| A. Do you have a communicable disease; physical or mental disorder; or are you a drug abuser or addict? | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Have you ever been arrested or convicted for an offense or crime involving moral turpitude or a violation related to a controlled substance; or been arrested or convicted for two or more offenses for which the aggregate sentence to confinement was five years or more; or been a controlled substance trafficker; or are you seeking entry to engage in criminal or immoral activities? | <input type="checkbox"/> | <input type="checkbox"/> |
| C. Have you ever been or are you now involved in espionage or sabotage; or in terrorist activities; or genocide; or were you involved, in any way, between 1933 and 1945 in persecutions associated with Nazi Germany or its allies? | <input type="checkbox"/> | <input type="checkbox"/> |
| D. Are you seeking to work in the United States; or have you ever been excluded and deported or previously removed from the United States; or have you ever procured or attempted to procure a visa or entry into the United States by fraud or misrepresentation? | <input type="checkbox"/> | <input type="checkbox"/> |
| E. Have you ever detained, retained, or withheld custody of a child from a United States Citizen granted custody of the child? | <input type="checkbox"/> | <input type="checkbox"/> |
| F. Have you ever been denied a United States visa or entry into the United States or had a United States visa cancelled?
If yes, when? _____ Where? _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| G. Have you ever asserted immunity from prosecution? | <input type="checkbox"/> | <input type="checkbox"/> |

I understand that I am not entitled to any review or appeal of an immigration officer's determination as to my admissibility, nor am I entitled to contest any determination of deportability other than on the basis of an application for asylum.

(Signature of Applicant)

(Date)

WARNING: You may not accept unauthorized employment; or attend school; or represent the foreign information media during your visit under this program. You are authorized to stay in the United States for 90 days or less. You may not apply for: 1) a change of nonimmigrant status; 2) adjustment of status to temporary or permanent resident, unless eligible under section 201(b) of the Immigration and Nationality Act (INA); or 3) an extension of stay. Violation of these terms will subject you to deportation.

APPENDIX