

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Part 212

[INS No. 1956-98]

RIN 1115-AF28

#### Nonimmigrant Visa Exemption for Certain Nationals of the British Virgin Islands Entering the United States Through St. Thomas, United States Virgin Islands

**AGENCY:** Immigration and Naturalization Service, Justice.

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

**SUMMARY:** This rule amends the Immigration and Naturalization Service's (Service) regulations to allow nonimmigrant visitors for business or pleasure who are nationals of the British Virgin Islands (BVI) to apply for admission to the United States (U.S.) at the port-of-entry of St. Thomas, U.S. Virgin Islands, without nonimmigrant visas. Since the Department of State closed its post in Antigua in 1994, all BVI residents requiring nonimmigrant visas must either travel to, or mail their applications to, the consular post at Bridgetown, Barbados, the nearest visa-issuing location. The Service's action will facilitate travel to the United States for certain nationals of the BVI while still ensuring the proper application of the provisions of the Immigration and Nationality Act (Act).

**DATES:** *Effective date:* This interim rule is effective February 18, 1999.

*Comment date:* Written comments must be submitted on or before April 19, 1999.

**ADDRESSES:** Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW, Room 5307,

Washington, DC 20536. To ensure proper handling, please reference INS No. 1956-98 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

#### FOR FURTHER INFORMATION CONTACT:

William Plunges, Senior Immigration Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street, NW, Room 4064, Washington, DC 20536, telephone (202) 616-7992.

#### SUPPLEMENTARY INFORMATION:

#### Why will certain nationals of the British Virgin Islands no longer require nonimmigrant visas to enter the United States?

Due to budgetary constraints, the Department of State has closed several visa-issuing posts worldwide in recent years, including the consulate at St. John's, Antigua, which served residents of the BVI. Consequently, nationals of the BVI who require nonimmigrant visas must either travel to the nearest visa-issuing location, Bridgeton, Barbados, if their need for travel is immediate, or mail their applications for visas to the consular post if time allows. The government of the BVI requested that some accommodation be made to improve this situation, since neither passports nor visas are required of nationals of the United States who enter the BVI. Section 212(d)(4) of the Immigration and Nationality Act authorizes the Attorney General and Secretary of State acting jointly to waive the documentary requirements for certain nonimmigrants on the basis of reciprocity with respect to nationals of foreign contiguous territories or adjacent islands and residents thereof having a common nationality with such nationals. After a joint study, the Department of State and the Service have decided to allow nonimmigrant visitors for business or pleasure who are nationals of the BVI to apply for admission to the United States without nonimmigrant visas and without limitation as to their ultimate destination within the United States, provided that they make such an application for admission at the port-of-entry of St. Thomas, United States Virgin Islands.

#### How will the regulations be changed?

Currently, § 212.1(b) allows a national of the BVI to enter into the U.S. Virgin Islands without a nonimmigrant visa, provided the individual does not proceed from the U.S. Virgin Islands to any other part of the United States. If the individual desires to proceed to any other part of the United States, he or she must be in possession of a valid nonimmigrant visa and passport.

This interim rule amends § 212.1(b) by removing the restriction preventing such an individual from entering into any other part of the United States, provided he or she departs from the U.S. Virgin Islands through the port of embarkation at St. Thomas, is proceeding directly by aircraft to another part of the United States, is admissible as a nonimmigrant visitor for business or pleasure, and presents a current Certificate of Good Character issued by the Royal Virgin Islands Police Department indicating that he or she has no criminal record. Any other national of the BVI who is applying for admission as a nonimmigrant and plans to proceed beyond the U.S. Virgin Islands must be in possession of a valid unexpired nonimmigrant visa. The Department of State will be issuing simultaneous regulations published elsewhere in this issue of the **Federal Register**.

#### Good Cause Exception

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based upon the "good cause" exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The reasons and the necessity for immediate implementation of this interim rule without prior notice and comment are as follows: this interim rule relieves a restriction, does not impose a new burden, and is beneficial to the traveling public and United States businesses which are patronized by persons benefiting from this rule. This rule also is beneficial to the effective operation of the United States Government, specifically, the Department of State which is relieved from issuing thousands of nonimmigrant visas.

#### 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 this rule will not have a significant economic impact on a substantial number of small entities. This rule affects individual visitors to the United States by removing the requirement of securing a nonimmigrant visa prior to entry into the United States beyond the U.S. Virgin Islands.

#### 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 1 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

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 regulation adopted 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 12988 Civil Justice Reform

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

#### List of Subjects in 8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, part 212 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

#### PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for part 212 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

2. In §212.1, paragraph (b) is revised to read as follows:

#### §212.1 Documentary requirements for nonimmigrants.

\* \* \* \* \*

(b) *Certain Caribbean residents.* (1) *British, French, and Netherlands nationals, and nationals of certain adjacent islands of the Caribbean which are independent countries.* A visa is not required of a British, French, or Netherlands national, or of a national of Barbados, Grenada, Jamaica, or Trinidad and Tobago, who has his or her residence in British, French, or Netherlands territory located in the adjacent islands of the Caribbean area, or in Barbados, Grenada, Jamaica, or Trinidad and Tobago, who:

(i) Is proceeding to the United States as an agricultural worker;

(ii) Is the beneficiary of a valid, unexpired indefinite certification granted by the Department of Labor for employment in the Virgin Islands of the United States and is proceeding to the Virgin Islands of the United States for such purpose, or

(iii) Is the spouse or child of an alien described in paragraph (b)(1)(i) or (b)(1)(ii) of this section, and is accompanying or following to join him or her.

(2) *Nationals of the British Virgin Islands.* A visa is not required of a national of the British Virgin Islands who has his or her residence in the British Virgin Islands, if:

(i) The alien is seeking admission solely to visit the Virgin Islands of the United States; or

(ii) At the time of embarking on an aircraft at St. Thomas, U.S. Virgin

Islands, the alien meets each of the following requirements:

(A) The alien is traveling to any other part of the United States by aircraft as a nonimmigrant visitor for business or pleasure (as described in section 101(a)(15)(B) of the Act);

(B) The alien satisfies the examining U.S. Immigration officer at the port-of-entry that he or she is clearly and beyond a doubt entitled to admission in all other respects; and

(C) The alien presents a current *Certificate of Good Conduct* issued by the Royal Virgin Islands Police Department indicating that he or she has no criminal record.

\* \* \* \* \*

Dated: February 10, 1999.

**Doris Meissner,**

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 99-3982 Filed 2-17-99; 8:45 am]

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#### DEPARTMENT OF JUSTICE

#### Immigration and Naturalization Service

#### 8 CFR Parts 312 and 499

[INS No. 1702-96]

RIN 1115-AE02

#### Exceptions to the Educational Requirements for Naturalization for Certain Applicants

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Final rule.

**SUMMARY:** On March 19, 1997, the Immigration and Naturalization Service (the Service) published a final rule in the **Federal Register** establishing an administrative process to adjudicate requests for exceptions from the English and Civics requirements of section 312 of the Immigration and Nationality Act (the Act), by persons with physical or developmental disabilities, or mental impairments. The Service offered the public the opportunity to comment on the final rule, specifically requesting comments on the appeal process and quality control procedures for disability-related adjudications.

Based on comments to the rule and current naturalization quality procedures, the Service has determined that a separate appeals process and additional quality procedures are unnecessary at this time. The Service, however, has amended the rule to include licensed doctors of osteopathy (DOs) as health care providers who are authorized to complete Form N-648,