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SUBCHAPTER E—VISAS

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8113 Definitions.

In addition to the pertinent definitions contained in the Immigration and Nationality Act, the following definitions shall be applicable to this part:

"Accredited," as used in sections 101(m)(15)(A), 101(n)(15)(C) and 212(d)(8) of the Act, refers to an alien who holds an official position, other than an honorary official position, with the government or interna-

tional organization he represents, and who is in possession of a travel document or other evidence showing that he seeks to enter, or pass in transit through, the United States for the purpose of transacting official business for that government or international organization."

"Act" means the Immigration and Nationality Act as amended.

"Applicants" as used in sections 101 of the Act, 101(m)(15) of the Act, and 101(n)(15) of the Act, shall include persons who are paid from the public funds of a foreign government or from the funds of an international organization and who is accompanying or following to join the principal alien to whom he owes a duty or service.

"Competent officer," "Competent officer," as used in section 101(a)(26) of the Act, shall refer to a "consular officer," as defined in section 101(a)(18) of the Act and this section.

"Consular officer," as defined in section 101(a)(18) of the Act, shall include commissioned consular officers, the District Administrators of the Trust Territory of the Pacific Islands, the Director of the Visa Office of the Department and such other officers of the Department as he shall designate for the purpose of issuing nonimmigrant visas, but shall not include a consular agent, an attaché, or an assistant attaché. The assignment by the Department of any Foreign Service Officer or Foreign Service Reserve Officer to a diplomatic or consular office of the United States abroad in a position administratively designated as requiring, solely, principally, or partially, the performance of consular functions, and the inclusion of a request for a consular commission, shall constitute designation of such officer as a "consular officer" within the meaning of section 101(a)(18) of the Act.

"Department," "Department" means the Department of State of the United States of America.

"Diplomatic passport," "Diplomatic passport" means a national passport bearing that title and issued by a competent authority of a foreign government.

"Equivalent of a diplomatically passport" means a national passport, other than a specifically described diplomatic passport, which is issued by a

competent authority of a foreign government, and which indicates the career diplomatic or consular status of the bearer, the issuing government being one which does not issue diplomatic passports to its career diplomatic and consular officers.

Diplomatic visa. "Diplomatic visa" means a nonimmigrant visa of any classification bearing that title and issued to an alien in accordance with the regulations contained in this part. **Government vessel or aircraft.** "Government vessel or aircraft" means a vessel or aircraft operated directly by the Government of the United States with government personnel in connection with public business of a non-commercial and non-profit character. The term "government vessel or aircraft" shall not include a vessel or aircraft which is merely controlled or subsidized by a government, or one which is engaged in what would ordinarily be regarded as commercial shipping or commercial transportation.

Immediate family. "Immediate family" as used in sections 101(a)(15)(A), 101(a)(16)(G), and 212(d)(8) of the Act and with reference to classification under the symbols NATO-1, NATO-2, NATO-3, NATO-4, and NATO-5, includes the spouse and unmarried sons and daughters, whether by blood or adoption, who are not members of some other household, and who will reside regularly in the household of the principal alien. "Immediate family" also includes, upon individual authorization by the Department, other close relatives who are members of the immediate family by blood, marriage, or adoption, who are not members of some other household, who will reside regularly in the household of the principal alien, and who are recognized as dependents by the sending Government as all rights and benefits, such as the issuance of a diplomatic or official passport and travel and other allowances,

which would be granted to the spouse and children of the principal alien.

International organization. "International organization" means any public international organization which has been designated by the President by Executive Order as being entitled to enjoy the privileges, exemptions, and immunities provided for in the International Organizations Immunities Act.

Official visa. "Official visa" means a nonimmigrant visa of any classification bearing that title and issued to an alien in accordance with the regulations contained in this part.

Passport. "Passport" as defined in section 101(a)(30) of the Act, shall not be considered as limited to a consular passport and shall not be considered as limited to a single document but may consist of two or more documents which, when considered together, fulfill the requirements of a passport, as defined in section 101(a)(30) of the Act. **Provided,** That permission to enter a foreign country must be issued by a competent authority and must be clearly valid for such purpose; in order to meet the requirements of section 101(a)(30), a nonimmigrant unable to obtain a document issued by a competent authority, which indicates his origin, identity, and nationality if any, may furnish the missing information to the best of his knowledge and belief, by presenting an affidavit which, when combined with the documentary evidence of admissibility into a foreign country, will suffice to meet the requirements of section 101(a)(30) of the Act.

Port of entry. "Port of entry" means a port or place designated by the Commissioner of Immigration and Naturalization at which an alien may apply for admission into the United States. **Principal alien.** "Principal alien" means an alien from whom another alien derives a privilege or status under the law or regulations.

Regular visa. "Regular visa" means a nonimmigrant visa of any classification issued in accordance with the regulations contained in this part, which does not bear the title "Diplomatic" or "Official."

Regulation. "Regulation" means a rule established pursuant to the provi-

sions of section 101(n) of the Act which has been duly published in the FEDERAL REGISTER.

Services and personal employees. "Services" and "personal employees," as used in sections 101(a)(15)(A)(iii), 101(a)(15)(C)(iv) and 212(d)(8) of the Act, include an alien who is employed in a domestic or personal capacity by a principal alien, who is paid from the private funds of such principal alien, and who seeks to enter the United States solely for the purpose of such employment.

Western Hemisphere. "Western Hemisphere" means North America (including Central America), South America and the islands immediately adjacent thereto including the places named in section 101(d)(5) of the Act. (Dept. Reg. 108.411, 24 FR 6072, Aug. 18, 1959)

EXPLANATORY NOTE: For Federal Register citations affecting this title, see the List of CFR Section Affected, in the Finding Aids section of this volume.

DOCUMENTATION OF NATIONALS, CLAIM-ANTS NATIONALS, AND FORMER NATIONALS

§ 41.3 Nationals, claimant nationals, and former nationals of the United States.

(a) A national of the United States shall not be issued a visa or other documentation as an alien for entry into the United States.

(b) A person whose case (fills the conditions of section 100(b) of the Act and who continues to claim that he is a national of the United States may apply for a certificate of identity as provided in section 300(b) of the Act.

(c) A former national of the United States who seeks to enter the United States shall be required to comply with the documentary requirements applicable to aliens under the Act.

(Dept. Reg. 108.411, 24 FR 6680, Aug. 18, 1959)

PASSPORTS AND VISAS NOT REQUIRED FOR CERTAIN NONIMMIGRANTS

§ 41.5 Nonimmigrants exempted by law or treaty from the requirement of passports, visas, and border-crossing identification cards.

The provisions of section 212(a)(2) of the Act relating to the requirement

of passports, visas, and border-crossing identification cards for nonimmigrants do not apply in the cases of aliens who fall within any of the following described categories:

(a) **Allied members of United States Armed Forces.** An alien member of the armed forces of the United States who (1) is in the uniform of, or who bears documents identifying him as a member of, such armed forces, (2) has not been lawfully admitted for permanent residence, and (3) is making application for official orders or permit States under official orders or permit of such armed forces. (Sec. 284, 66 Stat. 232; 8 U.S.C. 1334.)

(b) **American Indians born in Canada.** An American Indian born in Canada, having at least fifty per centum of blood of the American Indian race. (Sec. 289, 66 Stat. 244; 8 U.S.C. 1359.)

(c) **Aliens entering from Guam, Puerto Rico, or Virgin Islands.** An alien who shall leave Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks 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 entering under NATO Status of Forces Agreement.** Personnel belonging to the land, sea or air 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 the provisions of Article III of such Agreement pursuant to an individual or collective movement order issued by an appropriate agency of the sending State or of the North Atlantic Treaty Organization. (TIAS 2846; 4 U.S.T. 1792.)

(e) **Armed Services personnel attached to NATO Allied Headquarters in the United States.** Personnel attached to an Allied Headquarters in the United States set up pursuant to the North Atlantic Treaty signed in Washington, D.C., on April 4, 1949, who belong to the land, sea or air armed services of a government which

in a Party to the North Atlantic Treaty, and who are entering the United States in connection with their official duties under the provisions of the Protocol on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty (T.I.A.S. 2978; 5 U.S.T. 877.)

(1) *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; T.S. 991.)

(Dept. Reg. 108.411, 24 FR 8630, Aug. 18, 1959, as amended by Dept. Reg. 108.433, 25 FR 4577, May 25, 1960)

§ 41.6 Nonimmigrants not required to present passports, visas, or border-crossing identification cards.

The provisions of section 212(a)(20) of the Act relating to the requirements of valid passports and visas for nonimmigrants are waived by the Secretary of State and the Attorney General, acting jointly, in pursuance of the authority contained in section 212(d)(4) of the Act under the conditions specified for the following classes:

(a) *Canadian nationals and aliens having a common nationality with nationals of Canada or with British subjects in Bermuda, Bahamian nationals or British subjects resident in The Bahamas, Cayman Islands, and Turks and Caicos Islands.* A visa shall not in any case be required of a Canadian national, and a passport shall not be required of such a national except after a visit outside of the Western Hemisphere. A visa shall not be required of an alien having a common nationality with Canadian nationals or with British subjects in Bermuda, who has his residence in Canada or Bermuda, and a passport shall not be required of such an alien except after a visit outside of the Western Hemisphere. A Ba-

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A visa shall not be required of a national of the British Virgin Islands who has his residence in the British Virgin Islands, and who is proceeding to the Virgin Islands of the United States.

(c.) *Mexican nationals.* A visa and a passport shall not be required of a Mexican national who is in possession of a border crossing card on Form I-186 and is applying for admission as a temporary visitor for business or pleasure from contiguous territory or is entering solely for the purpose of applying for a Mexican passport or other official Mexican document at a Mexican consular office on the United States side of the border. A visa shall not be required of a Mexican national who is in possession of a border crossing card and is applying for admission to the United States as a temporary visitor for business or pleasure from other than contiguous territory nor of a Mexican national who is a crewman employed on an aircraft belonging to a Mexican company authorized to engage in commercial transportation into the United States. A visa shall not be required of a Mexican national bearing a Mexican diplomatic or official passport who is a military or civilian official of the Federal Government of Mexico entering the United States for a stay of up to six months for any purpose other than an assignment as a permanent employee to an office of the Mexican Federal Government in the United States. A visa shall also not be required of the official's spouse or members under 10 years of age, bearing diplomatic or official passports, who are in the actual company of such official at the time of entry into the United States. This waiver does not apply to the spouse or any of the official's family members classifiable under sections 101(a)(15)(F) or (M) of the Act.

(d) *Natives and residents of the Trust Territory of the Pacific Islands.* A visa and a passport shall not be required of a native and resident of the Trust Territory of the Pacific Islands who has proceeded in direct and continuous transit from the Trust Territory to the United States.

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Immigrant national or a British subject who has his residence in The Bahamas shall require a passport and a visa for admission to the United States except that a visa shall not be required of such an alien who, prior to or at the time of embarkation for the United States on a vessel or aircraft, satisfies the examining United States immigration officer at either Freeport or Nassau, The Bahamas that he is clearly and beyond a doubt entitled to admission in all other respects. A British subject who has his residence in The Bahamas shall require a passport and a visa for admission to the United States except that a visa shall not be required of such an alien who, prior to or at the time of embarkation for the United States on a vessel or aircraft, satisfies the examining United States immigration officer at Nassau, Bahamas, that he is clearly and beyond a doubt entitled to admission in all other respects. A visa shall not be required of a British subject who has his residence in, and arrives directly from, the Cayman Islands or the Turks and Caicos Islands and who presents a current certificate from the Clerk of Court of the Cayman Islands or the Turks and Caicos Islands indicating no criminal record.

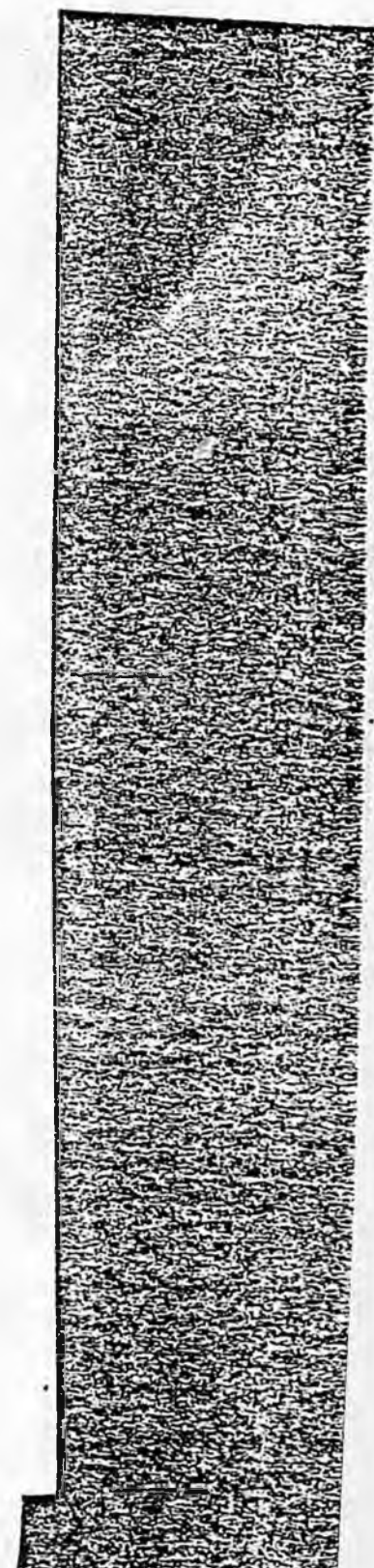
(b) *British, French, and Netherlands nationals, and nationals of certain adjacent Islands of the Caribbean which are independent countries.* A visa shall not be required of a British, French, or Netherlands national, or of a national of Barbados, Grenada, Jamaica, or Trinidad and Tobago, who:

- (1) Is proceeding to the United States as an agricultural worker; or
- (2) 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 is the spouse or child of such an alien accompanying or following to join him.

(c) *Aliens in immediate transit.* (1) *Aliens in bonded transit.* A passport and visa are not required of an alien who is being transported in immediate and continuous transit through the United States in accordance with the terms of an agreement entered into between the transportation line and the Immigration and Naturalization Service under the provisions of Section 238(d) of the Act on Form I-426 to insure such immediate and continuous transit through and departure from the United States en route to a specially designated foreign country. Provided, That such alien is in possession of a travel document or documents establishing his identity and nationality and ability to enter some country other than the United States. This waiver of visa and passport requirements is not available to an alien who is a citizen of Afghanistan, Cuba, Iraq, or Iraq. This waiver of visa and passport requirements is not available to an alien who is a citizen of North Korea ("Democratic Peoples' Republic of Korea") or North Viet-Nam ("Democratic Republic of Viet-Nam"), and is a resident of one of the said countries, and is on a basis of reciprocity available to a national of Albania, Bulgaria, Czechoslovakia, Estonia, the German Democratic Republic, Hungary, Latvia, Lithuania, Mongolian People's Republic, People's Republic of China, Poland, Romania, or the Union of Soviet Socialist Republics resident in one of said countries; only if he is transiting the United States by air-ent of a transportation line signatory to an agreement with the Immigration and Naturalization Service on Form I-426 on a direct through flight which will depart directly to a foreign place from the port of arrival.

(2) *Foreign government officials in transit.* If an alien is of the class described in section 212(d)(8) of the Act and a valid unexpired visa and a travel document which is valid for at least 30 days from the date of his application for admission into the United States shall be required.

(4) *Individual cases of humanitarian emergencies.* A visa and a passport shall not be required of a nonimmigrant who, either prior to his embar-



ation at a foreign port or place or at the time of arrival at a port of entry in the United States, satisfies the district director of the Immigration and Naturalization Service in charge of the port of entry, after consultation with and concurrence by the Director of the Visa Office of the Department, that, because of an unforeseen emergency, he was unable to obtain the required document. Any waiver of the visa requirement heretofore or hereafter granted pursuant to section 212(d)(1)(A) of the Act in the case of a national or resident of Cuba who embarks for the United States on or after November 16, 1963, shall not be valid unless such national or resident proceeds directly from Cuba to the United States and has been inspected in China by officials of the United States Immigration and Naturalization Service and of the United States Public Health Service immediately prior to his departure for the United States, irrespective of whether such national or resident had prior notice of these conditions.

(b) *Place of issuance of a United States citizen.* Notwithstanding the provisions of paragraphs (a), (b), (c), and (d) of this section, a visa shall be required of an alien described in such paragraphs who is classified, or who seeks classification under section 101(a)(15)(K) of the Act.

(Sec. 101, 84 Stat. 1, 8 U.S.C. 1101; 109(b), 91 Stat. 847, sec. 104, 66 Stat. 174; 8 U.S.C. 1104; sec. 109(b)(1), 61 Stat. 847)

(Dept. Reg. 108.411, 24 FR 6080, Aug. 16, 1959)

EXPLANATORY NOTE: For Federal Register citations affecting 41.7, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 41.7. Waiver of visa and/or passport requirements by joint action of consular and immigration officers.

The provisions of sections 212(a)(20) of the Act prescribing the documentary requirements for nonimmigrants may be waived by joint action of consular officers abroad and immigration officers pursuant to the authority contained in section 212(d)(7) of the Act in individual cases of aliens who satisfy the consular officer serving the port or place of embarkation, after consultation with and concurrence by the ap-

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propriate immigration officer, that their cases come within any of the following categories:

(a) An alien having his residence in foreign contiguous territory who does not qualify for the benefits of any waiver provided in § 41.6, and who is a member of a visiting group or excursion proceeding to the United States under circumstances which make the timely procurement of a passport and visa impracticable.

(b) *Passport waiver; aliens for whom passport extension facilities are unavailable.* An alien whose passport is not valid for the period prescribed in section 212(a)(20) of the Act and who is embarking for the United States at a port or place remote from any foreign diplomatic or consular establishment at which the passport could be revalidated.

(c) *Passport waiver; aliens precluded from obtaining passport extensions by foreign government restrictions.* An alien whose passport is not valid for the period prescribed in section 212(a)(20) of the Act and whose government as a matter of policy does not revalidate passports more than six months in advance of their expiration or until they actually expire.

(d) *Visa waiver; certain aliens proceeding to the United States under emergent circumstances.* An alien who is well and favorably known at the consular office, who has previously been issued a nonimmigrant visa which has since expired, and who is embarking on a direct journey to the United States under emergent circumstances which preclude the timely issuance of a visa.

(e) *Visa and passport waiver; members of armed forces of foreign countries making friendly visits to the United States.* An alien who is on active duty as a member of the armed forces of a foreign country and who is a member of a group of such force which is making a friendly call in the United States, whether courtesy or operational and whether in behalf of his own government or in behalf of the United Nations, under advance arrangements made with the military, naval, or air force authorities of the United States, other than an alien who is a citizen or resident of Albania,

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Bulgaria, Cuba, Czechoslovakia, Estonia, German Democratic Republic, Hungary, Latvia, Lithuania, Mongolia, an People's Republic, North Korea (Democratic People's Republic of Korea), North Vietnam (Democratic Republic of Vietnam), People's Republic of China, Poland, Romania, or the Union of Soviet Socialist Republics.

(f) *Passport waiver; landed immigrants in Canada.* An alien applying for a visa at a consular office in Canada (1) who is a landed immigrant in Canada, (2) whose port and date of expected arrival in the United States are known, and (3) who is proceeding to the United States under emergent circumstances which preclude the timely procurement of a passport or Canadian certificate of identity.

(g) *Visa and/or passport waiver; authorization to individual consular offices.* An alien within the district of a consular office which has been individually authorized by the Department, because of unusual circumstances prevailing in that district, to join with immigration officers abroad in waivers of documentary requirements in specially described categories of cases, and whose case falls within one of those categories.

(Dept. Reg. 108.416, 24 FR 6548, Oct. 22, 1959, as amended by Dept. Reg. 108.423, 24 FR 11030, Dec. 31, 1959; Dept. Reg. 108.433,

25 FR 4570, May 25, 1960; Dept. Reg. 108.411, 25 FR 7049, July 23, 1960; Dept. Reg. 108.494, 26 FR 5208, May 20, 1961; Dept. Reg. 108.664, 30 FR 4576, F. B. 10, 1973)

CLASSIFICATION OF NONIMMIGRANTS

§ 11.10 *Presumption of immigrant status and burden of proof.*

An applicant for a nonimmigrant visa shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer that he is entitled to a nonimmigrant status described in section 101(a)(15) of the Act or otherwise established by law or treaty. The burden of proof is upon the applicant to establish that he is entitled to the nonimmigrant classification and type of nonimmigrant status for which he is an applicant.

(Secs. 214, 291, 66 Stat. 189, 234, 8 U.S.C. 1183, 1361)

(Dept. Reg. 108.422, 24 FR 11080, Dec. 31, 1959)

§ 11.12 *Classification symbols.*

A visa issued to a nonimmigrant alien within one of the classes described in this section shall bear an appropriate symbol to be inserted by the consular officer in the space provided in the visa stamp to show the classification of the alien. The following symbols shall be used:

Class	Category	Symbol to be inserted in visa
Attache, public minister, consul general, or consular officer, and members of immediate family	101(a)(15)(i) 66 Stat. 167	A-1
Other foreign government official or employee, and members of immediate family	101(a)(15)(ii) 66 Stat. 167	A-2
Student, teacher, or research scholar, and members of immediate family	101(a)(15)(j) 66 Stat. 167	A-3
Temporary visitor for business	101(a)(15)(k) 66 Stat. 167	B-1
Temporary visitor for pleasure	101(a)(15)(l) 66 Stat. 167	B-2
Alien in transit	101(a)(15)(m) 66 Stat. 167	C-1
Alien in transit to United States through the United States District (under § 11.12) (4)	101(a)(15)(n) 66 Stat. 167	C-2
Foreign government official, member of immediate family attending friend, or personal acquaintance, or trainee	212(a)(9) 66 Stat. 168	C-3 and D
Greenland (under § 101(a)(15)(o))	101(a)(15)(o) 66 Stat. 168	D
Travelling representative of international organization, for self, and members of immediate family	101(a)(15)(p) 66 Stat. 168	F-1
Travelling representative of international organization, for self, and members of immediate family	101(a)(15)(q) 66 Stat. 168	F-2
Student—Academic or Language Training Program	212(a)(10) 66 Stat. 168	F-3
Spouse or child of holder	212(a)(11) 66 Stat. 168	G-1
Present or former representative of recognized foreign member government or international organization, for self, and members of immediate family	101(a)(15)(r) 66 Stat. 168	G-2
Other representative of recognized foreign member government or international organization, and members of immediate family	101(a)(15)(s) 66 Stat. 168	G-3

of the country to which he owes allegiance shall be classified as a nonimmigrant under the provisions of section 101(a)(15)(A)(i) of the Act if he is proceeding to the United States on official business for his government.

(b) *Officials acting in capacity of courier.* An alien who is not regularly and professionally employed as a courier by the government of the country to which he owes allegiance shall be classified as a nonimmigrant under the provisions of section 101(a)(15)(A)(ii) of the Act if he holds an official position with that government and is proceeding to the United States as a courier on official business for his government.

(c) *Nonofficials serving in capacity of courier.* An alien who is serving in the capacity of courier but who is not regularly and professionally employed as such and who holds no official position with, or is not a national of, the country whose government he is serving, shall be classified as a nonimmigrant under the provisions of section 101 (a)(15)(B) of the Act.

(Dept. Reg. 108.411, 24 FR 6082, Aug. 18, 1958)

TEMPORARY VISITORS

§ 41.25 Temporary visitors for business or pleasure.

(a) An alien shall be classifiable as a nonimmigrant visitor for business or pleasure if he establishes to the satisfaction of the consular officer that he qualifies under the provisions of section 101(a)(15)(B) of the Act and that: (1) He intends to depart from the United States at the expiration of his temporary stay (consular officers are authorized in borderline cases to require the posting of a bond with the Attorney General in a sufficient sum to insure that upon the conclusion of his temporary visit, or upon his failure to maintain temporary visitor status, or any status subsequently acquired under section 248 of the Act, the alien will depart from the United States); (2) he has permission to enter some foreign country upon the termination of his temporary stay; and (3) adequate financial arrangements have been made to enable him to carry out the purpose of his visit and to travel

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such advance permission is not required.

(58c. 101, 66 Stat. 166, 8 U.S.C. 1101) (Dept. Reg. 108.411, 24 FR 6082, Aug. 18, 1959)

§ 41.31 Certain aliens in transit to United Nations.

An alien within the provisions of paragraph (3), (4), or (5) of section 11 of the Headquarters Agreement with the United Nations, to whom a visa is to be issued for the purpose of applying for admission solely in transit to the United Nations Headquarters District, may at his own request or at the direction of the Secretary of State be issued a nonimmigrant visa bearing the symbol C-2. If such a visa is issued, the recipient will be subject to such restrictions in his travel within the United States as may be provided in regulations prescribed by the Attorney General.

(Dept. Reg. 108.411, 24 FR 6082, Aug. 18, 1959)

§ 41.32 Accredited officials in transit through the United States.

An accredited official of a foreign government who intends to proceed in immediate and continuous transit through the United States on official business for his government shall be entitled to the benefits of section 212(d)(8) of the Act if his government grants similar privileges to officials of the United States, and shall be classified under the provisions of section 101(a)(15)(C) of the Act. Members of the immediate family, attendants, servants, or personal employees of such an official shall be accorded the same classification as the principal alien.

(58c. 212(d)(8), 66 Stat. 188, 8 U.S.C. 1182) (Dept. Reg. 108.411, 24 FR 6082, Aug. 18, 1959)

CREWMEN

§ 41.35 Crewmen.

(a) An alien shall be classifiable as a nonimmigrant crewman if he establishes to the satisfaction of the consular officer that he qualifies under the provisions of section 101(a)(15)(D) of the Act and that he has permission to

enter some foreign country after a temporary landing in the United States.

(b) An alien employed on board a vessel or aircraft in a capacity not required for normal operation and service on the particular vessel or aircraft, or an alien employed or listed as a regular member of the crew in excess of the number normally required, shall not be classified as a crewman.

(58c. 101, 66 Stat. 166, 8 U.S.C. 1101) (Dept. Reg. 108.411, 24 FR 6082, Aug. 18, 1959)

Checks Required: For documentary requirements for crewmen see § 41.91(a)(26) and for instructions regarding the procedure to be followed in issuing crew list visas see § 41.127.

§ 41.36 Foreign government official crewmen.

Alien crewmen serving on board a foreign warship or other vessel of war, or military, naval or other aircraft of the armed forces of a foreign country, when making a friendly call at a United States port under advance arrangements made with the military authorities of the United States, or any other government vessel or aircraft shall not be subject to the provisions of § 41.91(a)(26) if the documentary requirements have been waived by the Secretary of State and the Attorney General pursuant to section 212(d)(9)(4) of the Act.

(Dept. Reg. 108.433, 25 FR 4578, May 25, 1953)

TREATY TRADERS AND TRAVISORS

§ 41.40 Treaty traders

(a) An alien shall be classifiable as a nonimmigrant treaty trader if he establishes to the satisfaction of the consular officer that he qualifies under the provisions of section 101(a)(15)(E)(i) of the Act and that:

(1) He intends to depart from the United States upon the termination of his status; and (2) if he is employed by a foreign person or organization having the nationality of the treaty country which is engaged in substantial trade as contemplated by section 101(a)(15)(E)(ii), he will be engaged in duties of a supervisory or executive

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to, adjourn in, and depart from the United States.

(b) The term "business", as used in section 101(a)(15)(H) of the Act, refers to legitimate activities of a commercial or professional character. It does not include purely local employment or labor for hire. An alien seeking to enter as a nonimmigrant for employment or labor pursuant to a contract or other arrangement shall be required to qualify under the provisions of § 41.55. An alien of distinguished merit and ability seeking to enter the United States temporarily with the idea of performing temporary services of an exceptional nature, requiring such merit and ability, but having no contract or other prearranged employment, may be classified as a nonimmigrant temporary visitor for business.

(c) The term "pleasure", as used in section 101(a)(15)(H) of the Act, refers to legitimate activities of a recreational character, including tourism, amusement, visits with friends or relatives and rest; medical treatment, or activities of a fraternal, social, or service nature.

(58c. 101, 66 Stat. 166, 79 Stat. 919, 8 U.S.C. 1101)

(Dept. Reg. 108.422, 24 FR 11090, Dec. 21, 1958, as amended by Dept. Reg. 108.507, 28 FR 13984, Dec. 21, 1963; Dept. Reg. 108.527, 30 FR 14782, Nov. 30, 1965)

TRANSIT ALIENS

§ 41.50 Transit alien.

An alien shall be classifiable as a nonimmigrant transit alien under the provisions of section 101(a)(15)(C) of the Act if he establishes to the satisfaction of the consular officer that: (a) He is passing in immediate and continuous transit through the United States; (b) he is in possession of a ticket or other assurance of transportation to his destination; (c) he is in possession of sufficient funds to enable him to carry out the purpose of his transit journey, or has sufficient funds otherwise available for that purpose; and (d) he has permission to enter some country other than the United States following his transit journey through the United States unless the alien submits evidence that

character, or, if he is or will be employed in a minor capacity, he has the specific qualifications that will make his services essential to the efficient operation of the employer's enterprise and with not be employed solely in an unskilled manual capacity. The employment must be by an individual employer having the nationality of the treaty country who is maintaining the status of a nonimmigrant treaty trader, or by an organization which is principally owned by a person or persons having the nationality of the treaty country and, if not residing abroad, maintaining nonimmigrant treaty trader status.

(b) The term "trade," as used in this section, means trade of a substantial nature which is international in scope, carried on by the alien in his own behalf or as an agent of a foreign person or organization engaged in trade, and is principally between the United States and the foreign state of which such alien is a national. Consideration shall be given to any conditions in the country of which the alien is a national which may affect the alien's ability to carry on substantial trade principally between the United States and such country.

(c) The nationality of a spouse or child of a treaty trader shall not be material to the classification of such spouse or child under the provisions of section 101(n)(15)(E)(i) of the Act.

(d) Representatives of foreign information media shall first be considered for possible classification as nonimmigrants under the provisions of section 101(n)(15)(i) of the Act and § 41.60, before consideration is given to their possible classification as nonimmigrants under the provisions of section 101(n)(15)(E) of the Act and of this section.

(Sec. 101, 60 Stat. 106; 8 U.S.C. 1101) (Dept. Reg. 108.411, 24 FR 6083, Aug. 16, 1959, as amended by Dept. Reg. 108.507, 29 FR 4770, Apr. 3, 1964; Dept. Reg. 108.702, 39 FR 26154, July 17, 1974)

§ 41.11 Treaty investors.

(a) An alien shall be classifiable as a nonimmigrant treaty investor if he establishes to the satisfaction of the consular officer that he qualifies under the provisions of section

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101(n)(15)(E)(ii) of the Act and that: (1) He intends to depart from the United States upon the termination of his status; and (2) he is an alien who has invested or is investing capital in a bona fide enterprise and is not seeking to proceed to the United States in connection with the investment of a small amount of capital in a marginal enterprise solely for the purpose of earning a living; or that (3) he is employed by a treaty investor in a responsible capacity and the employer is a foreign person having the nationality of the treaty country who is maintaining the status of a nonimmigrant treaty investor, or an organization which is principally owned by a person or persons having the nationality of the treaty country and, if not residing abroad, maintaining nonimmigrant treaty investor status.

(b) The nationality of a spouse or child of a treaty investor shall not be material to the classification of such spouse or child under the provisions of section 101(n)(15) (E)(ii) of the Act.

(Sec. 101, 60 Stat. 106; 8 U.S.C. 1101) (Dept. Reg. 108.411, 24 FR 6083, Aug. 16, 1959, as amended by Dept. Reg. 108.702, 39 FR 26154, July 17, 1974)

STUDENTS—ACADEMIC, LANGUAGE TRAINING PROGRAMS

§ 41.15 Students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs.

(a) An alien shall be classifiable as a nonimmigrant student under section 101(n)(15)(F)(i) of the Act upon establishing to the satisfaction of the consular officer that the provisions of that section have been met and that

(1) Will attend, and has been accepted for attendance by, a college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program in the United States which has been approved by the Attorney General for the purposes of section 101(n)(15)(F)(i) of the Act, as evidenced by the presentation of Form I-20A-II (Certificate of Eligibility

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(i) properly and completely filled out and signed by the alien and by a designated school official (the Form I-20A, when properly executed and presented by an alien in support of an application for a student visa under this section, shall be accepted by the consular officer as prima facie evidence that the designated college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or institution providing language training has been approved by the Attorney General for the attendance of nonimmigrant students, and that the visa applicant has been accepted for attendance at such institution);

(2) Is in possession of sufficient funds to cover expenses while in the United States, or that other arrangements have been made to provide those expenses;

(3) Has sufficient scholastic preparation and knowledge of the English language (unless the alien is going to an institution exclusively to participate in an English language training program) to enable the undertaking of a full course of study given in the English language which the accepting institution is equipped to offer, or the institution (i) has accepted the alien exclusively familiar, or

(ii) Will enroll the alien in a combination of academic courses and English instruction which will constitute a full course of study; and

(4) Intends in good faith and will be able to depart from the United States upon the termination of the student status (consular officers are authorized in borderline cases to require the posting of a bond with the Attorney General in a sufficient sum to insure that upon the alien's conclusion of studies, or upon the alien's failure to maintain student status, or any status subsequently acquired under section 248 of the Act, the alien will depart from the United States). If the alien is otherwise qualified for classification as a nonimmigrant student under this section, but intends to study the English language exclusively while in the United States, such alien may be classified as a nonimmigrant student

under the provisions of section 101(n)(15)(F)(ii) of the Act even though no credits are given by the institution for such study. The approved school must be equipped to offer a full course of study in the English language and must have accepted the applicant expressly for that course.

(b) An alien shall also be classifiable as a nonimmigrant under section 101(n)(15)(F)(ii) of the Act if he establishes to the satisfaction of the consular officer that such alien qualifies under the provisions of that section and that the alien:

(1) Is in possession of sufficient funds to cover expenses while in the United States, or that other arrangements have been made to provide for such expenses; and

(2) Intends in good faith and will be able to depart from the United States upon the termination of the status of the principal alien.

(Sec. 101, 60 Stat. 174; 8 U.S.C. 1101; sec. 102(b)(1); 31 Stat. 417)

(Dept. Reg. 108.820, 47 FR 21777, May 20, 1982, 47 FR 24229, June 4, 1982)

INTERNATIONAL ORGANIZATION ALIENS

§ 41.50 Alien coming in international organizations.

(a) An alien shall be classifiable under the provisions of section 101(n)(15)(G) of the Act if he establishes to the satisfaction of the consular officer that he is within one of the classes described in that section and that he seeks to enter, or pass in transit through, the United States in pursuance of his official duties. Such alien who seeks to enter, or pass in transit through, the United States other than in pursuance of his official duties shall not be classifiable under section 101(n)(15)(G) of the Act.

(b) An alien who applies for a visa as a nonimmigrant under the provisions of section 101(n)(15)(G) of the Act shall not be refused such visa solely on the grounds that he is not a national of the country whose government he represents.

(c) An alien who seeks to enter the United States as a foreign government representative to an international organization and who, at the same time,

is proceeding to the United States on official business as a foreign government official within the meaning of section 101(a)(5)(A) of the Act, shall, if otherwise qualified, be issued a visa as a non-immigrant under the provisions of section 101(a)(5)(A) of the Act.

(d) An alien not classifiable under section 101(a)(5)(A) of the Act who is entitled to a visa under section 101(a)(5)(C) of the Act shall be classified under this section although he may also be eligible for another non-immigrant classification.

(Sec. 101, 66 Stat. 166, 8 U.S.C. 1101)
Dept. Reg. 108.413, 24 FR 6083, Aug. 18, 1959

TEMPORARY WORKERS AND TRAINERS

§ 41.55 Temporary workers and trainees.

(a) An alien shall be classifiable under the provisions of section 101(a)(5)(H) of the Act if—

(1) (i) He establishes to the satisfaction of the consular officer that he qualifies under the provision of that section; and (ii) the consular officer shall have received a petition approved by the Immigration and Naturalization Service to accord such classification to the alien, or official notification of the approval thereof; or (iii) the alien shall have presented to the consular officer official confirmation of the approval of the petition to accord him such classification or of the extension of his period of authorized stay in such classification; or

(2) He establishes to the satisfaction of the consular officer that he is the spouse or child of an alien so classified.

The period of validity of a visa issued on the basis of such an approved petition or official notification or confirmation shall not exceed the period of validity or of authorized stay set forth therein. The approval of such a petition shall not, of itself, establish that the alien is eligible to receive a non-immigrant visa.

(b) If a consular officer knows or has reason to believe that an alien applying for a visa under section 101(a)(5)(H) of the Act is not qualified to perform the services, or to un-

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derstand the training specified in the employer's petition approved by the Attorney General, he shall suspend action on the alien's application and submit a report to the approving office of the Immigration and Naturalization Service for whatever action appears to be warranted.

(c) The term "Trainee", as used in section 101(a)(5)(H)(ii) of the Act, means a non-immigrant alien who seeks to enter the United States at the invitation of an individual, organization, firm, or other trainer for the purpose of receiving instruction in any field of endeavor, including agriculture, commerce, communication, literature, government, transportation, and the professions as well as in a purely industrial establishment. (The provisions relating to the ineligibility of former exchange visitors to receive visas under section 101(a)(5)(H)(i) of the Act see § 41.91(d)).

(Sec. 101, 66 Stat. 166, 8 U.S.C. 1101)

(Dept. Reg. 108.411, 24 FR 6083, Aug. 18, 1959; 21 FR 6943, Aug. 27, 1955; as amended by Dept. Reg. 106.618, 35 FR 6124, Apr. 15, 1970; Dept. Reg. 108.014, 36 FR 19201, Oct. 2, 1971; 36 FR 19207, Oct. 13, 1971; Dept. Reg. 108.678, 37 FR 21657, Oct. 14, 1972)

Cross Reference: For provisions relating to the ineligibility of former exchange visitors to receive visas under section 101(a)(5)(H) of the Act, see § 41.91(d).

INFORMATION MEDIA REPRESENTATIVES

§ 41.60 Representatives of foreign press, radio, film, or other information media.

(a) An alien shall be classifiable as a non-immigrant information media representative if he establishes to the satisfaction of the consular officer that he is a bona fide representative of a foreign press, radio, film, or other information medium having its home office in a foreign country, the government of which grants upon a basis of reciprocity similar privileges to representatives of such a medium having home offices in the United States.

(b) An alien who will be engaged in the United States in newsgathering activities between the United States and the country of which he is a national

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shall, if otherwise qualified, be classified as a non-immigrant under the provisions of section 101(a)(5)(I) of the Act, notwithstanding the fact that such alien may also be classifiable as a non-immigrant under the provisions of section 101(a)(5)(E) of the Act.

(Sec. 101, 66 Stat. 166, 8 U.S.C. 1101)
Dept. Reg. 108.411, 24 FR 6084, Aug. 18, 1959

Exchange Visitors

§ 41.65 Exchange visitors.

(a) Classification. An alien shall be classifiable as an exchange visitor if he qualifies under the provisions of section 101(a)(5)(J) of the Act and establishes to the satisfaction of the consular officer that:

(1) He has been accepted to participate, and intends to participate, in an exchange visitor program designated by the International Communication Agency as evidenced by the presentation of a properly executed Form IAP-60 (Certificate of Eligibility for Exchange Visitor (J-1) status);

(2) He has sufficient funds to cover his expenses or other arrangements have been made to provide for his expenses;

(3) He has sufficient knowledge of the English language to enable him to undertake the program for which he has been selected, or, except for an alien coming to participate in a program under which he will receive graduate medical education or training, or that, the organization sponsoring him is aware of his deficiency in this respect and has indicated its willingness to accept him regardless of that deficiency;

(4) He meets the requirements of section 212(i) of the Immigration and Nationality Act, as amended, if coming to participate in a program under which he will receive graduate medical education or training; or that,

(5) The alien is the spouse or minor child of such an exchange-visitor program participant.

(b) Applicability of section 212(e) of the Act. (1) An alien is subject to the 2-year foreign residence requirement of section 212(e) of the Act if—

(i) His participation in one or more exchange programs was wholly or par-

tially financed, directly or indirectly, by the Government of the United States or by the government of his country of nationality or last residence; or

(ii) At the time of the issuance to him of an exchange visitor visa and admission to the United States, or, if not required to obtain a non-immigrant visa, at the time of his admission to the United States as an exchange visitor, or at the time of his acquisition of such status after admission, he is a national and resident, or if not a national he is a lawful permanent resident or has status equivalent thereto, of a country which the Director of the International Communication Agency had designated, through publication by public notice in the Federal Register, as clearly requiring the services of persons engaged in the field of special knowledge or skill in which the alien will engage in his exchange visitor program; or

(iii) He acquires exchange visitor status in order to receive graduate medical education or training in the United States.

(2) For the purposes of this paragraph the terms "financially directly" and "financially indirectly" shall be defined as set forth in § 514.1 of Chapter V.

(3) The country in which 2 years' residence and physical presence will satisfy the requirements of sections 212(e) of the Act in the case of an alien determined to be subject to such requirements shall be the country of which the alien is, at the time of such determination, a national and resident, or, if not a national, a lawful permanent resident or has status equivalent thereto.

(4) If an alien is subject to the 2-year foreign residence requirement of section 212(e) of the Act, the spouse or child of such alien shall also be subject to such requirement if such spouse or child is admitted to the United States pursuant to section 101(a)(5)(J) of the Act, or acquires status pursuant to such section after admission, for the purpose of accompanying or following to join such alien.

(c) Notification to alien. The consular officer to whom an alien applies for

an exchange visitor visa shall, prior to the issuance of such visa, determine whether the alien will be subject to the 2-year foreign residence requirement of section 212(a) of the Act if admitted to the United States under section 101(a)(15)(J) of the Act and, if so, the country in which 2 years' residence and physical presence will satisfy such requirement with respect to the alien, and shall inform the alien of such determinations.

(Sec. 104, 66 Stat. 174; 19 U.S.C. 1101, 1181e, 1358; Reorganization Plan No. 2 of 1937; E.O. 12018 of March 27, 1978)

(Dept. Reg. 108.057, 37 FR 7150, Apr. 11, 1972, as amended by Dept. Reg. 108.673, 37 FR 17471, Aug. 29, 1972; Dept. Reg. 108.691, 38 FR 20219, July 31, 1973; Dept. Reg. 108.766, 44 FR 17059, Mar. 23, 1979, 45 FR 81560, Dec. 11, 1980)

FIANCEE OR FIANCÉ

§ 41.66 Fiancee or fiancé of a United States citizen.

(a) An alien shall be classifiable as a nonimmigrant fiancée or fiancé if he submits evidence that he qualifies under the provisions of section 101(a)(15)(K) of the Act and if the consular officer shall have received from the Immigration and Naturalization Service a petition filed by the alien's U.S. citizen fiancé or fiancée and approved in accordance with the provisions of section 214(d) of the Act.

(b) Upon receipt of such a petition, and upon submission by the alien of a sworn statement of ability and intent to conclude a valid marriage with the petitioner within 90 days of arrival in the United States, the consular officer shall grant the status accorded in the petition and shall determine the eligibility of the alien to receive a visa.

(c) Determination of the eligibility of an alien to receive a visa under section 101(a)(15)(K) of the Act shall be made, insofar as practicable, as if the alien were an applicant to receive an immigrant visa.

(d) If it is determined that the alien would be eligible in all respects to receive an immigrant visa, the consular officer may issue a nonimmigrant visa under the provisions of this section to the alien.

(Sec. 101, 84 Stat. 116, 8 U.S.C. 1101)

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(Dept. Reg. 108.618, 35 FR 6124, Apr. 15, 1970, as amended by Dept. Reg. 108.670, 37 FR 14872, July 26, 1972)

EXECUTIVIS, MANAGERS, AND SPECIALISTS

§ 11.67 Executives, managers, and specialists (nonaccompanying transferees).

(a) An alien shall be classifiable under the provisions of section 101(a)(15)(L) of the Act if—

(1) (i) He establishes to the satisfaction of the consular officer that he qualifies under the provisions of that section; and (ii) the consular officer shall have received a petition approved by the Immigration and Naturalization Service to accord such classification to the alien, or official notification of the approval thereof; or (iii) the alien shall have presented to the consular officer official confirmation of the approval of the petition or of accord him such classification or of the extension of his period of authorized stay in such classification; or

(2) He establishes to the satisfaction of the consular officer that he is the spouse of child of an alien who is classified. The period of validity of a visa issued on the basis of such an approved petition or official notification or confirmation shall not exceed the period of validity of authorized stay set forth therein. The approval of such a petition shall not, of itself, establish that the alien is eligible to receive a nonimmigrant visa.

(b) If a consular officer knows or has reason to believe that an alien applying for a visa under section 101(a)(15)(L) of the Act has not been continuously employed for 1 year by the same employer or an affiliate or subsidiary thereof, or has not been employed in a managerial or executive capacity, or does not possess specialized knowledge, as specified in the Attorney General's petition approved by the Attorney General, he shall suspend action on the alien's application and submit a report to the approving office of the Immigration and Naturalization Service for whatever action appears to be warranted.

(Sec. 101, 84 Stat. 116; 8 U.S.C. 1101)

(Dept. Reg. 108.610, 35 FR 6125, Apr. 15, 1970, as amended by Dept. Reg. 108.644, 38

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FI 10304, Oct. 2, 1971; 36 FR 19707, Oct. 13, 1971; Dept. Reg. 108.678, 37 FR 21637, Oct. 14, 1972)

STUDENTS—VOCATIONAL

§ 11.68 Students in established vocational or other recognized nonacademic institutions, other than in language training programs.

(a) An alien shall be classifiable as a nonimmigrant student under section 101(a)(15)(MM) of the Act upon establishing to the satisfaction of the consular officer that the provisions of that section have been met and that the alien:

(1) Will attend and has been accepted for attendance solely for the purpose of pursuing a full course of study (other than a language training program) by an established vocational or other recognized nonacademic institution in the United States which has been approved by the Attorney General for the purposes of section 101(a)(15)(MM) of the Act, as evidenced by the presentation of Form I-209M-R (Certificate of Eligibility) properly and completely filled out and signed by the alien and by a designated school official (the form I-209M), when properly executed and presented to a student visa under this section for a student visa under this section, shall be accepted by the consular officer as prima facie evidence that the designated vocational or other recognized nonacademic institution which has issued the document has been approved by the Attorney General for the attendance of nonimmigrant students pursuant to section 101(a)(15)(MM) of the Act and that the visa applicant has been accepted for attendance at such institution;

(2) Is in possession of sufficient funds to cover expenses while in the United States or other arrangements have been made to provide for those expenses;

(3) Has sufficient knowledge of the English language to enable such an alien to undertake a full course of study in the accepting institution, or, if knowledge of the English language is inadequate to enable such alien to pursue a full course of study given in the English language, the accepting institution is equipped to offer, and (1)

has accepted the alien expressly for a full course of study in a language, with which the alien is sufficiently familiar, or (4) will enroll the alien in courses of instruction in English incidental to principal instruction in vocational courses which, when taken together, will constitute a full course of study; and

(4) Intends in good faith and will be able to depart from the United States upon the termination of student status.

(b) An alien shall also be classifiable as a nonimmigrant student under section 101(a)(15)(MM) of the Act if it is established to the satisfaction of the consular officer that such alien qualifies under the provisions of that section and that, in possession of sufficient funds to cover expenses while in the United States, or that other arrangements have been made to provide for such expenses, and (2) intends in good faith and will be able to depart from the United States upon the termination of the status of the principal alien.

(Sec. 104, 66 Stat. 174-18 U.S.C. 1104, 1191b(1), 91 Stat. 817)

(1970, Reg. 108.820, 47 FR 21777, May 29, 1982; 47 FR 24293, June 4, 1982)

NATO ALIENS

§ 11.70 NATO representatives, officials and employees.

(a) (1) An alien shall be classifiable under the symbol NATO 1, NATO 2, NATO 3, NATO 4, or NATO 5 (see § 41.12 for classes of aliens entitled to classification under each symbol) if he establishes to the satisfaction of the consular officer that he is seeking admission to the United States under the applicable provisions of the Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff, or that he is a member of the immediate family of an alien classified under the symbol NATO 1, NATO 2, NATO 3, NATO 4, or NATO 5.

(2) Armed services personnel entering the United States in accordance with the provisions of the NATO Status of Forces Agreement or in accordance with the provisions of the

Protocol on the Status of Internation-
al Military Headquarters may enter
the United States under the appropri-
ate treaty waiver of documentary re-
quirements contained in 141.6(d) and
(e), but if issued visas shall be classifi-
able under the symbol NATO 2.

(3) Dependents of armed services
personnel referred to in paragraph
(a)(2) of this section shall be classifi-
able under the symbol NATO 2.

(b) An alien member of a civilian
component accompanying a force en-
voys in accordance with the provi-
sions of the NATO Status-of-Peace
Agreement, and his dependents, or an
alien member of a civilian component
attached to or employed by an Allied
Headquarters under the Protocol on
the Status of International Military
Headquarters set up pursuant to the
North Atlantic Treaty, and his de-
pendents, shall be classified under the
symbol NATO-6.

(c) An alien attendant, servant, or
personal employee of an alien class-
ified under the symbol NATO-1,
NATO-2, NATO-3, NATO-4, NATO-5,
or NATO-6, and the members of the
immediate family of such attendant,
servant, or personal employee, shall be
classifiable under the symbol NATO-7.

(5 U.S.C. 877, 1091)

(Dept. Reg. 108.432, 25 FR 4579, May 25,
1960)

Class Exemption: 1. For exemption from
certain grounds for refusal of visas to
NATO aliens, see § 41.91(c).

2. For exemption from passport validity
requirement for certain NATO aliens, see
§ 41.91(f).

INELIGIBLE CLASSES OF NONIMMIGRANTS

§ 11.59. *Book for refusal.*

A visa shall be refused only upon a
ground specifically set out in the law
or regulations issued thereunder. The
term "reason to believe", as used in
section 221(c) of the Act, shall be con-
sidered to require a determination
based upon facts or circumstances
which would lead a reasonable person
to conclude that the applicant is inel-
igible to receive a nonimmigrant visa as
provided in the Act and as implement-
ed by the regulations contained in this
part. Consideration shall be given to
any evidence submitted indicating

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212(a) (8) shall be applicable only in
the case of an alien who is at the time
of visa application a pauper, profes-
sional beggar, or vagrant.

(9) *Crime involving moral turpitude.*
(i) A determination that a crime in-
volves moral turpitude shall be based
upon the moral standards generally
prevailing in the United States. Before
a finding of ineligibility under section
212(a)(9) of the Act may be made be-
cause of an admission of the commis-
sion of acts which constitute the es-
sential elements of a crime involving
moral turpitude, it must first be estab-
lished that the acts constitute a crime
under the criminal law of the jurisdic-
tion where they occurred.

(ii) An alien who has been convicted
of a crime involving moral turpitude
or who commits the commission of ac-
ts which constitute the essential ele-
ments of such a crime and who has
committed an additional crime involv-
ing moral turpitude is ineligible to re-
ceive a visa under the provisions of
section 212(a)(9) of the Act although
the crimes were committed while the
alien was under the age of eighteen
years.

(iii) An alien shall not be ineligible
to receive a visa under section
212(a)(9) of the Act by reason of
having been tried and treated as a ju-
venile by a juvenile court for the com-
mission of an offense involving moral
turpitude provided the alien was
under the age of eighteen years at the
time the offense was committed. An
alien convicted as an adult of a crime
involving moral turpitude shall be sub-
ject to the provisions of section
212(a)(9) of the Act regardless of
whether juvenile courts existed within
the jurisdiction at the time of the con-
viction and regardless of whether he
was under the age of eighteen years at
the time the offense was committed.

(iv) A conviction in absentia of a
crime involving moral turpitude shall
not constitute a conviction within the
meaning of section 212(a)(9) of the
Act.

(v) An alien shall not be considered
ineligible to receive a visa under sec-
tion 212(a)(9) of the Act by reason of
a conviction of a crime involving moral
turpitude for which a full and uncon-
ditional pardon has been granted by

the President of the United States, by
the Governor of a State of the United
States, by the former High Commis-
sioner for Germany acting pursuant to
Executive Order 10002, or by the
Allied High Commission for the Ger-
man Reich, or by the President of the
Federal Republic of Germany, acting pur-
suant to Executive Order 10008. A full
and unconditional pardon, however,
does not constitute a conviction under
section 212(a)(9) of the Act.

(vi) The term "purely political of-
fense" as used in section 212(a)(4) of
the Act shall include offenses which
resulted in convictions obviously based
on trumped-up charges or predicated
upon repressive measures against
racial, religious or political minorities.
(10) *Conviction of two or more of-
fenses.* (i) An alien shall not be inelig-
ible to receive a visa under section
212(a)(10) of the Act by reason of
having been tried and treated as a ju-
venile by a juvenile court for the com-
mission of two or more offenses re-
gardless of the period of confinement
imposed by the sentence provided the
alien was under the age of eighteen
years at the time the offenses were
committed. An alien convicted of an
adult of two or more offenses for
which the aggregate sentences to con-
finement actually imposed were five
years or more shall be subject to the
provisions of section 212(a)(10) of the
Act regardless of whether juvenile
courts existed within the jurisdiction
at the time of conviction and regard-
less of whether he was under the age
of eighteen years at the time the of-
fenses were committed.

(ii) A conviction or convictions in ab-
sentia of two or more offenses for
which the aggregate sentences to con-
finement imposed were five years or
more shall not constitute a conviction
within the meaning of section
212(a)(10) of the Act.

(iii) An alien shall not be considered
ineligible to receive a visa under sec-
tion 212(a)(10) of the Act by reason of
having been convicted of two or more
offenses for which the aggregate sen-
tences to confinement actually im-
posed were five years or more if a full
and unconditional pardon or pardons

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that the ground for a prior refusal of a
nonimmigrant visa may no longer
exist. The burden of proof is upon the
applicant to establish that he is not in-
eligible to receive a visa as a nonimmig-
rant under the provisions of section
212 of the Act, or any other provision
of law and § 41.91.

(Sec. 221, 60 Stat. 102, 6 U.S.C. 1201)

(Dept. Reg. 108.422, 24 FR 11081, Dec. 31,
1959)

§ 11.91. *Aliens ineligible to receive visas.*
(a) *Aliens ineligible under the provi-
sions of section 212(a) of the Act.* De-
terminations relating to the ineligibil-
ity of aliens to receive nonimmigrant
visas under section 212(a) of the Act
shall be governed by the following
provisions:

(1) *Medical grounds of ineligibil-
ity.* A finding of a medical examiner of
the United States Public Health Serv-
ice, a contract location physician, or of
a panel physician designated by the
Foreign Service establishment in
whose jurisdiction the examination is
performed, with respect to the applica-
bility of section 212(a)(1) through (6)
of the Act shall be binding on the con-
sular officer, except that the consular
officer may refer for review to the ap-
propriate office of the United States
Public Health Service the finding of a
contract location or panel physician in
an individual case. In such case he
may hold in abeyance his decision on
the visa application pending the re-
sult of the review finding of the
Public Health Service.

(7) *Physical defect affecting alien's
ability to earn a living.* An alien
within the purview of section 212(a)(7)
of the Act may be issued a nonimmig-
rant visa, if otherwise qualified there-
for, upon receipt by the consular offi-
cer of notice from the Immigration
and Naturalization Service of the
giving of a bond or undertaking as pro-
vided in section 221 (e) of the Act. If
the consular officer is satisfied that
the giving of such bond or under-
taking removes the likelihood that the
alien might become a public charge
within the meaning of section
212(a)(15) of the Act.

(8) *Paupers, professional beggars, or
vagrants.* The provisions of section

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for the offenses have been granted by the President of the United States, by the Governor of a State of the United States, by the former High Commissioner for Germany acting pursuant to Executive Order 10662, or by the United States Ambassador to the Federal Republic of Germany acting pursuant to Executive Order 10668. A legislative pardon or a pardon, amnesty, expungement of penal record or any other act of clemency granted by a foreign state shall not serve to remove a ground of ineligibility under section 212(a)(10) of the Act.

(iv) The term "purely political offenses" as used in section 212(a)(10) of the Act shall include offenses which resulted in convictions obviously based on repressive measures against racial, religious or political minorities.

(v) A sentence to confinement which has been suspended by a court of competent jurisdiction is not one which has been "actually imposed" within the meaning of section 212(a)(10) of the Act.

(11) *Polypomy*. (Section 212(a)(11) of the Act inapplicable; Section 212

(d)(11).

(12) *Prostitution, procuring and related activities*. (i) The term "prostitute" means a woman given to promiscuous sexual intercourse for hire. A finding that an alien has "engaged" in prostitution must be based on elements of continuity and regularity which would indicate a pattern of behavior or deliberate course of conduct entered into primarily for financial gain or for other considerations of material value as distinguished from the commission of casual or isolated acts.

(ii) The fact that an alien may have ceased to engage in prostitution shall not serve to remove the existing ground of ineligibility to receive a visa under the provisions of section 212(a)(12) of the Act.

(iii) A prostitute or a person who has engaged in prostitution shall be ineligible to receive a visa under section 212(a)(12) of the Act notwithstanding the fact that prostitution may not be prohibited under the laws of the foreign country where the acts occurred.

(13) *Inmarital sexual act*. An alien shall not be ineligible to receive a visa under section 212(a)(13) of the Act

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unless this primary purpose in coming to the United States is to engage in an inmarital sexual act.

(14) *Aliens entering to perform skilled or unskilled labor*. (Section 212(a)(14) of the Act inapplicable.)

(15) *Public charge*. (i) Any conclusion that an alien is ineligible to receive a nonimmigrant visa under the provisions of section 212(a)(15) of the Act shall be predicated upon circumstances which indicate that the alien will probably become a charge upon the public after entry into the United States.

(ii) An alien within the purview of section 212(a)(15) of the Act may be issued a nonimmigrant visa upon receipt of notice by the consular officer of the giving of a bond or undertaking, as provided in section 221(f) of the Act, if the consular officer is satisfied that the giving of such bond or undertaking removes the alien's ineligibility to receive a visa under this section of the law.

(16) *Aliens excluded and deported*. An alien who was excluded and deported from the United States within the meaning of section 212(a)(16) of the Act shall not be issued a visa within one year from the date of his deportation unless he has obtained permission from the Immigration and Naturalization Service to reapply for admission.

(17) *Aliens arrested and deported or removed from the United States*. An alien who was arrested and deported from the United States, or who was removed from the United States within the meaning of section 212(a)(17) of the Act shall be required to obtain permission from the Immigration and Naturalization Service to reapply for admission into the United States before a visa may be issued, regardless of the period of time which may have elapsed since his deportation or removal.

(18) *Stowaways*. (Section 212(a)(18) of the Act inapplicable at time of visa application.)

(19) *Fraud and misrepresentation*. (i) An alien who seeks to procure, or has sought to procure, or has procured a visa or other documentation for entry into the United States by fraud or by willfully misrepresenting a mate-

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rial fact, regardless of whether such fraud or misrepresentation occurred before or after December 24, 1952, shall be ineligible to receive a visa under the provisions of section 212(a)(19) of the Act. *Provided*, That the provisions of this subsection shall not be applicable if the fraud or misrepresentation was committed by an alien at the time he sought entry into a country other than the United States or obtained travel documents as a bona fide refugee and the refugee was in fear of being repatriated to his former homeland if he had disclosed the facts in his case in connection with his application for a visa to enter the United States. *Provided further*, That the fraud or misrepresentation was not committed by such refugee for the purpose of evading the quota or numerical restrictions of the U.S. immigration laws, or investigation of the alien's record at the place of his former residence or elsewhere in connection with an application for a visa.

(ii) Subject to the conditions stated in paragraph (a)(19)(ii) of this section, an alien who is found by the consular officer to have made a willful misrepresentation within the meaning of section 10 of the Displaced Persons Act of 1948, as amended, for the purpose of gaining admission into the United States as an eligible displaced person, or to have made a material misrepresentation within the meaning of section 11(e) of the Refugee Relief Act of 1953, as amended, for the purpose of gaining admission into the United States as an alien eligible thereunder, shall be considered ineligible to receive a visa under the provisions of section 212(a)(19) of the Act.

(iii) The commission of fraud or the willful misrepresentation of a material fact in seeking to enter the United States as distinguished from fraud or misrepresentation in connection with the procurement, or attempt to procure, documents for entry, shall not render an alien ineligible to receive a visa under the provisions of section 212(a)(19) of the Act. 16 I. & N. Dec. 149, approved by the Attorney General 9 13-54.

(20) *Immigrant documentary requirements*. (Section 212(a)(20) of the Act inapplicable.)

(21) *Non-compliance with section 203 of the Act*. (Section 212(a)(21) of the Act inapplicable.)

(22) *Aliens infeasible to re-visit, unable, or who departed to avoid service in the Armed Forces*. An alien shall be refused a nonimmigrant visa under the provisions of section 212(a)(22) of the Act if, having other than nonimmigrant status, he departed from or remained outside of the United States on or after September 8, 1939 to avoid or evade training or service in the United States Armed Forces.

(23) *Narcotics traffickers*. An alien shall be ineligible to receive a nonimmigrant visa under the provisions of section 212(a)(23) of the Act, as amended, irrespective of whether the conviction for illegal possession of narcotic drugs or marijuana or for conspiracy to violate any law or regulation within the contemplation of the Narcotic Control Act of 1956 occurred before or after July 18, 1956.

(24) *Aliens arriving in foreign contiguous territory or adjacent islands on nonstop transportation lines*. The provisions of section 212(a)(24) of the Act shall not render an alien ineligible to receive a nonimmigrant visa inasmuch as the Attorney General upon the recommendation of the Secretary of State has waived this ground of ineligibility for nonimmigrants under this authority contained in section 212(a)(24) of the Act.

(25) *Understates*. (Section 212(a)(25) of the Act inapplicable; Section 212(a)(13).

(26) *Nonimmigrant documentary requirements*. (i) A passport which is valid indefinitely for the return of the bearer to the country whose government issued such passport shall be deemed to have the required minimum period of validity as specified in section 212(a)(26) of the Act.

(ii) A crew-list visa issued in accordance with § 41.127 is considered to constitute a valid nonimmigrant visa within the meaning of section 212(a)(26)(ii) of the Act.

Cross Borderment. For waters of and exceptions from documentary requirements see §§ 41.5, 41.6 and 41.6(f).

(27) *Prejudicial activities*. (Section 212(a)(27) of the Act inapplicable.)

(28) *Members or officials of proscribed organizations.* (i) The term "affiliate," as used in sections 212(a)(2)(B)(C) and (i) of the Act, shall mean an organization which is related to, or identified with, a proscribed association or party, including any section, subdivision, branch, or subdivision thereof, in such close association as to evidence an adherence to or a furtherance of the purposes and objectives of such association or party, or as to include a working alliance to further to fulfill the purposes and objectives of the proscribed association or party. An organization which gives, loans, or promises support, money, or other things of value for any purpose to any proscribed association or party shall be presumed to be an "affiliate" of such association or party, but nothing contained in this subdivision shall be construed as an exclusive definition of the term "affiliate."

(ii) Service, whether voluntary or not, in the armed forces of any country shall not be regarded, of itself, as constituting or establishing an alien's membership in, or affiliation with, any proscribed party or organization, and shall not, of itself, constitute a ground of ineligibility to receive a visa.

(iii) Voluntary service in a political capacity shall constitute affiliation with the political party or organization in power at the time of such service.

(iv) If an alien continues or continued his membership in or affiliation with a proscribed organization on or after reaching sixteen years of age, only his activities after reaching that age shall be pertinent to a determination whether the continuation of his membership or affiliation is or was voluntary.

(v) The term "operation of law," as used in section 212(a)(2)(B)(i) of the Act, shall include any case wherein the alien without his acquiescence automatically became a member of or affiliated with a proscribed party or organization by official act, proclamation, order, edict, or decree.

(vi) In accordance with the definition of "totalitarian party" contained in section 101(a)(37) of the Act, a former or present voluntary member of, or an alien who was, or is, voluntary

ly affiliated with a noncommunist party, organization, or group, or of any section, subsidiary branch, affiliate or subdivision thereof, which during the time of its existence did not or does not advocate the establishment in the United States of a totalitarian dictatorship, shall not be considered ineligible under the provisions of section 212(a)(2)(B)(C) of the Act to receive a visa, unless the alien is known or believed by the consular officer to advocate, or to have advocated, personally, the establishment in the United States of a totalitarian dictatorship, within the meaning of section 212(a)(2)(B)(D) of the Act.

(vi) The words "actively opposed," as used in section 212(a)(2)(B)(i) of the Act, shall be considered as embracing speeches, writings, and other overt or covert activities in opposition to the doctrine, program, principles, and ideology of the party or organization, or the section, subdivision, branch, or affiliate or subdivision thereof, of which the alien was formerly a voluntary member.

(29) *Expatriate, sabotage, or other subversive activities.* (Reserved)

(30) *Alien accompanying excludable alien.* (Section 212(a)(30) of the Act inapplicable.)

(31) *Alien aiding illegal entrant.* (Reserved)

(b) *Aliens unable to establish nonimmigrant status.* (i) A nonimmigrant visa shall not be issued to an alien who has failed to overcome the presumption of immigrant status established by section 214(b) of the Act. An alien shall be considered a nonimmigrant visa holder only if the consular officer is satisfied that his case falls within one of the nonimmigrant categories described in section 101(a)(15) of the Act or otherwise established by law or treaty.

(2) Consular officers are authorized in borderline cases under sections 101(a)(15) (D) and (F) to require the posting of a bond with the Attorney General. (See §§ 41.25 (a)(1) and 41.45(a)(4).)

(c) *Failure of application to comply with Act.* (i) An alien's visa application shall be considered as failing to comply with the provisions of the act or the regulations issued thereunder

if: (i) The applicant fails to furnish the information to be included in such application as required by the Act or the regulations contained in this part;

(ii) The application contains a false or incorrect statement other than one which would constitute a ground of ineligibility under section 212(a)(19) or (31) of the Act;

(iii) The application is not supported by the documents required under the provisions of the Act or the regulations contained in this part;

(iv) The applicant refuses to be fingerprinted if required by the Act or the regulations contained in this part;

(v) The necessary fee is not paid for the issuance of a nonimmigrant visa;

(vi) The application otherwise fails to meet the specific requirements of the Act for reasons for which the applicant is responsible;

(2) The grounds of refusal described in paragraph (c)(i) of this section shall not constitute a bar to the reconsideration of the application upon compliance with statutory or regulatory requirements, or to the consideration of a subsequent application submitted by the same applicant.

(c) *Former exchange visitors.* An alien who was admitted into the United States as an exchange visitor or who acquired such status after admission, who is within the purview of section 212(c) of the Immigration and Nationality Act as amended by the Act of April 7, 1970 (84 Stat. 116), shall not be eligible to apply for and receive a nonimmigrant visa under section 101(a)(15) (D) or (J) of the Act, notwithstanding the approval of a petition as provided in section 214(c) of the Act, unless—

(1) It has been established that the alien has resided and has been physically present abroad in the country of his nationality or last residence for an aggregate of at least 2 years following the termination of his exchange visitor status as required by section 212(c) of the Act; or

(2) The foreign residence requirement of section 212(c) of the Act has been waived by the Attorney General in his behalf.

(c) *Grounds for refusal of visas applicable to certain nonimmigrant*

classes: (1) No visa may be issued in the A-1 or A-2 category to an alien who is considered by the Department of State to be a persona non grata.

(2) Only those provisions of section 212(a) of the Act which are stated specifically with reference to each class apply to the following classes of nonimmigrants: (i) Class A-1: Section 212(a)(27) upon the direction of the President and the Secretary of appropriate titles and reputations; (ii) Class A-2: Section 212(a)(27) and (29); (iii) Class C-2: Section 212(a)(26)(A), (27), (28) and (29); (iv) Class C-3: Section 212(a)(26)(A), (27) and (29); (v) Class C-4: Section 212(a)(27) and (29); (vi) Class E: TO 1: Section 212(a)(27); (vii) Class F: TO 1: Section 212(a)(27); (viii) Class G: NATO 2: Section 212(a)(27) and (29); (ix) Class H: NATO 3: NATO 4: TO 1: Section 212(a)(27) and (29).

(3) An alien within class A-3 or (i) shall be subject to all grounds of refusal specified in section 212 of the Act which are applicable to nonimmigrants in general except paragraph (28) of subsection (a) of that section.

(4) *Exception from passport validity requirement for certain nonimmigrants.* A nonimmigrant alien in whose case the passport requirement of section 212(a)(26) has not been waived and

(1) Who is within one of the classes of nonimmigrants described in section 101(a)(15)(A) (i) and (ii) of the Act; or

(2) Who is within one of the classes of nonimmigrants described in section 101(a)(15) (3)(a), (ii), (iii), and (iv) of the Act; or

(3) Who is within a class of nonimmigrants classifiable under the visa symbols NATO 1, NATO 2, NATO 3, NATO 4, or NATO 6, shall present a passport which is valid for a sufficient period to enable the alien to apply for admission at a port of entry prior to its expiration.

(Sec. 17, 79 Stat. 916; 8 P.S.C. 1291) (Dept. Reg. 108.411, 24 F.R. 6670, Aug. 10, 1959)

Executive Note: For Federal Report on other provisions affecting 141.91, see the List of CFR Sections Affected in the Finding Aids portion of this volume.

(Cross Reference: For validity period of passport for alien classifiable under section 212(d)(8) of the Act, see § 41.66(c)(3).

TEMPORARY ADMISSION OF INELIGIBLE ALIENS

§ 41.95 Procedure in recommending temporary admission of ineligible aliens.

(a) Except as provided in paragraph (b) of this section, a consular officer may, upon his own initiative, and shall, upon the request of the Secretary of State or upon the request of the alien, submit a report to the Department for possible transmission to the Attorney General pursuant to the provisions of section 212(d)(3)(A) of the Act in the case of an alien who is classifiable as a nonimmigrant but who is known or believed by the consular officer to be ineligible to receive a nonimmigrant visa under the provisions of section 212(a) of the Act, other than paragraph (27) or (29).

(b) A consular officer may, in certain categories defined by the Secretary of State, recommend directly to designated immigration officers that an alien's temporary admission be authorized under the provisions of section 212(d)(3)(A) of the Act.

(c) When the Attorney General authorizes the temporary admission of an ineligible alien as a nonimmigrant and the consular officer is so informed, the consular officer may proceed with the issuance of a nonimmigrant visa to the alien, subject to the conditions imposed by the Attorney General.

(See: 212.66 Stat. 182; 8 U.S.C. 1102)

(Dept. Reg. 108.46.28 FR 274, Jan. 10, 1953)

TYPES OF NONIMMIGRANT VISAS

§ 41.100 Regular, diplomatic and official visas.

A nonimmigrant visa of any classification shall be issued as a regular nonimmigrant visa unless the alien falls within one of the classes entitled to a diplomatic or official visa as described in § 41.102 and 41.104.

(Dept. Reg. 108.411.24 FR 6087, Aug. 12, 1958)

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§ 41.102 Classes of aliens eligible to receive diplomatic visas.

(a) A nonimmigrant alien who is in possession of a diplomatic passport or its equivalent kind, if otherwise qualified, be eligible to receive a diplomatic visa irrespective of his classification under § 41.12 if he is within one of the following classes:

(1) Heads of States and their attendants;

(2) Members of a reigning royal family;

(3) Governors-general, governors, high commissioners, and similar high administrative or executive officers of a territorial unit, and their attendants;

(4) Cabinet ministers and their assistants holding executive or administrative positions not inferior to that of the head of a departmental division, and their attendants;

(5) Presiding officers of chambers of national legislative bodies;

(6) Justices of the highest national court of a foreign country;

(7) Ambassadors, public ministers, other officers of the diplomatic service and consular officers of career;

(8) Military officers holding a rank not inferior to that of a brigadier general in the U.S. Army or Air Force and Naval officers holding a rank not inferior to that of a rear admiral in the U.S. Navy;

(9) Military, naval, air and other attaches and assistant attaches assigned to a foreign diplomatic mission;

(10) Officers of foreign-government delegations to international organizations so designated by executive order;

(11) Officers of foreign-government delegations to, and officers of, international bodies of an official nature, other than international organizations so designated by executive order;

(12) Officers of a diplomatic mission of a temporary character proceeding to or through the United States in the performance of their official duties;

(13) Officers of foreign-government delegations proceeding to or from a specific international conference of an official nature;

(14) Members of the immediate family of a principal alien who is within one of the classes described in

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paragraphs (a) (1) to (11) inclusive, of this section;

(15) Members of the immediate family accompanying or following to join the principal alien who is within one of the classes described in paragraphs (a) (12) and (13) of this section;

(16) Diplomatic carriers proceeding to or through the United States in the performance of their official duties.

(b) A nonimmigrant alien who is classifiable under section 101(a)(15)(C)(iv) shall, if otherwise qualified, be eligible to receive a diplomatic visa if he is—

(1) The Secretary General of the United Nations;

(2) An Under Secretary General of the United Nations;

(3) An Assistant Secretary General of the United Nations;

(4) The Administrator of the Deputy Administrator of the United Nations Development Program;

(5) An Assistant Administrator of the United Nations Development Program;

(6) The Executive Director of the—

(i) United Nations Children's Fund;

(ii) United Nations Institute for Training and Research;

(iii) United Nations Industrial Development Organization;

(iv) The Executive Secretary of the—

(i) United Nations Economic Commission for Africa;

(ii) United Nations Economic Commission for Asia and the Far East;

(iii) United Nations Economic Commission for Latin America;

(iv) United Nations Economic Commission for Europe.

(8) The Secretary General of the United Nations Conference on Trade and Development;

(9) The Director General of the Latin American Institute for Economic and Social Planning;

(10) The United Nations High Commissioner for Refugees;

(11) The United Nations Commissioner for Technical Co-operation;

(12) The Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

(13) The spouse or child of any nonimmigrant alien listed in paragraphs (a) (1) through (12) of this section.

(c) Any other individual alien of a class of aliens shall, if otherwise qualified, be eligible to receive a diplomatic visa upon the authorization of the Department, the Chief of a United States Diplomatic Mission, the Deputy Chief of Mission, the Counselor for Consular Affairs or the principal officer of a consular post not under the jurisdiction of a diplomatic mission.

(Dept. Reg. 108.613, 34 FR 6087, Mar. 11, 1971, as amended by Dept. Reg. 108.632, 37 FR 2,129, Feb. 1, 1972; 37 FR 3051, Feb. 11, 1972)

§ 41.104 Classes of aliens eligible to receive official visas.

A nonimmigrant within one of the following categories shall, if otherwise qualified, be eligible to receive an official visa irrespective of his classification under § 41.12:

(a) An alien within one of the following classes who is not eligible to receive a diplomatic visa:

(1) Aliens within a class described in § 41.102(a) who are ineligible to receive a diplomatic visa because they are not in possession of a diplomatic passport or its equivalent.

(2) Aliens classifiable under section 101(a)(15)(A) of the Act.

(3) Aliens, other than those described in § 41.102(a), who are classifiable under section 101(a)(15)(C) of the Act, except those classifiable under section 101(a)(15)(C)(iii) of the Act unless the government of which the alien is an accredited representative is recognized de jure by the United States;

(4) Aliens classifiable under section 101(a)(15)(C) of the Act as nonimmigrants described in section 212(d)(8) of the Act;

(5) Members and members-elect of national legislative bodies;

(6) Justices of the lesser national and the highest state courts of a foreign country;

(7) Officers and employees of national legislative bodies proceeding to or through the United States in the performance of their official duties;

(8) Clerical and custodial employees included to foreign-government delegations to, and employees of, international bodies of an official nature,

other than international organizations so designated by executive order, proceeding to or through the United States in the performance of their official duties;

(b) Clerical and custodial employees attached to a diplomatic mission of a temporary character proceeding to or through the United States in the performance of their official duties;

(c) Clerical and custodial employees attached to foreign government delegations proceeding to or from a specific international conference of an official nature;

(d) Officers and employees of foreign governments recognized de jure by the United States who are stationed in foreign contiguous territories or adjacent islands;

(e) Members of the immediate family, attendants, servants and personal employees of, when accompanying or following to join, a principal alien who is within one of the classes referred to or described in paragraphs (a) (1) to (11) inclusive of this section;

(f) Attendants, servants and personal employees accompanying or following to join a principal alien who is within one of the classes referred to or described in § 41.102(a) (1) to (13) inclusive;

(g) Any other individual alien or class of aliens for whom the acceptance of an application for an official visa has been authorized by the Department or by the Chief of a United States Diplomatic Mission, the Deputy Chief of Mission, the Counselor for Consular Affairs, or the principal officer at a consular post not under the jurisdiction of a diplomatic mission.

(Dept. Reg. 108.411, 24 FR 6687, Aug. 16, 1959, as amended by Dept. Reg. 108.433, 25 FR 4579, May 25, 1960; Dept. Reg. 108.523, 30 FR 4696, Mar. 11, 1971, 36 FR 8046, Mar. 17, 1971)

APPLICATION FOR NONIMMIGRANT VISAS

§ 41.110 Place of application.

(a) Applications for regular and official visas. With the exception of certain aliens who are in the United States who may be issued nonimmigrant visas under the provisions of § 41.120, every alien applying for a regular or official visa shall make applica-

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tion to the consular officer in the consular district in which he has his residence, except that a consular officer shall at the direction of the Department, or may in his discretion, accept an application for a nonimmigrant visa from an alien having no residence in the consular district if the alien is physically present therein.

(b) Applications for diplomatic visas. Application for a diplomatic visa shall be made at a diplomatic mission or at a consular office authorized to issue diplomatic visas, regard less of the nationality or residence of the applicant.

(Dept. Reg. 108.411, 24 FR 6687, Aug. 16, 1959, as amended by Dept. Reg. 108.432, 24 FR 11082, Dec. 31, 1959)

Consular Officers. For applications for certain visas see § 41.120(b).

§ 41.111 Supporting documents.

(a) Authority to require documents and consideration accorded. The consular officer shall have authority to require such documents as he may consider necessary to establish the alien's eligibility to receive a nonimmigrant visa. All such documents submitted and any other evidence adduced by the alien shall be given consideration by the consular officer, including articles submitted by attorneys or other representatives.

(b) Unobtainable documents. In the event an alien establishes to the satisfaction of the consular officer that any document or record required under the authority of this section is unobtainable, the consular officer may record, in lieu of such document or record, other satisfactory evidence of the fact to which the document or record would, if obtainable, pertain. A document or other record shall be considered "unobtainable" if it cannot be procured without causing the applicant or a member of his family actual hardship other than normal delay and inconvenience.

(c) Photographs. Except as otherwise provided in this paragraph, every alien shall furnish with his application identical photographs of himself in such number as may be required in the discretion of the consular officer. The photographs shall reflect a reasonable

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likeness of the alien as of the time they are furnished, and shall be by 1½ inches in size, unmounted, without head covering, have a light background, and clearly show a full front view of the facial features of the alien. The reverse of each copy of the photograph shall be signed by the person executing the application (see § 41.116(a)) with the full name of the applicant. The photograph requirement may be waived, in the discretion of the consular officer, in the case of any alien who is (1) within a class of nonimmigrants described in sections 101(a)(15)(A), 101(a)(15)(C) or 212(d)(18) of the Act, (2) within a class of nonimmigrants classifiable under the visa symbol NATO-1 through NATO-7, (3) an applicant for an official visa, (4) an applicant for an official visa, or (5) under sixteen years of age. A notation of any such waiver shall be made in the space provided in the application form for the alien's photograph. A new photograph need not be required, in the discretion of the consular officer, if there is an file which was submitted in connection with a prior nonimmigrant visa application and which still reflects a reasonable likeness of the applicant.

(d) Police certificates. (1) An alien shall be required to present a police certificate if the consular officer has reason to believe that he may have a police or criminal record, except that no police certificate shall be required in the case of an alien who is (i) within a class of nonimmigrants described in section 101(a)(15)(A) (i) or (ii), or section 101(a)(15)(C) (i), (ii), (iii), or (iv), or section 212(d)(18), of the Act, or (ii) within a class of nonimmigrants classifiable under the visa symbol NATO-1, NATO-2, NATO-3, NATO-4, or NATO-6.

(2) A police certificate is a certification by the police or other appropriate authorities stating what, if anything, their records show concerning the alien.

(Sec. 2, 2, 60 Stat. 102, 8 U.S.C. 1202)

(Dept. Reg. 108.411, 24 FR 6687, Aug. 16, 1959, 24 FR 6942, Aug. 27, 1959, as amended by Dept. Reg. 108.433, 25 FR 4579, May 25, 1960, Dept. Reg. 108.495, 28 FR 5375, May 30, 1963)

§ 41.112 Passports.

(a) Passport requirement. Except for certain persons in the A, C-3, C and NATO categories and persons for whom the passport requirement has been waived pursuant to the provisions of section 212(d)(4) of the Act, every applicant for a nonimmigrant visa shall present a passport as defined in section 101(a)(30) of the Act and § 41.1 which is valid for the period required by section 212(a)(26) of the Act.

(b) Aliens included in a single passport. The passport requirement referred to under paragraph (a) of this section may be met by the presentation of a passport including more than one person if such inclusion is authorized under the laws or regulations of the issuing authority and if a photograph of each person sixteen years of age or over to whom a visa is to be issued shall have been attached to the passport by the issuing authority.

(c) Applicants for diplomatic visas. Every applicant for a diplomatic visa shall be required to present a diplomatic passport, or the equivalent thereof, having the period of validity indicated in paragraph (a) of this section, unless such requirement has been waived pursuant to the authority contained in section 212(d)(4) of the Act or unless the case falls within the provisions of § 41.91(f).

(Dept. Reg. 108.422, 24 FR 11092, Dec. 31, 1959, Dept. Reg. 108.433, 25 FR 4579, May 25, 1960; Dept. Reg. 108.441, 25 FR 1019, July 23, 1960)

§ 41.113 Medical examination.

(a) An alien shall be required to be medically examined if (1) he is an applicant for a nonimmigrant visa as a fiancée or fiancé of a U.S. citizen, or as the child of such applicant, or (2) the consular officer has reason to believe that a medical examination is advisable or that it would disclose that the alien is medically ineligible to receive a visa.

(b) All consular offices where medical officers of the United States Public Health Service are on duty, the alien's examination shall be conducted by such officers. If a medical officer of the United States Public Health Service is not available, the required exam-

tion shall be conducted by a certified location physician or by a physician selected by the alien from a panel of physicians approved by the consular officer.

(c) A consular officer shall not include the name of a physician on the panel of physicians referred to in paragraph (b) of this section unless such physician has facilities to perform required serological and X-ray tests or is in a position to refer applicants to a qualified laboratory for such tests.

(Dec. 21, 60 Stat. 101, 6 U.S.C. 1201)

(Dept. Reg. 108.506, 29 FR 2703, Feb. 24, 1964, as amended by Dept. Reg. 108.070, 37 FR 1494, July 26, 1972; Dept. Reg. 108.654, 38 FR 4577, Feb. 16, 1973)

§ 41.111 Personal appearance.

(a) Except as otherwise provided in this section, every alien seeking a nonimmigrant visa shall be required to apply in person before a consular officer. The requirement of personal appearance may be waived in the discretion of the consular officer in the case of any alien who is:

(1) A child under 14 years of age,
(2) Within a class of nonimmigrants classifiable under the visa symbols A-1, A-2, A-3, C-2, C-3, G-1, G-2, G-3, G-4, G-5, NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6, or NATO-7,
(3) An applicant for a diplomatic or official visa.

(4) An applicant for a nonimmigrant visa under the provisions of section 101(a)(15)(D) of the Act.

(5) Within a class of nonimmigrants classifiable under the visa symbols C-1, H-1, or I.

(6) Within a class of nonimmigrants classifiable under the visa symbol J-1, who qualifies as a leader in a field of specialized knowledge or skill and who is the recipient of a U.S. Government grant, and the sponsor and children of such an alien who qualify for J-2 classification.

(7) An airman applying for a nonimmigrant visa under the provisions of section 101(a)(15)(D) of the Act if the application is supported by a letter from the employing carrier certifying that the applicant is employed as an airman and the consular officer is sat-

isfied in the individual case that the personal appearance of the alien is not necessary to a determination of his eligibility to receive a visa, or.

(8) A nonimmigrant in any category in whose case the responsible consular officer determines that a waiver of personal appearance in the individual case is warranted in the national interest, or because of unusual circumstances, including hardship to the visa applicant.

(b) In the categories described in paragraphs (a) (2) and (3) of this section the filing of a visa application by the applicant may be waived in the discretion of the consular officer in cases in which personal appearance is waived pursuant to paragraph (a)(b) of this section the filing of a visa application by the applicant may be waived in the discretion of the consular officer in hardship, emergency or national interest cases. In any case in which personal appearance is waived pursuant to any other subparagraph of paragraph (a) of this section, application for a visa shall be made on Form OF-156 as determined to be appropriate by the consular officer.

(Dept. Reg. 108.630, 31 FR 1200, Oct. 6, 1960, as amended by Dept. Reg. 104.506, 33 FR 7369, May 24, 1968; Dept. Reg. 108-739, 42 FR 32325, June 27, 1977)

§ 41.115 Application forms.

(a) *Aliens required to execute applications.* Every alien applying for a nonimmigrant visa shall make application (hereafter on Form OF-156, unless personal appearance is waived and submission of the application form by the applicant is not required pursuant to 22 CFR 41.114(b) or unless there is a Form OF-156 available at the consular office which can be appropriately amended to bring the application up to date. In cases in which the filing of the visa application is waived, the consular officer shall receive a Form OF-156 on behalf of the applicant from the data available in the passport or other documents submitted. In the case of an alien under 16 years of age, or one physically incapable of making an application, the application may be made by the alien's parent or guardian, or, if the alien has no parent

or guardian, by any person having legal custody of, or a legitimate interest in, the alien.

(b) *Additional information as part of application.* In any case in which the consular officer believes that the information provided in Form OF-156 is inadequate to determine the alien's eligibility to receive a nonimmigrant visa he may require the submission of such additional information as may be necessary or interrogate the alien on any matter which is deemed material. Any additional statements made by the alien shall become a part of the visa application. All documents required under the authority of § 41.111(a) shall be considered papers submitted with the alien's application within the meaning of section 221(g)(1) of the Act.

(Dept. Reg. 108.472, 26 FR 10651, Oct. 26, 1961, as amended by Dept. Reg. 108.501, 31 FR 12000, Oct. 6, 1966; Dept. Reg. 108.739, 42 FR 32325, June 27, 1977)

§ 41.116 Registration and fingerprinting.

(a) *Registration.* Form OF-150, when properly completed, shall constitute the alien's registration record for the purposes of section 221(b) of the Act.

(b) *Fingerprinting.* (1) The provisions of section 221(b) of the Act which require the fingerprinting of aliens in connection with their applications for visas are waived in pursuance of the authority contained therein for the nonimmigrant classes specified in paragraph (b)(1)(D) of this section, and in pursuance of the authority contained in section 8 of the Act of September 11, 1957 (71 Stat. 641; U.S.C. 1201(a)) for the nonimmigrant classes specified in paragraph (b)(1)(D) of this section; (i) an alien who is within a class of nonimmigrants enumerated in section 101(a)(15)(A) and section 101(a)(15)(G) of the Act, or an alien who is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof (see § 41.1); (ii) an alien who is a national of a country whose government does not require fingerprinting in connection with an application for, or the issuance of, a visa to a national of the United States who intends to proceed to such country for a similar purpose, and who is

classifiable as a nonimmigrant under the provisions of section 101(a)(15) (B), (C), (D), (E), (F), (H), (I), (J), (K), or (L) of the Act, including a nonimmigrant alien who is classifiable under the visa symbol NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6, or NATO-7.

(2) In the case of any nonimmigrant alien who is not exempted from the fingerprinting requirement under the provisions of this section, the fingerprints of such alien shall be taken in connection with his application for a nonimmigrant visa on Form AR-4 (Alien Registration Fingerprint Card) or in such other manner as may be authorized by the Department.

(3) An alien may be required by the consular officer, when he makes preliminary or informal application for a visa, to have a set of his fingerprints taken on Form AR-4 in the event such procedure is considered necessary for the purpose of identification, or investigation. Consular officers may, where necessary, use the fingerprint card in order to ascertain from the appropriate local or any other authorities whether they have any pertinent information concerning the applicant's eligibility to receive a visa.

(Dept. Reg. 108.411, 24 FR 6694, Aug. 18, 1959, 24 FR 6943, Aug. 27, 1959, as amended by Dept. Reg. 108.408, 28 FR 171, Jan. 10, 1963; Dept. Reg. 108.614, 25 FR 6125, Aug. 4, 1970; Dept. Reg. 108.739, 42 FR 32326, June 27, 1977)

§ 41.117 Signature.

When personal appearance is required, Form OF-156 shall be signed and verified by or on behalf of the applicant in the presence of the consular officer. If personal appearance is waived, and the submission of an application form by the alien is required, the form shall be signed by the applicant. If the filing of an application form is also waived, the consular officer shall so indicate on the Form OF-156 prepared on behalf of the applicant. The consular officer shall, in every instance, write his initials over or adjacent to his name and the stamp on the Form OF-156.

100pt. Reg. 108.971, 33 FR 16698, Nov. 23, 1967, as amended by Dept. Reg. 108.739, 43 FR 32536, June 27, 1971

ISSUANCE OF NONIMMIGRANT VISAS

§ 41.120 Authority to issue visas.

(a) *Issuance outside the United States.* Any consular officer is authorized to issue regular and official visas. Diplomatic visas may be issued only by—

(1) A consular officer attached to a United States Diplomatic Mission, if he is authorized to do so by the Chief of the Mission, or

(2) A consular officer assigned to a consular office, if so authorized by the Department or by the Chief, Deputy Chief, or the Counselor for Consular Affairs of the United States Diplomatic Mission in the country in which such consular office is located or, at a consular post, not under the jurisdiction of a diplomatic mission, by the principal officer.

(b) *Issuance in the United States in certain cases.* The Director of the Visa Office of the Department and such other officers of the Department and such other officers of the Department as he may designate are authorized, in their discretion, to issue nonimmigrant visas to—

(1) Qualified aliens classifiable under the visa symbol C-2 or C-3;

(2) Other qualified aliens who—

(i) Are properly classifiable under sub-paragraph (A) or (G) of section 101(a)(15) of the Act or under the visa symbols NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6, or NATO-7;

(ii) Present appropriate evidence that—

(a) They have been lawfully admitted to the United States in such status or have, after admission, had their status changed to such status;

(b) Their period of authorized stay in such status has not expired; and

(c) They are currently maintaining such status; and

(d) Intend, after a temporary absence, to reenter the United States in such status.

(Dept. Reg. 108.638, 30 FR 12160, June 28, 1971, as amended by Dept. Reg. 108.693, 30 FR 2180, Jan. 22, 1974)

Title 22—Foreign Relations

§ 41.121 Visa fees.

(a) Unless on a basis of reciprocity no fee is chargeable, the fees for the issuance of visas, including official visas, to nonimmigrant nationals or aliens residents of each foreign country shall be collected in the amounts prescribed by the Secretary of State. If practicable, fees will correspond to the total of all visa, entry, residence, or other similar fees, taxes or charges assessed or levied against nationals of the United States by the foreign countries of which such nonimmigrants are nationals or states residents.

(b) *Aliens exempted from fees.* Upon a basis of reciprocity, or as provided in section 13(a) of the Headquarters Agreement with the United National (61 Stat. 716; 22 U.S.C. 287, Note), no fee shall be collected for the issuance of a nonimmigrant visa to an alien of any of the following classes: (1) Run-Immigrants described in section 101(a)(15)(A) of the Act; (2) nonimmigrants described in section 101(a)(15)(G) of the Act; (3) nonimmigrants described in section 212(d)(1)(B) of the Act; (4) persons entitled to pass in transit to the United Nations Headquarters District under the provisions of paragraph (3), (4) or (5) of section 11 of the Headquarters Agreement and who are issued C-2 visas as nonimmigrants under the provisions of section 101(a)(15)(C) of the Act; (5) nonimmigrants who are classifiable under the visa symbol NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6, NATO-7, and (6) nonimmigrants who are issued diplomatic visas.

(c) *Reimbursement of fees.* A fee collected for the issuance or revocation of a nonimmigrant visa is refundable only when the principal officer at a post or the officer in charge of a consular section determines that the visa was issued in error or could not be used as a result of action by the United States Government over which the alien had no control and for which he was not responsible.

(Sec. 281, 60 Stat. 230, 8 U.S.C. 1351)

(Dept. Reg. 108.411, 24 FR 6160, Aug. 18, 1959; 24 FR 6943, Aug. 27, 1959, as amended by Dept. Reg. 108.405, 28 FR 3261, Apr. 4,

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1003 Reg. 108.507, 33 FR 16645, Nov. 9, 1968

CHARGE REFUNDABLES: For fee to be collected when more than one alien included in single visa see § 41.123.

For fee for revaled and (re)issued visa see § 41.124(a) and 41.126(d).

For fee for crew list see § 41.127(c).

§ 41.122 Validity, termination and replacement of visas.

(a) *Validity of visa not related to period of stay in the United States.* The period of validity of a nonimmigrant visa shall have no relation to the period of time the alien may be authorized by the Immigration authorities to stay in the United States; if, upon his arrival at a port of entry, he is admitted by those authorities.

(b) *Validity of visa pertains to period within which alien may apply for admission.* The period of validity of a nonimmigrant visa shall relate only to the period during which the alien to whom the visa was issued may use it in making application for admission into the United States.

(c) *Validity of visa and number of applications for admission.* Except as provided in paragraph (d) of this section a nonimmigrant visa shall have the validity prescribed in schedules made available to consular officers by the Department, which reflect, as nearly as practicable, the reciprocal treatment accorded U.S. nationals by the government of the country of which the alien is a national or stateless resident. Nonimmigrant visas issued pursuant to section 101(a)(15)(B) of the Immigration and Nationality Act may, in the discretion of the consular officer, be made valid indefinitely and for an unlimited number of applications for admission for aliens who: (1) Are nationals of countries which offer reciprocal treatment to U.S. citizens, as determined by the Department of State; (2) are in possession of a valid passport in which the visa may be stamped; and (3) have satisfied the consular officer that they are bona fide visitors and will continue to maintain that status for an indefinite period of time. An indefinite validity visa shall be valid for application for admission into the United States if the passport in which the visa is stamped has expired, provided the

alien is also in possession of a valid passport issued by the appropriate authorities of the country of which the alien is a national as required by section 21(a)(20) of the Act and § 41.119.

(d) *Expiration on validity.* If warranted in an individual case, a consular officer may issue a nonimmigrant visa for (1) a period of validity which is less than that prescribed on a basis of reciprocity; (2) a number of applications for admission within the period of the validity of the visa which is less than that prescribed on a basis of reciprocity; (3) application for admission at a specified port or specified ports of entry in the United States; or (4) for use on and after a given date subsequent to the date of issuance.

(e) *Termination of validity by consular or immigration officer.* Notwithstanding any period of validity specified on the face of a nonimmigrant visa issued to an alien, a consular or immigration officer is authorized to terminate the validity thereof by physically cancelling such visa if—

(1) The alien obtains an immigrant visa or has his status adjusted to that of permanent resident;

(2) The alien is ordered excluded from the United States pursuant to section 235(c) or 236 of the Act;

(3) The alien is notified pursuant to section 235(b) of the Act by an immigration officer at a port of entry that he appears to be inadmissible to the United States and the alien requests and is granted permission to withdraw his application for admission;

(4) A final order of deportation or a final order granting voluntary departure with an alternate order of deportation is entered pursuant to 8 CFR Part 3, or 8 CFR Part 242;

(5) The alien has been permitted by the Immigration and Naturalization Service to depart voluntarily from the United States pursuant to 8 CFR 242.5;

(6) A waiver of inadmissibility pursuant to section 212(d)(3)(A) of the Act on the basis of which the visa was issued to the alien is revoked by the Immigration and Naturalization Service;

(7) The visa is presented in connection with an application for admission to the United States by a person other

than the alien to whom it was issued; or
(8) The visa has been physically removed from the passport in which it was originally issued.

(f) *Termination of validity prior to alien's journey to the United States.*

(1) Notwithstanding any period of validity specified on the face thereof, the validity of a nonimmigrant visa issued to an alien shall terminate if, prior to the embarkation of the alien upon a continuous voyage to the United States, the visa has been physically removed from the passport in which it was originally issued, or a consular officer finds that the alien has, subsequent to the issuance of such visa, become ineligible under section 212(a) of the Act to receive such visa or has ceased to be entitled to the nonimmigrant classification under section 101(a)(15) of the Act specified in such visa. Before making such a finding in an individual case, the consular officer shall, if practicable, notify the alien and give him an opportunity to rebut and overcome the information on the basis of which the consular officer proposes to find that he has become ineligible to receive a nonimmigrant visa.

(2) Upon learning that a visa has been physically removed from the passport in which it was originally issued or upon a finding of ineligibility pursuant to paragraph (f)(1) of this section, the consular officer shall, if possible, physically cancel such visa. If the consular officer is unable to physically cancel the visa he shall give notice of the termination of validity to the master, commanding officer, agent, owner, charterer, or consignee of the carrier or transportation line in which it is believed that the alien intends to travel to the United States and shall promptly submit to the Department a full report of the facts of any case in which a finding of ineligibility to receive a visa has been made pursuant to paragraph (f)(1) of this section.

(4) *Replacement of visa.* A nonimmigrant visa the validity of which has been terminated pursuant to paragraph (c) or (f) of this section may be replaced, without fee, by a consular officer if it is determined that the basis

for termination has been overcome and if the validity specified on the face thereof has not at that time expired.

(Sec. 221, 60 Stat. 191, a U.S.C. 1201; 8 U.S.C. 1101; sec. 101, 66 Stat. 171, 8 U.S.C. 1101; sec. 101(b)(4), 81 Stat. 837)

(Comp. H.R. 108-411, 24 P.L. 669, Aug. 18, 1959)

Explanatory Note: For Federal Register citations affecting § 41.122, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 41.123 More than one alien included in visa.

If the spouse and unmarried minor children of a tripartite alien are included in one passport (see § 41.122(b)), a single nonimmigrant visa may be issued to include all eligible family members. Each alien must execute a separate application. The name of each family member shall be written in the space provided in the visa stamp. The visa fee to be collected shall be equal to the total of the fees prescribed by the Secretary of State, in accordance with the provisions of section 281 of the Act, for each alien included in the visa unless upon a basis of reciprocity a lesser fee is chargeable in such a case.

(Dept. Reg. 108-411, 24 FR 6699, Aug. 18, 1959)

§ 41.124 Procedures in issuing visas.

(a) *Visa evidenced by a passport.* Except as provided in paragraph (b) of this section the issuance of a nonimmigrant visa shall be evidenced by a properly identifiable insert placed in the alien's passport. The appropriate symbol, as prescribed in § 41.12, showing the classification of the alien, shall be included in the visa insert.

(b) *Cases in which visa may not be placed in passport.* In the following cases the visa shall be placed on the prescribed Form OF-232, to which a photograph of the alien shall be attached under seal:

(1) The alien's passport was issued by a government with which the United States does not have formal diplomatic relations, unless the Department has specifically authorized

the placing of the visa insert in such passport;

(2) The alien's passport does not provide sufficient space for the visa insert;

(3) The passport requirement has been waived; or

(4) In other cases as authorized by the Department. In issuing a visa in such cases a notation shall be made on the Form OF-232 on which the visa is placed specifying the pertinent subparagraph of this paragraph under which the action is taken.

(c) *Indefinite Validity Visa.* In no instance may a visa issued pursuant to section 101(a)(15)(B) of the Act and having indefinite validity as provided in § 41.122(c) be placed in any document other than a valid passport.

(d) *Visa Insert.* (1) The nonimmigrant visa insert shall be in the format designated by the Department and contain the following data:

(i) The number of the visa;

(ii) The location of the issuing office;

(iii) The classification of the visa;

(iv) The date of issuance;

(v) The expiration date or, if an indefinite validity visa is issued on the basis of reciprocity, the word "indefinitely";

(vi) The number of applications for admission for which it is valid or, the word "multiple";

(vii) The name(s) of the person(s) to whom issued, unless the entry authorized by paragraph (e)(1) of this section is used;

(viii) The signature or facsimile signature of the issuing officer.

(2) The format of a diplomatic visa shall be the same as a regular nonimmigrant visa, except that it shall bear the title "DIPLOMATIC".

(3) The format of an official visa shall be the same as a regular nonimmigrant visa, except that it shall bear the title "OFFICIAL".

(4) All of the data required by paragraph (d)(1) shall be contained in a nonimmigrant visa issued pursuant to the Automated Nonimmigrant Visa Issuance System. (ANVIS) except that the signature or facsimile signature of the issuing officer shall not be contained in such a visa. In addition, the ANVIS visa shall contain the date and

place of birth of the person to whom the visa is issued with the country of birth being indicated by a three digit numeric code. The location of the issuing office will also be shown by a three digit numeric code.

(e) *Insertion of name; petition and derivative status notation.*

(1) Except as otherwise provided in this paragraph, the name of names of the alien or aliens to whom a nonimmigrant visa is issued shall be shown on the visa insert just after the word "to". Consular officers, in their discretion, show the word "hereafter" in lieu of the name of the alien and in lieu of the names of accompanying family members, if any, who are included in the alien's passport, in visas issued in passports or other travel documents meeting the requirements of section 101(a)(3) of the Immigration and Nationality Act, which have been designated by the Department as approved for this purpose. This procedure may not be applied in the case of aliens who are the beneficiaries of waivers granted under section 212(d)(13) of the Act.

(2) If the visa is being issued upon the basis of a petition approved by the Attorney General, the number of the petition, if any, the period for which the alien's admission has been authorized and the name of the petitioner shall be noted immediately below the visa insert.

(3) In the case of an alien who derives status from a principal alien, the name and position of the principal alien shall be written below the lower margin of the visa insert.

(f) *Period of validity.* If a nonimmigrant visa is issued for an unlimited number of applications for admission within the period of validity, the word "multiple" shall be appropriately placed in the visa insert. Otherwise the number of permitted applications for admission shall be shown in word form. The date of issuance and the date of expiration of the visa shall be shown in the appropriate places in the visa insert and shall indicate the day, month and year in that order. The standard three letter abbreviation for the month shall be used in all cases. If a visitor visa is to be made valid for an indefinite period the word "indefinite"

place of birth of the person to whom the visa is issued with the country of birth being indicated by a three digit numeric code. The location of the issuing office will also be shown by a three digit numeric code.

(e) *Insertion of name; petition and derivative status notation.*

(1) Except as otherwise provided in this paragraph, the name of names of the alien or aliens to whom a nonimmigrant visa is issued shall be shown on the visa insert just after the word "to". Consular officers, in their discretion, show the word "hereafter" in lieu of the name of the alien and in lieu of the names of accompanying family members, if any, who are included in the alien's passport, in visas issued in passports or other travel documents meeting the requirements of section 101(a)(3) of the Immigration and Nationality Act, which have been designated by the Department as approved for this purpose. This procedure may not be applied in the case of aliens who are the beneficiaries of waivers granted under section 212(d)(13) of the Act.

(2) If the visa is being issued upon the basis of a petition approved by the Attorney General, the number of the petition, if any, the period for which the alien's admission has been authorized and the name of the petitioner shall be noted immediately below the visa insert.

(3) In the case of an alien who derives status from a principal alien, the name and position of the principal alien shall be written below the lower margin of the visa insert.

(f) *Period of validity.* If a nonimmigrant visa is issued for an unlimited number of applications for admission within the period of validity, the word "multiple" shall be appropriately placed in the visa insert. Otherwise the number of permitted applications for admission shall be shown in word form. The date of issuance and the date of expiration of the visa shall be shown in the appropriate places in the visa insert and shall indicate the day, month and year in that order. The standard three letter abbreviation for the month shall be used in all cases. If a visitor visa is to be made valid for an indefinite period the word "indefinite"

ly" shall be inserted in the space provided for the expiration date of the visa.

(g) *Restriction to specified part of entry.* If a nonimmigrant visa is to be valid for admission only at a specified port or ports of entry the name or names of such port or ports shall be entered immediately below the expiration date of the visa and shall be preceded by the word "at".

(h) *Signature.* Except in the case of a nonimmigrant visa issued pursuant to § 41.124(d)(4), the signature or facsimile signature of the consular officer issuing the visa shall appear in the visa insert.

(i) *Delivery of visa and disposition of Form OP-156.* In issuing a nonimmigrant visa the consular officer shall deliver the visad passport, or the prescribed Form OP-222 which bears the visa, to the alien or, in any cases in which personal appearance has been waived, to the authorized representative. The executed Form OP-156 and any additional statements furnished by the alien in accordance with § 41.115(b) shall be retained in the consular files.

(j) *Disposition of supporting documents.* Original supporting documents furnished by the alien shall be returned to the alien for presentation, if necessary, to immigration authorities at the port of entry and a notation to that effect shall be made on the Form OP-156. Duplicates of the documents may be retained at the consular office in the discretion of the consular officer.

(k) *Replacement of erroneously issued visas.* A nonimmigrant visa, once issued and signed may not be amended or altered except as provided in § 41.120(c). A visa erroneously issued in relation to any item appearing in the visa insert shall be cancelled and replaced by a corrected visa. No fee shall be charged for a visa so placed unless an incorrect fee was originally charged. The procedure prescribed by § 41.125(b) shall be followed except that the word "Corrected" shall be placed on the upper margin of the visa insert in place of the word "Transferred". The procedure described in this paragraph may not be used to include additional persons in

the visa. For regulations regarding the revocation or invalidation of a visa see § 41.134.

(l) *Olympic Games, Pan American Games or other Biennial Games.* Notwithstanding the provisions of paragraph (c) of this section, in the case of an alien who:

(1) Is a participant in the Summer or Winter Olympic Games, the Pan American Games or other Biennial Games under the auspices of the International Olympic Committee, held in the United States; and

(2) Is the holder of an official identification card which has been issued for participation in such Games under the Olympic Rules By-Laws, which includes the signature of a competent authority of the participating government and the assurance of that government's recognition of the card for entry by the bearer for an additional period of six months beyond the expiration date of the card, and which otherwise meets the requirements of sections 101(a)(30) and 212(c)(1)(2) of the Immigration and Nationality Act, a stamp consisting of:

(i) The imprint of the issuing post's rubber stamp seal; and

(ii) The signature of a consular officer affixed on the identity card shall constitute a multiple entry B-1/B-2 visa valid for the duration of the card, or, in the case of a representative of foreign press, radio, film or other foreign information media, a multiple entry I visa valid for the duration of the card.

(Sec. 101, 84 Stat. 116; 8 U.S.C. 1101; sec. 104, 68 Stat. 174; 8 U.S.C. 1104; sec. 109(b)(1), 91 Stat. 847)

(Dipl. Reg. 108 411, 24 FR 6678, Aug. 18, 1959)

European North Pacific Federal Republic (relations affecting § 41.124, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 41.125 Revocation of visas.

(a) *Conditions for revocation.* A nonimmigrant visa may, in the discretion of the consular officer, be recalled for the period or periods specified under paragraphs (c) and (d) of this section in the same classification at any visa-issuing office if (1) the

alien's nationality is the same, (2) the visa is about to expire or has expired, or has become invalid by reason of having been used for the number of applications for admission specified therein, (3) the application for revocation is made within one year of the date of expiration of the original visa or any revocation thereof, and (4) the alien is a bona fide nonimmigrant and is otherwise eligible to receive a nonimmigrant visa.

(b) *Waiver of personal appearance.* Except as indicated in paragraph (d) of this section, the consular officer may, in his discretion, waive the personal appearance of an alien who is an applicant for revocation of his visa.

(c) *Period for which visa may be revoked.* A nonimmigrant visa issued under the provisions of any paragraph of section 101(a)(15) of the Act may, in the discretion of the consular officer, be revoked any number of times for the period and number of applications for admission prescribed by the Secretary of State.

(d) *Revocation of visas for creoles—(1) Armenians.* If the requirements of paragraph (a) of this section are met, a nonimmigrant visa issued under the provisions of section 101(a)(15)(D) of the Act to an alien may be revoked any number of times for the period and number of applications for admission prescribed by the Secretary of State provided that (1) the application for revocation is supported by a letter from the employing carrier certifying that the applicant is employed as an alien, or (2) if the applicant is not employed at the time of application for revocation, he appears in person in connection with his application and presents satisfactory evidence that he continues to be a bona fide alien.

(2) *Creoles.* If the requirements of paragraph (a) of this section are met, a nonimmigrant visa issued under the provisions of section 101(a)(15)(D) of the Act to a seaman may be revoked any number of times for the period and number of applications for admission prescribed by the Secretary of State provided that (1) the application for revocation is supported by a letter from the employing carrier cer-

tifying that the applicant is employed as a seaman and that he is in possession of a valid alien seaman landing permit and identification card (Form I-184) issued by the Immigration and Naturalization Service, or (2) if the applicant is not employed at the time of application for revocation, he appears in person in connection with his application and submits satisfactory evidence that he continues to be a bona fide seaman.

(3) *Creoles in transit.* A nonimmigrant visa issued under the provisions of section 101(a)(15)(C) of the Act to an alien or seaman who is being issued, or is in possession of, an individual D visa, may be revoked any number of times for the period and number of applications for admission prescribed by the Secretary of State if the conditions set out in paragraph (a) of this section and in paragraphs (1) and (2) of this section are met.

(c) *Procedure for revocation.* In revocating a nonimmigrant visa, the consular officer shall follow the procedure prescribed in § 41.124. An alien seeking revocation of a nonimmigrant visa shall make application therefor as prescribed in § 41.113. A photograph of the alien shall not be required unless it appears in the consular officer's files. The alien has not previously submitted a photograph in connection with an application for a visa and that the alien does not come within any of the excepted classes described in § 41.111(c). The visa stamp shall be placed in the alien's passport and pertinent data contained in the original visa shall be transferred to the revocated visa. The word "REVOKED" shall be inserted on the upper margin of the visa stamp.

(f) *Automatic revocation of visas in certain cases.* (1) An expired nonimmigrant visa issued pursuant to the provisions of section 101(a)(15) (F) or (J) of the Act, or an expired or unexpired nonimmigrant visa issued pursuant to the provisions of another paragraph of section 101(a)(15) if the nonimmigrant status has been changed by the Immigration and Naturalization Service to that of a nonimmigrant as defined in paragraph (F) or (J), may be considered to be automatically revoked and the date of application for

readmission to the United States and converted, if necessary, to classification under paragraph (F) or (J), in the case of a nonimmigrant alien who:

(1) Is applying for readmission into the United States after an absence not exceeding 30 days solely in contiguous territory or adjacent islands other than Cuba;

(2) Has maintained and intends to resume his status under paragraph (F) or (J) in the United States;

(3) Presents or is the accompanying spouse or child of an alien who presents a current Form I-20 (in the case of student) or Form I-551 (in the case of an exchange visitor) issued by the school the student has been authorized to attend by the Immigration and Naturalization Service, or by the sponsor of the exchange program in which he has been authorized to participate by the Immigration and Naturalization Service, and endorsed by the issuing school official or program sponsor to indicate the period of initial admission or extension of stay authorized by the Immigration and Naturalization Service;

(4) Is applying for readmission within the authorized period of initial admission or extension of stay;

(5) Is in possession of a valid passport, and

(6) Does not require the authorization of his temporary admission into the United States under section 212(a)(3) of the Act.

(7) Does not require the authorization of his temporary admission into the United States under section 212(a)(3) of the Act.

(8) An expired nonimmigrant visa issued pursuant to the provisions of any paragraph of section 101(a)(15) of the Act may be considered to be valid, dated to the date of application for readmission to the United States and an expired or unexpired nonimmigrant visa issued pursuant to the provisions of any paragraph of section 101(a)(15) of the Act may, if the original nonimmigrant status has been changed by the Immigration and Naturalization Service, be considered to be revalidated to the date of application for readmission to the United States and converted to that classed status in the case of a nonimmigrant alien who:

(1) Has maintained nonimmigrant status in the United States and is in possession of an Arrival-Departure

Card (Form I-94) endorsed by the Immigration and Naturalization Service to show an unexpired period of initial admission or extension of stay;

(2) Is applying for readmission into the United States after an absence not exceeding 30 days solely in contiguous territory;

(3) Intends to resume nonimmigrant status in the United States;

(4) Is applying for readmission within the authorized period of initial admission or extension of stay;

(5) Is in possession of a valid passport; and

(6) Does not require the authorization of his temporary admission into the United States under section 212(a)(3) of the Act.

(7) Revalidation in the United States in certain cases. The Director of the Visa Office of the Department and such other officers of the Department as he may designate are authorized, in their discretion, to revalidate nonimmigrant visas, including diplomatic visas, for—

(1) Qualified aliens classifiable under the visa symbol C-2 or C-3;

(2) Other qualified aliens who—

(A) Are properly classifiable under subparagraph (A), (B), (C), (D), (E), or (F) of section 101(a)(15) of the Act or under the visa symbols NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6, or NATO-7;

(3) Present appropriate evidence that—

(A) Their period of authorized admission in such status has not expired; and

(B) They are currently maintaining such status; and

(C) Intend, after a temporary absence, to reenter the United States in such status.

(8) Fee for revalidation. The fee for the revalidation of a nonimmigrant visa shall be that prescribed for the issuance of such a visa, if any; *Provided, however*, That

(1) When the visa was issued valid for a lesser number of applications for admission or for a period of validity less than the maximum permitted by reciprocity, it may be revalidated for the remaining number of applications for admission and validity permitted

without the payment of an additional fee, and

(2) No fee shall be charged in the case of a visa considered to be automatically revalidated pursuant to the provisions of paragraph (8) of this section.

(9) *Exp. Rev. 108,488, 28 FR 275, Jan. 10, 1963.*

Paras. 1-3. For Federal Register citations affecting § 41.125, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 41.126 Transfer of visas.

(a) *Conditions for transfer.* Upon the request of the bearer a valid nonimmigrant visa shall be transferred from one travel document to a different travel document which is valid for the required period if he is found eligible to receive such a visa, except in a case in which the travel document containing the original visa has been lost or stolen. A visa may be transferred only if the new passport indicates that the alien has the same nationality he had when the visa was issued.

(b) *Procedure for transfer.* Application for the transfer of a nonimmigrant visa from one passport to another shall be made on an appropriate form. The consular officer may, in his discretion, waive the personal appearance of the alien. The issuance of a transferred visa shall be evidenced by placing the visa stamp with all of the original data in the alien's passport. The validity of the transferred visa shall be the same as that of the original visa. The transferred visa shall be valid for the number of applications for admission remaining as of the date of the transfer. The word "Transferred" shall be inserted on the upper margin of the visa stamp.

(c) *Cancellation of visa in old passport.* Upon transfer of a visa to a new travel document the visa issued in the original passport shall be canceled, unless the passport has been surrendered to the issuing authority, except that where the visa is being transferred for only one of several persons included in it, only the name of that person shall be stricken from the visa originally issued.

(d) *Fee for transfer.* No fee shall be charged for the transfer of a valid nonimmigrant visa.

(9) *Exp. Rev. 108,411, 24 FR 6600, Aug. 18, 1959, as amended by Dept. Rec. 108,084, 38 FR 4397, Feb. 10, 1973.*

§ 41.127 Crew list visas.

(a) *Definition.* A crew-list visa is a nonimmigrant visa issued on a manifest of crewmembers of a vessel or aircraft which includes all aliens listed in the manifest unless otherwise stated.

(b) *Application.* (1) A list of all alien crewmen who are serving on board a vessel or aircraft, which is proceeding to the United States and who are not in possession of valid individual entry documents shall be submitted. In duplicate, to a consular officer on Immigration and Naturalization Service Form I-418 (Crew List) or such other forms as may be prescribed. In lieu of a manifest on Form I-418, the manifest of alien crewmen serving on board an aircraft may be submitted on the International Civil Aviation Organization (ICAO) manifest, or on Customs Form 7507 (General Declaration) whenever the number of crewmen does not exceed the number which can be listed on the form. In cases of alien seamen serving on vessels, the duplicate copy of Form I-418, shall contain in column (4) the date, city and country of birth of each alien seaman listed who does not have in his possession a valid individual visa or an Immigration and Naturalization Service Form I-551 and, in column (5), the place of issuance and the authority issuing the passport held by such alien seaman. The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(2) The submission of the crew list together with such other information as the consular officer may deem necessary to determine the eligibility of an individual crewman to be included in the crew list visa shall be considered the formal application for a crew-list visa. No other application form shall be required.

(3) The manifest should list separately, in alphabetical order, those alien crewmen who are to be granted

because of entry without inspection or lack of required documents.

(d) *Validity.* A nonresident alien Mexican border crossing identification card issued solely or in combination with a B-1/B-2 visitor visa pursuant to the provisions of this section shall be valid until invalidated under the same conditions as provided in § 41.122(e) for the termination of nonimmigrant visas or revoked under the same conditions as provided in § 41.124. A nonresident alien Mexican border crossing identification card previously issued by a consular officer in Mexico on Form I-180 or Form I-550 shall be valid until revoked or voided regardless of any expiration date on the card.

(e) *Invalidation or revocation.* A nonresident alien Mexican border crossing identification card issued solely or in combination with a B-1/B-2 visitor visa pursuant to the provisions of paragraph (a) or (b) of this section may be invalidated pursuant to the provisions of § 41.122(e) or revoked pursuant to the provisions of § 41.134. Upon invalidation or revocation of such a card, the consular or immigration officer shall cancel the card by writing or stamping the word "canceled" plainly across the face of the card and indicating the location of the consular or immigration office at which the card was invalidated or revoked.

(f) *Voidance of Mexican border crossing cards issued in Mexico on Form I-186 or Form I-386.* A consular officer in Mexico may declare void, without notice, a nonresident alien Mexican border crossing card previously issued in Mexico on Form I-186 or Form I-596, upon a finding that the holder is ineligible to receive a nonimmigrant visa. The card shall be surrendered immediately upon voidance.

(g) *Replacement.* When a nonresident alien Mexican border crossing identification card issued solely or in combination with a B-1/B-2 visitor visa under the provisions of this section has been lost, mutilated or destroyed, the person to whom such card was issued may apply for a new card under the applicable provisions of this section. A nonresident alien whose

border crossing identification card previously issued on Form I-186 or Form I-506 by a consular officer in Mexico has been lost, mutilated or destroyed, may apply for a combined B-1/B-2 visitor visa at any consular office in Mexico, provided the alien qualifies under the provisions of paragraph (b) of this section.

(Sec. 101, 60 Stat. 110, 8 U.S.C. 1101, sec. 109(b), 91 Stat. 847)

(Dept. Reg. 108.825, 46 FR 46060, Oct. 20, 1981)

§ 41.129 Nonresident alien Canadian border crossing identification cards.

(a) *Aliens eligible to apply.* Under the conditions prescribed in this section a consular officer assigned to a consular office in Canada may issue a nonresident alien border crossing identification card, as that term is defined in section 101(n)(6) of the Act, to a nonimmigrant alien who satisfactorily establishes that he:

(1) Has been admitted to Canada for permanent residence as a "Landed Immigrant";

(2) Seeks to enter the United States from Canada, or from Mexico if he has visited no countries other than Mexico and the United States since departing Canada, and only as a bona fide temporary visitor for business or pleasure as defined in section 101(n)(15)(B) of the Act for periods of stay not exceeding 6 months; and

(3) Is otherwise eligible to receive a temporary visitor visa or is the beneficiary of a waiver under section 212(d)(3)(A) of the Act of a ground of ineligibility which is valid for multiple applications for admission into the United States and for an indefinite period of time and which contains no restrictions as to extensions of temporary stay or itinerary.

(b) *Application for Canadian border crossing identification cards.* Application for a nonresident alien Canadian border crossing identification card shall be made on Form OF-156, accompanied by evidence of the applicant's "landed immigrant" status in Canada; a valid or expired passport or other travel document showing his

origin, identity, and nationality, if any, and containing a photograph of the bearer if over the age of 14; and a photograph 1½ inches square if the applicant is over the age of 14. Personal appearance of the applicant may be waived at the discretion of the consular officer.

(c) *Issuance and format of border crossing cards.* A nonresident alien Canadian border crossing identification card shall consist of a stamp placed in the alien's passport or other travel document by a consular officer in Canada. Such stamps shall be numbered serially by each consular office beginning with the number 1 on each July 1, shall be in the format prescribed by the Department, and shall contain the following data:

(1) The post symbol;

(2) The number of the card;

(3) The title and location of the issuing office;

(4) The date of issuance;

(5) The name(s) of the person(s) to whom issued; and

(6) The signature and title of the issuing officer.

(d) *Signature of border crossing identification cards.* The consular officer who issues a nonresident alien Canadian border crossing identification card shall affix his signature to, and indicate his title in, the border crossing card stamp.

(e) *Validity of border crossing identification cards.* A nonresident alien Canadian border crossing identification card issued pursuant to the provisions of this section shall be valid until

cancelled.

(f) *Cancellation of border crossing identification cards.* (1) A nonresident alien border crossing identification card shall be canceled by a consular officer if information is developed indicating that the holder of such a card is ineligible to receive a nonimmigrant visa or by a District Director of Immigration and Naturalization Service if he finds that the alien has violated the conditions of his admission into the United States.

(2) In canceling such a card the consular officer shall write or stamp the word "Canceled" plainly across the face of the border crossing card stamp, shall show the location of the consular

office concerned and shall follow the procedures set forth in § 41.130.

(3) In canceling such a card the District Director shall write or stamp the word "Canceled" plainly across the face of the border crossing card stamp and shall show the location of the District Office of the Immigration and Naturalization Service concerned. (Imm. Reg. 108.611, 30 FR 15745, Aug. 18, 1971, as amended by Dept. Reg. 108.319, 42 FR 32538, June 27, 1977)

IMMIGRATION AND NATURALIZATION SERVICE NONIMMIGRANT VISAS

§ 41.130 Procedure in refusing individual visas.

(a) *Refusal procedure.* If a consular officer knows or has reason to believe that an alien is ineligible to receive a visa on grounds of ineligibility which cannot be overcome by the presentation of additional evidence, Form OF-156, if practicable, shall be executed before the refusal is recorded. If the alien fails to execute a visa application after being informed of a ground of ineligibility to receive a nonimmigrant visa, the visa shall be considered refused. The consular officer shall then insert the pertinent data on Form OF-156 with the reasons for the refusal and the form shall be filed in the consular office. It all cases the applicant shall be informed of the grounds of law, or regulations issued thereunder, upon which the refusal is based. When refusing a nonimmigrant visa the consular officer may return the original or all supporting documents furnished by the alien with his application. The duplicate of such document upon which the refusal is based and the duplicate of each document which indicates a possible ground of ineligibility to receive a visa, whether or not related to the ground of refusal, shall be retained at the consular office with the memorandum of refusal. Duplicates of other documents may be returned to the alien in the consular officer's discretion.

(b) *Review of refusals at consular offices.* If the grounds of ineligibility upon which the visa was refused cannot be overcome by the presentation of additional evidence, the print-

**Anchorage
Convention & Visitors
Bureau**

**An Independent Non-Profit
Visitor Organization**

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**SURVEY OF TRANSPOLAR
STOPOVER VISITOR MARKET**

Executive Summary

Commissioned by: Anchorage Convention & Visitors Bureau

Conducted by: Alaska Pacific University

June 1983



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1. INTRODUCTION

The Anchorage economy would benefit substantially if the gap between summer and winter capacity utilization could be narrowed by increasing off-season business. One potential market consists of international travelers who fly through Anchorage en route to other final destinations and who are able to allocate several days to a stopover "vacation" in Anchorage. Thus, ACVB commissioned Alaska Pacific University to survey passengers during their "one hour" stops at the Anchorage airport international terminal. The fundamental purpose of this study was to perform exploratory market research to determine if this untapped market potential actually exists, and to obtain basic data about its characteristics.

As part of the contract, the consultants have provided ACVB with a computer printout of data tables as well as a computer tape of data and programs. The most significant information is summarized in the tables of this report and briefly discussed here.

The main conclusions are summarized below:

- There is a market!

- 84% indicated an interest in visiting Anchorage
- 80% vacation at least once a year between September and May
- 62% like winter oriented vacations
- 50% could have planned a stop THIS trip
- half would stop for 4 to 7 days

and

- 76% have landed in Anchorage before

- "Alaskan" activities are the most significant attraction for those interested in visiting Anchorage
 - 70% would like to visit a glacier/mountain
 - 40% would like to take a dog sled ride
 - 1/3 are interested in each of the following: downhill skiing, city sightseeing, and ice fishing.

- How to influence passengers interested in visiting Anchorage:
 - Highly important factors in deciding:
 - 75% selected uniqueness of Alaska
 - 55% selected cost of food and lodging
 - 53% selected desirability of activities
 - Only 1/4 of the Asian, and 1/2 of the non-Asian passengers knew that airlines allowed stopovers.
 - Prior commitments and/or no vacation time were the main reasons why passengers could not have stopped this trip.

Based on this research, the consultant team concludes that a large, virtually untapped market exists. While developing a marketing strategy was not part of this assignment, we believe that travelers can be efficiently reached while they are "captive" in the terminal during the "one-hour" stopovers. We also believe that the large number of "repeat" passengers - 86% of business travelers - represents the most promising market for these increased efforts.

Organization of the Report

The balance of this report briefly explains the project methodology (section 2) and then presents a summary of the significant results in a series of tables:

- Table 3.1 focuses on evidence for market feasibility by providing the percentages of the total sample, and of several major sub-samples, that had landed in Anchorage before, understood stopover privileges, liked and took winter-oriented vacations, and had an interest in visiting Anchorage.
- Tables 4.1 through 4.4 are based only on the 84% of the passengers who indicated they are interested in visiting Anchorage. The tables indicate what these potential visitors want to do on a stopover, by providing the percentage of each group that is interested in each activity.
- Tables 5.1 through 5.8 are based on the same 84% of the passengers who indicated they are interested in visiting Anchorage. The tables provide data useful in developing strategies for increasing the number of stopovers by indicating the reasons why a stop could not be made, and the importance of various factors in deciding on an Anchorage visit.
- Table 6.1 summarizes responses for those questions not included in the other tables, including demographic information on the sample. Tables 6.2 and 6.3 are the English and Japanese versions of the questionnaire.

2. METHODOLOGY

This section briefly describes the steps and procedures that were followed in conducting this survey.*

A stratified sample of 707 passengers was gathered between January 28 and May 13, 1983, with additional pretests during October and December of 1982. Because of language difficulties during the pretest, an even split of English and Japanese questionnaires was used for the main sample. The survey was conducted at the international terminal of the Anchorage airport by asking passengers in the hallways, seating areas, and customs area to respond to questions read from a survey form. To ensure that the questions were properly understood and answered, passengers did not complete the questionnaire on their own, although they could read the questionnaire from the English or Japanese versions of the form. The sample was designed so that all the days of the week, all flights, and all months during the survey period were sampled. English and Japanese speaking surveyors of various ages and both sexes were used to eliminate a potential source of bias. Although a completely random sample could not be achieved, no serious bias seems to have occurred.

The survey forms were coded and keypunched on a continuous basis so that interim checks on the survey procedures and results could be conducted. Coded results were analyzed using the Statistical Package for the Social Sciences (SPSS) and the resulting 1800 pages of tables were winnowed down into those that are presented in this Executive Summary. The complete computer runs were annotated and delivered to the Anchorage Convention and Visitors Bureau, along with a computer tape of the data and the programs so that further analysis can be conducted by ACVB.

* Any questions regarding specific statistical procedures used in this study should be addressed to Dr. Ted Eschenbach, School of Engineering, University of Alaska, Anchorage - 3221 Providence Drive, Anchorage, Alaska 99508 or call (907) 786-1862.

In interpreting the percentages presented here, the following guidelines should be used:

If the sample had been totally random, the overall results would be accurate within plus or minus 3%. Due to the stratification and selection process, the sample was not totally random and thus the results are accurate to approximately plus or minus 5%. In comparing results, differences of less than 5% cannot be assumed to be significant. This rough estimate should be increased for smaller sub-groups; for example, 10% for sub-groups of 100.

While the stratification process produced sub-groups large enough to examine as sub-groups for meaningful results, the overall percentages are sometimes affected by differences between the sub-groups. Thus, some tables include a "weighted" column in addition to the "all" column. This weighted column adjusts the sample based on a sex/race stratification.

Table Interpretation

All tables in this report are constructed by combining individual sub-sample columns into master tables. Each column is individually tied to the row labels without reference to any other column. For example, Table 3.1 actually consists of 12 "individual" tables. As indicated by the column headings, many of these "individual" columns can also be usefully compared. Unless otherwise noted, table entries in a column indicate what percentage of the column's sub-sample met the row label characteristic or condition. The actual number of persons in each sub-sample is given in the bottom row. Using Table 3.1 as an example, the "Asian Male" column can be interpreted as showing that for this sub-group:

- 83% had landed in Anchorage before with an average of 7.4 landings.
- 27% knew airlines allowed stopovers and 48% could have planned a stopover this trip.
- There were 277 Asian males in the sub-sample.

3. THERE IS A MARKET

Table 3.1

INDICATIONS OF MARKET FEASIBILITY

	ALL	WHY TRAVEL?				ASIAN		NON-ASIAN		SPEAKS ENGLISH			
		BUSINESS	BUSINESS & PLEASURE	VACATION	BUSINESS & PLEASURE ADDED DAYS	MALE	FEMALE	MALE	FEMALE				
Landed in Anchorage before	Yes (%) Mean # Median #	76 5.4 2.0	77 5.6 2.0	86 7.8 4.0	68 3.1 1.0	55 1.3 1.0	66 2.8 1.0	83 7.4 4.0	68 3.0 1.0	75 5.6 2.0	64 2.1 1.0	62 3.2 1.0	79 6.0 2.0
Knew airlines allow stopovers	39	33	39	44	34	48	27	26	55	50	52	23	42
Could have planned a stopover	51	47	53	52	44	47	48	38	35	54	55	35	54
Used stopovers on other routes	38	31	38	50	29	57	25	21	21	52	52	12	43
Frequency of September to May vacations	several each yr once a year every 2-5 yrs Never	37 43 3 17	41 41 2 16	31 46 3 20	33 50 4 13	51 32 4 13	27 49 6 18	40 43 1 16	55 35 0 10	27 46 6 21	32 43 7 18	43 36 1 20	36 44 4 17
Like winter oriented vacations	62	62	62	64	62	67	58	63	71	54	54	63	62
Would like to visit Anchorage	84	83	84	88	81	87	84	80	84	84	84	74	86
Potential length of visit	1-3 days 4-7 days 8-14 days	30 52 13	29 52 14	34 52 12	35 46 12	17 55 18	39 44 6	25 58 13	28 47 17	37 47 11	25 54 15	19 58 12	32 50 14
Have visited Anchorage during the last year	6	5	6	6	5	8	6	1	6	8	8	2	7
Sub-sample size	707	707	425	100	176	63	277	81	226	104	123	584	

4. ACTIVITIES PREFERRED BY THOSE WISHING TO VISIT ANCHORAGE

Table 4.1

ACTIVITIES PREFERRED BY THOSE WISHING TO VISIT ANCHORAGE
 (By Why Traveling/Off-season Vacation Pattern/"Special" Groups)

	ALL-WEIGHTED		WHY ARE YOU TRAVELING?				HOW OFTEN DO YOU VACATION BETWEEN SEPTEMBER & MAY?				COULD HAVE PLANNED A STOP		LANDED IN ANCHORAGE BEFORE
	ALL		BUSINESS	BUSINESS & PLEASURE	VACATION	BUSINESS & PLEASURE WHO ADDED DAYS	SEVERAL TIMES EACH YEAR	ONCE A YR	ONCE EVERY 2-5 YRS	NEVER	FIRST TIME IN U.S.		
Visit glacier/mountain	72	74	75	72	72	75	76	75	76	66	77	67	76
Dog sled ride	38	41	40	46	41	46	38	41	48	45	43	43	40
Downhill skiing	32	34	37	37	26	38	31	37	57	29	35	32	34
City sightseeing	31	34	33	40	33	42	28	36	57	33	36	38	33
Ice fishing	30	34	35	44	25	40	32	37	24	35	41	32	36
Snowmobiling	20	23	26	20	18	18	19	25	43	16	26	17	23
Cross-country skiing	20	27	28	25	27	31	23	29	71	21	28	23	25
Museum visit	19	24	20	34	27	40	21	25	43	20	24	20	23
Visit gold mine	17	25	25	28	22	38	24	24	52	22	27	18	24
Hot air ballooning	16	18	17	20	22	20	17	19	29	19	18	18	18
Concert, theatre, or ballet	12	15	11	20	24	24	12	18	38	10	16	17	13
Shopping	11	14	13	14	15	15	13	14	24	14	16	13	13
Sub-sample size	586	586	353	89	143	55	206	252	21	100	319	176	433

Table 4.2

ACTIVITIES PREFERRED BY THOSE WISHING TO VISIT ANCHORAGE (By Country)

	ALL	JAPAN	BRITAIN	GERMANY	FRANCE	SCANDINAVIA	NETHERLANDS BELGIUM	OTHER EUROPE	N. AMERICA	AUSTRALIA	OTHER
Visit glacier/ mountain	74	73	77	79	77	58	64	69	92	86	86
Dog sled ride	41	38	51	32	41	39	59	41	58	67	27
Downhill skiing	34	30	36	36	47	39	36	31	42	52	27
City sightseeing	34	26	43	53	32	33	46	38	38	43	68
Ice fishing	34	32	21	32	44	42	27	52	38	57	27
Snowmobiling	23	16	45	21	29	19	32	31	29	38	32
Cross-country skiing	27	14	38	38	47	67	32	41	42	38	18
Museum visit	24	16	26	23	24	36	46	35	33	62	27
Visit gold mine	25	10	53	28	44	44	46	28	38	43	32
Hot air ballooning	18	13	29	15	29	22	27	14	42	29	23
Concert, theatre, or ballet	15	8	23	17	18	28	32	14	29	33	27
Shopping	14	9	17	19	12	17	9	17	25	38	18
Sub-sample size	586	298	47	47	34	36	22	29	24	21	22

Table 4.3

ACTIVITIES PREFERRED BY THOSE WISHING TO VISIT ANCHORAGE (By Sex, Race, Age)

	ALL	ASIAN		NON-ASIAN		AGE				
		MALE	FEMALE	MALE	FEMALE	1-20	21-30	31-45	46-60	61 & UP
Visit glacier/ mountain	74	77	60	71	82	38	72	77	78	61
Dog sled ride	41	35	37	40	63	50	39	46	36	13
Downhill skiing	34	31	26	44	30	25	42	40	23	4
City sightseeing	34	23	35	40	48	33	20	34	43	52
Ice fishing	34	34	14	41	35	8	27	38	39	30
Snowmobiling	23	17	15	28	30	4	23	26	20	26
Cross-country skiing	27	11	11	43	48	25	30	27	26	22
Museum visit	24	11	22	30	47	8	12	23	34	52
Visit gold mine	25	11	6	34	56	4	15	27	33	26
Hot air ballooning	18	8	20	25	33	25	18	19	16	17
Concert, theatre, or ballet	15	4	14	20	35	8	13	12	23	17
Shopping	14	8	9	12	36	25	8	12	20	9
Sub-sample size	586	228	65	188	87	24	128	266	143	23

Table 4.4

ACTIVITIES PREFERRED BY THOSE WISHING TO VISIT ANCHORAGE (By Profession)

	ALL	PROFESSIONAL TECHNICAL	MANAGER	SALES	SKILLED WORKER	TEACHER PROFESSOR	STUDENT	CLERICAL	HOUSEWIFE	ARTIST	OTHER
Visit glacier/ mountain	74	79	64	81	70	85	46	75	73	70	84
Dog sled ride	41	41	40	40	52	55	41	32	48	57	21
Downhill skiing	34	40	38	41	22	35	35	29	15	26	16
City sightseeing	34	38	29	29	22	65	22	18	45	39	47
Ice fishing	34	41	32	38	35	15	14	25	30	52	32
Snowmobiling	23	26	18	26	22	40	16	18	18	22	21
Cross-country skiing	27	30	32	27	22	30	24	14	25	39	36
Museum visit	24	27	19	16	17	50	11	5	40	44	42
Visit gold mine	25	28	31	29	26	35	5	3	38	26	21
Hot air ballooning	18	18	15	16	22	30	30	2	33	26	21
Concert, theatre, or ballet	15	15	14	11	17	35	14	6	30	17	16
Shopping	14	15	13	11	4	10	14	8	13	26	37
Sub-sample size	586	214	72	73	23	20	37	63	40	23	19

5. DECISION FACTORS AND RESTRICTIONS

Table 5.1

FACTORS THAT ARE HIGHLY IMPORTANT TO THOSE WISHING TO VISIT ANCHORAGE

(By Why Traveling/Off-season Vacation Pattern/"Special" Groups)

	ALL	WHY ARE YOU TRAVELING?			HOW OFTEN DO YOU VACATION BETWEEN SEPTEMBER & MAY				COULD HAVE PLANNED A STOP NEVER IN U.S. BEFORE	LANDED IN ANCHORAGE BEFORE	
		BUSINESS	BUSINESS & PLEASURE	VACATION	SEVERAL TIMES EA YR	ONCE A YR	EVERY 2-5 YRS	NEVER			
Uniqueness of Alaska	75	78	73	70	67	81	91	76	78	72	76
Cost of food & lodging	55	53	58	58	55	54	52	59	55	59	54
Desirability of activities	53	51	57	57	48	58	76	50	55	44	53
Chance to break up trip	44	46	41	39	38	46	57	42	46	38	44
Weather & temperature	36	32	43	42	33	36	29	44	36	36	37
Chance to stop in the U.S.	29	27	31	33	24	30	52	30	28	32	27
Sub-sample size	573	436	84	142	202	246	21	97	315	171	421

Table 5.2

FACTORS THAT ARE HIGHLY IMPORTANT TO THOSE WISHING TO VISIT ANCHORAGE

(By Country)

	ALL	JAPAN	BRITAIN	GERMANY	FRANCE	SCANDINAVIA	BELGIUM	OTHER EUROPE	NORTH AMERICA	AUSTRALIA	OTHER
Uniqueness of Alaska	75	69	81	78	74	92	81	79	87	95	81
Cost of food & lodging	55	58	57	41	47	53	43	46	48	75	57
Desirability of activities	53	36	75	72	62	81	76	61	74	90	67
Chance to break up trip	44	32	49	59	59	64	29	75	48	65	57
Weather & temperature	36	34	32	37	32	42	29	39	39	35	62
Chance to stop in the U.S.	29	21	43	24	29	69	19	46	4	40	48
Sub-sample size	573	292	47	46	34	36	21	28	23	20	21

Table 5.3

FACTORS THAT ARE HIGHLY IMPORTANT TO THOSE WISHING TO VISIT ANCHORAGE

(By Sex, Race, & Age)

	ALL	ASIAN		NON-ASIAN		AGE				
		MALE	FEMALE	MALE	FEMALE	1-20	21-30	31-45	46-60	61 & UP
Uniqueness of Alaska	75	71	61	81	85	39	65	81	80	70
Cost of food & lodging	55	57	57	48	59	61	56	52	55	70
Desirability of activities	53	32	44	72	77	39	51	53	56	74
Chance to break up trip	44	30	24	58	64	30	26	47	52	65
Weather & temperature	36	32	40	39	38	35	31	33	41	65
Chance to stop in the U.S.	29	21	15	35	41	35	28	28	28	48
Sub-sample size	573	224	62	184	85	23	127	257	141	23

Table 5.4

FACTORS THAT ARE HIGHLY IMPORTANT TO THOSE WISHING TO VISIT ANCHORAGE
(By Profession)

	ALL	PROFESSIONAL TECHNICAL	MANAGER	SALES	SKILLED WORKER	TEACHER PROFESSOR	STUDENT	CLERICAL	HOUSEWIFE	ARTIST	OTHER
Uniqueness of Alaska	75	78	80	83	64	95	50	61	85	81	63
Cost of food & lodging	55	53	42	53	46	75	58	60	69	52	68
Desirability of activities	53	58	59	51	64	80	42	23	54	57	63
Chance to break up trip	44	51	54	42	41	45	28	16	44	48	53
Weather & temperature	36	37	33	38	32	40	39	19	44	48	58
Chance to stop in the U.S.	29	32	36	17	46	30	25	11	39	33	37
Sub-sample size	573	211	69	72	22	20	36	62	39	21	19

Table 5.5

WHY AN ANCHORAGE STOPOVER COULD NOT BE PLANNED (By Why Traveling/ Off-season Vacation Pattern)

	ALL	WHY ARE YOU TRAVELING?			HOW OFTEN DO YOU VACATION BETWEEN SEPT & MAY			
		BUSINESS	BUSINESS & PLEASURE	VACATION	SEVERAL TIMES EA YR	ONCE A YR	EVERY 2-5 YRS	NEVER
Prior Commitments	34	40	33	23	28	40	25	40
No Vacation Time	25	29	31	18	25	28	38	23
Other	21	14	19	36	26	17	12	19
Company Policy	13	15	8	3	12	11	13	9
Traveling with a group	7	1	8	20	9	5	12	8
Sub-sample size	260	146	36	66	91	101	8	47

Table 5.6

WHY AN ANCHORAGE STOPOVER COULD NOT BE PLANNED (By Country)

	ALL	JAPAN	BRITAIN	GERMANY	FRANCE	SCANDINAVIA	NETHERLANDS BELGIUM	OTHER EUROPE	N. AMERICA	AUSTRALIA	OTHER
Prior Commitments	34	24	46	63	21	50	67	53	30	50	36
No Vacation Time	25	25	29	25	50	33	0	27	30	25	18
Other	21	29	4	6	14	8	17	13	20	0	27
Company Policy	13	12	21	6	14	0	8	0	10	25	9
Traveling with a group	7	10	0	0	0	8	8	7	10	0	9
Sub-sample size	260	128	24	16	14	12	12	15	10	4	11

Table 5.7

WHY AN ANCHORAGE STOPOVER COULD NOT BE PLANNED (By Sex, Race, & Age)

	ALL	ASIAN		NON-ASIAN		AGE				
		MALE	FEMALE	MALE	FEMALE	1-20	21-30	31-45	46-60	61 & UP
Prior Commitments	34	26	18	52	37	20	27	31	52	67
No Vacation Time	25	30	15	22	34	13	28	30	22	22
Other	21	26	39	10	12	53	22	24	8	0
Company Policy	13	14	3	14	6	0	12	13	8	0
Traveling with a group	7	4	24	2	11	13	11	3	10	11
Sub-sample size	260	96	33	81	35	15	64	108	50	9

Table 5.8

WHY AN ANCHORAGE STOPOVER COULD NOT BE PLANNED (By Profession)

	ALL	PROF. TECHNICAL	MANAGER	SALES	SKILLED WORKER	TEACHER PROFESSOR	STUDENT	CLERICAL	HOUSEWIFE	ARTIST	OTHER
Prior Commitments	34	34	37	50	57	25	25	29	33	29	14
No Vacation Time	25	31	33	21	14	50	13	21	17	43	14
Other	21	13	17	18	14	12	29	39	28	21	43
Company Policy	13	19	10	7	14	0	0	4	6	7	29
Traveling with a group	7	3	3	4	0	13	33	7	17	0	0
Sub-sample size	260	77	30	28	14	8	24	28	18	14	7

6. ADDITIONAL TABULATIONS AND QUESTIONNAIRES

Figure 6.1

TABULATIONS OF QUESTIONS NOT INCLUDED IN PREVIOUS TABLES

1. Airline and flight number?	JAL	39%
	Lufthansa	13%
	AirFrance	13%
	SAS	11%
	British Airways	9%
	Korean Airlines	7%
	KLM	5%
	Sabena	4%

2-6. See other tables

7. Are you traveling alone? Yes 54% No 46%

If no, number in group: average number= 12.4

Breakdown:	2-4 members	62%	Type of Group:	<u>51%</u> Business
	5-20 members	18%		<u>28%</u> Family/friends
	12-50 members	15%		<u>21%</u> Packaged tour
	50+ members	5%		

8. Why are you traveling? 61% Business
14% Business & Pleasure
Did you add days to your trip for
pleasure activities? Yes 91% No 9%
25% Vacation.

9-11. See other tables.

Figure 6.1 (continued)

12. How far in advance did you plan this trip?		Percentage
	<u>Days</u>	<u>Responding</u>
	1-7	17%
	8-14	11%
	15-30	26%
	31-90	24%
	91+	21%

13. How did you book/arrange this trip?

<u>66%</u> Travel agent or tour operator	<u>22%</u> Secretary or Office
<u>9%</u> Airline office	<u>3%</u> Other

14. Where do you live?			
51%	Japan	6%	Other European
9%	British Isles	4%	North America
8%	West Germany	3%	Australia/New Zealand
6%	Scandinavia	1%	Other Orient
5%	France	3%	Other
4%	Belgium/Netherlands		

15. Which languages do you speak?			
<u>83%</u> English	<u>54%</u> Japanese		
<u>29%</u> French	<u>2%</u> Korean		
<u>32%</u> German	<u>3%</u> Other Asian		
<u>7%</u> Italian	<u>21%</u> Other European		

Figure 6.1 (continued)

16. What is your job or profession?

Professional/Technical	37%
Sales	13%
Manager/Administrative	13%
Clerical	10%
Housewife	7%
Student	6%
Skilled Worker	4%
Artist	3%
Teacher/Professor	3%
Other	4%

17. Please, how old are you?	10-20	4%
	21-30	22%
	31-45	45%
	46-60	24%
	61+	5%

ANCHORAGE STOPOVERS ONLY

18. how many times have you stopped over in Anchorage?

<u>1%</u> Spring	<u>1%</u> Summer
<u>1%</u> Fall	<u>2%</u> Winter

19. Why did you choose to stop over then?	Business	29%
	Sightseeing	21%
	Outdoor Activities	4%
	Visit Friends	4%
	Other	42%

Figure 6.1 (continued)

SURVEY CONTROL BLOCK

Male <u>73%</u>	Female <u>27%</u>	Racial Group	<u>47%</u> White
			<u>52%</u> Oriental
			<u>.1%</u> Indian
Where interviewed?	<u>79%</u> Seating Area		<u>.7%</u> Black
	<u>18%</u> Hallway		<u>.4%</u> Other
	<u>3%</u> Customs area		

<u>Day of the Week</u>	<u>% interviewed</u>	<u>Date</u>	<u>% interviewed</u>
Sunday	9%	1/28-1/31	26%
Monday	11%	2/16-2/18	22%
Tuesday	14%	3/8-3/13	18%
Wednesday	8%	4/1-4/4	14%
Thursday	9%	4/21-4/24	14%
Friday	39%	5/10-5/13	16%
Saturday	10%		

Table 6.2

Stopover Questionnaire

ENGLISH VERSION

ALASKA PACIFIC UNIVERSITY

for

THE ANCHORAGE CONVENTION &
VISITORS BUREAU

11. If you had time, would you be interested in visiting Anchorage? Yes ___ No ___

If yes, which activities would interest you? Check all that apply:

- Shopping
- Visit to a glacier/mountain
- Hot air ballooning
- Visit to a gold mine
- Concert, theatre, or ballet
- Museum visit
- Ice fishing
- Dog sled ride
- Snowmobiling
- Downhill skiing
- Cross country skiing

In deciding, how important would the following be?

- | | | | |
|----------------------------|-------|------------|-------|
| Cost of Food & lodging | _____ | Importance | _____ |
| Chance to break up trip | _____ | High | _____ |
| Chance to stop in U.S. | _____ | Low | _____ |
| Desirability of activities | _____ | | _____ |
| Uniqueness of Alaska | _____ | | _____ |
| Weather & temperature | _____ | | _____ |

For how long would you stop over? _____

12. How far in advance did you plan this trip? _____

13. How did you book/arrange this trip? _____

Travel agent or tour operator _____ Secretary or Office
 Airline office _____ Other _____

14. Where do you live? _____ (city) _____ (country)

15. Which languages do you speak? _____ English _____ Japanese
 _____ French _____ Korean
 _____ Italian _____ Other Asian
 _____ Other European

16. What is your job or profession? _____

17. Please, how old are you? _____

FOLD

1. Airline and flight number? _____

2. How many times have you landed in Anchorage before? _____
 If more than 3, how often in the last year? _____
 Have you visited Anchorage on any of these trips?
 Yes ___ No ___

3. Did you know airlines allow you to stop over here? Yes ___ No ___

4. Could you have planned a stop, if you had wanted to? Yes ___ No ___
 If not, Why?
 Company Policy _____
 Traveling with a group _____
 No vacation time to use for such a stop _____
 Prior commitments/schedule too tight _____
 Other (please note) _____

5. Have you used stopover privileges on other routes? Yes ___ No ___

6. Have you visited the United States before? Yes ___ No ___

7. Are you traveling alone? Yes ___ No ___
 If no, number in group: _____ Type of Group:
 Business (corporate) group _____
 Family/friends _____
 Packaged tour group _____

8. Why are you travelling? _____ Business _____
 Business & Pleasure _____
 Did you add days to your trip for pleasure activities? Yes ___ No ___
 Vacation _____

9. How often do you vacation during the months September to May? (not including June, July, or August)
 Several times each year _____
 Once a year _____
 Every other year _____
 Once in five years _____
 Never _____

10. Do you like winter oriented vacations? Yes ___ No ___

Table 6.3

ストップオーバー（一時滞在） 質問書

アンカレッジ観光局ではアンカレッジにてストップオーバーされる皆様に必要な質問書を用意してお答えいたしております。皆様のご奮力をお願い申し上げます。

1. ご利用の航空会社およびその便名： _____ 航空、 _____ 便。
2. 以前に、数時間のトランジット滞在も含めて、何回アンカレッジにて延滞されましたか。 _____ 回。3回以上とお答の方、昨年は何回お来しになりましたか。 _____ 回。
それらの旅行でアンカレッジに（一泊以上）滞在されましたか。
はい _____ いいえ _____
3. 航空会社がここでのストップオーバー（一時滞在）を許しているのをご存知でしたか。
はい _____ いいえ _____
4. もしあなた自身が希望されれば、ここに滞在できたとお考えになりますか。
はい _____ いいえ _____

なぜ（いいえ）なのでしょう。 _____ 会社の規則だから

_____ グループで旅行中だから

_____ 一時滞在中に十分な休憩時間がないため

_____ 事前に予定が確定/余裕のないスケジュール

_____ その他 _____

5. 他のルート（航空経路）でストップオーバーの特権・特典を使用されたことがありますか。
はい _____ いいえ _____

6. 以前にアメリカ合衆国を訪問されたことがありますか。
はい _____ いいえ _____

7. おひとりでご旅行中ですか。 はい _____ いいえ _____

おひとりではなければ何名のグループですか。 _____ 名。

グループの種類： _____ ビジネス（会社関係）のグループ

_____ 家族・友人

_____ パッケージツアー グループ

8. 旅行目的は何でしょうか。 _____ 商用
_____ 商用兼観光、観光の為に特に時間をさきますか。
はい _____ いいえ _____

_____ 休憩/観光

9. 7月から翌年5月までの間で、どれ程休暇がとれますか。

数回

一回

二年に一回

五年に一回

なし

10. 冬に組む休暇はお好きですか。 はい _____ いいえ _____



PO. BOX 110623
ANCHORAGE, ALASKA 99511
(907) 346-1986

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811

Alaska State Legislature House of Representatives

REPRESENTATIVE STEVEN RIEGER
DISTRICT 8, SEAT 8

March 13, 1985

VISA WAIVERS FOR CERTAIN VISITORS

What are the current guidelines for nonimmigrant visitors in this country?

Current law requires almost all nonimmigrant visitors to this country to have a valid nonimmigrant visa before being admitted into the United States -- that is, most nonimmigrant visitors must obtain a visa in their home country before beginning their trip. The present process of applying for a visa is time consuming and involves considerable pre-planning. (For more detail, please see federal regulations.)

What is a "visa waiver"?

A visa waiver, as defined in S. 529, is special permission to a nonimmigrant visitor from any eligible foreign country to remain in the United States for up to 90 days without having obtained the customary nonimmigrant visa, subject to the provisions of Section 213 of S. 529.

What is S. 529?

S. 529, the Immigration Reform and Control Act of 1983, was a bill introduced in the United States Senate by Senator Alan K. Simpson of Wyoming. Different versions of the bill passed the U.S. Senate and the U.S. House of Representatives, but the bill ultimately died in Conference Committee when conferees became bogged down in details of the bill. The visa waiver portion of the bill was never controversial and had broad support in both houses.

S. 529 is similar to H.R. 1510 by Representative Romano L. Mazzoli. The legislation is often cited as the Simpson-Mazzoli bill.

(For more information, please see "Immigration Reform Bill Dies As Compromise Efforts Fail". Congressional Quarterly, October 13, 1984. p. 2623.)

What was Section 213 of S. 529?

Section 213 was the section of S. 529 which outlined the pilot visa waiver program. (Please see reprint of this section of the bill from the Congressional Record.)

Who could have received a visa waiver under the pilot program?

S. 529 would have allowed the Secretary of State and the Attorney General, acting in conjunction, to establish a pilot program to grant visa waivers to aliens who

(1) are visiting in the United States for no more than 90 days;

(2) are nationals of countries which extend reciprocal privileges to U.S. citizens and which are designated as pilot countries under the visa waiver program;

(3) complete a form requesting a visa waiver and execute a waiver of repeal and review;

(4) have round trip, nonrefundable, nontransferable, open-dated transportation tickets with eligible carriers; and

(5) have been determined not to represent a threat to the welfare, safety or security of the United States.

What were the other provisions of Section 213?

This section of the bill also required

(1) establishment of an automated monitoring system for nonimmigrant visitors who receive visa waivers;

(2) designation of countries to participate in the pilot program;

(3) establishment and enforcement of guidelines regarding acceptable standards of compliance of visitors who receive visa waivers; and

(4) establishment of agreements with foreign carriers to allow patrons of their services to participate in the visa waiver program.

Who in Alaska supports the creation of a visa waiver program?

The Alaska Visitors' Association, the Anchorage Convention and Visitors' Bureau and the state's Division of Tourism support creation of a visa waiver program.

What benefits would a visa waiver program offer to Alaska?

A visa waiver program would help the state to gain access to the 1.5 million travellers who annually transit the state. A study by the Anchorage Convention and Visitors' Bureau showed that among those passengers interviewed, all of whom were passing through the state during transpolar flights, 83% were interested

Page 3

in visiting Alaska. Subsequent questions revealed that one main obstacle to such a stopover was the requirement of a nonimmigrant visa.

What are the prospects for passage of a bill creating a visa waiver program?

According to informed sources in Washington, the visa waiver proposal has broad support from the tourist industry and other interest groups, from both Houses of Congress, and from the Reagan Administration. With such interest, chances for passage of a bill which creates a visa waiver program similar to that outlined in Section 213 of S. 529 are very good.

What does HJR 20 do to help?

One representative of the tourist industry who was involved in the effort to gain passage of this specific provision in the Senate said that the main obstacle to passage of the visa waiver program this year was the low level of awareness among the general public. Strong vocal support could get a bill like this through the Congress.

HJR 20 is an opportunity for the legislature to make a strong statement of support for the creation of a visa waiver program, and to broaden public awareness of the issue and the program's potential benefits to Alaskans.

/wtl

OBJECTIVES AND PERFORMANCE MEASURES	PRIOR YEAR FY 84		CURRENT YEAR PLAN FY 85	BUDGET YEAR FY 86			GOVERNOR'S BUDGET
	PLAN	ACTUAL		ADJUSTED BASE	AGENCY		
					INCREMENT/	DECREMENT	
5. Number of consumer and travel trade shows serviced.	13	13	13	13		13	
Number of qualified inquiries generated.	11.0	11.2	14.0	14.0		14.0	
6. Visitor industry research project completed.	1	2	3	3		3	
7. Number of matching grants awarded.	58	79	74	49	25	74	
8. The number of nonresident visitors to Alaska in 1986.	**	687.7	725.8	762.3	7.1	769.4	
9. The number of full-time equivalent jobs attributable to nonresident visitation in 1986.	**	9.8	10.4	10.9	.1	11.0	
10. Dollar value of in-State sales to nonresident visitors in 1986.	**	\$613,500.0	\$683,700.0	\$754,900.0	\$6,000.0	\$760,900.0	
* Due to depletion of FY '84 brochure supplies, 112.9, FY '84 inquiries were held for fulfillment with 1985 brochures.							
** No meaningful figure was established for this year as a study was in progress to establish a valid data base.							

B4 BRU PERFORMANCE PLAN

AGENCY Commerce & Economic Development
PROGRAM Economic Development
BRU Tourism

FY 86

PAGE 2 OF 2
REVISED DATE

1970

Testimony for: House Labor & Commerce Committee
in support of HJR20

Chairman: Mike Navarre, members of the Labor & Commerce Committee

My name is Reyn Bowman. I am president of the Anchorage Convention & Visitors Bureau. I apologize for not being able to present this testimony in person today due to a Board of Directors meeting.

The ACVB is Anchorage's way to attract and serve visitors. We are a non-profit vehicle for public/private cooperation combining the resources of 600 members with half of the visitor paid bed tax.

ACVB is also pleased along with the AVA trade association and 124 other partners to be a part of statewide cooperative marketing with the Alaska Division of Tourism.

For more than two decades Alaska has been a fuel stop on the trans-polar air route between Europe and Asia. This year more than 1.3 million passengers will transit the route.

In 1983, ACVB conducted the first research to define the potential of stopover visitors. The survey showed tremendous market potential for Alaska and helped us enlist the moral support of the Alaska Visitors Association and the marketing participation of the Division of Tourism and its other cooperative marketing partners. We have provided copies of this research and we hope you find it helpful.

There are a number of very significant barriers to development of this market. Many are being very rapidly addressed.

* ACVB is working with DOT/PF and the Department of Commerce & Economic Development to upgrade the information center we operate in the Overseas Terminal of the Anchorage International Airport. This project should be complete later this year.

* ACVB and the Division of Tourism are putting increased promotional dollars into brochures and advertising to enlist future stopovers and to educate passengers on the requirements.

* We hope to join with a high level representative of the State later this year in meetings with each of the International Air Carriers to enlist their cooperation with assurances that stopover visitors will be encouraged in the time periods most beneficial to the carriers and the State...September-May. This is, fortunately, the same period of interests to a great number of potential stopover visitors.

But there remain a number of political obstacles to stopover visitors. While the bilateral treaties all permit stopovers, they are inhibited by:

* IATA (International Air Transport Association) refusal to permit stopovers on discount or special fares.

* the requirement of a U.S. Visa and

ACVB and many other organizations have worked for several years in support of a bill to grant visa waiver to citizens traveling to the U.S. from countries with a low incidence of Customs/Immigration violations and which grant reciprocal privileges to U.S. citizens travelling abroad. The waiver would apply to many other U.S. ports in addition to Alaska.

Unfortunately, the widely popular visa waiver legislation has been fatally caught up in other immigration reform controversies a la the ill fated Simpson Mazzoli bill last year.

We strongly support the resolution HJR20 before the Alaska State Legislature in support of visa waiver and encouraging Alaska's congressional delegation to continue to work to eliminate this and other political barriers to stopover visits on the transpolar route.

The benefits are very dramatic. Stopover visitors will not only add directly to the economy. Through stopover promotions, transpolar passengers will develop interest in Alaska as a destination. This interest will help us retain transpolar air service long after the carriers will be able to over-fly Alaska. The resultant revenues will continue to provide 50% of the funds that go to subsidize Alaska's airport system.

Thank you for this opportunity to testify.

M E M O R A N D U M

To: All Members, House Labor and Commerce Committee

From: Roger Poppe, Committee Staff

Date: March 13, 1985 Wednesday

Subject: Overview, HJR 20

On March 13 the Committee met in Room 102 Capitol Building at 1:15-2:45 pm on HJR 20: An Act relating to Tourism and International Airline Travelers Visa Waivers, by Rieger.

This resolution would encourage our Congressional delegation to push for federal legislation that would ease the visa restrictions for non-immigrant visitors on a nation-wide basis, either through separate legislation or as part of some renewed effort to revive the Immigration Bill during the current session of Congress.

This resolution was not brought up in the legislature last year nor is there a companion piece in the Senate this year. The resolution grew out of a piece of federal legislation, S 529, The Immigration Reform and Control Act of 1983, otherwise referred to as the Simpson-Mazzolli Bill. This bill died in Congress last year after differences over its funding, as well as disagreements over many of the bill's points by different lobby groups.

However, one of the subject areas of the bill that was non-controversial dealt with visa waivers for certain types of visitors. That particular section of the bill is reproduced from the Congressional Record in your file (the House and Senate versions were identical).

For your reference, the federal law for Admission Qualifications for non-immigrants is spelled out in detail in 3 USC, 1182, and the particular part of federal law this resolution deals with is found in your file on page 187, Chp. 12 of the federal statutes, (26). Further, the federal regulations on this matter can be found in Title 22, paragraph 41.110: Application for Non-immigrant visas (see page 170 in your file on Subchapter E- Visas).

Finally, there is a survey that was conducted by Alaska Pacific University in June of 1983 for the Anchorage Convention and Visitor's Bureau that demonstrates that a potential market is available among the international travelers who fly through Anchorage year-around. These travelers could provide additional money for the local economy if they were allowed to stop off for a few days without having to go through the hassles of obtaining visas in advance from their home country.

People testifying on this bill will include representatives from the Anchorage Convention and Visitor's Bureau, and the AVA.



Sponsors Assessing 1985 Outlook:

Immigration Reform Bill Dies As Compromise Efforts Fail

For the third year in a row, a sweeping immigration reform measure died in Congress, the victim of swirling interest-group pressures and election-year political qualms.

The legislation (S 529) had been on its deathbed for two weeks. But supporters worked into the final days of the 98th Congress, hoping for agreement on a House-Senate conference report in time for approval by both chambers. The effort failed Oct. 11, two days after conferees deadlocked on a money issue. The dispute was over the amount of federal funds states should get to defray social-service costs anticipated from a proposal to grant amnesty to millions of illegal aliens. (*Weekly Report p. 2473*)

In 1982, an immigration bill passed the Senate but died on the House floor in the last days of a lame-duck session. Last year, S 529 passed the Senate but a companion bill was blocked in the House by Speaker Thomas P. O'Neill Jr., D-Mass. This year, that measure (HR 1510) passed June 20 by a 216-211 margin. (*1982 Almanac p. 405; 1983 Almanac p. 287*)

Try Again Next Year?

Sen. Alan K. Simpson, R-Wyo., and Rep. Romano L. Mazzoli, D-Ky., chief sponsors of the legislation, offered differing assessments about the prospects for action next year.

Simpson said he was ready to "crank up" a new bill early in 1985. Mazzoli said he was going back to Kentucky to think about the matter.

Several members, including Simpson and Mazzoli, said a great deal will depend on who is in the White House in 1985. They said that leadership from the president is critical to getting a bill through Congress.

President Reagan generally supported S 529, particularly a section that would penalize employers who knowingly hire illegal aliens. But he

did not make it a priority issue.

Democratic presidential nominee Walter F. Mondale has strongly opposed employer sanctions and has said that he would never support such a program. Hispanic lobbyists contended that the penalties would result in discrimination against anyone who looked or sounded foreign, and they pressed their cause at the Democratic National Convention this summer.

Funding Snag

Conferees met 10 times over four weeks and resolved a number of thorny issues, including the sanctions provisions, the scope of the legalization program, and an expansion of an existing program that allows employers to bring in foreign workers temporarily for agricultural work.

That the cap on federal aid proved the bill's undoing surprised many conferees. On Sept. 20, members had agreed to an informal \$1 billion yearly cap over four years for the legalization program. The cap was to be part of a statement of managers to accompany the conference report.

Simpson had said that some kind of cap was required or Reagan would veto the bill. He believed that the Sept. 20 action would be satisfactory, but he subsequently reported to conferees that the administration would not accept the informal cap.

Rescue Efforts Fail

During the week of Oct. 1, Rep. Charles E. Schumer, D-N.Y., who had not previously been a key player, tried to put together a compromise on the funding issue and another dispute involving anti-discrimination provisions designed to reduce bias that might result from the sanctions.

Schumer acted as mediator for Simpson and Rep. Barney Frank, D-Mass., the chief advocate of the anti-bias provision, and produced a compromise that commanded a majority of the conferees.

The compromise dropped House language barring discrimination based on "alienage." Simpson and others said this would subject employers to lawsuits if they chose a U.S. citizen over a legal alien. Conferees agreed to allow aliens who signed a document affirming their intent to become U.S. citizens to seek administrative remedies for employment discrimination.

Part of the deal, Schumer said, was making the \$1 billion cap part of the legislation, as the administration had wanted.

When conferees convened Oct. 9 to ratify the agreement, the anti-bias provision was accepted. But House conferees voted 13-15 to reject the \$1 billion yearly cap as part of the bill. Seven members who had voted for the cap in the statement of managers switched their votes and voted against the cap as part of the bill.

Conferees from states with large illegal alien populations contended that the \$1 billion would be insufficient to cover the anticipated costs of legalization, leaving the states with a heavy financial burden.

Judiciary Chairman Peter W. Rodino Jr., D-N.J., who ran the conference, recessed the meeting and said he would reconvene members only if some new agreement were reached.

Schumer started a new round of negotiations with Reps. Larry Smith, D-Fla., and Leon E. Panetta, D-Calif., who had voted against the cap. By the evening of Oct. 10, Schumer had worked out a new compromise with Simpson that drew Panetta's support. But Schumer was unable to convince any other House conferee to switch.

"We exhausted our potential for compromise," Mazzoli said Oct. 11. "Pretty soon you don't have any tools to split hairs any finer."

Even if time had not run out, the bill faced problems on a final vote. Sens. John Tower, R-Texas, and Alan Cranston, D-Calif., had threatened a filibuster, and 40 or so House members had pledged to try to block passage in that chamber.

Simpson conceded that opposition to S 529 was strong and well-organized. "They formed coalitions for 'immigration reform' and then lobbed bombs from the balcony," he said.

"Next year," he added, "we'll have more time to pull their molars." ■

—By Nadine Cohodas

this Act or who otherwise acquire such status after such date.

(2) The amendments made by subsection (b) apply to aliens without regard to the date the aliens enter the United States.

(3) The amendments made by subsection (c) apply to periods occurring on or after the date of the enactment of this Act and shall not have the effect of excluding (in the determination of a period of continuous physical presence in the United States) any period before the date of the enactment of this Act.

VISA WAIVER FOR CERTAIN VISITORS

SEC. 213. (a) Section 212 (8 U.S.C. 1182) is amended by adding at the end thereof the following new subsections:

"(1)(I) The Attorney General and the Secretary of State are authorized to establish a pilot program (hereinafter in this subsection referred to as the 'program') under which the requirement of paragraph (28)(B) of subsection (a) may be waived by the Attorney General and the Secretary of State, acting jointly and in accordance with this subsection, in the case of an alien who—

"(A) is applying for admission during the pilot program period (as defined in paragraph (5)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding ninety days;

"(B) is a national of a country which—

"(i) extends or agrees to extend reciprocal privileges to citizens and nationals of the United States, and

"(ii) is designated as a pilot country under paragraph (3);

"(C) before such admission completes such immigration form as the Attorney General shall establish under paragraph (2)(C) and executes a waiver of review and appeal described in paragraph (2)(D);

"(D) has a round trip, nonrefundable, nontransferable, open-dated transportation ticket which—

"(i) is issued by a carrier which has entered into an agreement described in paragraph (4), and

"(ii) guarantees transport of the alien out of the United States at the end of the alien's visit; and

"(E) has been determined not to represent a threat to the welfare, safety, or security of the United States;

except that no such alien may be admitted without a visa pursuant to this subsection if the alien failed to comply with the conditions of any previous admission as a nonimmigrant.

"(2)(A) The program may not be put into operation until the end of the thirty-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in subparagraph (B) is operational and that the form described in subparagraph (C) has been produced.

"(B) The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival and departure into the United States of nonimmigrant visitors receiving a visa waiver under the program.

"(C) The Attorney General shall develop a form for use under the program. Such form shall be consistent and compatible with the control system developed under subparagraph (B). Such form shall provide for, among other items—

"(i) a summary description of the conditions for excluding nonimmigrant visitors from the United States under subsection (a) and this subsection,

"(ii) a description of the conditions of entry with a waiver under this subsection, including the limitation of such entry to

ninety days and the consequences of failure to abide by such conditions, and

"(iii) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

"(D) An alien may not be provided a waiver under this subsection unless the alien has waived any right (i) to review or appeal under the Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States or (ii) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(3)(A) The Attorney General and the Secretary of State acting jointly may designate up to eight countries as pilot countries for purposes of this subsection.

"(B) For the period beginning after the thirty-day period described in paragraph (2)(A) and ending on the last day of the first fiscal year which begins after such thirty-day period, a country may not be designated as a pilot country unless—

"(i) the average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years, and

"(ii) the average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(C) For each fiscal year (within the pilot program period) after the period specified in subparagraph (B)—

"(i) in the case of a country which was a pilot country in the previous fiscal year, a country may not be designated as a pilot country unless the sum of—

"(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(II) the total number of nationals of that country who were admitted as nonimmigrant visitors during previous fiscal year and who violated the terms of such admission,

was less than 2 per centum of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year, or

"(ii) in the case of another country, the country may not be designated as a pilot country unless—

"(I) the average number of refusals of nonimmigrant visitor visas for national of that country during the two previous full fiscal years was less than 2 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years, and

"(II) the average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(4) The agreement referred to in paragraph (1)(D)(i) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under this subsection—

"(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the ninety-day period described in paragraph (1)(A)(i), and

"(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under this subsection.

The Attorney General may terminate such an agreement with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

"(5) For purposes of this subsection, the term 'pilot program period' means the period beginning at the end of the thirty-day period referred to in paragraph (2)(A) and ending on the last day of the third fiscal year which begins after such thirty-day period.

"(6) The Attorney General and the Secretary of State shall jointly monitor the program and shall report to the Congress not later than two years after the beginning of the pilot program, and shall include in such report recommendations respecting extension of the pilot program period and of the number of countries that may be designated under paragraph (3)(A).

"(m) The requirement of paragraph (26)(j) of subsection (a) may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State, and the Secretary of the Interior jointly determine that—

"(1) the territory of Guam has developed an adequate arrival and departure control system, and

"(2) such a waiver does not present a threat to the welfare, safety, or security of the United States."

(b) Section 214(a) (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to the United States without a visa pursuant to subsection (l) or (m) of section 212 may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding ninety days or fifteen days, respectively, from the date of admission."

(c) For amendment prohibiting nonimmigrant visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

(d) Section 248 (8 U.S.C. 1258) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(4) an alien classified as a nonimmigrant under section 101(a)(15)(O) or admitted as a nonimmigrant visitor without a visa under subsection (l) or (m) of section 212."

NONIMMIGRANT SEASONAL AGRICULTURAL PROGRAM

SEC. 214. (a) Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by sections 204(b) and 211(a)(2) of this Act, is further amended by striking out "or" at the end of subparagraph (N), by striking out the period at the end of subparagraph (O) and inserting in lieu thereof "; or", and by adding at the end the following new subparagraph:

"(P) an alien having a residence in a foreign country which he has no intention of abandoning who is coming to the United States for a period of not longer than 11 consecutive months to perform services or

from foreign contiguous territory the Attorney General to their applying or reapplying for admission;

ways;

to procure, or has sought to procure, other documentation, or seeks to enter, or by willfully misrepresenting a material fact;

as specifically provided in this chapter, at the time of application for admission is not an unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document and a valid unexpired passport, or other document of identity and nationality, issued under the regulations issued by the Attorney General under section 1181(a) of this title;

as specifically provided in this chapter, any application for admission whose visa complies with the provisions of section 1181(a) of this title;

eligible to citizenship, except aliens seeking admission as persons who have departed from or returned to the United States to avoid or evade the United States in time of war or a period of national emergency, except aliens who have departed from the United States as nonimmigrants;

has been convicted of a violation of, or a violation of, any law or regulation relating to the illicit traffic in narcotic drugs or marihuana, or who has been convicted of, or a conspiracy to violate, any law or regulation relating to the taxing, manufacture, production, sale, exchange, dispensing, giving away, importation, or exportation of narcotic drugs, marihuana, or any salt derivative of opium, coca leaves, or isonipeaine or any other substance sustaining opiate; or any alien who the Attorney General knows or has reason to believe is an illicit trafficker in any of the aforementioned;

aliens described in section 1101(a) (27) who seek admission from foreign contiguous

territory or adjacent islands, having arrived there on a vessel or aircraft of a nonsignatory line, or if signatory, a noncomplying transportation line under section 1228(a) of this title and who have not resided for at least two years subsequent to such arrival in such territory or adjacent islands;

(25) Aliens (other than aliens who have been lawfully admitted for permanent residence and who are returning from a temporary visit abroad) over sixteen years of age, physically capable of reading, who cannot read and understand some language or dialect;

(26) Any nonimmigrant who is not in possession of (A) a passport valid for a minimum period of six months from the date of the expiration of the initial period of his admission or contemplated initial period of stay authorizing him to return to the country from which he came or to proceed to and enter some other country during such period; and (B) at the time of application for admission a valid nonimmigrant visa or border crossing identification card;

(27) Aliens who the consular officer or the Attorney General knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States;

(28) Aliens who are, or at any time have been, members of any of the following classes:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States, (ii) any other totalitarian party of the United States, (iii) the Communist Political Association, (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state, (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party, or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided*, That nothing in this paragraph, or in any other provision of this chapter, shall be construed as declaring that the Communist Party does not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and gov-

COPY FOR YOUR
INFORMATION

M E M O R A N D U M

April 11, 1985

TO: Representative Steve Rieger
FROM: Bill Lovell, Staff *Bill*
RE: HJR 20 (Visa Waivers)

I suggest that we present the attached draft SCS to the Senate Labor and Commerce Committee for their consideration for adoption in lieu of the House Labor and Commerce CS for CSHJR 20.

I make this suggestion for the following reason:

The House Labor and Commerce Committee amendments changed the perspective of the resolution. As you know HJR 20 was originally drafted to be directed to Senators Stevens and Murkowski. The L & C CS added that copies were to be sent to various national leaders also and changed the resolution clause to include references to them.

However the CS did not change any of the language in the resolution's "whereas" clauses -- language which was also originally intended to be directed to Senators Stevens and Murkowski, "two of our own," so to speak.

The amendments I recommend do not change the basic arguments in favor of the bill, do not delete any of the specifically Alaskan issues mentioned, and do not detract from the House's position on the original bill; however, the amendments do broaden the resolution's message and would serve, I think, to lessen the provincial "sound" of the Labor and Commerce CS.

/wtl
Attachment

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(_____ = material added to HCS [] = material deleted from HCS)

Original Sponsors: Rieger, Pearce,
Collins, et al

IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

SCS FOR CS FOR HOUSE JOINT RESOLUTION NO. 20 (L & C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE, FIRST SESSION

Relating to visa waivers for
international airline passengers.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS visa waivers would encourage eligible international airline passengers and other eligible nonimmigrants to visit the United States thereby benefiting the nation's tourism industry;
and

WHEREAS all the states of the nation would benefit by granting visa waivers to eligible nonimmigrants; and

WHEREAS the state of Alaska is particularly interested in securing a visa waiver program because tourism is an important element in the state's immediate future and a vital part of ensuring stable and continuing economic growth; and

WHEREAS 1.5 million international airline passengers annually transit the Anchorage International Airport on the transpolar route between Europe and Asia; and

WHEREAS research by the Anchorage Convention and Visitors Bureau reveals that among the annual airport transpolar passengers, 84 percent indicated an interest in the state, 80 percent vacation at least once a year in the period from September to May when the state needs more visitors, 62 percent like winter-oriented vacations, 50 percent could have planned a stopover in Anchorage, 50 percent would stop for four to seven days, and 76 percent are frequent transpolar route passengers and previously have landed in Anchorage; and

WHEREAS state revenue from transpolar passengers constitutes more than 50 percent of the revenue necessary to operate all international airports in the state; and

WHEREAS there is the strong likelihood that carriers on the transpolar route will no longer need this state as a refueling stop in the foreseeable future and passenger interest in visits or stopovers in the state will be the only incentive for transpolar air carriers to continue to stop in the state; and

WHEREAS one of several obstacles to a stopover in Alaska or any other state [THE STATE] is the present requirement of a

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United States visa; and

WHEREAS last year Congress considered but failed to pass legislation providing for the granting of visa waivers;

BE IT RESOLVED that the Alaska State Legislature requests the President and the Congress of the United States to support the renewed effort to secure the waiver of visa requirements for eligible international airline [TRANSPOLAR] passengers and other eligible nonimmigrants wishing to exercise stopover privileges in Alaska and other states [THE STATE].

COPIES of this resolution shall be sent to the Honorable Ronald Reagan, President of the United States, the Honorable Robert Dole, Majority Leader of the Senate, the Honorable Thomas P. "Tip" O'Neill, Jr., Speaker of the House of Representatives; the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.



Official Business

Alaska State Legislature

House

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

March 18, 1985

TO: Senator Fred Zharoff, Chairman, Senate Labor and Commerce
FROM: Representative Steve Rieger *SR*
RE: CSHJR 20 (Labor and Commerce), Relating to visa waivers for
International airlines passengers.

Attached please find back-up information on CSHJR 20 (Labor and Commerce).

This resolution offers the opportunity for the state legislature to express support for an idea which will benefit all Alaskans -- a federal visa waiver program for eligible nonimmigrants. As you may know, a visa waiver program was proposed during the last Congress and was defeated only after it became embroiled in another, unrelated controversy.

CSHJR 20 (Labor and Commerce) encourages our Congressional delegation in their continuing efforts to secure passage of a visa waiver bill. Copies of the resolution, if passed, will be sent to other Congressional leaders to make our position known with them as well.

Senator, I would sincerely appreciate your timely consideration of this resolution. A prompt hearing by your Committee will help make it possible for Alaska to get on record in support of this important program.

Thank you.

/wtl
Attachments

SCS CS HJR 20 (L&C)

CHAIRMAN SHOULD MOVE FOR THE ADOPTION OF THE L&C SCS;

Trans polar route

THIS RESOLUTION ENCOURAGES THE US CONGRESS IN THEIR EFFORT TO PASS A FEDERAL "VISA WAIVER" BILL. PASSAGE OF A VISA WAIVER BILL WILL ENHANCE TOURISM BY ALLOWING ELIGIBLE INTERNATIONAL AIRLINE PASSENGERS AND ELIGIBLE NONIMMIGRANTS TO VISIT IN THE UNITED STATES.

A VISA WAIVER AS DEFINED IN FEDERAL LEGISLATION IS SPECIAL PERMISSION FOR A NONIMMIGRANT VISITOR, FROM AN ELIGIBLE FOREIGN COUNTRY, TO REMAIN IN THE U.S. FOR UP TO 90 DAYS WITHOUT HAVING OBTAINED THE CUSTOMARY NON-IMMIGRANT VISA.

THE LABOR AND COMMERCE CS MADE MINOR CHANGES AT THE SUGGESTION OF THE SPONSOR, AND IT EXPANDED THE LANGUAGE TO REFLECT THE BENEFITS TO ALL STATES AS WELL AS ALASKA.

THE ALASKA VISITORS ASSOCIATION, THE ANCHORAGE CONVENTION AND VISITORS BUREAU, AND THE DIVISION OF TOURISM SUPPORT SUCH A PROGRAM.

Currently law requires nonimmigrant visitors to have a valid nonimmigrant visa before being admitted into the US. Most nonimmigrant visitors must obtain a visa in their home country before beginning a trip. The current process of applying for a visa is time consuming and involves considerable pre planning.

Chairman's Information:

- 1) CSHJR 20: "Relating to visa waivers for international airline passengers"
 - a) Introduced: Rep Reiger
 - b) Co-Sponsors:
- 2) INTENT: This resolution encourages the US Congress in their effort to pass a visa waiver bill. Passage of a visa waiver bill would enhance tourism by allowing eligible international airline passengers and eligible nonimmigrants to visit in the United States.

FISCAL NOTE: none

NOTE: Need to move for the adoption of SCS

- 3) ADDITIONAL REFERRALS: Rules
- 4) PUBLIC HEARINGS:
 - a) Sponsor:
 - b) Public witnesses:
- 5) BILL ACTION:
 - a) Hold in committee?
 - b) Assign to sub committee for further review?
 - c) Move from Committee?
 - d) close public hearings?
- 6) COMMITTEE ACTION:
 - a) amendments?
 - b) CS adoption? We have a SCS for CS HJR 20 (L&C)

Ford
4/12/85

Original sponsors: Rieger, Pearce,
Collins, et al

INDICATES CS
LANGUAGE

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE JOINT RESOLUTION NO. 20 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 Relating to visa waivers for interna-
6 tional airline passengers.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS visa waivers would encourage eligible international airline
9 passengers and other eligible nonimmigrants to visit the United States; and

10 WHEREAS all the states of the nation would realize an increase in
11 tourism by granting visa waivers to eligible nonimmigrants; and

12 WHEREAS Alaska is particularly interested in securing a visa waiver
13 program because tourism is an important element in the state's immediate
14 future and a vital part of ensuring stable and continuing economic growth;
15 and

16 WHEREAS 1,500,000 international airline passengers annually transit
17 the Anchorage International Airport on the transpolar route between Europe
18 and Asia; and

19 WHEREAS research by the Anchorage Convention and Visitors Bureau
20 reveals that among the annual airport transpolar passengers, 84 percent in-
21 dicated an interest in the state, 80 percent vacation at least once a year
22 in the period from September to May when the state needs more visitors, 62
23 percent like winter-oriented vacations, 50 percent could have planned a
24 stopover in Anchorage, 50 percent would stop for four to seven days, and 76
25 percent are frequent transpolar route passengers and previously have landed
26 in Anchorage; and

27 WHEREAS state revenue from transpolar passengers constitutes more than
28 50 percent of the revenue necessary to operate all international airports
29 in the state; and

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WHEREAS there is the strong likelihood that carriers on the transpolar route will no longer need this state as a refueling stop in the foreseeable future and passenger interest in visits or stopovers in the state will be the only incentive for transpolar air carriers to continue to stop in the state; and

WHEREAS one of several obstacles to a stopover in Alaska or any other state is the present requirement of a United States visa; and

WHEREAS last year Congress considered but failed to pass legislation providing for the granting of visa waivers;

BE IT RESOLVED that the Alaska State Legislature requests the President and the Congress of the United States to support the renewed effort to secure the waiver of visa requirements for eligible international airline passengers and other eligible nonimmigrants wishing to exercise stopover privileges in Alaska and other states.

COPIES of this resolution shall be sent to the Honorable Ronald Reagan, President of the United States, the Honorable Robert Dole, Majority Leader of the Senate, the Honorable Thomas P. "Tip" O'Neill, Jr., Speaker of the U.S. House of Representatives; the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

Offered: 3/15/85
Referred: Rules

Original sponsors: Rieger, Pearce,
Collins, et al

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE JOINT RESOLUTION NO. 20 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 Relating to visa waivers for interna-
6 tional airline passengers.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS tourism is an important element in the state's immediate
9 future and a vital part of ensuring stable and continuing economic growth;
10 and

11 WHEREAS 1.5 million passengers annually transit the Anchorage Interna-
12 tional Airport on the transpolar route between Europe and Asia; and

13 WHEREAS research by the Anchorage Convention and Visitors Bureau
14 reveals that among the annual airport transpolar passengers, 84 percent in-
15 dicated an interest in the state, 80 percent vacation at least once a year
16 in the period from September to May when the state needs more visitors, 62
17 percent like winter-oriented vacations, 50 percent could have planned a
18 stopover in Anchorage, 50 percent would stop for four to seven days, and 76
19 percent are frequent transpolar route passengers and previously have landed
20 in Anchorage; and

21 WHEREAS state revenue from transpolar passengers constitutes more than
22 50 percent of the revenue necessary to operate all international airports
23 in the state; and

24 WHEREAS there is the strong likelihood that carriers on the transpolar
25 route will no longer need this state as a refueling stop in the foreseeable
26 future and passenger interest in visits or stopovers in the state will be
27 the only incentive for transpolar air carriers to continue to stop in the
28 state; and

29 WHEREAS one of several obstacles to a stopover in the state is the

1 present requirement of a United States visa; and

2 WHEREAS last year Congress considered but failed to pass legislation
3 providing for the granting of visa waivers;

4 BE IT RESOLVED that the Alaska State Legislature requests the
5 President and the Congress of the United States to support the renewed
6 effort to secure the waiver of visa requirements for transpolar passengers
7 wishing to exercise stopover privileges in the state.

8 COPIES of this resolution shall be sent to the Honorable Ronald
9 Reagan, President of the United States, the Honorable Robert Dole, Majority
10 Leader of the Senate, the Honorable Thomas P. "Tip" O'Neill, Jr., Speaker
11 of the House of Representatives; the Honorable Ted Stevens and the
12 Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S.
13 Representative, members of the Alaska delegation in Congress.