

§41.11

more than 6 months prior to expiration or until the passport expires.

(d) *Emergent circumstances; visa waiver.* An alien well and favorably known at the consular office, who was previously issued a nonimmigrant visa which has expired, and who is proceeding directly to the United States under emergent circumstances which preclude the timely issuance of a visa.

(e) *Members of armed forces of foreign countries; visa and passport waiver.* An alien on active duty in the armed forces of a foreign country and a member of a group of such armed forces traveling to the United States, on behalf of the alien's government or the United Nations, under advance arrangements made with the appropriate military authorities of the United States. The waiver does not apply to a citizen or resident of Cuba, Mongolia, North Korea (Democratic People's Republic of Korea), Vietnam (Socialist Republic of Vietnam), or the People's Republic of China.

(f) *Landed immigrants in Canada; passport waiver.* 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) *Authorization to individual consular office; visa and/or passport waiver.* An alien within the district of a consular office which has been authorized by the Department, because of unusual circumstances prevailing in that district, to join with immigration officers abroad in waivers of documentary requirements in specific categories of cases, and whose case falls within one of those categories.

[52 FR 42597, Nov. 5, 1987, as amended at 56 FR 30428, July 2, 1991; 60 FR 30188, June 8, 1995; 61 FR 1835, Jan. 24, 1996; 63 FR 48577, Sept. 11, 1998]

Subpart B—Classification of Nonimmigrants

§41.11 Entitlement to nonimmigrant status.

(a) *Presumption of immigrant status and burden of proof.* An applicant for a nonimmigrant visa, other than an alien applying for a visa under INA 101(a)(15)(H)(i) or (L), shall be presumed to be an immigrant until the consular officer is satisfied that the alien is entitled to a nonimmigrant status described in INA 101(a)(15) or otherwise established by law or treaty. The burden of proof is upon the applicant to establish entitlement for nonimmigrant status and the type of nonimmigrant visa for which application is made.

(b) *Aliens unable to establish non-immigrant status.* (1) A nonimmigrant visa shall not be issued to an alien who has failed to overcome the presumption of immigrant status established by INA 214(b).

(2) In a borderline case in which an alien appears to be otherwise entitled to receive a visa under INA 101(a)(15)(B) or (F) but the consular officer concludes that the maintenance of the alien's status or the departure of the alien from the United States as required is not fully assured, a visa may nevertheless be issued upon the posting of a bond with the Attorney General under terms and conditions prescribed by the consular officer.

[52 FR 42597, Nov. 5, 1987, as amended at 61 FR 1835, Jan. 24, 1996]

§41.12 Classification symbols.

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

NONIMMIGRANTS

Symbol	Class	Section of law
A-1	Ambassador, Public Minister, Career Diplomat or Consular Officer, or Immediate Family.	101(a)(15)(A)(i).

NONIMMIGRANTS—Continued

Symbol	Class	Section of law
A-2	Other Foreign Government Official or Employee, or Immediate Family	101(a)(15)(A)(ii).
A-3	Attendant, Servant, or Personal Employee of A-1 or A-2, or Immediate Family.	101(a)(15)(A)(iii).
B-1	Temporary Visitor for Business	101(a)(15)(B).
B-2	Temporary Visitor for Pleasure	101(a)(15)(B).
B-1/B-2	Temporary Visitor for Business & Pleasure	101(a)(15)(B).
C-1	Alien in Transit	101(a)(15)(C).
C-1/D	Combined Transit and Crewman Visa	101(a)(15)(C) and (D).
C-2	Alien in Transit to United Nations Headquarters District Under Sec. 11.(3), (4), or (5) of the Headquarters Agreement.	101(a)(15)(C).
C-3	Foreign Government Official, Immediate Family, Attendant, Servant or Personal Employee, in Transit.	212(d)(8).
D	Crewmember (Sea or Air)	101(a)(15)(D).
E-1	Treaty Trader, Spouse or Child	101(a)(15)(E)(i).
E-2	Treaty Investor, Spouse or Child	101(a)(15)(E)(ii).
F-1	Student	101(a)(15)(F)(i).
F-2	Spouse or Child of F-1	101(a)(15)(F)(ii).
G-1	Principal Resident Representative of Recognized Foreign Government to International Organization, Staff, or Immediate Family.	101(a)(15)(G)(i).
G-2	Other Representative of Recognized Foreign Member Government to International Organization, or Immediate Family.	101(a)(15)(G)(ii).
G-3	Representative of Nonrecognized Nonmember Foreign Government to International Organization, or Immediate Family.	101(a)(15)(G)(iii).
G-4	International Organization Officer or Employee, or Immediate Family	101(a)(15)(G)(iv).
G-5	Attendant, Servant, or Personal Employee of G-1 through G-4 or Immediate Family.	101(a)(15)(G)(v).
H-1B	Alien in a Specialty Occupation (Profession)	101(a)(15)(H)(i)(b).
H-1C	Nurses in health professional shortage areas	101(a)(15)(H)(i)(c).
H-2A	Temporary Worker Performing Agricultural Services Unavailable in the United States (Petition filed on or After June 1, 1987).	101(a)(15)(H)(ii)(a).
H-2B	Temporary Worker Performing Other Services Unavailable in the United States (Petition filed on or After June 1, 1987).	101(a)(15)(H)(ii)(b).
H-3	Trainee	101(a)(15)(H)(iii).
H-4	Spouse or Child of Alien Classified H-1A/B, H2A/B, or H-3	101(a)(15)(H)(iv).
I	Representative of Foreign Information Media, Spouse and Child	101(a)(15)(I).
J-1	Exchange Visitor	101(a)(15)(J).
J-2	Spouse or Child of J-1	101(a)(15)(J).
K-1	Fiance(e) of United States Citizen	101(a)(15)(K).
K-2	Child of Fiance(e) of U.S. Citizen	101(a)(15)(K).
L-1	Intracompany Transferee (Executive, Managerial, and Specialized Knowledge Personnel Continuing Employment with International Firm or Corporation.	101(a)(15)(L).
L-2	Spouse or Child of Intracompany Transferee	101(a)(15)(L).
M-1	Vocational Student or Other Nonacademic Student	101(a)(15)(M).
M-2	Spouse or Child of M-1	101(a)(15)(M).
N-8	Parent of an Alien Classified SK-3 Special Immigrant	101(a)(15)(N)(i).
N-9	Child of N-8 or of an SK-1, SK-2, or SK-4 Special Immigrant	101(a)(15)(N)(ii).
NATO-1	Principal Permanent Representative of Member State to NATO (including any of its Subsidiary Bodies) Resident in the U.S. and Resident Members of Official Staff; Secretary General, Assistant Secretary General, and Executive Secretary of NATO; Other Permanent NATO Officials of Similar Rank, or Immediate Family.	Art. 12, 5 UST 1094; Art. 20, 5 UST 1098.
NATO-2	Other Representative of member state to NATO (including any of Subsidiary Bodies) including Representatives, its Advisers and Technical Experts of Delegations, Members of Immediate Art. 3, 4 UST 1796 Family; Dependents of Member of a Force Entering in Accordance with the Provisions Status-of-Forces Agreement or in Accordance with the provisions of the Protocol on the Status of International Military Headquarters; Members of Such a Force or Immediate Family if Issued Visas.	Art. 13, 5 UST 1094; Art. 1, 4 UST 1794.
NATO-3	Official Clerical Staff Accompanying Representative of Member State to NATO (including any of its Subsidiary Bodies) or Immediate Family.	Art. 14, 5 UST 1096.
NATO-4	Official of NATO (Other Than Those Classifiable as NATO-1) or Immediate Family.	Art. 18, 5 UST 1098.
NATO-5	Expert, Other Than NATO Officials Classifiable Under the NATO-4, Employed in Missions on Behalf of NATO, and their Dependents.	Art. 21, 5 UST 1100.
NATO-6	Member of a Civilian Component Accompanying a Force Entering in Accordance with the Provisions of the NATO Status-of-Forces Agreement; 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 their Dependents.	Art. 1, 4 UST 1794; Art. 3, 5 UST 877.

NONIMMIGRANTS—Continued

Symbol	Class	Section of law
NATO–7	Attendant, Servant, or Personal Employee of NATO–1, NATO–2, NATO–3, NATO–4, NATO–5, and NATO–6 Classes, or Immediate Family.	Art. 12–20; 5 UST 1094–1098.
O–1	Alien with Extraordinary Ability in Sciences, Arts, Education, Business or Athletics.	101(a)(15)(O)(i).
O–2	Accompanying Alien	101(a)(15)(O)(ii).
O–3	Spouse or Child of O–1 or O–2	101(a)(15)(O)(iii).
P–1	Internationally Recognized Athlete or Member of Internationally Recognized Entertainment Group.	101(a)(15)(P)(i).
P–2	Artist or Entertainer in a Reciprocal Exchange Program	101(a)(15)(P)(ii).
P–3	Artist or Entertainer in a Culturally Unique Program	101(a)(15)(P)(iii).
P–4	Spouse or Child of P–1, P–2, or P–3	101(a)(15)(P)(iv).
Q–1	Participant in an International Cultural Exchange Program	101(a)(15)(Q)(i).
Q–2	Irish Peace Process Program Participant	101(a)(15)(Q)(ii).
Q–3	Spouse or child of Q–2	101(a)(15)(Q)(iii).
R–1	Alien in a Religious Occupation	101(a)(15)(R).
R–2	Spouse or Child of R–1	101(a)(15)(R).
S–5	Certain Aliens Supplying Critical Information Relating to a Criminal Organization or Enterprise.	101(a)(15)(S)(i).
S–6	Certain Aliens Supplying Critical Information Relating to Terrorism	101(a)(15)(S)(ii).
S–7	Qualified Family Member of S–5 or S–6	101(a)(15)(S).
TN	NAFTA Professional	214(e)(2).
TD	Spouse or Child of NAFTA Professional	214(e)(2).

[60 FR 10497, Feb. 27, 1995; as amended at 61 FR 1836, Jan. 24, 1996; 63 FR 48578, Sept. 11, 1998; 65 FR 14770, Mar. 17, 2000; 65 FR 20904, Apr. 19, 2000]

Subpart C—Foreign Government Officials

§41.21 Foreign Officials—General.

(a) *Definitions.* In addition to pertinent INA definitions, the following definitions are applicable:

(1) *Accredited*, as used in INA 101(a)(15)(A), 101(a)(15)(G), and 212(d)(8), means an alien holding an official position, other than an honorary official position, with a government or international organization and possessing a travel document or other evidence of intention to enter or transit the United States to transact official business for that government or international organization.

(2) *Attendants*, as used in INA 101(a)(15)(A)(iii), 101(a)(15)(G)(v), and 212(d)(8), and in the definition of the NATO–7 visa symbol, means aliens paid from the public funds of a foreign government or from the funds of an international organization, accompanying or following to join the principal alien to whom a duty or service is owed.

(3) *Immediate family*, as used in INA 101(a)(15)(A), 101(a)(15)(G), and 212(d)(8), and in classification under the NATO–1 through NATO–5 visa symbols, means the spouse and unmarried sons and daughters, whether by blood or adop-

tion, who are not members of some other household, and who will reside regularly in the household of the principal alien. “Immediate family” also includes any other close relatives of the principal alien or spouse who:

- (i) Are relatives of the principal alien or spouse by blood, marriage, or adoption;
- (ii) Are not members of some other household;
- (iii) Will reside regularly in the household of the principal alien;
- (iv) Are recognized as dependents by the sending Government as demonstrated by eligibility for 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; and
- (v) Are individually authorized by the Department.

(4) *Servants and personal employees*, as used in INA 101(a)(15)(A)(iii), 101(a)(15)(G)(v), and 212(d)(8), and in classification under the NATO–7 visa symbol, means aliens employed in a domestic or personal capacity by a principal alien, who are paid from the private funds of the principal alien and seek to enter the United States solely for the purpose of such employment.