

officer shall write or stamp "canceled" on the face of the document.

(d) *Voidance.* (1) The voiding pursuant to INA 222(g) of the visa portion of a B-1/B-2 Visa/BCC issued at any time by a consular officer in Mexico under provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, also voids the BCC portion of that document.

(2) A BCC issued at any time by a consular officer in Mexico under any provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, is void if a consular or immigration officer determines that the alien has violated the conditions of the alien's admission into the United States, including the period of stay authorized by the Attorney General.

(3) A consular or immigration officer shall immediately take possession of a card determined to be void under paragraphs (d) (1) or (2) of this section and physically cancel it under standard security conditions. If the document voided in paragraphs (d) (1) or (2) is in the form of a stamp in a passport the officer shall write or stamp "canceled" across the face of the document.

(e) *Replacement.* When a B-1/B-2 Visa/BCC issued under the provisions of this section, or a BCC or B-1/B-2 Visa/BCC issued under any provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, has been lost, mutilated, destroyed, or expired, the person to whom such card was issued may apply for a new B-1/B-2 Visa/BCC as provided in this section.

[64 FR 45163, Aug. 19, 1999]

**§ 41.33 Nonresident alien Canadian border crossing identification card (BCC).**

(a) *Validity of Canadian BCC.* A Canadian BCC or the BCC portion of a Canadian B-1/B-2 Visa/BCC issued to a permanent resident of Canada pursuant to provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, is valid until the date of expiration, if any, unless previously revoked, but not later than the date, currently October 1, 2001, on which a machine readable biometric identifier is required in order for a BCC to be usable for entry.

(b) *Revocation of Canadian BCC.* A consular or immigration officer may revoke a BCC or a B-1/B-2 Visa/BCC issued in Canada at any time under the provisions of § 41.122, or if the consular or immigration officer determines that the alien to whom any such document was issued has ceased to be a permanent resident of Canada. Upon revocation, the consular or immigration officer shall notify the issuing consular office and if the revoked document is a card, the consular or immigration officer shall take possession of the card and physically cancel it under standard security conditions. If the revoked document is a stamp in a passport the consular or immigration officer shall write or stamp "canceled" on the face of the document.

(c) *Voidance.* (1) The voiding pursuant to INA 222(g) of the visa portion of a B-1/B-2 Visa/BCC issued at any time by a consular officer in Canada under provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, also voids the BCC portion of that document.

(2) A BCC issued at any time by a consular officer in Canada under any provisions of this section contained in the 22 CFR, parts 1 to 299, edition revised as of April 1, 1998, is void if a consular or immigration officer finds that the alien has violated the conditions of the alien's admission into the United States, including the period of stay authorized by the Attorney General.

(3) A consular or immigration officer shall immediately take possession of a card determined to be void under paragraphs (c) (1) or (2) of this section and physically cancel it under standard security conditions. If the document voided under paragraphs (c) (1) or (2) is in the form of a stamp in a passport the officer shall write or stamp "canceled" across the face of the document.

[64 FR 45164, Aug. 19, 1999]

**Subpart E—Crewman and Crew-List Visas**

**§ 41.41 Crewmen.**

(a) *Alien classifiable as crewman.* An alien is classifiable as a nonimmigrant crewman upon establishing to the satisfaction of the consular officer the

qualifications prescribed by INA 101(a)(15)(D), provided that the alien has permission to enter some foreign country after a temporary landing in the United States, unless the alien is barred from such classification under the provisions of INA 214(f).

(b) *Alien not classifiable as crewman.* An alien employed on board a vessel or aircraft in a capacity not required for normal operation and service, 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.

[52 FR 42597, Nov. 5, 1987, as amended at 66 FR 10364, Feb. 15, 2001]

**§ 41.42 [Reserved]**

**Subpart F—Business and Media  
Visas**

**§ 41.51 Treaty trader, treaty investor,  
or treaty alien in a specialty occupation.**

(a) *Treaty trader*—(1) *Classification.* An alien is classifiable as a nonimmigrant treaty trader (E-1) if the consular officer is satisfied that the alien qualifies under the provisions of INA 101(a)(15)(E)(i) and that the alien:

(i) Will be in the United States solely to carry on trade of a substantial nature, which is international in scope, either on the alien's behalf or as an employee of a foreign person or organization engaged in trade, principally between the United States and the foreign state of which the alien is a national, (consideration being given to any conditions in the country of which the alien is a national which may affect the alien's ability to carry on such substantial trade); and

(ii) Intends to depart from the United States upon the termination of E-1 status.

(2) *Employee of treaty trader.* An alien employee of a treaty trader may be classified E-1 if the employee is in or is coming to the United States to engage in duties of an executive or supervisory character, or, if employed in a lesser capacity, the employee has special qualifications that make the services to be rendered essential to the efficient operation of the enterprise. The employer must be:

(i) A person having the nationality of the treaty country, who is maintaining the status of treaty trader if in the United States or, if not in the United States, would be classifiable as a treaty trader; or

(ii) An organization at least 50% owned by persons having the nationality of the treaty country who are maintaining nonimmigrant treaty trader status if residing in the United States or, if not residing in the United States, who would be classifiable as treaty traders.

(3) *Spouse and children of treaty trader.* The spouse and children of a treaty trader accompanying or following to join the principal alien are entitled to the same classification as the principal alien. The nationality of a spouse or child of a treaty trader is not material to the classification of the spouse or child under the provisions of INA 101(a)(15)(E).

(4) *Representative of foreign information media.* Representatives of foreign information media shall first be considered for possible classification as nonimmigrants under the provisions of INA 101(a)(15)(I), before consideration is given to their possible classification as treaty traders under the provisions of INA 101(a)(15)(E) and of this section.

(5) *Treaty country.* A treaty country is for purposes of this section a foreign state with which a qualifying Treaty of Friendship, Commerce, and Navigation or its equivalent exists with the United States. A treaty country includes a foreign state that is accorded treaty visa privileges under INA 101(a)(15)(E) by specific legislation (other than the INA).

(6) *Nationality of the treaty country.* The authorities of the foreign state of which the alien claims nationality determine the nationality of an individual treaty trader. In the case of an organization, ownership must be traced as best as is practicable to the individuals who ultimately own the organization.

(7) *Trade.* The term “trade” as used in this section means the existing international exchange of items of trade for consideration between the United States and the treaty country. Existing trade includes successfully negotiated contracts binding upon the