



Immigration, Refugees
and Citizenship Canada

Immigration, Réfugiés
et Citoyenneté Canada

ENF 4

Port of entry examinations

Canada 

ENF 4 Port of entry examinations

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Updates to chapter

Listing by date

2016-03-18

- Sections 12.12 and 12.13 on entrepreneurs have been deleted, as conditions are no longer imposed at ports of entry.

2016-02-10

- Sections 3 and 4.1 – added subsections 16(1.1) and 16(2.1) of the IRPA on the requirement of the person concerned to appear before an officer for an examination and for an interview, respectively.
- Section 9.3 – updated to include document validity dates.
- Section 9.7 – formerly *Emergency passports*, updated for clarity.
- Section 12.3 – updated to include new information on merging client identification numbers.
- Section 13.2 – updated to include Puerto Rico as part of the United States and a link to the *TWOV/CTP Standard Operating Procedures* found on Atlas.
- Section 13.3 – updated to include Puerto Rico as part of the United States.
- Section 13.11 – updated to include TRPs.
- Section 13.18 – updated for clarity.
- Section 13.19 – updated to include the U.S. SENTRI card.
- Section 13.24 – updated for clarity.
- Section 13.32 – updated for clarity.
- Section 13.37 – updated for clarity.
- Section 15.3 – new procedures.
- Section 15.7 – new procedures.
- Section 25.4 – information on recovering removal costs.
- Appendix B – updated addresses.
- Appendix D – deleted and replaced with link to *TWOV/CTP Standard Operating Procedures* in section 13.2.
- Appendix E – renamed Appendix D and updated with new procedures for reporting and consulting.

2015-08-01

- Section 7.5 – addition of Electronic Travel Authorization (eTA) to part of the basic questioning during primary examination.
- Section 8.9 – addition of eTA to part of the basic questioning during secondary examination.
- Section 11.5 – update concerning the documents with which Canadian permanent residents must travel in order to return to Canada by air mode.
- Section 13.12, section 13.13 and section 13.14 – added to reference the eTA regulations, exemptions, and validity.
- Appendix D – updated to include reference to the eTA requirement.

2013-06-17

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- Section 7.4 Responsibilities of primary examining officers – updated to include link to new biometric procedures in new section 13.37.
- Section 8.7 Pre-questioning procedures – updated to include link to new biometric procedures in new section 13.37.
- Section 13.37 Biometrically Enrolled Foreign Nationals – new section.
- Section 15.10 – Updated the instructions for TRP file folder retention and storage. It now reads “File folders should be stored in a secure cabinet for two years and then destroyed using an approved shredder.”

2013-01-25

- Section 7.4 Responsibilities of primary examining officers – updated to include stamp notation at Primary Inspection Line
- Section 8.5 Use of Interpreters – replaced the IMM5611 Claim for Refugee Protection in Canada with the IMM0008 Generic Application Form for Canada
- Section 8.8 FOSS checks – updated to include information for ports of entry without FOSS
- Section 11.8 Travel document – updated Travel Document notation at port of entry
- Section 13.2 Exemptions from a visa requirement – new information on citizens of Poland and Lithuania needing biometric passports for visa-free travel to Canada, and updated information for clarity relating to members of the *Visiting Forces Act*
- Section 15 Temporary resident permits – rewritten for clarity and includes new procedures for stamp policy and issuing TRPs
- Section 19 Examinations that may lead to prosecution – new information on arresting Canadian citizens
- Section 20 Unauthorized border crossings – updated links to the Standard Operating Procedures and Arming Directives on Use of Force and Reporting
- Section 27 FOSS enforcement flag amendments – new guidelines and procedures for requesting FOSS enforcement flag amendments
- Appendix E – TRP Checklist – new procedures

2012-08-21

- Section 19.5 Completing suspended examinations of foreign nationals – updated with new procedures

2012-07-04

- Links to forms and some Web sites have been removed as they often become obsolete when sites are moved.
- Section 3.1 Forms – updated two forms that were transferred from CIC to the CBSA
- Section 8.8 FOSS Checks and all other sections that refer to entering remarks in FOSS – updated to inform border services officers to include user IDs and badge numbers when entering remarks in FOSS
- Section 9.7 Emergency Passports – updated with new address
- Section 12.6 Confirmation of Permanent Residence Document – added new information about border services officer signature protocols
- Section 19 Examinations that may lead to Prosecution – rewritten for clarity
- Section 23.1 Alternate Means of Examination – updated to include new link and updated information

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- Appendix A – updated to include new link to Memorandum of Understanding between CIC and the CBSA
- Appendix D – updated to include new participants in the Transit Without Visa Program and the China Transit Trial

2011-10-17

- All CIC forms that were transferred to CBSA forms were replaced throughout the document
- Section 4.4: Designation of Ports of Entry – updated links
- Section 8.4: Right to Council at POE Examinations – updated for clarity
- Section 12.11: Medical Surveillance Info – added link to OP15
- Section 18.4: Direct Backs – updated to reflect new procedures and contact information
- Appendix D – TWOV – updated to include new information

2011-01-06

- Section 7.7: Updated link to COD 7 – Border services officer Booklet and added direct link to Immigration Secondary Referral List.
- Section 11.13: Clarification of border services officer's role when issuing a removal order to a permanent resident.
- Section 12.5: Inserted correct reference to LICO table (OP 6 Section 11.1).
- Section 12.16: Corrected reference for A44(1) report.
- Section 13.13: Updated list of exceptions to passport and travel document requirement to include those entering under the *Visiting Forces Act*.
- Section 13.16: Added U.S. passport card to the list of evidence of U.S. citizenship.
- Section 13.21: Added military personnel and their family members entering Canada under the *Visiting Forces Act* to the list as to when to issue a visitor record.
- Section 22.10: Updated name of training course to reflect current Control and Defensive Tactics (CDT).
- Section 28: Open Skies information was updated.

2010-06-14

- Appendix B – This Appendix has been updated with current contact information.

2010-02-23

- Section 13.35: A link to the United Nations High Commissioner for Refugees has been added.

2009-12-14

- Section 27.5: Changes were made to the procedure for requesting the removal of an enforcement flag.
- Appendix D: A new appendix was added to provide information on the Transit Without Visa Program (TWOV) and the China Transit Trial (CTT).

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2009-12-08

- All broken links were updated.
- Section 3: References to R40 and R42 were added.
- Section 3.1: Warrant for Arrest and Order of Citizenship and Immigration to Deliver Inmate were added. Reference to Record of Direct Backs has been changed from Appendix D to Appendix C.
- Section 4.1: Authorities found in the *Criminal Code* and the *Customs Act* were incorporated.
- Section 5.2: Minor change for clarity.
- Section 5.6: Added references to ENF 10 and PP 3.
- Section 7.6: Removed reference to the Primary Automated Lookout System (PALS).
- Section 8.3: Added the responsibility of an officer to arrest persons who have committed a serious infraction of the law.
- Section 8.4: Changes were made to increase clarity and accuracy.
- Section 10: Additional information added on the examination of Registered Indians to align with the section on Canadian Citizens.
- Section 11.15: Terminology change. References to Immigration Warrants Response Centre (IWRC) have been replaced with Warrants Response Centre (WRC).
- Section 12.6: Update new photo specification for facial size on PR Card.
- Section 12.9: Changes were made in accordance with regulation R2(b) which describes the age of dependency as age 22 and not 19. Changes were made to increase clarity and accuracy.
- Section 12.17: Terminology change. Canada Employment Centre (CEC) has been replaced by Citizenship and Immigration Centre. Acronym CIC is not used to avoid confusion.
- Section 13.34: Temporary resident permit was replaced by visitor record for foreign nationals who are work permit exempt.
- Section 19: This section has been incorporated to provide additional guidance on examinations that may lead to prosecution. Former sections 18.7, 18.8, and 18.9 have been deleted and replaced.
- Section 22.6: Communication and Cooperation with the Media was updated to reflect new procedures for high-profile, contentious and sensitive cases.
- Section 22.10: Terminology change. Pressure Points and Control Tactic (PPCT) has been replaced by Control and Defensive Tactics (CDT).
- Sections 22.4, 22.7, 22.8, 22.9: Change in procedure for DART officers when referring suspected human smugglers.
- Appendix B: Reference to Memorandum of Understanding concerning partnership, communication, cooperation and information sharing between CIC and the RCMP has been removed.
- Appendix C: Addresses, office hours and phone numbers for PHAC Quarantine Operations Centres were updated.

2009-07-15

- References to officers at ports of entry have been changed throughout the document to Border Services Officer (BSO).
- References to Immigration were replaced with Immigration Secondary.
- Section 3: Medical examination added.
- Section 3.1: Link added to the Record of Direct Backs.
- Section 4.1: Reference to A138(1) was added.

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- Section 4.4: The link to a CIC port-of-entry map was replaced with a link to a CBSA port-of-entry map.
- Section 6: A definition of Border Service Officer was added to the definitions.
- Section 7.1: The memorandum of understanding (MOU) between CIC and CCRA was updated to the current MOU between CIC and the CBSA.
- Section 7.2: Border services officer Handbook was changed to reflect new publication, Canada Border Services Officer Reference Booklet.
- Section 7.6: Acronyms were spelled out; specifically: Primary Automated Lookout System (PALS) and Integrated Primary Inspection Line (IPIL)
- Section 7.9: Further detail was given on referral forms.
- Section 8.5: Guidelines for the use of telephone interpretation services have been added to this section.
- Section 10.1: INAC phone number updated.
- Section 11.4: Inland added to CBSA office.
- Section 12.5: Deleted specific dollar amounts. Added link to OP 6.
- Section 12.6: Two bullets have been added to the procedures and some existing procedures have been reworded and reordered for greater clarity.
- Section 12.11: The section on Medical surveillance has been reworked for greater clarity.
- Section 12.12: The sections have been reordered and the section on medical surveillance has been revised.
- Section 13.2: Further clarification was given to Air Marshals since they are not visa exempt.
- Section 13.3: Further clarification on Implied Status was added.
- Section 13.5: A reference to OP 11, section 17 was added. The contact phone number for the Office of Protocol was updated. The Watch Office contact phone number was added for after-hours service.
- Section 13.21: Further clarification was given on when to document a temporary resident on a Visitor Record.
- Section 13.31: This section was created from text that was previously imbedded in Section 13.30.
- Section 13.32: This section was created from text that was previously imbedded in Section 13.30.
- Section 13.33: This section was created from text that was previously imbedded in Section 13.30.
- Section 13.34: Human Resources and Skills Development Canada was updated to Service Canada and the link for the SIN card was updated.
- Section 18.2: Minor change for clarity
- Section 18.3: A new section on Direct back was created. No text changes.
- Section 18.4: A new section on Direct back and refugees was created.
- Section 18.8: This section has been updated to reflect current CBSA and RCMP roles and responsibilities in terms of investigations. A link was link added to chapter ENF 7, *Investigations and Arrests*, section 14 on note-taking.
- Section 18.9: This section has been updated to reflect current CBSA and RCMP roles and responsibilities in terms of investigations. A link was link added to chapter ENF 7 on investigations and note-taking.
- Section 19: This section has been updated to reflect current CBSA and RCMP roles and responsibilities in terms of investigations. Clarity was given to border services officers in possession of defensive equipment when encountering situations beyond their scope. A link was added for additional information.
- Section 20: Information on the Reciprocal Arrangement has been removed.
- Section 21.1: A qualifying statement on the language used to refer to officers at the POEs was removed.

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- Section 21.5: Duty Manager was replaced by manager/supervisor. References to Immigration were replaced with Immigration Secondary. Canadian Inspection Services was added before the acronym CIS.
- Section 21.6: Replaced FRT with Integrated Compliance and Enforcement Team (ICET). Information on Enforcement Division added for clarity.
- Section 21.12: Airport Unit in the Ports and Border Management Directorate was replaced by Air and Marine Division of the People Programs Directorate.
- Section 24.5: Full Document Entry was added before the first acronym FDE.
- Section 24.6: Immigration Warrant Response Centre was added before the acronym IWRC.
- Section 25: International Civil Aviation Organization was added before the acronym ICAO. A link to UN documents was updated.
- Section 25: The links to the Foreign Missions and International Organizations Act, the Convention on the Privileges and Immunities of the United Nations, the Vienna Convention on Diplomatic Relations, and to the information on orders (OICs) made by the Governor in Council have been removed.
- Section 26.1: Ports and Border Management Directorate was replaced by People Program Directorate.
- Section 26.5: Ports and Border Management Directorate was replaced by People Program Directorate. The global address for enforcement flags was added.
- Appendix A: The link to the MOU between the CBSA and CIC replaced the link to the MOU between CIC and CCRA.

2009-07-21

- Section 13.3 – Implied Status procedure was added.

2007-04-27

Minor changes were made throughout chapter ENF 4.

- Section 5.6 – “Point of finality of an examination” was changed to “End of examination” (in English only).
- Section 7.2 – and 7.7 – Reference to “Customs Inspector handbook on immigration” was changed to “Border Services Officer Handbook on Immigration”.
- Section 12.6 – Some additions were made under “Photographs”.
- Section 12.8 – Reference R(2) was corrected to R1(2).
- Section 12.12 – Reference R32(a) was corrected to R32(b).
- Section 12.17 – Clarification was made by adding “the removal of these conditions”.
- Section 13.2 – Reference R190(3)(f) was replaced by R190 (bullet # 3).
- Section 13.2 – Reference R190(3)(a)(i) was added (bullet # 12).
- Section 13.2 – Bullet for implied status was added.
- Section 18.2 – Reference to permanent resident was deleted as R41 does not apply to PRs.
- Section 20.1 – CBSA National Headquarters was changed to CIC National Headquarters.
- Section 26.5 – A general e-mail address was added.

2007-03-07

The Record of Direct Backs template has been added under Appendix D.

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2007-01-26

A new section 18.3 has been added to provide CBSA officers with guidance on how and when to use the policy of direct back as it relates to refugee claimants at land border ports of entry.

- Section 18.3 outlines the procedure for directing back refugee claimants under exceptional circumstances at land border ports of entry after the implementation of the Safe Third Country Agreement.
- Section 20.7 has been eliminated as the direct back procedures for refugee claimants at land border does not fall under the Reciprocal Arrangement.

2006-01-26

Numerous minor and substantive changes have been made throughout this chapter and any previous version of it should be discarded as section numbers have changed significantly throughout the document. In addition, updates have been made throughout to reflect changes made by the TAC process as a result of the CIC/CBSA transition. Of particular importance are the following changes:

- Section 10.2 outlines the procedure for establishing registered Indian status without documents.
- Section 15 outlines temporary resident permit procedures.
- Section 17.2 refers to a list of quarantine operations centres found in Appendix C of this document.
- Section 20 outlines the Reciprocal Arrangement between Canada and the United States.
- Section 21 introduces all new DART procedures including passenger screening procedures and operational principles.
- Section 22 outlines alternate means of examination (AME) formerly referred to as alternate inspection systems (AIS) in section 20 of the former ENF 4 release.
- Section 24.4 outlines POE procedures for completing an Authorization to Return to Canada pursuant to A52(1) (ARC) [IMM 1203B].
- Section 24.5 outlines how to complete the ARC screen in FOSS.
- Section 25 is new and outlines the Foreign Missions and International Organizations Act.
- Section 26 is new and explains the procedure for requesting that an enforcement flag be removed in FOSS.
- Section 27 is new and outlines the Open Skies Treaty.

As other changes were made throughout ENF 4, officers are encouraged to peruse the entire chapter.

2003-09-25

Both minor and substantive changes and clarifications have been made throughout ENF 4, which is the main document describing port of entry examinations. Any former version of this chapter should be discarded in favour of the one now appearing on CIC explore.

The major changes that were made to this chapter include:

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- Section 4 is now available and details the delegations and designations of the *Immigration and Refugee Protection Act* and Regulations. This section provides a link to the specific authorities of officers in each of the five domestic regions, as well as the international region and also includes the authority found in IRPA to designate an officer, a minister's delegate and a port of entry.
- Section 7.1 has been reworded to reflect the fact that the MOU with Customs has now been signed. This section also provides a hyperlink to the CIC-CCRA MOU.
- Sections 7.2, 7.4 and 7.7 have been reworded to clarify the role of Customs Inspectors when performing Immigration functions, and useful hyperlinks were also added.
- Section 8.3 has been expanded upon to clarify the right to counsel of foreign nationals at ports of entry.
- Section 9.5 has been updated to reflect the correct e-mail address of the Citizenship Case Processing Centre (CPC) in Sydney, Nova Scotia for officers to use when requesting that citizenship records be searched.
- Section 11.4 contains CIC's policy with respect to examination of permanent residents at POE's with respect to the residency obligation.
- Section 12.6 has been expanded upon to detail the proper procedures for officers to follow when completing a "Confirmation of Permanent Residence" form (IMM 5292B).
- Section 13.3 has been rewritten and clarified. This section identifies the instances whereby a foreign national can return to Canada using their original visa.
- A hyperlink has been added to section 13.7 which details the proper procedures to follow when dealing with U.S. government officials assigned to temporary postings in Canada.
- Section 13.28 details the newly implemented SIN card procedures for seasonal agriculture workers.
- A hyperlink has been added to Section 21.1, which provides further information on Alternate Inspection Systems (AIS). As a result of this, sections 20.2, 20.3, 20.4, 20.5, and 20.6 have been removed.
- Sections 21.1, 21.2 and 21.3 have been rewritten to provide up to date information on Advanced Passenger Information (API), Passenger Name Recognition (PNR) and the Passenger Assessment Units (PAU).

As other changes were made throughout ENF 4, officers are encouraged to peruse the entire chapter.

2003-05-05

- Section 22 – Entering previously deported persons onto CPIC
- A new section provides port of entry officers with guidance on entering an ARC document in FOSS and outlines the impact that A44(1) reports have on the PDP initiative.

1 What this chapter is about

This chapter describes how a border services officer conducts primary and secondary immigration examinations of

- Canadian citizens;
- registered Indians;
- permanent residents;
- permanent residence applicants;
- foreign nationals; and
- temporary resident permit (TRP) holders.

2 Program objectives

The objectives of the Act for conducting primary and secondary immigration examinations are the following:

- facilitate the entry of persons who have the right to enter Canada;
- facilitate the entry of foreign nationals into Canada for purposes such as trade and commerce, tourism, international understanding, and cultural, educational, and scientific activities;
- protect the health and safety of Canadians and maintain the security of Canadian society;
- promote international justice and security by denying access to Canadian territory to those who are criminals or security risks; and
- offer safe haven to persons with a well-founded fear of persecution based on race, religion, nationality, political opinion, or membership in a particular social group, as well as those at risk of torture or cruel and unusual punishment.

3 The Act and its Regulations

The authority for a border services officer to conduct an examination comes from a variety of sources, including the *Immigration and Refugee Protection Act (IRPA)*, the *Immigration and Refugee Protection Regulations (IRPR)* and the *Designation of Officers and Delegation of Authority* documents.

Statutory requirements relating to persons seeking entry into Canada

The Act and its Regulations impose the following obligations on persons seeking to enter Canada:

Relevant provisions	Requirement	Explanation
Subsection A11(1)	Apply for visa	A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the Regulations.
Subsection A15(1)	Submit to an examination	An officer is authorized to proceed with an examination if a person makes an application

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		to enter Canada.
Subsection A16(1)	Tell the truth and produce required documentation	A person who makes an application to enter Canada must answer truthfully all questions put to them for the purpose of the examination and must produce a visa and all relevant evidence and documents reasonably required by an officer.
Subsection A16(1.1)	Appear for an examination	A person who makes an application must, on request of an officer, appear for an examination.
Subsection A16(2)	Fingerprints, photographs and a medical examination	A foreign national must produce photographic and fingerprint evidence if required to establish identity or compliance with the Act and, on request, must submit to a medical examination.
Subsection A16(2.1)	Appear for an interview conducted by the Canadian Security Intelligence Service (CSIS) and answer all questions truthfully	A foreign national who makes an application must, on request by an officer, appear for an interview for the purpose of an investigation conducted by CSIS under section 15 of the <i>Canadian Security Intelligence Service Act</i> for the purpose of providing advice or information to the Minister under section 14 of that Act. They must answer truthfully all questions put to them during the interview.
Subsection A18(1)	Appear for an examination	A person who seeks to enter Canada must appear for an examination to determine whether they have a right to enter Canada or may be authorized to enter and remain in Canada.
Subsection A18(2)	In-transit passengers	A person who seeks to leave an area at an airport that is reserved for passengers who are in transit or who are waiting to depart Canada must appear for an examination.
Paragraph A20(1)(a)	To become a permanent resident	A foreign national who seeks to become a permanent resident must establish that they hold the visa or other document required under the Regulations and have come to Canada to establish permanent residence.
Paragraph A20(1)(b)	Entry of temporary residents	A foreign national who seeks to become a temporary resident must establish that they hold the visa or other document required under the Regulations and will leave Canada by the end of the period authorized for their stay.
Subsection A20(2)	Provincial selection criteria	A foreign national who seeks to become a permanent resident and intends to reside in a province that has sole responsibility for the selection of foreign nationals under a federal-provincial agreement pursuant to subsection A9(1) must also establish that they hold a document issued by the province, indicating that the competent authority of the

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		province is of the opinion that the foreign national complies with the province's selection criteria.
Subsection A28(1)	Residency obligation	A permanent resident must comply with the residency obligation in section A28 with respect to every five-year period.
Subsection A29(2)	Obligations of temporary residents	A temporary resident must comply with any conditions imposed under the Regulations and with any requirements under the Act and must leave Canada by the end of the period authorized for their stay.
Subsection A30(1)	Work and study	A foreign national may not work or study in Canada unless authorized to do so under the Act.
Sections R6, R7, R8 and R9	Permanent and temporary resident visas, work and study permits	A foreign national must apply for these documents prior to entering Canada.
Subsections R27(1) and R27(2)	Appear for examination	A foreign national must appear without delay before an officer at a POE for an examination or, if entering at a place other than a POE, must appear without delay for examination at the nearest POE.
Section R28	Making an application	A person who seeks to enter Canada is deemed to be making an application pursuant to subsection A15(1) and must therefore submit to an examination.
Section R30	Submit to medical examination	A foreign national who seeks to enter Canada for more than six months and who has resided or stayed in certain countries in excess of six months is required to submit to a medical examination and must hold a medical certificate stating that they are not inadmissible on health grounds.
Section R40	Direction to leave	Except in the case of protected persons within the meaning of subsection A95(2) and in the case of refugee protection claimants, an officer who is unable to examine a person who is seeking to enter Canada at a POE will, in writing, direct the person to leave Canada.
Section R41	Direct back	An officer may temporarily direct back a foreign national who is seeking to enter Canada from the United States if <ul style="list-style-type: none"> • the examination cannot be completed; • the Minister's delegate is not available to review the report; • the admissibility hearing cannot be held by the Immigration Division.
Section R42	Withdrawing an application	An officer who examines a foreign national who is seeking to enter Canada and who has

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		indicated that they want to withdraw their application to enter Canada will allow the foreign national to withdraw their application and leave Canada, unless a report is being or has been prepared under subsection 44(1) of the Act.
Section R43	Mandatory conditions in cases requiring further examination	<p>A foreign national who has been authorized to enter Canada under section A23 must comply with the following conditions:</p> <ul style="list-style-type: none"> • report in person for the completion of the examination or the admissibility hearing; • not engage in any work in Canada; • not study in Canada; and • report in person at a POE if they withdraw their application to enter Canada.
Section R45	Deposits or guarantees	An officer can require of a person or a group of persons seeking to enter Canada the payment of a deposit or the posting of guarantee, or both, to guarantee compliance with any conditions imposed.
Section R50	Documents: applicants for permanent residence	A foreign national seeking to become a permanent resident requires a permanent resident visa as well as a passport, travel document or other document prescribed by the <i>Regulations</i> . For detailed requirements, see subsections R50(1), (2) and (3)
Section R51	Obligations of applicants for permanent residence	<p>A foreign national in possession of a permanent resident visa who seeks at a POE to become a permanent resident must inform the officer if</p> <ul style="list-style-type: none"> • they have become or ceased to be a spouse, common-law partner or conjugal partner after the visa was issued; or • material facts relevant to the issuance of the visa have changed or were not divulged when the visa was issued. <p>The foreign national must also establish that they and their family members, whether accompanying or not, meet the requirements of the <i>Act</i> and <i>Regulations</i>.</p>
Section R52	Documents: temporary residents	A foreign national who seeks to become a temporary resident must hold one of the following documents, which must be valid for the period authorized for their stay: a passport, a travel document or another

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		document prescribed by the Regulations. For detailed requirements and exceptions, see subsections R52(1) and R52(2).
Section R183 and section R185	General and specific conditions on temporary residents	A temporary resident must comply with conditions of their entry, including the requirement to leave by the end of the period authorized for their stay and not to work or study unless authorized by the Act or Regulations.
Section R184	Conditions on crew members	A foreign national who enters Canada as a crew member or in order to become a crew member is required to join the means of transportation within the period imposed or, if no period is imposed, within 48 hours after they enter Canada. A crew member must leave Canada within 72 hours after ceasing to be a crew member.
Section R196	Requirement for a work permit	A foreign national must not work in Canada unless authorized by a work permit or the Regulations.
Section R243	Requirement to pay removal costs	A foreign national is not allowed to return to Canada if they were removed from Canada at the expense of Her Majesty and the debt incurred from removal is outstanding.

3.1 Forms

Form title	Form number
Warrant for Arrest	BSF 499
Certificate of Departure	IMM 0056B
Order of the Canada Border Services Agency to Deliver Inmate	BSF 498
Order for Detention	BSF 304
Medical Surveillance Undertaking	IMM 0535B
Visitor Record	IMM 1097B
Authorization to Return to Canada Pursuant to Section 52(1) of the <i>Immigration and Refugee Protection Act</i>	IMM 1203B
Direction to Leave Canada	BSF 503
Performance Bond - The <i>Immigration and Refugee Protection Act</i>	IMM 1230
Direction to Return to the United States	BSF 505
Acknowledgement of Conditions - <i>The Immigration and Refugee Protection Act</i>	IMM 1262E
Affirmation for Visa	IMM 1281B
Allowed to Leave Canada	IMM 1282B
Visitor's Visa	IMM 1346
Declaration	IMM 1392B
FOSS Full Document Entry - Generic	IMM 1442B
Confirmation by Transporter Regarding Passenger(s) Carried	BSF 453
Port of Entry/Secondary Examination Record	IMM 5059B
Change of Address/Information Notice	IMM 5260B
Generic document - 3 Part Distribution	IMM 5292B
Entry For Further Examination or Admissibility Hearing	BSF 536

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Supplementary Identification Form	IMM 5455B
Acknowledgement of Terms and Conditions (Entrepreneur) <i>Immigration Act</i> , 1976	IMM 5458B
Authority to Release Personal Information to a Designated Individual	IMM 5475E
Use of a Representative	IMM 5476E
Record of Direct Backs for Refugee Claimants at the Land Border	Appendix C
Customs Referral Form (Airport)	E311
Customs Referral Form (Border)	E67
Customs Referral Form (Border: Commercial Drivers)	Y28

4 Instruments and delegations

Chapter IL 3, *Designation of Officers and Designation of Authority*, outlines the authorities designated geographically and describes them regionally, nationally or internationally and in accordance with the physical location of the officer. To identify a particular designation or delegation, one must check the modules for the line number associated with a particular section of the *Act* or *Regulations* and then check the same line number in the corresponding geographic list.

The *Designation of Officers and Delegation of Authority* documents for the IRPA and the IRPR may be found in chapter IL 3 of the operational manuals.

4.1 Powers and authorities of an officer

The following sections provide authority for an officer relating to the examination of persons seeking to enter Canada:

Powers of an officer under the IRPA	Relevant provisions
<p>Authority to conduct an examination where a person makes an application</p> <p>Section R28 specifies that every person who seeks to enter Canada is making an application and is, therefore, subject to an examination.</p>	Subsection A15(1)
<p>Authority to</p> <ul style="list-style-type: none"> • board and inspect any means of transportation bringing persons to Canada; • examine any person carried by that means of transportation and any record or document respecting that person; • seize and remove any record or document to obtain copies or extracts; and • hold the means of transportation until the inspection and examination are completed <p>This section provides authority for officers to commence an examination prior to the passenger's arrival at the Primary Inspection Line (PIL).</p>	Subsection A15(3)
Authority to require a person being examined to produce a visa and	Subsections A16(1)

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all relevant evidence that the officer reasonably requires, including, in the case of foreign nationals, photographic and fingerprint evidence	and (2)
Authority to request that the foreign national undergo a medical examination	
Authority to require that a person who makes an application appear for an examination	Subsection A16(1.1)
Authority to require that a foreign national who makes an application appear for an interview conducted by CSIS	Subsection A16(2.1)
Authority to authorize a person to enter Canada for the purpose of further examination or an admissibility hearing at a later time or date	Section A23
Authority to issue a TRP, if justified by the circumstances, to an inadmissible person or to a person who does not meet the requirements of the Act and to cancel it at any time	Section A24
Authority of the Minister to examine the circumstances concerning a foreign national who is inadmissible and to grant permanent resident status or an exemption from any applicable criteria or obligation of the Act if the Minister is of the opinion that it is justified by <ul style="list-style-type: none"> • humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected; or • public policy considerations 	Subsection A25(1)
Authority to prepare a report on permanent residents and foreign nationals who are believed to be inadmissible	Subsection A44(1)
Authority to impose conditions, including the payment of a deposit or the posting of a guarantee for compliance with any conditions considered necessary, on a permanent resident or foreign national who is the subject of a report	Subsection A44(3)
Authority to authorize a foreign national against whom a removal order has been enforced to return to Canada	Subsection A52(1)
Authority to issue a warrant for the arrest and detention of a permanent resident or foreign national who the officer has reasonable grounds to believe is inadmissible and is a danger to the public or is unlikely to appear for examination, an admissibility hearing or removal from Canada	Subsection A55(1)
Authority to arrest and detain, without a warrant, a foreign national, other than a protected person, <ul style="list-style-type: none"> • who the officer has reasonable grounds to believe is inadmissible and is a danger to the public or is unlikely to appear for examination, an admissibility hearing, removal from Canada, or at a proceeding that could lead to the making of a removal order by the Minister under subsection A44(2); or • if the officer is not satisfied with the identity of the foreign national in the course of any procedure under the Act 	Subsection A55(2)
Authority to detain a permanent resident or foreign national on	Subsection A55(3)

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entry to Canada if the officer considers it necessary to do so in order to complete an examination or has reasonable grounds to suspect that the person is inadmissible on grounds of security or for violating human or international rights	
Authority to order the release from detention of a permanent resident or a foreign national before the first detention review by the Immigration Division if the officer is of the opinion that the reasons for the detention no longer exist This section also allows the officer to impose any conditions, including the payment of a deposit or the posting of a guarantee for compliance with the conditions, that the officer considers necessary.	Section A56
Authority to conduct eligibility determinations for refugee claimants and to refer eligible claims to the Refugee Protection Division	Subsection A100(1)
Authority of designated officers to have the authority and powers of peace officers for the purpose of enforcing the provisions of the Act, including provisions with respect to the arrest, detention and removal of a person from Canada	Subsection A138(1)
Authority to search any person seeking to come into Canada, including their luggage, personal effects, and means of transportation, if the officer believes on reasonable grounds that the person has not revealed their identity or has hidden documents relevant to their admissibility	Section A139
Authority to seize and hold any means of transportation, document, or other thing that the officer believes on reasonable grounds was fraudulently or improperly obtained or used or that the seizure is necessary to prevent its fraudulent or improper use or to carry out the purposes of the Act	Section A140
Authority to impose, vary or cancel conditions on any person who is obliged to submit to a medical examination	Section R32
Authority to conduct alternate means of examination	Section R38
Authority to direct a person who cannot be examined to leave Canada, unless this person is a protected person or a refugee claimant	Section R40
Authority to direct a foreign national to return to the United States	Section R41
Authority to allow or to refuse to allow a foreign national to withdraw their application to enter Canada and leave Canada	Section R42
Authority to impose conditions on persons authorized to enter Canada for further examination under section A23	Section R43
Authority to require the payment of a deposit or the posting of a guarantee	Section R45
Authority to impose conditions, including the period of time that a temporary resident may remain in Canada	Section R183
Authority to impose specific conditions on a temporary resident	Section R185
Authority to issue a work permit on the basis of Canadian interests	Section R205
Authority to issue a work permit on the basis of humanitarian reasons	Section R206
Authority to issue a study permit in certain cases	Section R216
Authority to require a transporter to provide a written report with respect to a stowaway	Section R262
Authority to require a transporter to provide copies of a passenger's ticket, itinerary and information about travel and identity documents	Section R264
Authority to require a transporter to assemble all members of the	Section R266

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crew aboard a vessel	
Authority to require a transporter to provide a written report respecting a foreign national who has ceased to be a member of the crew	Section R268
Authority to require a commercial transporter to provide advance passenger information on passengers it will be carrying to Canada	Subsection R269(1)
Authority to require a commercial transporter to provide all reservation information it holds respecting passengers being carried to Canada	Subsection R269(2)

Powers of officer under the <i>Criminal Code</i>	Relevant provisions
Authority within the meaning of the <i>Customs Act</i> , the <i>Excise Act</i> or the <i>Excise Act, 2001</i> or a person having the powers of such an officer to perform any duty in the administration of any of those Acts	Section CC2
Authority and powers of a peace officer, including those set out in sections 487 to 492.2 of the <i>Criminal Code</i> to enforce the IRPA	Section CC2
Authority to use as much reasonable force as is necessary in the administration and enforcement of their duties	Section CC25-27
Authority to arrest a person found committing or known to have committed a criminal offence	Subsection CC495(1)
Limitations on when an officer will arrest a person found committing or known to have committed a criminal offence	Subsection CC495(2)
Authority to release from custody a person arrested, with or without warrant, for an offence described in section CC496 of the if public interest and court appearance are satisfied	Section CC497

Powers of officer under the <i>Customs Act</i>	Relevant provisions
Sets out that "peace officer" notably includes an officer within the meaning of the <i>Customs Act</i> , the <i>Excise Act</i> or the <i>Excise Act, 2001</i> , or a person having the powers of such an officer, when performing any duty in the administration of any of those Acts, and an officer authorized under subsection A138(1)	Section CA2
Lists the particular sections of the <i>Customs Act</i> that, if violated, are punishable by either indictment or summary conviction; officers, therefore, may arrest for contraventions of those sections listed	Section CA160
Authorizes designated officers, when at a Canada Border Services Agency (CBSA) office and performing their normal duties, to make an arrest for a criminal offence under any other Act of Parliament	Subsection CA163.5(1)

4.2 Designation of officers

Subsection A6(1) authorizes the Minister of Immigration, Refugees and Citizenship Canada (IRCC) and the Minister of Public Safety Canada to designate persons or classes of persons to carry out any purpose or provision of the Act. A designation is made, in most

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cases, where the word “officer” is referred to in the Act or Regulations with respect to a power, duty, requirement, or authority.

4.3 Ministerial delegations

Subsection A6(2) authorizes the Minister of Immigration, Refugees and Citizenship Canada (IRCC) and the Minister of Public Safety Canada to delegate powers to other persons. A delegation is made, in most cases, where the word “minister” is referred to in the Act or Regulations with respect to a power, duty, requirement, or authority. Certain ministerial powers, referred to in subsection A6(3), may not be delegated.

4.4 Designations of ports of entry

The Minister has authority under section R26 to designate POEs. The purpose in designating a POE is to ensure that persons seeking to enter Canada are aware of where they are required to report for examination.

Schedule 1 of the Regulations lists POEs where service is provided on a 24 hours a day, 7 days a week basis and where border services officers are on duty at all times.

See a list of POEs with detailed information, including the types of services and hours of operation.

5 Departmental policy

5.1 Examinations

Section R28 stipulates that a person makes an application by

- submitting an application in writing;
- seeking to enter Canada;
- seeking to transit through Canada in airports as provided for by section R35; or
- making a claim for refugee protection.

Subsection A15(1) authorizes an officer to examine any person making an application in accordance with the Act. This chapter deals only with the examination of persons seeking to enter Canada.

5.2 Persons to be examined

Subsection A18(1) provides that every person who seeks to enter Canada, whether they intend to or not, must appear for an examination. This includes Canadian citizens, permanent residents, and registered Indians.

5.3 Primary and secondary examinations

Every person seeking to enter Canada must appear for an examination to determine whether they have a right to enter Canada or may become authorized to enter and remain

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in Canada. The examination process at a POE may include a primary and a secondary examination. Primary examinations are completed by a border services officer at the PIL. In some remote ports, a Royal Canadian Mounted Police (RCMP) officer may complete the primary examination. Immigration Secondary examinations are conducted by a border services officer at Immigration Secondary following a referral from a border services officer at the PIL. This chapter refers to both primary and secondary examinations at a POE.

5.4 Instructions by the Minister

Subsection A15(4) provides that an officer will conduct an examination in accordance with any instructions that the Minister of Citizenship and Immigration Canada or the Minister of Public Safety may give. The authority for the Ministers to give instructions to officers can be used to ensure consistency in the application of the Act with respect to examinations. Instructions given by the Ministers are not regulations (see section A93) but are nevertheless binding on officers.

5.5 Duties and conduct of the border services officer

A border services officer must deal with each person being examined in a courteous, professional and efficient manner. They should ensure that those who are inadmissible or who seek to contravene the law are prevented from entering Canada and that those who readily comply with the law are allowed to enter. Most individuals seeking entry to Canada do not pose a risk and should be allowed forward with minimal delay. A border services officer should carefully examine all the facts before making a decision and, where appropriate, explain the reasons for that decision to the traveller.

5.6 End of examination

Section R37 provides that the examination of a person seeking to enter or transit through Canada is not final until one of the following outcomes takes place:

Outcome	Explanation
A final determination is made that the person has a right to enter Canada or is authorized to enter Canada.	<p>The Regulations provide that an examination is not final until the person has left the controlled area of the POE or, if no controlled area exists, has left the POE.</p> <p>For example, an examination may be continued if, during a Customs Secondary examination, evidence arises that indicates the person may be inadmissible to Canada. If the person's passport has been stamped or even if the person has been granted permanent resident status, these decisions are not final and may be revisited as long as the person has not left the controlled area of the POE.</p>
A person in transit departs from Canada.	Certain passengers in transit through Canada are not required to appear for examination if they remain in a controlled area pending their onward flight out of Canada. They are, nevertheless, subject to examination. If they seek to leave, for any reason, the area at an airport that is reserved for passengers who are in transit or who are waiting to depart Canada, they must report for examination [A18(2)].

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The person is allowed to leave Canada, and their departure is confirmed.	A border services officer may determine a person to be inadmissible and allow them to leave Canada pursuant to section R42 if no report referred to in subsection A44(1) is prepared or transmitted. The examination concludes once their departure is verified. If, for any reason, the person does not depart, the examination resumes.
Entry is authorized by the Minister.	The Minister's delegate, in reviewing a report pursuant to subsection A44(1), continues the examination of the person seeking entry. If the Minister's delegate determines the report is not founded, the person will be allowed to enter Canada, and the examination will conclude.
A removal order is issued by the Minister.	The Minister's delegate, after reviewing a report pursuant to subsection A44(1), may issue a removal order. This concludes the examination.
The Minister refers the case to the Immigration Division for an admissibility hearing.	The Minister's delegate, after reviewing a report pursuant to subsection A44(1), may determine that the report is well founded and refer it to the Immigration Division of the Immigration and Refugee Board (IRB) for an admissibility hearing. This concludes the examination.

Section A23 allows an officer to authorize a person to enter Canada for the purpose of further examination or an admissibility hearing. The person remains under examination until one of the above outcomes takes place.

For more information on the end of examination, see ENF 5, *Writing 44(1) Reports*, section 10.

For more information on pre-removal risk assessments, see *Protected Persons*.

For more information on removals, see ENF 10, *Removals*, section 15.

6 Definitions

Border services officer	A person designated as an officer by the Minister, employed by the CBSA [A6(1)] [R2]
Canadian citizen	A citizen referred to in subsection 3(1) of the <i>Citizenship Act</i>
Common-law partner	In relation to a person, an individual who is cohabiting with the person in a conjugal relationship, having so cohabited for a period of at least one year [R1(1)]
Convention refugee	A person who, by reason of a well-founded fear of persecution based on race, religion, nationality, membership in a particular social group or political opinion, (a) is outside of their country of nationality and is unable or, by reason of that fear, unwilling to avail themselves of the protection of that country; or (b) does not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country [A96]

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FOSS	Field Operations Support System: IRCC/CBSA client immigration database
Foreign national	A person who is not a Canadian citizen or a permanent resident; includes a stateless person [A2(1)]
Indian	A person who is registered as an Indian under the <i>Indian Act</i> [R2]
Officer	A person designated as an officer by the Minister under subsection A6(1) [R2]
Permanent resident	A person who has acquired permanent residence status and has not subsequently lost that status under section A46 [A2(1)]
Protected person	A person on whom refugee protection is conferred and whose claim or application has not subsequently been deemed to be rejected because of cessation or vacation proceedings [A95(2)]
Sterile transit area	An area in an airport where in-transit passengers, in-transit pre-clearance passengers or goods that are in transit or pre-controlled are physically separated from other passengers and goods [R2].

7 Primary inspection line (PIL) examinations

The examination process usually commences upon the arrival of a person at a POE. This may be a land border, an airport, a marine harbour or any other place designated as a POE. Border services officers at the PIL are delegated the authority to conduct the initial immigration examination of persons seeking entry into Canada. Border services officers at the PIL administer legislation and programs by providing a wide range of inspection, examination and enforcement activities on behalf of many government departments and agencies.

7.1 Memorandum of Understanding with Citizenship and Immigration Canada

On December 12, 2003, the CBSA was created, and immigration enforcement and intelligence responsibilities under the IRPA were transferred to this new agency from IRCC.

The purpose of this Memorandum of Understanding (MOU) is to define, in general terms, the basis for cooperation between IRCC and the CBSA regarding

- the delivery of the immigration program;
- information sharing; and
- the provision of various services.

For more information on the roles and responsibilities of the CBSA and IRCC, see the full text of the MOU.

7.2 Canada Border Services Officer Reference Booklet

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The Canada Border Services Officer Reference Booklet provides detailed information to border services officers at the PIL regarding the examinations of persons seeking entry into Canada. The booklet is a quick reference to

- responsibilities of border services officers at the PIL;
- items on the immigration secondary referral list;
- inadmissibility sections of the IRPA;
- document requirements of foreign nationals;
- security features of documents;
- foreign worker requirements;
- various immigration documents for Canada and the United States; and
- offences under the IRPA.

The Canada Border Services Officer Reference Booklet may be found in the coding manual.

7.3 Liaison with officers at the PIL

Border services officers at the PIL are encouraged to inquire about the results of their referrals to Immigration Secondary. Border services officers at Immigration Secondary do not operate under the same time constraints as border services officers at the PIL and have more time to conduct immigration examinations effectively. Border services officers at Immigration Secondary should, whenever possible, provide feedback on the results of referrals. Liaison is a key element in developing and maintaining an effective and positive working relationship with officers who conduct the primary portion of the examination process. In addition, discussing cases allows border services officers at Immigration Secondary to give guidance to border services officers at the PIL regarding immigration requirements. This increases the quality of referrals from the PIL.

7.4 Responsibilities of primary examining officers

Border services officers conducting primary examinations are responsible for

- questioning persons and reviewing documentation to determine whether persons have a right to enter Canada (Canadians, permanent residents and registered Indians) or are foreign nationals who may be authorized to enter Canada as temporary residents;
- determining whether or not persons seeking entry into Canada are doing so as permanent residents;
- authorizing persons to enter Canada and stamping passports when required. As per the CBSA Stamp Policy, which came into effect on April 2, 2012, border services officers will **not** normally notate stamps in passports at the PIL except in the following circumstances :
 - Officers will notate the stamp at the PIL when authorizing entry under the
 - Parents and Grandparents Extended Stay Temporary Resident Visa (Super Visa), and
 - Authorized Period of Extended Stay (as per the CBSA Operational Bulletin PRG-2011-30);
 - Officers may place a stamp in the holder's passport on subsequent entry of persons with a valid and subsisting status document.
 - If a stamp is placed in the passport, the officer will notate the initial expiry according to the status document.

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- If a stamp is not placed in the passport, the officer will remind the person of the initial expiry date;
- referring persons for a more detailed Immigration Secondary examination when appropriate, in accordance with the immigration secondary referral list; and
- authorizing foreign nationals to leave Canada or directing them to return to the U.S. at ports where there are no border services officers present at the Immigration Secondary.

See section 13.37 of this chapter for information on processing biometrically enrolled foreign nationals on Primary.

7.5 Primary examination questions

Primary examination questions are designed to elicit essential information about citizenship, residency, intention, employment, length of stay and identity as quickly as possible.

Normally, the examining border services officer at the PIL begins by asking one or more of the six primary questions below. Under most circumstances, a border services officer at the PIL does not need to ask all questions of all travellers.

Issue	Question	Rationale
Citizenship	What is your citizenship?	<p>By asking this question first, the border services officer can identify a person who may enter Canada by right. It is rare that a person who has a right to enter Canada be referred to Immigration Secondary.</p> <p>If the person is not Canadian, this question enables the border services officer to determine whether a passport, a visa or an electronic Travel Authorization (eTA) is required to enter Canada. If the person has a machine-readable passport, the border services officer does not necessarily have to ask about citizenship. A passport reader, however, is no substitute for a good verbal examination.</p>
Residency	Where do you reside?	<p>This question helps the border services officer to determine the passport, visa or eTA requirements of foreign nationals. By determining residency, the border services officer can eliminate from an Immigration Secondary examination travellers who are permanent residents of Canada and who may enter Canada by right. If the person is a permanent resident, the border services officer may ask the supplementary question "How long have you been away?" The border services officer at the PIL must refer for Immigration Secondary examination all permanent residents who may not comply with the residency obligation of section A28, which requires permanent residents to reside in Canada for at least 730 days out of every five-year period to maintain their status. The possible loss of permanent resident status under section A46 can be further explored at a secondary examination.</p>
Intention	What is the	Once the border services officer determines that the

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	purpose of your trip to Canada?	foreign national may not come into Canada by right, they must establish why the foreign national is coming to Canada. By asking this question, they can identify the need for a referral to the CBSA Immigration Secondary for control purposes (for example, to become a permanent resident, to work, or to study).
Employment	Do you intend to take or seek employment while in Canada?	If the border services officer has not yet determined whether the person is coming to Canada to work, this question ensures that employment opportunities for Canadians are protected and that the person will comply with relevant employment regulations.
Length of stay	How long do you intend to stay in Canada?	Border services officers may allow a person to enter Canada for a stay of up to six months and should stamp the passport of a person who is otherwise admissible. A person who is intending to remain in Canada for longer than six months should be referred for a secondary examination.
Identity	What is your name?	If the border services officer has any reason to doubt the person's identity, they will ask for the person's name. A comparison can then be made with the person's documents to determine if the name given is the same as the name in the document or, in the case of an aircraft passenger, the same as the name on their declaration form (E311).

The border services officer at the PIL may ask additional questions as warranted but usually does not conduct in-depth examinations. This would create line-ups and delays for the travelling public. A border services officer at the PIL who doubts the *bona fides* of a person or believes that a detailed examination may be in order should refer the person to an Immigration Secondary examination.

7.6 Criminality

Border services officers at the PIL do not ask a person about criminality during a PIL examination. Questions about criminality are better suited for Immigration Secondary, where border services officers at Immigration Secondary have more time to conduct a full examination and to question a person in a more private setting. Consequently, when a border services officer at the PIL suspects, through questioning, lookouts and Integrated Primary Inspection Line (IPIL), or other indicators, that a foreign national may have a criminal record, the foreign national should be referred to a CBSA Immigration Secondary examination. If there are no border services officers on duty in Immigration Secondary, the person may be asked about criminality at the CBSA Customs Secondary. All border services officers should take care to ensure privacy by not questioning a person about criminality in the presence of accompanying family members or other travellers.

7.7 Immigration secondary referral list

The immigration secondary referral list can be found in the Canada Border Services Officer Reference Booklet. The list captures the categories of persons that must be referred for an Immigration Secondary examination. Border services officers at the PIL may also refer anyone else who they believe should be examined in more detail.

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Examples of types of referrals that should be sent to Immigration Secondary include cases where the border services officer at the PIL

- has doubts about the person's identity;
- suspects the person may have a criminal record;
- believes the person may require documentation such as a work or study permit;
- has concerns about the length of time the person is requesting to stay in Canada in light of their actual travel plans.

7.8 Referral of foreign nationals with medical conditions

Section A38 states that foreign nationals are inadmissible to Canada on health grounds if their health condition

- is likely to be a danger to public health;
- is likely to be a danger to public safety; or
- might reasonably be expected to cause excessive demand on health or social services.

Referral for an Immigration Secondary examination is mandatory when a foreign national

- is seeking to enter Canada in order to undergo medical treatment; or
- is obviously ill.

It is not possible, given the time constraints of the primary examination process, to assess the health status of every foreign national seeking authorization to enter Canada. Border services officers at the PIL should adopt a practical approach based partly on visual risk assessment and partly on common sense and experience.

Border services officers should not be consciously looking for medical problems as part of their examination but should refer for further examination those whom a reasonable person would judge to be ill. Examples could include foreign nationals who

- act abnormally;
- have incoherent speech;
- are on a stretcher or are accompanied by medical personnel (e.g., nurse, personal physician, etc.);
- are in possession of medication that would suggest or indicate a serious illness; or
- exhibit obvious signs of illness.

On occasion, a foreign national who is critically ill or injured will be transported to a hospital in Canada via an ambulance. Due to the seriousness of the foreign national's condition, the border services officer may feel that conducting a full primary or secondary examination is not advisable at that time. The border services officer should not unduly delay a person who needs urgent medical treatment. Information should be obtained from the ambulance driver regarding the name of the person and the hospital so that the border services officer can conduct an examination when the person's condition is more stable.

7.9 CBSA referral forms

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There are three forms that a border services officer at the PIL uses to refer a person to the Customs or Immigration Secondary examination areas.

CBSA referral forms		
Form	Use	Explanation
E311	Primarily airports	The E311 form is completed by passengers on airplanes destined to Canada and by some bus and train passengers. A passenger presents the E311 form to the border services officer at the primary inspection booth, and the border services officer verifies the information and codes the form.
E67	Land border crossings and ferry sites	The E67 form is completed by a border services officer at the PIL at land borders.
Y28	Land border crossings and ferry sites	The Y28 form is completed by a border services officer at the PIL for commercial drivers.

These forms facilitate the control and streaming of passengers, provide data for Statistics Canada and are used to refer passengers to Secondary under Immigration, Customs, or Agriculture or to refer passengers to Health Canada.

Note: The E311 is not only a referral form but also a declaration card. While travellers always complete the E311 in air mode, the E67 at land and marine modes is only issued if the traveller or vehicle is referred to a secondary examination.

The forms carry a code by which the border services officer at the PIL gives the reason for referral to a secondary examination.

The immigration portion of the E67 is coded with four letters: T, E, L, and O. When using the E67, the border services officer at the PIL will circle the appropriate letter to indicate the reason for referral.

TELO coding on the E67		
Letter	Meaning	Explanation
T	Time	The person intends to stay in Canada for an extended or unusual period of time.
E	Employment	The person has indicated an intention to seek employment in Canada.
L	Lookout	The person may be the subject of a "watch for" as being of interest to CBSA's border services officers in Immigration Secondary.
O	Other	This includes any other reason not covered above. In this case, the PIL officer will typically write a few words on the E67 to guide the secondary examination. Officers should be cautious when recording any information on the E67, as the person who is being referred may be able to read the form.

7.10 TELO code on the E311 form

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In keeping with International Civil Aviation Organization (ICAO) standards, the E311 form used at airports does not contain the TELO coding. Instead, the border services officer at the PIL writes "IMM" with the appropriate TELO code.

8 Secondary examinations

8.1 Immigration Secondary examinations

An Immigration Secondary examination is usually initiated by a referral from a border services officer at the PIL. It can also result from a referral from a border services officer, such as a Disembarkation and Roving Team (DART) member who has boarded and inspected an airplane, bus, train or ship before any of the passengers have presented themselves at the PIL. An Immigration Secondary examination is usually conducted by a border services officer in the Immigration Secondary area but may be conducted by a border services officer at Customs Secondary if no border services officer at Immigration Secondary is available at the POE. An Immigration Secondary examination may also be conducted by telephone or other electronic means if the person is in a remote location, where no border services officer is available.

8.2 Authority to continue an Immigration Secondary examination after a PIL referral

Section A23 authorizes border services officers at the PIL and at Immigration Secondary to adjourn an examination and refer the person being examined to another border services officer for the completion of the examination. This provision provides a legal means for referring a person from the PIL to Immigration Secondary for the continuation of the immigration examination.

8.3 Responsibilities of examining border services officers at Immigration Secondary

Border services officers conducting Immigration Secondary examinations are responsible for facilitating the entry of Canadians, registered Indians and permanent residents as well as *bona fide* foreign nationals and for denying entry to persons who are inadmissible and/or likely to constitute a threat to the safety, security and good order of Canadian society.

Responsibilities of such officers include

- examining persons seeking entry to Canada to determine admissibility;
- facilitating the entry of Canadians, permanent residents and registered Indians;
- authorizing foreign nationals to enter Canada as temporary or permanent residents and issuing documents where appropriate;
- receiving refugee claims and determining eligibility to make such claims;
- reporting persons who are inadmissible;
- reviewing inadmissibility reports;
- issuing removal orders, where appropriate, to inadmissible persons;
- referring cases to the Immigration Division, where appropriate, for an admissibility hearing;

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- authorizing inadmissible persons to enter Canada on a permit;
- denying entry to inadmissible persons, arranging for their removal and confirming their departure;
- allowing persons who are inadmissible to voluntarily withdraw their application; and
- arresting persons who have committed a serious infraction of the law.

8.4 Right to counsel at POE examinations

For the purpose of an Immigration Secondary examination, a person is not entitled to counsel unless formally arrested or detained. A person who is arrested or detained must be informed without delay of their right to counsel and granted the opportunity to retain and instruct counsel.

The Supreme Court of Canada has held that an Immigration Secondary examination at a POE does not constitute a detention within the meaning of paragraph 10(b) of the *Canadian Charter of Rights and Freedoms* [*Dehghani v. Canada (Minister of Employment and Immigration)*], [1993] 1 S.C.R. 1053]. The Court determined that the principles of fundamental justice do not include the right to counsel for routine information-gathering, such as is gathered at POE examination interviews.

This Court decision clarifies that the Charter only gives the right to counsel to those who are arrested or detained. Generally, CBSA's policy is not to permit counsel at an examination if detention has not occurred. However, if a border services officer is dealing with a foreign national who does have legal representation with them, even though the foreign national is not entitled to have legal representation present, the border services officer should allow the legal representative to remain present as long as they do not interfere with the examination process. If the legal representative does interfere, the border services officer or Minister's delegate can ask the legal representative to leave, as there is no legal obligation to allow them to be present.

The right to counsel depends on what transpires after the foreign national is first subject to examination. For example,

- if a foreign national is being examined, and the examination does not go beyond what is required to establish admissibility, the foreign national is not entitled to legal counsel;
- if the examination becomes very lengthy and exhaustive but not beyond what is required to establish admissibility, the foreign national is not entitled to legal counsel. The border services officer may, however, consider allowing the foreign national to acquire legal counsel;
- if the foreign national is not restrained in any way but advised to come back the next day for further examination as outlined in section A23, then they are not deemed detained, and there is no right to counsel;
- if a foreign national is being held for a lengthy period of time and is subject to questioning by other agencies, such as the RCMP or CSIS, then this may constitute detention, and the foreign national should be notified of their right to counsel;
- if restraining devices are used, or the foreign national is placed in a holding cell, even temporarily, then an officer must inform the foreign national of the reason for the detention and of their right to counsel;
- if the foreign national is arrested for a criminal offence, they must be informed of the reason for the arrest and of their right to counsel; and

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- if the foreign national is detained overnight in a detention facility, they will be advised of their right to counsel and their right under the *Vienna Convention* to contact their government once the decision to detain them has been made by a border services officer.

For more information on counsel or detention, refer to immigration chapters ENF 20, *Detention*, and ENF 6, *Review of reports under A44(1)*.

8.5 Use of interpreters

Border services officers regularly encounter hundreds of different languages and dialects. Often the person seeking entry to Canada does not speak French, English or any other language familiar to the border services officer. In such cases, the border services officer may be able to authorize entry on the basis of documentation in the possession of the traveller. In appropriate circumstances, the border services officer can ask accompanying friends or family members to assist in translation. At times, a border services officer may also solicit help from staff or other persons who are familiar with the language. This is a pragmatic practice that allows a border services officer to facilitate the entry of travellers in cases where an official interpreter is not readily available.

A border services officer who is using a non-accredited interpreter to conduct an examination should suspend the examination if it becomes apparent that the person may be inadmissible. The examination can be continued once a competent interpreter is available. This is important for the following reasons:

- When making a decision on admissibility, the border services officer needs a reliable and trustworthy interpreter in order to be sure that information provided by the client is accurately translated. Inaccurate translation could result in a decision based on misinformation, which is detrimental to the person. This would constitute a breach of natural justice.
- Information obtained at examination is often used as evidence in admissibility hearings and, less frequently, in criminal prosecutions. If a competent interpreter is not used, the evidence can be discredited or rendered inadmissible.
- All immigration decisions relating to admissibility are subject to judicial review by the Federal Court. The Federal Court reviews the fairness of the process leading to the decision and will strike down any decision based on evidence obtained through an interpreter whose competency is in doubt.
- It is to the benefit of both the person and the CBSA that a competent interpreter be used in examinations that may lead to a person being found to be inadmissible to Canada.

Instructions on hiring and using interpreters are contained in SA 7, *Service and Administration*.

Guidelines for the use of telephone interpretation

Telephone interpretation is a viable alternative to in-person interpretation and should be considered in order to process refugee claimants at the time of arrival in order to complete front-end screening requirements and to establish identity.

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The following guidelines outline procedures for the use of telephone interpretation when the service is available and appropriate. The border services officer should do the following:

- Determine if interpretation services are required. If the claimant speaks an official language of Canada, the border services officer asks them if they would be comfortable conducting the interview in that language. If so, the border services officer records this in their officer notes. The border services officer reiterates throughout the interview that if the claimant should require an interpreter at any point, the border services officer will pursue this request;
- Secure an interpreter by accessing local resources or by using the IRB roster of accredited interpreters;
- Follow port procedures in terms of completing interpreters' contracts, worksheets and obtaining required payment information;
- Wherever possible, ensure that the interpreter is accredited, has signed the IRB's Interpreter's Code of Conduct or other similar Codes and is familiar with guidelines, including verbatim interpretation, confidentiality, non-bias and instructions when providing telephone interpretation. For more details, refer to the IRB's *Interpreter Handbook*;
- Ensure that the interpreter is on a land line and that they are alone;
- Ensure that the interpreter and the person concerned are not known to each other and that there is no conflict of interest;
- Whenever operationally feasible, provide female refugee claimants the option of being interviewed by same sex officers with the assistance of same sex interpreters when cultural sensitivities or signs of gender related persecution exist;
- Ask the question "Do you and the interpreter understand one another?" to begin the dialogue and to ensure that the claimant and interpreter understand each other;
- Use, when necessary, a series of introductory warm-up questions to observe the claimant's ability to respond quickly and easily to the questions and to satisfy the border services officer that the interpreter is fluent in both languages;
- Ask the claimant directly whether they are able to clearly understand the interpreter and records this question and the claimant's response in their officer notes;
- Advise the claimant and the interpreter to let the border services officer know if, at any point in the examination, either the claimant or the interpreter does not understand or is having difficulties;
- Remain vigilant throughout the examination to ascertain if the claimant is able to understand the interpretation and communicate effectively;
- Read back the information provided by the claimant through the interpreter in order to confirm that it accurately captures the claimant's responses;
- Record the name of the telephone interpreter on the *Generic Application Form for Canada* [IMM 0008], the *Schedule A - Background/Declaration* form [IMM 5669E], and the *Interpreter Declaration* form [IMM 1265] and note that the interpretation was provided over the phone along with the start and end time of the interview as well as any breaks in interpretation services;
- Make a note if more than one interpreter was used with the corresponding names and start and end times;
- In the case of unaccompanied minors, contact the relevant child protection office and make every attempt to obtain interpretation services in the interim;
- Make attempts to find another interpreter in cases where it is evident that the claimant is unable to communicate through the current interpreter; and
- If no interpretation services are available, note on file all attempts that were made to secure these services. This is especially important in cases of detention.

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Situations where it would be inappropriate to conduct a telephone interview include but are not limited to

- Certain cases where claimants are physically and/or mentally challenged;
- When guidelines for the interpreters are not met, such as
 - when the interpreter does not have access to a landline or is unable to work in a private space; or
 - when telephone line quality or equipment quality makes hearing all parties very difficult.

8.6 Confidentiality

Fast-flow counters where border services officers conduct Immigration Secondary examinations are designed to deal with cases expeditiously but offer limited privacy. A border services officer should take care to consider the sensitive nature of information that may arise during an examination and, where appropriate, should secure a private setting for the continuation of an examination. Such cases might involve personal medical information, issues of criminality or the completion of documentation for entrepreneurs and their family members who are seeking to become permanent residents.

Information obtained in the course of a secondary examination is confidential. The *Privacy Act* requires that personal information concerning clients be released only to the client or the client's designated representative.

Subsection 8(2) of the *Privacy Act* contains exceptions to this requirement. For example, pursuant to paragraph 8(2)(f) of the *Privacy Act*, IRCC has entered into a Statement of Mutual Understanding (SMU) with the United States Immigration and Naturalization Service (USINS), now the Department of Homeland Security (DHS), and the U.S. State Department (DOS), which permits the exchange of information on persons who are inadmissible or whom there are reasonable grounds to believe may be inadmissible or subject to removal. This agreement also allows for the sharing of information between the CBSA and the DHS and DOS.

8.7 Pre-questioning procedures

Before questioning a traveller, a border services officer at Customs or Immigration Secondary should

- review the referral information from the PIL, such as that found on the E67 or E311 forms, to identify the reason for the referral;
- obtain the person's relevant identity documents, such as a passport, travel document, citizenship card, permanent resident card (PRC) or birth certificate;
- view the airline ticket of anyone travelling by air; and
- determine whether the person is in possession of any immigration documents that may assist in quickly establishing the reason the person is seeking entry into Canada.

See section 13.37 of this chapter for information on processing biometrically enrolled foreign nationals at Primary.

8.8 FOSS checks

Using the information on the identity document presented by the person, a border services officer at Immigration Secondary completes a name query in the FOSS. It is a departmental policy that a FOSS check be completed for every person referred for an Immigration Secondary examination.

When POEs are unable to access FOSS, they may contact the Border Operations Centre for information retrieval.

Note: Officers should include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

8.9 Basic questioning

Basic questioning by border services officers should cover the following areas, as appropriate:

Issue	Question	Explanation
Identity	What is your name?	This will enable the border services officer to identify the person. The name should be verified against the referral card, identity documents and airline ticket.
Citizenship	What is your country of citizenship?	The border services officer should ask this of each person being examined to ensure that the person's stated citizenship matches the identity document they present. This response will help the border services officer determine passport, visa or eTA requirements. If satisfied that the person is a Canadian citizen, the border services officer will allow the person to enter Canada without further questioning.
Residency	Where do you reside?	Establishing whether a person is a permanent resident may enable the border services officer to authorize entry into Canada with minimal further delay. This question will also help the border services officer to determine passport, visa, or eTA requirements and to verify whether the person can return to the country of residence if it is different from the country of citizenship. For example, if the person claims to be a resident of the United States but has a passport of another country, the border services officer may want to see their Resident Alien card before authorizing entry into Canada.
Intentions	What is the purpose of your trip? How long do you intend to stay in Canada? Where in	If the person is not someone who may enter Canada by right, the border services officer should establish the person's

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	Canada are you planning to go? Do you intend to look for work in Canada? Do you intend to study in Canada?	intention in seeking entry. Questions such as these may assist in this determination.
Funds available	May I see your ticket, please? What sources of funds do you have access to while in Canada?	Questions such as these are appropriate for determining if a foreign national possesses the financial means to carry out their intended travel plan and to depart at the end of their authorized time. The border services officer should be satisfied that the foreign national will not take unauthorized employment or have to rely on social assistance while in Canada. Additional questioning may be required if a foreign national cannot establish how they will support themselves while in Canada. If they indicate that a friend or relative will support them, it may be advisable to contact the support person to verify this information.
Personal history	What is your occupation? Do you intend to visit anyone in Canada? Do you have any family or friends in Canada?	If the border services officer is concerned that a foreign national may not leave Canada at the end of the authorized time, further questioning may be necessary to establish ties to the foreign national's homeland. In these cases, questions concerning the foreign national's family both abroad and in Canada may be appropriate, including questions concerning marital status.
Background	Do you or have you had any health problems? Have you ever been convicted of a crime or an offence? Have you ever been refused entry into or removed from Canada?	The person's past may be relevant to admissibility. Questions such as these may be appropriate for determining whether the person is inadmissible due to ill health, criminality or previous non-compliance with immigration requirements.

See chapter ENF 2, *Evaluating Inadmissibility*, for more information on determining admissibility.

9 Examining Canadian citizens at ports of entry

9.1 The right to come into Canada

A Canadian citizen within the meaning of the *Citizenship Act* has a right to enter and remain in Canada pursuant to subsection A19(1).

9.2 Examination of Canadian citizens

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Subsection A15(1) provides for an officer to proceed with an examination where a person makes an application to the officer in accordance with the Act.

Paragraph R28(b) provides that a person seeking to enter Canada is making an application.

Additionally, subsection A18(1) requires every person seeking to enter Canada to appear for an examination to determine whether they have the right to enter Canada or may be authorized to enter and remain in Canada. This includes Canadian citizens.

A border services officer at Immigration Secondary will normally examine a Canadian citizen only when the border services officer at the PIL doubts the person's citizenship. A border services officer at a POE should examine Canadian citizens as expeditiously as possible. Once the officer establishes that a person is a Canadian citizen, the examination should end, and the person should be allowed to enter Canada without further delay. It is not appropriate for border services officers to elicit further personal information from a Canadian citizen.

Canadian citizens may be asked to willingly provide additional information if it will assist a border services officer in determining the admissibility of an accompanying foreign national.

9.3 Determining Canadian citizenship

The following documents are acceptable proof of Canadian citizenship:

- Canadian passport;
- Certificate of Canadian Citizenship (both large and pocket- or wallet-sized; the smaller form now exists in two versions: a 44mm x 57mm (1 3/4" X 2 1/4") photograph and a 35mm X 53mm (1 3/8" X 2 1/16") photograph);
- Canadian Emergency Passport (a border services officer at the PIL will automatically refer for a secondary examination a person in possession of a Canadian Emergency Passport. Once the person's identity has been verified, the border services officer at Immigration Secondary retains the passport and forwards it to

Passport Program Integrity Branch
Attention: Intelligence Division, Citizenship and Immigration Canada
7 Crémazie, 3rd floor
Gatineau, Quebec G6V 6G6

- Certificate of Naturalization issued before January 1, 1947;
- Certificate of Registration of Birth Abroad issued between January 1, 1947, and February 14, 1977, inclusive; and
- Certificate of Retention of Canadian Citizenship issued between January 1, 1947 and February 14, 1977, inclusive.

A Canadian provincial birth certificate is a good indicator of Canadian citizenship but does not contain a photograph. The border services officer must therefore be satisfied that the person is the rightful holder.

9.4 Establishing citizenship without documents

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Canadian citizens returning to Canada by air usually have to provide proof of identity and citizenship to get on the flight. Canadian citizens arriving at land borders, however, will frequently be without satisfactory documentary proof of Canadian citizenship. In these cases, the border services officer should question the person until the border services officer is satisfied with the person's claim of Canadian citizenship. Once the border services officer is satisfied that the person is a Canadian citizen, the person must be allowed to enter Canada without further delay.

9.5 Citizenship record searches

Border services officers at Immigration Secondary may request a search of citizenship records by emailing the Citizenship Case Processing Centre in Sydney (CPC-S), Nova Scotia.

The official response will be provided via email. Where a record letter is required, border services officers at Immigration Secondary must follow up the email request by submitting a completed *Application for a Search of Citizenship Records* form [CIT 0058E]. A written response will be forwarded by facsimile as well as by regular mail.

Note: Citizenship searches will only reveal if a person has obtained Canadian citizenship through naturalization. The Sydney CPC does not keep records of persons who are Canadian citizens by birth. Proof of citizenship by birth can be established by a search of provincial birth certificates or baptismal records.

After a person has received Canadian citizenship, the information is entered into the citizenship database: the Global Case Management System (GCMS) or the Comprehensive Ranking System (CRS). CRS data is electronically fed into FOSS on a regular basis, and FOSS identifies this information as a non-computer based document (NCB) (type 11 code).

9.6 *Laissez-passer*

A *laissez-passer* may be issued to Canadian citizens by Canadian visa offices abroad. A *laissez-passer* is issued only when a Canadian embassy or consulate vouches for the complete reliability of the bearer and there is sufficient reason for issuing one. For this reason, an extensive examination of the holders of a *laissez-passer* should not normally be necessary at the POE. In rare cases, a *laissez-passer* may be issued to foreign nationals in lieu of a diplomatic or courtesy visa.

A *laissez-passer* document bears the seal of the issuing office. Border services officers at Immigration Secondary should collect the *laissez-passer* from the bearer at the POE and forward it to the Canadian embassy, consulate or office that issued it.

9.7 Emergency travel documents

An emergency travel document, such as a passport, may be issued at a Canadian visa office abroad to facilitate the return of a Canadian citizen. It can also be issued as a one-trip document for travel from a Canadian visa office abroad without passport services (for example, a Canadian Honorary Consul) to another office with full passport services.

The emergency passport is approximately 8 x 10½ inches in size, printed on light green paper and serially numbered.

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Border services officers at the PIL are required to refer holders of an emergency passport for an Immigration Secondary examination. The Passport Office requires the surrender of an emergency passport immediately on the holder's arrival in Canada or at the destination for which the passport was issued. Border services officers at Immigration Secondary recover the emergency passport and promptly forward it to

Passport Program Integrity Branch
Attn: Intelligence Division
Citizenship and Immigration Canada
70 Crémazie, 3rd Floor
Gatineau, Quebec G6V 6G6

A space is provided on the face of the document for a signature indicating that the passport has been received.

In circumstances where the traveller has not reached their final destination upon arrival at a POE and will be boarding a domestic flight, the border services officer may use discretion to provide the traveller with a photocopy of the emergency travel document to present to the airline for identification validation when boarding. The border services officer may also issue their contact information (e.g., a business card) for the traveller to provide to the airline should verification be required.

10 Examining registered Indians at ports of entry

Subsection A19(1) provides that every person registered as an Indian under the *Indian Act*, whether or not that person is a Canadian citizen, has the right to enter and remain in Canada.

The term "Indian" is defined under the *Indian Act* as a person who is registered as an Indian or is entitled to be registered as an Indian. Section 6 of the *Indian Act* defines who is entitled to be registered as an Indian.

Subsection A15(1) provides for an officer to proceed with an examination where a person makes an application to the officer in accordance with the Act. Paragraph R28(b) provides that a person seeking to enter Canada is making an application. Additionally, subsection A18(1) requires every person seeking to enter Canada to appear for an examination to determine whether they have the right to enter Canada or may be authorized to enter and remain in Canada. This includes registered Indians. Border services officers at Immigration Secondary will normally examine a registered Indian only when the border services officer at the PIL doubts the person's status. Border services officers at a POE should examine registered Indians as expeditiously as possible. Once the officer establishes that a person is a registered Indian, the examination should end, and the person should be allowed to enter Canada without further delay. It is not appropriate for border services officers at Immigration Secondary to elicit further personal information from a registered Indian. Registered Indians may be asked to willingly provide additional information if it will assist an officer in determining the admissibility of an accompanying foreign national.

10.1 Determining registered Indian status

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A Certificate of Indian Status issued by the Department of Indian and Northern Affairs is proof of Indian status. Once a border services officer establishes that a person has Indian status, the border services officer must allow the person to come into Canada without further delay.

Certificates of Indian Status are issued on request to persons registered as Indians under the *Indian Act* who have reached 16 years of age. Under special circumstances, certificates can also be issued to registered Indian children under the age of 16.

The regional office of the Department of Indian and Northern Affairs is responsible for the Certificates of Indian Status, including procedures for laminating certificates and for verifying that the information is consistent with the Indian Register. The certificates are normally issued by the regional district or band office charged with maintaining the field copy of the Indian Register for the band.

Certificates of Indian Status are stored in a computerized central registry at the Department of Indian and Northern Affairs. If border services officers require verification of Indian status or have reason to doubt the authenticity of a card being presented, they may contact the Supervisor, Registration Services at

Indian and Northern Affairs Canada
Terrasses de la Chaudière
10 Wellington, North Tower
Gatineau, Quebec

Postal address:
Ottawa, Ontario K1A 0H4

10.2 Establishing registered Indian status without documents

Registered Indians seeking entry into Canada may not be in possession of documentary proof of their status. In such cases, the border services officer should question the person until they are satisfied with the person's status. Once the border services officer is satisfied that the person is a registered Indian, the person must be allowed into Canada without further delay.

10.3 American Indians not registered in Canada

It is the position of both the Canadian and U.S. governments that the authorization of entry of non-citizen North American Indians is governed solely by immigration legislation and not by the *Jay Treaty*. The rules governing the entry of American Indians into Canada differ from those governing entry of Canadian Indians into the United States.

Under the U.S. *Immigration and Nationality Act*, Canadian Indians who can demonstrate that they have 50% or more Indian blood by presentation of their band registration card are entitled to permanent resident status in the United States. As a result, Canadian Indians who arrive at U.S. POEs and state that they intend to work in the United States are instructed by United States Customs and Border Protection officials to apply for permanent resident status on the spot. The applicants are immediately issued temporary residency cards and are entitled to work in the United States without work permits.

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Under Canadian immigration law, however, North American Indians are accorded the right to enter Canada only if they are registered on the Canadian Band Lists. An American Indian can obtain registered band status only if they can establish that their mother or father was a member of a Canadian band. Therefore, American Indians coming to Canada to work or study require work or study permits.

Virtually all members of the Indian nations whose traditional lands straddle the border are entitled to be registered under the *Indian Act*, and once they have exercised this option, they may enter Canada by right under subsection A19(1). Some American Indians have difficulty accepting that Canadian law requires them to be registered formally as members of a Canadian Indian band before they can legally work in Canada. Border services officers should deal tactfully with cases of this nature.

The question of the right of a non-registered Indian to work in Canada is currently under litigation and will be determined by the courts. At present, such persons are bound by the requirements of the Act and Regulations. Given the contentious nature of the issues involved, border services officers at Immigration Secondary should communicate refusal of entry to American Indians who do not qualify for registered Indian status in Canada with sensitivity.

Wherever possible, border services officers at POEs should facilitate the entry of American Indians who wish to enter Canada as temporary residents.

11 Examining permanent residents at ports of entry

Subsection A2(1) defines a permanent resident as a person who

- has acquired permanent resident status; and
- has not subsequently lost that status under section A46.

11.1 Rights of permanent residents

Subsection A27(1) provides that a permanent resident has the right to enter and remain in Canada subject to the provisions of the Act.

Subsection A19(2) requires an officer to allow a permanent resident to enter Canada if satisfied following an examination on their entry that they have that status.

Permanent residents who are under enforcement proceedings keep their permanent resident status and retain the right to enter Canada until a final determination of their loss of status has been made.

11.2 Verifying permanent resident status

The PRC is the only valid proof of permanent resident status in Canada.

The following documents are satisfactory indicators of permanent residence:

- the original Record of Landing;

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- a certified true copy of a Record of Landing document issued by IRCC National Headquarters (NHQ);
- a letter issued by IRCC NHQ verifying permanent residence;
- a passport duly stamped showing the date on which permanent residence was granted if the person was granted permanent resident status before 1973;
- a *Confirmation of Permanent Residence* form [IMM 5292B];
- a PRC; and
- a permanent resident travel document.

11.3 Establishing permanent resident status without documents

Border services officers at POEs have the discretion to authorize the entry of permanent residents, even in the absence of documentation. If documentary evidence is not available, the border services officer at Immigration Secondary must establish the person's permanent resident status by questioning the person and checking the person's status in FOSS. The status of persons who became permanent residents before 1973 has to be verified by contacting the Operations Support Centre at National Headquarters.

Once the border services officer is satisfied that a person is a permanent resident, the examination should be concluded and the person allowed to enter Canada without delay.

11.4 Investigating permanent residents for inadmissibility

When a permanent resident appears at a POE for examination, the border services officer must determine whether the person is a permanent resident.

Border services officers must remain cognizant of the fact that the Act gives permanent residents of Canada the right to enter Canada at a POE once it is established that a person is a permanent resident, regardless of non-compliance with the residency obligation in section A28 or the presence of other factors that would otherwise render the person inadmissible.

Border services officers can refuse entry to a permanent resident only when the person has already lost the status in accordance with the provisions of section A46, such as a final determination being made that the person has failed to comply with the residency obligations or a removal order coming into effect. In other words, once a permanent resident's status is established, the person may enter Canada by right, and the immigration examination under the IRPA concludes.

However, border services officers will sometimes become aware of evidence of non-compliance with the residency obligation in the course of the determination that a person is a permanent resident. When the border services officer believes that a person who they have determined is a permanent resident is in non-compliance with the residency obligation of section A28, the border services officer may explain to the person that it has been established that they have a right to enter Canada, that there is some reason to believe they could be the subject of a report under the IRPA, which could lead to the issuance of a removal order, and that, although the person may now enter Canada, they may choose to answer additional questions to determine whether the border services officer's concerns are well founded or not.

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The border services officer at Immigration Secondary may report the person [pursuant to subsection A44(1)] if there is sufficient evidence to support an inadmissibility allegation, in cases where

- permanent resident status is established;
- the permanent resident refuses to provide any further information and enters Canada; and
- the border services officer believes, on a balance of probabilities, that the person is in non-compliance with the residency obligation.

In the absence of sufficient evidence to support the writing of an inadmissibility report, the border services officer may enter any available information into FOSS (date of entry, last country of embarkation, current address in Canada, etc.) and forward notification of the same to a CBSA inland office in Canada to determine whether an investigation is warranted.

For more information on procedures for dealing with people who fail to meet the residency obligation, refer to ENF 23, *Loss of Permanent Resident Status*.

Note: Officers should include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

11.5 Permanent resident card (PRC)

The PRC is the status document referred to in subsection A31(1) that indicates that the holder is a permanent resident of Canada. A person who holds a PRC is presumed to have permanent resident status unless a border services officer at Immigration Secondary determines otherwise. As of December 31, 2003, the PRC, or, alternatively, the subsection A31(3) travel document issued by one of Canada's visa offices abroad, is the new prescribed document for permanent residents when boarding a commercial transporter bound for Canada.

Canadian permanent residents need to show their PRC when travelling to Canada in order to prove their permanent resident status. Permanent residents who do not have a PRC or who are not carrying their PRC when travelling outside the country will need to obtain a permanent resident travel document before returning to Canada by air mode in order to comply with eTA requirements. For more information on the PRC, refer to ENF 27, *Permanent Resident Card*.

11.6 Prescribed document

Paragraph A148(1)(a) prohibits commercial transporters from carrying to Canada a person who does not hold a prescribed document. Section R259 makes the PRC a prescribed document for the purpose of section A148. As of December 31, 2003, valid PRCs and subsection A31(3) travel documents are prescribed documents for establishing permanent resident status. Consequently, the PRC or the subsection A31(3) travel document is the prescribed document for permanent residents for the purposes of boarding a commercial transporter (e.g., aircraft, train or ship) bound for Canada.

11.7 Permanent resident cards with one-year validity date

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Subsection R54(2) provides that a PRC will be issued with a validity of one year instead of five years as per subsection R54(1) if the permanent resident

- is subject to a process set out in paragraph A46(1)(b) until there has been a final determination;
- is the subject of a report prepared under subsection A44(1) that is being considered by the Minister;
- is the subject of a removal order made by the Minister pursuant to subsection A44(2); or
- is the subject of a report under subsection A44(1) that has been referred by the Minister to the Immigration Division under subsection A44(2).

See subsection R54(2) for additional details.

11.8 Travel document

Subsection A31(3) states the following:

A permanent resident outside Canada who is not in possession of a status document indicating permanent resident status shall, following an examination, be issued a travel document if a visa officer at a visa office is satisfied that

(a) they comply with the residency obligation under section A28 [of the Act];

(b) an officer has made the determination referred to in paragraph A28(2)(c) [of the Act]; or

(c) they were physically present in Canada at least once within the 365 days before the examination and they have made an appeal under subsection A63(4) that has not been finally determined or the period of making such an appeal has not yet expired.

Paragraph A28(2)(c) cited in paragraph A31(3)(b) above, states in part "that humanitarian and compassionate considerations... taking into account the best interests of a child directly affected by the determination, justify the retention of permanent resident status."

The purpose of the travel document is to facilitate the return of all permanent residents to Canada. This includes those who may have accidentally lost their PRC while outside of Canada as well as those who are appealing a decision made outside Canada that they failed to meet the residency obligation under section A28.

The travel document will take the same form as a temporary resident visa counterfoil that is placed in a passport or travel document. It is usually valid for one entry to Canada simply to facilitate the permanent resident's return, but it may be issued for multiple entries.

If the travel document was issued for a single entry, it is to be cancelled upon entry to Canada by drawing a line from the top left of the counterfoil to the bottom right and stamped or handwritten over with "Cancelled without prejudice." The border services officer at Immigration Secondary would counsel the permanent resident that they may apply for a PRC from within Canada. If the travel document was issued for multiple entries, it should be treated like a multiple-entry temporary resident visa.

11.9 Coding on the travel document

Permanent residents who have demonstrated that they have complied with the residency obligation listed in section A28 will be issued counterfoils bearing the coding "R."

- In cases where permanent residents have not met the residency requirement, but humanitarian and compassionate considerations grounds exist to support the retention of their status pursuant to paragraph A28(2)(c), a counterfoil bearing the coding "RC" will be issued.
- In cases where the document has been issued pursuant to paragraph A31(3)(c) where an appeal of a loss of status determination is filed or the time period for filing an appeal has not expired, and the person has been physically present in Canada at least once in the past 365 days, the counterfoil will bear the coding "RX."
- In cases where the permanent resident does not meet the residency obligation and no humanitarian and compassionate grounds exist, but the Immigration Appeal Division has ordered the permanent resident to appear in person at the hearing, a counterfoil bearing the coding "RA" will be issued.

Counterfoils bearing the "RX" code or the "RA" code will be mandatory referrals for border services officers at the PIL.

If a person with a counterfoil bearing the "RX" or "RA" coding is returning to Canada to attend an appeal of a decision made outside of Canada regarding loss of status or an appeal has yet to be filed and the period for filing has not expired, the border services officer at Immigration Secondary should authorize entry without delay if satisfied that no final determination has been made with respect to the person's loss of permanent resident status. The border services officer at Immigration Secondary should update FOSS with the person's date of entry into Canada and current address.

Note: Officers must include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

The principal difference between a travel document and a one-year PRC is the period of validity. The travel document is cancelled on return to Canada, while the PRC remains valid until the outcome of an appeal is decided or until the period for making an appeal expires. In most cases, the border services officer at Immigration Secondary does not prepare a new subsection A44(1) report at the POE if the person is already in the enforcement stream.

11.10 Persons appealing the loss of permanent resident status

Border services officers at Immigration Secondary who encounters a person in possession of a PRC issued with a one-year validity should check FOSS to determine whether there is a final determination that the person has in fact lost their status under section A46. If the person is returning to Canada to attend the appeal of a decision made outside Canada regarding the loss of status or an appeal has yet to be filed, and if the period for filing has not expired and that person is in possession of a travel document, the border services officer should authorize entry without delay if satisfied that no final determination has been made with respect to the person's loss of status.

The border services officer should update FOSS with the person's date of entry into Canada and current address using an NCB.

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Note: Officers should include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

In most cases, the border services officer does not prepare a new subsection A44(1) report at the POE if the permanent resident already has a removal order.

For more information on how to deal with permanent residents who have received a loss of status determination outside of Canada but who have not been issued a removal order, refer to ENF 23, *Loss of Permanent Resident Status*.

Upon a final determination of loss of permanent resident status, a person becomes a foreign national. Should they return to Canada, they must be assessed to determine if they meet the requirements of the Act and Regulations for entry as a temporary resident, even if they still possess a PRC.

11.11 Permanent residents holding a Canadian Certificate of Identity

Foreign Affairs Canada may issue a Canadian Certificate of Identity to a permanent resident of Canada who has not acquired Canadian citizenship and who is unable to obtain other travel documents. Within the validity period of the certificate, the border services officer must allow the holder to enter Canada.

11.12 Residency obligation for permanent residents

Subsection A28(1) states that a permanent resident must comply with the residency obligation with respect to every five-year period. Subsection A28(2) stipulates that a permanent resident complies with this obligation if, on each of a total of 730 days in that five-year period, they are

- physically present in Canada;
- outside Canada but accompanying a Canadian citizen spouse or common-law partner or, in the case of a child, their parent;
- outside Canada and employed on a full-time basis by a Canadian business or by the public service of Canada or of a province;
- outside Canada but accompanying a permanent resident spouse or common-law partner or, in the case of a child, their parent, who is employed on a full-time basis by a Canadian business or by the public service of Canada or of a province; or
- able to meet other conditions for compliance that are set out in the Regulations.

When border services officers are assessing the residency obligation, the period considered is limited to the five years immediately preceding the examination. If a person has been a permanent resident for less than five years, they must be able to comply with the residency obligation for the five-year period immediately after becoming a permanent resident.

For more information on loss of permanent resident status, see ENF 23, *Loss of Permanent Resident Status*.

11.13 Issuing removal orders against permanent residents

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The decision that a permanent resident has lost their status may be made outside Canada by a visa officer, whereas, at a POE, if there is evidence that a permanent resident has failed to comply with the residency obligation set out in section A28, a border services officer may write a subsection A44(1) report for the allegation paragraph A41(b). If the Minister's delegate finds the report to be well-founded, and insufficient humanitarian grounds exist, the Minister's delegate issues a departure order pursuant to subsection R228(2). The permanent resident has the right to appeal the decision made outside Canada or at the POE to the Immigration Appeal Division (IAD), pursuant to section A63. Permanent residents who have been issued a removal order maintain their right of entry until the appeal period has elapsed; therefore, border services officers should allow entry into Canada until a final determination of status is made.

For more information, see the following chapters:

- ENF 2, *Evaluating Inadmissibility*
- ENF 5, *Writing 44(1) Reports*
- ENF 23, *Loss of permanent resident status*
- ENF 6, *Review of reports under A44(1)*
- ENF 19, *Appeals before the Immigration Appeal Division (IAD) of the Immigration and Refugee Board (IRB)*

11.14 Other inadmissibility allegations

If a border services officer believes a permanent resident is inadmissible for reasons other than failure to comply with the residency obligation, they are still required to allow the person to come into Canada. A border services officer at Immigration Secondary should attempt to obtain sufficient information (including current address, phone number, and employment location) to enable follow-up action from an inland office in the event an investigation ensues.

See ENF 2, *Evaluating Inadmissibility*, for more information on determining inadmissibility.

11.15 Arrest and detention of permanent residents

Arrest and detention under subsection A55(1) should only be considered in cases where the border services officer at Immigration Secondary can clearly identify that a threat to the public exists or where there is an active warrant. Where a warrant exists, the border services officer must verify the information with the Warrant Response Centre (WRC) before executing the warrant and placing the person under arrest. For more information on arrest procedures, refer to ENF 7, *Investigations and Arrests*. For more information on detention, refer to ENF 20, *Detention*.

11.16 Seizing permanent resident visas and permanent resident cards

Subsection A140(1) authorizes an officer to seize and hold a document or other thing if the officer believes on reasonable grounds that

- it was fraudulently or improperly obtained or used;
- the seizure is necessary to prevent its fraudulent use or improper use; or
- the seizure is necessary to carry out the purposes of the Act.

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Border services officers at Immigration Secondary may seize and temporarily hold a PRC while determining through an examination whether the holder is in fact a permanent resident. Once the border services officer determines that the person is indeed a permanent resident, the border services officer must authorize entry to the permanent resident, and their documents must be returned immediately.

If the border services officer prepares a subsection A44(1) report against the permanent resident, the IMM 5292B form and the PRC should be returned to the holder, who will retain their permanent resident status until a final decision is made respecting their loss of status. Pending this decision, section A31 requires that a permanent resident be provided with a status document. Subsection R53(1) provides that the status document is the PRC.

Border services officers may seize these documents if they have reason to believe that the documents were fraudulently issued or obtained or if they are trying to prevent improper or fraudulent use of these documents. For example, if there is a final determination that the person has lost their permanent resident status, the border services officer may seize and retain the documents in order to prevent their improper use.

12 Examining foreign nationals seeking to become permanent residents at ports of entry

12.1 Permanent resident visas

Under the previous *Immigration Act, 1976*, a permanent residence applicant was issued an Immigrant Visa [IMM 1000] from a consulate or visa office outside Canada and subsequently presented it at a POE in order to be “landed” as a permanent resident.

Under the IRPA, permanent residence applicants are issued a *Confirmation of Permanent Residence* form [IMM 5292B], which is to be presented at the POE for processing in order to become a permanent resident.

The permanent resident visa and the *Confirmation of Permanent Residence* are evidence that an overseas visa officer was satisfied that, at the time of issuance, the foreign national named in the document was not inadmissible and met the selection criteria and requirements of the Act and Regulations.

Most applicants for permanent residence have applied for and obtained a permanent resident visa from a Canadian visa office outside Canada. They are required to present their document to a border services officer on arrival in Canada.

Every person in possession of a permanent resident visa seeking to establish permanent residence in Canada must be examined by a border services officer at Immigration Secondary.

12.2 Examination of foreign nationals with permanent resident visas

When an applicant in possession of a permanent resident visa applies to become a permanent resident at a POE, the role of the border services officer at Immigration Secondary is to

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- verify the applicant's identity;
- confirm that the information on the permanent resident visa is correct;
- establish that the applicant complies with all requirements of the Act and Regulations and is not inadmissible;
- confirm that the applicant's marital, common-law, or family status has not changed since the issuance of the permanent resident visa;
- confirm that the applicant and their family members (whether accompanying or not) still meet the requirements of the class of permanent residents under which the permanent resident visa was issued;
- impose and explain any appropriate conditions; and
- welcome the new permanent resident to Canada and provide information about programs and services available to facilitate integration into Canadian society.

The Regulations require that foreign nationals in possession of a permanent resident visa who are presenting themselves for permanent residence advise an officer

- if their marital status has changed since the visa was issued, as required by subparagraph R51(a)(i); and
- of any other facts relevant to the issuance of the visa that have changed since the visa was issued, or that the foreign national failed to disclose at the time the permanent resident visa was issued, as required by subparagraph R51(a)(ii).

If the border services officer at Immigration Secondary establishes that the foreign national is inadmissible and that a change in the relevant facts is evident, the border services officer may prepare a report under subsection A44(1). For more information on report writing, refer to ENF 5, *Writing 44(1) Reports*.

12.3 FOSS check

Border services officers at Immigration Secondary conduct a name query in FOSS for every foreign national in possession of a permanent resident visa who is seeking to establish permanent residence in Canada. A name query may reveal that the person has multiple FOSS client identification numbers (IDs), in which case the border services officer should consider having the IDs merged into a single client ID by sending a Client Merge email request to the IRCC Operations Support Centre. The subject line of the email should read "CBSA – Routine" or "CBSA – Urgent." The body of the email should include the client's surname, given name, date, country of birth, FOSS IDs and any supporting information that will help confirm the merge request as well as any work being performed on the accounts and which account the requestor would prefer to maintain.

FOSS ID numbers under which warrants were issued, or Mississauga or Vegreville sponsorship files must be maintained as the primary means of identification and should not be purged.

Note: Officers must include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

Border services officers ensure that there is no information recorded in FOSS that would alter the decision to grant permanent residence.

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For example, there may be an outstanding warrant for the applicant's arrest, or the applicant may have been previously deported from Canada. Border services officers at Immigration Secondary should carefully review any adverse information to determine whether the applicant satisfies all the requirements of the Act and Regulations. In some cases, it may be useful for the examining border services officer to contact the officer who issued the permanent resident visa to confirm whether this information would have altered the decision to issue a visa. In some cases, the border services officer may need to defer the examination, pursuant to section A23, in order to obtain more information before deciding whether to grant permanent resident status.

12.4 Documents required by foreign nationals seeking permanent resident status

Subsection R50(1) specifies the type of passport, travel or identity document that an applicant must have in their possession to be given permanent resident status. This document is necessary to verify the identity of the person seeking permanent residence.

Subsection R50(2) provides that a protected person who has been issued a permanent resident visa may become a permanent resident when it is not possible for them to obtain a passport, identity document, or travel document.

12.5 Verifying information on the permanent resident visa

Border services officers at Immigration Secondary verify the information on the permanent resident visa by comparing it with the passport to confirm basic data, and then review the form with the person concerned to ensure that the information they initially provided has not changed. The border services officer then completes the fields in the permanent resident visa relevant to the granting of permanent resident status.

The examining border services officer should

- examine the passport and any other identity documents provided;
- use the applicant's passport and other identity documents to confirm that each name is correctly spelled and that the family and first names are clearly identified;
- verify the date of birth with the identity documents provided by the applicant (the day and month are sometimes transposed due to different international systems for displaying the date);
- check the information on sex and marital status, particularly when dealing with common-law relationships and accompanying family members. If there has been a change in marital status, it may be necessary to amend the permanent resident visa;
- in cases where there is a sponsor or accompanying family members, confirm the familial relationship to the sponsor or head of family;
- confirm that the permanent resident visa is still valid and has not expired;
- confirm that the applicant has passed the required medical examination(s) and that their validity has not expired;
- confirm that the applicant intends to establish permanent residence in Canada;
- confirm that the applicant is not inadmissible under section A39. Persons who have been sponsored or persons who have been issued visas as government-assisted refugees can generally be accepted as having adequate settlement arrangements that would not place them within the meaning of section A39. For further information

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on settlement funds and the Low Income Cut-Off (LICO) table, refer to OP 6, section 11.1; and

- verify the accuracy of information contained on permanent resident visas for all members of the family travelling together before authorizing permanent residence.

12.6 Confirmation of Permanent Residence form [IMM 5292B]

Successful permanent residence applicants are issued the *Confirmation of Permanent Residence* form [IMM 5292B] from a Canadian consulate or visa office outside Canada. The IMM 5292B form, coupled with a Permanent Resident Visa [IMM 1346] counterfoil placed in the holder's passport or travel document, replaced the Immigrant visa [IMM 1000], which was issued under the 1976 *Immigration Act*. Both documents must be presented to a border services officer at a POE in order to complete the processing towards permanent residency to Canada.

The *Confirmation of Permanent Residence* contains a photo of the holder as well as a box for the holder's signature that must be completed upon entry into Canada under the direction of a border services officer.

The *Confirmation of Permanent Residence* by itself is not a prescribed document as per section R259 to board a means of transportation to Canada. *Confirmation of Permanent Residence* holders will be issued a visa counterfoil [IMM 1346] bearing the coding "IM" in order to facilitate their boarding.

Once the *Confirmation of Permanent Residence* has been completed at the POE, the border services officer at the CBSA Secondary will counsel the permanent resident as to their rights and obligations under the IRPA and IRPR, as well as the procedures involved in obtaining their PRC.

When a foreign national applies to become a permanent resident at a POE and is in possession of a *Confirmation of Permanent Residence* form [IMM 5292B], the border services officer at Immigration Secondary should adhere to the following procedures:

- Ensure that the bio data recorded on the *Confirmation of Permanent Residence* form [IMM 5292B] matches the information in the applicant's passport or travel document. In cases where a clerical error has been made, the IMM 5292B form should be corrected to bring it into agreement with the bio data in the passport or travel document. The correction should be made by placing an asterisk beside the error and notating the correction in the remarks section of the IMM 5292B form. Any corrections made should also be reflected in FOSS.

Note: Handwritten changes should not be made to the text of IMM 5292B form and should be limited to the remarks section.

- In some cases, the future adoptive or married name differs from the one used by the visa office. Some visa officers may also indicate a preferred or alternative name in the remarks section of the IMM 5292B form. However, this practice, which is inconsistently used, does not change the procedures followed by the border services officer. Adoptive parents or other persons who wish to have their permanent resident card issued in a name that is different from what appears on the IMM 5292B form or passport must apply for a new PRC by submitting the appropriate supporting

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documentation and a fee in accordance with the corrections procedure outlined in section 5.5 of ENF 27, *Permanent Resident Card*. Amendment kits [IMM 5218E/IMM 5218F] are available through the IRCC call centre.

Note: Copies of adoption or marriage certificates should **not be** attached to Part 1 of the IMM 5292B form and mailed to the CPC-PRC by the border services officer.

- Ensure that the *Confirmation of Permanent Residence* has a photograph affixed to copy 1.
- Ensure that the photo meets the specifications (between 25 mm [one inch] and 30 mm [1.181 inches] from the chin to the top of the head and an overall size of 35 mm [1.375 inches] by 45 mm [1.75 inches]). If it does not, re-take photographs (refer to the *Photographs* section below for more details on photograph specifications).
- Ensure that the photograph on the passport or the travel document bears a clear resemblance to the photograph on the *Confirmation of Permanent Residence*.
- If there is no photograph affixed to the *Confirmation of Permanent Residence* or the photograph does not bear a clear resemblance to the photograph on the passport or travel document, retake the photograph.
- Affix the photograph to the *Confirmation of Permanent Residence* to copy 1, and ensure that both photos are a likeness of the person under examination.
- Complete the appropriate fields on the *Confirmation of Permanent Residence* form;
- Sign the *Confirmation of Permanent Residence* form with a complete signature, not just initials.
- Update FOSS, ensuring that the permanent resident's height and eye colour are properly recorded along with any clerical corrections the border services officer has made in the remarks section.

Note: Officers must include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

- Update the client's complete address in Canada in FOSS, including the postal code.
- If they have no address, advise the client that they have 180 days to provide IRCC with their address.
- Stamp the travel or identity document as required.
- Counsel the client that they will receive their PRC in approximately three weeks and that if they have not received it within four weeks, they should contact the IRCC Call Centre at 1-888-242-2100.
- Distribute the four-part *Confirmation of Permanent Residence* form as follows:
 - copy 1, with photograph affixed, is to be sent to the IRCC CPC to be scanned for production of the PRC;
 - copy 2 will be forwarded to National Headquarters (NHQ), Document Management, to be microfilmed;
 - copy 3 of the Confirmation of Permanent Residence form will be retained by the client for information purposes;
 - copy 4 will be forwarded to National Headquarters (Revenue Accounting) in Ottawa, in accordance with standard batching instructions.

Photographs

- The background must be white (use screens provided with camera to take photographs).
- There must not be any objects in the background.

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- The photograph should show the full front view of the person with the head and shoulders centred in the photograph.
- There must be no staples, stamps, pen marks, holes or tape on the photograph.
- Eyeglasses in photos are acceptable if they are a normal feature of a person's appearance, as long as the glasses do not hide the eyes.
- Head coverings on photographs, other than those worn for religious reasons, are not acceptable.
- Torn photos are not acceptable.

Signatures

- Children 14 years of age and over must sign their own form.
- A parent or legal guardian must sign for children under the age of 14, using their own name and not the child's name.
- Only one signature goes in the box and the signature must be inside the box.
- The signature must match the name on the form except in the case of a child under the age of 14 whose parent or legal guardian has signed on their behalf.
- The border services officer should not place an X beside the client's signature on the client's behalf and must ensure that the signature box is filled in by the client.
- If the person is illiterate or cannot make a mark for a physical reason, a thumbprint should be placed on the form.

12.7 Changes in marital and family status

Section R51 requires a foreign national who has been issued a permanent resident visa as a single person to advise an officer if their marital status has changed since the visa was issued.

A report under subsection A44(1) for paragraph A41(a) for section R51 is not necessary, if the non-declaration of a marriage or common-law relationship to the visa officer does not affect the grant of permanent residence to the person in the following cases:

- In the case of refugees and protected persons, a border services officer should grant permanent resident status to these classes of persons and provide counselling regarding the sponsorship of a spouse or common-law partner.
- A foreign national who marries their sponsor after the visa is issued but before the grant of permanent residence. This change in circumstance is not material to admissibility.

The border services officer should assume the truthfulness of voluntary statements relating to marital status and proceed as though the person seeking to become a permanent resident were married, whether or not there is documentary proof of the marital status. The border services officer should usually defer the examination pursuant to section A23 in order to consult the visa office and obtain more information and evidence about the person's marital status. In some cases, the border services officer may ask the visa officer to interview a non-accompanying spouse or common-law partner outside Canada to determine if they meet the requirements of the Act and Regulations and can be issued a permanent resident visa.

The procedure for authorizing permanent resident status to the person seeking to become a permanent resident and the spouse will vary from case to case, depending on the

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applicant's and the spouse's particular circumstances. The border services officer should provide a full case summary to accompany the file, so that the receiving inland IRCC office can follow up appropriately.

The border services officer should bear in mind that the applicants' and their family members' medical examination, security check and travel document may need to be updated while the spouse or common-law partner is being examined and before permanent residence can be granted.

If, after the investigation, there is sufficient evidence to proceed with enforcement action, a border services officer may write the appropriate subsection A44(1) report against the person seeking to become a permanent resident as well as an accompanying spouse or common-law partner.

12.8 Common-law partners

Subsection R1(1) states the following:

common-law partner means, in relation to a person, an individual who is cohabiting with the person in a conjugal relationship, having so cohabited for a period of at least one year.

Subsection R1(2) states the following:

"..., an individual who has been in a conjugal relationship with a person for at least one year but is unable to cohabit with the person, due to persecution or any form of penal control, shall be considered a common-law partner of the person."

Tact and diplomacy should be exercised when conducting an interview about personal relationships as questions could be embarrassing to both border services officer and client.

Every person seeking to become a permanent resident should be asked if their marital or common-law status has changed to include either a spouse or common-law partner.

12.9 Dependent sons and daughters with common-law partners

When verifying the marital status or common-law partnership status of dependent sons and daughters during an examination, the situation may arise whereby a son or daughter is unmarried, but may have a common-law partner. If so, as in the case of a married dependent son or daughter, the son or daughter may no longer be a dependent according to the established definition of a dependent son and daughter. Children over 21 years old in married and common-law relationships may still be dependent sons and daughters if they have remained full-time students and financially supported by their parents since they became spouses or common-law partners, provided that that relationship started before the age of 22.

12.10 Procedure for dealing with children whose marital or family status has changed

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A border services officer at Immigration Secondary who determines that the marital status of a dependent child has changed should do the following:

- Determine whether, despite the change in marital or common-law status, the person is still considered a dependant (i.e., a full-time student supported by their parents since age 19 or earlier). If so, the border services officer should grant permanent resident status. If not, and the consequence of a change in marital status or common-law partnership status cannot be readily determined, the border services officer should defer the examination pursuant to section A23.
- Create an NCB on FOSS giving case details as well as the person's complete address and telephone number.
- Send an email to the visa office outside Canada that issued the permanent resident visa explaining the case details, including the visa office B file number, FOSS identification number and NCB information.

Note: Officers should include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

12.11 Imposing conditions on permanent residence applicants

The purpose of imposing conditions on a person seeking to become a permanent resident at the time of granting permanent residence is to ensure that the permanent residence applicant complies with entry requirements.

Under the IRPA, certain conditions may be imposed by a border services officer at Immigration Secondary while other conditions are automatically imposed by legislation on certain classes of permanent residents (e.g., on entrepreneurs and their family members). Visa officers may also impose medical conditions abroad, as is the case with medical surveillance.

The border services officer will, in some cases, impose conditions on a person seeking to become a permanent resident at the time of granting permanent residence and, in other cases, they will need to explain conditions that have been imposed or that are automatically imposed by the Regulations on a class of permanent residents.

Medical examinations and medical surveillance

Applicants who have been issued a *Confirmation of Permanent Residence* form [IMM 5292B] have already had their immigration medical examination abroad. If follow-up medical surveillance is required, this condition is imposed by the visa officer abroad who completes a *Medical Surveillance Undertaking* form [IMM 0535]. The applicant should have the IMM 0535 form with them when they arrive at the POE.

The border services officer must

- confirm the name, sex and date of birth [sections 1,2, 3 and 4];
- confirm the destination address in [section 7], ensuring that it is complete;
- complete item 10 (and when possible complete item 9 as well);
- update address information in section 12 if there has been a change. If no address is available, the officer will counsel the applicant concerning the conditions imposed

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and the need to contact the IRCC office closest to the destination, with an address, as soon as one has been established;

- have the person concerned sign and date the form [section 11];
- stamp, date and sign all copies in [sections 13 and 14];
- return copy 2 to the person concerned;
- if the applicant does not have an IMM 0535 form but has a surveillance code on the top left corner of the Client History Screen in FOSS or has conditions listed on their *Confirmation of Permanent Residence* document IMM 5292B form, fill out a new IMM 0535 form for the applicant;
- if the applicant does not have the appropriate Medical Surveillance Handout, supply them with a copy and counsel them to contact the appropriate Public Health Authority within 30 days;
- courier copies 1 and 3, in the pre-addressed Purolator envelopes supplied by Medical Services (otherwise, mail to Medical Services at 219 Laurier Avenue W, 3rd Floor, Ottawa, ON K1A 1L1); and
- if the IMM 0535 form is marked as urgent and has a "Watch For in FOSS", follow the above-mentioned procedures and fax a copy of the IMM 0535 form immediately. The border services officer should counsel the person concerned that they must contact the appropriate Public Health Authority within 7 days.

For more information on medical surveillance see OP 15. Medical surveillance handouts and information on how to fill out the IMM 535 form can be found in Appendices B and C of OP 15.

12.12 Conditions that may be imposed at a POE

When imposing conditions of entry or explaining conditions of entry, it is important to use the precise wording of the Regulations and to use the appropriate corresponding forms.

1) Medical examinations and medical surveillance

An officer may impose, vary or cancel a condition requiring an applicant for permanent residence to

- report at the specified times and places for medical examination, surveillance or treatment pursuant to paragraph R32(a); or
- provide proof, at the specified times and places, of compliance with the conditions imposed pursuant to paragraph R32(b).

Medical examinations and medical surveillance are imposed abroad for permanent residence applicants. See section 12.11 for more information on medical surveillance.

2) Mandatory conditions for common-law opposite-sex and same-sex relationships

See IP 8, *Spouse or Common-law partner in Canada Class*, regarding procedures relating to mandatory conditions to be imposed on common-law, opposite-sex and same-sex partners.

3) Mandatory conditions imposed on entrepreneurs

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As part of IRCC's Strategic Review, a decision was made to no longer impose and monitor terms and conditions. Refer to OB 360 and OB 360-A for more information.

12.13 Family members arriving before the principal applicant

Occasionally, a border services officer at Immigration Secondary will encounter a family member who arrives before the principal applicant and is seeking permanent residence. Paragraph R51(b) requires a permanent resident visa holder to establish that they and their family members, whether accompanying or not, meet the requirements of the Act and Regulations. For a family member to meet these requirements, it is usually incumbent on the principal applicant being admissible at the POE. This also holds true for the principal applicant arriving before their family members.

A border services officer encountering this situation should obtain the following information from the family member or principal applicant:

- why the family member or principal applicant is preceding the rest of the family (e.g., to seek accommodation or employment, lack of a seat on the aircraft carrying the principal applicant);
- when the rest of the family is due to arrive; and
- the person's means of support.

The border services officer should complete the verification process but should not grant permanent resident status to the family member. If the person has a valid permanent resident visa and the border services officer is satisfied that the rest of the family intends to come to Canada, the border services officer may wish to defer the examination pursuant to section A23 in order to obtain more information or wait until the rest of the family arrives so they may be examined.

The border services officer should enter the information into FOSS by means of an NCB, which indicates that the granting of permanent residence has been deferred pending the arrival of the rest of the family.

Note: Officers must include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

If the border services officer has reasonable grounds to believe that the rest of the family will not be coming to Canada, the border services officer should initiate enforcement action unless the person qualifies in their own right for permanent resident status.

12.14 Arrival of the principal applicant prior to family members

A principal applicant may have decided to proceed to Canada in order to commence employment or to confirm that adequate settlement arrangements, such as accommodation and educational facilities prior to the arrival of their family members. A border services officer at Immigration Secondary must confirm that the family members meet the requirements of the Act and its Regulations before granting permanent resident status to the principal applicant. In most instances, the border services officer can assume that persons listed on the principal applicant's permanent resident visa meet the requirements of the Act and Regulations and can grant permanent resident status to the principal applicant.

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If the border services officer has reason to believe the family members may not have been examined, the border services officer may defer the examination pursuant to section A23 pending confirmation from the visa office that they have been examined.

12.15 Expired or cancelled permanent resident visas

A person who presents an expired or cancelled permanent resident visa cannot be authorized to enter Canada as a permanent resident. The person may be reportable under section A41 by section R6 for non-compliance with the Regulations because a foreign national may not enter Canada to remain on a permanent basis without first obtaining a permanent resident visa.

If the examination of a holder of a permanent resident visa is deferred pursuant to section A23, the person may be granted permanent residence at a later date provided they initially appeared for examination and presented their permanent resident visa within its period of validity.

12.16 Counselling new permanent residents

The border services officer at Immigration Secondary should counsel each new permanent resident on the following matters:

- the conditions of permanent resident status that have been imposed, how to comply with the conditions, and how to apply for the removal of these conditions;
- the residency obligation;
- the procedure for obtaining a PRC;
- the procedure for obtaining a social insurance number (address of the nearest Citizenship and Immigration Centre);
- the procedure for applying for provincial health coverage; and
- settlement assistance, where applicable. If it is apparent that the Citizenship and Immigration Centre is unaware of the arrival of a permanent resident who is a Convention refugee or a person in similar circumstances (CR1, CR5, DC1, DC5) who may need assistance, the border services officer should notify the Citizenship and Immigration Centre closest to the destination of the person concerned. For information on CR and DC coding, see the coding aids in the CAIPS System User Guide.

The border services officer should give the person a *Welcome to Canada* package, if available.

13 Examination of foreign nationals at ports of entry

Foreign nationals are authorized to enter Canada as temporary residents by privilege. Subsection A22(1) provides that

A foreign national becomes a temporary resident if an officer is satisfied that the foreign national has applied for that status, has met the obligations set out in paragraph A20(1)(b) and is not inadmissible.

Temporary residents include visitors, students, workers, and permit holders.

13.1 Visa requirements for temporary residents

A visa is a document issued or a stamped impression made on a document by a visa officer. Every person who is approved for temporary residence in Canada will be issued a temporary resident visa [IMM 1346] in accordance with the procedures outlined in chapter IC 3. See section 13.2 below for exemptions to this requirement.

A temporary resident visa indicates that the foreign national has been pre-screened by a visa officer and that this officer is satisfied that the visa holder meets the requirements for entry into Canada at the time of the issuance of the visa.

Subsection A11(1) requires foreign nationals to apply for a visa before entering Canada. Section R7 also provides that a foreign national may not enter Canada to remain on a temporary basis without first obtaining a temporary resident visa.

13.2 Exemptions from a visa requirement

Subsection R7(2) exempts certain foreign nationals from the requirement to obtain a visa. These include

- foreign nationals who hold a TRP issued under subsection A24(1);
- foreign nationals who are authorized under the Act or its Regulations to re-enter Canada to remain in Canada; and
- foreign nationals exempt under section R190.

See section R190 for a complete list of temporary resident visa exemptions for foreign nationals. This section includes

- the list of visa-exempt countries [R190(1)];
- other document holders who are exempt from the temporary resident visa requirement [R190(2)];
- special categories of persons who are temporary resident visa exempt [R190(3)];
- persons entering Canada to become crew members of a means of transportation other than a vessel [R190(3)(a)(i)];
- foreign nationals in transit for refuelling destined to or originating from the US [R190(3)(b)];
- members of the Transit Without Visa Program (TWOV) and the China Transit Program (CTP) [R190(3)(c)] (for more information, refer to the Transit Without Visa/China Transit Program Standard Operating Procedures on Atlas);
- members of armed forces coming to carry out official duties under of the *Visiting Forces Act* [R190(3)(d)] and in possession of travel or military orders;
- U.S. immigrant visa seekers [R190(3)(e)];
- persons seeking re-entry into Canada, after visiting only the U.S. or St. Pierre and Miquelon, within the authorized period of stay granted upon initial entry into Canada [R190(3)(f)];
- persons conducting inspections on flight operation procedures or cabin safety on commercial air carriers. Note that this visa exemption does not apply to In Flight Security Officers (IFSO), also known as air marshals. They are not to be considered as members of a crew;
- temporary residents seeking re-entry to Canada from the U.S. or St. Pierre and Miquelon, after applying to renew their status, remain under their original status

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until a decision is made and they are notified [R183(5)]. These people are considered to have implied status.

Note: Under the Regulations, the definition of the United States includes Puerto Rico.

13.3 Re-entry into Canada on original visa

Foreign nationals who require a temporary resident visa and who seek to re-enter Canada must be in possession of a multiple-entry temporary resident visa **unless**

- since leaving Canada after being authorized to enter as a temporary resident, they have only visited the U.S. or St. Pierre and Miquelon, and are returning within the initial period authorized by a border services officer [R190(3)(f)];
- they have only visited the U.S. or St. Pierre and Miquelon and they are in possession of a valid visitor record work permit, study permit, or a TRP (authorizing re-entry) and are returning within the initial period authorized by a border services officer, [R190(3)(f)];
- they are seeking entry on implied status. A temporary resident with implied status that leaves Canada is exempt from obtaining a temporary resident visa pursuant to subparagraph R190(3)(f)(ii) if they are returning from a visit solely to the United States or St. Pierre and Miquelon. Their status as a temporary resident is extended until a decision is made and they are notified in accordance with subsection R183(5). They are not authorized to work or study until their application for a renewal on their work or study permit has been approved. To emphasize these conditions, border services officers may consider documenting these foreign nationals on a visitor record. For guidelines on when to issue a visitor record see section 13.24.

These foreign nationals must comply with all other entry requirements. If they visit any country other than those stated above, they are not exempt from the requirements of this provision.

Note: Under the Regulations, the definition of the United States includes Puerto Rico.

13.4 Examples of visa requirements

- A foreign national in possession of a temporary resident visa valid for one year, who is subsequently issued a four-year student permit at a POE, may leave and return to Canada after the expiry of the visa as long as they have only visited the U.S. or St. Pierre and Miquelon and the student permit is still valid.
- A foreign national in possession of a one-entry temporary resident visa may travel in and out of Canada without the issuance of a new or multiple-entry visa as long as they return to Canada within the initial period (or any extensions) authorized and have only visited the U.S. or St. Pierre and Miquelon.

13.5 Diplomatic visa exemptions

Paragraph R190(2)(a) exempts foreign nationals who are holders of a passport that contains a diplomatic acceptance, a consular acceptance, or an official acceptance issued by the Chief of Protocol for Foreign Affairs Canada. They must be a properly accredited diplomat,

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consular officer, representative or official of a foreign country, of the United Nations or any of its agencies or an international organization in which Canada is a member.

On the first arrival in Canada of a foreign representative or family member whose passport bears a foreign representative acceptance counterfoil, the border services officer (normally the border services officer at the PIL) should stamp the passport giving them status in Canada for six months. During the six-month period, the official's embassy or consulate will forward their passport to the Diplomatic Corps Service, Office of Protocol, Foreign Affairs and International Trade Canada. The Office of Protocol will issue a diplomatic (D), consular (C), official (J) or international (I) acceptance, which indicates that the person is accredited to Canada and entitled to remain in Canada for the duration of their official status.

Dependent children of diplomats, consular officers, representatives or officials who are under 19 years of age and considered to be "members of the family forming part of the household" will be issued acceptances. Children over 19 years of age will be issued acceptances only if they are registered as full-time students. After 25 years of age, family members are no longer eligible to receive official acceptances, and must change their official status to a temporary resident status.

For more information, see procedures related to diplomatic and official visas.

If a border services officer has concerns regarding persons accredited to or employed by foreign missions, they should forward any concerns through Regional management to

Director, Case Analysis and Coordination
Case Management Branch
Inland Services
National Headquarters

The director will consult the Office of Protocol, Foreign Affairs and International Trade Canada. For urgent cases, the border services officer may contact the immigration advisor at the Office of Protocol. The immigration advisor is available for urgent cases during regular business hours, Monday to Friday. For after hours service, contact the Watch Office.

13.6 Affirmations for visas

An *Affirmation for Visa* form [IMM 1281B] is issued to holders of diplomatic or special passports of special-category countries. When a person presents an IMM 1281B form, a border services officer at Immigration Secondary must apply the port stamp in the lower left corner of the visa (partly on the visa, partly on the page).

When the diplomat or consular official leaves Canada, they are required to surrender copy 1 of the IMM 1281B form at the port of departure. The receiving border services officer at Immigration Secondary should compare it with copy 3 (or copy 2 where applicable), endorse it where indicated, and immediately send it to the issuing visa office.

POEs and ports of departure may destroy their copies following their respective actions.

13.7 U.S. government officials

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The following official U.S. government personnel assigned to temporary postings in Canada are not issued diplomatic or official acceptances in Canada:

- United States Customs and Border Protection officers;
- International Joint Commission employees;
- U.S. Federal Grain Service inspectors of the U.S. Department of Agriculture; and
- other U.S. government officials in possession of official U.S. government passports and assigned to temporary postings in Canada.

U.S. government personnel arriving in Canada for the first time will be issued a work permit (fee exempt as per the coding manual, FOSS coded E09), on presentation of a "letter of introduction" from the appropriate agency, identifying the assignment, its location and the number of years the employee will be assigned in Canada. For more information on the documentation of U.S. government employees, refer to FW 1, section 13.7, *States government personnel*, which deals with temporary foreign workers applications at POEs.

13.8 Courtesy visas

Visa officers may issue courtesy visas to persons who, although not entitled to diplomatic privileges and immunities, warrant a visa to facilitate their entry because of their position or because their reason for coming to Canada is considered sufficiently important.

Courtesy visas may be issued to

- persons of diplomatic rank coming to Canada for tourism purposes;
- members of a trade mission visiting Canada; and
- well-known visiting professors coming to Canada to attend conferences.

Courtesy visas may be issued in any type of passport to foreign nationals who require visas or who are normally visa-exempt. The visa should draw a border services officer's attention to the fact that the individual is considered by the visa office abroad to warrant particularly expeditious and courteous treatment at the POE. Such foreign nationals are subject to normal documentation requirements and are not exempt from regular examination procedures.

13.9 Examination of temporary resident visas

For information on examining temporary resident visas, including security features, see section 5 of IC 3, *Immigration Control*.

13.10 Expired temporary resident visas

A person seeking to enter Canada with an expired temporary resident visa is inadmissible and should be reported pursuant to paragraph A41(a) for paragraph A20(1)(b).

13.11 Notification to visa office if a visa holder is refused entry

A border services officer at Immigration Secondary who refuses entry to the holder of a temporary resident visa or a TRP should send full details of the refusal by email to the

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issuing visa office. This allows the visa office to review the decision to issue the visa and to deal with future representations that the person may make to the visa office.

The border services officer must begin the message with the phrase: "As requested: ENF 4," and include the following information in the following order:

(a) the name and nationality of the subject of the subsection A44(1) report; or a person allowed to withdraw their application;

(b) the person's date and place of birth;

(c) the visa or permit number, date and office of issue;

(d) the date and POE where the person sought to enter Canada;

(e) the reason for refusal, using the code letter for the reason for refusal:

A: seeking permanent residence,

B: claims Convention refugee status,

C: intends to seek or take employment,

D: intends to follow a course of study,

E: has insufficient funds to maintain themselves and their family members,

F: medical inadmissibility,

G: criminal inadmissibility,

H: expired temporary resident's visa, or

I: other;

(f) the name and file number of the office responsible for follow-up enforcement action, if the office differs from the POE; and

(g) the visa office file number (some visa offices include the number on the visa).

The border services officer should not provide any other details in the email report. This procedure allows the border services officer to transmit the report as an unclassified message.

If the reason for refusal was code "I" (other), the officer must send a report by mail to the issuing visa office giving further details of the reason for the refusal. In the case of a statesman or special category foreign national, the report should be mailed under secret cover.

This reporting system gives visa offices abroad immediate feedback on their decisions for issuing temporary resident visas (TRVs) and TRPs and assists in monitoring the effectiveness of the TRV program.

For citizens of "Special Category" countries, the border services officer may also need to send another email report. Refer to section 54 of chapter IC 1, *Immigration Control*, for full instructions.

13.12 Electronic Travel Authorization (eTA)

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An eTA is an entry requirement for all visa-exempt, non-U.S. foreign nationals travelling to Canada by air. An eTA is a paperless document electronically linked to a traveller's passport that will have to be obtained prior to travelling to Canada by air.

Subsection R7.1(1) requires all foreign nationals from non-visa-required countries to obtain an eTA before entering Canada.

13.13 eTA exemptions

Select individuals are exempt from the eTA requirement, including

- Queen Elizabeth II and members of the Royal Family;
- holders of valid TRVs;
- citizens of the United States;
- accredited diplomats in Canada;
- select civil aviation personnel (flight crew, flight safety advisors, accident investigators);
- French citizens who are residents of St. Pierre and Miquelon arriving from St. Pierre and Miquelon;
- foreign military personnel carrying out duties under the Visiting Forces Act;
- foreign nationals seeking re-entry from a contiguous territory with prior status in Canada;
- foreign nationals holding a valid U.S. document travelling to and from the U.S. who are passengers on a flight stopping in Canada for the sole purpose of refuelling;
- foreign nationals transiting Canada under the TWOV or the CTP;
- foreign nationals onboard flights diverted to Canada for medical, mechanical, or other emergency reasons.

13.14 eTA validity and cancellation

An eTA will be valid for up to five years or until the passport expires, whichever comes first. A visitor may travel to Canada repeatedly without having to apply for another eTA, so long as their original eTA remains valid.

An eTA can be cancelled in cases where an officer determines that a foreign national has become inadmissible after the eTA is issued. At that point, an officer would cancel the eTA and notify the traveller of the cancellation. The officer would need to cancel the eTA in GCMS. In these instances, travellers will need to reapply for an eTA or other authorization to enter Canada.

13.15 Document requirements for foreign nationals

Subsection R52(1) provides that a foreign national seeking to become a temporary resident of Canada must possess a valid passport, identity or travel document. The purpose of this requirement is to ensure adequate identification of the foreign national and to guarantee that person's re-entry either into the country that issued the passport, identity or travel document or into another country.

Subsection R52(1) provides a list of acceptable passports or travel documents for foreign nationals seeking to enter Canada as temporary residents.

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Visa officers should ensure that a travel document is acceptable for travel to Canada before issuing a visa. A CBSA officer can normally assume that a document containing an authentic visa is acceptable for travel to Canada, unless there is some reason to question its acceptability.

13.16 Passport and travel document exceptions

Subsection R52(2) provides a list of persons who are exempt from the requirement to have a passport or travel document to enter Canada as temporary residents:

- U.S. citizens;
- Permanent residents of the U.S. seeking to enter Canada from the United States or St. Pierre and Miquelon. Note that U.S. Alien Resident Cards are only acceptable upon presentation on contiguous territory and not valid for international flights from outside Canada unless accompanied by a valid and subsisting passport or travel document;
- Residents of Greenland seeking to enter Canada from Greenland;
- Citizens of France and residents of St. Pierre and Miquelon seeking to enter Canada from St. Pierre and Miquelon;
- Military personnel seeking to enter Canada under the *Visiting Forces Act*;
- Persons seeking to enter as or in order to become air crew members and who hold an airline flight crew licence or crew member certificate;
- Persons seeking to enter Canada as crew members who hold a seafarer's identity document and are crew members of the vessel that carries them to Canada.

13.17 Examining passports

The purpose of examining a passport is to verify information that has been provided by the holder or that appears on any immigration document issued to the person. A border services officer should examine each passport to confirm the following:

- the name of the holder;
- the date of birth of the holder;
- other data such as the person's physical description, place of birth, marital status and profession;
- the country of citizenship;
- the photograph of the holder;
- the date of expiry; and
- visa pages (to determine previous trips to Canada or other recent trips that may be relevant to the overall examination of the person).

If a more in-depth examination of the passport is required, see the *Immigration Control (IC)* manual for information on reviewing fraudulent or altered passports. This manual is classified and therefore not available electronically.

13.18 Valid visas in expired passports

Visa officers will not put a visa in an expired document and will not issue a visa for a period surpassing the expiry date of the passport or travel document. Occasionally, documents containing valid visas are cancelled or replaced. If a valid visa inside an expired document is

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presented at the POE along with a valid passport or travel document, the visa is considered valid.

13.19 Evidence of U.S. citizenship

The following documents may be satisfactory evidence of U.S. citizenship:

- U.S. passports, U.S. passport cards, and Certificates of Citizenship and Naturalization are considered *prima facie* evidence and are acceptable proof of U.S. citizenship.
- A U.S. birth certificate, when accompanied by another document bearing a picture of the holder, is considered an indicator and may be an acceptable proof of U.S. citizenship.

A U.S. military identification card, although a good supporting document, is not *prima facie* evidence of U.S. citizenship. The U.S. military accepts recruits who are not U.S. citizens.

Sometimes, a verbal declaration may be sufficient to satisfy a border services officer that a person is a U.S. citizen. For example, driver's licenses, health cards, U.S. Voter's Registration card, school records, credit cards are not *prima facie* evidence of citizenship, but they are often used along with a verbal declaration to satisfy the border services officer of U.S. citizenship. In other circumstances, the border services officer may require better documentary evidence for persons claiming to be U.S. citizens. Border services officers should also familiarize themselves with the Enhanced Drivers Licence/Enhanced Identification Cards as well as the trusted traveller cards, such as FAST, NEXUS, CANPASS and the U.S. SENTRI card.

To assist the travel industry, airlines and travel agents have been supplied with the following information:

- a U.S. passport constitutes the best form of identification for U.S. citizens travelling to Canada; and
- U.S. citizens may travel to Canada without passports if they have other means of establishing their citizenship, such as a U.S. birth certificate or naturalization papers.

13.20 Conditions imposed on temporary residents

Subsection R183(1) provides for the following general conditions that are automatically imposed on all temporary residents:

- to leave Canada by the end of their authorized period of stay;
- to not work, unless they have been issued a work permit or are exempt from the requirement to obtain a work permit pursuant to sections R186 and R187; and
- to not study, unless they have been issued a study permit or are exempt from the requirement to obtain a study permit pursuant to sections R188 and R189.
- A border services officer does not need to document these conditions for every person authorized to enter Canada as a temporary resident as they are automatically imposed. However, if the border services officer believes that a document is necessary as a control measure or as an aid in counselling the person regarding the conditions of their entry, they may generate a *Visitor Record* form [IMM 1097B] and attach it to their passport or travel document.

13.21 Duration of temporary resident status

Subsection R183(2) states that the period authorized for the stay of a temporary resident is six months or any other period that an officer imposes based on the following criteria:

- the temporary resident's means of support in Canada;
- the period for which the temporary resident applies to stay; and
- the expiry of the temporary resident's passport or other travel document.

13.22 Six-month entry

In most cases, a border services officer should routinely authorize entry for a period of six months to a foreign national requesting entry as a temporary resident, even when the person requests entry for a very brief period. Six months is adequate for most purposes of travel and preclude the need for the person to request an extension.

The border services officer should also stamp the foreign national's passport or travel document, inscribe a date of expiry based on a calculation of six months from the date of entry and initial the notation. The border services officer should counsel the foreign national on the need to comply with general obligations for the visit and of any extension, should one become necessary.

In instances where the principal applicant of the family is traveling with their family members, border services officers should generally authorize entry to all members of the family for the same length of time as indicated on the work or study permit of the principal applicant. More information on study and work permits is available in OP 12 and in the section on temporary foreign workers.

13.23 Entry for more or less than six months

Based on the information presented during an examination, a border services officer at Immigration Secondary may decide to limit a temporary resident's stay to less than six months despite the length of time requested by the foreign national. If requested by the applicant and the border services officer is satisfied that the foreign national is a temporary resident, is able to support themselves and accompanying family members financially, and is not inadmissible for reasons of health or security, the granting of entry for more than six months may be considered.

In no case should the border services officer impose a period of time for a temporary resident's stay greater than the validity of the foreign national's passport or travel document. This will not be applicable to U.S. citizens and other foreign nationals exempted under subsection R52(2) from the requirement to be in possession of a passport or travel document.

13.24 When to document a temporary resident on a *Visitor Record* form [IMM 1442B]

A border services officer at Immigration Secondary who limits a temporary resident's stay to a period of less than six months has in essence decided that there is a need to exercise an

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element of control over the foreign national's length of stay; therefore, a *Visitor Record* form [IMM 1442B] is to be issued in order to document this decision. The border services officer should record suppressed remarks noting the reasons why a period of less than six months is being imposed. An exception to this circumstance could be a person in possession of a TRV that indicates a stay of less than six months, in which case the border services officer could stamp and annotate the passport accordingly.

Similarly, the border services officer should issue a *Visitor Record* form [IMM 1442B] when authorizing a period of stay greater than six months and indicate in the *Remarks* why the greater period of time is being granted. If FOSS is down, the *Visitor Record* form may be completed manually on an IMM 1097B form. Family members travelling together may be listed on one document or cross referenced on separate documents at the discretion of the border services officer.

A border services officer at Immigration Secondary should document a foreign national on a *Visitor Record* form [IMM 1097B] if, in the border services officer's opinion, a foreign national should be documented for control purposes regardless of the length of stay. This could include

- a seafarer who is signing off or seeking entry to join a crew;
- a foreign national entering for medical treatment;
- a person extradited to Canada who is being allowed forward as a temporary resident;
- any temporary resident on whom other conditions pursuant to section R185 are being imposed; or
- foreign workers entering Canada to perform after-sales service and intending to remain in Canada for longer than two days, except workers performing continuing after-sales service whose entry has already been documented on a *Visitor Record*, the validity of which covers the period for which the person is seeking entry; or
- military personnel and their accompanying family members entering Canada under the *Visiting Forces Act*. For further information and instructions on issuing visitor records under these circumstances, please refer to Appendix F of FW 1.

Creating a document and noting remarks in FOSS will assist other border services officers in the event a person applies for an extension or if enforcement action is required.

Note: Officers must include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

13.25 Imposing, varying or cancelling conditions on temporary residents

Section R185 authorizes a border services officer at Immigration Secondary to impose, vary or cancel the following conditions individually concerning a temporary resident:

- the period authorized for their stay;
- the work in which they are permitted to engage or prohibited from engaging, including
 - the type of work;
 - the employer;
 - the location of work; and
 - the times and periods of work;

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- in the case of a member of a crew, the period within which they must join the means of transportation;
- the studies in which they are permitted to engage or prohibited from engaging, including
 - the type of studies or course;
 - the location of the studies; and
 - the times and periods of the studies;
- the area within which they are permitted or prohibited to travel in Canada; and
- the times and places to which they must report:
 - for medical examination, surveillance or treatment; or
 - the presentation of evidence of compliance with applicable conditions.

When conditions of entry are imposed, it is not necessary to state on the Visitor Record the conditions precisely as they are worded in the Regulations. An attempt to reflect the substance and spirit of the conditions in the Regulations and, whenever possible, the wording of sections R183 and R185 should be used. When a border services officer at Immigration Secondary completes a *Visitor Record* form on a FOSS *Full Document Entry* form [IMM 1442B], they may select the appropriate conditions from the list that appears automatically on the screen.

The border services officer should not use conditions as a means of discouraging a foreign national from coming into Canada. The reasons for imposing conditions on a temporary resident are to ensure that the person complies with the period and purpose for which they sought entry into Canada and to make the temporary resident aware of the need for formal authorization before extending that period or varying the purposes of the visit.

13.26 Situations where specific conditions may be considered

Situations where specific conditions may be considered include the following:

- For a foreign national seeking entry to join a crew of a vehicle already in Canada, a border services officer at Immigration Secondary should impose a condition that would require them to join the means of transportation within a specified period of time [R184]. This is a control measure and the time the border services officer allots should be a reasonable period within which the person can join the vehicle.
- Paragraph R185(d) authorizes a border services officer to impose a condition that limits the area within which a temporary resident may travel in Canada. For example, the border services officer might want to use the condition to limit the travel of a person in transit through Canada to another country (perhaps limiting the person to the airport and surrounding area), or the travel of a person coming to Canada to stand trial or to be a witness in legal proceedings.
- Paragraph R185(e) authorizes the border services officer to impose a condition on a temporary resident who otherwise complies with the Act and Regulations, but who has a dormant health condition that could be a danger to public health if it became active. The condition should name the time and place where the temporary resident must report for medical observation and treatment while in Canada.
- If the border services officer imposes conditions on a temporary resident concerning attendance at a school, work, or medical examination, surveillance or treatment, the border services officer should, as a control measure, also impose a condition requiring the person to present evidence of compliance with the conditions imposed [as authorized by subparagraph R185(e)(ii)].

13.27 Payment of deposits or posting of guarantees

Section R45 authorizes a border services officer at Immigration Secondary to require, with respect to a person or group of persons seeking to enter Canada, the payment of a deposit or the posting of a guarantee, or both, to the Minister to guarantee compliance with the conditions imposed on the person or group.

The payment of a deposit or the posting of a guarantee is a control measure in cases where the border services officer believes that a temporary resident or group of temporary residents may not comply with one or more conditions being imposed. The deposit or guarantee should specify an amount adequate to guarantee compliance and therefore alleviate doubt regarding a temporary resident's intentions in Canada.

Subsection R45(2) provides that

The amount of the deposit or the guarantee is fixed by the officer on the basis of:

- (a) the financial resources of the person or group;
- (b) the obligations that result from the conditions imposed;
- (c) the costs that would likely be incurred to locate and arrest the person or group, to detain them, to hold an admissibility hearing and to remove them from Canada; and
- (d) in the case of a guarantee, the costs that would likely be incurred to enforce it.

13.28 Situations that may warrant the imposition of a deposit or guarantee

A deposit or a guarantee may be warranted under section R45 in the following cases:

- The foreign national indicates an intention to visit Canada for a short period, yet the border services officer is concerned that they actually intend to remain permanently;
- The foreign national presents themselves as a tourist and the border services officer believes that their true intention is to work or study in Canada. The border services officer could impose appropriate conditions set out in subsection R183(1) and require a deposit or a guarantee; or
- The border services officer informs a foreign national who was originally seeking entry to work or study that such activities are not allowed and the foreign national agrees to come in as a tourist.

The decision to report the individual under paragraph A41(a) for paragraph A20(1)(b) (as a person who is unable to satisfy the officer that they will leave Canada by the end of the period authorized for their stay) would depend on the degree of doubt in the border services officer's mind and the evidence that would support a report. For more information on writing subsection A44(1) reports, refer to ENF 5, *Writing 44(1) Reports*. For more information on determining inadmissibility, refer to ENF 2, *Evaluating Inadmissibility*.

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The border services officer cannot use payment of a deposit or the posting of a guarantee to overcome an obvious ground for inadmissibility to Canada. If the border services officer determines that a ground for inadmissibility exists, they should write a subsection A44(1) report.

13.29 Situations where a deposit or guarantee is not appropriate

A deposit or guarantee is not appropriate in the following situations involving serious grounds of inadmissibility:

- Section A34: security;
- Section A35: violation of human or international rights;
- Subsection A36(1): serious criminality;
- Paragraph A36(2)(d): offences committed on entering Canada;
- Section A37: organized crime;
- Paragraphs A38(1)(a) and (b): health grounds where the public's health or safety is likely to be in danger;
- Where the person posting the payment or guarantee does not have the ability to pay should the traveller not comply with conditions imposed; or
- Where no reasonable sum of money would compel a person to comply with conditions imposed.

13.30 Persons who may pay a deposit or post a guarantee

Pursuant to subsection R47(1), a person who pays a deposit or posts a guarantee must

- not have signed or co-signed another guarantee that is in default; and
- have the capacity to perform a contractual relationship in the province where the deposit is paid or the guarantee is posted.

Subsection R47(2) states that a person who posts a guarantee must

- be a Canadian citizen or a permanent resident, physically present and residing in Canada;
- be able to ensure that the person or group of persons in respect of whom the guarantee is required will comply with the conditions imposed; and
- present to an officer evidence of their ability to fulfil the obligation arising from the guarantee.

13.31 Deposits and guarantees on inadmissible persons

Subsection A44(3) provides the border services officer at Immigration Secondary with the authority to impose any conditions, including the payment of a deposit or the posting of a guarantee (for compliance with the conditions), where the border services officer does not authorize entry to a foreign national and subsequently prepares a subsection A44(1) report.

The border services officer may decide that a deposit or guarantee is necessary for control purposes pending

- a determination by the Minister on the validity of the subsection A44(1) report;

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- the scheduling of an admissibility hearing; or
- removal from Canada.

For more information on deposits and guarantees, refer to ENF 8, *Deposits and Guarantees*.

13.32 Issuing visitor records

Visitor records can be generated by FOSS and printed on the *FOSS Full Document Entry – Generic* form [IMM 1442B]. If the FOSS system is not operational, a border services officer at Immigration Secondary can complete the *Visitor Record* form [IMM 1097B] and enter the information in FOSS as soon as the system is available. For detailed information on completing and coding the IMM 1097B form manually, see the coding manual.

Note: Officers must include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

There are no cost-recovery fees for documenting temporary residents unless a permit is granted under section A24 or A25.

13.33 Counselling temporary residents

A border services officer should attempt to answer any questions a temporary resident has concerning their status. When a border services officer at Immigration Secondary counsels a temporary resident, they may wish to cover the following points:

- the expiry date of the visit;
- any conditions imposed;
- procedures for applying for an extension;
- cost-recovery requirements should the person seek an extension to their status; and
- information about the cancellation of conditions imposed and a refund if the person has paid a deposit or posted a guarantee (see ENF 8, *Deposits and Guarantees*).

The sections to follow provide more detailed procedures for the examination of specific classes of persons seeking to enter Canada.

13.34 Recovering missing, abducted and exploited children

See ENF 21, *Recovering Missing, Abducted and Exploited Children*, for more information on policies and procedures relating to examining children seeking to enter Canada.

13.35 Examining foreign students

See OP 12, *Students*, for more information on policies and procedures relating to the examination of foreign students.

13.36 Maritime procedures

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See ENF 17, *Maritime Procedures*, for information on the examination of persons seeking entry as crew members or wanting to become a member of a crew.

13.37 Examining foreign workers

Remarks on *Visitor Records* allowing people to work in Canada

Service Canada is asking that visible remarks be entered on *Visitor Records* when a *Visitor Record* is issued to a person who is exempt of the need for a work permit. Service Canada needs to know that the person is allowed to work in Canada and is exempt from the need for a work permit so a social insurance card may be issued. Border services officers at Immigration Secondary should clearly enter in the *Remarks* section of the *Visitor Record* that the temporary resident is exempt from the need to obtain a work permit under section R186.

Seasonal agricultural workers

Like all other temporary foreign workers, seasonal agricultural workers require social insurance numbers (SIN) while working in Canada. As of April 1, 2003, all social insurance cards issued to temporary residents have expiry dates on them, coinciding with the end of the validity period of the work permit.

Current holders of a "900 Series" social insurance card, without an expiry date, had until April 1, 2004 to re-apply for a new social insurance card. It is important that the expiry date matches the last date of the validity of the temporary resident's work permit.

Temporary residents who require a social insurance card may find the application form on the Service Canada website.

Role of sending countries

Agencies of sending countries must make sure that the following takes place prior to arrival in Canada:

- Social insurance card applications are properly filled out for each worker.
- **For Caribbean workers**, at least two weeks in advance, accurate departure lists of workers are sent to the Canadian High Commissions in order to be checked and forwarded to the CBSA airport offices in Canada at least 48 hours in advance. This is to ensure that the work permits can be prepared before the arrival of each flight.
- **For Mexican workers**, at least 48 hours in advance, accurate departure lists of workers are sent directly to the CBSA airport office in Canada to ensure that the work permits are prepared before the arrival of each flight.

At the airport in Canada

Each worker arrives before a border services officer in Immigration Secondary and presents their own

- valid passport;

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- work permit introduction letter, issued by a visa office overseas; and
- social insurance card application (attached to the worker's passport).

Role of border services officers at Immigration Secondary

Border services officers at Immigration Secondary must make sure of the following:

- the worker's passport is stamped;
- copy 1 of the work permit is issued to the worker;
- copy 2 is sent to IRCC's Records Services in Ottawa;
- the social insurance card application is stamped (in "certification stamp" box, bottom right-hand corner);
- if the social insurance card application is not attached to the passport or not presented by the worker, the CBSA immigration officer must ask for it; and
- copy 4 of the work permit is attached to the social insurance card application.

For Caribbean workers,

- copy 3 is given by hand to consulate officials present at the airport, for provincial health coverage; and
- copy 4 and the social insurance card application are given by hand to consulate officials present at the airport.

For Mexican workers,

- in Toronto, copy 3 is **mailed** to Consulate officials for provincial health coverage;
- in Montreal and Vancouver, copy 3 is **given by hand** to Consulate officials present at the airport, for provincial health coverage; and
- copy 4 and the social insurance card application are **mailed** directly to Insurance Registration, P.O. Box 7000, Bathurst, New Brunswick, E2A 4T1 every Tuesday and Friday of the week.

If the worker, after being asked, does not present the social insurance card application, the border services officer will give copy 4 of the work permit to the worker. This will assist the worker to apply for the social insurance card at the local Service Canada office.

However, if properly presented by the workers, it is crucial for border services officers at Immigration Secondary to properly stamp and follow the above instructions for the social insurance card applications. Otherwise, great inconvenience is caused to both the foreign workers and the Canadian employers (e.g., the employers must transport the workers off the farms and into the local Service Canada to apply for their cards). Given the remote location of many of these farms, this can be a time-consuming and costly process for the farmers and the workers.

Border services officers will not process social insurance card applications for workers who are late additions to flights or who do not appear at the Canadian airport with a completed card application. Then, it is the responsibility of the worker and the employer to ensure that a social insurance card application is submitted within three days of the start of employment.

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13.38 Refugee claimants

For information on processing refugee claimants, refer to PP 1. For instructions on handling possible claims for refugee protection see section 8 of ENF 6, *Review of reports under A44(1)*.

For information on the United Nations High Commissioner for Refugees, visit the UNHCR website.

13.39 Vulnerable persons

As a general principle, all offices must be flexible to provide priority processing to refugee claimants who are identified as vulnerable persons. For additional information on identifying and processing vulnerable persons see section 14 of PP 1.

13.40 Biometrically enrolled foreign nationals

Biometrically enrolled foreign nationals arriving at a POE will have their travel documents examined and their biometrics compared or verified to assist in making an admissibility decision.

Subsection R12.1(1) lists the countries and territories whose nationals are required to provide biometric information.

Subsection R12.1(2) lists the countries whose nationals are exempt from providing biometric information.

On Primary, a visual comparison of the foreign national against the photograph taken at time of enrolment overseas will be undertaken at all automated POE through the IPIL system.

Where an affected foreign national is referred to Immigration Secondary, a visual comparison against the photograph taken at time of enrolment will be undertaken at all automated POE through the Immigration Secondary Processing/Passage History system.

In addition, where available and when deemed necessary, the border services officer will be able to conduct a fingerprint verification of the foreign national against the prints taken at the time of enrolment overseas and stored with the RCMP. Fingerprint verification scanning devices are available for this purpose in Immigration Secondary at the following airports: Halifax, Montreal, Toronto, Ottawa, Winnipeg, Calgary, Edmonton, and Vancouver.

Should the verifications raise doubts regarding the identity of the foreign national, existing procedures will be followed to determine admissibility.

See the *People Processing Manual* for further information on the processing of biometrically enrolled foreign nationals.

14 Dual intent

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Subsection A22(2) states that the intention of a foreign national to become a permanent resident does not preclude them from becoming a temporary resident if the border services officer is satisfied that they will leave Canada by the end of the period authorized for their stay.

A person's desire to await the outcome of an application for permanent residence from within Canada may be legitimate and should not automatically result in the decision to refuse entry. A border services officer at Immigration Secondary should distinguish between such a person and an applicant who has no intention of leaving Canada if the application is refused.

In rendering a decision, the border services officer should consider

- the length of time required to process the application for permanent resident status;
- the means of support;
- obligations and ties in the home country;
- the likelihood of the applicant leaving Canada if the application is refused; and
- compliance with the requirements of the Act and Regulations while in Canada.

In some cases, the border services officer may wish to issue a *Visitor Record* form [IMM 1097B] documenting the details of the trip for control purposes and provide thorough counselling regarding the conditions of entry. In cases where the applicant has already received a favourable recommendation for permanent resident status, the duration of time authorized at the POE should match the time required to complete the processing of the application.

15 Temporary resident permits

A border services officer at Immigration Secondary has discretion, pursuant to subsection A24(1), to issue a TRP to an inadmissible person seeking entry to Canada if satisfied that entry is justified in the circumstances.

15.1 Process at the POE for persons approved for a TRP by a visa office

- **Background:** Visa offices no longer issue TRPs on IMM 1442B form documents. Visa offices that approve TRP applications will generate the permit electronically through CAIPS for issuance at the POE through FOSS. This process is similar to the present process being used when a study permit or work permit is issued abroad.
- **Letter of introduction:** The applicant arrives at the POE with a letter of introduction from the visa office. The top right-hand corner of the letter has a number preceded by the letter M, which is generated overseas by CAIPS. This number provides access to the appropriate document in FOSS.
- **Facilitation counterfoil:** A TRP issued on an IMM 1442B form is no longer considered valid to board a commercial carrier to Canada. Visa offices abroad issue a facilitation counterfoil [IMM 1346] to foreign nationals who are from a country where a visa is required and have been approved abroad for a TRP. This counterfoil allows the foreign national to board a commercial carrier bound for Canada.
- There are two types of facilitation counterfoils that can be issued to TRP holders (single entry or multiple entry):

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- When a foreign national from a visa-required country has been approved abroad to travel to Canada to receive a TRP, a counterfoil coded PA-1 will be issued by the visa office.
- When a foreign national from a visa-required country has been approved abroad to travel to Canada to receive a TRP that authorizes re-entry to Canada, the foreign national must apply at a visa office abroad for a facilitation counterfoil prior to returning to Canada. This counterfoil will be provided at no cost and be coded PC-1.

Note: Officers at Immigration Secondary must counsel the foreign national in this scenario that, should they leave, they require a counterfoil prior to returning to Canada.

15.2 Issuing a TRP approved by a visa office

The officer at Immigration Secondary will do the following:

- Determine whether the foreign national is still eligible for the TRP by assessing whether there is any material change in circumstances and ascertaining whether any further inadmissibility has arisen since being issued the documentation from the visa office.
- Retrieve information from FOSS using the document number indicated on the letter of introduction.
- Enter the required information into FOSS:
 - To ensure that the correct designated authority issues the TRP, officers must include their title, along with their name or initials, badge number and CBSA user ID (ABC123) on FOSS files and on hard copy files.
 - Insert the foreign national's contact address in Canada into the remarks section of FOSS.
- Print the TRP on an IMM 1442B form and attach the foreign national's passport-sized photograph. Should the foreign national not provide a photograph, it should be taken at the POE.
- Print the TRP Checklist (at Appendix E), complete it and insert it into the TRP paper file.
- Stamp the foreign national's passport.
- Counsel foreign national s from visa-required countries to obtain a facilitation counterfoil abroad if they wish to leave and re-enter Canada.

Note: No fee should be taken as the fee for the TRP has been paid abroad.

15.3 Process for initiating a TRP at the POE

Officers should issue TRPs with caution and only in special circumstances as the document carries privileges greater than those accorded to visitors, students and workers with temporary resident status. It allows the holder to apply inland for a work or study permit and may give access to health or other social services. It also allows a person who remains in Canada continuously for a specified period of time, who does not become inadmissible on other grounds, to be granted permanent resident status. Factors to consider prior to issuing a TRP are listed below in section 15.4.

For cases involving **serious criminal inadmissibility**, a brief email outlining the case details (red flagged to indicate high importance) is to be sent to the CBSA's Case

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Management Branch. Referral to IRCC's Case Management Branch is not required unless the case is high profile or contentious, in which case officers are encouraged to consult with IRCC's Case Management Branch. Detailed remarks should always be included in the appropriate systems when documents are issued.

For cases involving **inadmissibility on health grounds**, officers should send a short case summary by email to IRCC's Immigration Health Services (RNH).

Once the officer has made the decision to issue a TRP, the following procedures must be followed to ensure that all elements of the decision-making process are documented and all policies and procedures are adhered to:

- Create a paper TRP file for each client by printing and completing Appendix D *Temporary Resident Permit Checklist*.
- Enter the required information into FOSS:
 - To ensure that the correct designated authority issues the TRP, officers must include their title, along with their name or initials, badge number and CBSA user ID (ABC123) on FOSS files and on hard copy files.
 - Insert the foreign national's contact address in Canada into the remarks section of FOSS.
- Check validity dates and indicate whether the person shall be allowed to leave and re-enter Canada.
- Collect the \$200 processing fee.
- Print the TRP on an IMM 1442B form and attach a passport-sized photograph (where photographic equipment is available) of the foreign national. Stamp the document so that the stamp covers part of both the document and the photograph.
- Stamp the foreign national's passport.
- Counsel foreign nationals from visa-required countries to obtain a facilitation counterfoil abroad if they wish to leave and re-enter Canada.

15.4 Assessment of need and risk when issuing a TRP

An inadmissible person's need to enter or remain in Canada must be compelling and sufficient enough to overcome the health or safety risks to Canadian society.

Officers must consider the factors that make the person's presence in Canada necessary (family ties, job qualifications, economic contribution, attending an event) and the intent of the legislation (protecting public health and the healthcare system).

Factors to consider

A TRP can be issued for up to three years. Will the TRP be valid for re-entry or for only one trip?		
Criminality	Medical	Other
<ul style="list-style-type: none">• What was the seriousness of the offence?• Did the crime involve physical harm or violence?• What was the	<ul style="list-style-type: none">• Is the person suffering from a communicable or contagious disease?• How severe is the person's anticipated need for health or social services in relation to	<ul style="list-style-type: none">• Is this a first-time visit and is the person unaware of their inadmissibility?• Is there an economic benefit for Canadians if the person is coming

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<p>punishment received for the offence?</p> <ul style="list-style-type: none"> • What are the chances of successful settlement without committing further offences? • Were drugs or alcohol involved? • Is there evidence that the person has been reformed or is rehabilitated? • Is there a pattern of criminal behaviour? • Is the person eligible for a pardon or rehabilitation? • How long has it been since the offence occurred? 	<p>the demand for these services by Canadian residents?</p> <ul style="list-style-type: none"> • What is the cost of the treatment? • How will the costs be covered? • Will provincial public health insurers provide insurance coverage? 	<p>for business reasons?</p> <ul style="list-style-type: none"> • Is this an urgent family situation such as a funeral, wedding or other low-risk compassionate reason? • Is this a minor inadmissibility, such as a student with a valid study permit but an expired visa? • Is there a pattern of previous or multiple violations of the Act or Regulations? • Are there public controversial elements to the case that warrant a referral to National Headquarters? • Is there a settlement risk, as persons continuously on a permit for a specified period of time will be granted permanent residence?
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15.5 FOSS remarks

To ensure that the decision to issue a TRP is made in accordance with policies and procedures, remarks in FOSS must include

- a description of the inadmissibility and its equivalent in the Canadian Criminal Code;
- a description of the compelling reasons to warrant the issuance of the TRP and how the need outweighs the risk:
 - economic contribution,
 - national interest,
 - personal reasons,
 - political visit,
 - ministerial intervention;
- relevant circumstances that prompted a favourable recommendation;
- duration of the TRP as it corresponds with the purpose of the trip;
- a description of the reasons for either granting or refusing re-entry.

Example: John Q. Public, DOB 01JAN1985, born in the USA, has one charge of ... from ... which equates to A...has been issued a TRP because...

15.6 Public policy: Fee exemption for TRPs issued to foreign nationals who are inadmissible on criminality grounds

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As of March 1, 2012, a public policy went into effect wherein certain foreign nationals who are inadmissible under subsection A36(2) are exempt (one time only) from the fee for a TRP.

The fee-exempt TRP may be considered only if all of the following conditions apply:

1. The person was convicted of an offence, not including child pornography or any sexual offence, and received no term of imprisonment as part of the sentence imposed.
2. There have been no other convictions or acts committed that would render the person inadmissible.

The fee exemption is available to those who meet the criteria even if they have been issued a TRP in the past.

Before issuing the TRP, officers must check FOSS to ensure the one-time fee-exempt TRP has not already been granted. Officers must also counsel the foreign national that they are inadmissible to Canada and that they are being facilitated with a one-time only fee-exempt TRP, that a TRP is only issued in exceptional circumstances, and that they should go to a mission outside Canada to either apply for another TRP if they wish to return to Canada in the future, or to apply for individual rehabilitation if they meet the requirements to do so.

Officers are to use the cost recovery code M31 on the TRP screen in FOSS when issuing a TRP in these circumstances.

15.7 TRPs issued in high-profile or contentious cases

The urgent need for the person's presence in Canada should normally relate to the economic or employment security of Canadian citizens or permanent residents. The designated authority must inform the CBSA's Case Management by sending a brief email (red-flagged to indicate high importance) outlining the case details when they issue a TRP to overcome subsection A36(1) and must consult with IRCC's Case Management Branch. Detailed remarks should always be included in the appropriate systems when TRPs are issued.

15.8 National Interest TRPs

In the event that persons approved for a National Interest TRP (NI-TRP) are referred to Immigration Secondary, officers will note the special coding of the TRP (PAX-1) and the notes in FOSS and allow the person to proceed as normal. The notes in FOSS will indicate the details for the authorization of the TRP, mainly that no TRP document will be given to the subject at the POE, and that the holder of an NI-TRP counterfoil issued by the visa office does not require referral to Immigration Secondary at the POE for the sole purpose of processing the TRP.

If the holder of an NI-TRP is referred to Immigration Secondary, an email message should be sent to IRCC's Case Management Branch and the issuing visa office abroad.

15.9 Designated authority to issue a TRP

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Border services officer

- Subsection A36(2), Criminality
- Section A41, Non-compliance
- Section A41, Inadmissible family member

Superintendent

- Subsection A36(1), Serious criminality
- Section A38, Health grounds
- Section A39, Financial reasons

IRCC NHQ only

- Section A34, Security
- Section A35, Human or international rights violations
- Section A37, Organized criminality

IRCC only

- Cancelling a TRP that has been issued to overcome any inadmissibility

15.10 TRP file folder retention and storage

File folders should be stored in a secure cabinet for two years and then destroyed using an approved shredder.

15.11 Validity of TRPs

Pursuant to section R63, a TRP is valid until any one of the following events occurs:

- the permit is cancelled by an officer under subsection A24(1);
- the permit holder leaves Canada without obtaining prior authorization to re-enter Canada;
- the period of validity specified on the permit expires;
- a period of three years elapses from its date of validity.

15.12 Prior authorization to enter Canada

Border services officers should be aware that a TRP holder from a country where a visa is required with prior authorization to re-enter Canada may seek entry to Canada without having obtained a facilitation counterfoil [IMM 1346 counterfoil, coded PA-1 or PC-1] from a visa office. In these cases, the permit holder is to be granted entry to Canada following a favourable examination for identity and admissibility. The fact that they obtained passage to Canada without the facilitation counterfoil (PA-1 or PC-1 counterfoil) does not render the foreign national inadmissible. However, a foreign national permit holder, if not exempt under subsection R52(2), will be inadmissible if they fail to produce a valid passport or travel document.

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Note: For more information on TRPs, see IP 1 and OP 20, *Temporary Resident Permits*.

16 Persons allowed into Canada by law

16.1 Persons under removal order who are refused entry to another country

Persons under removal orders who leave Canada, but are not granted legal permission to be in any other country and subsequently are returned to Canada, by force of circumstances, shall be allowed to enter Canada pursuant to section R39.

Although a border services officer at Immigration Secondary shall allow these persons to enter Canada, they continue to be subject to removal as the removal order remains unenforced as per paragraph R240(1)(d). The border services officer should ensure that the person is in possession of documentation confirming that they have been refused entry to the country to which they were seeking entry. If there has been a lengthy delay between the person's departure and return, the border services officer should investigate to ensure that the person has not been authorized to legally enter another country. It is reasonable to expect that the person should be returning to Canada on the next available flight from the country they had attempted to enter.

If the border services officer is satisfied that the person was not legally authorized to enter another country, the border services officer should counsel the person that they are still under a removal order and that the payment of a deposit, the posting of a guarantee or any conditions imposed remain in effect.

The border services officer may impose new conditions or, without a warrant, detain the person, other than a protected person under subsection A55(2), for removal if the border services officer is satisfied that the person is a danger to the public or would be unlikely to appear for removal.

If the person had been in detention prior to departure, it may be appropriate to detain them again pending further removal arrangements.

For more information, see ENF 11, *Verifying departure*.

16.2 Persons with certificates of departure who are refused entry to another country

If a person has been issued a *Certificate of Departure* form [IMM 0056B] or a *FOSS Full Document Entry – Generic* form [IMM 1442B] on departing Canada and is not granted entry to another country, the border services officer at Immigration Secondary should delete the Certificate of Departure from FOSS and create an NCB indicating that that the person was refused entry to that country and was allowed back into Canada pursuant to paragraph R39(a). The FOSS Remarks should state that the person was not authorized to legally enter another country and has not met the requirements of the departure order. The order remains outstanding and the person is still required to leave Canada. If the 30-day period has not lapsed, the border services officer may consider whether detention is appropriate or whether the person can and will voluntarily effect their departure.

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Note: Officers must include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

For guidelines on Certificate of Departure cases, see ENF 11, *Verifying Departure*.

Seizure of documents

If the person is in possession of any travel or identity documents, the border services officer should consider whether it is appropriate to seize the documents to facilitate their future removal from Canada. The documents would be forwarded to the office handling the removal. See section 9.4 of ENF 12, *Search, Seizure, Fingerprinting and Photographing*, for procedures relating to the seizure of documents.

16.3 Mutual Legal Assistance in Criminal Matters Act (MLACMA)

Under paragraph R39(b), persons returning to Canada under a transfer order made under the *Mutual Legal Assistance in Criminal Matters Act* (MLACMA) shall be allowed to enter Canada. This applies only to persons who, immediately before being transferred to a foreign state under the transfer order, were subject to an unenforced removal order.

The MLACMA and treaties implemented under its authority are used by prosecutors, police agencies and other government investigative agencies responsible for the investigation and prosecution of criminal offences. Assistance provided on a reciprocal basis may include activities such as locating and questioning witnesses, obtaining search warrants, locating suspects and fugitives from justice, obtaining evidence, and transferring persons in custody for the purposes of assisting in investigations or testifying in criminal proceedings.

The MLACMA, proclaimed on October 1, 1988, enables Canada to implement treaties, signed with foreign states that oblige Canada to provide legal assistance in the investigation, prosecution and suppression of criminal offences. The Minister of Justice is responsible for the implementation of treaties and for the administration of the MLACMA.

The provisions of the MLACMA prevail over those of the IRPA, except for statutes limiting or prohibiting the disclosure of information. The effect of the MLACMA and any treaties that flow from it on the CBSA's operations are limited to three areas:

- facilitating the transfer of persons at POEs;
- taking enforcement action against persons who are allowed to enter Canada for the purposes of mutual legal assistance and who violate any of the conditions of an authorization to enter Canada granted by the Minister of Justice; and
- exchanging information.

The MLACMA allows for testimony, in a foreign state, by officers who, during the performance of their duties, encounter persons wanted for crimes in a foreign state or involved in criminal activity. Requests for officers to testify in the United States are usually made by the Office of International Affairs, which is a branch of the US Department of Justice, to the Canadian Department of Justice. The appropriate course to follow in these cases is set out in the MLACMA, the Canada-United States treaty implementing this Act and the related government policies and procedures.

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Officers who are called to testify should be aware of the *Privacy Act*, which prohibits the disclosure of personal information unless an international agreement or arrangement exists. There is also a Statement of Mutual Understanding on Information Sharing between IRCC, the U.S. Immigration and Naturalization Service (INS), and the U.S. Department of State (DOS) (SMU), which allows participants to assist each other in the administration and enforcement of their respective immigration laws by providing information that might otherwise be prohibited under the *Privacy Act*.

Whenever possible, the Minister of Justice will provide notice to the responsible immigration representative, of the place, date and time of arrival of a person coming to Canada for the purposes of mutual legal assistance. The representative will in turn notify the POE concerned to ensure that a border services officer is present to facilitate that person's movement through the POE.

Authorizations to enter Canada

Under section 40 of the MLACMA, the Minister of Justice has the authority to authorize an inadmissible foreign national to enter Canada.

A border services officer at the PIL must refer for a secondary examination, any person seeking to come into Canada under the authority of an Authorization to Enter Canada, issued by the Minister of Justice of Canada.

Persons arriving at POE and seeking to come forward under an authorization signed by the Minister of Justice do not come within the jurisdiction of the CBSA. Such persons are not subject to normal passport and visa requirements, nor can a border services officer examine them to determine admissibility or detain them.

Law-enforcement officers will always escort incarcerated persons from one institution to the other. Persons who are not incarcerated in a foreign state and who are coming to Canada in compliance with a request made by a Canadian investigative or prosecuting authority will be met at the POE by a police officer.

In both cases, the escorting officer or the police officer will present a border services officer at Immigration Secondary with a copy of the authorization issued by the Minister of Justice. The authorization will indicate the person's name, citizenship, the destination, the specific period of time during which the person is authorized to remain in Canada and any additional conditions that the Minister of Justice deems appropriate [subsection A40(1) of the MLACMA].

The conditions may include reporting to a border services officer at Immigration Secondary during the person's stay and may be varied by the Minister of Justice, particularly with respect to the granting of any extension of the time period for which the person is authorized to remain in Canada.

When a border services officer at Immigration Secondary receives a copy of the authorization to enter Canada granted by the Minister of Justice, the border services officer must forward it directly to the regional representative responsible for enforcement. The regional representative will ensure that the authorization is sent on for monitoring purposes to the responsible CBSA office in whose area the person concerned is authorized to stay.

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A person who comes into Canada under an authorization of the Minister of Justice, and who fails to comply with the conditions set out in the authorization is deemed, for the purposes of the *Immigration and Refugee Protection Act*, to be a person who entered Canada as a temporary resident and remains after the period authorized for their stay [subsection 40(3) of the MLACMA].

In such a case, a border services officer at Immigration Secondary has jurisdiction to report the person concerned under section A44 and to proceed with removal action.

Assistance and information

An inadmissible foreign national who is unescorted may approach a POE claiming to be coming to Canada for mutual legal assistance purposes. If so, and if no police officer is on site to meet the person, the border services officer should immediately contact the International Advisory Group, Department of Justice, Ottawa, to request confirmation and advice before proceeding with the case.

Information regarding persons arriving in Canada under the MLACMA is considered sensitive. Interception by unauthorized persons may endanger the safety of the escort officer, inmate or other persons. It is imperative that all information regarding these cases be transmitted through secure channels.

16.4 Court transfer orders

A Canadian court can make a transfer order at the request of a foreign state. The Minister of Justice may approve the transfer of a sentenced inmate from a Canadian prison to a foreign jurisdiction where the inmate is required to testify in a foreign court or to assist otherwise in the investigation of a crime. The transfer order specifies the name and citizenship of the detainee, the place in Canada at which the term of imprisonment is being served and the date on or before which the detainee is expected to be returned to the original place of confinement in Canada.

A border services officer at the PIL must refer for a secondary examination any person seeking to come into Canada on a transfer order of a Canadian court.

Persons returning to Canada under the authority of a transfer order who are not the subject of an unexecuted removal order are subject to examination. The examining border services officer should complete an *Order for Detention* form [BSF 304], indicating the person's place of confinement before they left Canada. The transfer order will provide this information. A copy of the BSF 304 form should be given to the escorting officer.

In the case of a non-Canadian detainee who is a sentenced prisoner in Canada, the escorting officer will give the border services officer at Immigration Secondary a copy of the transfer order on the person's return to Canada. The border services officer must forward this copy of the order to the regional representative of Enforcement, who will ensure that it is forwarded to the responsible CBSA inland enforcement office for monitoring and follow-up as necessary. The CBSA inland enforcement office maintains the copy of the transfer order on file in case evidence is required in the future to the effect that any subsisting removal order at the time of a detainee's transfer to a foreign state was not executed by reason only of the person's transfer.

16.5 Persons extradited to Canada from countries other than the U.S.

When examining a person who is coming to Canada under extradition proceedings from a country other than the U.S., a border services officer should obtain (at a minimum) the following information for control purposes, either from the person being extradited or from the person's escort:

Status	Required Information
Canadian citizen	<input type="checkbox"/> person's name <input type="checkbox"/> proof of citizenship
Permanent resident	<input type="checkbox"/> person's name <input type="checkbox"/> date of birth <input type="checkbox"/> country of citizenship <input type="checkbox"/> date permanent resident status in Canada was obtained <input type="checkbox"/> place where the trial is to be held
Foreign national	<input type="checkbox"/> person's name <input type="checkbox"/> date of birth <input type="checkbox"/> country of citizenship <input type="checkbox"/> place of permanent residence <input type="checkbox"/> place where the trial is to be held

If the extradited person is not a Canadian citizen, a border services officer should forward a memorandum containing all information relevant to the person's entry requirements (including a copy of a temporary residence permit, if applicable) to the CBSA inland enforcement office nearest the place where the trial is to be held, with a copy to the Director of Enforcement in that region.

17 Examining persons who may be medically inadmissible

17.1 Foreign nationals seeking entry for medical treatment

Persons coming to Canada for medical treatment are expected to produce evidence of an agreement with the treating physicians and institutions that clearly indicates the medical condition being treated, the proposed course of treatment and arrangements for payment.

The person must satisfy the border services officer at Immigration Secondary that all associated expenses, including travel and accommodations costs, will be discharged without resulting in any cost to Canadian health or social services.

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Applicants who provide satisfactory evidence that they will pay the costs of their treatment (usually through an agreement with the Canadian treating physician and medical institution) and who meet all other requirements for temporary residence, do not require a TRP to enter Canada.

Where it is determined that the applicant's circumstances and ability to pay have changed since the letter of agreement was issued, the officer may ask for evidence that the care-provider in Canada is aware of the new circumstances and that payment arrangements are not affected.

Pursuant to section 22 of the Canada/Quebec Accord, Quebec's prior consent is required with respect to foreign visitors entering that province to receive medical treatment.

A foreign national who cannot satisfy the border services officer that they will be able to pay for medical services and treatment may be inadmissible pursuant to one of the following allegations:

Legislative reference	Explanation
Paragraph A38(1)(c)	Might reasonably be expected to cause excessive demand on health or social services
Section A39	Financial reasons
Paragraph A41(a) and subsection A16(1)	Non-compliance; unable to produce all relevant evidence and documents that an officer reasonably requires

See ENF 5, *Writing 44(1) Reports*, for more information on procedures for dealing with subsection 44(1) reports on inadmissible persons. See also ENF 2, *Evaluating Inadmissibility*, for more information on determining inadmissibility.

Foreign nationals who are assessed as likely to be a danger to public health or safety are inadmissible under section A38. They do not need to be offered an opportunity to demonstrate that they can meet the costs of treatment unless consideration is being given to issuing a TRP to allow entry to Canada despite the potential danger to public health or safety.

A person suffering from active tuberculosis would remain inadmissible even if they had made all the necessary arrangements for the treatment of a medical condition unrelated to their tuberculosis.

17.2 Foreign nationals who appear ill

The following is an appropriate line of questioning when dealing with a foreign national who appears unwell:

- Are you unwell?
- Have you been treated by a physician recently?
- What were you treated for?
- When were you treated?
- Will you require further treatment during your visit?
- Will you be seeing a physician in Canada?

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If the border services officer is satisfied that the person will not require treatment in Canada, the foreign national may be authorized to enter Canada provided there are no other grounds for inadmissibility.

If the border services officer is not satisfied with the responses and the foreign national insists that they are well, the officer may want to consult with a health specialist. Where appropriate and with prior consultation with a health official, a border services officer may refer the individual for medical assessment or provide an opportunity for the person to withdraw their application. Where a medical examination is performed in Immigration Secondary, a medical officer will provide an assessment under subsection A38(1) to the border services officer.

Border services officers can access a health specialist by telephone at one of the quarantine operations centres listed in Appendix B.

17.3 Foreign nationals living with HIV/AIDS and the excessive demands criteria

It is IRCC's policy that persons with HIV/AIDS do not represent a danger to public health. Therefore, a foreign national with HIV/AIDS seeking entry into Canada would not, in the absence of contrary evidence, be inadmissible pursuant to subsection A38(1) and the border services officer would not normally request a medical examination based on concerns about danger to public health or safety. However, persons living with HIV/AIDS may be medically inadmissible if they have an associated medical condition that is considered a public health risk such as active tuberculosis.

Another concern is the excessive demand that may be placed on health or social services by any applicant experiencing severe or chronic illness. As with any other foreign national making application to enter Canada, persons with HIV/AIDS would not normally be expected to place a demand on health services. It is therefore departmental policy that a diagnosis of HIV/AIDS is not in itself a barrier to visiting Canada. When making a determination, border services officers should only consider whether it is likely that the person will require hospitalization during their visit. The carrying of medication used in the treatment of HIV/AIDS is not grounds for denying temporary residence.

Where the applicant is obviously very ill, the border services officers should get the information needed to determine the likelihood of hospitalization during their visit and any medical arrangements that have been made. If required, the IRCC Health Programs Division can be contacted for advice or information. It would be rare that an applicant living with HIV/AIDS would need to be referred to a medical examination in Immigration Secondary and rarer still that such a person would be assessed as medically inadmissible. If the officer follows the line of questioning outlined above, there should be no need to examine directly any foreign national on their HIV/AIDS status.

18 Options for dealing with inadmissibility and incomplete examinations

A border services officer at Immigration Secondary has a variety of options available when an examination cannot be completed or when a person is believed to be inadmissible.

18.1 Further examination

Situations or circumstances may arise where an adjournment is necessary to ensure a proper examination by a border services officer in Immigration Secondary. For example, a border services officer may require an interpreter or additional documents, information or evidence to determine admissibility. The facilities may be inadequate or personnel may not be readily available to deal with volumes.

Section A23 authorizes a border services officer to allow a person to enter Canada for the purpose of further examination. Subsection R43(2) clarifies that persons who are authorized to enter Canada for further examinations do not acquire temporary resident or permanent resident status.

Mandatory conditions to be imposed

Where the border services officer adjourns an examination under section A23, subsection R43(1) requires that mandatory conditions be imposed:

1. to report in person at the time and place specified for the completion of the examination or the admissibility hearing;
2. to not engage in any work in Canada;
3. to not attend any educational institution; and
4. to report in person to an officer at a POE, if the person withdraws their application to enter Canada.

Persons whose examination has been deferred and who fail to report as required for continuation of their examination are reportable for non-compliance under paragraph A41(a).

18.2 Direction to leave Canada

Section R40 states that an officer who is unable to examine a person who is seeking to enter Canada at a POE shall direct the person in writing to leave Canada. This does not apply to protected persons or refugee claimants. The decision to direct a person to leave is applicable in cases where a person cannot be properly examined due to circumstances within their control (such as physical impairment due to alcohol or drugs).

The border services officer must serve a copy of the *Direction to Leave* form [BSF 503] on the person concerned and on the transporter who brought them to Canada. This document is completed manually and can be put into FOSS using NCB code 22 - Background Information.

The direction ceases to have effect when the person appears again at a POE and a border services officer proceeds to examine the person.

Note: Officers should include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

18.3 Direct back

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Section R41 authorizes an officer to direct a foreign national seeking to enter Canada from the U.S. to return to the U.S. if

- no officer is able to complete an examination;
- the Minister is not available to consider, under subsection A44(2), a report made with respect to the person; or
- an admissibility hearing cannot be held by the Immigration Division.

See section 18.4 on how and when to use the direct back policy for refugee claimants at land POE under exceptional circumstances.

The foreign national will be issued a *Direction to Return to the United States* form [BSF 505] document. The date and location of the examination, the Minister's consideration of the subsection A44(1) report, or the admissibility hearing, are specified on the document.

A person who has been directed to return to the U.S. pending an admissibility hearing by the Immigration Division and who seeks to come into Canada for reasons other than to appear at that hearing, is considered to be seeking entry. If such a person remains inadmissible for the same reasons, and if a member of the Immigration Division is not reasonably available, the person may be again directed to return to the U.S. to wait until a member of the Immigration Division is available. In these circumstances it is not necessary to write a new subsection A44(1) report.

The border services officer at Immigration Secondary should bear in mind that time may be required by the person, to allow for travel to the location where they must appear before a member of the Immigration Division and that the circumstances may warrant authorizing the person entry, at an appropriate time in advance of the scheduled date.

18.4 Direct back and refugee claimants arriving at the land POEs from the U.S.

All efforts should be made to process refugee claimants at the time of arrival. Refugee claimants may only be directed back to the U.S. under exceptional circumstances. In cases where a direct back must occur for an exceptional circumstance, approval must be obtained from Operations Branch, National Headquarters. Also, the Record of Direct Back must be completed and emailed to the Border Operations Directorate, Operations Branch pursuant to the instructions provided below. It should be noted that lack of interpretation services should not be considered "exceptional" or used as the basis for directing refugee claimant back to the U.S. See section 8.5 of this chapter for guidelines on telephone interpretation.

Procedures to be followed before directing a refugee claimant back to the U.S.

Before directing a refugee claimant back to the U.S., border services officers are to fully consider and invoke the following options:

1. Have the claimant wait at the POE until a border services officer is available. To reduce wait times, the following arrangements should be considered: invoke overtime hours or call in a border services officer from a nearby POE;

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2. Detain the refugee claimant, if grounds exist. If arrangements cannot be made to conduct the front-end security screening examination and grounds exist, the claimant may be detained according to current detention procedures.

Decision to direct a refugee claimant back to the U.S. under exceptional circumstances

Exceptional circumstances are defined as situations where all the procedures outlined in 1 and 2 above have been considered and where an examination still cannot be conducted. Exceptional circumstances could also include sudden or unexpected surges of people or a situation where the health, security or well-being of the refugee claimant would be significantly impacted and it would not be appropriate for the claimant to wait at the POE or be detained.

The direct back procedure should not be used in the case of an unaccompanied minor.

Direct back procedure for refugee claimants under exceptional circumstances

Once a border services officer has determined that exceptional circumstances exist, the instructions for directing the claimant back to the U.S., pursuant to section R41, are as follows:

1. The border services officer must obtain approval from the POE Superintendent before directing a refugee claimant back to the U.S.
2. Approval must be obtained from the Duty Executive, Operations Branch, before allowing a direct back to occur. The Duty Executive can be contacted via the Border Operations Centre.
3. The refugee claimant must be provided with a scheduled appointment to return to the POE to have their refugee eligibility examination completed.
4. The appointment to return should be within three working days from the claimant's time of arrival at the POE to avoid the claimant being deemed eligible.
5. The Record of Refugee Claim (RR) screen in the Field Operational Support System (FOSS) should be completed and a non-computer based entry (NCB 12) should be made indicating the date the claimant is scheduled to return to the POE.
6. The refugee claimant should be issued a *Direction to Return to the United States* form [BSF 505] stating the date, time and location of the scheduled examination and the claimant is to be advised accordingly. At the POE where local arrangements are in place or can be made, the border services officer or Superintendent should seek assurances from the U.S. Customs and Border Protection that the claimant can be made available to return to Canada for their scheduled examination.
7. The border services officer must complete the attached Record of Direct Back Template (Appendix C) for all refugee claimants that are directed back to the U.S. The template must be sent within one business day of the direct back or on the next business day for late arrivals with the subject line reading "direct back".

Claimants who fail to return for a scheduled appointment ("no shows")

In cases where a refugee claimant fails to return as directed, the border services officer may find the claimant ineligible and record this in the FOSS Eligibility Results and Referrals (ER)

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screen. This can be done in absentia where the claimant, in failing to submit any evidence, has not satisfied the burden of proof that requires them to demonstrate that they qualify for an exception under the Safe Third Country Agreement.

18.5 Detention for examination

Pursuant to paragraph A55(3)(a), a permanent resident or foreign national may, on entry into Canada, be detained if the border services officer at Immigration Secondary considers it necessary to do so in order for the examination to be completed.

Persons being detained for examination must be informed of the reason for detention and of their right to counsel and their rights under the Vienna Convention. See ENF 20, *Detention*, for more information on the procedures to be followed when detaining a person seeking entry to Canada.

18.6 Allowing the withdrawal of an application to enter Canada

Allowing a person to withdraw their application to enter Canada is a procedure frequently used where a border services officer at Immigration Secondary believes a foreign national is inadmissible to Canada.

Under section R42, the officer who examines a foreign national who is seeking to enter Canada and who has indicated that they want to withdraw their application to enter Canada shall allow the foreign national to withdraw their application, unless subsection R42(2) applies.

Subsection R42(2) provides that a foreign national shall not be allowed to withdraw their application to enter Canada where a report under subsection A44(1) is being prepared or has been prepared, unless the Minister does not make a removal order or refer the report to the Immigration Division for an admissibility hearing.

Subsection R42(3) provides that foreign nationals who are allowed to withdraw their application to enter Canada must appear without delay at a POE to verify their departure from Canada.

Sometimes a person who is being allowed to withdraw their application to enter Canada is authorized to enter Canada pursuant to section A23 when a flight is not immediately available to effect their departure.

Paragraph R37(c) provides that the examination of the foreign national ends only when the officer verifies their departure from Canada.

19 Examinations that may lead to prosecution

Immigration examinations relate to admissibility and, for the most part, the infractions identified during this process result in enforcement actions leading to removal. During the examination, border services officers may encounter serious offences that may warrant further investigation for the purposes of a criminal prosecution. It is important that border

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services officers are aware that the admissibility determination process does not include gathering evidence as part of a criminal investigation.

This section also addresses the arrest of Canadian citizens who are found to have committed an offence under the IRPA.

19.1 Procedures

The border services officer must make a determination of admissibility. In order to make a determination, border services officers collect information under the regulatory examination process. After the admissibility decision has been reached and if the border services officer suspects a criminal offence has occurred, the officer must advise the person of their rights under the Charter and caution them before proceeding with any further examination including questioning the individual. Criminal Investigations Division (CID) should also be contacted before further examination.

Generally, if information is lawfully collected for the purpose of an admissibility examination, that information can be subsequently used as part of a criminal investigation or prosecution. The border services officer must ensure they can clearly articulate to the court when the information was obtained for the regulatory purposes to make the determination of admissibility and when the officer started to examine further for evidence of a potential criminal offence while ensuring the individual's rights were not violated. The officer must be able to articulate how each question asked is relevant to their role in making an admissibility determination and that the individual was advised of their rights under the Charter and was cautioned once the border services officer believed a criminal offence had occurred. Failure to do so can have a negative impact on the outcome of the case. For this reason it is imperative that the border services officer make detailed notes. This is particularly important if the person willingly provides information after being cautioned.

In accordance with any accepted local procedures, and in consultation with their supervisor, border services officers should continue to use their discretion in deciding when to refer a case to the CID or local police for investigation but they must also be aware of the potential consequences of continuing an examination after the administrative process is complete and once a criminal offence is suspected.

Refer to section 4.1 for legislative powers and authorities to examine and seize.

19.2 *Criminal Code* offence discovered by a designated officer

"Designated officer" refers to a border services officer who is empowered under subsection 63.4(1) of the *Customs Act* to enforce provisions of the *Criminal Code* and other federal statutes. As soon as a designated officer has reasonable grounds to believe that a person has committed an offence under the *Criminal Code*, the examination under IRPA is to be temporarily suspended.

A supervisor should be consulted immediately. The CID, the police agency of jurisdiction or the RIO must also be contacted for further guidance as soon as possible. The officer may arrest the individual in accordance with section 495 of the *Criminal Code*. The detainee must be immediately advised of their right to retain counsel and cautioned regarding making statements. Permanent residents and foreign nationals are also to be informed of their right

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to have the nearest representative of their government notified of their arrest and detention as per the Vienna Convention.

The immigration examination resumes once the person is released and taken to a CBSA officer. For further information, refer to sections 19.5 and 19.6 below.

19.3 Arrest and caution

Subject to the limitations set out in subsection 495(2) of the *Criminal Code*, the person may be arrested under subsection 495(1) if there are reasonable grounds to believe he or she has committed an offence. The individual must then be promptly informed of the reasons for the arrest and of the right to retain counsel as well as be cautioned regarding making statements. Permanent residents and foreign nationals must also be informed of their right to have the nearest representative of their government notified of their arrest and detention as per the Vienna Convention. Refer to the *CBSA Enforcement Manual*, Part 6, Chapter 1, *Arrest and Detention* for the policy and procedures.

19.4 Canadian citizens

On rare occasions, evidence of a Canadian citizen committing an offence under the IRPA will be uncovered at the POE. When this occurs, the border services officer will caution and arrest the Canadian under the authority of subsection 495(2) of the *Criminal Code* as noted in section 19.3.

19.5 Note-taking

As officers may be required to provide testimony in court proceedings several months after a referral to the CID or police has been made, diligent note taking is essential to establish why certain actions were taken and what the predominant purpose of the officer's actions was at the time. It is important to note that it is the court's interpretation of the border services officer's testimony of the events supported by the notes that will determine whether the information/evidence obtained during the administrative process is admissible in court. Therefore, notes should include the events leading to the referral to CID or the police and the time the person was placed under arrest and advised of their rights and cautioned. Comments and statements made by the subject must be recorded verbatim. Notes must also identify the officers and supervisor involved in the case, including those implicated in the chain of custody.

The chain of custody, or continuity of evidence, must be ensured in order to meet the rigorous evidentiary standards applied in criminal courts. Material evidence should be removed from the person's possession and taken into custody immediately upon detection. The seized evidence must be kept in view and under the control of the officer. When an assisting border services officer watches over goods or evidence, this officer becomes part of the chain of custody and could be called as a witness: therefore, the assisting border services officer should also maintain notes. Refer to the *CBSA Enforcement Manual*, Part 8, Chapter 1, *Notebooks*, for more information regarding the CBSA officers' policy for use of the notebooks.

19.6 Completing suspended examinations of foreign nationals (refer to section 19.2)

A border services officer may encounter circumstances where it is appropriate to suspend the immigration examination to allow a criminal process to proceed. The subject will be placed under arrest for the offence and advised of their rights and cautioned. The border services officer must issue a warrant for arrest pursuant to subsection A55(1) and an *Order of the Canada Border Services Agency to Deliver Inmate* form [BSF 498] pursuant to section A59 in order to ensure that the examination is completed once the person is released after the criminal proceedings. Regional Inland Enforcement Investigations must be informed to ensure effective follow up.

20 Unauthorized border crossings

A border services officer who becomes aware that a person is attempting an unauthorized border crossing should first notify the RCMP. The primary responsibility for patrolling the border rests with the RCMP. The CBSA Investigations Division should **also** be notified.

The border services officer should also notify a border services officer at Customs Secondary who may wish to investigate whether smuggled and/or inadmissible goods may be involved. POE should work out local action plans with law-enforcement agencies if not already in place.

If no law-enforcement agency is available to assist, the superintendent or officer-in-charge must decide whether to conduct an investigation outside the port. The operational requirements of the POE retain priority, but if border services officers are available, they may be sent to investigate. This would be considered an inland investigation and the policies and procedures relating to in-Canada investigations would apply. See IC 3 for more information relating to in-Canada investigations.

Some points to remember are the following:

- A border services officer should not attempt to investigate an unauthorized border crossing and should refer the unauthorized crossing to Investigations.
- Border services officers who are trained in the use of control and defensive tactics (CDT) and in possession of defensive equipment are expected to manage situations up to such point that the border services officer believes that the limit of their training and personal abilities has been attained. Where these limits have been reached, the border services officer shall permit the individual to proceed into Canada and immediately notify the police force of jurisdiction. For more information see the *CBSA Standard Operating Procedures on Use of Force and Reporting* (paragraphs 2.4.1 to 2.4.3) and the *CBSA Directive on Use of Force and Reporting* (paragraphs 8.6 and 8.8).
- Border services officers should use communication equipment to keep in contact with the POE, should they require assistance.
- Border services officers may consider requesting that the CBSA Investigations lay charges under section A124 if an investigation determines that a person has eluded examination or entered Canada by improper means.

21 The Reciprocal Arrangement

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As of October 30, 2009, the Reciprocal Arrangement is no longer in effect. For more information on removals, please refer to ENF 10, *Removals*.

22 Disembarkation and Roving Teams (DART)

22.1 DART overview

Disembarkation screening refers to the rapid verification by border services officers that airline passengers possess travel documents. Under subsection A15(3), an officer has the authority to board and inspect a vehicle and to examine and record documents carried by a person on board a vehicle.

The purpose of screening disembarking passengers is to identify and segregate persons not in possession of passports or travel documents from the normal flow of passengers. In addition, inadmissible travellers who may pose a risk or who are otherwise inadmissible can be identified through intelligence-based indicators such as identified trends, lookouts and Advanced Passenger Information/Passenger Name Record (API/PNR) information received from Passenger Analysis Units (PAU).

Disembarkation screening also enables a border services officer to identify which airline has carried an improperly documented passenger to Canada and ensures that the CBSA can levy administration fees and removal costs against a liable transporter. When two international flights arrive within a brief period of time, for example, passengers from each flight may intermingle at the PIL. This can make it difficult to determine which carrier brought an improperly documented passenger to Canada and to properly assess liability.

On-board inspections, disembarkation screening, pre-PIL roving and post-PIL activities are part of the examination continuum. At these preliminary checks, the DART officer does not do a full examination and does not make a decision to authorize or deny entry. Instead, the officer verifies that a passenger has the necessary documentation and refers undocumented and suspected inadmissible persons to Immigration Secondary for an in-depth examination. This does not usurp the authority of the PIL as DART referrals do not bypass the PIL.

22.2 DART mandate and objectives

As a part of the CBSA's mandate to manage access to Canada, the mandate of DART is to increase the CBSA's capacity to

- identify improperly documented or otherwise inadmissible foreign nationals;
- associate improperly documented foreign nationals to commercial transporters to promote compliance with the CBSA's administrative programs;
- identify and interdict individuals who pose a threat to the health, safety and security of Canada including persons who pose a security threat, serious criminals, human smugglers, human and international rights violators, and persons engaged in trans-national organized crime; and
- analyze and contribute to the intelligence pool on illegal migration trends and patterns.

The objectives of DART are to

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- use intelligence, trend and statistical analysis and other innovative passenger assessment techniques (i.e., API/PNR referrals) to improve secondary examination referrals;
- identify, intercept and control passengers who pose a danger, security threat, or are a flight risk;
- monitor and promote transporter compliance by linking undocumented persons with transporters;
- assist in the collection of evidence for immigration admissibility reports and prosecutions;
- assist in the collection, analysis and dissemination of intelligence related to travel routes used by illegal migrants and smuggling networks;
- promote cooperation, coordination and the exchange of information with partner agencies;
- maintain a professional, responsive and visible presence to deter inadmissible persons from entering Canada; and
- remove fraudulent documents from circulation thereby preventing their future fraudulent use.

22.3 DART activities

DART activities can vary from one POE to another due to operational requirements, differing priorities and other considerations. Specific DART activities can include

- inspection of airline passengers for possession of passports and travel documents and required visas;
- searches of aircraft for discarded or hidden documentation;
- searches of Canadian Inspection Services (CIS) area for discarded or abandoned documentation;
- seizure of documents;
- roving in CIS area to detect human smugglers and persons discarding documents;
- completing certain examinations and case files on high-risk cases such as suspected human smugglers;
- compilation and maintenance of intelligence data, statistics and daily logs;
- internal information-sharing within the CBSA (local office, other POEs, Criminal Investigations intelligence offices, overseas migration integrity officers [MIO]);
- external information-sharing (Royal Canadian Mounted Police (RCMP), Foreign Affairs Canada (FAC), Office of the Solicitor General, airlines);
- targeting and passenger assessment of flights;
- establishing transporter liability;
- interviewing passengers at Immigration Secondary;
- collection and analysis of officer case notes;
- FOSS queries;
- use of internal communications systems; and
- analysis of statistical and other relevant records.

Although DART officers are border services officers, their primary function is to perform DART activities. When circumstances permit, however, or when a manager or supervisor requires emergency support, DART officers should offer their assistance to the on-site manager or supervisor.

Minimal delay to travelling public

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Disembarkation screening by DART teams should be completed as quickly and efficiently as possible. To ensure that the *bona fide* travelling public is not unduly disrupted or delayed, the port-of-entry manager or supervisor should ensure that an appropriate number of officers are assigned to screen passengers, taking into consideration the different sizes of aircraft and passenger volumes.

22.4 Intelligence-based targeting of airline flights

DART officers propose and confirm flights to be screened with their on-site manager/supervisor based on tactical intelligence identifying flights and persons of interest to the CBSA. Determining which flights to target for disembarkation screening is based on the following:

- lookouts and intelligence information;
- advance passenger information received from the Passenger Analysis Unit;
- trend analysis;
- flights of heightened interest to the CBSA;
- point of embarkation;
- number of passengers on board;
- size of the aircraft;
- estimated time of arrival of the next flight to be monitored; and
- number of officers available to conduct disembarkation checks.

While all carriers should be the target of periodic disembarkation screening, those carriers with a history of carrying undocumented passengers may be subject to more frequent screening.

Specific case information is received and analyzed by DART teams through

- in-person client interviews at Immigration Secondary;
- officer case notes;
- FOSS checks and SSI reports;
- reports provided by the CBSA's Immigration Intelligence Branch;
- statistical reports;
- migration integrity officers located around the world who provide information on illegal migration and smuggling trends;
- Passenger Analysis Units that provide API and PNR information on arriving passengers; and
- other agencies such as the RCMP.

In a reciprocal manner, DART officers contribute to the intelligence pool with trend and illegal traffic information that is used by the migration integrity officer network to interdict inadmissible travellers abroad and deny them boarding on flights to Canada. Information gathered from DART intercepts is entered in the SSI system that is used by the CBSA's intelligence officers in Canada and abroad to monitor and analyse illegal migration and human-smuggling trends. Additionally, DART officers ensure that suspected human smugglers and others in possession of fraudulent documents are referred to the CID. Cases of potential human trafficking should be referred to the CID and Intelligence for further investigation and liaison with partners.

Intelligence support

The DART officers provide an integral operational link within the CBSA's intelligence and migration integrity officer networks overseas. These are major resources for DART teams and can provide valuable assistance in identifying human smuggler routings. The two-way exchange of information also provides the opportunity to interdict inadmissible persons abroad and deny them the opportunity to board flights to Canada.

Regional intelligence officers can provide a variety of services, which may include

- document examination training;
- document analysis;
- emerging trend information; and
- SSI analytical reports.

Migration integrity officers are located in key locations around the world and play an integral part of the screening, identification and interception of improperly documented persons trying to enter Canada. Together with DART officers, they form part of the continuum of the passenger assessment process that begins abroad and continues on arrival in Canada. They are both key elements in Canada's multiple-border strategy.

API/PNR liaison

Passenger Analysis Units use advanced passenger information to identify known inadmissible persons and passenger name records analysis to assess individuals who may pose a potential risk prior to their arrival in Canada. This enables DART officers to use their limited resources more strategically to target flights and persons of interest.

This is key to the intelligence-based targeting of flights by DART officers. While Passenger Analysis Units provide strategic information about the arrival of persons linked to terrorist organizations, criminal activity and other factors that render them inadmissible, DART acts on this intelligence information to intercept inadmissible persons immediately on arrival. Passengers who pose security or flight risks can be quickly intercepted and maintained in a controlled environment pending their examination.

22.5 DART procedures

Notification to partners

With as much lead time as possible and in accordance with local procedures, DART officers should notify partners such as Transport Canada and RCMP officials of the flights they intend to screen and of other pre-PIL roving activities.

Pre-disembarkation procedures

DART officers should verify that proper communication (i.e., radio contact) has been established with the on-site manager or supervisor before leaving the office to perform disembarkation checks. Managers and supervisors should remain in continual contact for updates, emergencies and requests for assistance.

Boarding flights and gate checks

DART officers should, whenever possible, be gate-side at least five minutes before the flight's scheduled arrival time.

DART members will then make a final decision as to which level of disembarkation check is to be performed. The airline representative must be advised of the level of disembarkation.

Furthermore, a request should be made to the airline to ensure that an announcement is made on board the flight to prepare the passengers (levels I and II only). This announcement should clearly indicate to passengers that the CBSA will be doing a check to ensure that they possess the necessary documentation to enter Canada and that they should have their documentation ready for presentation. Only then will the disembarkation screening proceed.

Document screening is conducted on board the aircraft, at a point as close to the exit of the aircraft as possible, or wherever else deemed appropriate by the DART officer. Normally, officers will proceed down the aisle and allow passengers whose documents have been verified to leave the aircraft.

When boarding flights and conducting gate checks, DART officers should be mindful of the fact that they are in an excellent position to pass information along to the officers at the PIL. If a DART check of a passenger does not turn up any immigration concerns, but strong indicators are present that the particular traveller may be of interest to Customs, DART officers should make every effort to inform the officer at the PIL or an officer at Customs Secondary examination of these indicators to assist them in completing their examination.

Level I (boarding the flight): A minimum of two officers is required to do a check at this level.

DART members will conduct level-one disembarkation checks in the following manner:

1. in a two-aisle aircraft, officers should stay parallel to each other in their respective aisles while doing document checks;
2. in a single aisle aircraft, at least one officer checks documents on the left side of the aircraft and another officer, in single file with all other officers, completes the right side of the aircraft; and
3. in a Boeing 747, at least one officer proceeds to "the bubble," while another officer checks documents of the passengers in first class. Once those sections have been completed, officers then proceed to economy class. It is preferable that at least three officers check this type of aircraft.

The officers inspect passports, travel documents and visas for authenticity. If any concerns arise regarding a particular document, the document may be held for further examination. If a person is suspected to be improperly documented, without documentation or otherwise inadmissible, they will be instructed to remain seated, and their documents will be held. In this instance, the flight attendant should be approached to determine if the passenger is travelling alone. If confirmed, the disembarkation check can be resumed. If another person accompanied the passenger, the documents of that passenger should be held as well. A request can be made to the flight attendant to ensure that the passenger and their travelling companion(s) remain seated until the completion of the check.

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Airlines may be requested to hold persons on board an aircraft under the authority of paragraph A148(1)(b) and section R261.

After the disembarkation check has been completed, the officer will

1. search the improperly documented passenger's seat, any companion's seat and the immediate vicinity, including washrooms, to locate any documentation that may be hidden or discarded;
2. determine if the passenger is sitting in their originally assigned seat. If the person is not in their originally assigned seat, search that area as well;
3. complete a BSF 453 form confirming the passenger's presence (see section on improperly documented passengers below for procedures on completing the BSF 453 form); and
4. inform the flight director or crew of the conclusion of the check and thank them for their assistance.

Upon completion of the disembarkation check, DART members will

1. escort the improperly documented arrival (IDA) to the crew counter in the PIL area so that the border services officer at the PIL can complete the primary examination;
2. once the primary examination is complete, escort the IDA to Immigration Secondary; and
3. surrender any documentation and provide details of the case to the on-site manager or supervisor.

DART members will not be obligated to report any individuals, but when circumstances allow, DART officers will offer their assistance to the manager or supervisor.

If no passengers require an escort, but documents have been held, DART officers will proceed to the Immigration Secondary examination area as soon as practicable to explain the rationale for the seizure. If no documents have been held and there is no one to be escorted, team members can proceed directly to the next flight.

Level II (gate screening): A minimum of two officers is required to do a check at this level.

DART members will conduct level-two disembarkation checks in the following manner:

- stand facing each other in the area where the boarding finger meets the terminal building so that the disembarking passengers must pass between the officers; and
- confirm that each person has a passport, or other required documentation.

If a passenger presents satisfactory documentation, the officer will allow the passenger to proceed to the Customs hall.

Depending on the circumstances, the officer may instruct the passenger to wait in an area in plain view of at least one officer or continue to the PIL if one of the following situations occurs:

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1. a passenger is not in possession of any travel documents; (in this instance, the flight attendant should be approached to determine if the passenger is travelling alone and to confirm their seat number. A document search should be conducted as in level I);
2. the officer is not satisfied with documents presented; or
3. the officer suspects the person to be inadmissible for any other reason.

DART members will hold the document and, in the latter case, the passenger may be given a receipt. If required, officers may ask for the assistance of airline personnel to maintain visual contact with those persons instructed to wait.

Upon completion of a disembarkation check, DART members will

1. escort the IDA to the crew counter in the PIL area so that the border services officer at the PIL can complete the primary examination;
2. once the primary examination is complete, accompany the IDA to Immigration Secondary; and
3. surrender any documentation and provide details of the case to the on-site manager or supervisor.

DART members will not be obligated to report any individuals but, when circumstances allow, DART officers will offer their assistance to the manager or supervisor.

If no passengers require an escort, but documents have been held, officers will proceed to Immigration Secondary as soon as practicable to explain the rationale for the seizure.

If no documents have been held, and there is no one to be escorted, team members can proceed directly to the next flight.

Level III (flight observation): A check at this level is performed when only one officer is available.

This type of disembarkation screening is usually completed for low-risk flights, or when flight-arrival times are scheduled close together. This level of screening should also be considered when staffing levels prohibit officers from doing a level I, or level II disembarkation check or, in a special circumstance, where surveillance is required.

DART members will conduct this level of disembarkation check in the following manner:

1. Arrive at the gate five minutes prior to the estimated time of arrival of the flight;
2. Inform the airline representative at the gate that an officer will be observing the flight and will not be requiring passengers to present their passports as they disembark the aircraft. Also, they should specify that no announcement to the passengers should be made;
3. Position themselves at a suitable distance, while ensuring that there is a clear view of the passenger flow from only the targeted flight;
4. While observing the passengers, officers make suitable notes with regards to passengers who may be of interest to Immigration Secondary, and those accompanying them;
5. Officers may ask individual passengers for documentation if there is a strong suspicion that they may have improper documents, or no documents at all;

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6. Generally, it is most beneficial to follow the passengers down to the PIL area. This will allow officers the opportunity for further observation and may prevent the destruction or discarding of documentation in garbage containers or washrooms;
7. If DART members are not proceeding directly to the Immigration Secondary area, they should inform the on-site manager/supervisor of the outcome of the disembarkation. If required, DART members should relay any observations, their location and, if required, request assistance;
8. At the earliest convenient break in disembarkation checks, go to the Immigration Secondary area to link any identified improperly documented arrivals with the carrier used to convey them to Canada, referring to the notes taken while observing the disembarkation, and
9. If an undocumented passenger who the DART officer observed disembarking a flight is encountered in the Immigration Secondary area, the DART officer should complete a BSF 453 form in accordance with procedures. If it is not practical to complete a BSF 453 form, the DART officer shall complete a statutory declaration as soon as possible.

Upon completion of all necessary paperwork, DART members may now advise the on-site manager or supervisor and proceed to the next flight planned for disembarkation.

Roving DART activities

In addition to boarding flights and conducting gate checks, DART officers conduct roving exercises in the Canadian Inspection Services (CIS) area to identify other irregular activities such as the destruction or handing of documents to an escort or smuggler. DART officers engaged in pre-PIL roving may ask a border services officer at the PIL for a specific person to be referred to Immigration Secondary. All DART referrals must pass through the PIL before being sent to Immigration Secondary. DART officers may engage in post-PIL activities when they have targeted suspected human smugglers or other suspected inadmissible persons when new information has come to light after the passenger has cleared the PIL.

Improperly documented passengers

If an improperly documented passenger is encountered, the officer should complete a *Confirmation by Transporter Regarding Passenger(s) Carried* form [BSF 453] at the earliest opportunity, either during disembarkation screening or as soon as the passenger has been escorted to the PIL and to the Immigration Secondary area. The local airline representative is also required to sign the form. If the representative refuses to sign, the DART officer should place a note on the form accordingly. If it is not practical to complete a BSF 453 form, the DART officer shall complete a statutory declaration stating which flight the IDA disembarked and outlining details about the lack of documentation.

Since passengers normally have documents at the time of boarding, it is possible that improperly documented passengers have hidden or destroyed their documents en route. Undocumented and other inadmissible passengers identified by DART must be presented at the PIL for completion of Customs' procedures and then escorted to the Immigration Secondary area for a complete examination.

Once IDAs have been identified, the DART member must ensure that

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1. The appropriate areas of the aircraft are searched for documentation;
2. The flight attendant and IDA have been queried as to any accompanying travellers;
3. An airline representative has signed a *Confirmation by Transporter Regarding Passenger(s) Carried* form [BSF 453], when possible, for the passenger's arrival on their airline, and thanked for their assistance;
4. Should a disembarkation check be performed and IDAs not be identified until their arrival in Immigration or Customs Secondary, a request can be made to the airline staff to visually identify that person and sign the BSF 453 form confirming their presence on their flight. Airline personnel cannot be compelled to sign a BSF 453 form. If airline personnel refuse to sign the IMM 1445B form, a note should be made on the form accordingly. If it is not practical to complete a BSF 453 form, the DART officer shall complete a statutory declaration form [IMM 1392B];
5. The passenger is escorted, if necessary, to the Immigration Secondary area only after they have cleared the PIL and the on-site manager or supervisor is informed; and
6. The CIS area is checked for possible smugglers.

Reporting improperly documented passengers

In all cases where an improperly documented person has been detected, a border services officer should

- Create a physical file ensuring that all secured documents are placed on the file;
- Take a photograph of the person and place it on the file;
- Place copies of any documents found in the person's possession on the file;
- Ensure that the passenger, their carry-on luggage and their checked luggage are searched for documentation; this can usually be done by a border services officer at Customs Secondary;
- Obtain a flight manifest when possible;
- Clearly make a note on the file to indicate whether disembarkation screening has been done so that the person entering SSI data may check "yes" in the disembarkation-screening field; and
- When entering SSI, mark in the comments field "**BSF 453 Completed and on File**" if applicable or advise person entering SSI to do so.

Seizure of documents

All document seizures made by DART officers must be in accordance with the CBSA's seizure policy. For more information on this, see chapter ENF 12, *Search, Seizure, Fingerprinting and Photographing*.

Note-taking

DART officers should make note of the date, time and flight number in their notebooks or DART logs and record any information that may be relevant to the examination or prosecution of passengers. Keeping a written record of this information may be useful if the officer is later called to testify in court. More information on officer note-taking is available in section 14 of ENF 7, *Investigations and Arrests*.

22.6 Communication and cooperation with partners

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Within the CBSA

The CBSA airport staff should keep one another, as well as their regional and national headquarters, informed of DART developments. All such communications should be maintained on the master regional and/or national headquarters' file.

With partners

The CBSA should consult Transport Canada, the RCMP and airline representatives at the POE regarding any changes to disembarkation screening procedures that affect the configuration or operation of local facilities. Good communication among partners is essential to ensure cooperation and to minimize disruption of airport operations and delays to passengers.

DART officers should provide feedback to agencies and individuals who have initiated a DART action, while keeping in mind privacy legislation. This would include timely updates and outcomes from referrals, lookouts or general information that was provided to the DART team. DART officers are encouraged to participate in orientation sessions with partners to further their understanding of the requirements of the *Immigration and Refugee Protection Act* and its Regulations and to promote cooperation and the exchange of information. DART officers should be vigilant for opportunities to engage partners and participate in joint activities that would promote understanding and cooperation.

With the CBSA Integrated Compliance and Enforcement Team (ICET)

The CBSA has Integrated Compliance and Enforcement Teams (ICET), formerly Flexible Response Teams (FRTs), that occasionally operate pre-PIL in a manner similar to the CBSA's DART teams. Both DART and ICET teams report to the Enforcement Division, which is run by the Chief of Enforcement Operations. DART and ICET teams should make every effort to communicate on a daily basis to enhance the understanding of each other's activities and to coordinate the targeting of flights whenever possible. While DART and ICET teams have different mandates and often target different flights, occasionally it will be operationally beneficial for both teams to target the same flights. In these instances, both teams are required to coordinate their activities to enhance effectiveness and to minimize delays to the travelling public. Among other things, ICET officers can assist with document verification and the search for documents aboard aircraft.

With airlines

It is essential that carriers understand and support disembarkation screening. Port-of-entry managers/supervisors should initiate and maintain frequent communications with local airline managers and clearly explain the purpose, procedures, and legislative foundation for disembarkation screening.

With the media

When high-profile, contentious or sensitive cases are identified or are in the national media, border services officers must follow the **procedures** outlined below to inform NHQ.

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1. Inform and consult the immediate manager or supervisor once it is suspected that the case meets the criteria of a high-profile, contentious or sensitive case. More information on the types of cases that are potentially high-profile is available in section 15 of OP 1, *Procedures*.
2. Inform NHQ by sending an email that includes
 - "High-Profile Case" in the subject line;
 - The applicant's name, date of birth, file number and/or client identification number (if applicable);
 - A case chronology, including case-specific details and a summary of the reason(s) the case is, or has the potential to be, high-profile;
 - Any action taken or recommendations to resolve the case (if applicable);
3. Prepare an initial report and follow up, as necessary, to keep information up to date and ensure case notes are detailed and able to feed into briefing documents, if required.
4. After consultation (if necessary), render a decision on the application.
5. Refer any communication-related responsibilities to NHQ Communications. Any cases that have implications in Canada (including those cases that initiate overseas) also need to be coordinated with Communications in the affected region.

22.7 Suspected human smugglers

DART officers must accompany any suspected human smugglers to the PIL, then to the Customs Secondary area for a thorough search. DART officers should identify themselves to the border services officer at the PIL and have the suspected human smuggler referred to both Immigration and Customs Secondary areas.

If evidence of human smuggling is discovered, the DART officer should immediately contact the Criminal Investigations Division. The DART officer should then escort the person to Immigration Secondary for an immigration examination to determine citizenship and admissibility.

If no evidence of human smuggling is discovered, the DART officer should accompany foreign nationals to Immigration Secondary for examination to determine admissibility. Where the person provides satisfactory verbal or documentary proof that they are a Canadian citizen, the border services officer authorizes the person to enter Canada at that point. It is not necessary to refer Canadian citizens to Immigration Secondary if the border services officer is satisfied that they have that status. Documentation may be photocopied at Customs Secondary if necessary for further investigation or intelligence purposes.

DART officers should notify their manager or supervisor of all cases of suspected human smuggling and forward the case information to their Criminal Investigations office and regional intelligence office.

22.8 Potential prosecutions

DART officers are instrumental in identifying and gathering evidence to prosecute human smugglers and traffickers of women and children. DART officers can play a key role in identifying, documenting, assessing, referring and assisting the RCMP or CBSA Criminal Investigations (depending on the charge) in the laying of charges under the IRPA and the *Criminal Code*.

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When there is a concern that charges should be considered, the border services officer and/or the CBSA Enforcement Division should ensure that the CBSA Criminal Investigations and Intelligence are contacted and provided the details of the case. If the RCMP or CBSA Investigations conducts an investigation, the border services officer and/or Enforcement Division should notify their manager or supervisor immediately.

Border services officers must be familiar with the heightened evidentiary requirements for prosecutions. Documents for a criminal charge must be transferred and secured in a manner that is consistent with the *Canada Evidence Act*.

Chroniced statements must comply with the *Canadian Charter of Rights and Freedoms*. See section 7.1 of chapter ENF 12, *Search, Seizure, Fingerprinting and Photographing*, relating to seizure, and the *Canadian Charter of Rights and Freedoms*.

Written declarations should be completed and confirmed with the CBSA Investigator or the investigating RCMP officer. In situations where a statement is taken from a passenger, the responsible officer should make every attempt to make the passenger available for the CBSA Investigator or the RCMP to interview. The declaration form is IMM 1392B.

22.9 Interviewing Canadian citizens and permanent residents

DART officers must be cognizant of the change in the legal obligation of the individual when dealing with permanent residents and Canadian citizens and conduct the interview accordingly. Any statement made in response to an officer's question may be inadmissible in court if the person has not been given the proper cautioning prior to making the statement.

DART officers should utilize these opportunities to inform partner agencies of Immigration Secondary's role with respect to the specific case and the reasons for the actions taken. This may include instances where no action is taken at that specific time. In these instances, DART officers must use the utmost care to ensure that the partner agency does not perceive Immigration Secondary as unwilling to act, but rather understands the inability to proceed due to legal restrictions.

When examining Canadian citizens and permanent residents, DART officers must

1. confirm that the person concerned is in fact a Canadian citizen, or permanent resident;
2. receive permission from the person to conduct an interview, or to examine any documentation in their possession;
3. collect any evidence that may link the person to an improperly documented arrival;
4. if no evidence exists, then conclude the interview and thank them for their cooperation. If evidence of aiding and abetting exists, contact the CID immediately regarding the possible laying of charges. If the investigator attends, properly transfer all evidence relating to the charge to them. If the investigator does not wish to attend, then conclude the interview and thank the person for their cooperation; and
5. in all cases where evidence exists, an NCB should be entered in FOSS detailing the occurrence. Also, all pertinent details should be relayed to Immigration Intelligence.

Note: Officers should include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

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Evidentiary requirements may place DART officers in the best position to complete reports of this nature.

22.10 Training

All DART officers are required to be certified in Control and Defensive Tactics (CDT) training. In addition, DART officers should generally have a minimum of one year's experience as an examination officer at the POE. This is to ensure that the officers are fully aware of the CBSA's mandate, objectives, and policies and have a good working knowledge of operational procedures, internal communication systems and statistical analysis and have recent experience in interviewing clients.

DART officers also need to be aware of the principles and dynamics underlying and motivating human behaviour, the influences of cultural differences, attitudes and behaviour and of departmental interviewing techniques. DART officers are usually required to complete up to two weeks' training that may include courses on

- DART orientation;
- airline responsibilities;
- fraud document detection;
- immigration intelligence orientation;
- Jetway training;
- evidence and criminal charges;
- CSIS profiles and interviewing techniques;
- cross-cultural awareness;
- anger management;
- first aid and CPR;
- note-taking.

22.11 Uniforms and OSAD equipment

DART officers are required to wear their uniform while on duty in accordance with the Uniform Code. DART officers are also required to wear officer safety and disengagement (OSAD) equipment including protective vests, baton and handcuffs when working outside of the secure office setting.

Any divergence from the standard uniform or equipment complement must be approved by local management and must be consistent with national guidelines.

22.12 Statistical and intelligence reports

For audit purposes, POE must keep an accurate record of the flights where a disembarkation screening has taken place. The daily Action Reports should reflect the reason the flights were selected and the number of improperly documented passengers that were identified. These reports may be used as evidence by the Transportation Unit when assessing the fees to be levied on carriers.

DART managers and supervisors are responsible for compiling (from the daily Action Reports) a monthly report of DART activity during the previous month. The monthly reports should contain statistics on the number of disembarkations performed, the number of

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improperly documented foreign nationals intercepted, as well as other DART actions initiated through referrals by Intelligence, Passenger Analysis Units, the RCMP, the airlines or other sources. The reports should be sent by the DART manager or supervisor on a monthly basis to their regional headquarters and to the managers of the Transportation Unit, Enforcement Branch and the Air and Marine Division of the People Programs Directorate, Admissibility Branch at NHQ. All statistical reporting on DART is standardized at the local, regional and national levels to ensure consistency throughout the CBSA.

Every six months, the Transportation Unit at NHQ will provide feedback to the airport DART managers and supervisors and regional headquarters regarding the number of fees they have assessed or maintained as a result of disembarkation screenings and the associated dollar amounts.

NHQ Intelligence Branch will provide regular Intelligence reports to NHQ Ports and Border Management, regional headquarters and airport DART managers and supervisors about overseas interceptions by Migration Integrity Officers. The Intelligence Branch also provides trend analysis reports through the Weekly Intelligence Digest.

23 Alternate means of examination (AME)

Section R38 lists alternative means of examination that may be used instead of appearing at a POE for an examination by a border services officer.

23.1 Trusted Traveller Programs (TTPs)

TTPs are designed to expedite the border clearance process for pre-approved, low-risk travellers. TTPs such as CANPASS, NEXUS, FAST and CDRP are available to U.S. and Canadian citizens and permanent residents. Successful applicants are issued authorizations to present in an alternate manner such as photo identity cards. Persons holding these authorizations are still applying for entry, but their examination will be expedited as background checks regarding criminality and previous immigration and customs infractions have been completed.

See TTPs and Alternate Inspection Services (AIS).

24 Advance passenger information (API) and passenger name record (PNR)

24.1 API information

Subsection R269(1) requires a commercial transporter, upon a border services officer's request, to provide on departure of their commercial vehicle, advance passenger information (API) on all passengers and crew members carried. The information is sent electronically or by fax upon departure of the vehicle from the last point of embarkation, prior to arrival in Canada. This enables the Passenger Analysis Unit (PAU) analysts to conduct security, criminality and FOSS checks on the passengers prior to their arrival in Canada.

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Advanced passenger information consists of the following bio-data elements contained in the machine-readable zone (MRZ) of most passports and travel documents:

- surname, first name and initial;
- date of birth;
- country of issue of passport or travel document or citizenship or nationality;
- gender;
- passport or travel document number; and
- reservation record locator or file number (found in PNR portion).

The API data elements are captured at the time of check-in when the machine-readable zone of the passport or travel document is swiped or entered manually. All other information is contained in the PNR portion.

The API is sent, upon “wheels up” (actual departure time of the inbound flight) to a central database where names are matched against FOSS. Various security and FOSS checks are then conducted by the PAU analysts.

24.2 PNR information

Subsection R269(2) requires a commercial transporter to provide a border services officer access to its reservation system or, upon the border services officer’s request, to provide in writing all reservation information held by the commercial transporter on passengers (including crew members where applicable such as the repositioning of flight crews) to be carried to Canada.

The PNR information available in a transporter’s reservation system is extensive, and the data elements captured will vary for each transporter.

24.3 Disembarkation and Roving Team (DART)

Prior to a commercial vehicle’s arrival in Canada, the PAU will analyse the API and PNR information, enter required lookouts in FOSS, and ensure that the border services officers and the DARTs receive detailed information on persons who may be inadmissible to Canada. The PAUs have the decision-making ability to flag a person, prior to their arrival at the PIL, for referral to Immigration Secondary.

25 Entering data on previously deported persons (PDP) into the Canadian Police Information Centre (CPIC)

Since March 30, 2003, data on PDPs are downloaded into the CPIC database.

The primary objective for entering data on PDPs into the CPIC is to enhance public safety and security by providing peace officers with the necessary information to form reasonable grounds that the person may be arrested without a warrant, as per paragraph A55(2)(a). The CPIC-PDP database will equip peace officers across Canada with information that a foreign national has been deported from Canada, has returned to Canada without authorization as required by subsection A52(1) and, at the time of the person’s removal,

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there were reasonable grounds to believe that the person is a danger to the public or is unlikely to appear.

After a name is queried in the CPIC and it is a direct match to a person found in the PDP database, the information on the CPIC will instruct law enforcement partners to contact the Warrant Response Centre (WRC) for further assistance. For the purposes of arrests made without a warrant under IRPA, peace officers as defined by section 2 of the *Criminal Code* have the authority under paragraph A55(2)(a) to arrest and detain a foreign national without a warrant. For further information on the arrest and detention by peace officers under IRPA, see section 16 of ENF 7, *Investigations and Arrests*.

Information on individuals in the CPIC-PDP database originates from the FOSS-PDP database. For more information on who will be added:

- to the FOSS-PDP database, see section 17.1 of ENF 11, *Verifying Departure*;
- to the CPIC-PDP database, see section 17.2 of ENF 11, *Verifying Departure*.

25.1 Adding a person to the CPIC-PDP database

Adding a previously deported person to the CPIC-PDP database is a two-step process. For information on the completion of the *Certificate of Departure* screen and the completion of the *PDP* screen in FOSS, see section 17.2 of ENF 11, *Verifying Departure*.

25.2 Completion of the *PDP* screen

To the extent that local resources will permit, managers are encouraged to authorize the addition of PDPs removed before March 30, 2003. For further information on determining which cases should be included, see section 17.3 of ENF 11, *Verifying Departure*.

25.3 Removing a person from the PDP database

The previous deport (PREV.DEP) flag in FOSS will be automatically disabled and will electronically remove the information from the CPIC-PDP database only after a border services officer at Immigration Secondary

- completes the *Authority to Return to Canada* screen in FOSS or CAIPS and an Authorization to Return to Canada (ARC) under subsection A52(1) has been granted; or
- a subsequent subsection A44(1) report has been printed in final form in FOSS.

By removing such persons from the CPIC-PDP database, CPIC will provide peace officers with accurate information and ensure that the reasons for an arrest remain valid. The removal of CPIC records will provide a safeguard against the possibility of wrongful arrest and the unnecessary use of valuable law enforcement resources.

25.4 POE procedures for completing the *Authority to Return to Canada* screen

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The completion of the *Authority to Return to Canada* screen is normally the responsibility of visa offices outside Canada through CAIPS. However, on occasion, the POE is required to deal with individuals where completion of an ARC is necessary. Therefore, the *Authority to Return to Canada* screen on FOSS is accessible at POE and the authority to grant or deny the ARC has been designated at the POE to the managerial level (see IL 3, module 9, item 70).

The *Authority to Return to Canada* screen is used to record the processing and disposition (approval or denial) of an authorization to return to Canada, regardless of the type of removal order (i.e., exclusion order cases where written authority is required). When granting an ARC to a previously deported person, an ARC document must be completed in FOSS.

Before a physical copy of the *Authorization to Return to Canada Pursuant to Subsection 52(1) of the Immigration and Refugee Protection Act* form [IMM 1203B] is issued, the applicable cost recovery fees must be collected.

Foreign nationals must repay the following:

- \$750 for removal to the U.S. or Saint-Pierre and Miquelon [R243(a)]; or
- \$1,500 for removal to any other destination [R243(b)].

Payment should be entered into the Travellers Entry Processing System (TEPS), and the K21 form should be completed using the code 48455, Repayment of Removal Costs, as the cost recovery type.

For more information on the repayment of removal costs, please refer to section 35 of ENF 10, *Removals*.

There are currently no exemptions to the cost recovery fee for an ARC. When authorization to return to Canada has been denied, the officer must indicate the denial in the *Authority to Return to Canada* screen in FOSS and issue a *Denial of Authorization to Return to Canada Pursuant to Subsection 52(1) of the Immigration and Refugee Protection Act* form [IMM 1202B].

25.5 Completing the *Authority to Return to Canada* screen in FOSS

A new option has been added to the Full Document Entry (FDE) menu – “AR-AUTH.RET TO CANADA”.

The *Authority to Return to Canada* screen is accessible from the FDE menu in FOSS by choosing the option AR. The person must be an existing client on FOSS and the value entered in the IF EXISTING CASE – IDENTIFY CASE SERIAL NO must be the original serial number for the case (20, 27, NA, NO, 44) and a removal order or PDP document must exist. Once the document number has been entered, the client’s personal information will be pre-filled as well as the type of order and inadmissibility. For more information on completing the *Authority to Return to Canada* screen in FOSS, refer to the FOSS User Guide.

The following fields on the *Authority to Return to Canada* screen are mandatory:

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ARC decision (four values)

01 = Subsection A52(1) authority granted for permanent residence

02 = Subsection A52(1) authority granted for temporary entry to Canada from time to time

03 = Subsection A52(1) authority denied

04 = application abandoned or withdrawn

Removal fees recovered (four values)

0 = N/A (removal costs paid by client or airline)

1 = No (to be selected only when ARC application is denied)

2 = Yes - \$750 (repayment of removals - USA and St. Pierre & Miquelon)

3 = Yes - \$1500 (repayment of removals - other destinations)

Fee code [cost recovery fee] (three values)

FPA = fee paid abroad

FPE = fee paid at POE

FPC = fee paid in Canada

- Decision Date - Enter the date on which the ARC decision was rendered
- CIC/POST - Enter the CIC code for the office that created the ARC
- Officer - Enter the name or Initials of the border services officer who rendered the ARC decision
- Date Signed - Enter the date on which the ARC was signed

An ARC can be completed by a border services officer designated by the responsible manager to have FOSS access to create ARC documents, including completion of the *Decision* field when the decision is to *Deny* (value 3) or the application is abandoned or withdrawn (value 4).

When the decision is to *Grant* (value 1 or 2), the *Decision* field on an *Authority to Return to Canada* screen must be entered by a designated border services officer at a managerial level (see IL 3, module 9, *Inadmissibility*, item 70).

Note: The rationale for the decision to *Grant* or *Deny* must be fully explained in the *Remarks* field.

The completed ARC document will be recorded in the Client History as *Granted* or *Denied*.

25.6 Amending an ARC decision in FOSS

In exceptional circumstances, there may be occasions where a border services officer has issued an ARC and information is later revealed that the document was issued in error. Border services officers should take note that once the *Decision* field has been completed and the document finalized, the ARC cannot be re-opened and amended. This is because a positive decision will have electronically removed the person's record from CPIC-PDP. It is therefore imperative for border services officers to be sure of their decision before completing the screen. The document can be edited until the *Decision* field has been filled. Should unanticipated circumstances occur requiring that the decision be changed after the ARC has been finalized, the following protocol must be followed:

To reverse a positive decision

An email must be sent to Warrant Response Centre (WRC) with a short explanation requesting to re-enable the PREV.DEF flag. A new ARC must be created, choose value 3 (negative decision), copy and paste the email sent to WRC into the *Remarks* field of the new ARC.

To reverse a negative decision

A new ARC must be created, choose value 1 or 2 (positive decision), explain the reason for the reversal in the *Remarks* field. There is no need to advise the WRC.

If the *Decision* field shows "Application abandoned/withdrawn," a new ARC must be created. There is no need to advise the WRC.

25.7 Effect of ARC decisions on the PDP database

Where there is a PREV.DEF flag enabled in FOSS, the effect of the ARC will be as follows:

- a decision to GRANT an ARC will disable the PREV.DEF flag in FOSS, remove the person from the PIL "Hit List" and automatically remove the record from CPIC; or
- a decision to DENY an ARC will maintain the PREV.DEF flag in FOSS, cause the client to remain on the PIL "Hit List" and maintain the record in CPIC.

25.8 Remedial action at ports of entry

Person is in possession of a valid visa or ARC but PREV.DEF flag still enabled

Border services officers at Immigration Secondary must be prepared to deal with a person who is referred from the PIL because a PREV.DEF flag appears against the person's name when queried. When a referred individual is in possession of a valid visa or ARC and is still flagged as PREV.DEF in FOSS, the following remedial action must be taken:

- If an examination of the CAIPS notes satisfies the border services officer at Immigration Secondary that a positive ARC decision was made and the fees

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collected, but the visa officer neglected to create an ARC document in CAIPS on which to record the decision, the officer, upon authorizing entry into Canada, must create an ARC document in FOSS in order to disable the PREV.DEP flag and remove the record from CPIC-PDP.

- If an examination of the CAIPS notes indicates that the visa officer issued a visa or ARC in error, without considering the need for written authorization to return to Canada, the decision to grant or deny such authorization rests with the border services officer at Immigration Secondary.

Note: Officers should include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

Entry denied on other inadmissibility grounds

There may be circumstances where a border services officer at Immigration Secondary will deny entry to Canada on new inadmissibility grounds to a previous deportee who has been authorized to return to Canada by a visa officer (and therefore the PREV.DEP flag will have already been disabled by the ARC). In such circumstances, border services officers should understand that the requirement to obtain authorization to return to Canada has been overcome by the granting of the ARC and they should not be exploring ways in which they can re-enable the PREV.DEP flag.

25.9 Judicious use of subsection A44(1) reports in support of the PDP initiative

Border services officers at Immigration Secondary should carefully consider whether the PDP information should remain on CPIC in the exercise of their discretion when writing a subsection A44(1) report. It must be recognized that the only way to disable the PREV.DEP flag and remove a previous deportee from the CPIC-PDP database is by writing a subsection A44(1) report, except in cases where the disposition is "returned to the US" or "allowed to leave."

Appropriate grounds, in addition to any other reason(s) for inadmissibility, would be paragraph A41(a) for subsection A52(1). For more information, see section 8 of ENF 5, *Writing 44(1) Reports*.

If a subsection A44(1) report has to be deleted from FOSS in order to correct an error [e.g., the subsection A44(1) report was completed against the wrong client ID], it is important that border services officers double-check to ensure that they have not disabled an existing PREV.DEP flag that needs to be restored. Where the PREV.DEP flag has been disabled in error, an email should be sent to the WRC immediately with a full explanation of what occurred and requesting that the flag be re-enabled.

26 Foreign Missions and International Organizations Act (FMIOA)

The *Foreign Missions and International Organizations Act* (FMIOA) extends privileges and immunities to foreign missions and certain international organizations that operate and/or hold meetings or conferences in Canada. Section 5 of the FMIOA provides that an order in

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council (OIC) can be signed by the Governor in Council with respect to certain international organizations. The OIC accords international organizations and their representatives privileges and immunities outlined in certain sections of the *Convention on the Privileges and Immunities of the United Nations* and the *Vienna Convention on Diplomatic Relations*. The OIC can remain permanently in force [such as the OIC that grants privileges and immunities to the International Civil Aviation Organization (ICAO) headquarters in Montreal] or can be signed to cover a specific meeting or conference of an international organization held in Canada (such as G8 meetings). Finally, the OIC can be signed to encompass all of the provisions in section 5 of the FMIOA, or can limit which privileges and immunities will be accorded.

On April 30, 2002, a new subsection of section 5 of the FMIOA came into force. Subsection 5(4) states that "In the event of an inconsistency or conflict between an order [OIC] made under subsection (1) and any of sections 33 to 43 of the *Immigration and Refugee Protection Act*, the order [OIC] prevails to the extent of the inconsistency or conflict." This means that representatives of international organizations covered by an OIC of the Governor in Council are not subject to the inadmissibility provisions of IRPA. These representatives are not to receive any additional documentation, such as TRPs. They shall be granted temporary resident status in the normal manner. If officers feel there is a need to further document the arrival of one of these representatives, a general information NCB can be entered into FOSS.

Note: Officers should include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

NHQ will receive advance notification of all OICs of the Governor in Council, the regions and ports may be given alternate directions when applicable.

27 FOSS enforcement flag amendments

27.1 Background

Thorough POE examinations are necessary to ensure the safety of all Canadian citizens, permanent residents and visitors to Canada. Secondary examinations are, for the most part, considered routine and should not be viewed as an accusation of wrongdoing on the part of the traveller.

Enforcement flags are generated when an immigration enforcement action is recorded in FOSS and is linked to the IPIL database. Upon seeking entry to Canada at the PIL, persons who have been the subject of previous enforcement actions may be automatically referred to Immigration Secondary due to an active enforcement flag contained in their FOSS record. A person may discuss the issue with the POE officer the next time they seek entry into Canada.

Although FOSS will always retain a traveller's immigration enforcement history, it is possible to amend these enforcement flags. The determination to request a FOSS flag amendment is made at the discretion of the border services officer and cannot be guaranteed. All enforcement history remains intact in FOSS, but the flag may be modified from the IPIL database so that it no longer generates a mandatory referral at the PIL. Furthermore, only past enforcement flags will be considered, ensuring that if any enforcement action were to take place in the future, the enforcement flag would automatically be reactivated.

27.2 Considerations

When determining an enforcement flag amendment, the following questions should be considered:

- How often does the traveller visit Canada?
- What was the infraction?
- Is there a history of enforcement actions?
- Was the traveller a minor at the time of the enforcement action?

27.3 Procedures for requesting an amendment to an enforcement flag

Individual officers should not contact the Operations Support Centre directly for an enforcement flag amendment. Officers must follow the procedures below:

1. Check FOSS to ensure that the client has only one client identifier. In cases where more than one client identifier exists, send a FOSS client merge email request to IRCC's Operations Support Centre, as per the instructions in OB PRG-2014-06 before sending a FOSS enforcement flag amendment request.
2. Conduct a CPIC/U.S National Crime Information Center (NCIC) check on each client to ensure that the client is not criminally inadmissible to Canada.
3. Complete the email template below and provide a rationale for why the traveller should not be automatically referred to Immigration Secondary.
4. Forward the template to the superintendent for review.
5. Once reviewed by the superintendent, submit the template to CBSA-ASFC, Enforcement Flags-Indicateurs d'exécution de la loi.

Do not send multiple requests in one email.

27.4 FOSS enforcement flag amendment email format

Subject: SURNAME, given name, FOSS ID XXXXXXXX (no dash or space in FOSS ID)

Family name	
Given name	
DOB	XX-XXX-XXXX
COB	XXX
FOSS ID	XXXXXXXX
CPIC/NCIC results (confirm negative)	
Rationale	
Submitted by border services officer	Name
Reviewed by superintendent	Name and office

Note: Requests not submitted in this format will be returned.

27.5 Procedures for individuals or their legal counsel requesting amendments to flags

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If satisfied that the case is appropriate for a CBSA enforcement flag amendment, officers will initiate the request by sending an email to the superintendent as per the procedures outlined above. Officers should not direct individual travellers or their legal counsel to contact the CBSA Headquarters or email the FOSS Enforcement Flags mailbox.

27.6 Enforcement flags on Canadian citizens

Normally, once a permanent resident of Canada receives citizenship, a Type 11 non-computer based entry (NCB) is entered into FOSS by IRCC. This NCB will automatically remove any enforcement flags that the person may have. Occasionally, border services officers will encounter travellers with enforcement flags who have become citizens, but for whom no Type 11 NCB has been entered into FOSS. Provided the border services officer is satisfied, through documentary evidence and/or a system check, that the traveller is in fact a Canadian citizen, the officer can enter a Type 11 NCB. This NCB should be valid for 100 years from the date it is entered into FOSS.

Note: Officers should include their CBSA user ID (ABC123) and badge number when entering or amending remarks in FOSS.

28 *Open Skies Treaty*

28.1 Background

The *Open Skies Treaty*, signed by Canada in 1992, did not come into effect until 2002. The Treaty allows overflight of one signatory country by another for the purpose of collecting imagery. Under the Treaty, only Russia and Belarus have quotas to carry out inspections in Canada.

Signatory countries may commence their overflight of Canada 72 hours after notifying the Canadian government. CBSA personnel at the POE will be notified by the Temporary Resident Assessments and Intelligence Section (TRAIS) immediately after the CBSA NHQ has been informed of an impending inspection.

On occasion, military personnel will enter Canada via a commercial aircraft in order to join a military aircraft already in Canada. Military personnel may also enter Canada in order to witness the development of film at the end of a Canadian inspection flight or to inspect a Canadian aircraft designated for overflights.

28.2 Temporary resident visa

Temporary resident visas (TRVs) issued for purposes of the *Open Skies Treaty* will usually be issued in Moscow. Russia, Ukraine and Belarus have been advised that TRVs issued under the *Open Skies Treaty* are only to be used for that purpose. Referral to Immigration Secondary is no longer required, and, therefore, the use of the Immigration Secondary stamp overseas can be discontinued.

28.3 Visa office

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Upon receipt of applications under the Treaty, the visa office shall provide a referral to the TRAIS and CSIS for security screening via the Screening Referral Request system (SRR) containing the information required for visa vetting according to the IC 2 chapter (i.e., names, DOBs, position and the expected date of travel if known). In addition, IRCC NHQ and DND can be notified of the visa applications.

28.4 Procedures: border services officers at Immigration Secondary/Designated Immigration officers

Border services officers will no longer be required to inform either IRCC or the CBSA of the arrival of military personnel who have been authorized entry into Canada under the *Open Skies Treaty*.

If a border services officer encounters military personnel seeking entry into Canada under the *Open Skies Treaty* and TRAIS has not notified the POE, the border services officer shall immediately contact the TRAIS manager during business hours or the CBSA duty phone officer for after-hours queries. NHQ will then contact DND to confirm if an inspection has been scheduled.

If it is determined that no inspection has been scheduled, border services officers should examine the military personnel closely to assess their admissibility.

Persons found inadmissible

When a foreign national seeking entry into Canada using an *Open Skies Treaty* TRV has been found to be inadmissible, the border services officer should follow regular inadmissibility procedures. Also, the border services officer shall contact the following individuals:

- the local CSIS liaison officer;
- the Warrant Response Centre requesting the CBSA Immigration Intelligence duty cell-phone number; and
- the Manager of TRAIS or the CBSA duty phone officer for after hour queries.

Appendix A Memorandum of Understanding between IRCC and the CBSA

Appendix B Quarantine Operations Centres

Note: Outside regular business hours, call the 24-hour phone line, which can be found in the *People Processing Manual*.

Public Health Agency of Canada

Quarantine Operations Centres

Halifax International Airport

Box 1624 Bell Boulevard
Enfield, NS B2T 1K2
(902) 873-7656 (Office)
(902) 872-7657 (Fax)
Office Hours: 8:30-16:30, Mon–Fri.

Jurisdiction: All ports in Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland and Labrador

Pierre-Elliott-Trudeau Airport Montreal

975 Romeo Vachon Nord
Suite 427
Dorval, QC H4Y 1H1
(514) 633-3024 (Office)
(514) 663-3031 (Fax)
Office Hours: 8:00-Midnight, Mon.–Fri., and 9:00-19:00, Sat./Sun.

Jurisdiction: All ports in Quebec

Ottawa International Airport

1000 Airport Parkway
Room 1481
Ottawa, ON K1V 9B4
(613) 780-7784 (On Call Pager)
(613) 959-2050 (Office)
(613) 949-1566 (Fax)
Office Hours: 8:30-16:30, Mon.–Fri.

Jurisdiction: All ports in Eastern Ontario

Lester B. Pearson International Airport (Toronto)

P.O. Box 6045
6300 Silver Dart Drive, Terminal 3
Mississauga, ON L5P 1B2
(905) 612-5397 (Office)

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(416) 812-5615 (Pager)
(905) 612-7987 (Fax)
Office Hours: 8:00-Midnight, Mon.–Sun.

Jurisdiction: All ports west of Kingston in Ontario

Calgary International Airport

Box 79
2000 Airport Road NE
Calgary, AB T2E 6W5
(604) 317-1730 (QO Back-up line – Western Zone)
(403) 221-3068 (Office)
(403) 250-9271 (Fax)
Office Hours: 8:30-16:30, Mon.–Fri.

Jurisdiction: All ports in Alberta, Saskatchewan, Manitoba and the Northwest Territories

Vancouver International Airport

YVR P.O. Box 23671
3211 Grand McConache Way
Richmond, BC V7B 0A4
(604) 317-1730 (Marine, and QO Back-up line – Western Zone)
(604) 666-2499 (Office)
(604) 666-4947 (Fax)
Office Hours: 8:00–Midnight, Mon.–Sun.

Jurisdiction: All ports in British Columbia and the Yukon

Appendix C Record of Direct Backs for Refugee Claimants at the Land Border

Record of Direct Backs for Refugee Claimants at the Land Border			
	1	2	3
Name of the refugee claimant (last name, given name)			
FOSS ID (xxxx-xxxx)			
POE			
Name of the superintendent who approved the Direct Back			
Reason for directing back under exceptional circumstances*			
Date and time of Direct Back dd/mm/yy – 00h00			
Scheduled date of return dd/mm/yy			
Remarks			

Have you considered the following arrangements before directing the refugee claimant back?

- Making arrangements to reduce the waiting time for the refugee claimant by:
 - Invoking overtime hours for border services officers to process a claim
 - Calling in border services officers from a nearby POE
 - Using the telephone translation service
 - Detaining the claimant, if grounds to detain exist, to complete the examination

*Exceptional circumstances are defined as situations where all the procedures outlined above have been considered and an examination still cannot be conducted. The well-being of the claimant should be considered in conjunction with the impact on POE operations. When it has been determined that a case can be substantiated as an exceptional circumstance, the border services officer must obtain approval from the POE superintendent before directing a refugee claimant back to the United States.

Appendix D Temporary resident permit (TRP) checklist