**Regulatory Flexibility Act**

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), I have reviewed this rule and, by approving it, certify that this rule will not have a significant economic impact on a substantial number of small entities because of the following factors. This rule applies to individuals and allows individuals to extend the validity period of a Form I–600A during the process of adopting a child. It does not have an effect on small entities as that term is defined in 5 U.S.C. 601(6).

**Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

**Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

**Executive Order 12866**

This rule is not considered by the Department of Homeland Security, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

**Executive Order 13132**

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

**Executive Order 12988: Civil Justice Reform**

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

**Paperwork Reduction Act of 1995**

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting or recordkeeping requirements inherent in a rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

**List of Subjects in 8 CFR Part 204**

Administrative practice and procedure, Immigration, Reporting and recordkeeping requirements.

■ Accordingly, part 204 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

## PART 204—IMMIGRANT PETITIONS

■ 1. The authority citation for part 204 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255, 1641; 8 CFR part 2.

■ 2. Section 204.3 is amended by:

■ a. Adding an ''(i)'' immediately after the paragraph (h)(3) heading to designate existing text as paragraph (h)(3)(i);

■ b. Revising the fourth sentence in the newly designated paragraph (h)(3)(i); and

■ c. Adding new paragraph (h)(3)(ii).

■ The revisions and additions read as follows:

**§ 204.3 Orphans.**

* * * * *

(h) * * *

(3) * * * The approved application shall be valid for 18 months from its approval date, unless the approval period is extended as provided in paragraph (h)(3)(ii) of this section.

* * *

(ii) If the BCIS Director, or an officer designated by the BCIS Director, determines that the ability of a prospective adoptive parent to timely file a Form I–600 has been adversely affected by the outbreak of Severe Acute Respiratory Syndrome (SARS) in a foreign country, such Director or designated officer may extend the validity period of the approval of the Form I–600A, either in an individual case or for a class of cases. An extension of the validity of the Form I–600A may be subject to such conditions as the BCIS Director, or officer designated by the BCIS Director may establish.

* * * * *

Dated: July 31, 2003.

**Tom Ridge,**

*Secretary of Homeland Security.*

[FR Doc. 03–20173 Filed 8–6–03; 8:45 am]

**BILLING CODE 4410–10–P**

## DEPARTMENT OF HOMELAND SECURITY

### 8 CFR Parts 212, 214, 231 and 233

**[CBP DEC. 03–14]**

**RIN 1515–AD36**

### Suspension of Immediate and Continuous Transit Programs

**AGENCY:** Department of Homeland Security (DHS).

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

**SUMMARY:** The Immediate and Continuous Transit program, also known as the Transit Without Visa (TWOV) program and the International-to-International (ITI) program allow an alien to be transported in-transit through the United States to another foreign country without first obtaining a nonimmigrant visa from the Department of State overseas, under section 212(d)(4) of the Immigration and Nationality Act (Act), provided the carrier has entered into an Immediate and Continuous Transit Agreement on Form I–426, pursuant to section 233(c) of the Act. This rule suspends immediate and continuous transit provisions for both the TWOV and ITI programs. The current regulations provide that an alien may be transported through the United States in accordance with the provisions of section 233(c) of the Act. The recent receipt of credible intelligence concerning a threat specific to the TWOV program and additional increased threats of activities against the interests and the security of the United States, has led to the decision to suspend this program.

**DATES:** This interim rule is effective August 2, 2003; written comments must be submitted on or before September 22, 2003.

**ADDRESSES:** Written comments are to be addressed to the Bureau of Customs and Border Protection, Office of Regulations and Rulings, Regulations Branch, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. Submitted comments may be inspected at the Bureau of Customs and Border Protection at 799 9th Street, NW., Washington, DC 20229. Comments are available for public inspection at the above address by calling (202) 572–8768 to arrange for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Sava, Director, Air and Sea Passenger Operations, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 5.4–0, Washington, DC 20229, telephone number (202) 927–0530.

**SUPPLEMENTARY INFORMATION:**

**What Are the TWOV and ITI Programs?**

The Transit Without Visa (TWOV) and International-to-International (ITI) programs were established under authority now vested with the Secretary of Homeland Security (and since delegated to the Commissioner, Customs and Border Protection (CBP)) in 8 U.S.C. 1182(d)(4) and 1223, among other authorities. *See also,* 6 U.S.C. 251(5) (transfer of former Immigration and Naturalization Service (INS) inspection functions to DHS); Department of Homeland Security Reorganization Plan of January 30, 2003, (transfer of former INS inspection functions to Commissioner of Customs, renamed Bureau of Customs and Border Protection), H.R. Doc. 108–32 (2003).

The TWOV and ITI programs allow aliens to transit through the United States without a nonimmigrant visa while en route from one foreign country to a second foreign country with one or more stops in the United States. Air carriers who enter into the TWOV or both the TWOV and lTl agreements, depending on the circumstances, transport these aliens to the United States.

**What Is the Authority for Participation in the TWOV and ITI Program?**

Section 212(d)(4)(C) of the Immigration and Nationality Act (Act) provides authority for the Secretary of Homeland Security acting jointly with the Secretary of State to waive nonimmigrant visa requirements for aliens who are proceeding in immediate and continuous transit through the United States and are using a carrier which has entered into a contract authorized under section 233(c) of the Act. The required contract for participation in the TWOV program is an Immediate and Continuous Transit Agreement, Form I–426 (known as a TWOV Agreement). The required contracts for participation in the ITI program are (1) a TWOV Agreement and (2) an Immediate and Continuous Transit Agreement with provisions for use of an In-Transit Lounge (known as an ITI Agreement).

**Why Is DHS Suspending the Immediate and Continuous Transit Provisions?**

In light of the importance of preventing terrorist acts, and as set forth in Executive Order No. 13284 of January 23, 2003, 68 FR 4075, that grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks in New York, Pennsylvania, and the Pentagon committed on September 11, 2001, pose an immediate threat of further attacks on United States nationals or the United States and constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, it is necessary to suspend the TWOV and ITI programs to protect the security interests of the United States. By this interim rule, the Secretaries of State and Homeland Security will immediately suspend the TWOV and ITI programs while they evaluate the security risks involved in these programs over the next 60 days.

The provisions for aliens eligible for the TWOV program preclude prescreening of passengers prior to their arrival at a port of entry in the United States, by permitting the waiver of nonimmigrant visa requirements for such persons. Accordingly, such provisions shall be suspended immediately to safeguard the interests of the United States by controlling the entry or attempted entry of persons transiting through the United States. Suspension of these provisions will require aliens in immediate and continuous transit to be in possession of valid nonimmigrant visas unless such a requirement is otherwise waived. DHS has established procedures for the handling of passengers in transit to the United States when this rule takes effect and will be working with carriers to minimize disruption.

The suspension of these regulations does not preclude the use of ITI lounges for any other authorized purpose. Foreign government officials may continue to transit the United States pursuant to 8 CFR 212.1(f)(3). During the 60 day review period, DHS will be working with the airlines, airports, foreign governments, and others to develop plans that will ensure security, as well as reviewing comments submitted in conjunction this interim rule.

DHS and the Department of State have received specific, credible intelligence, including from intelligence and law enforcement sources, including the Central Intelligence Agency (CIA) and Federal Bureau of Investigation (FBI), that certain terrorist organizations have identified this exemption from the normal visa issuance procedures as a means to gain access to the United States, or to gain access to aircraft en route to or from the United States, to cause damage to infrastructure, injury, or loss of life in the United States or on board aircraft en route to or from the United States.

Due to this credible security threat, it is necessary to implement certain measures to restrict the transit of aliens through the United States. The waiver of visa requirements for aliens in the TWOV program precludes prescreening of passengers prior to their arrival at a port of entry in the United States. Accordingly, such provisions are suspended immediately to safeguard the national security interest of the United States by restricting the transit of such persons.

The Secretaries of State and Homeland Security may waive passport and visa requirements for certain categories of non-immigrants jointly. These regulations are promulgated jointly with the Secretary of State.

**Comments**

Consideration will be given to any written comments timely submitted. The shortened comment period of 45 days is necessary to receive and consider comments prior to DHS reevaluation of this suspension in 60 days.

**Administrative Procedures Act**

The immediate implementation of this rule as an interim rule, with a 45-day provision for post-promulgation public comments, is based on findings of ''good cause'' pursuant to 5 U.S.C. 553(b) and 553(d)(3). Making the effective date of this rule on the date of signature is necessary for the national security of the United States and to prevent the TWOV and ITI programs from being used to conduct terrorist acts against the United States.

DHS has received credible intelligence that certain terrorist organizations have identified this exemption from the normal visa issuance procedures as a means to gain access to the United States or an aircraft en route to the United States to cause serious damage, injury, or death in the United States. Due to this credible security threat, it is necessary to implement measures immediately to control the entry of persons arriving in the United States.

For these reasons, there is substantial basis for concern that prior publication of a proposed rule for public comment, and the requirement for a 30-day delayed effective date after publication of a final rule, would leave the United States seriously and unnecessarily vulnerable to a specific terrorist threat against persons in the United States during the period of time before the final rule could become effective after

the end of the public comment period and the further 30-day delay.

Accordingly, DHS has determined that prior notice and public comment on this rule, and a delay in the effective date, would be impracticable and contrary to the public interest. Moreover, DHS is making this rule effective upon signature, prior to publication in the **Federal Register**, in view of the urgency of the threats posed to the public safety and security of the United States. Upon signature, DHS will provide actual notice of the suspension of the TWOV and ITI programs to all affected air carriers, and has also provided widespread publicity of this change to the traveling public. Accordingly, there is good cause to publish this interim rule and to make it effective upon its signature. DHS welcomes post-promulgation public comment on this interim rule.

**Regulatory Flexibility Act**

Since this document is not subject to the prior notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*).

**Paperwork Reduction Act**

This interim final rule will not impose additional reporting or record-keeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

**Executive Order 12866**

This rule is considered by the Department of Homeland Security to be a significant regulatory action under Executive Order 12866, section 3(f), Regulatory Planning and Review. The Department, however, concludes at this time that this regulatory action is not economically significant under section 3(f)(1), and specifically requests comments regarding this determination. Accordingly, this regulation has been submitted to the Office of Management and Budget (OMB) for review.

DHS has assessed both the costs and benefits of this rule, as required by Executive Order 12886, section 3(f), and has made a reasoned determination that the benefits justify the costs. Suspending the Transit Without Visa program will safeguard the homeland security interests of the United States by controlling the entry of persons permitted to travel to and through the United States. DHS and the Department of State have received credible intelligence that certain terrorist organizations have identified this exemption from the normal visa issuance procedures to gain access to the United States or an aircraft en route to the United States to cause injury to United States infrastructure or its citizens. We cannot at this time present any quantifiable information regarding this threat.

Costs include the potential for lost airline revenue for those air carriers who have historically carried Transit Without Visa passengers. The air carriers transported 381,065 TWOV passengers and 233,434 ITI passengers to the United States in fiscal year 2002. For the purposes of this analysis, DHS assumes an average price per flight of $800 for TWOV passengers, and requests comments on this assumption. Therefore, the total revenue the airlines earn from these passengers is approximately $300 million per year. With this program suspended, passengers that would otherwise be able to travel through the United States without visas would now be required to obtain visas, which may result in some travelers re-routing their trips away from the United States and fewer travelers transiting through the United States. The re-routing may affect demand for travel on U.S. airlines versus foreign airlines. The diminished number of travelers transiting the United States may also adversely affect retail businesses at certain airports. Note that DHS does not at this time know for how long this program will be suspended, and therefore what fraction of this yearly revenue may be affected by any activity attributable to this rulemaking. This rule calls for a suspension and 60 day review and possible permanent modifications to the program. When DHS has determined the possible permanent impact of these modifications, we will reassess all assumptions and estimations regarding costs.

For the purposes of the Executive Order, costs also include the lost consumer surplus of passengers participating in the TWOV program. This impact, however, depends crucially on the price elasticity of TWOV program flights and the characteristics of reasonable substitutes for these flights, such as obtaining a visa for an otherwise identical itinerary, switching travel out of the United States, or not traveling at all. This cost should be bounded by the time and convenience of obtaining a visa for an otherwise identical flight, which is a viable alternative for these passengers. Currently, the State Department charges approximately $100 per visa application. Without quantifying convenience costs, if passengers simply obtained a visa and did not otherwise alter their flight plans, the cost of the rule to passengers would be approximately $40 million per year. Again, DHS does not know for how long this program will be suspended. Note that this would also be the total cost of the rule, since airlines would not lose any of their revenue under this scenario. We encourage the submission of comments further quantifying the potential economic impact.

**Executive Order 13132: Federalism**

The interim final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

**List of Subjects**

*8 CFR Part 212*

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

*8 CFR Part 214*

Administrative practice and procedure, Aliens, Reporting and record keeping requirements.

*8 CFR Part 231*

Air carriers, Aliens, Maritime carriers, Reporting and recordkeeping requirements.

*8 CFR Part 233*

Air carriers, Aliens, Maritime carriers, Reporting and recordkeeping requirements.

**Amendment of the Regulations**

■ Accordingly, chapter 1 of title 8 of the Code of Federal Regulations is amended as follows:

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

■ 1. The authority citation for part 212 is revised to read as follows:

**Authority:** 8 U.S.C. 1101 and note, 1102, 1103, 1182 and note, 1184, 1187, 1223, 1225, 1226, 1227.

**§ 212.1 [Amended]**

■ 2. The text of § 212.1 paragraphs (f)(1) through (f)(2) are removed and reserved.

## PART 214—NONIMMIGRANT CLASSES

■ 3. The authority citation for part 214 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1102, 1103, 1162, 1182, 1184, 1186a, 1187, 1221, 1223, 1281, 1282, 1301–1305 and 1372; section 643, Pub. L. 104–208, 110 Stat. 3009–708; section 141 of the compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively.

### § 214.2 [Amended]

■ 4. In § 214.2, paragraph (c)(1) is removed and reserved.

## PART 231—ARRIVAL–DEPARTURE MANIFESTS

■ 5. The authority citation for part 231 is revised to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1182, 1221, 1223 and 1229.

### § 231.1 [Amended]

■ 6. In § 231.1, paragraph (b) is removed and reserved.

## PART 233—CONTRACTS WITH TRANSPORTATION LINES

■ 7. The authority citation for part 233 is revised to read as follows:

**Authority:** 8 U.S.C. 1103, 1182, 1223.

### § 233.3 [Removed and Reserved]

■ 8. Section 233.3 is removed and reserved.

Dated: August 2, 2003.

**Tom Ridge,**

*Secretary of Homeland Security.*

[FR Doc. 03–20130 Filed 8–6–03; 4:18 pm]

**BILLING CODE 4820–02–P**

## NUCLEAR REGULATORY COMMISSION

## 10 CFR Part 140

**RIN 3150–AH23**

## Adjustment of the Maximum Retrospective Deferred Premium

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations to increase the maximum secondary retrospective deferred premium for liability insurance coverage in the event of nuclear incidents at licensed, operating, commercial nuclear power plants with a rated capacity of 100,000 kW or more. Currently established at $83.9 million per reactor per incident (but not to exceed $10 million in any 1 year), the maximum secondary retrospective deferred premium is being increased to $95.8 million per reactor per incident (but not to exceed $10 million in any 1 year). The change is based on the aggregate percentage change of 14.2 percent in the Consumer Price Index (CPI) from December 1997 through March 2003. The Price-Anderson Amendments Act of 1988 requires that this inflation adjustment be made at least once each 5 years. The increase in the primary nuclear liability insurance layer, which was increased on January 1, 2003, to $300 million, is also reflected in this rule.

**EFFECTIVE DATE:** August 20, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ira Dinitz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1289, e-mail *ipd1@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** Part 140, ''Financial Protection Requirements and Indemnity Agreements,'' provides requirements and procedures for implementing the financial protection requirements for certain licensees and other persons pursuant to section 170 of the Atomic Energy Act (AEA) of 1954, as amended. Section 140.11(a)(4) specifies the amount of financial protection required of a licensee for a nuclear reactor that is licensed to operate, is designed for the production of electrical energy, and has a rated capacity of 100,000 kW or more. This amount is currently set at the sum of $300 million (which, as the statute requires, reflects the maximum commercial insurance available effective January 1, 2003) and the amount available as secondary financial protection in the form of private liability insurance under an industry retrospective rating plan. The limits on secondary financial protection are currently $83.9 million per reactor per incident (plus any surcharge assessed under subsection 170o.(1)(E) of the AEA) for the maximum standard deferred premium and $10 million per reactor per incident per calendar year.

Section 15, ''Inflation Adjustment,'' of Public Law 100–408, the Price-Anderson Amendments Act of 1988 (''the Act''), enacted on August 20, 1988, requires the Commission to adjust the amount of the maximum standard deferred premium (currently $83.9 million) based on inflation. Section 15 of the Act added a new Section 170t to the AEA, which provides as follows:

t. *Inflation Adjustment.*—(1) The Commission shall adjust the amount of the maximum standard deferred premium under subsection b(1) [Section 170b(1) of the AEA] not less than once during each 5-year period following the date of the enactment of the Price-Anderson Amendments Act of 1988 in accordance with the aggregate percentage change in the Consumer Price Index since—

(A) such date of enactment, in the case of the first adjustment under this subsection; or

(B) the previous adjustment under this subsection.

(2) For purposes of this subsection, the term ''Consumer Price Index'' means the Consumer Price Index for all urban consumers published by the Secretary of Labor.

The inflation adjustment required by section 170t (1)(B) of the AEA must be made at least once during the period from August 20, 1998, to August 20, 2003, and must be in accordance with the aggregate percentage change (since December 1997) in the CPI for all urban consumers, as published by the Secretary of Labor. The aggregate percentage increase in the CPI from December 1997 through March 2003 is 14.2 percent. When the percentage increase is applied to the current $83.9 million maximum retrospective deferred premium, the new maximum retrospective deferred premium will increase to $95.8 million per reactor per incident. The limit of $10 million per reactor per incident per year will be unchanged.

To implement this inflation adjustment, the Commission is revising 10 CFR 140.11(a)(4), effective August 20, 2003, to require large nuclear power plant licensees to maintain, in addition to $300 million in primary financial protection, a new maximum standard deferred premium of $95.8 million per reactor per incident (but not to exceed $10 million in any 1 year). Because this inflation adjustment by the Commission is essentially ministerial in nature, the Commission finds that there is good cause for omitting notice and public comment (in the form of a proposed rule) on this action as unnecessary, in accordance with the Administrative Procedure Act of 1946 (5 U.S.C. 553b).

The next inflation adjustment in the amount of the standard deferred premium will be made not later than August 20, 2008, and will be based on the incremental change in the CPI since March 2003.

### Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L.