DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 204
[CIS No. 2288–03]

RIN 1615–AB07

Extension of Validity Period of Approved Form I–600A, Application for Advance Processing of Orphan Petition

AGENCY: Department of Homeland Security.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Department of Homeland Security (DHS) regulations governing the processing of applications and petitions relating to the immigration of alien orphans. The amendment to the rule establishes that the Director of the Bureau of Citizenship and Immigration Services (BCIS) may, at his or her discretion, extend the validity period for a decision approving an Application for Advance Processing of Orphan Petition (Form I–600A), either in an individual case or for any case within a designated class of cases because of delays in completing the adoption process due to public health concerns relating to the incidence of Severe Acute Respiratory Syndrome (SARS). On May 15, 2003 the China Center for Adoption Affairs (CCAA) of the Peoples Republic of China (PRC) suspended its processing of international adoptions because of the SARS outbreak. While this suspension was in force, the prospective adoptive parents were unable to complete the adoption process in the PRC. The CCAA lifted the suspension on June 24, 2003. This amendment will permit the BCIS to more readily accommodate prospective adoptive parents who have been unable to comply with the requirement to file a Petition to Classify Orphan as an Immediate Relative (Form I–600) within 18 months of the Form I–600A approval date. Therefore, this rule would permit the BCIS to accommodate the ability of prospective adoptive parents to comply with the requirement to file the Form I–600 by the expiration date of the Form I–600A. This rule will benefit the parties affected by the rule by permitting the BCIS to accommodate those 1600As that have been unable to meet the SARS outbreak. This amendment will ensure that the BCIS is able to respond to this unusual or extraordinary situation that may have impeded the ability of prospective adoptive parents to comply with the requirement to file the Form I–600A approval date as a result of delays in the adoption process resulting from the SARS outbreak. This amendment will provide for the extension that may include, but are not limited to: an explanation of the reasons necessitating an extension, the updating of the home study, renewal of fingerprints, and any other factor relevant to initial approval of a Form I–600A.

Good Cause Exception

This interim rule is effective August 7, 2003, though the Department of Homeland Security (DHS) invites post-promulgation comments and will address any such comments in a final rule. For the following reasons, the DHS finds that good cause exists for adopting this rule without the prior notice and comment period ordinarily required by 5 U.S.C. 553(b)(B) and (d)(3). First, this rule is a rule of agency practice and procedure, and so may be adopted without prior notice and comment. Additionally, this rule will benefit the parties affected by the rule by permitting the BCIS to accommodate those parents who have been unable to meet the SARS outbreak.

Accordingly, the DHS finds that it is impracticable and contrary to the public interest to adopt this rule with the prior notice and comment period normally required under 5 U.S.C. 553(b).
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
§ 204.3 Orphans.
(a) * * * * *
(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. * * * *