

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 Advanced 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.

DATES: *Effective date:* This interim rule is effective August 7, 2003.

Comment date: Written comments must be submitted on or before October 6, 2003.

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division, Department of Homeland Security, 425 I Street NW., Room 4034, Washington, DC 20536. To ensure proper handling, please reference CIS No. 2288-03 on your correspondence. The public may also submit comments electronically to the DHS at rfs.regs@dhs.gov. When

submitting comments electronically you must include CIS No. 2288-03 in the subject box. Comments are available for public inspection at the above address by calling (202) 514-3291 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT:

Stephen Heller, Adjudications Officer, Bureau of Citizenship and Immigration Services, 425 I Street NW., Room 3040, Washington, DC 20536, telephone (202) 514-4754.

SUPPLEMENTARY INFORMATION:**Background**

The first step for many United States citizens who decide to adopt a child from abroad is to file an Application for Advanced Processing of Orphan Petition (Form I-600A) with the Bureau of Citizenship and Immigration Services (BCIS). In support of this Form I-600A, the prospective adoptive parents (applicants) must submit, among other documents, a home study prepared by a party licensed or otherwise authorized under the law of the State of the orphan's proposed residence. The home study is a process for screening and preparing applicants who are interested in adopting an orphan from another country. The applicants, and all adult members of the applicants' household, must also be fingerprinted by BCIS after receipt of a properly filed Form I-600A (8 CFR 204.3(c)(3)). Fingerprint clearances from the Federal Bureau of Investigation (FBI) are considered to be valid for a period of 15 months.

If BCIS is satisfied that the applicants will provide proper care for an orphan, BCIS approves the Form I-600A. The approved Form I-600A is valid for 18 months from its approval date (8 CFR 204.3(h)(3)). During this 18-month validity period, the applicants must identify an orphan that they wish to adopt and file a Petition to Classify Orphan as an Immediate Relative (Form I-600). If the applicants fail to file a Form I-600 during the 18-month validity period, the approved Form I-600A is deemed abandoned (8 CFR 204.3(h)(7)) and any Form I-600 that is then filed shall be denied (8 CFR 204.3(h)(13)).

What This Rule Accomplishes

This rule provides in new 8 CFR 204.3(h)(3)(ii) that the BCIS Director, or a designated officer, may, at his or her discretion, extend the validity period for a Form I-600A approval, either in an individual case or for a group of similarly situated individual cases where prospective adoptive parents 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 as a result of delays in the adoption process resulting from 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-600 by the expiration date of the Form I-600A. For example, in May 2003, the Peoples Republic of China (PRC) suspended its own processing of international adoption cases, due to public health concerns related to the outbreak of Severe Acute Respiratory Syndrome. During that suspension period, some prospective adoptive parents' I-600A approvals expired. Under existing regulations, the BCIS was unable to extend the validity of those I-600As so that the prospective adoptive parents could complete the adoption process once the PRC lifted the suspension. New 8 CFR 204.3(h)(3)(ii) provides BCIS the ability to accommodate prospective adoptive parents with expired or soon to expire I-600. In making a decision to extend the validity period for a Form I-600A approval, the BCIS Director, or a designated officer, may set conditions 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 parents who have been unable to meet the Form I-600 filing deadline because of 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).