

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[INS No. 1669-94]

RIN 1115-AD77

Waiver of Certain Types of Visas

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Immigration and Naturalization Service (the Service) regulations which permit district directors, in individual cases, to waive nonimmigrant visa or passport requirements under section 212(d)(4)(A) of the Immigration and Nationality Act (the Act), if satisfied that a nonimmigrant alien is unable to present these documents because of an unforeseen emergency. The rule will clarify that carriers are liable for fines imposed under section 273(a) of the Act for bringing nonimmigrants to the United States who do not have a valid passport or nonimmigrant visa, or border crossing identification card, even if a waiver of these documents is granted by the district director at the time of admission into the United States. This change is necessary to conform the language of the regulations with the statutory requirement that a fine be imposed when a nonimmigrant is transported to the United States without the proper documentation.

DATES: Written comments must be submitted on or before June 13, 1995.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536. Please include INS number 1669-94 on your correspondence to ensure proper and timely handling.

FOR FURTHER INFORMATION CONTACT: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division,

Immigration and Naturalization Service, 425 I Street NW., room 7228, Washington, DC 20536, telephone number (202) 616-7499.

SUPPLEMENTARY INFORMATION: Section 212(d)(4)(A) of the Act allows the Attorney General to waive the requirement that a nonimmigrant alien be in possession of a visa or passport if he or she is unable to present the necessary documents due to an unforeseen emergency. Section 273(b) of the Act imposes a fine upon a carrier for bringing aliens into the United States without proper documentation. The wording of the current regulation at § 212.1(g) has the unintended effect of relieving the carrier of fine liability if the district director granted a waiver of the nonimmigrant visa or passport requirement. In *Air BVI Ltd., Flight BL 410*, (BIA Unpublished Decision No. SAJ 10/50.670, August 26, 1992), the Board of Immigration Appeals (the Board) characterized the current regulation as creating a "blanket" waiver because of language in the regulation stating that "a visa * * * is not required." The Board bases its decision on whether an alien's admission with a waiver relieves the carrier of liability to find by interpreting the regulations in effect at the time involved. *Matter of Plane "CUT-604"*, 7 I&N 701 (BIA 1958). If the regulation creates a blanket waiver, by stating that no visa is required, no fine liability is incurred by the carrier. By contrast, a regulation that provides an "individual" waiver, by requiring a visa and a passport to be presented by a nonimmigrant, but providing for a waiver of this requirement, will not relieve the carrier of fine liability.

The rule proposes to remove the language, "A visa and a passport are not required of a nonimmigrant * * *" and clarifies that even when the district director waives the documentary requirements in the exercise of his or her discretion, on a case-by-case basis, and admits such a nonimmigrant to the United States, such admission will not eliminate the carrier's fine liability for bringing that alien to the United States without proper documentation (*Matter of Plane "CUT-604"*). The fine procedures at 8 CFR part 280 remain applicable and require no change.

This rule further proposes to amend § 212.1(g) by removing the provision regarding waivers of the visa

requirement granted pursuant to section 212(d)(4)(A) of the Act in the case of a national or resident of Cuba. This action is being taken because this provision is obsolete.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have significant economic impact on a substantial number of small entities. This rule merely removes any ambiguity between the current regulations and section 273 of the Act.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, 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 12612

The regulation proposed herein 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 Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12606

The Commissioner of the Immigration and Naturalization Service certifies that she has assessed this rule in light of the criteria in Executive Order 12606 and has determined that this regulation will not have an impact on family well-being.

Paperwork Reduction Act

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The OMB control number for this collection is contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects in 8 CFR Part 212

Aliens, Documentation,
Nonimmigrant, Passport and visas,
Waivers.

Accordingly, part 212 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

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

1. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1225, 1226, 1228, 1252; 8 CFR part 2.

2. In § 212.1, paragraph (g) is revised to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(g) *Unforeseen emergency.* A nonimmigrant seeking admission to the United States must present an unexpired visa, and passport valid for the amount of time set forth in section 212(a)(7)(B) of the Act, or a valid border crossing identification card at the time of application for admission, unless the nonimmigrant satisfies the requirements described in paragraphs (a) through (f) and (i) of this section. Upon a nonimmigrant's application on Form I-193, a district director at a Port-of-Entry may, in an exercise of his or her discretion, on a case-by-case basis, waive the documentary requirements, if satisfied that the nonimmigrant cannot present the required documents because of an unforeseen emergency. The district director or the deputy Commissioner may at any time revoke a waiver previously authorized pursuant to this paragraph and notify the nonimmigrant in writing to that effect.

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Dated March 15, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95-9272 Filed 4-13-95; 8:45 am]

BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AF20

Production and Utilization Facilities; Emergency Planning and Preparedness Exercise Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to revise its emergency planning regulations. The proposed rule would amend the current regulations governing domestic licensing of production and utilization facilities, as necessary, to facilitate greater flexibility in the licensee's emergency preparedness training activities during the "off-year" for implementing the current requirement for annual exercise of the onsite emergency plan which is conducted to evaluate major portions of licensees' emergency response capabilities. The proposed amendment would preserve the existing requirement that each licensee, at each site, exercise biennially with full participation by States and local governments within the plume exposure pathway emergency planning zone (EPZ); would reduce from annual to biennial the required frequency of exercise of the licensee's onsite emergency plan (which may be included in the biennial full participation exercise); would require licensees to ensure that adequate emergency response capabilities are maintained during the interval between biennial exercises by conducting drills, including at least one drill involving a combination of some of the principal functional areas of the licensee's onsite emergency response capabilities; and would require licensees to continue enabling State and local governments in plume exposure pathway EPZs to participate in exercises and in drills in the interval between the biennial full participation exercises. By undertaking this rulemaking, the Commission would grant, in part, a petition for rulemaking submitted by Virginia Electric Power Company on December 9, 1992.

DATES: The comment period expires July 13, 1995. Comments received after this date will be considered if practical to do so, but only those comments received on or before this date can be assured of consideration.

ADDRESSES: Comments may be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attn: Docketing and Service Branch. Hand deliver comments to 11545 Rockville Pike, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Copies of comments received may be examined at the Commission's Public Document Room at 2120 L Street NW (Lower Level), Washington, DC.

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The

bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on the rulemaking are also available, as practical, for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number (800) 303-9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT-100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321-3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321-3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.