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## DEPARTMENT OF HOMELAND SECURITY

### 8 CFR Part 214

RIN 1651-AB38

#### Period of Admission and Extensions of Stay for Representatives of Foreign Information Media Seeking To Enter the United States

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Department of Homeland Security's ("DHS" or "the Department") regulations to achieve greater reciprocity between the United States and the People's Republic of China (PRC), with the exception of Hong Kong Special Administrative Region (SAR) or Macau SAR passport holders, relative to the treatment of representatives of foreign information media of the respective countries seeking entry into the other country. For entry into the United States, such foreign nationals would seek to be admitted in I nonimmigrant status as bona fide representatives of foreign information media. These changes apply to foreign nationals who present a passport issued by the PRC, with the exception of Hong Kong SAR and Macau SAR passport holders. Under this rule, DHS will admit such aliens in I nonimmigrant status, or otherwise grant I nonimmigrant status to such aliens, only for the period necessary to accomplish the authorized purpose of their stay in the United States, not to exceed 90 days. The rule also allows such visitors to apply for extensions of stay.

**DATES:** This rule is effective on May 8, 2020.

**FOR FURTHER INFORMATION CONTACT:** Mr. Paul Minton, Program Manager, Enforcement Programs, Office of Field Operations, U.S. Customs and Border

Protection, at 202-344-1581 or [Paul.A.Minton@cbp.dhs.gov](mailto:Paul.A.Minton@cbp.dhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Purpose

###### A. Legal Authority

The Secretary of Homeland Security (Secretary) has broad authority to administer and enforce the immigration and naturalization laws of the United States. See section 103(a)(1) of the Immigration and Nationality Act of 1952 (Pub. L. 82-414, 66 Stat. 163), as amended (8 U.S.C. 1103(a)(1)) (INA); see also 6 U.S.C. 202. The Secretary is authorized to establish such regulations as he or she deems necessary to carry out this authority under the immigration laws. See INA 103(a)(3) (8 U.S.C. 1103(a)(3)). Section 214(a)(1) of the INA authorizes the Secretary to prescribe regulations specifying the period of admission, as well as any conditions, for the admission of nonimmigrants to the United States.<sup>1</sup> 8 U.S.C. 1184(a)(1).

The Secretary has authorized the Commissioner of U.S. Customs and Border Protection (CBP) to enforce and administer the immigration laws relating to the inspection and admission of people seeking admission to the United States, including the authority to make admissibility determinations and set the duration, terms, and conditions of admission. See Delegation Order 7010.3, II.B.5 (Revision No. 03.1) (Sept. 25, 2019). U.S. Citizenship and Immigration Services (USCIS) is authorized to consider applications for a change of nonimmigrant status under section 248 of the INA, 8 U.S.C. 1258, including establishing the authorized period of stay in the new nonimmigrant status. See 6 U.S.C. 271(b); 8 CFR part 248. USCIS also is authorized to consider applications for an extension of stay in nonimmigrant status. See 6 U.S.C. 271(b); 8 CFR 214.1(c).

Section 101(a)(15)(I) of the INA establishes the I nonimmigrant classification for aliens wishing to visit the United States temporarily as representatives of foreign information media. In order to qualify as a nonimmigrant under the I classification,

<sup>1</sup> See also sections 402, 1512, and 1517 of the Homeland Security Act of 2002 (Pub. L. 107-296, 116 Stat. 2142, 2187), as amended (6 U.S.C. 202, 552, and 557) (regarding transfer of authority to enforce immigration laws and prescribe regulations necessary to carry out that authority from the Attorney General to the Secretary).

an alien must be a bona fide representative of foreign press, radio, film or other foreign information media having its home office in a foreign country, and must be seeking to enter the United States solely to engage in such employment. See INA 101(a)(15)(I) (8 U.S.C. 1101(a)(15)(I)). In addition, the statute expressly requires that such a visa or status be provided "upon a basis of reciprocity." *Id.*; see also INA 214(a)(1) (providing that the admission of nonimmigrants to the United States "shall be for such time and under such conditions as the [Secretary] may by regulations prescribe") (8 U.S.C. 1184(a)(1)).

###### B. Current Admission Process for I Visa Holders

Foreign nationals visiting the United States temporarily as representatives of information media must possess a nonimmigrant I visa for admission. INA 101(a)(15)(I), 212(a)(7)(B)(i)(II) (8 U.S.C. 1101(a)(15)(I), 1182(a)(7)(B)(i)(II)). In order to obtain an I visa, foreign travelers must generally apply for a visa with the U.S. Department of State and obtain the visa prior to traveling to the United States. *Id.*; see also INA 221-222, 273(a) (8 U.S.C. 1201-1202, 1323(a)); 22 CFR 41.52, 41.101-41.122. An I visa holder seeking entry into the United States must appear at a port of entry and establish, to the satisfaction of the CBP officer, that he or she is admissible as an I nonimmigrant. See INA 235(a), (b)(2)(A), and 291 (8 U.S.C. 1225(a), (b)(2)(A), and 1361); 8 CFR 212.1, 235.1(f)(1); see also INA 221(h) (providing that issuance of a visa does not entitle the visa holder to admission to the United States). The alien must also be otherwise admissible and not subject to other grounds of inadmissibility. See generally INA 212(a) (8 U.S.C. 1182(a)). The CBP officer will inspect the traveler, including reviewing his or her travel documents, collecting his or her biometric data (*i.e.*, fingerprints and photograph), interviewing the traveler and, if applicable, collect any applicable forms or fees. INA 235(a) (8 U.S.C. 1225(a)); 8 CFR 235.1(f) and (h).

The period of time the traveler is authorized to remain in the United States is referred to as the period of admission or the period of stay. Unless otherwise exempted, each arriving nonimmigrant who is admitted to the

United States will be issued a Form I-94 as evidence of the terms of admission. See 8 CFR 1.4 and 235.1(h).<sup>2</sup>

### C. Current Period of Admission and Extensions of Stay for I Visa Holders

The Immigration and Nationality Act of 1952 established the I visa category as “a new class of nonimmigrants and is designed to facilitate, on a basis of reciprocity, the exchange of information among nations. It is intended that the class is to be limited to aliens who are accredited as members of the press, radio, film or other information media by their employer.” S. Rep. No. 82-1137 at 21 (1952); H.R. Rep. No. 1365 at 45 (1952).

The current DHS regulation at 8 CFR 214.2(i), promulgated in 1985, see *Nonimmigrant Classes; Admission Period and Extensions of Stay*, 50 FR 42006-01 (Oct. 17, 1985), specifies that an alien “may” be authorized admission for the duration of his or her employment. DHS and its predecessor the Immigration and Naturalization Service (INS) have long interpreted the regulation to provide that I visa holders are authorized admission for the duration of status, rather than for a set period of time. See generally Memorandum, INS Office of the General Counsel, Genco Op. No. 94-23, 1994 WL 1753127, at \*3 (May 9, 1994) (“[R]epresentatives of information media are not currently restricted by statutory language to any temporary period. The regulations authorize their admission for ‘duration of status.’”). Duration of status refers to the period of time in which the alien continues to meet the terms and conditions of their admission, including that they remain employed with the same employer and use the same information medium. 8 CFR 214.2(i). The regulation states that the admission requires that the alien maintain the same information medium and employer until “he or she obtains permission” to change either. *Id.*

While an interpretation of the regulation requiring admission for the duration of status is reasonable, it would also be reasonable for DHS to interpret the regulation to allow DHS, in its discretion, to admit I visa holders for a set duration of time.<sup>3</sup> The Department

<sup>2</sup> The term issuance includes the creation of an electronic record of admission, or arrival/departure by DHS following an inspection performed by an immigration officer. See 8 CFR 1.4. In the case of air or sea arrivals, CBP issues the Form I-94 electronically. The traveler may retrieve it through the internet at <http://www.cbp.gov/I-94>. CBP currently issues a paper Form I-94 to travelers arriving at land border ports of entry.

<sup>3</sup> In 1985, the INS promulgated a final rule changing the admission period for I visa holders from one year to the current standard, duration of

is promulgating this final rule to enhance the notice provided to prospective I visa holders presenting passports issued by the PRC, with the exception of Hong Kong SAR and Macau SAR passport holders.

### D. Purpose and Summary

The INA generally authorizes the admission of a foreign information media representative in I nonimmigrant status if the alien is admissible and meets the requirements described in section 101(a)(15)(I) of the INA. Among those requirements is that I visas be provided “upon a basis of reciprocity.” The United States has for decades permitted individuals who are representatives of foreign information media outlets to remain in the United States for the entirety of the period that the individual is engaged in that activity.

Based on the treatment by the PRC of foreign journalists, including U.S. citizens, DHS has determined that the PRC is not treating journalists in a manner that admitting I visa holders for the duration of status is sufficiently reciprocal to the treatment accorded by the PRC to U.S. journalists or in alignment with U.S. foreign policy. Information received from the Department of State, as well as open source information, demonstrates a suppression of independent journalism in the PRC, including an increasing lack of transparency and consistency in the admission periods granted to foreign journalists, including U.S. journalists. According to the Foreign Correspondents’ Club of China (FCCC) Report on Media Freedoms in 2019, the PRC has forced out nine foreign journalists since 2013, either through expulsion or by non-renewal of visas; three Wall Street Journal reporters were expelled from China following an opinion piece criticizing the country’s

status. See *Nonimmigrant Classes; Admission Period and Extensions of Stay*, 50 FR 42006-01, 42008 (Oct. 17, 1985). The language used in the regulation was (and remains) “an alien . . . may be authorized admission for the duration of employment.” *Id.* (emphasis added). By contrast, the INS provided in a 1978 rule that the “[t]he period of admission of a [N F] nonimmigrant student shall be for the duration of status in the United States as a student if the information on his/her form 1-20 indicates that he/she will remain in the United States as a student for more than 1 year, and if he/she agrees to keep his/her passport valid at all times for at least 6 months.” *Admission of Nonimmigrant Students for Duration of Status*, 43 FR 54618, 54620 (Nov. 22, 1978) (emphasis added). The current I nonimmigrant status regulation thus could reasonably be interpreted as allowing, but not requiring, the admission of I visa holders for the duration of status. See, e.g., *Kingdomware Techs., Inc. v. United States*, 136 S. Ct. 1969, 1977 (2016) (“Unlike the word ‘may,’ which implies discretion, the word ‘shall’ usually connotes a requirement.”).

response to the Coronavirus (or COVID-19) pandemic.

Not long after the expulsion of the three Wall Street Journal reporters, the PRC announced additional restrictions, including more expulsions, of U.S. journalists in the PRC. On March 18, 2020, the PRC’s Ministry of Public Affairs announced “that journalists of US citizenship working with the New York Times, the Wall Street Journal and the Washington Post whose press credentials are due to expire before the end of 2020 notify the Department of Information of the Ministry of Foreign Affairs within four calendar days starting from today and hand back their press cards within ten calendar days.”<sup>4</sup> In that same announcement, the PRC demanded that the China-based branches of several media outlets must report information about their staffs, finances, operations, and real estate in the PRC.<sup>5</sup>

Although the PRC government tried to paint these actions as “reciprocal” and “in response to the discriminatory” measures placed on U.S.-based Chinese Communist Party-controlled news outlets by the U.S. Government,<sup>6</sup> the open-source information outlined in this rule including the FCCC report demonstrates that the PRC government’s actions are not merely “reciprocal” as it claims, but instead an escalation of hostile measures targeting a free press within its borders.

Alarming, foreign reporters who have been expelled tend to be reporters who have reported on topics that are critically important to an international audience: The Chinese Communist Party’s indoctrination camps and the use of forced labor to produce export products for U.S. consumers; high-level corruption; and the manner in which wealth and power are employed by top leaders, sometimes against the interests of American business. For example, in 2018, the PRC effectively expelled Megha Rajagopalan, BuzzFeed News’ China bureau chief, by refusing to renew her visa. Ms. Rajagopalan had extensively reported on surveillance and mass incarceration of minorities in the Xinjiang region of northwest China.

The FCCC’s Report on Media Freedoms in 2019 further reveals that foreign journalists are receiving severely shortened visa admission periods and reporting credentials, one for just two and a half months. Moreover, the FCCC Report indicates that foreign journalists

<sup>4</sup> See remarks by the Ministry of Foreign Affairs of the People’s Republic of China: [https://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/t1757162.shtml](https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/t1757162.shtml) (Mar. 18, 2020).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

applying for visa renewals face numerous challenges, with a record number of at least 12 correspondents receiving visas of six months or less. Indeed, 25 percent of FCCC survey respondents reported they received visas of less than 12 months, the typical duration of PRC-issued credentials. One European-based reporter interviewed for the Report described their experience as follows: “I’ve been given press cards of seriously curtailed validity, one 6-month and two 3-month cards. And the renewals have been long, drawn out affairs, often taking four weeks or more.”

The Department is therefore issuing this rule to address the actions of the PRC government and to enhance reciprocity in the treatment of U.S. journalists in the PRC. Foreign nationals who present a passport issued by the PRC, with the exception of Hong Kong Special SAR and Macau SAR passport holders, may no longer be admitted for an indefinite period. This approach taken by the Department—admitting foreign nationals who present certain PRC passports for up to a 90-day period with the ability to apply for extensions of status—more appropriately aligns with U.S. foreign policy and the principle of reciprocity set forth in the INA. [The PRC typically issues a three-month, single entry visa to foreign journalists, including to U.S. citizens. Despite this three-month visa, the PRC expects employed individuals to apply for a residency permit within 30 days of entering the PRC. The individuals, including U.S. citizens, must go to the local Entry Exit Bureau office in order to apply for a residency permit. The residency permit allows the individual to live and work in the PRC, and to enter and exit regularly. Although residency permits had typically been issued by the PRC in one-year increments, based on information provided by the U.S. Department of State, the PRC is increasingly issuing U.S. citizen journalists residency permits of less than one year.

Accordingly, this rule addresses the actions of the PRC government and creates a greater degree of reciprocity with the treatment the PRC accords foreign journalists, including U.S. citizens, who are increasingly receiving shorter and shorter durations of stay, as well as increasing uncertainty during the visa renewal process. This rule requires foreign nationals who present a passport issued by the PRC, with the exception of Hong Kong SAR and Macau SAR passport holders with I nonimmigrant status to depart on or before a specified date, thus decreasing the opportunity for them to remain for

a period greater than that provided to journalists from the United States presently in the PRC.

The rule does not contain any substantive changes to the admission or duration of status period of stay provisions currently applicable to I visa holders coming to the United States from any country other than the PRC.

Aliens with I nonimmigrant status who entered using a passport issued by the PRC (that is not a Hong Kong SAR passport or a Macau SAR passport), who are properly maintaining their status and are present in the United States on May 8, 2020 will have their status, and employment incident to such status, automatically extended for a period necessary to complete their authorized activity, not to exceed 90 days from May 8, 2020. Subsequently, they may apply for extensions of stay. An alien subject to this rule who timely files an application for an extension of stay, is authorized to stay in the United States and continue employment with the same employer for a period not to exceed 90 days beginning on the date of the expiration of the authorized period of stay. However, if USCIS adjudicates the application prior to the expiration of the 90-day period, and denies the application for an extension of stay, the alien is required to immediately depart the United States. In determining this transition procedure, DHS considered the reliance interests of these nonimmigrants who had chosen to temporarily come to the United States, and does not believe the changes will significantly affect these interests. DHS is not changing the fundamental requirements to qualify for this nonimmigrant status, rather it is only changing the length of time and including a requirement to apply for an extension of stay. A fixed date of admission simply places these nonimmigrants in the same position as most other nonimmigrants who are temporarily in the United States.<sup>7</sup>

A second option that DHS considered was to allow I visa holders already admitted to the United States on the date of enactment of this rule who

<sup>7</sup> Accordingly, the “retroactive” effect, if any, is secondary (upsetting expectations by changing future legal effects of past actions, *i.e.*, admission in I nonimmigrant status) rather than primary (changing the past legal effect of the past action). *See, e.g., Nat’l Cable & Telecomms. Ass’n v. FCC*, 567 F.3d 659, 670 (D.C. Cir. 2009) (“Here the Commission . . . has not rendered past actions illegal or otherwise sanctionable. It is often the case that a business [or individual] will undertake a certain course of conduct based on the current law, and will then find its expectations frustrated when the law changes. Such expectations, however legitimate, cannot furnish a sufficient basis for identifying impermissibly retroactive rules.” (citation and quotation marks omitted)).

entered on passports issued by the PRC, with the exception of those who entered on a Hong Kong SAR passport or a Macau SAR passport, to keep their duration of status admission until they departed the United States. However, the Department rejected that alternative because it would undermine the goals of this rulemaking initiative, especially the goal of enhancing reciprocity and addressing the actions of the PRC Government as described above.

## II. Discussion of Regulatory Changes

In order to effect the changes described above, DHS amends 8 CFR 214.2(i). As currently interpreted, 8 CFR 214.2(i) provides that I visa holders may be admitted for the duration of employment in the United States. The Department is revising 8 CFR 214.2(i) to provide that DHS will continue to admit all I nonimmigrants, except foreign nationals who present a passport issued by the PRC, with the exception of Hong Kong SAR and Macau SAR passport holders, for the duration of status. The period of admission in I nonimmigrant status for such PRC nationals is revised so that the maximum initial admission period is 90 days. Such I visa holders can request extensions, each for a maximum duration of 90 days.

## III. Statutory and Regulatory Review

### A. Administrative Procedure Act

The Administrative Procedure Act (“APA”) generally requires agencies to publish notice of a proposed rulemaking in the **Federal Register** for a period of public comment and to delay the effective date of the final rule. However, rules that involve a foreign affairs function of the United States are excluded from the rulemaking provisions of the APA. *See* 5 U.S.C. 553(a)(1). For the reasons discussed below, this rule involves a foreign affairs function of the United States. The Department, after consultation with DOS, in direct and measured response to the actions of the PRC government, is adopting this rule to limit the duration of admission for media representatives from the PRC with the exception of Hong Kong SAR or Macau SAR passport holders.

In order to obtain and be admitted to the United States with an I visa, a representative of foreign information media must be a national of a country whose government grants similar privileges to representatives of media from the United States. *See* 8 U.S.C. 1101(a)(15)(I) (providing that I nonimmigrant visas may be issued “upon a basis of reciprocity”). One such government is the PRC. Recently, the

PRC revoked the press credentials and expelled three reporters from the United States based in Beijing.<sup>8</sup> Such an act demonstrates that the PRC is no longer willing to grant similar privileges to United States media representatives as those granted to members of the Chinese media in the United States. This rule encompasses diplomatic relations with the PRC regarding the authorized terms and conditions of admission of representatives of radio, film or other information media as they perform such functions abroad. The U.S. Court of Appeals for the Second Circuit, in *City of New York v. Permanent Mission of India to United Nations*, made clear that regulation of the reciprocal treatment to be afforded to representatives of foreign nations in the United States “relates directly to, and has clear consequences for, foreign affairs.” 618 F.3d 172, 201 (2d Cir. 2010).

Any diplomatic negotiations between the United States and the PRC as to the reciprocal treatment of foreign media representatives will be more effective in ensuring full and fair access for U.S. journalists and less disruptive to long-term relations the sooner this final rule is in place. *Rajah v. Mukasey*, 544 F.3d 427, 438 (2d Cir. 2008) (finding that the notice and comment process can be “slow and cumbersome,” which can negatively impact efforts to secure U.S. national interests, thereby justifying application of the foreign affairs exemption). Furthermore, notice and comment procedures prior to the effective date of this rule would disrupt the Executive Branch’s foreign policy with respect to the PRC and erode the sovereign authority of the United States to pursue the strategy it deems to be most appropriate as it engages with foreign nations. See *Am. Ass’n of Exps. & Imps.-Textile & Apparel Grp. v. United States*, 751 F.2d 1239, 1249 (Fed. Cir. 1985) (noting that the foreign affairs exception covers agency actions “linked intimately with the Government’s overall political agenda concerning relations with another country”).

#### B. Executive Orders 12866, 13563 and 13771

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety

effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 directs agencies to reduce regulation and control regulatory costs, and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”<sup>9</sup>

Rules involving the foreign affairs function of the United States are exempt from the requirements of Executive Order 13563, 12866, and 13771. This final rule advances the President’s foreign policy goals, as they impact a specific bilateral relationship. The Office of Information and Regulatory Affairs has concurred that this rulemaking falls under the foreign affairs function of Executive Order 12866. As this rule is thus not a significant regulatory action under E.O. 12866, it is not subject to E.O. 13771. Nevertheless, CBP has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Orders 13563, 12866, and 13771.

In 2019, 561 I visas were issued to PRC nationals. For purposes of this analysis, DHS projects the number of I visa visitors from PRC to remain the same as in 2019, only for the period necessary to accomplish the authorized purpose of their stay in the United States, not to exceed 90 days with the possibility of applying for extensions of stay.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Since a notice of proposed rulemaking is not necessary for this rule, CBP is not required to prepare a regulatory flexibility analysis for this rule.

#### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), enacted as Public Law 104–4 on March 22, 1995,

requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year. See 2 U.S.C. 1532(a). This rule will not result expenditure by state, local, and tribal governments, in the aggregate, or by the private section, of \$100 million or more in any one year. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (1995) (PRA), all Departments are required to submit to OMB, for review and approval, any reporting or recordkeeping requirements inherent in a rule. DHS, USCIS, and CBP are revising one information collection related to this rulemaking action, increasing the number of respondents impacted by this collection of information due to the requirements set forth by the rulemaking. The agency is requesting approval separate from this rulemaking for the collection to be revised following the emergency processing provisions of 5 CFR 1320.13 so this collection can be immediately available when the rule goes into effect. The information below is provided solely for informational purposes. The agency will undergo notice and comment on this.

I–539 and I–539A

#### Overview of Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application to Extend/Change Nonimmigrant Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–539 and I–539A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form will be used for nonimmigrants to apply for an extension of stay, for a change to another nonimmigrant classification, or for obtaining I nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to*

<sup>8</sup> *China Expels Three Wall Street Journal Reporters*, Wall Street Journal, Feb. 19, 2020, available at <https://www.wsj.com/articles/china-expels-three-wall-street-journal-reporters-11582100355>.

<sup>9</sup> See 82 FR 9339 (Feb. 3, 2017).

*respond*: The estimated total number of respondents for the information collection Form I-539 (paper) is 175,860 and the estimated hour burden per response is 2.00 hours; the estimated total number of respondents for the information collection Form I-539 (e-file) is 75,369 and the estimated hour burden per response is 1.08 hours; the estimated total number of respondents for the information collection I-539A is 54,865 and the estimated hour burden per response is .50 hours; the estimated total number of respondents for biometrics processing is 376,496 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection*: The total estimated annual hour burden associated with this collection of information in hours is 901,051.

(7) *An estimate of the total public burden (in cost) associated with the collection*: The estimated total annual cost burden associated with this collection of information is \$56,627,017.

#### F. Congressional Review Act

Under the Congressional Review Act, a rule that is likely to result in an annual effect on the U.S. economy of \$100,000,000 or more is considered a major rule. See 5 U.S.C. 804. Generally, the effective date of a major rule must be the later of these two dates: 60 days after publication in the **Federal Register**, or 60 days after delivery of the report to Congress. See 5 U.S.C. 801(a)(3). The Office of Information and Regulatory Affairs has concluded that this rule is not likely to result in an annual effect on the U.S. economy of \$100,000,000 or more. Therefore, it does not meet the criteria for a major rule.

#### G. Signature

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, is delegating the authority to electronically sign this document to Chad R. Mizelle, who is the Senior Official Performing the Duties of the General Counsel for DHS, for purposes of publication in the **Federal Register**.

#### List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens.

#### Regulatory Amendments

For the reasons stated in the preamble, we are amending 8 CFR part 214 as follows:

### PART 214—NONIMMIGRANT CLASSES

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

**Authority:** 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305, 1356, and 1372; section 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; 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, 48 U.S.C. 1806; 8 CFR part 2.

■ 2. Amend § 214.2 by revising paragraph (i) to read as follows:

#### § 214.2 Special requirements for admission, extension, and maintenance of status.

\* \* \* \* \*

(i) *Representatives of information media*—(1) *In general*. The admission of an alien of the class defined in section 101(a)(15)(I) of the Act constitutes an agreement by the alien not to change the information medium or his or her employer until he or she obtains permission to do so from the district director having jurisdiction over his or her residence. An alien classified as an information media nonimmigrant (I) may be admitted in or otherwise granted I nonimmigrant status for:

(i) The duration of employment, except as provided in paragraph (i)(1)(ii) of this section; or

(ii) In the case of an alien who presents a passport issued by the People's Republic of China (other than a Hong Kong Special Administrative Region passport or a Macau Special Administrative Region passport), until the activities or assignments consistent with the I classification are completed, not to exceed 90 days.

(2) *Extension of stay*. An alien in I status who is described in paragraph (i)(1)(ii) of this section may be eligible for extensions of stay, each of up to 90 days or until the activities or assignments consistent with the I classification are completed (whichever date is earlier).

(i) Notwithstanding 8 CFR 274a.12(b)(20), an alien in I status who is described in paragraph (i)(1)(ii) of this section whose status has expired, but who timely filed an application for an extension of stay, is authorized to stay in the United States and continue employment with the same employer for a period not to exceed 90 days beginning on the date of the expiration of the authorized period of stay. However, if USCIS adjudicates the application prior to the expiration of the

90-day period, and denies the application for an extension of stay, the alien must immediately depart the United States.

(ii) To request an extension of stay, an alien in I status must file an application to extend his or her stay by submitting the form designated by USCIS, in accordance with that form's instructions, and with the required fee, including any biometrics required by 8 CFR 103.16, as appropriate.

(3) *Change of status*. An alien seeking to change from a different nonimmigrant status to, if eligible, an I status described in paragraph (i)(1)(ii) of this section, may be granted a period of stay until the activities or assignments consistent with the I classification are completed, not to exceed 90 days. To request a change from a different nonimmigrant status to an I status described in paragraph (i)(1)(ii), an alien must file an application to change his or her status by submitting the form designated by USCIS, in accordance with that form's instructions, and with the required fee, including any biometrics required by 8 CFR 103.16, as appropriate.

(4) *Transition from duration of status admission to a fixed admission period for aliens with I status who had presented a passport issued by the People's Republic of China (that is not a Hong Kong Special Administrative Region passport or a Macau Special Administrative Region passport) at the time of admission and are present in the U.S. on May 8, 2020*. An alien in I status who is described in paragraph (i)(1)(ii) of this section who is properly maintaining his or her nonimmigrant status under the class defined in section 101(a)(15)(I) of the Act and is present in the United States on May 8, 2020 is authorized to remain in the United States in I status for a period necessary to complete the activity, not to exceed 90 days from May 8, 2020. Subsequently, the alien may apply for extensions of stay pursuant to, and subject to the conditions and limitations set forth in paragraph (i)(2) of this section.

\* \* \* \* \*

**Chad R. Mizelle,**

*Senior Official Performing the Duties of the General Counsel, U.S. Department of Homeland Security.*

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