This document is scheduled to be published in the
Federal Register on 2026-08-11 and available online at
https://www.federalregister.gov/d/2026-16319, and on
https://govinfo.gov

9111-

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 214 and 252

[CBP Dec. 26-08]

RIN 1651-AB62

Regulatory Changes Required by the Energy Security and Lightering Independence Act of 2022

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Energy Security and Lightering Independence Act of 2022 amended the nonimmigrant classifications for aliens in transit (C) and for aliens serving as crewmen (D) to include individuals who perform ship-to-ship liquid cargo transfer operations to or from another vessel engaged in foreign trade (lightering). The statute authorizes qualifying aliens to seek admission to the United States or request temporary landing permits for a period not to exceed 180 days. This rule amends Department of Homeland Security (DHS) regulations to conform to these statutory changes and make related technical amendments.

DATES: This rule is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Stephen Dearborn, Office of Field Operations, U.S. Customs and Border Protection, by telephone at 443-756-9751 or by email at STEPHEN.M.DEARBORN@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

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 (INA) (8 U.S.C. 1103(a)(1)).[1] The Secretary is authorized to establish such regulations as the Secretary deems necessary to carry out this authority under the immigration laws of the United States. *See* INA sec. 103(a)(3) (8 U.S.C. 1103(a)(3)).[2] In addition, section 252(a) of the INA (8 U.S.C. 1282(a)) authorizes the Secretary to prescribe regulations regarding the grant of permission to crewmen to land temporarily in the United States. The Secretary has delegated authority to administer and enforce the immigration laws relating to alien crewmen to the Commissioner of U.S. Customs and Border Protection (CBP). *See* DHS, Delegation No. 07010.3, Delegation of Authority to the Commissioner of U.S. Customs and Border Protection, II.B.11. (Rev. No. 03.2, Incorporating Change 2) (Dec. 11, 2024).

The Energy Security and Lightering Independence Act of 2022 (ESLIA) amended two nonimmigrant classifications under the INA to authorize aliens who perform ship-to-ship liquid cargo transfer operations to or from another vessel engaged in foreign trade (commonly referred to as lightering) to seek admission to, or request temporary landing privileges in, the United States for a period not to exceed 180 days. *See* Pub. L. 117-360, sec. 2-3, 136 Stat. 6292-93 (INA sec. 101(a)(15)(C)(iii), 8 U.S.C. 1101(a)(15)(C)(iii); INA sec. 101(a)(15)(D)(iii), 8 U.S.C. 1101(a)(15)(D)(iii). Lightering is the transfer of cargo between vessels, typically involving the transfer of cargo from a larger vessel to a smaller vessel when port facilities cannot accommodate the larger vessel or for other operational reasons. Liquid cargo lightering involves the transfer of liquid cargo, such as natural gas or crude oil. This preamble describes the treatment of alien crewmen prior to the enactment of ESLIA, the statutory amendments enacted by ESLIA, and the corresponding conforming regulatory amendments.

---

[1] Pub. L. 82-414, 66 Stat. 163, 173 (1952), as amended.

[2] *See also* sections 402, 1512, and 1517 of the Homeland Security Act of 2002 (Pub. L. 107-296, 116 Stat. 2178, 2310, 2311), 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).

A. Nonimmigrant Classifications for Alien Crewmen

Alien crewmen intending to work on board a commercial conveyance in the United States generally have two options for entering the United States: (1) admission as a C-1 transit nonimmigrant or (2) the grant of temporary landing privileges as a D crewman nonimmigrant. Each option is described below.

1. The C-1 Transit Nonimmigrant Classification

The C-1 transit nonimmigrant classification applies to aliens in immediate and continuous transit through the United States for a period not to exceed 29 days. *See* INA sec. 101(a)(15)(C)(i) (8 U.S.C. 1101(a)(15)(C)(i)). To be admitted into the United States as a C-1 transit nonimmigrant, an alien must obtain a C-1 visa (or C-1/D combination visa) from the U.S. Department of State prior to traveling to the United States, unless exempt from the visa requirement. *See, e.g.*, INA sec. 212(a)(7)(B)(i) (8 U.S.C. 1182(a)(7)(B)(i)); 8 CFR 212.1. Upon arrival at a U.S. port of entry, U.S. Customs and Border Protection (CBP) will inspect the alien as an applicant for admission and, if CBP determines that the alien qualifies for the C-1 transit nonimmigrant classification and is otherwise admissible, will admit the alien to the United States. *See* INA sec. 101(a)(15)(C)(i) (8 U.S.C. 1101(a)(15)(C)(i)); 8 CFR 214.2(c)(3); 8 CFR 235.1(a). Once admitted in transit, the alien must depart the United States prior to the expiration of the authorized period of admission and is not eligible for an extension of stay or a change of status. *See* INA sec. 248(a)(1) (8 U.S.C. 1258(a)(1)); 8 CFR 214.1(c)(3)(ii); 8 CFR 248.2(a)(2). Prior to the enactment of ESLIA, CBP could not admit an alien in C-1 status for a period exceeding 29 days. *See* 8 CFR 214.2(c)(3).[3] However, as noted above and discussed further below, ESLIA extended this authorized period to up to 180 days for certain qualifying crewmen.

[3] Note that ESLIA codified the 29-day period of admission that was previously only in regulation for aliens admitted in transit under INA 101(a)(15)(C), 8 U.S.C. 1101(a)(15)(C).

2. The D Crewman Nonimmigrant Classification

The D crewman nonimmigrant classification applies to alien crewmen intending to temporarily land in the United States. *See* INA sec. 101(a)(15)(D) (8 U.S.C. 1101(a)(15)(D)). To qualify for this nonimmigrant classification, the alien crewman must be serving in good faith as such in a capacity required for normal operation and service on board a vessel as defined in section 258(a) of the INA (other than a fishing vessel having its homeport or an operating base in the United States), or aircraft, and intend to land temporarily and solely in pursuit of their calling as a crewman and depart from the United States with the vessel or aircraft on which they arrived or some other vessel or aircraft. *See* INA sec. 101(a)(15)(D)(i) (8 U.S.C. 1101(a)(15)(D)(i)).

To obtain temporary landing privileges under this classification, an alien must obtain a D visa (or a C-1/D combination visa) from the U.S. Department of State prior to traveling to the United States, unless exempt from the visa requirement. *See, e.g.*, INA sec. 212(a)(7)(B)(i) (8 U.S.C. 1182(a)(7)(B)(i)); 8 CFR 212.1. Upon arrival at a U.S. port of entry, CBP will inspect the alien, and if CBP determines the alien qualifies for temporary landing privileges, may permit the alien to land temporarily in the United States. Prior to the enactment of ESLIA, CBP could not grant temporary landing for a period exceeding 29 days. *See* INA sec. 252(a) (8 U.S.C. 1282(a)); 8 CFR 252.1(c), (d). However, as noted above and explained further below, ESLIA extended this authorized period to up to 180 days for certain qualifying crewmen. *See* Pub. L. No. 117-360, sec. 3, 136 Stat. 6293 (adding INA sec. 252(a)(3)(B); 8 U.S.C. 1282(a)(3)(B)). *See also*, Pub. L. 117-360, sec. 2, 136 Stat. 6292 (adding INA sec. 101(a)(15)(D)(iii), 8 U.S.C. § 1101(a)(15)(D)(iii)).

Prior to ESLIA, CBP granted temporary landing privileges under two categories, depending on how the crewman intended to depart the United States. Under the first category, CBP could, in its discretion, grant an alien crewman authorization to land

temporarily for shore leave purposes, provided that the crewman intended to depart on the vessel of arrival or another aircraft of the same transportation line, and certain other conditions in 8 CFR 252.1(c) and (d)(1), including passport control and the applicable 29-day time limitation, are met. Under the second category, CBP, in its discretion, could grant temporary landing privileges for purposes of departing the United States as a crewman on a different vessel, or as a passenger by other means of transportation, subject to the conditions set forth in 8 CFR 252.1(c) and (d)(2), including requirements relating to departure arrangements and timing. A crewman granted temporary landing privileges under 8 CFR 252.1(d)(1) may, if still maintaining status, apply for a conditional landing permit under 8 CFR 252.1(d)(2) to depart from the United States (also known as authorization for pay-off or discharge). *See* 8 CFR 252.1(f). The procedures and requirements governing such authorization are set forth in 8 CFR 252.1(f) and (h).

An alien granted temporary landing privileges must depart the United States prior to the expiration of those privileges and is not eligible for an extension of stay or a change of status. *See* INA sec. 252(c) (8 U.S.C. 1282(c)); INA sec. 248(a)(1) (8 U.S.C. 1258(a)(1)); INA sec. 245(c)(1) (8 U.S.C. 1255(c)(1)); 8 CFR 214.1(c)(3)(iii); 8 CFR 252.1(f).

B. Treatment of Lightering Crewmen Prior to ESLIA

Prior to the enactment of ESLIA, alien crewmen performing ship-to-ship liquid cargo transfer operations (lightering) generally were not eligible for admission as C-1 transit nonimmigrants or for temporary landing privileges as the D nonimmigrant crewman. Both classifications were limited to periods not exceeding 29 days, while lightering operations and associated employment contracts typically exceeded that duration. In addition, unlike other commercial conveyances that regularly depart the United States for foreign ports, lightering vessels often operate between vessels without

departing the United States. Because lightering is considered foreign trade and lightering operations generally require periods of stay exceeding 29 days, such crewmen did not qualify for admission or temporary landing privileges. In light of the significant public benefit associated with lightering activities, particularly those involving the movement of liquid petroleum and natural gas, CBP historically exercised its discretionary parole authority on a case-by-case basis to permit certain lightering crewmen to enter the United States.

C. The Energy Security and Lightering Independence Act of 2022 (ESLIA)

ESLIA amended the C transit and D crewman nonimmigrant classifications, as defined in the INA, to authorize aliens performing ship-to-ship liquid cargo operations to or from another vessel engaged in foreign trade to seek admission or temporary landing privileges in the United States.[4] *See* ESLIA sec. 2-3, 136 Stat. at 6292-93 (adding INA secs. 101(a)(15)(C)(iii) and (D)(iii), 8 U.S.C. 1101(a)(15)(C)(iii) & (D)(iii)). Accordingly, qualifying lightering crewmen are no longer required to rely on discretionary parole to enter the United States. Instead, such crewmen, after obtaining the appropriate visa from the Department of State (or qualifying for a visa exemption), may seek admission or temporary landing privileges for a period of up to 180 days under the amended classifications.

The first nonimmigrant classification amended by ESLIA is the C transit nonimmigrant classification. *See* INA sec. 101(a)(15)(C)(iii) (8 U.S.C. 1101(a)(15)(C)(iii)). DHS is designating this new category as a C-4 nonimmigrant. *See* new 8 CFR 214.1(a)(2). To qualify under this classification, an alien must be transiting through the United States to join or depart a vessel on which the alien will perform, or

[4] Pursuant to ESLIA, non-lightering alien crewmen may continue to seek admission as a C-1 transit nonimmigrant or temporary landing privileges as a D crewman nonimmigrant, as described above in section I.A.

has performed, ship-to-ship liquid cargo transfer operations to or from another vessel engaged in foreign trade. *See* INA sec. 101(a)(15)(C)(iii) (8 U.S.C. 1101(a)(15)(C)(iii)).

The second nonimmigrant class amended by ESLIA to include those performing lightering is the D crewman nonimmigrant classification. *See* INA sec. 101(a)(15)(D)(iii) (8 U.S.C. 1101(a)(15)(D)(iii)). DHS is designating this new category as a D-3 nonimmigrant. *See* new 8 CFR 214.1(a)(2). To qualify for temporary landing privileges under this classification, the alien must be performing ship-to-ship liquid cargo transfer operations to or from another vessel engaged in foreign trade, intend to land temporarily solely in pursuit of the alien's duties as a crewman, and depart the United States on the vessel of arrival or another vessel or aircraft, as required by statute. *See* INA sec. 101(a)(15)(D)(iii) (8 U.S.C. 1101(a)(15)(D)(iii)); INA sec. 252(a)(3) (8 U.S.C. 1282(a)(3)).

ESLIA further authorizes a period of stay not to exceed 180 days for qualifying lightering crewmen admitted under the C-4 classification or granted temporary landing privileges under the D-3 classification. *See* ESLIA, sec. 2, 136 Stat. at 6292-93 (codified at INA sec. 101(a)(15)(C)(iii) (8 U.S.C. 1101(a)(15)(C)(iii)); INA sec. 101(a)(15)(D)(iii) (8 U.S.C. 1101(a)(15)(D)(iii)); INA sec. 252(a)(3) (8 U.S.C. 1282(a)(3))). Additionally, ESLIA clarifies that a crewman's performance of ship-to-ship liquid cargo transfer operations to or from another vessel engaged in foreign trade is not considered services, work, labor, or employment in the United States for immigration purposes. *See* ELSIA, sec. 4, 136 Stat. at 6293 (8 U.S.C. 1101 note).

II. Discussion of Amendments

DHS is amending parts 214 and 252 of title 8 of the Code of Federal Regulations (CFR), as set forth below, to conform the regulations to the statutory changes made by ESLIA. In addition, DHS is making conforming and technical amendments to correct inaccurate or outdated regulatory references. Each amendment is discussed below.

A. Regulatory Amendments Conforming to ESLIA

1. Amendments to 8 CFR 214.1 to include new subclassifications

Section 214.1 of title 8 of the CFR sets forth general requirements applicable to nonimmigrants, including provisions governing extensions of stay and employment. DHS is amending several paragraphs of this section to incorporate two nonimmigrant classifications established by ESLIA for alien crew engaged in ship-ship liquid cargo transfer operations.

Paragraph (a)(1) of 8 CFR 214.1 establishes administrative subclassifications of nonimmigrant categories. DHS is amending section 214.1(a)(1)(ii) to add a fourth subclassification under the C transit nonimmigrant classification for alien crewmen performing ship-to-ship liquid cargo transfer operations to or from another vessel engaged in foreign trade, as defined by ESLIA. *See* INA sec. 101(a)(15)(C)(iii) (8 U.S.C. 1101(a)(15)(C)(iii)), as amended by ESLIA, sec. 2(a), 136 Stat. at 6292.

Paragraph (a)(2) of 8 CFR 214.1 contains a table designating abbreviations for nonimmigrant classifications and subclassifications. DHS is revising this table to incorporate the amended classifications established by ESLIA. A nonimmigrant described in section 101(a)(15)(C)(iii) of the INA is designated as a C-4 nonimmigrant, and a nonimmigrant described in section 101(a)(15)(D)(iii) of the INA is designated as a D-3 nonimmigrant.

Paragraph (c)(3) of 8 CFR 214.1 lists nonimmigrant classes ineligible for extension of stay. DHS is amending this provision to include C-4 and D-3 nonimmigrants. Consistent with the INA, the period of admission for these classifications is limited to the maximum of 180 days, and aliens in these classifications are not eligible for extension of stay. *See* INA sec. 101(a)(15)(C)(iii) (8 U.S.C. 101(a)(15)(C)(iii)); INA sec. 101(a)(15)(D)(iii) (8 U.S.C. 1101(a)(15)(D)(iii)); *see also* INA sec. 252(c) (8 U.S.C. 1282(c)) (imposing penalties on any crewman who willfully

remains in the United States in excess of the number of days allowed). In addition, nonimmigrants in the D-3 classification, like other D nonimmigrants, are not admitted and remain applicants for admission for purposes of the INA. *See, e.g.*, INA sec. 101 (a)(13)(B) (8 U.S.C. 1101(a)(13)(B)); INA sec. 252 (8 U.S.C. 1282); INA sec. 235(a)(1) (8 U.S.C. 1225(a)(1)).

Paragraph (e) of 8 CFR 214.1 sets forth general provisions regarding employment. DHS is amending 8 CFR 214.1(e) to clarify that a crewman, admitted in transit in C-4 status or granted temporary landing privileges in D-3 status who performs ship-to-ship liquid cargo transfer operations to or from another vessel engaged in foreign trade does not constitute for immigration purposes, performance of services, work, labor, or employment within the United States, in accordance with ESLIA, sec. 4, 136 Stat. at 6293 (8 U.S.C. 1101 note).

2. Amendments to the transit classification in 8 CFR 214.2(c)

Section 214.2 of title 8 of the CFR sets forth special requirements applicable to certain transit nonimmigrant classifications. DHS is amending 8 CFR 214.2(c) to incorporate the new C-4 classification for lightering crew and to specify the corresponding period of admission of up to 180 days. *See* INA sec. 101(a)(15)(C)(iii) (8 U.S.C. 1101(a)(15)(C)(iii)), as amended by ESLIA, sec. 2(a), 136 Stat. at 6292.

Currently, 8 CFR 214.2(c) specifies a maximum period of admission of 29 days for all aliens admitted under the C transit nonimmigrant classification specified in INA section 101(a)(15)(C), except for aliens whose visa is limited to transit to and from the U.N. Headquarters District. Prior to enactment of ESLIA, sec. 214.2(c) provided for a maximum period of admission of 29 days for most C nonimmigrants, except for certain aliens whose visa is limited to transit to and from the United Nations Headquarters District. ESLIA established a distinct period of admission of up to 180 days for crew

engaged in lightering operations. Accordingly, the existing 29-day limitation for "other" transit nonimmigrants no longer accurately reflects the statutory framework as amended. *See* INA sec. 101(a)(15)(C)(iii) (8 U.S.C. 1101(a)(15)(C)(iii)), as amended by ESLIA, sec. 2(a), 136 Stat. at 6292.

To align the regulations with the amended statute, DHS is revising section 214.2(c) to reflect the four transit classifications and their respective periods of admission as defined in sections 101(a)(15)(C) and 212(d)(8) of the INA (8 U.S.C. 1101(a)(15)(C) and 1182(d)(8)). New paragraph 8 CFR 214.2(c)(1) specifies a period of admission not to exceed 29 days for an alien admitted in transit under section 101(a)(15)(C)(i) of the INA. *See* INA sec. 101(a)(15)(C)(i) (8 U.S.C. 1101(a)(15)(C)(i)). The existing 8 CFR 214.2(c)(2) remains the same, except for a change in the citation from "INA 101(a)(15)(C)" to "INA 101(a)(15)(C)(ii)" to provide greater specificity. New paragraph 8 CFR 214.2(c)(3) specifies a period of admission not to exceed 29 days for foreign government officials transiting through the United States as defined in section 212(d)(8) of the INA (8 U.S.C. 1182(d)(8)). Finally, new paragraph 8 CFR 214.2(c)(4) specifies a period of admission not to exceed 180 days for lightering crew. *See* INA sec. 101(a)(15)(C)(iii) (8 U.S.C. 1101(a)(15)(C)(iii)), as amended by ESLIA, sec. 2(a), 136 Stat. at 6292.

3. Amendments to the crewmen classification in 8 CFR 214.2(d)

Paragraph (d)(1) of 8 CFR 214.2 specifies requirements relating to the landing of crewmen as nonimmigrants as defined section 101(a)(15)(D) of the INA. Consistent with ESLIA section 4, DHS is amending this section to clarify that the performance of ship-to-ship liquid cargo transfer operations to or from any other vessel engaged in foreign trade does not constitute services, work, labor, or employment connected to a domestic movement of a vessel for immigration purposes. *See* ESLIA, sec. 4, 136 Stat. at 6293 (8

U.S.C. 1101 note). DHS is also amending the numbering of paragraph (d)(1) to improve readability.

4. Amendments to 8 CFR 252.1, Examination of Crewmen

DHS is amending 8 CFR 252.1(d) to incorporate the new D-3 nonimmigrant classification for crewmen granted temporary landing privileges in connection with lightering operations. Specifically, new paragraph 252.1(d)(3) provides that CBP may, in its discretion, grant an alien crewman authorization to land temporarily in the United States for a period not to exceed 180 days if the crewman intends to depart, within the authorized period, on the same vessel or on another vessel or aircraft and will perform ship-to-ship liquid cargo transfer operations to or from any other vessel engaged in foreign trade during that period. *See* INA sec. 101(a)(15)(D)(iii) (8 U.S.C. 11101(a)(15)(D)(iii)), as amended by ESLIA, sec. 2(b), 136 Stat. at 6292.

In addition, DHS is amending 8 CFR 252.1(f) to clarify that the obligation to request discharge and payoff does not apply to lightering crew under newly added 8 CFR 252.1(d)(3), consistent with ESLIA, which authorizes liquid cargo lightering crewmen to depart either on the vessel of arrival or on a vessel or aircraft other than the vessel on which the crewman arrived. *See* INA sec. 101(a)(15)(D)(iii) (8 U.S.C. 1101(a)(15)(D)(iii)); INA sec. 252(a)(3) (8 U.S.C. 1282(a)(3)).

B. Technical Amendments

This rule also makes three technical amendments to DHS's regulations relating to crewmen to correct inaccurate cross-references. First, in 8 CFR 252.1(c), DHS replaces "8 CFR 235.1(d)(1)(ii) and (iii)" with "8 CFR 235.1(f)(1)(ii) and (iii)." Second, in 8 CFR 252.2(b), DHS replaces "208.2(b)(1) of this chapter" with "208.2(c)(1) of this chapter." Lastly, in the table at 8 CFR 214.1(a)(2), DHS replaces "101(a)(15)(C)(iii)" corresponding to the C-3 designation with "212(d)(8)."

III. Statutory and Regulatory Requirements

A. Administrative Procedure Act

Section 553 of the Administrative Procedure Act (APA) governs agency rulemaking procedures. Section 553(b) of the APA generally requires agencies to provide notice and an opportunity for public comment before issuing a final rule, subject to certain exceptions. Section 553(d) of the APA generally requires that a final rule have a 30-day delayed effective date, subject to certain exceptions.

The APA provides an exception to the requirement of prior notice and comment when an agency, for good cause, finds that such procedures are "impracticable, unnecessary, or contrary to the public interest." *See* 5 U.S.C. 553(b)(B). The APA separately authorizes an agency to waive the 30-day delayed effective date for good cause. *See* 5 U.S.C. 553(d)(3). Prior notice and comment are "unnecessary" where the regulatory changes are minor, technical, or otherwise non-substantive.[5] In addition, notice and comment are unnecessary where an agency is implementing a statutory mandate and lacks discretion such that public comment could not alter the agency's obligations.[6] For example, when regulations merely restate the statute they implement (i.e., when the rule does not change the established legal order), the APA does not require the agency to use notice and comment procedures.[7] So long as the agency does not expand the substantive reach of the statute to impose new obligations, penalties, or substantive eligibility requirements, that is, so long as the agency "merely restate[s]" the statute, notice and comment are unnecessary.[8]

---

[5] *See Northern Arapahoe Tribe v. Hodel,* 808 F.2d 741, 751 (10th Cir. 1987) (citing S. Rep. No. 752, 79th Cong., 1st Sess. 14 (1945)).
[6] *See McChesney v. Peterson,* 275 F. Supp. 3d. 1123, 1136 (D. Neb. 2016), *aff'd* 900 F.3d 578 (8th Cir. 2018) (citing *Metzenbaum v. FERC*, 675 F.2d 1282, 1291 (D.C. Cir. 1982)).
[7] *See Gray Panthers Advocacy Comm. v. Sullivan,* 936 F.2d 1284, 1291 (D.C. Cir. 1991) (citing *Komjathy v. National Transportation Safety Bd.*, 832 F.2d 1294, 1296-97 (D.C. Cir. 1987)), *cert. denied*, 486 U.S. 1057 (1988) ("The fact that the regulation merely reiterates the statutory language precludes any serious argument that the regulation affects the agency or [regulated individuals] in such a way as to require notice-and-comment procedures pursuant to 5 U.S.C. 553.").
[8] *See World Duty Free Americas, Inc. v. Summers,* 94 F. Supp. 2d 61, 65 (D.D.C. 2000).

In this case, DHS finds that good cause exists to dispense with prior notice and comment because the amendments in this rule are either required by ESLIA or are non-substantive technical corrections. The rule conforms the regulations with the changes mandated by ESLIA, including the addition of the C-4 and D-3 nonimmigrant classifications. DHS lacks discretion in establishing these classifications, and public comment could not alter DHS's statutory obligations under ESLIA. In addition, the remaining amendments are technical in nature and correct inaccurate regulatory cross-references. These changes do not impose new obligations, penalties, or substantive eligibility requirements, but instead conform the regulations to the governing statute. Accordingly, DHS finds that prior notice and comment are unnecessary under 5 U.S.C. 553(b)(B).

For the same reasons discussed above, and because these amendments impose no new substantive obligations and do not require advance preparation by the public, DHS finds good cause to waive the 30-day delayed effective date requirement under 5 U.S.C. 553(d)(3).

B. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with federal regulations and provides that "any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations."

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Furthermore, this rule is not an Executive Order 14192 regulatory action because it is being issued with respect to an immigration-related function of the United States. The rule's primary direct purpose is to implement or interpret the immigration laws of the United States (as described in INA sec. 101(a)(17), 8 U.S.C. 1101(a)(17)) or any other function performed by the U.S. Federal Government with respect to aliens. *See* OMB Memorandum M-25-20, "Guidance Implementing Section 3 of Executive Order 14192, titled 'Unleashing Prosperity Through Deregulation'" (Mar. 26, 2025).

ESLIA amended the C transit and D crewman nonimmigrant classifications to apply to nonimmigrants in transit to, and crewmen temporarily landing in, the United States to engage in ship-to-ship liquid cargo transfer operations to or from another vessel engaged in foreign trade.[9] The act of ship-to-ship liquid cargo transfer is commonly referred to as lightering. The amendments to these nonimmigrant classifications provided a clear legal pathway for alien crewmen to participate in a vital industry activity. Movement of petroleum and liquid natural gas has been deemed a significant public benefit and a critical national security activity. The next sections will explain the history of admitting, paroling, or granting temporary landing privileges to lightering crew in the United States. It will also explain the costs and benefits associated with adding C-4 and D-3 nonimmigrant classifications.

Until ESLIA was enacted, lightering crew generally did not qualify for admission into the United States as a C transit nonimmigrant or for temporary landing privileges as a D crewman nonimmigrant. Prior to ESLIA, alien crewmen admitted in transit or

---

[9] *See* Pub. L. 117-360, 136 Stat. 6292 (Jan. 5, 2023) (INA sec. 101(a)(15)(C)(iii), 8 U.S.C. 1101(a)(15)(C)(iii); INA sec. 101(a)(15)(D)(iii), 8 U.S.C. 1101(a)(15)(D)(iii)).

granted temporary landing privileges were authorized to stay in the United States for up to 29 days.[10] However, as lightering is a vital industry and relies on foreign workers, CBP would historically parole lightering crew on a case-by-case basis into the United States for up to 180 days.[11] CBP estimates that 6,500 alien crewmen (performing all types of duties) were paroled each year.[12] However, the use of the parole process prevented CBP from determining how many of the 6,500 alien crewmen entered the country to work on lightering vessels.

When the statute entered into effect, CBP amended its policy and now admits lightering crew into a C-4 class (or grants temporary landing in the D-3 class) when applicable.[13] This rule amends the regulations to add two nonimmigrant classifications (C-4 and D-3) and makes additional changes. All amendments are outlined in Table 1 below. Adding nonimmigrant classifications aids CBP in tracking lightering crewmen compared to the pre-ESLIA process where they received parole. These amendments will have no time savings or costs to the public.

These amendments conform to the statute and primarily restate the statutory framework, with any additional revisions limited to non-substantive technical updates. The main benefit compared to the pre-ESLIA world will be that of enhanced data. CBP will be able to identify and track the exact number of lightering personnel admitted in transit or granted temporary landing privileges under the amended classifications. By codifying the statutory pathway established by ESLIA, this rule reduces reliance on discretionary parole and reinforces the limited and case-by-case use of parole authority consistent with Executive Order 14159, *Protecting the American People Against*

---

[10] *See* INA sec. 252(a) (8 U.S.C. 1282(a)); 8 CFR 214.2(c)(3).
[11] Internal guidance about crew member processing given by a subject matter expert in the Office of Field Operations Admissibility and Passenger Programs Directorate on June 4, 2024.
[12] Estimate by CBP subject matter expert from the Office of Field Operations Admissibility and Passenger Programs Directorate, based on informal input from the trade community.
[13] Interim guidance from OFO Executive Director of Admissibility and Passenger Programs on October 23, 2024.

Invasion, 90 FR 8443, 8446 (Jan. 29, 2026). CBP will know the exact number of lightering crew admitted in transit or granted temporary landing privileges and will no longer use the process of parole to allow lightering crew to enter the United States.

Table 1. Changes

Regulation Title 8 CFR	Change	Cost	Cost Savings/Benefit
214.1(a)(1)(ii)	This section will add a C-4 class for lightering crew.	No cost associated.	This is required by ESLIA and will allow CBP to track the number of lightering crew admissions.
214.1(a)(2)	This section provides a table with nonimmigrant classes. DHS will add D-3 and C-4. Additional technical change to correct an inaccurate reference.	No cost associated.	This is required by ESLIA and will have no benefits.
214.1(c)(3)	This section maintains the prohibition on extension of stay for D/C nonimmigrants. CBP will add the two new classes (D-3 and C-4).	No cost associated.	This is required by ESLIA and will have no benefits.
214.1(e)	This section will specify that C-4 crew engaged in lightering activities are not, for immigration purposes, performing services, work, labor or employment within the United States.	No cost associated.	This is required by ESLIA and will have no benefits.
214.2(c)	This section will add the C-4 class and clarify that lightering crew will have up to a 180-day admission period. All other crew will retain the 29-day period. Define the C-classes in order.	No cost associated.	This is required by ESLIA and will have no benefits.
214.2(d)(1)	This section will specify that the performance of ship-to-ship liquid cargo transfer operations to or from any other vessel engaged in foreign trade does not constitute services, work, labor, or employment connected to a domestic movement of a vessel for immigration purposes.	No cost associated.	This is required by ESLIA and will have no benefits.
252.1(c), (d), (f)	This section will add the D-3 lightering crew classification, and the up to 180-day landing period. Clarify that D-3 crew do not require CBP permission to depart by means other than the vessel of arrival. Additional technical change to correct an inaccurate reference.	No cost associated.	This is required by ESLIA and will allow CBP to track the number of lightering crew granted landing privileges.
252.2(b)	This section makes a technical change to correct an inaccurate reference.	No cost associated.	No benefit associated.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.) (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires agencies to assess the impact of regulations 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. As a general notice of proposed rulemaking was unnecessary for this rule, CBP is not required to prepare a regulatory flexibility analysis for this rule but has prepared one nonetheless. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

This rule adopts the changes required by the Energy Security and Lightering Independence Act of 2022. The primary change is that alien crewmen performing ship-to-ship liquid cargo transfer operations to or from another vessel engaged in foreign trade will be admitted in transit or granted temporary landing privileges instead of being paroled, which will help CBP tracking of nonimmigrants. This change will have no costs or benefits to aliens. In addition, the rule directly regulates individuals rather than small entities. Accordingly, CBP certifies that this rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) (PRA), an agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. There is no information collection associated with this final rule, so the provisions of the PRA do not apply.

E. Unfunded Mandates Reform Act of 1995

Under the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*) (UMRA), agencies must assess whether a rule will 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. This rule will not result in such expenditures and will not

significantly or uniquely affect small governments. Accordingly, no actions were deemed necessary under the UMRA.

List of Subjects

8 CFR Part 214

Aliens, Employment, Foreign officials.

8 CFR Part 252

Aliens, Maritime carriers, Seamen.

For the reasons stated in the preamble, DHS amends parts 214 and 252 of title 8 of the Code of Federal Regulations 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, 1188, 1221, 1281, 1282, 1301-1305, 1357, and 1372; sec. 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; Pub. L. 115-218, 132 Stat. 1547 (48 U.S.C. 1806).

2. Amend § 214.1 as follows:

a. Revise paragraph (a)(1)(ii);

b. In paragraph (a)(2), in the table:

i. Remove entry "101(a)(15)(C)(iii)" and add in its place entry "212(d)(8)"; and

ii. Add entries for "101(a)(15)(C)(iii)" and "101(a)(15)(D)(iii)" in alphanumeric order by designation; and

c. Revise paragraphs (c)(3)(ii) and (iii) and (e).

The revisions and additions read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

(a) * * *

(1) * * *

(ii) Section 101(a)(15)(C) is divided into (C)(i) for aliens who are in transit through the United States and not covered by (C)(ii)-(iv); (C)(ii) for aliens in transit to and from the United Nations Headquarters District; (C)(iii) for alien diplomats in transit through the United States; and (C)(iv) for aliens in transit to board or to return from a vessel on which the alien will perform or performed, respectively, ship-to-ship liquid cargo transfer operations to or from another vessel engaged in foreign trade;

* * * * *

(2) * * *

Section	**Designation**
* * * * * * *	
212(d)(8)	C-3
101(a)(15)(C)(iii)	C-4
* * * * * * *	
101(a)(15)(D)(iii)	D-3
* * * * * * *	

* * * * *

(c) * * *

(3) * * *

(ii) C-1, C-2, C-3, C-4;

(iii) D-1, D-2, D-3;

* * * * *

(e) *Employment*. (1) A nonimmigrant in the United States in a class defined in section 101(a)(15)(B) of the Act as a temporary visitor for pleasure, or section 101(a)(15)(C) of the Act as an alien in transit through this country, may not engage in any employment, except as provided in paragraph (e)(3) of this section. Any other nonimmigrant in the United States may not engage in any employment unless the nonimmigrant has been accorded a nonimmigrant classification which authorizes employment or the nonimmigrant has been granted permission to engage in employment in accordance with the provisions of this chapter.

(2) A nonimmigrant who is permitted to engage in employment may engage only in such employment as has been authorized. Any unauthorized employment by a nonimmigrant constitutes a failure to maintain status within the meaning of section 241(a)(1)(C)(i) of the Act.

(3) A crewman, admitted in transit in the C-4 class or granted temporary landing in the D-3 class, who is performing ship-to-ship liquid cargo transfer operations to or from any other vessel engaged in foreign trade is not, for immigration purposes, performing services, work, labor, or employment within the United States.

* * * * *

3. Amend § 214.2 by revising paragraphs (c) and (d)(1) to read as follows:

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

* * * * *

(c) *Transits*—(1) *Immediate and continuous transit through the United States*. An alien of the class defined in section 101(a)(15)(C)(i) of the Act may be admitted for a period not to exceed 29 days.

(2) *United Nations Headquarters District*. An alien of the class defined in section 101(a)(15)(C)(ii) of the Act, whose visa is limited to transit to and from the United Nations Headquarters District, if otherwise admissible, shall be admitted on the

additional conditions that the alien proceed directly to the immediate vicinity of the United Nations Headquarters District, and remain there continuously, departing therefrom only if required in connection with the alien's departure from the United States, and that the alien have a document establishing the ability to enter some country other than the United States following the alien's sojourn in the United Nations Headquarters District. The immediate vicinity of the United Nations Headquarters District is that area lying within a twenty-five-mile radius of Columbus Circle, New York, NY.

(3) *Foreign government officials transiting through the United States*. An alien of the class defined in section 212(d)(8) of the Act may be admitted for a period not to exceed 29 days.

(4) *Lightering crew*. An alien of the class defined in section 101(a)(15)(C)(iii) of the Act may be admitted for a period not to exceed 180 days.

(d) * * *

(1) *General provisions*. (i) The provisions of parts 251, 252, 253, and 258 of this chapter shall govern the landing of crewmen as nonimmigrants of the class defined in section 101(a)(15)(D) of the Act.

(ii) An alien crewman of the class defined in section 101(a)(15)(D) of the Act may be employed only in a crewman capacity on the vessel or aircraft of arrival, or on a vessel or aircraft of the same transportation company.

(iii) An alien crewman of the class defined in section 101(a)(15)(D) of the Act may not be employed in connection with domestic flights or movements of a vessel or aircraft but see paragraph (d)(1)(iv) of this section. However, nonimmigrant crewmen may perform crewmember duties through stopovers on an international flight for any United States carrier where such flight uses a single aircraft and has an origination or destination point outside the United States.

(iv) The performance of ship-to-ship liquid cargo transfer operations to or from any other vessel engaged in foreign trade does not constitute services, work, labor, or employment connected to a domestic movement of a vessel for immigration purposes.

* * * * *

PART 252 – LANDING OF ALIEN CREWMEN

4. The authority citation for part 252 continues to read as follows:

Authority: 8 U.S.C. 1103, 1184, 1185 (pursuant to E.O. 13323 published on January 2, 2004), 1258, 1281, 1282; 8 CFR part 2.

5. Amend § 252.1 as follows:

a. In paragraph (c), remove the reference to "8 CFR 235.1(d)(1)(ii) and (iii)" and add in its place "8 CFR 235.1(f)(1)(ii) and (iii)";

b. Revise and republish (d); and

c. Add a sentence at the end of paragraph (f).

The revision and addition read as follows:

§ 252.1 Examination of crewmen.

* * * * *

(d) *Authorization to land*. The immigration officer in his discretion may grant an alien crewman authorization to land temporarily in the United States for:

(1) Shore leave purposes during the period of time the vessel or aircraft is in the port of arrival or other ports in the United States to which it proceeds directly without touching at a foreign port or place, not exceeding 29 days in the aggregate, if the immigration officer is satisfied that the crewman intends to depart on the vessel on which he arrived or on another aircraft of the same transportation line, and the crewman's passport is surrendered for safe keeping to the master of the arriving vessel;

(2) The purpose of departing from the United States as a crewman on a vessel other than the one on which he arrived, or departing as a passenger by means of other

transportation, within a period of 29 days, if the immigration officer is satisfied that the crewman intends to depart in that manner, that definite arrangements for such departure have been made, and the immigration officer has consented to the pay off or discharge of the crewman from the vessel on which he arrived. A crewman granted a conditional permit to land under section 252(a)(1) of the Act and paragraph (d)(1) of this section is required to depart with his vessel from its port of arrival and from each other port in the United States to which it thereafter proceeds coastwise without touching at a foreign port or place; however, he may rejoin his vessel at another port in the United States before it touches at a foreign port or place if he has advance written permission from the master or agent to do so; or

(3) A period of up to 180 days if the crewman intends to depart, within the period for which the crewman is permitted to land, on the same vessel or on a vessel or aircraft other than the vessel on which the crewman arrived and will perform ship-to-ship liquid cargo transfer operations to or from any other vessel engaged in foreign trade during such period.

* * * * *

(f) * * * A crewman granted temporary landing privileges under paragraph (d)(3) of this section is authorized to depart on the same vessel on which the crewman arrived or on a vessel or aircraft other than the vessel on which the crewman arrived and does not require an application on Form I-408 to do so.

* * * * *

§ 252.2 [Amended]

6. Amend § 252.2(b) by removing the reference to "§ 208.2(b)(1)" and adding in its place "§ 208.2(c)(1)".

Markwayne Mullin,
Secretary,
U.S. Department of Homeland Security.

[FR Doc. 2026-16319 Filed: 8/10/2026 8:45 am; Publication Date: 8/11/2026]