

upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

**The Rule**

This amendment to 14 CFR part 71 establishes Class E airspace at Milbank, SD, to accommodate aircraft executing instrument flight procedures into and out of Milbank, SD, to accommodate aircraft executing instrument flight procedures into and out of Milbank Municipal Airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) Is not a “significant rule” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air). Adoption of the Amendment.

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

**PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS**

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective

September 16, 2002, is amended as follows:

\* \* \* \* \*

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

**AGL SD E5 Milbank, SD [New].**

Milbank Municipal Airport, SD, (Lat. 45° 13' 50" N., long. 96° 33' 57" W.). Watertown VORTAC, (Lat. 44° 58' 47" N., long. 97° 08' 30" W.).

That airspace extending upward from 700 feet or more above the surface within a 6.4-mile radius of the Milbank Municipal Airport, and that airspace extending upward from 1200 feet above the surface within an area bounded on the north by lat. 45° 34' 00" N., on the west by long. 97° 30' 00" W., on the south by lat. 44° 38' 00" N., and on the east by the South Dakota/Minnesota border excluding that airspace within the Watertown, SD, Class E airspace area, that airspace within the Ortonville, MN, Class E airspace area, and that airspace area within the state of Minnesota.

\* \* \* \* \*

Issued in Des Plaines, Illinois on November 13, 2002.

**Richard K. Petersen,**  
Assistant Manager, Air Traffic Division, Great Lakes Region.  
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**DEPARTMENT OF STATE**

**22 CFR Part 62**

**[Public Notice 4214]**

**RIN 1405–AB45**

**Exchange Visitor Program: SEVIS Regulations**

**AGENCY:** Department of State.  
**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule establishes regulations and procedures for designated Exchange Visitor Program sponsors to gain access to the Student and Exchange Visitor Program (SEVP) database through the Student and Exchange Visitor Information System (SEVIS) for the reporting of information essential to the administration of their exchange visitor program in an electronic environment. It also provides a means for organizations interested in being considered for designation to apply for authorization. The purpose of this rule is to provide immediate access to SEVIS to enable the Attorney General to meet the legislative mandate established in section 641 of the Illegal

Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Pub. L. 104–208), which requires the Attorney General, in consultation with the Secretary of State and the Secretary of Education, to develop an electronic system to collect information on aliens who have, or are applying for nonimmigrant status under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (Act).

Although the Attorney General has the primary responsibility for implementing SEVIS, the Department is promulgating this rule to set forth the SEVIS requirements that specifically pertain to exchange visitor program sponsors. INS will specifically address those areas over which they have responsibility for exchange visitors (e.g., admission, change of status, and duration of status) in a separate rule.

**DATES: Effective Date:** This rule is effective December 12, 2002.

**Comment Dates:** Written comments regarding this rule must be submitted on or before January 13, 2003.

Comments on proposed information collections must be submitted on or before 60 days from December 12, 2002.

**ADDRESSES:** Comments regarding this rule must be presented in duplicate and addressed as follows: U.S. Department of State, Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, 301 4th Street, SW., Room 734, Washington, DC 20547.

**FOR FURTHER INFORMATION CONTACT:** Stanley S. Colvin, Acting Director, Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, 301 4th Street, SW., Room 734, Washington, DC 20547; 202–401–9810; fax: 202–401–9809.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

*What Is the Student and Exchange Visitor Program (SEVP)?*

The SEVP is a statutorily mandated information system designed to electronically track and record the entry and presence in the United States of student and exchange visitor non-immigrants. The SEVP is the responsibility of the Immigration and Naturalization Service (INS) who has developed the enterprise architecture necessary to implement the electronic tracking of student and exchange visitors. The Department of State (Department) is promulgating this rule in order to advise future applicants for Exchange Visitor Program designation of certain procedures now necessary for

the administration and oversight of exchange programs in light of the INS implementation of SEVIS. In September 1996, Pub. L. 104–208 (Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)) was enacted. IIRIRA directed the Attorney General to develop, in consultation with the Department of Education and the Department of State, an electronic information collection system that would track the entry and presence in the United States of non-immigrants in F, M and J visa status. The INS developed the program known as the Student and Exchange Visitor Program (SEVP) to meet this mandate. The electronic system that implements SEVP is known as the Student and Exchange Visitor Information System (SEVIS). SEVIS creates a means for information collection and reporting via the Internet and a reduction in data latency, and paper record maintenance.

On October 26, 2001, Section 416 of the USA PATRIOT Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism), Public Law 107–56 subsequently amended IIRIRA. It mandated that SEVIS be fully implemented and expanded prior to January 1, 2003 and collect the date and port of entry of an exchange visitor or student. It also expanded the data collection specified in IIRIRA to include “other approved educational institutions” and identified these to be any [air] flight school, language training school, or vocational schools approved under subparagraph (F), (J) of (M) of section 101(a)(15) of the Immigration and Nationality Act (INA).

IIRIRA was once again amended on May 14, 2002. The Enhanced Border Security and Visa Reform Act of 2002, Pub. L. 107–173, Title V, strengthened requirements for the implementation and monitoring of the SEVIS program by requiring schools, sponsors, the INS and the Department to share data on foreign students and participants of exchange programs (e.g., the issuance of documentation of acceptance; the issuance of a visa to a foreign student or exchange visitor; the admission of the foreign student or exchange visitor into the United States; the registration and enrollment or the participation of an exchange visitor in their program; and, any other relevant act by the foreign student or exchange visitor, including changing schools or sponsors and any termination of studies or participation in an exchange program). Sponsors must report to SEVIS the failure of any exchange visitor to begin his or her program participation as scheduled. Sponsors shall report this failure not

later than 30 calendar days following the scheduled commencement date.

#### *What Is the Purpose of This Rule?*

The Department of State, in coordination with the INS, has established January 30, 2003, as the date on which use of SEVIS for the issuance of all future DS–2019 will be mandatory. In order to facilitate transition to SEVIS, the Department is issuing this interim final rule. This rule creates a new subpart F to specifically address the requirements of SEVIS and provides additional instructions to existing sponsors on getting immediate access to SEVIS. This rulemaking does not change the existing regulations governing the Exchange Visitor Program (22 CFR Part 62) even though, in practicality, these requirements will be affected. The Department will finalize this rule in the near future by incorporating this new Subpart into the rest of the regulations. The Department will issue future rulemakings as additional SEVIS capabilities become available.

#### *What Impact Will SEVIS Have on the Exchange Visitor Program?*

Under the existing regulations and procedures, in order to sponsor a non-immigrant as an exchange visitor, a sponsor must complete and send a multi-copy paper, Certificate of Eligibility for Exchange Visitor (J–1) Status (the non-SEVIS Form DS–2019, formerly known as Form IAP–66) to the potential exchange visitor. The sponsor maintains a copy of the non-SEVIS Form DS–2019; a copy is provided to the non-immigrant; a copy is provided to the INS for their records; and, a copy is routed to the Department for data-entry purposes, which is not accessible for use by the sponsor. The current process is entirely manual and paper-based.

At this time, SEVIS creates a means for sponsors to comply with some of the information collection and reporting requirements of the existing Exchange Visitor Program via the Internet, reducing data latency and paper record maintenance and routing. SEVIS will provide sponsors with the ability to create a one-page Form DS–2019 (with one page of instructions for the non-immigrant and a watermarked version of the DS–2019 for use by INS at entry points) by entering information electronically into the database, thus instantly collecting the data in a central database before the Form is ever printed. As the information is centrally located and instantly collected, the need for multiple copies can be phased out. The sponsor can access the data by

logging into SEVIS, and the Department will no longer be required to collect the information contained on the Form through a data-entry contract. Over the next several months the Department will phase-in the use of SEVIS to implement other regulatory requirements of the Exchange Visitor Program regulations (22 CFR part 62). (See “IV. Anticipated Improvements”, below.)

#### *How Will Sponsors Be Notified of the Arrival of Exchange Visitors in the United States?*

Title V of the Enhanced Border Security and Entry Reform Act of 2002 (Pub. L. 107–173) directs the INS to notify schools and programs sponsors when a student or exchange visitor has been admitted to the United States. The Department is advised that this notification process will be available electronically through SEVIS, on or about January 1, 2003.

Prior to the availability of this function in SEVIS, SEVIS will generate an original SEVIS Form DS–2019 and a watermarked version of the Form when the Form is issued to a potential exchange visitor to begin a new program. (The watermarked version of the SEVIS Form DS–2019 will not contain a barcode and is easily identified by the words, “Data Entry Purposes” printed across the face.) Upon initial admission of the exchange visitor at the port-of-entry, the INS inspector will properly annotate both the original SEVIS Form DS–2019 and the watermarked version. The INS inspector will return the original SEVIS Form DS–2019 to the exchange visitor and the watermarked version will be forwarded by the inspector to the INS’ data processing center. The watermarked version will be returned to the sponsor within approximately 10 days of the exchange visitor’s arrival. The sponsor will be responsible for notifying the INS and the Department that the exchange visitor has failed to commence program participation by updating the record in SEVIS. Non-SEVIS generated Forms DS–2019 will continue to be processed by INS in the same manner as it has done in the past.

#### *What Is the SEVIS Timeline for Exchange Visitor Program?*

Pursuant to statute, the Department of State, in coordination with the INS, has established January 30, 2003, as the date after which all sponsors must use SEVIS. Accordingly, all designated exchange visitor program sponsors are required to be enrolled in SEVIS by this date in order to continue sponsoring non-immigrants as exchange visitors.

After January 30, 2003, only SEVIS-generated Forms DS-2019 can be used for change of non-immigrant classification, reinstatement, transfers, extensions, change of category or any other immigration benefit. During a transition period, previously issued paper Forms DS-2019 will be accepted for visa issuance and admission, so long as the exchange visitor's Form was issued by a sponsor prior to January 30, 2003.

In order to ensure that all current sponsors have access to SEVIS by January 30, any sponsor that wishes to continue administering an exchange visitor program must complete and submit an SEVIS Form DS-3036 (Exchange Visitor Program Application) through SEVIS to the Department no later than December 16, 2002. (See "How does a current sponsor enroll to participate in SEVIS?" below.) The Department will need this time to undertake the administrative actions necessary to authorize sponsor access to SEVIS.

By August 1, 2003, sponsors will also be required to enter information on all exchange visitors continuing to participate in their program after that date, including those that entered the country on a non-SEVIS Form DS-2019, IAP-66 or IAP-66P. Exchange visitors who end their participation in the sponsor's exchange visitor program before this date need not be entered. Accordingly, sponsors must enter the required information for all exchange visitor program participants (including accompanying spouse and/or dependent children) who continue in exchange visitor status after August 1. It is important to note that a separate, SEVIS-generated Form DS-2019 must be prepared for the accompanying spouse and each dependent child.

Sponsors are not required to enter any of their current or continuing exchange visitors into SEVIS prior to August 1, 2003, except for those current or continuing exchange visitors who need a new Form DS-2019 due to a reportable action (*i.e.*, extensions, reinstatements, transfers, changes of category, changes of status, replace a lost form, amendments, corrections or visa issuance).

#### *What Is the Relationship Between SEVIS and NSEERS?*

SEVIS requires the timely reporting and updating of a change in actual and current U.S. address of an exchange visitor. This reporting, however, does not satisfy certain address reporting requirements that are imposed by other regulations or statutes. Specifically, the National Security Entry-Exit

Registration System (NSEERS) imposes a separate address-reporting requirement. Address reporting through SEVIS does not satisfy the NSEERS reporting requirement.

#### *What Is the Relationship Between ISEAS and SEVIS?*

ISEAS (Interim Student and Exchange Authentication System) is a web-based system that allows consular officers to verify the acceptance of foreign students and exchange visitors who apply to enter the United States in student (F or M) and exchange visitors (J) nonimmigrant visa categories based on information the schools or exchange visitor program sponsors enter directly into the system. ISEAS was intended to be an interim mechanism to collect information on foreign students and exchange visitors pending SEVIS development and is not a comprehensive solution to better track these non-immigrants. Because ISEAS is an interim system designed solely to meet the requirement of section 501(c) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Pub. L. 107-173), the data in ISEAS will not be shared with SEVIS. This is significant because until SEVIS is fully implemented, schools and program sponsors will have to electronically register visa applicants into two separate databases (ISEAS and SEVIS). ISEAS will sunset when SEVIS is fully implemented.

#### *Must a Sponsor Continue To Use ISEAS Once Enrolled in SEVIS?*

Until SEVIS is fully implemented, sponsors will be required to enter exchange visitors into both ISEAS and SEVIS. While the Department recognizes that this is a significant duplication of burden on the sponsors, it is a necessary transitional measure to ensure that consular officials issuing visas have access to the appropriate information.

## **II. Implementation**

#### *How Will Sponsors Enter Data Into SEVIS?*

Data can be entered into SEVIS through an interactive mode or through batch processing. The interactive mode is the web-based interaction between the sponsor (responsible officer/alternate responsible officer) and SEVIS. Using a user ID and password to gain access to SEVIS, the sponsor will enter data directly into the database. A completed SEVIS Form DS-2019 will print through the sponsor's computer to the sponsor's printer. The Department anticipates virtually no cost to using the

interactive mode. This capability only requires Internet access and a browser, most of which are commonly available at no charge. No other software is necessary, and there are no recurring fees for access to SEVIS.

Batch processing is an electronic data exchange that takes place between the sponsor's database system and SEVIS. Technical requirements for the development of sponsor specific batch processing software are posted on the INS SEVIS website. It is anticipated that SEVIS will be able to accept batch submission by December 2002. The use of batch processing is a choice to be made voluntarily by each sponsor. Given the tremendous variation in the size of programs designated by the Department, we anticipate that some sponsors will prefer to develop batch-processing capabilities while others will have no need to pursue this choice.

#### *How Does a Sponsor Enroll to Participate in SEVIS?*

Currently designated sponsors must complete the SEVIS Form DS-3036 in order to enroll in SEVIS. A temporary user ID and password is required in order to access, create, retrieve and submit an electronic SEVIS Form DS-3036 (see "How to register for a SEVIS temporary user ID" below). Only one application (the SEVIS Form DS-3036) can be created using this temporary user ID. The temporary ID remains valid for 30 calendar days; if the SEVIS Form DS-3036 is not submitted within 30 calendar days, the temporary ID is deactivated. No changes can be made to the SEVIS Form DS-3036 once it is submitted. However, after the SEVIS Form DS-3036 has been submitted, the temporary user ID remains active for viewing and printing purposes until the application has either been approved or denied. Upon either approval or denial of the application, the temporary ID will be deactivated and will no longer provide the user with access to SEVIS.

Sponsors completing the SEVIS Form DS-3036 in order to enroll their currently designated program in SEVIS need not submit any documentation and/or fee normally associated with the paper Form DS-3036 to the Department. Sponsors will complete the SEVIS Form DS-3036 using the information contained in their most recent letter of designation or redesignation. Enter the name of the sponsor as it is stated in the letter of designation/redesignation; select "currently designated sponsor" as the type of application; and, enter the program number as assigned by the Department. Enter only the exchange visitor categories authorized by the Department at time of SEVIS enrollment

(amendments to the categories authorized can take place electronically after the program is enrolled in SEVIS). Once the application has been submitted, no further changes can be made. The person submitting the SEVIS Form DS-3036 will receive an email advising that the application was successfully received. The applicant is not required to print out the completed SEVIS Form DS-3036.

The Department will review the electronic submission and compare the information entered into SEVIS with the sponsor's program file. When the information has been verified, the Department will approve access to SEVIS. At that time, SEVIS will generate permanent user IDs for the responsible officer and alternate responsible officer(s) identified on the SEVIS Form DS-3036 and will email them to each person, along with instructions for acquiring passwords to the system.

When enrollment authorization has been granted, the sponsor must return all unused non-SEVIS Forms DS-2019 on hand, with a reconciliation of form usage. Once enrolled in SEVIS, a sponsor is prohibited from issuing non-SEVIS Forms DS-2019 for any purpose.

#### *How Does a New Organization Apply for Designation to Conduct an Exchange Visitor Program?*

An organization wishing to apply for designation to conduct an Exchange Visitor Program must submit an Exchange Visitor Program Application (DS-3036) to the Department, including the SEVIS Form DS-3036 and the documentation and fees currently associated with the Form DS-3036. In order to access the SEVIS Form DS-3036, a temporary user ID and password is required (see "How to register for a SEVIS temporary user ID" below).

Only one SEVIS Form DS-3036 can be created using this temporary user ID. The temporary ID remains valid for 30 calendar days; if you do not submit the application within 30 calendar days, the temporary ID is deactivated. No changes can be made to the SEVIS Form DS-3036 once it is submitted. Upon either approval or denial of the application, the temporary ID will be deactivated and will no longer provide the user with access to SEVIS.

When completing the SEVIS Form DS-3036, be certain to choose "new" as the type of application if this is the first time applying for designation as an exchange visitor program; do *not* choose "currently designated sponsor" as this option is only for sponsors who are currently designated to conduct an exchange program.

Once the SEVIS Form DS-3036 has been completed, the applicant must print-out, sign and notarize the SEVIS Form DS-3036 and mail it with the non-reimbursable fee and required supporting documentation (see 22 CFR 62.5(b), (c) and (d)) to the Department within 30 days of the electronic submission.

At the time of receipt, the Department will note in SEVIS that the complete application package has been received, and SEVIS will send the applicant an email advising that the application and required fee has been received and that the application is pending review. If the application submitted to the Department does not include the required fee or supporting documentation, the Department will make a note in SEVIS, and SEVIS will email the applicant. The email will advise that either the fee or supporting documentation must be submitted to the Department in order for the process to continue. When the Department receives the subsequent submission (i.e., required fee or supporting documentation), the Department will record it in SEVIS, and SEVIS will email the applicant advising of the receipt of the subsequent mailing and the process will continue.

If the Department does not record in SEVIS that the complete application (SEVIS Form DS-3036, fee and supporting documentation), or any part thereof, has been received prior to the expiration of the 30-calendar day submission period, SEVIS will automatically cancel the application request. If an application request is cancelled by SEVIS, all fees submitted will be forfeited. During the review process should the Department determine that additional information is required to render a decision, the Department will note this fact in SEVIS and send the applicant a written letter (outside of SEVIS) outlining the information required in order to continue the review. SEVIS will notify the applicant by email, advising of the need for additional information and the forthcoming written letter. The review process is suspended pending receipt of the additional information requested by the Department. On receipt of the requested information, the Department again records this in SEVIS, the applicant is notified by email, and the review process continues.

Upon approval of the application, the Department will update SEVIS. SEVIS will notify the applicant by email, as well as the individuals identified in the application as the responsible officer and alternate responsible officer(s). In addition, the responsible officer and alternate responsible officer(s) will

receive emails providing them with their own unique user IDs and instructions on how to set up passwords. The Department will continue to issue a formal letter of designation to the applicant outside of SEVIS. If the request for designation is denied, the Department will record it in SEVIS accordingly; however, the Department will notify the applicant of the decision in writing by letter outside of the SEVIS system.

Upon implementation of this rule, all new applicants for Exchange Visitor Program designation must use SEVIS to generate and submit the SEVIS DS-3036 to the Department in addition to the existing requirements of the paper Form DS-3036.

#### *How Do I Register for a SEVIS Temporary User ID?*

The SEVIS Log in Page (<http://www.ins.usdoj.gov/sevis>) includes a link used to obtain a temporary user ID and a password for creating and submitting the electronic Exchange Visitor Program Application (SEVIS Form DS-3036). Once this site is accessed, a user should click the "Register for New Account" link at the bottom of the screen and the System will display a "Register for a New SEVIS Account" screen. At a minimum, a user must complete all fields preceded by a red asterisk (\*). When authorization is granted by the Department the temporary user will receive two e-mail messages, one containing the temporary ID and a second e-mail containing instructions on how to access SEVIS for the first time.

To facilitate the initial use of SEVIS, the System has been developed to provide the user with features such as user manuals, tutorials and a "Help" feature. A new user to the System should review these tools before attempting to complete the SEVIS Form DS-3036. If a user should forget his or her password, contact the SEVIS Help Desk at 1-800-892-4829. The current temporary account will be disabled and a new one will be created.

#### *What Happens If a Sponsor Does Not Provide Information to SEVIS?*

Pursuant to the provisions of section 641(d)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208), a designated exchange visitor program failing to provide the information specified, is subject to program revocation.

### III. Effect on Existing Exchange Visitor Program Regulations

Existing Exchange Visitor Program regulations are not amended by this rule. SEVIS will, however, be utilized to submit information electronically. The Department has identified the following regulations for which the information required therein will be submitted or transmitted in SEVIS:

#### Subpart A—General Provisions

##### *Section 62.5 Application Procedure*

This section of the Exchange Visitor Program regulations remains unchanged. However, SEVIS provides for the electronic submission of the Exchange Visitor Program Application (Form DS-3036) (see “Submission of New Applications for Designation (Form DS-3036)”). The required fee and supporting documentation will continue to be submitted in paper format. The submission of fees and supporting documentation will be, at some point in the future, accomplished electronically as the INS further develops the SEVIS enterprise architecture.

##### *Section 62.6 Designation*

In addition to the Department’s formal letter of designation, SEVIS will provide applicants with an email notifying of a favorable determination.

##### *Section 62.7 Redesignation*

Sponsors continue to be required to apply for redesignation. SEVIS, however, produces an alert prior to the end of the designation cycle to assist sponsors in filing the redesignation request in a timely manner.

##### *Section 62.9 General Obligations of Sponsors*

Requirements of this section remain unchanged. Section 62.9(g)(3) permits the Department to limit the number of alternate responsible officers appointed by the sponsor. SEVIS limits the sponsor from appointing more than ten (10).

##### *Section 62.10 Program Administration*

The regulatory provisions of this section remain unchanged. Sponsors shall ensure that only the responsible officer and/or alternate responsible officer(s) issue the SEVIS-generated Form DS-2019. Sponsors shall continue to retain all records relating to their exchange program and exchange visitors for a minimum of three years. However, SEVIS-generated records will no longer be subject to this requirement as they have been provided electronically.

The sponsors’ obligation to monitor the exchange participants in their

program continues unchanged. However, sponsors will now report the actual and current U.S. address of all sponsored participants to SEVIS. Sponsors must update the actual and current U.S. address information for participants within 21 days of being notified by a participant of a change in his or her address. A sponsor’s failure to update the actual and current U.S. address information within 21 days of receipt may be grounds for revocation of their Exchange Visitor Program status.

Sponsors shall report a U.S. mailing address, i.e., P.O. box address, in those limited circumstances where mail cannot be delivered to the current and actual U.S. address. In those limited circumstances where a mailing address is reported, sponsors will continue to be required to maintain the actual and current U.S. address, e.g., dorm, building and room number, of the participant.

##### *Section 62.11 Duties of Responsible Officers*

These regulatory provisions remain unchanged. However, as SEVIS will generate Form DS-2019 by the use of a user ID and password, the responsible officer and alternate responsible officer(s) are prohibited from dispensing and/or sharing their ID and password with others.

##### *Section 62.12 Control of Forms DS-2019*

While the regulatory provisions of this section remain unchanged, access, completion and printing of SEVIS-generated, Forms DS-2019 is restricted to facilities that house the responsible officer and/or alternate responsible officers located within the United States or its U.S. territories. All SEVIS-generated Forms DS-2019 must be printed and signed in blue ink by the responsible officer or alternate responsible officer(s) so that the original Forms DS-2019 can be easily distinguished from any photocopies that may be made of the Form. At no time is the sponsor permitted to forward, via facsimile or other electronic means, unsigned SEVIS Forms DS-2019 to exchange visitors, either directly or via an employee, officer or agent of the sponsor, or to an individual designated by the exchange visitor. Sponsors are also prohibited from scanning the Form DS-2019 to create an electronic image of the Form.

In addition, while sponsors are able to generate and cancel a SEVIS Form DS-2019, sponsors are required to destroy damaged and unusable Forms on the sponsor’s premises (e.g., Forms with errors or Forms damaged by the printer);

and, are required to continue to request exchange visitors and prospective exchange visitors to return any unused SEVIS Form DS-2019 to the sponsor for destruction by the sponsor.

Further, sponsors will submit requests for SEVIS Form DS-2019 allotments electronically. As SEVIS electronically generates the Form DS-2019, safeguarding the Forms and information will now be accomplished by electronic storage. SEVIS will also automatically record the sponsor’s allotment of Forms DS-2019, as well as their issuance.

##### *Section 62.13 Notification Requirements*

While the requirements of this section remain unchanged, SEVIS enables sponsors to electronically report these events. SEVIS enables sponsors to update its SEVIS record to indicate a change in address, telephone or facsimile number. It also enables sponsors to update the program status of exchange visitors who have completed their programs or who have otherwise been terminated from his or her program. A sponsor who is no longer interested in conducting an exchange program, or whose financial circumstances render the sponsor unable to comply with its obligations (as set forth in section 62.9), can electronically notify the Department through SEVIS of this decision.

Sponsors will continue to promptly notify the Department directly by telephone (confirming in writing) or facsimile of any serious problem or controversy that could be expected to bring the Department of State or the sponsor’s exchange visitor program into notoriety or disrepute. Sponsor will also notify the Department, outside of SEVIS, of a change in composition of the sponsoring organization affecting its U.S. citizenship (as defined in section 62.2); a major change in control of the sponsor’s organization; loss of licensure or accreditation; and/or, litigation related to the sponsor’s exchange visitor program where the sponsor is a party.

Sponsors must report within 30 calendar days that an exchange visitor has begun his or her program participation as scheduled. Sponsors must also report, to SEVIS, not later than 30 calendar days after the program start date on the Form DS-2019, the failure of any non-immigrant to begin his or her program as scheduled.

##### *Section 62.15 Annual reports.*

Sponsors continue to be required to submit annual reports to the Department. SEVIS assists sponsors in the completion of the report by electronically producing the report form and automatically identifying and

populating the categories of participants authorized by the Department. In order to meet the regulatory certification requirements of section 62.14, sponsors must complete the narrative sections, print, sign and mail the annual report to the Department. SEVIS provides sponsors with an alert in advance of the deadline for filing the annual report. However, due to the transition period whereby sponsors convert from the use of the paper Form DS-2019 to the SEVIS-generated Form DS-2019, sponsors will be required to report to the Department their use of both the paper Form DS-2019 and the SEVIS-generated Form DS-2019. Sponsors will submit the existing, non-SEVIS annual report form currently utilized by sponsors to provide a numerical count, by category, of all exchange visitors participating in the sponsors program for the reporting year. Sponsors will also generate a report in SEVIS that must be printed, signed, and sent to the Department, accounting for those forms issued through SEVIS to exchange visitor participants. This dual reporting will only be required until such time as the sponsor's annual report cycle falls completely within the period of time in which SEVIS-generated Forms DS-2019 are issued.

#### Subpart B—Specific Program Provisions

Sponsors must utilize SEVIS to complete the Form DS-2019 issued to all non-immigrants (and accompanying spouse and dependent children) selected to participate in their programs. Sponsors issuing a Form DS-2019 to an alien physician to enable them to participate in their program for the purposes of observation, consultation, teaching or research shall continue to sign and append a certification to the SEVIS-generated Form DS-2019 as specified in section 62.27(c)(1)(i) or (ii). Placement reports used by the Department for monitoring and oversight of the summer work/travel and camp counselor program will continue to be submitted as required by existing regulations as will the management audit required of au pair program sponsors. The requirements for the authorization of student employment and academic training will now be documented in SEVIS (*see* 22 CFR 62.73 and 62.74), and thus program sponsors will no longer be required to retain or produce paper documents for these two functions.

Also, SEVIS will now automatically record the matriculation level of students (e.g., secondary, associate, bachelors, masters, doctorate and non-degree) and whether a trainee is engaged in specialty or non-specialty training.

#### Subpart C—Status of Exchange Visitors

The regulatory requirements of subpart C are not changed. However, SEVIS assists sponsors in the administration of their programs by electronically capturing and submitting data on requested actions and sending the Department an advance notification of an impending request. Requests for changes of category, extensions beyond the maximum duration of participation and reinstatement to valid program status will be filed electronically. Paper documentation requirements remain in place until infrastructure software necessary for the submission of such documentation electronically is in place. Review of these requests may not be completed until supporting documentation and the required fee is received. SEVIS will be utilized to transmit approvals.

As discussed above, mandatory compliance with SEVIS is January 30, 2003. For the period of time between the promulgation of this rule and the mandatory compliance date, some exchange visitor program sponsors will be utilizing SEVIS procedures while others are not. The on-line SEVIS user manual sets forth the procedures that will facilitate the transfer of an exchange participant to or from a non-SEVIS and SEVIS participating sponsor. These procedures will become redundant on January 30, 2003. Also discussed in the SEVIS user manual are the procedures for submitting requests for an extension of program, change of category and reinstatement to valid program status of exchange participants.

#### Subpart D—Sanctions

The regulatory provisions of this Subpart remain unchanged.

#### Subpart E—Termination and Revocation of Programs

The regulatory provisions of this Subpart remain unchanged.

#### Subpart H—Fees

The regulatory provisions of this Subpart remain unchanged.

#### Subpart G—Summer Work/Travel

The regulatory provisions of this Subpart remain unchanged.

#### *How Does SEVIS Affect the J-2?*

SEVIS requires the issuance of a separate SEVIS Form DS-2019 to the J-2 accompanying spouse and each dependent child, coming with or following to join, an exchange visitor.

If sought, a request for employment authorization for the J-2 accompanying spouse and dependent children must be submitted to and authorized by the INS

outside of SEVIS. INS has determined that monitoring of non-immigrants being educated and trained in the United States is of vital importance to the national security of the United States. Accordingly, any J-2 spouse or dependent child wishing to pursue full-time study in the United States (other than avocational or recreational) is required to petition the INS for a change of status to that of an F-1, J-1 or M-1 non-immigrant.

#### IV. Anticipated Improvements

The Department anticipates a series of future expansions and improvements of the SEVIS enterprise architecture. These expansions will focus on automating the existing Exchange Visitor Program processes, including: collecting all data required by statute and regulations (e.g., the electronic reporting of academic training, student employment and notification of visa issuance and port of entry, etc.); accepting electronic signatures and documents in lieu of paper signatures and notarizations; and accepting electronic fee transfers. As these capabilities become available, the Department will revise the Exchange Visitor Program regulations as appropriate.

In December 2002, SEVIS will enable sponsors to submit multiple SEVIS Forms DS-2019 simultaneously through a batch-processing mode. The Department anticipates that this will save a sponsor significant time by not having to use the interactive mode to enter one record at a time and will allow sponsors to update SEVIS directly from their own information systems. Information on the batch processing mode is available at: <http://www.ins.gov/graphics/services/tempbenefits/sevp.htm>.

In the longer term, the Department is working actively to convert the Exchange Visitor Program from exchanges of paper to electronic submission and review. As part of this conversion, the Department is reviewing its entire business process to determine the most productive use of SEVIS and other information technology, including opportunities to streamline existing processes and improve collaboration. These changes may result in future rulemakings.

#### V. Request for Comments

This rulemaking, while not changing the majority of the Exchange Visitor Program regulations, will have a major effect on the ways in which sponsors comply with these regulations. The Department seeks comments on the new subpart F, its relationship to SEVIS, and

its relationship with the existing 22 CFR part 62.

Looking forward to the eventual acceptance of electronic documents in SEVIS, the Department would like comments on the availability of required documentation in electronic formats.

The Department would also like to solicit comments from the exchange community and the general public on how the Department can streamline and/or strengthen the Exchange Visitor Program and the sponsors' exchange visitor programs. The Department particularly welcomes ideas on the use of information technology to gain greater efficiencies. The most useful comments will address the Department's obligations to the exchange community and to Homeland Security, in the context of the program's limited resources.

#### *Implementation Schedule*

All requirements set forth in subpart F are effective on December 12, 2002.

#### **Regulatory Analysis and Notices**

##### *Administrative Procedure Act*

The Department is publishing this rule as an interim final rule, with a 30-day provision for post-promulgation public comments, based on the "good cause" exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3).

##### *Good Cause Exception*

This rule is effective on publication in the **Federal Register**. The Department finds that good cause exists both for adopting this rule without prior notice and comment period ordinarily required by 5 U.S.C. 553, and for making this rule immediately effective, rather than having it enter into force 30 days after publication. The USA Patriot Act, Public Law 107-56, mandates that SEVIS be fully implemented and expanded prior to January 1, 2003. Because of vital national security concerns that underpin the USA Patriot Act, and the Border Security Act, promulgation of this rule as a proposed rule would be contrary to the public interest.

##### *Regulatory Flexibility Act*

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule is not expected to have a significant economic impact on a substantial number of small entities.

##### *Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by State, local and tribal

governments, in the aggregate, or by the private sector, of \$100 million in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

##### *Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

##### *Executive Order 12866*

This regulation has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, Section 1(b), Principles of Regulation. The Department of State has determined that this rule is a "significant regulatory action" under Executive Order 12866, Section 3(f), Regulatory Planning and Review and, accordingly, this rule has been reviewed by the Office of Management and Budget.

##### *Executive Order 13132*

This regulation will not have substantial direct effect 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 section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

##### *Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor an information collection if it does not display a currently approved OMB Control Number. Notwithstanding other provisions of law, no person may be penalized for failing to comply with an information collection that does not display a currently OMB Control Number. Information collections include reporting requirements, record keeping requirements, and any requirement that provides for the

disclosure of information to other persons or the public.

This rulemaking imposes new information collection requirements on exchange visitor program sponsors. These include:

- Requirement for current sponsors to register for SEVIS using the SEVIS Form DS-3036.
- Requirement for new applicants to use SEVIS to complete the SEVIS Form DS-3036.
- Requirement for sponsors to complete the SEVIS DS-2019.
- Requirement for some existing written notification requirements to be reported through SEVIS.
- Requirement for sponsors to gather and report exchange visitor change of address information.
- Requirement for sponsors to report employment and training data for students that is currently maintained as a record.

These information collections, and all information collections conducted through SEVIS, have been approved under OMB Control Number 1115-0252, expiration date: 12/31/2002. For additional information on these information collections or copies of the INS request to OMB, contact Director, Regulations and Forms Services Division, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC 20536.

The Department has also identified information collection provisions of 22 CFR part 62 that require OMB approval. These include all record keeping and information collection requirements in part 62 related to the selection, screening, orientation, placement or monitoring of exchange participants or the administrative oversight of organizations facilitating these activities. OMB has granted emergency approval to these requirements under OMB Control Number 1405-0147, expiration date: 5/31/2003.

The Department is preparing to request a three-year approval for these collections. As part of that process, the Department requests comments on these information collections for 60 days. Comments are encouraged and will be accepted until February 10, 2003. The Department requests written comments and suggestions from the public and affected agencies concerning this collection of information. Your comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility.

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

Copies of the Department request to OMB are available at: <http://exchanges.state.gov/education/jexchanges>. The Department will, at its earliest opportunity, make also available a more complete description of all of the information collections included in this request, including a burden estimate for each. Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Stanley Colvin, Acting Director, SA-44, 301 4th Street, SW., Room 734, U.S. Department of State, Washington, DC 20547, who may be reached by fax on (202) 401-9809.

In addition, the following related information collections currently approved under the following OMB Control Numbers:

Certificate of Eligibility for Exchange Visitor (J-1) Status (non-SEVIS Form DS-2019) is approved under OMB Control Number 1405-0119, expiration date: 2/28/2005. Exchange Visitor Program Application (non-SEVIS Form DS-3036) and Update (non-SEVIS Form DS-3037) are approved under OMB Control Number 1405-0120, expiration date: 9/30/2005.

#### List of Subjects in 22 CFR Part 62

Cultural Exchange Programs.

Accordingly, 22 CFR part 62 is amended as follows:

#### PART 62—EXCHANGE VISITOR PROGRAM

1. The authority citation for part 62 continues to read as follows:

**Authority:** 8 U.S.C. 1101(a)(15)(f), 1182, 1184, 1258; 22 U.S.C. 1431-1442, 2451-2460; Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105-277, 112 Stat. 2681 *et seq.*; Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978; 3 CFR, 1978 Comp. p. 168.

2. A new Subpart F is added to read as follows:

#### Subpart F—Student and Exchange Visitor Information System (SEVIS)

Sec.

62.70 SEVIS reporting requirements.

- 62.71 Control and production of the electronic Form DS-2019.
- 62.72 Staffing and support services.
- 62.73 Academic training.
- 62.74 Student employment.
- 62.75 Extension of program participation.
- 62.76 Transfer procedures.
- 62.77 Reinstatement.
- 62.78 Termination.
- 62.79 Sanctions.

#### Subpart F—Student and Exchange Visitor Information System (SEVIS)

##### § 62.70 SEVIS reporting requirements.

(a) *Enrollment and initial use of SEVIS.* Sponsors shall apply for enrollment in SEVIS no later than December 16, 2002. Upon notification that they have been successfully enrolled in SEVIS, sponsors shall:

- (1) Create a SEVIS record for any program participant seeking visa issuance or for whom an extension, transfer, change of category, or reinstatement request is sought;
- (2) Create a SEVIS record to replace a previously issued but lost or stolen copy of a participant's Form IAP-66 or Form DS-2019;
- (3) Create a SEVIS record if an amendment or change is made in the start or end date of a program participant's program;
- (4) Create a SEVIS record for a program participant's accompanying spouse and all accompanying dependent children if a SEVIS record has been created for the participant;
- (5) Utilize SEVIS to up-date information on any participant, spouse, or dependent child for whom a SEVIS record has been created; and
- (6) No later than August 1, 2003, create a separate SEVIS record for each participant, accompanying spouse and dependent child that will continue to have Exchange Visitor Program participant status after August 1, 2003.

(b) *Current U.S. address.* Sponsors shall ensure that the actual and current U.S. address of all sponsored participants is reported to SEVIS. Sponsors shall update the actual and current U.S. address information for participants within 21 days of being notified by a participant of a change in his or her address. A sponsor's failure to update the actual and current U.S. address information within 21 days of receipt may be grounds for revocation of their Exchange Visitor Program status. Sponsors shall report a U.S. mailing address, *i.e.*, P.O. box address, in those limited circumstances where mail cannot be delivered to the current and actual U.S. address. If a U.S. mailing address is reported to SEVIS, sponsors shall also maintain a record of the actual and current U.S. address, *e.g.*, dorm,

building and room number, for that exchange visitor.

(c) *Notification to program participants.* Sponsors shall notify all participants in their exchange visitor program and accompanying spouse and dependent children that any change in the U.S. address must be reported to the sponsor within 10 days of such change. Sponsors may direct the participant to provide the notification of change in address in a format acceptable to the sponsor.

(d) *Validation of program participation.* Sponsors shall within 30 calendar days of a program participant's start date verify that the participant has in fact begun their program participation. Sponsors shall update the participant's SEVIS record and current U.S. address.

##### § 62.71 Control and production of the electronic Form DS-2019.

(a) SEVIS generated Forms DS-2019 shall only be completed, printed and signed by a responsible officer and/or alternate responsible officer(s) who are physically present in the United States or a U.S. territory at the time of the Form's production.

(b) Responsible officers and alternate responsible officers shall secure their SEVIS logon IDs and passwords at all times.

(1) At no time and under no circumstances are SEVIS logon IDs and passwords to be shared with anyone, either on a transitory or permanent basis.

(2) Sponsors for whom the responsible officer or alternate responsible officers have been found to have willfully or negligently violated the requirements of this section will be subject to sanctions as set forth in § 62.50(a)(2).

##### § 62.72 Staffing and support services.

(a) Sponsors shall appoint a responsible officer and may appoint up to ten (10) alternate responsible officers to adequately administer their exchange visitor program to fulfill the duties set forth in § 62.11.

(1) The Department may limit the number of alternate responsible officers appointed by the sponsor at its discretion.

(2) The Department reserves the right to withdraw the appointment of a responsible or alternate responsible officer at its discretion.

(b) [Reserved]

##### § 62.73 Academic training.

(a) Students meeting the definition listed in § 62.4(a)(1)(ii) and (iii) may, if approved by the academic dean or



advisor and approved by the responsible officer or alternate responsible officer, engage in academic training pursuant to § 62.23(f).

(b) The responsible officer or alternate responsible shall update the exchange visitor's SEVIS record to reflect the details of any academic training pursuant to § 62.23(f)(5)(i). An update of the SEVIS record constitutes compliance with § 62.23(f)(5)(ii).

#### § 62.74 Student employment.

(a) Students meeting the definition listed in § 62.4(a)(1)(ii) and (iii) may engage in student employment pursuant to § 62.23(g).

(b) The responsible officer or alternate responsible officer shall update the exchange visitor's SEVIS record to reflect the details of such employment pursuant to § 62.23(g)(1). An update of the SEVIS record constitutes compliance with § 62.23(g)(2)(iv).

#### § 62.75 Extension of program participation.

(a) A sponsor may extend an exchange visitor's participation in the Exchange Visitor Program up to the limit of the permissible period of participation authorized for the specified program category by entering a new end program date and an optional comment—all other information collected on a DS-2019 will be automatically completed by SEVIS.

(1) A sponsor extending the program of an exchange visitor who is not currently listed in the SEVIS database is required to create a record for the exchange participant (and the accompanying spouse and any dependents as a "continuing exchange visitor". In creating the exchange visitor's SEVIS record, the sponsor shall issue the exchange visitor (and the accompanying spouse and any dependent children) a duly executed Form DS-2019 reflecting such extension.

(2) When creating a SEVIS record for a "continuing exchange visitor," the initial program start date and Form number taken from the non-SEVIS Form IAP-66 or DS-2019 issued to begin new program must be entered in the exchange visitor's SEVIS record.

(b) A responsible officer or alternate responsible officer seeking an extension of program status on behalf of an exchange visitor in excess of the duration of program participation authorized for the specific category shall:

(1) Submit an electronic request to the Department through the real-time interactive mode in SEVIS.

(2) Create a record for the exchange participant (and the accompanying

spouse and any dependent children) as a "continuing exchange visitor" listing the initial program start date and Form number taken from the non-SEVIS Form IAP-66 or DS-2019 issued to begin new program.

(3) Submit written supporting documentation and the required non-reimbursable fee to the Department within 30 calendar days of the SEVIS submission date.

#### § 62.76 Transfer procedures.

(a) Program sponsors may, pursuant to the provisions set forth in § 62.42, permit an exchange visitor to transfer from one designated program to another designated program. Transfers will not extend the maximum duration of participation for the category in which the exchange visitor is currently participating.

(b) Current sponsor and transfer sponsor shall communicate appropriately to ensure an uninterrupted transfer, continuous status of the exchange visitor and proper change of address reporting and shall utilize the provisions of this section to effect such transfer.

(1) SEVIS-to-SEVIS transfer. When both the transfer and current sponsors are enrolled in SEVIS, a transfer is enacted as follows:

(i) The nonimmigrant shall notify the current sponsor of the intention to transfer.

(ii) Upon verification of the current status and eligibility to transfer by the transfer sponsor, the current sponsor shall update the exchange visitor's record by processing a "transfer out" in SEVIS. The current sponsor must enter the name and program number of the transfer sponsor and the effective date of transfer. The "transfer out" process gives the transfer sponsor access to the SEVIS record of the exchange visitor (and accompanying spouse and any dependent children).

(iii) The transfer sponsor shall initiate a "transfer in," issue a Form DS-2019 for the exchange visitor (an accompanying spouse and any dependent children), and advise the exchange visitor of the effective date of transfer.

(iv) The exchange visitor shall report to the transfer sponsor in a manner and at a time specified by the transfer sponsor, and shall provide updated U.S. address information.

(v) The transfer sponsor shall validate the exchange visitor's participation in its program within 30 calendar days of the effective date of transfer and update the exchange visitor's current U.S. address.

(2) Non-SEVIS to SEVIS transfer: When the transfer sponsor is enrolled in SEVIS but the current sponsor is not, the transfer is enacted as follows:

(i) The nonimmigrant shall notify the current sponsor of the intention to transfer.

(ii) Upon verification of current status and eligibility to transfer, the transfer sponsor shall create a Form DS-2019 to enact a transfer and will send the Form to the current sponsor to acquire the written release of the exchange visitor by obtaining a signature in Section 8.

(iii) Upon receipt of the Form DS-2019 with signature, the transfer sponsor shall record the effective date of transfer; the date, name and title of person who signed the release; the name and program number of the current sponsor. The transfer sponsor shall print a Form DS-2019 for the exchange visitor, and advise the exchange visitor of the effective date of transfer.

(iv) The exchange visitor shall report to the transfer sponsor in a manner and at a time specified by the transfer sponsor and shall provide updated U.S. address information.

(v) The transfer sponsor shall validate the exchange visitor's participation in its program within 30 calendar days of the effective date of transfer and update the exchange visitor's current U.S. address.

(3) SEVIS to Non-SEVIS transfer. When the transfer sponsor is not enrolled in SEVIS and the current sponsor is a SEVIS-enrolled sponsor, a transfer is enacted as follows:

(i) The exchange visitor shall notify the current sponsor of the intention to transfer.

(ii) Upon verification of current status and eligibility to transfer, the transfer sponsor shall create a non-SEVIS Form DS-2019 and submit it to the transfer sponsor for the release of the exchange visitor by acquiring a signature in Section 8 of the Form.

(iii) The transfer is required to update the exchange visitor's SEVIS record by recording the effective date of transfer; name and program number of the transfer sponsor; and, name of the responsible officer/alternate responsible officer of the transfer (non-SEVIS) sponsor requesting the transfer as noted on the four-color, four-page paper Form DS-2019.

(4) The transfer sponsor will provide the exchange visitor with the pink copy of the Form DS-2019 and submit the yellow copy of the form to the Department.

#### § 62.77 Reinstatement.

(a) Reinstatements will continue to be handled in accordance with the

procedures established in § 62.45. A SEVIS reinstatement is processed as follows:

(1) The responsible officer must submit an electronic request for reinstatement to the Department through SEVIS.

(2) The responsible officer must print a copy of the reinstatement request (draft copy of the Form DS-2019) from the SEVIS system.

(3) The responsible officer must submit the official request along with the required supporting documentation justifying the reinstatement and the required, non-reimbursable fee (refer to § 62.90-Fee) to the Department within 30 calendar days of the SEVIS submission date.

(4) The Department will review the request. If approved, the Department will enter the approval in SEVIS, thereby opening the file so that the responsible officer may print a Form DS-2019. How is the sponsor going to know they received an answer to their request? The Department's approval is required before a Form DS-2019 can be printed. What happens if the request is denied?

(b) An exchange visitor (and the accompanying spouse and any dependent children) who failed to submit a change of current U.S. address as required under § 62.63 is in violation of the Exchange Visitor Program regulations and is not eligible for reinstatement. The Department will deny any such application for reinstatement.

(c) An exchange visitor (and accompanying spouse and any dependent children) who is ineligible for reinstatement or whose request for reinstatement has been denied is no longer an Exchange Visitor Program participant. He or she cannot remain in the United States unless another lawful immigration status is obtained.

#### § 62.78 Termination.

An exchange visitor who willfully or negligently fails to comply with the requirements established in Public Law 104-208, as amended, shall be terminated from the Exchange Visitor Program by the sponsor.

#### § 62.79 Sanctions.

(a) The Department of State shall impose sanctions against a sponsor that has:

(1) Willfully or negligently failed to comply with the reporting requirements established in Public Law 104-208, as amended; or,

(2) Produced SEVIS Forms DS-2019 outside the United States or a United States territory; or,

(3) Whose authorized representatives fail to secure their SEVIS logon ID and password.

(b) [Reserved]

Dated: December 6, 2002.

**Patricia S. Harrison,**

*Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 02-31367 Filed 12-11-02; 8:45 am]

**BILLING CODE 4710-05-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AL-059-200306(a); FRL-7419-9]

#### Approval and Promulgation of Implementation Plans: Revisions to the Alabama Nitrogen Oxides Budget and Allowance Trading Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving revisions to the Alabama Department of Environmental Management's nitrogen oxides budget and allowance trading program submitted on September 13, 2002, by the State of Alabama. These revisions are designed to provide greater flexibility to reward sources that achieve quantifiable reductions ahead of the compliance deadline by allowing sources to request credit for early reductions obtained during the 2001 control period.

**DATES:** This direct final rule is effective February 10, 2003 without further notice, unless EPA receives adverse comment by January 13, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** All comments should be addressed to: Sean Lakeman; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW; Atlanta, Georgia 30303-8960

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960

Alabama Department of Environmental Management, 400 Coliseum

Boulevard, Montgomery, Alabama 36110-2059

#### FOR FURTHER INFORMATION CONTACT:

Sean Lakeman; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW; Atlanta, Georgia 30303-8960. Mr. Lakeman can also be reached by phone at (404) 562-9043 or by electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Analysis of State's Submittal

On September 13, 2002, the State of Alabama through Alabama Department of Environmental Management submitted revisions to Chapter 335-3-8 regarding early reduction credits. The revisions to Chapter 335-3-8-.10-NO<sub>x</sub> Allowance Tracking System would provide greater flexibility to reward sources that achieve quantifiable reductions ahead of the compliance deadline May 1, 2004, by allowing sources to qualify for early reduction credit in the form of nitrogen oxides allowances from a compliance supplement pool for the 2001 control period. This is being accomplished by expanding the early reduction credit program from 2002 through 2003 to 2001 through 2003.

##### II. Final Action

EPA is approving the aforementioned change to the State of Alabama's SIP because it is consistent with the CAA and EPA policy. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective February 10, 2003 without further notice unless the Agency receives adverse comments by January 13, 2003.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on February 10, 2003 and no further action will be taken on the proposed rule.