

2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

##### § 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–13070 (68 FR 9509, February 28, 2003), corrected at 68 FR 14309, March 25, 2003, and adding the following new AD:

##### **Bombardier, Inc. (Formerly Canadair):**

Docket No. FAA–2009–0525; Directorate Identifier 2009–NM–027–AD.

##### Comments Due Date

(a) We must receive comments by January 19, 2010.

##### Affected ADs

(b) This AD supersedes AD 2003–04–21 R1, Amendment 39–13070.

##### Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 and subsequent.

##### Subject

(d) Air Transport Association (ATA) of America Code 11: Placards and markings.

##### Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

AD CF–2002–12 [which corresponds to FAA AD 2003–04–21, amendment 39–13070] mandated installation of revised overwing emergency exit placards showing that the exit door should be opened and disposed from a seated position. However, it was later discovered that the new placards illustrated an incorrect hand position for removal of the exit upper handle cover. These incorrect instructions could cause difficulty or delay when opening the overwing emergency exit.

As a result, the timely and safe evacuation of passengers and crew may be impeded. The required action includes replacing the incorrect placards with revised placards.

#### Restatement of Certain Requirements of AD 2003–04–21 R1

(f) Unless already done, for airplanes identified in Table 1 of this AD, within 12 months after April 4, 2003 (the effective date of AD 2003–04–21 R1), replace the door weight placards, and no-baggage placards with new placards (including cleaning of the applicable surface), as applicable, per Bombardier Alert Service Bulletin A601R–11–077, Revision A, dated December 11, 2001, excluding Service Bulletin Comment Sheet-Facsimile Reply Sheet and CRJ 100/200 Service Bulletin Compliance Facsimile Reply Sheet.

TABLE 1—SERIAL NUMBERS

Serial Nos.
7003 through 7434 inclusive.
7436 through 7442 inclusive.
7444 through 7452 inclusive.
7454 through 7458 inclusive.
7460 through 7497 inclusive.
7499 through 7504 inclusive.

(g) Replacement accomplished before April 4, 2003, per Bombardier Alert Service Bulletin A601R–11–077, dated July 12, 2001, is considered acceptable for compliance with the replacement specified in paragraph (f) of this AD.

#### New Requirements of This AD

##### Actions and Compliance

(h) Unless already done, within 24 months after the effective date of this AD, replace the existing overwing emergency exit placards with new placards in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–11–088, Revision ‘A,’ dated March 24, 2009.

(i) Replacing the overwing emergency exit placards with new placards before the effective date of this AD in accordance with Bombardier Service Bulletin 601R–11–088, dated June 25, 2008, is considered acceptable for compliance with the corresponding action specified in this AD.

##### FAA AD Differences

**Note 1:** This AD differs from the MCAI and/or service information as follows: The MCAI applicability includes certain airplanes. This AD expands the applicability to include serial numbers 7003 and subsequent.

##### Other FAA AD Provisions

(j) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Christopher Alfano, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600

Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7340; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD. AMOCs approved previously in accordance with AD 2003–04–21, Amendment 39–13070, are approved as AMOCs for the corresponding provisions of this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

##### Related Information

(k) Refer to MCAI Canadian Airworthiness Directive CF–2009–02, dated January 19, 2009; Bombardier Alert Service Bulletin A601R–11–077, Revision A, dated December 11, 2001; and Bombardier Service Bulletin 601R–11–088, Revision ‘A,’ dated March 24, 2009; for related information.

Issued in Renton, Washington, on December 11, 2009.

##### Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–30419 Filed 12–22–09; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF STATE

### 22 CFR Part 62

[Public Notice: 6853]

RIN 1400–AC56

### Exchange Visitor Program—Secondary School Students

**AGENCY:** Department of State.

**ACTION:** Proposed rule with request for comment.

**SUMMARY:** The Department of State is proposing to amend and improve the Exchange Visitor Program regulations by providing greater specificity and clarity to sponsors of the Secondary School Student category with respect to the execution of sponsor oversight responsibilities under the exchange visitor programs. This section of the regulations governs Department

designated exchange visitor programs under which foreign secondary school students (ages 15–18½) are afforded the opportunity to study in the United States at an accredited public or private secondary school for an academic semester or an academic year while living with an American host family or residing at an accredited U.S. boarding school. Specifically, the Department is proposing to amend existing regulations regarding the screening, selection, school enrollment, orientation, and monitoring of overall quality assurance on behalf of student participants; and the screening, selection, orientation, and quality assurance monitoring of host families. This program is recognized as one of the Department's most valued exchange initiatives. The Department believes, however, that the lack of sufficient specificity in the regulations or lack of suitable, minimum industry standards may have contributed to the placement of students with unacceptable, or poorly screened, host families thereby putting at risk the health, safety and well-being of this most vulnerable group of exchange visitors. The Department also recognizes that local coordinators, who serve as representatives (employees or volunteers) of the Secondary School Student sponsors and who have responsibility for obtaining school enrollment and locating and recruiting host families, are the critical link to a successful exchange program. Local coordinators exercise a degree of independent judgment when determining whether a potential host family is capable of providing a comfortable and nurturing home environment for a Secondary School Student, whether that family is an appropriate match for the student, and whether they have adequate financial resources to undertake hosting obligations. Accordingly, the Department proposes the adoption of an annual testing and certification program for all local and regional coordinators that will entail, *inter alia*, specifying more clearly the Department's regulatory requirements as well as all sponsoring organization specific training required by the organization for whom the local and regional coordinators work.

**DATES:** The Department will accept comments from the public up to February 22, 2010.

**ADDRESSES:** You may submit comments, identified by any of the following methods:

- Persons with access to the Internet may view this notice and provide comments by going to the

regulations.gov Web site at: <http://www.regulations.gov/index.cfm>.

- Mail (paper, disk, or CD-ROM submissions): U.S. Department of State, Office of Designation, SA–5, Floor 5, 2200 C Street, NW., Washington, DC 20522–0505.

- E-mail: [JExchanges@state.gov](mailto:JExchanges@state.gov). You must include the title and RIN in the subject line of your message.

**FOR FURTHER INFORMATION CONTACT:**

Stanley S. Colvin, Deputy Assistant Secretary for Private Sector Exchanges, U.S. Department of State, SA–5, Floor 5, 2200 C Street, NW., Washington, DC 20522–0505; or e-mail at [jexchanges@state.gov](mailto:jexchanges@state.gov).

**SUPPLEMENTARY INFORMATION:** The Department has authorized Secondary School Student programs since 1949, following passage of the United States Information and Educational Exchange Act of 1948 and adoption of 22 CFR Part 68—Exchange Visitor Program, establishing a student exchange program (14 FR 4592, July 22, 1949). Over the last 60 years, more than 850,000 foreign exchange students have lived in and learned about America through these Secondary School Student programs.

In 1993, the United States Information Agency, the predecessor agency with oversight of the Exchange Visitor Program, substantially rewrote the regulations governing the Exchange Visitor Program, including the Secondary School Student category. (See 58 FR 15196, Mar. 19, 1993, as amended at 59 FR 34761, July 7, 1994, redesignated at 64 FR 54539, Oct. 7, 1999.) Since this time, significant changes in makeup of the American family and widespread access to new technologies have necessitated additional updates to the regulations governing the Secondary School Student Exchange Visitor Program category. In 2006, the Department adopted new regulations set forth at 22 CFR 62.25 to require Secondary School Student program sponsors to complete criminal background checks on all officers, employees, agents, representatives and volunteers acting on their behalf who have direct contact with exchange students and to require program sponsors to contact host families and students monthly. Additionally adopted were the requirements that all adult members of a host family household (age 18 or older) undergo a criminal background check prior to the placement of an exchange student in the home, and that sponsors must report any allegation of sexual misconduct to both the Department and local law enforcement authorities as required in that

jurisdiction (see <http://www.childwelfare.gov> for a list by state of child abuse and neglect statutes). (71 FR 16696, April 4, 2006.)

Educational and cultural exchanges are the cornerstone of U.S. public diplomacy and an integral component of American foreign policy. Secondary School Student exchange programs promote mutual understanding by providing foreign students the opportunity to study in American high schools while living with an American host family. Not only are the students themselves transformed by these experiences, but so too are their families, friends, and teachers in their home countries. By studying and participating in daily student life in the United States, Secondary School Student participants gain an understanding of and an appreciation for the similarities and differences between their culture and that of the United States. These students enrich their schools and communities with different perspectives of other cultures and events, providing the local community with new and diverse perspectives. Secondary School Student exchanges also foster enduring relationships and lifelong friendships which help build longstanding ties between the people of the United States and other countries. American Secondary School Students are provided opportunities to increase their knowledge and understanding of the world through these friendships. Participating schools gain from the experience of having international students in the classroom, at after-school activities, and in their community.

The great majority of exchange students who come to the United States to attend high school become more accepting of the democratic values of American society and its cultural differences, grow in independence and maturity, improve their English language skills, and overall enjoy a positive life-changing experience. As with other Exchange Visitor Program categories, the underlying purpose of the Secondary School Student Program is to further U.S. diplomatic and foreign policy goals by encouraging this positive academic and social interaction. Experience has shown that these students will share the knowledge and goodwill derived from their exchanges with their fellow citizens upon return to their home countries.

While most of the Department's nearly 30,000 annual exchanges of secondary school students conclude with positive experiences for both the exchange student and the American

host family, a number of incidents have occurred recently with respect to student placement and oversight which demand the Department's immediate attention. The success of the Secondary School Student program is dependent on the generosity of the American families who support this program by welcoming foreign students into their homes. The Department believes, however, that the current status of the U.S. economy has made it more difficult to find sufficient numbers of suitable host families. The number of qualified foreign students desiring to come to the United States for a year of high school continues to rise and student demand is now placing pressure on the ability of sponsors to identify available and appropriate host family homes. The Department desires to provide the means to permit as many exchange students into the United States as possible so long as we can ensure their safety and well-being, which is our highest priority.

Recent incidents of placement of exchange students with unsuitable host families have brought the Department, Congress, the American public, and members of the exchange community together in an initiative to upgrade this program to ensure a safe and positive exchange experience for every foreign student invited to participate in this exchange program. To achieve this goal, the Department has engaged in a series of actions and outreach to focus the Secondary School Student exchange industry on best practices and continued improvement in selection and monitoring of host families and students.

Prior to the development of this proposed rule, the Department published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** to solicit comments from sponsors and from the general public on current best practices in the industry. (See 74 FR 45385, September 2, 2009.) The Notice focused on six areas: (1) The utilization of a standard application form for all host family applications; (2) the requirement for photographs of all host family homes (to include bedrooms, living areas, kitchen, outside of house and grounds) as part of the host family application process; (3) whether the host family application references should include references from family members or local coordinators, and whether one reference should be from the school in which the student is enrolled; (4) whether fingerprint-based criminal background checks should be required of all adult host family members and sponsor officers, employees, representatives,

agents and volunteers who come, or may come, into direct contact with the students, and whether guidelines regarding the interpretation of criminal background checks are needed; (5) the establishment of baseline financial resources for potential host families, and (6) the establishment of limitations on the composition of potential host families.

In light of the 97 comments received in response to the ANPRM, the Department has identified six areas that we believe will enhance the safety and well-being of foreign secondary school students studying in the United States. To effectively implement these changes, additional regulations are necessary. The following is an explanation of the proposed regulatory changes:

#### **1. Standard Host Family Application Form**

The Department recognizes that many sponsors have invested significantly in technology to develop proprietary host family applications and application processing systems. The application formats used by sponsors vary but most contain uniform information required by the Department. Accordingly, the Department believes that standard information required for all host family applications, but processed in different formats, is preferable to a standard application form required for all potential host families. The required information fields can be found at Appendix F—"Information to be collected on Secondary School Student Host Family Applications"—of this rulemaking.

#### **2. Requiring Photographs of the Host Family Home**

The Department finds that photographing potential host family homes is already standard practice with more than half of existing secondary student exchange sponsors. Many of the sponsors who commented on the recent Advance Notice of Proposed Rulemaking indicated that they find providing photographs to be a reasonable requirement and an industry "best practice" to prevent secondary school students from being placed in unhealthy environments. The Department concurs and considers this a "best practice" and proposes that all sponsors photograph the exterior, kitchen, student's bedroom, bathroom, and family or living room of the potential host family's home.

#### **3. Personal Character References for Host Family Applicants**

The Department has determined that personal character references should not

include references from host family relatives or a sponsor representative (field staff or volunteers). The Department has also determined that obtaining a character reference from the school was not attainable and would be subject to privacy laws.

#### **4. Measuring Host Family Financial Resources**

The Department has determined that regional differences in incomes and standards of living prevent adoption of a requirement that potential host families have a minimum household income. As such, a requirement would not fairly or accurately reflect cost of living differences for families in urban, suburban, exurban and rural areas, or determine the adequacy of the care the student will receive. However, the Department does not deem appropriate the placement of Secondary School Student exchange participants with host families receiving financial needs-based government subsidies for food or housing. Such families, by definition, lack sufficient financial resources to meet fully the financial obligations associated with hosting an exchange student.

To assist sponsors in their required assessment of the host family's ability to undertake hosting obligations, the Department finds it appropriate and necessary for Secondary School Student exchange sponsors to obtain an objective measurement to determine the financial capability of potential families to host an exchange student. The Department believes this objective measurement can be achieved through collecting certain information on the host family application form. Accordingly, the Department proposes that sponsors query potential host families regarding household income and include a box on the host family application form denoting annual household income level (less than \$25,000, \$25–\$50,000, \$50,000–\$75,000, \$75,000 and above). Collection of this information will also provide the Department the option to refine its understanding of the demographic profile of host families. In evaluating host family resources, sponsors need to be mindful of the host family's obligation to provide three quality meals per day and ensure transportation to and from school and school activities.

#### **5. Criminal Background Checks**

The Department has conducted significant analysis of this issue and recognizes that no single criminal background check, or combination of background checks, will guarantee that a potential host family member has no

record of any encounters with the U.S. criminal justice system. As the U.S. Attorney General opined in the June 2006 "Attorney General's Report on Criminal History Background Checks":

No single source exists that provides complete and up-to-date information about a person's criminal history. The FBI-maintained criminal history database, however, is one of the better sources because it is based on positive identification and can provide, at a minimum, nationwide leads to more complete information. If provided such access, however, users may not want to rely exclusively on an FBI and state repository check and may also want to check other record sources, such as commercial databases and local courthouses to obtain more complete and up-to-date information in support of criminal history background screening.

[http://www.justice.gov/olp/ag\\_bgchecks\\_report.pdf](http://www.justice.gov/olp/ag_bgchecks_report.pdf)

As detailed in the Attorney General's Report, criminal background checks are primarily performed at the county, state and federal (FBI) levels and through private commercial vendors who operate as consumer reporting agencies. Each of these background checks provide certain information that the others do not; yet, collectively and individually, these records can be incomplete. Most crimes occur at the county level, and many, not all, county records are shared with state law enforcement and criminal repository agencies who in turn share some, not all, of these records with the FBI. In turn, the FBI maintains a database that includes all federal crimes in addition to an estimated 70–90% of state crimes. States simply do not report all required crimes to the FBI and many offenses such as DUIs are not required to be reported at all. State criminal history repositories also may not have records of offenses that have not been forwarded to them by local law enforcement agencies.

A number of problems exist with conducting only a basic name and social security number background check through a private vendor, which include a lack of uniformity and comprehensiveness of records. Typically, private vendors purchase or gain access to criminal history information in bulk from county courthouses, state correctional facilities, and state criminal history repositories, creating databases searchable by an individual's name and social security number. Private vendor databases are acknowledged to be incomplete. The scope of criminal history information available to private vendors varies greatly by state and county as several states and counties restrict access to

certain records or do not share or sell criminal history information to private vendors. It is important to note that FBI records are not made available to private vendor databases. Further, state and county repositories that sell or share information do not always provide private vendors with timely updates of new or revised records, resulting in outdated records in many private vendor databases.

The Department finds that there is no standard across the industry and individual private vendors maintain their own diverse combinations of contracts with a variety of county and state criminal history repositories. A basic name and social security check by a private vendor can also yield a false positive result (an individual's name or social security number is mistaken for that of another individual) or a false negative result (an individual's criminal record is missed because that individual provided a false name or false social security number). An accurate and updated private vendor check will, however, reveal residential information, as well as court, corrections, and sex offender record information. Due to the lack of uniformity of private vendor databases and potential for incomplete or inaccurate records, the Department finds significant potential for incomplete or inaccurate private vendor criminal background checks. Further complicating utilization of basic private vendor-conducted criminal background checks is the confusion arising from the cost associated with various searches. Although the non-governmental organization community is given a preferred rate for a basic name and social security number search, other search levels are available for additional fee (e.g. direct county and state criminal record searches). As noted above, regardless of cost, these private vendor searches suffer from the lack of complete data availability.

An examination of the respective sources for criminal background checks follows:

**County Repository Search**—Most crimes are prosecuted at the county level so most criminal records are found in county repositories. However, in a highly mobile society, it is very easy for someone to live in one county and commit a crime in another. In such a case, the crime would appear only in the county in which the crime was committed and a simple county of residence search would yield no record.

**State Repository Search**—State records are considered the most complete source of criminal background records, yet suffer from the same limitations as the county search (a

person could reside in one state and commit a crime in another). States also vary substantially in how well they maintain and update their criminal history repositories. Thus, a state search alone is inadequate.

**Private Vendor Search**—Private vendor checks of an individual's name and Social Security Number can yield misdemeanors and crimes that might not show up at the state or even county level due to inaccurate/insufficient reporting. A private vendor search also yields certain financial information not caught in the county, state or FBI searches.

**FBI Fingerprint-based Check**—An FBI fingerprint-based search ensures correct identification of an individual and compares that individual's record against the records of the 50 states and territories of the United States to locate crimes committed outside the state of residence or during residence in another state.

In addition to the criminal background checks by private vendors currently required of program sponsors, the Department recognizes the necessity of the FBI fingerprint-based criminal background check, which unlike a commercial name and Social Security background check, guarantees that the individual has accurately identified him/herself. Though states should report arrests to the FBI, many do not fully do so, leaving open the possibility of an arrest or criminal record not appearing in an FBI fingerprint-based criminal background check. However, many misdemeanors and DUI arrests are captured through private vendor Social Security Number and name checks. Thus the Department finds that the safety and well-being of Secondary School Student participants would be best served by requiring the FBI fingerprint-based search supplemented by a private vendor search, and a National Sex Offender Registry check.

The Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109–248) requires FBI fingerprint-based checks for all prospective foster care or adoptive parents. Given the closely related nature of the placement of a foreign exchange student aged 15–18 with American host parents to that of a foster care placement or adoption (e.g., long-term residence of a child with a new "host" family) the Department proposes to mirror existing adoptive/foster care criminal background check laws. In light of the Adam Walsh Act, the above cited Attorney General's Report, and the direct correlation of a foster parent to an Exchange Visitor Program host parent, we propose to seek the FBI's commitment to conduct

fingerprint-based criminal background checks on host family members. The Department also determined that the best combination of background checks should include:

(1) An FBI fingerprint-based criminal background check;

(2) A basic private vendor Social Security Number and name check; and

(3) A National Sex Offender Registry check.

The Department's goal is to require that these checks be conducted annually on all potential host family members aged eighteen and older, including any family member who will turn eighteen years of age during the exchange visitor's stay, as well as on all officers, employees, representatives, agents, and volunteers acting on a sponsor's behalf.

Though there is a significantly higher cost involved with an FBI fingerprint-based criminal background check (approximately \$70 for many state and FBI fingerprint-based searches), than with the currently performed private vendor check of Social Security Number and name (approximately \$4 for many non-profit organizations), the Department has determined that the safety of each Secondary School Student invited to participate in this program outweighs the additional costs.

Finally, the Department has been advised that less than 1% of criminal background checks of potential host family members contain any negative information regarding criminal activity. Accordingly, the Department is considering adoption of a standard that will disqualify any potential host family applicant for whom a criminal background check reveals a negative record other than a parking violation.

#### **6. Host Family Composition**

The Department does not define what constitutes a family; however, we take administrative notice that a family is considered to be more than one person. To ensure the Secondary School Student program's integrity and original intent, no single adults will be allowed to host Secondary School Students. Families comprised of one adult with a school-aged (K–12) child living full-time in the home and families comprised of two adults will be permitted to host Secondary School Students.

Further, this proposed rule includes three proposed changes and clarifications to existing regulations that will provide greater specificity and oversight improvements to better reflect what the Department deems to be current "best practices." These changes include:

(1) Prohibition of payment to host families;

(2) The requirement that a separate host family orientation be conducted after the host family application process has been completed; and

(3) The requirement that the first monthly visit to the exchange student must be conducted by an organizational representative other than the local coordinator who found the host family and made the placement.

Finally, the Department recognizes that the exercise of good judgment by sponsors' local coordinators is the critical link to a successful exchange program. The Department proposes the adoption of a testing and certification program for all local and regional coordinators to be administered by the sponsors and to include a detailed explanation of the Department's regulatory requirements in addition to individual training by the sponsor organization for whom the local coordinator works. This training will include a minimum of eight hours of instruction to provide a comprehensive understanding of the Exchange Visitor Program, its public diplomacy objectives, and the Secondary School Student category rules and regulations. The training will also include instructions on conflict resolution; how to handle and report emergency situations; sexual conduct codes and appropriate responses; the criteria to be used in screening potential host families; and the exercise of good judgment in determining the suitability of a host family placement. Training is to be conducted by a full-time staff member of the sponsor, and may be rendered in classroom, one-on-one, or via an online platform. If training is conducted online, the sponsor must demonstrate successful completion of the course by the local coordinator via an online test. The Department will review all training materials and will require that these materials be provided with the sponsor application for designation or redesignation. The Department additionally proposes that local coordinators be required to undergo annual certification and a minimum of three hours of refresher training each year following completion of the original training. The refresher course will include an overview of the same categories of the eight-hour course as well as guidance on any new rules and regulations and current Secondary School Student program-wide issues.

#### *Administrative Procedure Act*

While the Department is of the view that the Exchange Visitor Program is not governed by § 553 (Rulemaking) or § 554 (Adjudications) of the Administrative Procedure Act because the Exchange

Visitor Program involves a foreign affairs function of the United States, it is nevertheless publishing this rule as a proposed rule, with a 60-day provision for public comments, consistent with the requirements of § 553 of the Administrative Procedure Act.

#### *Regulatory Flexibility Act/Executive Order 13272: Small Business*

These proposed changes to the regulations are hereby certified as not expected to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601–612, and Executive Order 13272, section 3(b).

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

This proposed 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.

#### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Section 5 of Executive Order 13175 do not apply to this rulemaking.

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

This proposed rule is not a major rule as defined by 5 U.S.C. 804 for the purposes of Congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801–808). 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**

The Department of State does not consider this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, the

Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

#### Executive Order 12988

The Department has reviewed this regulation in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

#### Executive Orders 12372 and 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with 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. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

#### Paperwork Reduction Act

OMB Control Number 1405-0147 (Form DS-7000) applies to this information collection. The Department will seek an amendment to that collection to accommodate the new information to be requested under this rule, consistent with the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

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

Cultural exchange program.

Accordingly, 22 CFR Part 62 is proposed to be amended as follows:

#### PART 62—EXCHANGE VISITOR PROGRAM

1. The Authority citation for Part 62 is revised to read as follows:

**Authority:** 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431-1442, 2451 *et seq.*; Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105-277, Div. G, 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; the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. 104-208, Div. C, 110 Stat. 3009-546, as amended; Uniting and

Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT ACT), Public Law 107-56, Sec. 416, 115 Stat. 354; and the Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107-173, 116 Stat. 543.

2. Section 62.25 is revised to read as follows:

#### § 62.25 Secondary school students.

(a) Introduction. This section governs Department of State designated exchange visitor programs under which foreign national secondary school students are afforded the opportunity for up to one year of study in a United States accredited public or private secondary school, while living with an American host family or residing at an accredited U.S. boarding school.

(b) Program sponsor eligibility. Eligibility for designation as a secondary school student exchange visitor program sponsor is limited to organizations:

(1) With tax-exempt status as conferred by the Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code; and

(2) Which are United States citizens as such term is defined in § 62.2.

(c) Program eligibility. Secondary school student exchange visitor programs designated by the Department of State must:

(1) Require all participants to be enrolled and participating in a full course of study at an accredited educational institution;

(2) Allow entry of participants for not less than one academic semester (or quarter equivalency) nor more than two academic semesters (or quarter equivalency) duration; and

(3) Be conducted on a U.S. academic calendar year basis, except for students from countries whose academic year is opposite that of the United States. Exchange students may begin in the second semester of a U.S. academic year if specifically permitted to do so, in writing, by the school in which the exchange visitor is enrolled. Both the host family and school must be notified prior to the exchange student's arrival in the United States that the placement is for either an academic semester or year, or calendar year program.

(d) Program administration. Sponsors must ensure that all officers, employees, representatives, agents, and volunteers acting on their behalf:

(1) Are adequately trained and supervised, including completion of an eight hour Department-approved training course that provides a comprehensive understanding of the Exchange Visitor Program; its public diplomacy objectives; the Secondary

School Student category rules and regulations; sexual conduct codes; the screening of potential host families and the exercising of good judgment to determine what constitutes a suitable host family placement. Training will be conducted by a full-time staff member of the sponsor, and may be rendered in classroom, one-on-one, or via an online platform. Sponsors must demonstrate successful completion of the course by the local and regional coordinators. All sponsor training materials must be submitted to the Department for its review as part of the sponsor application for designation or redesignation. A three hour refresher training course is required for all local and regional coordinators each year following completion of the eight hour training course. The refresher course will include an overview of the same categories of the eight hour course as well as guidance on any new rules and regulations and current Secondary School Student program-wide issues.

(2) Have been vetted annually through an FBI fingerprint-based criminal background check, a private vendor-conducted basic name and social security number check, and a check of the National Sex Offender Registry.

(3) Make no student placement beyond 120 miles of the home of a local organizational representative authorized to act on the sponsor's behalf in both routine and emergency matters arising from an exchange student's participation in the exchange visitor program;

(4) Ensure that the host family undergoes a separate orientation to be conducted at a date after the host family application process concludes;

(5) Ensure that no organizational representative act as both host family and a local coordinator or area supervisor for any single exchange student participant;

(6) Maintain, at minimum, a monthly schedule of personal contact with the student and with the host family, including one in-person and in-private visit with the student, and ensure that the school has contact information (including the name, direct phone number, and email) for the local organizational representative and the program sponsor;

(7) Ensure that the first monthly visit to the Secondary School Student must be conducted by a sponsor representative other than the local coordinator who found the host family and made the placement; and

(8) Adhere to all regulatory provisions set forth in this Part and all additional terms and conditions governing program

administration that the Department may from time to time impose.

(e) Student selection. In addition to satisfying the requirements of § 62.10(a), sponsors must ensure that all participants in a designated secondary school student exchange visitor program:

(1) Are secondary school students in their home country who have not completed more than eleven years of primary and secondary study, exclusive of kindergarten; or are at least 15 years of age but not more than 18 years and six months of age as of the program start date;

(2) Demonstrate maturity, good character, and scholastic aptitude; and

(3) Have not previously participated in an academic year or semester secondary school student exchange program in the United States or attended school in the United States in either F-1 or J-1 visa status.

(f) Student enrollment. (1) Sponsors must secure prior written acceptance for the enrollment of any exchange student participant in a United States public or private secondary school. Such prior acceptance must:

(i) Be secured from the school principal or other authorized school administrator of the school or school system that the exchange student participant will attend; and

(ii) Include written arrangements concerning the payment of tuition or waiver thereof if applicable.

(2) Under no circumstance may a sponsor facilitate the entry into the United States of an exchange student for whom a written school placement has not been secured.

(3) Sponsors must maintain copies of all written acceptances and make such documents available for Department of State inspection upon request.

(4) Sponsors must provide the school with a translated "written English language summary" of the exchange student's complete academic course work prior to commencement of school, in addition to any additional documents the school may require. Sponsors must inform the prospective host school of any student who has completed secondary school in his/her home country.

(5) Sponsors may not facilitate the enrollment of more than five exchange students in one school unless the school itself has requested, in writing, the placement of more than five students.

(6) Upon issuance of Form DS-2019 to a prospective participant, the sponsor accepts full responsibility for placing the student, except in cases of voluntary student withdrawal or visa denial.

(g) Student orientation. In addition to the orientation requirements set forth at § 62.10, all sponsors must provide exchange students, prior to their departure from the home country, with the following information:

(1) A summary of all operating procedures, rules, and regulations governing student participation in the exchange visitor program along with a detailed summary of travel arrangements;

(2) A copy of the Department's letter to exchange students;

(3) Age and language appropriate information on how to identify and report sexual abuse or exploitation;

(4) A detailed profile of the host family in which the exchange student is placed. The profile must state whether the host family is either a permanent placement or a temporary-arrival family;

(5) A detailed profile of the school and community in which the exchange student is placed; and

(6) An identification card, which lists the exchange student's name, United States host family placement address and telephone numbers, and sponsor name and main office contact numbers, the name and direct (as well as cellular) telephone number of the local coordinator and area representative and the Department of State office number and Secondary Student toll free number. The identification card must also contain the name of the health insurance provider and policy number. Such cards may be provided in advance of home country departure or immediately upon entry into the United States.

(h) Student extra-curricular activities. Exchange students may participate in school sanctioned and sponsored extra-curricular activities, including athletics, if such participation is:

(1) Authorized by the local school district in which the student is enrolled; and

(2) Authorized by the State authority responsible for determination of athletic eligibility, if applicable.

(i) Student employment. Exchange students may not be employed on either a full or part-time basis but may accept sporadic or intermittent employment such as babysitting or yard work.

(j) Host family selection. Sponsors must adequately screen and select all potential host families and at a minimum must:

(1) Provide potential host families with a detailed summary of the exchange visitor program and the parameters of their participation, duties, and obligations;

(2) Utilize a standard application form that must be signed and dated by all

potential host family applicants which provides a detailed summary and profile of the host family, the physical home environment (to include photographs of the host family home's exterior and grounds, kitchen, student's bedroom, student's bathroom, and family and living areas), family composition and community environment. Exchange students are not permitted to reside with relatives of the host family.

(3) Conduct an in-person, individual-by-individual interview with all family members residing in the home;

(4) Ensure that the host family is capable of providing a comfortable and nurturing home environment and that the student's bedroom contains a separate bed for the student, not convertible or inflatable in nature, adequate storage space for the student's clothes and personal belongings, reasonable access to bathroom facilities, study space if not otherwise available in the house and reasonable, unimpeded access to the outside of the house in the event of a fire or similar emergency.

(5) Ensure that the host family has a good reputation and character by securing two personal references from within the community for each host family, which may not be obtained from relatives or representatives of the sponsor (i.e. field staff or volunteers), attesting to the host family's good reputation and character;

(6) Ensure that the host family has adequate financial resources to undertake hosting obligations and are not receiving needs-based government subsidies for food or housing;

(7) Verify that each member of the host family household eighteen years of age and older, or each member of the host family household who will turn eighteen years of age during the exchange student's stay in that household, has undergone an FBI fingerprint-based criminal background check, a private vendor-conducted basic name and social security number check, and a check of the National Sex Offender Registry; and

(8) Maintain a record of all documentation, including but not limited to application forms, background checks, evaluations, and interviews, for all selected host families for a period of three years following completion of the student's exchange program.

(9) Ensure that potential single adult host parents have at least one school-aged child living full-time in the host family home.

(k) Host family orientation. In addition to the orientation requirements set forth in § 62.10, sponsors must:

(1) Inform all host families of the philosophy, rules, and regulations governing the sponsor's exchange visitor program, including examples of "worst practices" in the exchange experience;

(2) Provide all selected host families with a copy of Department of State-promulgated Exchange Visitor Program regulations and a copy of the Department of State letter to exchange student host families; and

(3) Advise all selected host families of strategies for cross-cultural interaction and conduct workshops which will familiarize the host family with cultural differences and practices.

(l) Host family placement. (1) Sponsors must secure, prior to the student's departure from his or her home country, a permanent or arrival host family placement for each exchange student participant. Sponsors may not:

(i) Facilitate the entry into the United States for an exchange student for whom a host family placement has not been secured;

(ii) Place more than one exchange student with a host family without the express prior written consent of the Department of State. Under no circumstance may more than two exchange students be placed with one host family.

(2) Sponsors must advise both the exchange student and host family, in writing, of the respective family compositions and backgrounds of each, whether the host family placement is a permanent or temporary placement, and facilitate and encourage the exchange of correspondence between the two prior to the student's departure from the home country.

(3) In the event of unforeseen circumstances which necessitate a change of host family placement, the sponsor must document the reason(s) necessitating such change and provide the Department of State with an annual statistical summary reflecting the number and reason(s) for such change in host family placement in the program's annual report.

(m) Reporting requirements. Along with the annual report required by regulations set forth at § 62.15, sponsors must file with the Department of State the following information:

(1) Sponsors must immediately report to the Department any incident or allegation involving the actual or alleged sexual exploitation or abuse of an exchange student participant. Sponsors must also report such allegations as required by local or state statute or regulation. Failure to report such incidents to the Department and, as required by state law or regulation, to

local law enforcement authorities shall be grounds for the summary suspension and termination of the sponsor's Exchange Visitor Program designation.

(2) A summation of all situations which resulted in the placement of exchange student participants with more than one host family or school placement; and

(3) Provide a report of all final academic year and semester program participant placements by August 31 for the upcoming academic year or January 15 for the Spring semester and calendar year. The report must provide at a minimum, the exchange visitor student's full name, Form DS-2019 number (SEVIS ID #), host family placement (current U.S. address), school (site of activity) address, and name of local coordinator.

3. A new Appendix F is added to Part 62, as follows:

#### **Appendix F to Part 62—Information To Be Collected on Secondary School Student Host Family Applications**

Information To Be Collected on Secondary School Student Host Family Applications

Basic Family Information:

- a. Host Family Member—Full name & relationship (stays overnight)
- b. DOB
- c. Address
- d. Employment—employer name, job title, and point of contact for each working resident of the home
- e. Is the residence part of a functioning business? (ex: daycare, farm)
- f. Does any resident of the home have physical or mental disabilities? Y/N If yes, describe each disability:

Household Pets:

- a. Type of Pets
- b. Number of Pets

Financial Resources:

- a. Average Annual Income Range: Less than \$25,000; \$25,000–\$50,000; \$50,000–\$75,000; \$75,000 and above
- b. Describe if anyone residing in the home receives any kind of public assistance (financial needs-based government subsidies for food or housing)?
- c. Personal expenses expected to be covered by the student

Diet:

- a. Does anyone in the family follow any dietary restrictions? (Y/N) If yes, describe:
- b. Do you expect the student to follow any dietary restrictions? (Y/N) If yes, describe:
- c. Would you feel comfortable hosting a student who follows a particular dietary restriction (ex. Vegetarian, Vegan, etc.)? (Y/N)

Religious Affiliation:

- a. What is your family's religious affiliation/denomination/congregation?
- b. How often do you attend religious services?
- c. Do you expect the EV to attend religious services with your family\*? (Y/N)

\*Students cannot be required to attend religious services. However, as part of the exchange, they are encouraged to experience this facet of U.S. culture at their discretion.

d. Would you feel comfortable hosting a student who attended services other than your own or did not attend religious services?

High School Information:

- a. Name and address of school (private or public school):
- b. Approximate size of the school student body:
- c. Approximate distance of school from your home:
- d. Approximate start date of the school year:
- e. How will the exchange student get to the school?
- f. Would special transportation be necessary for extracurricular activities after school or in the evenings? If yes, how could this be arranged?
- g. Which of your family's children, if any, presently attend this school? If applicable, list sports/clubs/activities, if any, your child(ren) participate(s) in at the school:
- i. Does any member of your household work for the high school in a coaching/teaching/or administrative capacity?
- j. Has any member of your household had contact with a coach regarding the hosting of an exchange student with particular athletic ability? If yes, please describe the contact and sport:

Community Information:

- a. In what type of community do you live (ex: Urban, Suburban, Rural, Farm, etc.)
- b. Population of community:
- c. Nearest Major City (Distance and population):
- d. Nearest Airport (Distance)
- e. City or town Web site:
- f. Briefly describe your neighborhood and community:
- g. What points of interest are near your area (parks, museums, historical sites)?

Home Description:

- a. Describe your type of home (ex: Single family home, Condominium, Duplex, Apartment, Mobile home)
- b. Describe Primary Rooms and Bedrooms:
- c. Number of Bathrooms
- d. Will the exchange student share their room? (Y/N) If yes, with which household resident?
- e. Describe the room where the exchange student will stay:
- f. Describe amenities that student has access to
- g. Utilities

Family Activities:

- a. Language spoken in Home
- b. What type of weather should the student expect for each season?
- c. Please describe activities and/or sports each family members participate in: (ex: Camping, Hiking, Dance, Crafts, Debate, Drama, Art, Music, Reading, Soccer, Baseball, Horseback riding, etc.)
- d. Describe your expectations regarding the responsibilities and behavior of the student while in your home (ex: Homework, Household chores, Curfew

(school night and weekend), Drinking of alcoholic beverages, Driving, Smoking, Computer/Internet/E-Mail)

## References:

Dated: December 16, 2009.

**Stanley S. Colvin,**

*Deputy Assistant Secretary for Private Sector Exchanges, Bureau of Educational and Cultural Affairs, U.S. Department of State.*

[FR Doc. E9-30274 Filed 12-22-09; 8:45 am]

**BILLING CODE 4710-05-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 1 and 31

[REG-139255-08]

RIN 1545-BI51

#### Information Reporting for Payments Made in Settlement of Payment Card and Third Party Network Transactions; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to a notice of proposed rulemaking.

**SUMMARY:** This document contains corrections to a notice of proposed rulemaking (REG-139255-08) that were published in the *Federal Register* on Tuesday, November 24, 2009 (74 FR 61294) relating to information reporting requirements, information reporting penalties, and backup withholding requirements for payment card and third party network transactions.

**FOR FURTHER INFORMATION CONTACT:** Barbara Pettoni, (202) 622-4910 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

A notice of proposed rulemaking (REG-139255-08) that is the subject of this document is under sections 3406, 6041, 6050W, and 6051 of the Internal Revenue Code.

##### Need for Correction

As published, a notice of proposed rulemaking (REG-139255-08) contains errors that may prove to be misleading and are in need of clarification.

##### Correction of Publication

Accordingly, the publication of a notice of proposed rulemaking (REG-139255-08), which was the subject of FR Doc. E9-28076, is corrected as follows:

#### **§ 1.6050W-1 [Corrected]**

1. On page 61302, column 3, paragraph (e) *Example 3.*, lines 1

through 3, the language “*Example 3. Automated clearinghouse network.* A operates an automated clearinghouse (“ACH”) network that merely” is corrected to read “*Example 3. Automated clearing house network.* A operates an automated clearing house (“ACH”) network that merely”.

#### **§ 31.3406-0 [Corrected]**

2. On page 61304, column 2, in the instructional paragraphs, first entry of Paragraph 5, the language “1. Entries for § 31.3406(b)(3)-5(a) and (b) are added.” is corrected to read “1. Entries for § 31.3406(b)(3)-5(a), (b) and (c) are added.”.

#### **§ 31.3406(b)(3)-5 [Corrected]**

3. On page 61304, column 2, at the bottom of the column, paragraph (c) “Effective/applicability date.” is added.

**LaNita Van Dyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. E9-30551 Filed 12-22-09; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Parts 104, 105, 160

[USCG-2004-19963]

RIN 1625-AA93

#### Notification of Arrival in U.S. Ports; Certain Dangerous Cargoes

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** On December 16, 2005, the Coast Guard published an interim rule that defined “certain dangerous cargo residue” (CDC residue). After reviewing comments on the interim rule, the Coast Guard proposes to change that definition to include certain bulk liquids and liquefied gases in residue quantities. Based on changes to the CDC residue definition, the Coast Guard also proposes to revise the definition of “certain dangerous cargo.” Additionally, the Coast Guard intends to adopt changes made to 33 CFR part 104 and 105 by the 2005 interim rule.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before February 22, 2010 or reach the Docket Management Facility by that date. Comments sent to the Office of Management and Budget (OMB) on

collection of information must reach OMB on or before February 22, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG-2004-19963 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these methods. For instructions on submitting comments, see the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below.

*Collection of Information Comments:* If you have comments on the collection of information discussed in section VI.D. of this notice of proposed rulemaking (NPRM), you must also send comments to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget. To ensure that your comments to OIRA are received on time, the preferred methods are by e-mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) (include the docket number and “Attention: Desk Officer for Coast Guard, DHS” in the subject line of the e-mail) or fax at 202-395-6566. An alternate, though slower, method is by U.S. mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Lieutenant Sharmine Jones, Office of Vessel Activities, U.S. Coast Guard Headquarters, telephone 202-372-1234. If you have questions on viewing or submitting material to the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents for Preamble

- I. Public Participation and Request for Comments
  - A. Submitting Comments
  - B. Viewing Comments and Documents
  - C. Privacy Act
  - D. Public Meeting
- II. Abbreviations