has been prepared. The final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The rule has also been reviewed under the Regulatory Flexibility Act. I certify that this rule would not have a significant economic impact on a substantial number of small entities under the meaning of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 373

Claims, Equal access to justice, Lawyers.

For the reasons set forth above, the Department of Transportation is taking the following action:

1. The authority citation for Part 373 is:

Authority: 5 U.S.C. 504.

PART 373—[REMOVED]

2. Part 373 is removed.

Issued this 31st day of May 1996 at Washington, DC.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–14615 Filed 6–7–96; 8:45 am]

BILLING CODE 4910–62–P

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Exchange Visitor Program

AGENCY: United States Information Agency.

ACTION: Final rule.

SUMMARY: The Agency published an interim final rule with request for comment in the Federal Register on April 8, 1996. This rule amended Agency regulations to clarify the procedures for requesting an extension of program duration for designated sponsors seeking such extension on behalf or a professor or research scholar participating in activities conducted by the sponsor. This interim rule also set forth new procedures whereby the Agency may authorize a sponsor to design and conduct research programs that allow for the participation of a professor or research scholar for a period of time in excess of three years. Limitations governing the eligibility for program participation of professor and research scholar participants were also set forth. These limitations enhance the integrity and programmatic effectiveness of the Exchange Visitor Program. The Agency hereby adopts this interim rule, with amendments, as final.

DATES: This rule is effective June 10, 1996 except for 22 CFR 514.20(j)(2)(i) which will become effective on October 4, 1996.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street, SW., Washington, DC 20547; Telephone, (202) 619–4979.

SUPPLEMENTARY INFORMATION: Professor and research scholar participants comprise some thirty percent of all exchange visitors participating in the Agency-administered Exchange Visitor Program and are, accordingly, of particular interest to the Agency given their involvement in collaborative research projects throughout the United States and the potential for the promotion of mutual understanding and peaceful relations that such collaborative activities provide. Also of interest to the Agency is the fact that such participants occupy approximately 55,000 positions in U.S. academic institutions and corporate research facilities.

Unlike all other nonimmigrant visa categories, the J visa allows for the employment in the United States of accompanying spouses. Thus, there are potentially 55,000 spouses working in the United States based solely upon their derivative J–2 visa status. Also, unlike the employment of all other nonimmigrants in the United States, neither the employment of the J visa holder principal, nor his or her accompanying spouse is subject to the requirements of a Labor Condition Application or U.S. Department of Labor review. Given the above considerations, the Agency is compelled to examine closely those policies and regulations that govern the long-term employment of exchange visitors in the United States.

The Agency published an interim rule on April 8, 1996 that addressed, in part, an alien's eligibility to pursue teaching or research opportunities in the United States under the aegis of the Exchange Visitor Program. This interim rule introduced a prohibition against program participation as a professor or research scholar for aliens that had held or been afforded J visa status during any portion of the twelve month period immediately preceding the commencement of such participation. This prohibition was introduced in an effort to end the movement of students in J visa status into the professor and research scholar category and also to prevent aliens who have completed a three year period of program participation as a professor or research scholar from exiting the U.S. and immediately re-entering in a ''new'' program for an additional three year period.

The Agency received 38 comments in response to the request for comment set forth in the April 8th interim rule, all of which directly or indirectly touched upon this provision. The commentators generally agreed that, given the Agency's desire to ensure that exchange visitors return to their home country in order to safeguard the integrity and programmatic effectiveness of the Exchange Visitor Program, the practice of exiting and re-entering in a new program should be curtailed. These commentators suggested, however, that the regulation, as written, complicated or prevented the use of the Exchange Visitor Program by person engaging in short-term collaborative projects. Many commentators suggested alternatives to the Agency's approach and as a result of such comments, the Agency is amending the provisions set forth at § 514.20(d). This amendment exempts from the twelve month bar those exchange visitors who participated in an exchange visitor program for six months or less. As a related matter, the Agency is amending the program duration of the short-term scholar category from four months to six months both to reflect this change and to facilitate this category's use for short-term collaborative projects.

Further, based upon comments received, the Agency is amending the language governing the calculation of the twelve month bar set forth at § 514.20(d)(ii). The interim rule set forth language, subject to interpretation, as to how the twelve month period should be calculated. In an effort to provide clarity, the Agency amends this language by adopting physical presence in the United States in J status as the standard for application of the twelve month bar and adopts the date of program commencement, as set forth on the Form IAP–66, as the standard to determine the calculation of time.

A number of commentators also suggested that it is unfair to subject the J–2 spouse to this twelve month bar. The Agency disagrees. While some J–2 spouses may have made some sacrifices in order to accompany the J–1 exchange visitor, such sacrifice is compensated by employment opportunities in the United States—often in research. Thus, the real issue is whether it is unfair to deny a J–2 spouse the opportunity to remain in J status and pursue continued

employment upon completion of the J–1 principal's program participation.

If the J–2 is not subjected to the twelve month bar, the underlying objective for imposing the bar is defeated in that the J–2 could become a J–1 and the former J–1 would be afforded J–2 derivative status and thus, as discussed above, full employment authorization. This ''flip-flop'' of status could continue back and forth for years, even decades, at the expense of program effectiveness and integrity. Accordingly, the Agency concludes that upon balancing the various interests of the Agency, designated sponsors, and exchange visitors, application of the bar to J–2 spouses is both reasonable and desirable.

In a related matter to categorical eligibility, and in response to specific comment received from NAFSA, the Agency adopts language to clarify that participants may not be placed on a tenure track as opposed to the interim rule's language that states the participant may not be placed in a tenure-track position.

The Agency also received numerous comments regarding the provisions of § 514.20(i)(2) whereby the Agency may authorize designated sponsors to conduct an exchange activity requiring participation in excess of three years by a professor or research scholar. This provision would allow a sponsor to identify a discrete activity, such as the International Thermonuclear Experimental Reactor, for which the sponsor and the activity underwriters have identified the desirability of a participant's involvement for a period of time in excess of three years. The requirement for the identification of a discrete activity, by definition, does not contemplate those situations in which a sponsor desires to conduct generalized research for periods of time in excess of three years. The Agency will authorize up to an additional three years of program duration.

The provisions of the interim rule limited involvement in such activities to foreign educated research scholars. Many commentators questioned whether the benefits of such a limitation outweighed potential losses. In light of the comments received, the Agency concludes that its program and policy objectives may be achieved by means other than the limitation to foreign educated participants. Accordingly, the Agency is eliminating this requirement and adopting in its place a provision that participants in such extended activities be financed directly by U.S. foreign government funding. ''Financed directly'' is defined at § 514.2 and requires that the exchange visitor receives funds contributed directly to the exchange visitor in connection with his or her participation in an exchange visitor program. The Agency concludes that this approach will allow the underwriters of such significant research projects to identify and select participants according to their needs while signalling their bona fide interest in such person by their direct funding of his or her participation in the project.

Comments regarding § 514.20(j) which governs the extension of a participant's program participation generally suggested the need for clarification of what the Agency considers to be ''exceptional or unusual circumstances.'' The Agency stated in the interim rule, that it contemplates ''exceptional or unusual circumstances'' will generally involve situations in which the participant was unable to complete his or her program due to circumstances not directly related to his or her project. This general statement should not be misconstrued or over-emphasized. The Agency recognizes that ''exceptional or unusual'' circumstances may arise that are directly related to a participant's research project. While ''exceptional or unusual'' circumstances must be examined on a case by case basis and in the context of all facts presented, some guidance may be provided. For example, a foreign government's direct funding of a participant and that government's desire to have the participant continue in his or her project for an additional year would be considered as an ''exceptional or unusual'' circumstance sufficient to justify extension of the participant's program. Other examples of ''exceptional or unusual'' circumstances include the illness or incapacity of a participant that prevents the participant from working on his or her project for an extended period of time, and catastrophes involving the research experiments. Also, the test may be met when the visitor requires an extension of a few weeks to complete the project due to unforseen delays in the research.

A number of commentators suggested that these changes diminish a sponsor's ability to utilize the Exchange Visitor Program for research requiring more than three years to complete. The Agency does not agree with these comments, concluding instead, that these changes merely reinforce the Agency's long-held position that the Exchange Visitor Program should be utilized for programs that have been designed for participation of not more than three years and that may, under ordinary circumstances, be completed on schedule. Moreover, the Agency concludes, as a matter of policy, that three years of research provides ample opportunity to both complete meaningful research and develop valuable relationships that will foster on-going linkages between U.S. institutions and scientists upon the participant's return to his or her home country. Thus, while the Agency acknowledges that these changes may result in some individuals being unable to utilize the Exchange Visitor Program, the Agency concludes that managerial and program needs, such as the benefits of ensuring that a higher percentage of participants return to their home country in a timely manner and fulfill the underlying exchange policy objectives upon which their entry into the United States was premised, outweighs the possible loss of exchange opportunities.

The Agency also, in light of comments received, has determined that the language of § 514.20(j)(2)(i) should be amended to recognize that extraordinary events may arise after the ninety day period for filing an extension of program request has passed. The Agency adopted the ninety day filing requirement to ensure that a participant does not fall out of valid program status and thereby subject his or her sponsor to sanctions for employing aliens without proper work authorization. The necessity for a timely filing requirement remains; however, the Agency does agree that an ''extraordinary circumstance'' clause would be appropriate. Accordingly, the Agency amends the language of this paragraph to include such clause but cautions all sponsors that the participant's work authorization expires on the date listed on the participant's IAP–66 form unless an extension has been granted by the Agency. The Agency also is amending the ninety day filing requirement to sixty days to provide for greater flexibility in the filing of an extension request.

In accordance with 5 U.S.C.605(b), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of Section 1(b) of E.O. 12291, nor does it have federal implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

In adopting this final rule, with amendments, the Agency has set forth the entire language of the interim rule with amendments incorporated therein to assist the reader.

List of Subjects in 22 CFR Part 514

Cultural exchange programs.

Dated: June 3, 1996.

Les Jin,

General Counsel.

Accordingly the interim rule amending 22 CFR Part 514 which was published at 61 FR 15372 on April 8, 1996, is adopted as a final rule with the following changes:

PART 514—EXCHANGE VISITOR PROGRAM

1. The authority citation for part 514 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1258; 22 U.S.C. 1431–1442, 2451–2460; Reorganization Plan No. 2 of 1977, 42 FR 62461, 3 CFR, 1977 Comp. p 200; E.O. 12048, 43 FR 13361, 3 CFR, 1978 Comp. p 168, USIA Delegation Order No. 85–5 (50 FR 27393.)

2. Section 514.20 is amended by revising paragraphs (d), (i), and (j) to read as follows:

§ 514.20 Professors and research scholars.

* * * * *

(d) *Visitor eligibility.* An individual may be selected for participation in the Exchange Visitor Program as a professor or research scholar subject to the following conditions:

(i) The participant shall not be a candidate for tenure track position; and

(ii) The participant has not been physically present in the United States as a nonimmigrant pursuant to the provisions of 8 U.S.C. 1101(a)(15)(J) for all or part of the twelve month period immediately preceding the date of program commencement set forth on his or her Form IAP–66, unless:

(A) The participant is transferring to the sponsor's program as provided in § 514.42; or

(B) The participant's presence in the United States was of less than six months duration; or

(C) The participant's presence in the United States was pursuant to a Short-term scholar exchange activity as authorized by § 514.21.

* * * * *

(i) *Duration of participation.* The permitted duration of program participation for a professor or research scholar shall be as follows:

(1) *General limitation.* The professor and research scholar shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete his or her program, which time shall not exceed three years.

(2) *Exceptional circumstance.* The Agency may authorize a designated Exchange Visitor Program sponsor to conduct an exchange activity requiring a period of program duration in excess of three years. A sponsor seeking to conduct a discrete activity requiring more than the permitted three years of program duration, but less than six years of program duration, shall make written request to the Agency and secure written Agency approval. Such request shall include:

(i) A detailed explanation of the discrete exchange activity; and

(ii) A certification that the participation of selected research scholars will be financed directly by United States or foreign government funds.

(3) *Change of category.* A change between the categories of professor and research scholar shall not extend an exchange visitor's permitted period of participation beyond three years.

(j) *Extension of program.* Professors and research scholars may be authorized program extensions as follows:

(1) *Responsible officer authorization.* A responsible officer may extend, in his or her discretion and for a period not to exceed six months, the three year period of program participation permitted under § 514.20(i). The responsible officer exercising his or her discretion shall do so only upon his or her affirmative determination that such extension is necessary in order to permit the research scholar or professor to complete a specific project or research activity.

(2) *Agency authorization.* The Agency may extend, upon request and in its sole discretion, the three year period of program participation permitted under § 514.20(i). A request for Agency authorization to extend the period of program participation for a professor or research scholar shall:

(i) Be submitted to the Agency, unless prevented by extraordinary circumstance, no less than 60 days prior to the expiration of the participant's permitted three year period of program participation; and

(ii) Present evidence, satisfactory to the Agency, that such request is justified due to exceptional or unusual circumstances and is necessary in order to permit the researcher or professor to complete a specific project or research activity.

(3) *Timeliness.* The Agency will not review a request for Agency authorization to extend the three year period of program participation permitted under § 514.20(i) unless timely filed; provided, however, that the Agency reserves the right to review a request that is not timely filed due to extraordinary circumstance.

(4) *Final decision.* The Agency anticipates it will respond to requests for Agency authorization to extend the three year period of program participation permitted under § 514.20(i) within 30 days of Agency receipt of such request and supporting documentation. Such response shall constitute the Agency's final decision.

[FR Doc. 96–14390 Filed 6–7–96; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219–AA11

Safety Standards for Underground Coal Mine Ventilation

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule; corrections.

SUMMARY: This document corrects errors in the final rule for underground coal mine ventilation which appeared in the Federal Register on March 11, 1996 (61 FR 9764).

EFFECTIVE DATE: June 10, 1996.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION: On March 11, 1996, MSHA published a final rule to revise its safety standards for underground coal mine ventilation. This document corrects errors that appeared in the final rule.

Sections 75.325, 75.326, and 75.330 each refer to provisions in the final rule that limit exposure to methane, respirable dust, or other harmful gases. In each case it was not the Agency's intent to modify the limits set in these standards. No changes were proposed and the current versions that appear in the 1995 compilation of the Code of Federal Regulations are correct. Therefore, to address questions raised and to clarify the intent of the Agency, the language in these standards is being corrected to re-state the language of the existing standards.

Sections 75.301, 75.333(d) (1), (e)(3), and (f), and 75.335(a)(1)(iv) and (a)(2) are being corrected to include information concerning the availability of the incorporated documents, where the incorporated documents may be inspected, and the Federal Register approval for incorporation by reference of the documents. No changes were proposed and the current versions that appear in the 1995 compilation of the Code of Federal Regulations are correct. The final rule language for § 75.333 Ventilation controls, inadvertently