

Level (AGL) is needed to contain the SIAP.

**DATES:** 0901 UTC, July 10, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5627.

**SUPPLEMENTARY INFORMATION:**

**History**

On April 3, 2003, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E5 airspace at Tunica, MS (68 FR 16230). This action provides adequate Class E5 airspace for IFR operations at Tunica Municipal Airport. Designations for Class E are published in FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

**The Rule**

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E5 airspace at Tunica, MS.

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. It, therefore, (1) is not a "significant regulatory action" 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, when promulgated, 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).

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

**PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, 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, 4013, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of 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.*

\* \* \* \* \*

**ASO MS E5 Tunica, MS [NEW]**

Tunica Municipal Airport, MS  
(Lat. 34°41'32" long. 90°21'02")

That airspace extending upward from 700 feet or more above the surface within a 6.7-mile radius of the Tunica Municipal Airport.

\* \* \* \* \*

Issued in College Park, Georgia on May 14, 2003.

**Walter R. Cochran,**

*Acting Manager, Air Traffic Division,  
Southern Region.*

[FR Doc. 03-12817 Filed 5-22-03; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF STATE**

**22 CFR Part 41**

**[Public Notice 4368]**

**Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended: Student and Exchange Visitor Information System (SEVIS)**

**ACTION:** Interim Rule; request for comments.

**SUMMARY:** This rule amends the Department's regulations pertaining to foreign students and exchange visitors who enter the United States in F, M, or J nonimmigrant visa categories. The new regulations will establish the verification and reporting procedures required by the Department of Homeland Security (DHS) foreign student monitoring system known as Student and Exchange Visitor Information System (SEVIS). As SEVIS was fully implemented on February 15, 2003, the Department's transitional

foreign student database known as Interim Student and Exchange Authentication System (ISEAS) is no longer available to the educational and exchange visitor communities. However, it remains available to consular sections in the field as a means of electronically verifying student and exchange visitor documentation issued prior to February 15, 2003.

**DATES:** This interim rule is effective on May 23, 2003. Comment date: Written comments must be submitted on or before July 22, 2003.

**ADDRESSES:** Submit comments in duplicate to Chief, Legislation and Regulations Division, Visa Services, Department of State, 20520-0106. Comments may also be forwarded via e-mail to [VisaRegs@state.gov](mailto:VisaRegs@state.gov) or faxed to 202-663-3898.

**FOR FURTHER INFORMATION CONTACT:**

Nancy Altman, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520-0106, 202-261-8040.

**SUPPLEMENTARY INFORMATION:**

**What Is the Background for This Action?**

SEVIS is an internet-based DHS system that will track "F" and "M" student visa recipients, and "J" visa exchange program participants from the time they receive their initial documentation (Form I-20 for F-visa academic students and for M-visa vocational students, or Form DS-2019 for exchange visitor program participants) until they graduate, leave school or a designated program, or depart the United States. The legislative mandate for SEVIS is section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104-208, which requires that DHS, in consultation with the Secretary of State and the Secretary of Education, establish a reporting and tracking system for collecting and maintaining data and information on foreign students and exchange visitors. In response to this legislative mandate, the DHS established the Student and Exchange Visitor Program (SEVP) and the internet-based electronic information collection and reporting system known as the Student and Exchange Visitor Information System (SEVIS).

Subsequent legislation has enhanced the foreign student tracking system mandated by IIRIRA. For example, on October 26, 2001, the President signed into law the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism" (USA Patriot Act),

Public Law 107-56, Section 416 of the USA Patriot Act allots \$36.8 million to support the nationwide deployment of SEVIS and requires that SEVIS be fully implemented by January 1, 2003.

On May 14, 2002, the President signed into law the "Enhanced Border Security and Visa Reform Act of 2002" (Border Security Act), Public Law 107-173. To address heightened national security concerns, Title V of the Border Security Act mandates the Department to establish a transitional foreign student monitoring system to be in place within 120 days of enactment and to remain in operation until such time as the system described in section 641 of IIRIRA (*i.e.* SEVIS) is fully implemented.

The Bureau of Consular Affairs introduced the transitional database known as ISEAS on September 11, 2002. On September 18, 2002, the Department published an interim rule in the **Federal Register** at 67 FR 181, which set forth the procedures for data sharing between schools and sponsors, the Department and the former INS. The Department's transitional database, ISEAS, has been phased-out now that SEVIS is fully implemented. The ISEAS internet site which was open to institutional users for the entry of ISEAS records, will no longer be available, and SEVIS has assumed the electronic student and exchange visitor status verification role for visa adjudication and visa issuances formerly served by ISEAS. ISEAS does, however, remain available to consular sections worldwide for the purpose of electronic student and exchange visitor status verification of visa applicants presenting Forms I-20 A-B, I-20 M-N or DS-2019 issued prior to the February 15, 2003 full implementation date of SEVIS.

On December 11, 2002, the Immigration and Naturalization Service (INS, since taken over by the Department of Homeland Security (DHS); all subsequent references are to DHS, even if done by INS) published in the **Federal Register** (67 FR 238) its final rule regulating SEVIS participation by F and M visa-issuing institutions. On December 12, 2002, the State Department's Bureau of Educational and Cultural Affairs (ECA) published a proposed rule in the **Federal Register** (67 FR 239) regulating SEVIS participation by Exchange Visitor Program Sponsors. Reference to these rules is recommended for additional background and other information about SEVIS.

### What Procedures Are Required by SEVIS?

SEVIS is fully implemented and as of February 15, 2003, all new Forms I-20 issued by academic educational institutions, by vocational educational institutions, and all Forms DS-2019 issued by exchange visitor program sponsors, must be created within the SEVIS system. The SEVIS compliant versions of the I-20 are the SEVIS Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status—For Academic and Language Students, and the SEVIS Form I-20, Certificate of Eligibility for Nonimmigrant (M-1) Student Status—For Vocational Students. These are one-page documents featuring a two-dimensional bar code on the right-hand side with a SEVIS Identification number in the top-right corner. The Form DS-2019 that is issued from SEVIS is a one-page document that, like the SEVIS compliant form I-20, features a two-dimensional bar code and SEVIS Identification number on the right-hand side.

Both the DHS and ECA require all schools and program sponsors to use SEVIS to issue new forms I-20/DS-2019 as of February 15, 2003. Educational institutions and exchange visitor program sponsors are no longer able to enter records in ISEAS. However, the ISEAS database will remain available for consular employees to verify all forms I-20 A-B, I-20 M-N, and DS-2019 that were issued prior to February 15, 2003.

Educational institutions and exchange visitor program sponsors will be given additional time to enter information concerning continuing foreign students and exchange visitors into SEVIS. Information on all continuing students and exchange visitors must be entered into SEVIS by August 1, 2003. Both the DHS and ECA rules identify certain reportable actions (*e.g.* issuance of SEVIS Forms I-20, and DS-2019, visa issuance, extension of status, employment authorization) that necessitate the issuance of a SEVIS document prior to that date.

### How Does Compliance With SEVIS Requirements Affect Other Visa Issuance Requirements?

Compliance with SEVIS requirements does not exempt a student or exchange visitor from complying with all other requirements for visa issuance. For example, all male nonimmigrant visa applicants between the ages of 16 and 45, regardless of nationality and regardless of where they apply, must fill out and submit to the post a form DS-

157 to be submitted at the same time as the nonimmigrant visa application, form DS-156. Applicants seeking to enter the United States in F, M, or J classifications must meet all other requirements that are separate from, and in addition to, those pertaining to their student or exchange visitor status.

### Are Border Commuter Students Subject to SEVIS Requirements?

On November 2, 2002, the President signed into law the "Border Commuter Student Act of 2002" (Border Commuter Act) Public Law 107-274. This legislation amended the Immigration and Nationality Act to create new nonimmigrant visa classifications (F-3 and M-3) for citizens and residents of Mexico or Canada who seek to commute into the United States for the purpose of attending an approved F or M school. Border commuter students are permitted to study on either a full-time or part-time basis and are subject to the same reporting requirements and SEVIS processes as those required for F-1 and M-1 students. Border commuter students, however, may not obtain F-2 or M-2 status for their dependents. On August 27, 2002, the DHS published in the **Federal Register** (67 FR 166) an interim rule regulating the full or part-time study of certain Mexican and Canadian border commuter students. Reference to this regulation is recommended for additional background and other information relating to the border commuter student.

### How Are F, M and J Dependents Processed Under SEVIS?

Under SEVIS, every F-2, M-2 and J-2 dependent receives his or her individual Form I-20 or DS-2019 with a unique identification number. The SEVIS-generated forms issued to dependents reflect the name of the F-1, M-1 or J-1 participant and will also indicate their dependent status.

### What Role Does SEVIS Play in the Visa Adjudication and Visa Issuance Process?

SEVIS is an internet-based reporting and tracking system that is accessible by DHS, the Department, and certified educational institution and exchange visitor program sponsors. Data and information is collected and maintained on foreign students and exchange visitors throughout their stay in the United States.

Aliens who wish to study or participate in an exchange program in the United States must first apply to an educational institution that has been approved by the DHS, or to an exchange visitor program approved by the

Department's Bureau of Educational and Cultural Affairs. When a student or exchange visitor accepts an offer to study or participate in an exchange program, the designated educational institution or program official will access SEVIS to enter the information electronically, collecting the student or exchange visitor data in a central database prior to issuing a Form I-20 or DS-2019.

The SEVIS-compliant versions of the I-20 are the SEVIS Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status-For Academic and Language Students, and SEVIS Form I-20, Certificate of Eligibility for Nonimmigrant (M-1) Student Status-For Vocational Students. The SEVIS compliant form for the exchange visitor is the SEVIS Form DS-2019, "Certificate of Eligibility for Exchange Visitor (J-1) Status. Visa applicants will present their SEVIS-generated form to the consular officer when applying for a visa.

Authorized consular officials will use SEVIS' data to verify in the Consolidated Consular Database (CCD) Forms I-20 and DS-2019, and to report the associated F, M, and J visa issuances to the DHS. SEVIS acts as a verification mechanism much like ISEAS, in that prior to visa issuance the SEVIS Form I-20 or DS-2019 presented with a visa application must be verified against the SEVIS data. After the authorized consular official verifies the provenance of the form presented by the visa applicant, and the appropriate F, M or J visa is issued, the existing State Department-DHS "datashare" link will be utilized to notify SEVIS of visa issuance. Once DHS implements the SEVIS user fee, authorized consular officials may also verify the payment of that fee by inspecting the appropriate receipt or reviewing the applicable data in SEVIS.

For Forms I-20 and DS-2019 issued prior to February 15, 2003, consular officials and academic advisors in the field as well as DHS Inspectors at the ports of entry will continue to receive and accept as valid pre-SEVIS "paper" Forms I-20 A-B, Certificate of Eligibility for Nonimmigrant (F-1) Student Status-For Academic and Language Students, Forms I-20 M-N, Certificate of Eligibility for Nonimmigrant (M-1) Student Status-For Vocational Students, and Forms DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status until August 1, 2003.

### How Is the Department Amending Its Regulations?

The Department is amending its regulations at 22 CFR 41.61 and 41.62 regarding students and exchange visitors by adding the requirement that authorized consular officials verify the provenance of SEVIS-generated Forms I-20 or DS-2019 against SEVIS data in the CCD. It is also amending its regulations by adding the requirement that authorized consular officials verify the payment of any applicable SEVIS fee, and to make Border Commuter Students (F-3 and M-3) subject to SEVIS requirements. No F-1, F-2, F-3, M-1, M-2, M-3, J-1 or J-2 visa may be issued unless an authorized consular official has verified the provenance of the student or exchange visitor acceptance documentation against SEVIS data in the CCD, or via direct access to SEVIS.

### Regulatory Analysis and Notices

#### *Administrative Procedure Act*

The Department's implementation of this regulation as an interim rule with request for comments is based upon the "good cause" exceptions found at 5 U.S.C. 553(b) and (d)(3). The U.S.A. Patriot Act, Public Law 107-56, mandates that SEVIS be fully implemented and expanded prior to January 1, 2003. The DHS intends to have the SEVIS database fully operational as soon as is practicable after the January 1, 2003 implementation deadline. The Department determined that it had insufficient time to publish a proposed rule with a request for comments, given the need to promulgate regulations prior to the time constraints imposed by the statutory implementation deadline.

#### *Regulatory Flexibility Act*

The Department, 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 will not have a significant economic impact on a substantial number of 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 or more 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*

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 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.

#### *Paperwork Reduction Act*

■ This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

### PART 41—[AMENDED]

■ 1. The authority citation for part 41 continues to read as follows:

**Authority:** 8 U.S.C. 1104; Pub. L. 105-277, 112 Stat. 2681 *et seq.*

■ 2. Amend paragraphs (b)(1), (b)(1)(i), (b)(1)(iii) and (d) of §41.61 to read as follows:

#### **§ 41.61 Students-academic and nonacademic.**

\* \* \* \* \*

(b) *Classification.* (1) An alien is classifiable under INA 101(a)(15)(F) (i)

or (iii) or INA 101(a)(15)(M) (i) or (iii) if the consular officer is satisfied that the alien qualifies under one of those sections, and:

(i) The alien has been accepted for attendance for the purpose of pursuing a full course of study, or, for students classified under INA 101(a)(15) (F)(iii) and (M)(iii) Border Commuter Students, full or part-time course of study, in an academic institution approved by the Attorney General for foreign students under INA 101(a)(15)(F)(i) or a nonacademic institution approved under 101(a)(15)(M)(i). The alien has presented a SEVIS Form I-20, Form I-20A-B/I-20ID, Certificate of Eligibility For Nonimmigrant Student Status—For Academic and Language Students, or Form I-20M-N/I-20ID, Certificate of Eligibility for Nonimmigrant Student Status—For Vocational Students, properly completed and signed by the alien and a designated official as prescribed in regulations found at 8 CFR 214.2(F) and 214.2(M);

\* \* \* \* \*

(iii) The alien, unless coming to participate exclusively in an English language training program, has sufficient knowledge of the English language to undertake the chosen course of study or training. If the alien's knowledge of English is inadequate, the consular officer may nevertheless find the alien so classifiable if the accepting institution offers English language training, and has accepted the alien expressly for a full course of study (or part-time course of study for Border Commuter Students) in a language with which the alien is familiar, or will enroll the alien in a combination of courses and English instruction which will constitute a full course of study if required; and

\* \* \* \* \*

(d) *Electronic verification and notification.* A student's acceptance documentation must be verified by a consular official's review of the SEVIS data in the Consolidated Consular Database or via direct access to SEVIS or ISEAS prior to the issuance of an F-1, F-2, M-1 or M-3 visa. Evidence of the payment of any applicable fees, if not presented with other documentation, may also be verified through the Consolidated Consular Database or direct access to SEVIS. Upon issuance of an F or M visa, notification of such issuance must be entered into the SEVIS database.

■ 3. Amend paragraphs (a)(1) and (5) of § 41.62 to read as follows:

**§ 41.62 Exchange Visitors.**

(a) \* \* \*

(1) Has been accepted to participate, and intends to participate, in an exchange visitor program designated by the Department of State, as evidenced by the presentation of a properly executed Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status as prescribed in regulations found at 22 CFR 41.62 and 41.63;

\* \* \* \* \*

(5) *Electronic verification and notification.* An exchange visitor's acceptance documentation and payment of any applicable fees must be verified by a consular official's review of the SEVIS database or via direct access to SEVIS or ISEAS prior to the issuance of a J-1 or J-2 visa. Evidence of the payment of any applicable fees, if not presented with other documentation, may also be verified through the Consolidated Consular Database or direct access to SEVIS. Upon issuance of a J-1 or J-2 visa, notification of such issuance must be entered into the SEVIS database.

Dated: April 9, 2003.

**Maura Harty,**

*Assistant Secretary for Consular Affairs,  
Department of State.*

[FR Doc. 03-12653 Filed 5-22-03; 8:45 am]

**BILLING CODE 4710-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 299

**RIN 0790-AG96**

#### **National Security Agency/Central Security Service (NSA/CSS) Freedom of Information Act Program**

**AGENCY:** Department of Defense.

**ACTION:** Interim final rule.

**SUMMARY:** The part implements the Freedom of Information Act, as amended. It assigns responsibility for responding to written requests made pursuant to the Act and provides for the review required to determine the appropriateness of classification.

**DATES:** This rule is effective August 5, 2002. Consideration will be given to all comments received on or before July 22, 2003.

**ADDRESSES:** Forward comments to National Security Agency, FOIA Office (DC321), 9800 Savage Road STE 6248, Ft. George G. Meade, MD 20755-6248.

**FOR FURTHER INFORMATION CONTACT:** Pamela Phillips, 301-688-6527.

**SUPPLEMENTARY INFORMATION:**

#### **Executive Order 12866**

It has been determined that 32 CFR part 299 is not a significant regulatory action. The rule does not (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of the recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

#### **Unfunded Mandates Reform Act**

It has been certified that 32 CFR part 299 does not contain a Federal Mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

#### **Regulatory Flexibility Act**

It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

#### **Paperwork Reduction Act**

It has been certified that 32 CFR part 299 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 44).

#### **Executive Order 13132**

It has been certified that 32 CFR part 299 does not have federalism implications, as set forth in Executive Order 13132.

#### **List of Subjects in 32 CFR Part 299**

Freedom of Information.

■ Accordingly, 32 CFR part 299 is revised to read as follows:

#### **PART 299—NATIONAL SECURITY AGENCY/CENTRAL SECURITY SERVICE (NSA/CSS) FREEDOM OF INFORMATION ACT PROGRAM**

Sec.

§ 299.1 Purpose.

§ 299.2 Definitions.

§ 299.3 Policy.

§ 299.4 Responsibilities.

§ 299.5 Procedures.

§ 299.6 Fees.

§ 299.7 Exempt records.