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DEPARTMENT OF STATE
22 CFR Part 62
[Public Notice 5437]
RIN 1400-AC16

Au Pair Exchange Programs
AGENCY: State Department.
ACTION: Final rule.

SUMMARY: The Department of State (Department) adopts as final certain proposed amendments to existing au pair regulations. These changes will permit au pair sponsors to request a one-time extension of six, nine, or 12 months beyond an au pair participant's original 12-month period of program participation).

DATES: Effective Date: This rule is effective July 10, 2006.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Director, Office of Exchange Coordination and Designation, U.S. Department of State, SA-44, 301 4th Street, SW., Room 734, Washington, DC 20547; or email at jexchanges@state.gov.

SUPPLEMENTARY INFORMATION: In February 2004, the Department of State announced a pilot program whereby Department designated au pair sponsors could request the extension of program participation beyond the original 12-month maximum period afforded au pair participants. The Department has completed its review of the Au Pair Pilot Extension Program and has determined that au pair extensions enhance the overall success of this program. Both host families and au pair participants have enthusiastically embraced the extension concept. Accordingly, the Department is adopting the amendment of program regulations to permit designated sponsors of the au pair program to submit requests to the Department for consideration of program extensions for six, nine, or 12 month durations for first-year au pair participants beyond the maximum duration of participation allowed under Section 62.31(c)(1).

Analysis of Comments

The Department received a total of 1 comment on the proposed rule for Au Pair extension requests. However, the

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comment requested substantive changes to the existing au pair regulations and did not address the specific changes stated in the proposed rule.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department is publishing this rule as a final rule, after it was published as a proposed rule on February 2, 2006.

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

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 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

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

List of Subjects in 22 CFR Part 62

Cultural Exchange Programs.

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

PART 62--EXCHANGE VISITOR PROGRAM

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

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

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2. Section 62.31 is amended by revising paragraph (k) and adding paragraphs (o) and (p) to read as follows:

Sec. 62.31 Au pairs.

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(k) Educational component. Sponsors must:

(1) Require that during their initial period of program participation, all EduCare au pair participants complete not less than 12 semester hours (or their equivalent) of academic credit in formal educational settings at accredited U.S. post-secondary institutions and that all other au pair participants complete not less than six semester hours (or their equivalent) of academic credit in formal educational settings at accredited U.S. post-secondary institutions. As a condition of program participation, host family participants must agree to facilitate the enrollment and attendance of au pairs in accredited U.S. post secondary institutions and to pay the cost of such academic course work in an amount not to exceed \$1,000 for EduCare au pair participants and in an amount not to exceed \$500 for all other au pair participants.

(2) Require that during any extension of program participation, all participants (i.e., Au Pair or EduCare) satisfy an additional educational requirement, as follows:

(i) For a nine or 12-month extension, all au pair participants and host families shall have the same obligation for coursework and payment therefore as is required during the initial period of program

participation.

(ii) For a six-month extension, EduCare au pair participants must complete not less than six semester hours (or their equivalent) of academic credit in formal educational settings at accredited U.S. post-secondary institutions. As a condition of participation, host family participants must agree to facilitate the enrollment and attendance of au pairs at accredited U.S. post secondary institutions and to pay the cost of such academic coursework in an amount not to exceed \$500. All other au pair participants must complete not less than three semester hours (or their equivalent) of academic credit in formal educational settings at accredited U.S. post-secondary institutions. As a condition of program participation, host family participants must agree to facilitate the enrollment and attendance of au pairs at accredited U.S. post secondary institutions and to pay the cost of such academic coursework in an amount not to exceed \$250.

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(o) Extension of Program. The Department, in its sole discretion, may approve extensions for au pair participants beyond the initial 12-month program. Applications to the Department for extensions of six, nine, or 12 months, must be received by the Department not less than 30 calendar days prior to the expiration of the exchange visitor's initial authorized stay in either the Au Pair or EduCare program (i.e., 30-calendar days prior to the program end date listed on the exchange visitor's Form DS-2019). The

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request for an extension beyond the maximum duration of the initial 12-month program must be submitted electronically in the Department of Homeland Security's Student and Exchange Visitor Information System (SEVIS). Supporting documentation must be submitted to the Department on the sponsor's organizational letterhead and contain the following information:

- (1) Au pair's name, SEVIS identification number, date of birth, the length of the extension period being requested;
- (2) Verification that the au pair completed the educational requirements of the initial program; and
- (3) Payment of the required non-refundable fee (see 22 CFR 62.90) via Pay.gov.

(p) Repeat Participation. Exchange visitors who have participated in the Au Pair Program are not eligible for repeat participation.

Dated: June 2, 2006.

Stanley S. Colvin,
Director, Office of Exchange Coordination and Designation, Bureau of
Educational and Cultural Affairs, Department of State.

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