commodities. Therefore, under ARTCA, fish processing operations and commercial fishing vessels would not be considered a ''field'' or a ''treatment facility where raw agricultural commodities are the only food treated'' (21 U.S.C. 321(q)(1)(B)(i)), and thus, an antimicrobial applied to water to which seafood is added at such locations would not be subject to regulation as a ''pesticide chemical,'' but instead would be subject to regulation as a ''food additive'' under the Federal Food, Drug, and Cosmetic Act (the act).

Although the use of an acidified solution of sodium chlorite as an antimicrobial agent in water and ice that are used to rinse, wash, thaw, transport, or store seafood is regulated under section 409 of the act (21 U.S.C. 348) as a food additive, this intended use may nevertheless be subject to regulation as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Therefore, manufacturers intending to market acidified solutions of sodium chlorite for such use should contact the Environmental Protection Agency to determine whether this use requires a pesticide registration under FIFRA.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive to reduce the microbial contamination of water and ice that are used to rinse, wash, thaw, transport, or store seafood is safe, will achieve its intended technical effect, and therefore, that the regulation in § 173.325 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

In the notice of filing, FDA gave interested parties an opportunity to submit comments on the petitioner's environmental assessment. FDA received no comments in response to that notice.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may, at any time on or before September 13, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in the brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

2. Section 173.325 is amended by redesignating paragraph (d) as paragraph (e), and by adding new paragraph (d) to read as follows:

§ 173.325 Acidified sodium chlorite solutions.

* * * * *

(d) The additive is used as an antimicrobial agent in water and ice that are used to rinse, wash, thaw, transport, or store seafood in accordance with current industry standards of good manufacturing practice. The additive is produced by mixing an aqueous solution of sodium chlorite with any GRAS acid to achieve a pH in the range of 2.5 to 2.9 and diluting this solution with water to achieve an actual use concentration of 40 to 50 parts per million (ppm) sodium chlorite. Any seafood that is intended to be consumed raw shall be subjected to a potable water rinse prior to consumption.

* * * * *

Dated: August 5, 1999.

Janice F. Oliver,

Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–20890 Filed 8–12–99; 8:45 am]

BILLING CODE 4160–01–F

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Reinstatement of Exchange Visitors Who Fail To Maintain Valid Program Status

AGENCY: United States Information Agency.

ACTION: Interim Final Rule with request for comments.

SUMMARY: This is an Interim Final Rule with request for comments being made by the United States Information Agency (hereinafter ''the Agency''). The rule will amend the Agency's Exchange Visitor Program regulations regarding reinstatement of J–1 exchange visitors to valid program status. This Interim Final Rule supersedes the Agency's Statement of Policy which was published in the **Federal Register** on April 24, 1997.

EFFECTIVE DATE: This Interim Final Rule is effective on August 13, 1999. Comments regarding this rulemaking will be accepted until September 13, 1999.

ADDRESSES: United States Information Agency, Office of the General Counsel, 301 Fourth Street, SW, Room 700, Washington, DC 20547–0001.

FOR FURTHER INFORMATION CONTACT: Lorie J. Nierenberg, Office of the General Counsel, United States Informaiton Agency, 301 Fourth Street, SW, Washington, DC 20547; telephone (202) 619–6084.

SUPPLEMENTARY INFORMATION: While it is not the responsibility of the sponor to ensure that the exchange visitor timely departs the U.S., the Exchange Visitor Program regulations do require that a sponsor monitor its participating exchange visitors [22 CFR 514.10(e)]. Among other things, the sponsor must ensure that the activity in which the exchange visitor is engaged is consistent with the category and activity listed on the exchange visitor's Form IAP–66 [22 CFR 514.10(e)(1)]. The sponsor must also monitor the progress and welfare of the exchange visitor to the extent appropriate for the category [22 CFR 514.10(e)(2)]. Finally, the sponsor must require the exchange visitor to keep the sponsor apprised of his or her address and telephone number, and maintain such information [22 CFR 514.10(e)(3)].

The Agency believes that the monitoring requirements set forth in the existing Exchange Visitor Program regulations illuminate the sponsor's general obligation to monitor the exchange visitor's Form IAP–66 to ensure that such form accurately reflects the activities and the program dates of the exchange visitor and that the exchange visitor is advised of the limitations on his or her activities and authorized stay in the United States (Existing regulations also explicitly require the sponsor to notify the Agency in writing when the exchange visitor has withdrawn from or completed a program thirty or more days prior to the ending date on his or her Form IAP–66 or when the exchange visitor has been terminated from his or her program [22 CFR 514.13(c)].)

One of the purposes of the Fulbright-Hays Act is to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges. When Congress enacted that Act, it amended the Immigration and Nationality Act by adding a new nonimmigrant visa category—the J visa—to be used solely for educational and cultural exchanges. Exchange visitors who come to the United States on the J visa come here as participants in exchange programs designated by the Director of the Agency. While the Agency has a programmatic role with respect to designating and monitoring programs in which exchange visitors will participate while in the United States on the J visa, it does not administer or enforce the provisions of the Immigration and Nationality Act, as amended. Administration and enforcement of that Act is solely under the jurisdiction of the Immigration and Naturalization Service (''the Service''). Oversight of the exchange visitor's program status is administered by the Agency, but the terms and conditions of the exchange visitor's nonimmigrant status are administered by the Service. Thus, responsible officers and exchange visitors must be aware that failure to maintain valid J–1 program status may at the same time be a failure to maintain valid immigration status, which may result in serious adverse consequences for an exchange visitor by operation of immigration law. Where there has been a failure to maintain valid immigration status, the Agency's reinstatement to valid program status does not serve as a reinstatement to valid immigration status.

Similarly, there may be instances where an exchange visitor may fail to maintain both valid nonimmigrant status and valid program status. For example, the Agency has been advised that a soon to be promulgated Service regulation will establish that a J–1 exchange visitor will be deemed to have failed to maintain valid nonimmigrant status and valid J–1 program status if the exchange visitor fails to pay the fee mandated by Public Law 104–208 (the ''CIPRIS'' fee). At the same time, failure to pay the fee would preclude reinstatement to valid J–1 program status under this interim final rule; i.e., reinstatement to valid program status could not be made until the fee is paid.

The Agency acknowledges that most program participants do not knowingly or wilfully engage in practices that would jeopardize their status in the United States. However, the Agency is aware that on occasion, whether through circumstances beyond the control of the exchange visitor or through administrative oversight, inadvertence, or neglect on the part of a Responsible Officer or an exchange visitor, or both, the exchange visitor may fail to maintain valid program status.

The Agency believes that the above principles apply to the subject of this rulemaking: Reinstatement to valid program status. Valid program status, in turn, relates directly to the concept of ''duration of participation in an exchange visitor program.'' With one exception, the Exchange Visitor Program regulations establish a duration of participation for each specific program category. [Exchange visitors in the ''college and university student'' category have no fixed duration of participation as long as they meet certain requirements. See 22 CFR 514.23(h)]. Those limits to duration of participation were not set forth in the Mutual Educational and Cultural Exchange Act of 1961 (the Fulbright-Hays Act) that established the Exchange Visitor Program and created the J visa as part of the Immigration and Naturalization Act. Nevertheless, the vision of the authors of that legislation was that scholars, professors, trainees, and the other caregories of exchange visitors mentioned in the Act would come to the United States, accomplish the objective for which they came, and then return to their home country to share their new knowledge and skills with their countrymen. That vision would be frustrated and undermined if there were no finite limit on the period of time in which exchange visitors could remain in the United States. Moreover, the Agency believes that greatly extended periods of stay here tend to cause a closer identification with the United States and tend to work against the exchange visitor's eventual return home and completion of the desired ''exchange.''

Thus, the Exchange Visitor Program regulations impose limits on the duration of participation that vary from category to category in recognition of the fact that some categories require longer stays than others. (In some cases, the language in the sponsor's designation letter provides for less than the maximum duration of stay for program participation for that particular category.) When the Agency fails to require strict adherence to the established durations of participation, for example, by tolerating or enabling the exchange visitor to fail to maintain valid program status or otherwise remain in the United States beyond the expiration of thirty days after the end date of the exchange visitor's Form IAP–66, the Agency believes that it is departing from the intent of the Fulbright-Hays Act and the immigration laws of the United States. Moreover, remaining in the United States more than thirty days beyond the end date on the exchange visitor's Form IAP–66 will pace the exchange visitor in jeopardy of violating laws and regulations enforced by the Service.

The Agency recognizes that some exchange visitors commit minor or technical infractions of the Exchange Visitor Program regulations through sheer inadvertence or excusable neglect. The Agency is of the view that these minor or technical regulations do not constitute a failure to maintain valid J–1 program status. Under this Interim Final Rule, such minor or technical infractions may be corrected by the responsible Officer and an application for reinstatement need not be submitted to the Agency. The Responsible Officer's correction of a minor or technical infraction returns the exchange visitor

to the *status quo ante*, i.e., it is as if the minor or technical infraction never occurred.

The Interim Final Rule provides examples of minor or technical infractions. Nevertheless, it is impossible to foresee and list all possible such infractions. Thus, the Interim Final Rule establishes several criteria to guide the Responsible Officer in determining whether the infraction is a minor or technical one. If there is any question in the mind of the Responsible Officer as to whether the infraction is a minor or a substantive one, the Interim Final Rule requires that the Responsible Officer apply to the Agency for reinstatement on behalf of the exchange visitor.

The Exchange Visitor Program regulations, which appear at 22 CFR Part 514, do not include a regulation or reinstatement to valid program status. On April 24, 1997, the Agency published a Statement of Policy on reinstatement which was to be followed until a formal rulemaking was promulgated. 62 FR 19925. The Interim Rule supersedes and replaces the April 24, 1997 Statement of Policy. The Interim Rule establishes two categories with respect to reinstatement for failure to maintain valid program status: (1) those cases wherein a substantive violation of the regulations has occurred and which require application to the Agency for reinstatement; and, (2) those cases in which reinstatement will not be granted under any circumstances. For those cases identified in item 1 above, exchange visitors must provide evidence that they have at all times continued, or maintained an intent to continue, their program objective.

(1) *Substantive violations or infractions of the regulations.* The Interim Final Rule lists two violations which the Agency considers to be substantive violations or infractions of the regulations. If the Responsible Officer determines that the violation does not fit within one of the two listed violations, then the violation is either a technical violation which can be addressed by the Responsible Officer on his or her own initiative, or it is one of the violations for which reinstatement cannot be obtained.

While this Interim Rule on reinstatement for substantive violations fairly tracks the April 24, 1997 Statement of Policy, two additional exceptions follow. The Interim Final Rule requires the Responsible Officer, on behalf of the exchange visitor, to carry the burden of persuasion by demonstrating that the exchange visitor failed to maintain valid program status for less than 120 calendar days beyond the end date on the Form IAP–66, was pursuing or maintained an intent to pursue his or her original program objective, and (1) that the violation of status resulted from circumstances beyond the control of the exchange visitor or from administrative oversight, inadvertence, or neglect on the part of the Responsible Officer or the exchange visitor *or* (2) that the failure to receive reinstatement to valid program status would result in an unusual hardship to the exchange visitor. The Agency considers an unusual hardship to be a hardship that would not normally be expected to result from a failure to obtain reinstatement. For example, if an exchange visitor fails to maintain valid program status and, if denied reinstatement, must pay for a return airline ticket to his or her home country, the level of hardship would not be considered unusual. By contrast, if an exchange visitor doctoral candidate is in the final semester of a seven-year degree program and fails to maintain valid program status, the Agency would consider it an unusual hardship to be denied the opportunity to complete the final semester and obtain the doctoral degree. (This rulemaking changes the April 25, 1997 Statement of Policy. The latter required that in all cases both tests be met and, in addition, required a showing of unwarranted hardship, as opposed to unusual hardship.)

In addition, if the failure to maintain valid program status was equal to or more than 120 calendar days duration, then the Responsible Officer, on behalf of the exchange visitor, must demonstrate to the Agency that *both* tests are met, i.e., (1) that the violation of status resulted from circumstances beyond the control of the exchange visitor or from administrative delay or oversight, inadvertence, or neglect on the part of the Responsible Officer or the exchange visitor, *and* (2) that the failure to receive reinstatement to program status would result in unusual hardship to the exchange visitor.

Pursuant to this Interim Final Rule, where there has been a substantive violation or infraction of the regulations, the agency will consider reinstating to valid program status a J–1 exchange visitor who makes a request for reinstatement through his or her Responsible Officer. In such cases, the Responsible Officer is to direct a letter to the Exchange Visitor Program Services office containing a declaration from the Responsible Officer together with information demonstrating that the exchange visitor is pursuing or has at all time maintained an intent to pursue the original exchange program activity for which the exchange visitor was admitted to the United States, along with documentary evidence supporting the declaration. The declaration should also explain (1) why and how the violation of program status resulted from circumstances beyond the control of the Responsible Officer or the exchange visitor or from administrative delay or oversight inadvertence, or neglect on the part of the Responsible Office or the exchange visitor, or (2) why and how failure to receive reinstatement to valid program status would result in unusual hardship to the exchange visitor. (As stated above, *both* test must be met if the exchange visitor failed to maintain valid program status for 120 or more calendar days.) The Agency expects the Responsible Officer to make reasonable inquiries to verify that the information supporting the application for reinstatement is true, particularly with respect to the declaration that the exchange visitor is pursuing or was at all times intending to pursue the original exchange program activity for which the exchange visitor was admitted to the United States.

The request for reinstatement also is to include copies of all of the exchange visitor's Forms IAP–66 issued to date and a new completed Form IAP–66, indicating in Block 3 the date for which reinstatement is sought (namely, the new program end date). The new Form IAP–66 submitted to the Agency is to include all copies, including the green copy for the exchange visitor. The Form IAP–66 is to be prepared in the same manner as is done for an Extension of Program (§ 514.43), Transfer of Program (§ 514.42), or Change of Category (§ 514.41). In addition to marking ''Extend an ongoing program,'' ''Transfer to a different program,'' or ''Begin a new program'' in the ''Purpose'' box located in the Form's upper right hand corner, also mark ''Reinstatement Request'' in the ''Purpose'' box. If the older ''E'' series Form IAP–66 is still being used, type in the words ''Reinstatement Request'' in the ''Purpose'' box.

If the Agency determines that reinstatement is warranted, Box 6 on the new Form IAP–66 will be stamped, dated, and signed by the Agency to indicate that reinstatement has been granted. The effective date of the reinstatement will be the date on which the application for reinstatement was received by the Agency.

The Agency has consulted with the Service with respect to the date on which reinstatements are to be made effective. The Agency had considered making the reinstatement effective nunc pro tunc, i.e., effective on the date on which the exchange visitor first failed to

maintain valid program status. However, the Service has raised concerns that the agency's nunc pro tunc reinstatement provisions may be inconsistent with the Service's forthcoming F–1 (Student) regulations. In order to ensure regulatory consistency, the Agency has decided to make its reinstatement regulation mirror the Service's with respect to the date on which reinstatement is effective. The exchange community has voiced concern that the Agency's failure to make reinstatement effective nunc pro tunc will create a time gap wherein the exchange visitor might be deemed to have failed to maintain valid nonimmigrant status for a period of time, thus triggering the ''unlawful presence'' sanctions provided in the Illegal Immigration Reform And Immigrant Responsibility Act of 1996 (IIRAIRA). However, based on the Service's current interpretation of ''unlawful presence'' of nonimmigrants admitted for ''duration of status'' (D/S), the Agency remains convinced that the ''gap'' will not result in any prejudice to the exchange visitor. Should the Service alter its interpretation of ''unlawful presence,'' the Agency will revisit this issue.

The new Form IAP–66 (minus the yellow copy) will be returned to the Responsible Officer. An Agency decision denying reinstatement is not appealable.

2. *Non-reinstatable violations.* The Interim Final Rule list six violations or other conditions which preclude reinstatement. These include instances: (1) when the exchange visitor willfully fails to maintain the health and accident insurance required under 22 CFR 514.14; (2) when the exchange visitor has engaged in employment not authorized by the Exchange Visitor Program's or the Service's regulations; (3) when the exchange visitor has been suspended or terminated from the most recent exchange visitor program; (4) when the exchange visitor has failed to maintain valid program status for more than 270 days; (5) when the exchange visitor has received a favorable recommendation from the Agency on an application of waiver of section 212(e) of the Immigration and Nationality Act (the two-year home residency requirement;) or, (6) when the exchange visitor has failed to pay the fee mandated by Public Law 104–208 (the ''CIPRIS'' fee). Note: The overwhelming majority of exchange visitors fall in the ''college and university student'' category. The Agency has decided on the 270-day outer limit, not because that number has any relevance to time periods set forth in the immigration laws. Rather, 270 days is the average length of an academic year, and it is the Agency's view that the failure to maintain valid program status for the equivalent of one academic year cannot arguably be considered to have been caused by circumstances beyond the control of the exchange visitor or by administrative delay or oversight, inadvertence or neglect. Moreover, the failure to maintain valid program status for more than 270 days presumptively demonstrates a failure to maintain an interest in continuing the exchange visitor's original program objective.

Comments

The Agency invites comments on this Interim Final Rule from all interested parties, notwithstanding the fact that it is under no legal obligation to do so. The oversight and administration of the Exchange Visitor Program are deemed to be foreign affairs functions of the United States Government. The Administrative Procedure Act, 5 U.S.C. 553(a)(1) (1989) specifically exempts foreign affairs functions from the rulemaking requirements of the Act.

The Agency will accept comments for 30 days following publication of this Interim Final Rule in the **Federal Register**. A final rule will be adopted upon Agency review of all comments received. Comments should be mailed to the address listed above.

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 significant regulatory action within the meaning of section 3(f) of Executive Order 12866, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

List of Subjects in 22 CFR Part 514

Cultural exchange programs.

Dated: August 6, 1999.

Les Jin,

General Counsel.

Accordingly, 22 CFR part 514 is amended as follows:

PART 514—EXCHANGE

1. The authority citation for part 514 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; Reorganization Plan No. 2 of 1977, 3 CFR Comp. P. 200; E.O. 12048 of March 27, 1978, 3 CFR, 1978 Comp. P. 168.

2. Section 514.45 is added to read as follows:

§ 514.45 Reinstatement to valid program status.

(a) *Definitions.* For purpose of this section—

You means the Responsible Officer or Alternate Responsible Officer;

Exchange visitor means the person who enters the United States on a J visa in order to participate in an exchange program designated by the Director of the United States Information Agency.

Fails or failed maintain valid program status means the status of an exchange visitor who has completed, concluded, ceased, interrupted, graduated from, or otherwise terminated the exchange visitor's participation in the exchange program, or who remains in the United States beyond the end date on the exchange visitor's current Form IAP–66.

Unauthorized employment means any employment not properly authorized by you or by the Attorney General, i.e., the Immigration and Naturalization Service, prior to commencement of employment. Unauthorized employment does not include activities that are normally approvable, as described in paragraph (c)(3) of this section.

We, our, or us means the office of Exchange Visitor Program Services of the United States Information Agency.

(b) *Who is authorized to correct minor or technical infractions of the Exchange Visitor Program regulations?* (1) If the exchange visitor committed a technical or minor infraction of the regulations, you are authorized to correct the exchange visitor's records with respect to such technical or minor infractions of the regulations in this part. Your correction of such an infraction(s) returns the exchange visitor to the status quo ante, i.e., it is as if the infraction never occurred.

(2) You may only correct the exchange visitor's record with respect to a technical or minor infraction of the regulations in this part if the exchange visitor is pursuing or intending to pursue the exchange visitor's original program objective.

(3) You may not correct the exchange visitor's records with respect to a technical or minor infraction of the regulations in this part if the exchange visitor has willfully failed to maintain insurance coverage during the period for which the record is being corrected; if the exchange visitor has engaged in unauthorized employment during that period, as defined in paragraph (a) of this section, of if the exchange visitor was involuntarily suspended or terminated from his or her program during the period.

(4) If the exchange visitor has failed to maintain valid program status because of a substantive violation of the

regulations in this part, you must apply to us for reinstatement.

(c) *What violations or infractions of the regulations in this part do we consider to be technical or minor ones, and how do you correct the record?* We consider the following to be examples of technical or minor infractions which you are authorized to correct:

(1) Failure to extend the Form IAP–66 in a timely manner (i.e., prior to the end date on the current Form IAP–66) due to inadvertence or neglect on your part or on the part of the exchange visitor.

(2) Failure on the part of the exchange visitor to conclude a transfer of program prior to the end date on the current Form IAP–66 due to administrative delay or oversight, inadvertence or neglect on your part or on the part of the exchange visitor;

(3) Failure to receive your prior approval and/or an amended Form IAP–66 before accepting an honorarium or other type of payment for engaging in a normally approvable and appropriate activity. Example, a lecture, consultation, or other activity appropriate to the category which is provided by a professor, research scholar, short-term scholar or specialist without prior approval or an amended Form IAP–66 issued prior to the occurrence of the activity.

(4) You correct the record *status quo ante* by issuing a Form IAP–66 or by writing an authorization letter to reflect the continuity in the program or the permission to engage in the activity that a timely issued document would have reflected.

(i) Forms IAP–66 should be:

(A) Issued to show continued authorized stay without interruption;

(B) Marked in the ''purpose'' box with the appropriate purpose (i.e., extension, transfer, etc.) and with the additional notation of ''correct the record'' typed in;

(C) Dated as of the date the Form was actually executed; and,

(D) Submitted to the Agency in the same way as any other notification.

(ii) Letters or other authorization documents should be:

(A) Issued according to the regulations in this part appropriate to the category and the activity;

(B) Marked or annotated to show ''correct the record,''

(C) Dated as of the date the letter or document was actually executed; and,

(D) Attached to the exchange visitor's Form IAP–66 and/or retained in the sponsor's file as required by the regulations in this part for that particular type of letter or document.

(d) *How do you determine if an infraction, other than those examples listed above is a technical or minor infraction?* It is impossible to list every example of a technical or minor infraction. To guide you in making a determination, you are to examine the following criteria:

(1) Regardless of the reason, has the exchange visitor failed to maintain valid program status for more than 120 calendar days after the end date on the current Form IAP–66?

(2) Has the exchange visitor, by his or her actions, failed to maintain, at all relevant times, his or her original program objective?

(3) Has the exchange visitor willfully failed to comply with our insurance coverage requirements (§ 514.14)?

(4) Has the exchange visitor engaged in unauthorized employment, as that term is defined in paragraph (a) of this section?

(5) Has the exchange visitor category been involuntarily suspended or terminated from his or her program?

(6) Has an exchange visitor in the student category failed to maintain a full course of study (as defined in § 514.2) without prior consultation with you and the exchange visitor's academic advisor?

(7) Has the exchange visitor failed to pay the fee mandated by Public Law 104–208 (the ''CIPRIS'' fee)?

(8) If the answer to any of the above questions is ''yes,'' then the infraction is not a technical or minor one and you are not authorized to reinstate the exchange visitor to valid program status.

(e) *Which violations or infractions do we consider to be substantive ones requiring you to apply to us for reinstatement?* The following are substantive violations or infractions of the regulations in this part by the exchange visitor which require you to apply to us for reinstatement to valid program status:

(1) Failure to maintain valid program status for more than 120 days after the end date on the current Form IAP–66;

(2) If a student, failure to maintain a full course of study (as defined in § 514.2) without prior consultation with you and the exchange visitor's academic advisor.

(f) *Which, if any, violations of the regulations in this part or other conditions preclude reinstatement and will result in a denial if application is made?* We will not consider requests for reinstatement (nor should you) when an exchange visitor has:

(1) Knowingly or willfully failed to obtain or maintain the required health insurance (§ 514.14) at all times while in the United States;

(2) Engaged in unauthorized employment, as that term is defined in paragraph (a) of this section;

(3) Been suspended or terminated from the most recent exchange visitor program;

(4) Failed to maintain valid program status for more than 270 calendar days;

(5) Received a favorable recommendation from the Agency on an application for waiver of section 212(e) of the Immigration and Nationality Act [8 U.S.C. 1182(e)]; or,

(6) Failed to pay the fee mandated by Public Law 104–208 (the ''CIPRIS'' fee.)

(g) *What if you cannot determine which category (technical, substantive, or non-reinstatable) the violation or infraction falls within?* If you cannot determine which category the violation or condition falls within, then you must, on behalf of the exchange visitor, apply to us for reinstatement.

(h) *If you determine that the exchange visitor's violation of the regulations in this part is a substantive one, how do you apply for a reinstatement to valid program status?* (1) If you determine that the violation of the regulations in this part is a substantive one, and that the exchange visitor has failed to maintain valid program status for 120 days or less, you must apply to us for reinstatement of the exchange visitor to valid program status. Your application must include:

(i) All copies of the exchange visitor's Forms IAP–66 issued to date;

(ii) A new, completed Form IAP–66, showing in Block 3 the date of the period for which reinstatement is sought, i.e., the new program end date;

(iii) A copy of the receipt showing that the Public Law 104–208 fee has been paid; and,

(iv) A written statement (and documentary information supporting such statement):

(A) Declaring that the exchange visitor is pursuing or was at all times intending to pursue the original exchange visitor program activity for which the exchange visitor was admitted to the United States; and,

(B) Showing that the exchange visitor failed to maintain valid program status due to circumstances beyond the control of the exchange visitor, or from administrative delay or oversight, inadvertence, or excusable neglect on your part or the exchange visitor's part; or,

(C) Showing that it would be an unusual hardship to the exchange visitor if we do not grant the reinstatement to valid program status.

(2) If you determine that the violation of the regulations is a substantive one, and that the exchange visitor has failed to maintain valid program status for more than 120 days, then you must apply to us for reinstatement of the

exchange visitor to valid program status. Your application must include:

(i) Copies of all the exchange visitor's Forms IAP–66 issued to date;

(ii) A new, completed Form IAP–66, showing in Block 3 the date for which reinstatement is sought, i.e., the new program end date;

(iii) A copy of the receipt showing that the Pub. L. 104–208 fee has been paid; and,

(iv) A written statement (together with documentary evidence supporting such statement):

(A) Declaring that the exchange visitor is pursuing or was at all times intending to pursue the exchange visitor program activity for which the exchange visitor was admitted to the United States; and,

(B) Showing that the exchange visitor failed to maintain valid program status due to circumstances beyond the control of the exchange visitor, or from administrative delay or oversight, inadvertence, or excusable neglect on your part or the exchange visitor's part; and,

(C) Showing that it would be an unusual hardship to the exchange visitor if we do not grant the reinstatement to valid program status.

(i) *How will we notify you of our decision on your request for reinstatement?* (1) If we deny your request for reinstatement, we will notify you by letter.

(2) If we approve your request for reinstatement, we will notify you:

(i) By stamping Box 6 on the new Form IAP–66 to show that reinstatement was granted, effective as of the date on which the application for reinstatement was received by the Exchange Visitor Program Services office; and

(ii) By returning the new Form IAP–66 for the exchange visitor.

(j) *How long will it take us to act on your request for reinstatement?* We will act on your request for reinstatement within forty-five days from the date on which we receive the request *and* supporting documentation.

(k) *Are you required to notify us each time that you correct a record?* No special notification is necessary. Submission of the notification copy of Form IAP–66 to the Agency serves as notice that a record has been corrected. Following the regulations in this part in issuing a letter or document serves as correction in the sponsor's file for those items not normally sent to the Agency under existing notification procedures.

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans prescribes interest assumptions for valuing benefits under terminating single-employer plans. This final rule amends the regulation to adopt interest assumptions for plans with valuation dates in September, 1999. Interest assumptions are also published on the PBGC's web site (http://www.pbgc.gov).

EFFECTIVE DATE: September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions for valuing plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974.

Among the actuarial assumptions prescribed in part 4044 are interest assumptions. These interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Two sets of interest assumptions are prescribed, one set for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. This amendment adds to appendix B to part 4044 the annuity and lump sum interest assumptions for valuing benefits in plans with valuation dates during September 1999.

For annuity benefits, the interest assumptions will be 6.30 percent for the first 20 years following the valuation date and 5.25 percent thereafter. The annuity interest assumptions are unchanged from those in effect for August 1999. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 5.00 percent for the period during which a benefit is in pay status, 4.25 percent during the seven-year period directly preceding the benefit's placement in pay status, and 4.00 percent during any other years preceding the benefit's placement in pay status. The lump sum interest assumptions are unchanged from those in effect for August 1999.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans with valuation dates during September 1999, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, a new entry is added to Table I, and Rate Set 71 is added to Table II, as set forth below. The introductory text of each table is republished for the convenience of the reader and remains unchanged.