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DEPARTMENT OF STATE

22 CFR Part 62

[Public Notice: 6566]
RIN 1400-AC48

Exchange Visitor Program--Au Pairs

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: On June 19, 2008, the Department of State published an interim final rule to revise existing regulations and thereby permit qualified au pairs to participate again in the au pair program after completing a period of at least two years of residency outside the United States following the end date of his or her initial exchange visitor program. The regulations contained in the interim final rule are adopted without change.

DATES: The interim rule published at 73 FR 34861, June 19, 2008 is adopted as final without change effective April 8, 2009.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Deputy Assistant Secretary, Office of Private Sector Exchange, U.S. Department of State, SA-44, 301 4th Street, SW., Room 734, Washington, DC 20547; or e-mail at jexchanges@state.gov.

SUPPLEMENTARY INFORMATION: On June 19, 2008, the Department of State published an interim final rule with request for comments whether to allow a foreign national who previously participated in the au pair program to repeat the program. One comment was received in response to the document that had no relevance to the rule. The Department has determined that an au pair who has successfully completed the au pair program may repeat program participation provided that he or she has resided outside the United States for a period of at least two years after the completion of initial participation in the au pair program (including the educational component requirement) and is within the regulatory age range for eligibility. An au pair who has previously participated is likely to be more familiar with the American culture (thereby quickly overcoming cultural challenges), is a proven successful caretaker, and will be able to build on the skills previously acquired.

For the foregoing reasons, the Department is promulgating the

interim final rule as a final rule.

Regulatory Analysis

Administrative Procedure Act

The Department has determined that this final rule involves a foreign affairs function of the United States and is consequently exempt from the procedures required by 5 U.S.C. 553, pursuant to 5 U.S.C. 553(a)(1).

Small Business Regulatory Enforcement Fairness Act of 1996

This rule has been found not to be a major rule within the meaning of the

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Small Business Regulatory Enforcement Fairness Act of 1996.

Regulatory Flexibility Act/Executive Order 13272: Small Business

Since this rulemaking is exempt from 5 U.S.C. 553, and no other law requires the Department to give notice of proposed rulemaking, this rulemaking also is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and Executive Order 13272, section 3(b).

Executive Order 12866, as Amended

The Department of State does not consider this final rule to be a ``significant regulatory action'' under Executive Order 12866, as amended, Sec. 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 this rule to ensure its consistency with the regulatory philosophy and principles set forth in that Executive order.

Executive Order 12988

The Department has reviewed this final rule 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.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by State, local, or tribal governments, or by the private sector. This final rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

Executive Orders 12372 and 13132

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

List of Subjects in 22 CFR Part 62

Cultural exchange programs, Reporting and recordkeeping requirements.

PART 62--EXCHANGE VISITOR PROGRAM

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Accordingly the interim rule amending 22 CFR part 62 which was published at 73 FR 34861 on June 19, 2008 is adopted as final without change.

Dated: March 30, 2009.
Stanley S. Colvin,
Deputy Assistant Secretary, Office of Private Sector Exchange, Bureau
of Educational and Cultural Affairs, Department of State.
[FR Doc. E9-7674 Filed 4-7-09; 8:45 am]

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