

exempt the majority of small businesses from the survey. For most industries, the size standard used by the Small Business Administration (SBA) for designating businesses as "small" is based on receipts or employment. For the industries designated as small based on receipts, the SBA size standards, as published in the Table of Small Business Size Standards, are all significantly below \$60 million; it is reasonable to assume that few, if any, of the businesses in these industries would have to file the BE-605. For industries where the small business size standard is based on employment, a direct comparison with the BE-605 reporting criteria is not possible because employment is not used as a reporting criterion and is not collected on the survey. However, after examining the employment-based standards, and under the assumption they are roughly comparable to the receipts-based indicators in terms of the size of firm that is to be designated as small, BEA has concluded that it is unlikely that many small businesses in these industries would be required to file the BE-605. For certain types of banking and finance companies, the SBA size standard is based on assets. Approximately 20 small businesses in these industries would be required to file the BE-605. This number represents a small percentage (0.5%) of the expected total number of 4,000 filers of the BE-605. Additionally, based on the estimated average burden of one hour per response per quarter, BEA estimates the total respondent burden for the BE-605 on these businesses would be only 80 hours annually, while the total estimated respondent burden for all companies is 16,000 hours.

Because few small businesses are subject to the reporting requirements, and because those small businesses that are subject to reporting are subject to minimal record keeping burdens, the Chief Counsel for Regulation certifies that this proposed rule will not have a significant impact on a substantial number of small entities.

#### List of Subjects in 15 CFR Part 806

Economic statistics, Foreign investment in the United States, International transactions, Penalties, Reporting and recordkeeping requirements.

Dated: July 30, 2009.

**J. Steven Landefeld,**

Director, Bureau of Economic Analysis.

For reasons set forth in the preamble, BEA proposes to amend 15 CFR part 806 as follows:

#### PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR part 806 continues to read as follows:

**Authority:** 5 U.S.C. 301; 22 U.S.C. 3101–3108; E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp., p. 173), and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 806.15(h) is revised to read as follows:

##### § 806.15 Foreign direct investment in the United States.

\* \* \* \* \*

(h) *Quarterly report form.* BE-605, Quarterly Survey of Foreign Direct Investment in the United States—Transactions of U.S. Affiliate with Foreign Parent: One report is required for each U.S. affiliate exceeding an exemption level of \$60 million.

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#### DEPARTMENT OF STATE

##### 22 CFR Part 62

[Public Notice: 6749]

RIN 1400-AC56

##### Exchange Visitor Program—Secondary School Students

**AGENCY:** Department of State.

**ACTION:** Advance notice of proposed rulemaking (ANPRM).

**SUMMARY:** The Department seeks information on alternative and more specific means of screening potential families to host exchange visitors participating in the Secondary School Student category of the Exchange Visitor Program. Current regulations allow sponsors the flexibility to exercise their independent judgment when evaluating the financial resources, moral character, and composition of potential host families, as well as the suitability of potential home environments. The Department believes, however, that the lack of specificity or industry standards may have contributed to the recent degradation of the appropriateness of selected families, thereby putting at risk the health, safety, and welfare of this most vulnerable group of exchange visitors.

**DATES:** The Department will accept comments from the public up to October 2, 2009.

**ADDRESSES:** You may submit comments, identified by any of the following methods:

*E-mail:* [JExchanges@state.gov](mailto:JExchanges@state.gov). You must include the RIN in the subject line of your message.

*Mail (paper, disk, or CD-ROM submissions):* U.S. Department of State, Office of Designation, SA-5, 5th Floor, 2200 C Street, NW., Washington, DC 20522-0505.

*Fax:* 202-632-2701.

Persons with access to the Internet may also view this notice and provide comments by going to the regulations.gov Web site at: <http://www.regulations.gov/index.cfm>.

##### FOR FURTHER INFORMATION CONTACT:

Stanley S. Colvin, Deputy Assistant Secretary for Private Sector Exchanges, U.S. Department of State, 2200 C Street, NW., SA-5, 5th Floor, Washington, DC 20522-0505; or e-mail at [JExchanges@state.gov](mailto:JExchanges@state.gov).

**SUPPLEMENTARY INFORMATION:** The Department of State ("Department") designates academic, government, and private sector entities to conduct educational and cultural exchange programs pursuant to a broad grant of authority provided by the Mutual Educational and Cultural Exchange Act of 1961, *as amended*. Under this authority, some 1,450 program sponsors facilitate the entry of more than 350,000 exchange participants each year. Secondary school students—of which there were nearly 30,000 for the 2008–2009 academic year—have been a vital component of these exchange activities since 1956. This ANPRM is a general solicitation of public comments that seeks to gather input as to whether and, if so, how the Department should modify its regulations set forth in 22 CFR 62.25(j) (Host Family Selection) to provide more specific guidance to sponsors for screening and selecting host families with whom they place students attending high school in the United States on the Exchange Visitor Program.

The safety and security of these exchange student participants are of paramount importance to the Department. Although these students are generally 17 or even 18 years of age, some are as young as 15 and often away from home for the first time. Given the vulnerable status of such a population, most of whom are considered children under the laws of the 50 States where they are living and attending school, the Department modified the regulations governing this category of exchange in 2006. The Department adopted a requirement that sponsors immediately report to the Department any incident or allegation involving the actual or alleged sexual exploitation or abuse of an exchange student participant.

Sponsors were also required to report such allegations pursuant to the local mandatory child abuse and neglect reporting laws all 50 States and the District of Columbia adopted pursuant to the Child Abuse Prevention and Treatment Act, 42 U.S.C. 5101 *et seq.* In addition, the Department adopted regulations that required sponsors to vet officers, employees, representatives, agents, and volunteers acting on their behalf who had direct personal contact with exchange students and any member of a potential host family household 18 years or older through criminal background checks.

The Department has now had three years' experience with host family placements following the implementation of these regulatory modifications. Although complaints about the inappropriate placement or actual mistreatment of these young participants represent the exception rather than the rule, there have been a sufficient number of incidents of such severity that the Department has determined that more specific guidance for host family selection may be appropriate. Current regulations set forth the minimum steps that sponsors must take to screen potential host families. Among other things, sponsors must utilize a standard application form to collect broad categories of information (22 CFR 62.25(j)(2)), conduct an in-person interview of all family members residing in the home (22 CFR 62.25(j)(3)), and obtain two personal character references from the "school or community" for each host family. (22 CFR 62.25(j)(5)) They must also ascertain whether potential host families have adequate financial resources to undertake the hosting obligation (22 CFR 62.25(j)(6)), and they must verify that each member of the household 18 years or older has undergone criminal background checks. (22 CFR 62.25(j)(7)) Information gathered from commenting parties should allow the Department to determine whether it should clarify or strengthen these screening requirements.

The current standard application form must provide "a detailed summary" of each family, its composition, and the home and community environments. A subjective verbal description of a physical environment, however, may not always present an accurate depiction. The widespread availability of digital camera technology (*e.g.*, most cell phones have cameras) and the increased use of e-mail communications make it possible to obtain objective information about an exchange visitor's potential new home with great ease and

little cost. Requiring photographs of the interior and exterior of a potential home, including the student's bedroom and the surrounding grounds, would complement any verbal description of the home and afford sponsors accurate information to use in assessing the suitability of the environment. The Department seeks information on whether sponsors' field staffs have access to the equipment and technology necessary to photograph potential residences and incorporate the images into either hard copy or online host family applications. In the alternative, the Department asks commenting parties to suggest other means of better capturing and describing potential homes.

The Department is aware that some field staffs allow relatives of potential host families to submit character references. In some instances, field staffs themselves serve as references. To ensure that character references were not biased, the Department recently reminded the sponsor community that the supplemental information accompanying the adoption of regulations governing secondary school student exchange programs explained that one potential host family reference should be from a member of the school community and the other, from the potential host family's social, residential, or business community. Many sponsors expressed concern that some potential host families (*e.g.*, "empty nesters") were not known in school communities, and that some schools would not be willing to provide such references. As a result, the Department seeks information on how better to identify neutral and dependable persons to serve as character references for potential host families. Specifically, the Department asks whether there are certain limiting criteria (*e.g.*, prohibiting local coordinators, other agents of the sponsors, or persons related to the host families by blood or marriage from serving as character references) or defining criteria (*e.g.*, knowing the potential host families for a certain number of years) that would provide the most meaningful references for potential host families. Sponsors may wish to provide specific questions that they have found to elicit particularly insightful information about potential host families or otherwise share their "best practices."

The Department has recently reminded the sponsor community that the public diplomacy underpinnings of the Exchange Visitor Program make it unacceptable for them to pay families to host students. This restriction reflects

the statutory basis on which the entire program is founded. The Department is authorized, pursuant to the Mutual Educational and Cultural Exchange Act of 1961, 22 U.S.C. 2451 *et seq.*, (Fulbright-Hays Act) to facilitate and direct educational and cultural exchange activities to develop and promote mutual understanding between the people of the United States and other countries of the world. Allowing sponsors to pay host families introduces an incentive that could replace the current motivation of host families, *i.e.*, to further international understanding, to the potential detriment of the public policy intent of the Exchange Visitor Program. While this restriction may deny caring families with limited economic resources opportunities to participate in the program, the Department has steadfastly maintained this caveat to stay true to the purpose of the program as set forth in the Fulbright-Hays Act. As a result, sponsors must rely solely upon families' incomes when assessing their financial eligibility to host exchange students.

Determining whether families have adequate financial resources to host is not easy given the range of incomes of families in the United States, cost of living differences, and the inherently subjective views individuals have of what is a comfortable and nurturing home environment. Unfortunately, the Department has learned of situations in which sponsors have placed exchange visitors in unsuitable environments such as unsanitary or condemned homes and those without essential utilities. As a result, the Department seeks comment on how to objectively measure the minimum financial resources necessary for a family to host an exchange student. The Department asks sponsors to identify the single-point measures of income or series of indicators they currently use to assess financial eligibility of potential families. They may wish also to provide data on the percentage of their prior host families whose incomes met or exceeded such objective measures. The Department also seeks recommendations of alternative single-point measures or other accurate series of income indicators they may wish to adopt. Finally, the Department seeks comment on the impact the adoption of any of these objective measures might have on the ability of sponsors to place students.

The Department is also studying whether we should adopt standards for the criminal background checks that all adult members of a potential host family must undergo. Currently, the Department has no specific requirement

with respect to this regulation. Instead, we have left it to the individual sponsors to exercise “those qualities of attention, knowledge, intelligence and judgment which society requires of its members for the protection of their own interest and the interests of others” (*i.e.*, the “reasonable man” legal standard that has developed under case law) when deciding how much to spend for each background check, which commercial services to engage, or which databases to query. Most importantly, the Department does not dictate how sponsors should evaluate the results of these background checks, again allowing sponsors to apply the “reasonable man” standard. The proliferation of media reports of American children being sexually abused across the nation, however, has escalated the Department’s concern that sponsors may not be doing enough to protect the foreign visitors entrusted to their care.

Accordingly, the Department seeks information on the standards that other organizations use to deal with the safety and oversight of children to assess the suitability of volunteers or employees and the problems or benefits associated with adopting such practices. We also seek information on the identity of the service providers that current sponsors use, as well as the level and cost of the services obtained. Further, sponsors specifically are requested to recommend any Internet searches they may employ to supplement the formal background reports. Finally, we seek specific information from sponsors regarding their methods of evaluating the results of these reports, including identifying any acts that they believe render potential host families ineligible.

Public Law 105–251, The Volunteers for Children Act (“Act”), amended the National Child Protection Act of 1993, 42 U.S.C. 5119a, to allow organizations and businesses engaged in the care of other peoples’ children to use national fingerprint-based criminal history checks to screen out volunteers and employees with relevant criminal records. The Department seeks information on which, if any, State laws would consider a host family to be a “qualified entity” as defined in the Act, thereby requiring sponsors to request national fingerprint-based checks of such volunteers. We seek comment on the costs and administrative effort that would result from requiring sponsors to vet adult members of potential host families through the FBI’s national fingerprint database and whether any sponsors have been using this approach. To the extent possible, parties should comment on whether there is a

relationship between the cost of criminal background checks and the comprehensiveness and accuracy of the resulting reports. Sponsors should also provide information on the procedures they employ to obtain criminal background checks on adult members who join a household or children who turn 18 after an exchange visitor is placed in the home. The Department asks that sponsors also identify the criteria they use to determine when a frequent adult visitor in a home (*e.g.*, a college student, grown child, or acquaintance of an adult family member) should also be vetted through the criminal background check process.

The regulations also require sponsors to conduct an in-person interview with all family members residing in the home. The Department requests comment from sponsors regarding how they identify “all family members” residing in the home. They should specify whether they interview every adult who is vetted by a background check and whether they conduct multiple interviews if all family members are not available at the same time. Parties should comment on whether they believe that requiring such interviews to be conducted in the home provides additional insight into the family dynamic and its suitability to host an exchange student.

The Department has never attempted to define a “family” for purposes of being eligible to host a foreign high school student. We take notice, however, of the fact that problematic placements often occur in homes of families that do not include a school-aged child. As a result, we are considering regulations that require host families to be comprised of, at a minimum, one adult and one school-aged child (natural, adopted, or foster) living in the home. Although this configuration would eliminate from the pool of host families a number of caring single adults or couples, such as “empty-nesters,” the Department believes that the presence of a school-aged child in a home may provide compensating advantages. The Department seeks information from sponsors on the configurations of families that have provided either successful or problematic placements in the past. We ask the sponsor community also to suggest alternative minimum configurations or to recommend extenuating circumstances under which minimum configurations might not be necessary to ensure appropriate placements. The Department asks parties to comment on the extent to which imposing more specific definitions of a family could impact the

supply of potential host families and whether the increased suitability of selected families would compensate for the smaller pool of eligible host families.

Finally, the Department encourages parties to comment on aspects of host family screening and selecting in addition to those specifically raised. For example, sponsors may wish to share the methods they use in identifying potential host families. More importantly, they may wish to enumerate the methods that their experiences have found to be problematic or that they believe may encourage inappropriate adults to agree to host high school students. Sponsors are especially encouraged to share their best practices with the Department to provide the entire industry with guidance on how best to protect the health, safety, and welfare of high school-aged foreign exchange students.

Dated: August 27, 2009.

**Stanley S. Colvin,**

*Deputy Assistant Secretary for Private Sector Exchanges, Bureau of Educational and Cultural Affairs, Department of State.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 52 and 81**

[Docket: R02–OAR–2009–0508; FRL–8952–3]

#### **Approval and Promulgation of Implementation Plans; Puerto Rico; Guaynabo PM10 Limited Maintenance Plan and Redesignation Request**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

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**SUMMARY:** EPA is proposing to approve the Limited Maintenance Plan for the Municipality of Guaynabo nonattainment area in Puerto Rico and grant the request by the Commonwealth of Puerto Rico to redesignate the area from nonattainment to attainment for National Ambient Air Quality Standards for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM10). On March 31, 2009, the Commonwealth of Puerto Rico submitted a Limited Maintenance Plan for the Guaynabo nonattainment area for approval and concurrently requested that EPA redesignate the Guaynabo nonattainment area to attainment for PM10.