

Training and Internship

[Federal Register: April 7, 2006 (Volume 71, Number 67)]

[Proposed Rules]

[Page 17768-17774]

From the Federal Register Online via GPO Access [wais.access.gpo.gov]

[DOCID:fr07ap06-18]

=====

DEPARTMENT OF STATE

22 CFR Part 62

RIN: 1400-AC15

[Public Notice 5356]

Rule Title: Exchange Visitor Program--Training and Internship Programs

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department is proposing to revise its training program regulations. These revisions will, among other things, eliminate the distinction between ``non-specialty occupations'' and ``specialty occupations''. Also, a new 12-month ``intern'' program is proposed to permit recent foreign graduates of degree-granting post-secondary accredited educational institutions to come to the United States to pursue work-based learning experiences in the fields in which they received their degrees.

A requirement that sponsors complete an individualized Form DS-7002 Training/Internship Placement Plan for each trainee and intern prior to issuing a Form DS-2019 to the trainee or intern is also proposed. The Department will publish a Notice regarding the design of the proposed Form DS-7002, soliciting public comment regarding all recordkeeping, reporting, and data collection units. Sponsors should note that Forms DS-7002 contain a provision prohibiting the making of materially false, fictitious, or fraudulent statements or misrepresentations in connection

[[Page 17769]]

with Training/Internship Placement Plans (18 U.S.C. 1001).

DATES: The Department will accept comments on the proposed regulation from the public up to June 6, 2006.

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

E-mail: jexchanges@state.gov. You must include the RIN (1400-AC15) in the subject line of your message.

Mail (paper, disk, or CD-ROM submissions): U.S. Department of State, Office of Exchange Coordination and Designation, SA-44, 301

4th Street, SW., Room 734, Washington, DC 20547.

Fax: 202-203-5087.

Persons with access to the Internet may also view this notice and provide comments by going to the [regulations.gov Web site](http://www.regulations.gov).

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 e-mail at jexchanges@state.gov.

SUPPLEMENTARY INFORMATION: The Department of State (Department) designates U.S. government, academic 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 ('`Fulbright-Hays Act'). Under this authority, designated program sponsors facilitate the entry into the United States of more than 275,000 exchange participants each year.

The former United States Information Agency (USIA) and, as of October 1, 1999, its successor, the Department, have promulgated regulations governing the Exchange Visitor Program that are set forth at **22 CFR part 62**. Regulations specifically governing designated training programs appear at **22 CFR 62.22**. These regulations largely have remained unchanged since 1993, when the USIA undertook a major regulatory reform of the Exchange Visitor Program. Approximately 27,000 trainees enter the United States annually as participants in designated training programs. Although the regulations have not been altered in any major way since 1993, the Department's Office of Exchange Coordination and Designation (the Office) and the Government Accountability Office (GAO) have reviewed their implementation. While training programs overall have been highly successful in meeting the goals of the Fulbright-Hays Act, both the Office and the GAO found that there have been occasions where some sponsors were misusing training programs (i.e., trainees were not receiving any training and were actually being used as ``employees,' ' and visitors were using J visas in lieu of H visas or as stepping stones for other longer-term non-immigrant or immigrant classifications that may have been unavailable at the time of application). The proposed regulations will permit the Office to monitor more closely training and internship programs and ensure that they are not subject to abuses similar to those the GAO and the Office found with respect to certain training programs. ('`Stronger Action Needed to Improve Oversight and Assess Risks of the Summer Work Travel and Trainee Categories of the Exchange Visitor Program,' ' Report GAO-06-106, October 2005.)

The 1993 regulatory overhaul of the Exchange Visitor Program regulations included a provision in the regulations governing training programs that distinguished among training in ``specialized,' ' ``non-specialized,' ' and ``unskilled' ' occupations. Experience has shown that the distinctions between and among these occupational categories are conceptually artificial and do not adequately describe the types of training that the Department desires to promote in the national interest. In that regard, the Department has concluded that it is more the amount of prior experience that trainees acquire, rather than some artificial categorization of the type of training, that should determine whether trainees should be permitted to enter the United States for further training. Accordingly, these proposed regulations will require that trainees have a minimum of three years of prior

related work experience in their occupational fields before being eligible to participate in the Exchange Visitor Program. Further, in order that trainees be sufficiently fluent in English to comprehend fully the training they undertake, the regulations will require that trainees have a minimum TOEFL[supreg] (Test of English as a Foreign Language) score of 550, or its equivalent.

The Department will continue to designate training programs in the following occupational categories: Arts and culture; information media and communications; education, social sciences, and library science; management, business, commerce, and finance; health related occupations; aviation; the sciences, engineering, architecture, mathematics, and industrial occupations; construction and building trades; agriculture, forestry, and fishing; public administration and law; hospitality and tourism; and such other occupational categories that the Department may from time to time include in the program. The Department directs the attention of sponsors to two Statements of Policy that it has recently promulgated and which will have an impact on certain training programs. The first Statement of Policy notified the public that the Department will not designate any new flight training programs; nor will it permit currently-designated flight training programs to expand, pending a determination as to which Federal agency ultimately will be tasked with administering and monitoring flight training programs. (See 71 FR 3913, January 24, 2006.) The Department also recently issued a Statement of Policy notifying the public that it will not designate any new J visa agricultural training programs; nor will it permit currently-designated programs offering agricultural training to expand the agricultural training component of their programs, pending the Department's determination whether such programs are subject to, and if so, whether they are in compliance with, certain Federal statutes covering agricultural workers. (See 71 FR 3914, January 24, 2006.) The regulations proposed herein do not revoke or otherwise affect those two Statements of Policy. They remain in effect.

The regulations the USIA adopted in 1993 contain provisions for the preparation of training plans for trainees (**22 CFR 62.22**(f) and (g)). The Office's experience since 1993 has shown that the regulations regarding the content and use of such training plans have not been effective, and they do not adequately assist the Office in determining whether trainees receive real training, for example, or whether ``boilerplate'' structured training plans accurately describe actual trainee activities. The Department proposes to replace the existing training plan regulations with new regulations that appear below under the heading ``Training/Internship Placement Plan.'' The Department will provide an opportunity for comment on this proposed form by separate Federal Register announcement.

The Department also recognizes that recent college and university level graduates (i.e., those who graduated no more than 12 months prior to the begin dates of their individual internship programs) and who have not yet had the opportunity to acquire work experience in their chosen fields of study, may also be interested in pursuing training in the United States in their prospective occupational fields. The Department has concluded that it is in furtherance of the

[[Page 17770]]

goals of the Fulbright-Hays Act that such graduates should be permitted and, indeed, encouraged to enter the United States for post-graduate practical training in structured and guided training programs. Accordingly, these proposed regulations will create a new intern sub-

category within the regulations governing trainees.

It is imperative that the new internship programs provide learning experiences for recent graduates that are an integral **part** of their continuing education and that are consistent with the Congressional intentions underlying enactment of the Fulbright-Hays Act. To that end, the proposed regulations include provisions that: (1) Limit internship program participation to only recent graduates from degree-granting accredited post-secondary academic institutions; (2) require that interns have a minimum TOEFL[supreg] score of 550, or its equivalent; and (3) require the completion of individualized Training/Internship Placement Plans prior to interns' departures from their home countries. Interns may remain in the United States as participants in designated internship programs for a maximum of 12 months.

The proposed regulations also provide that trainees and interns may return to the United States for repeat training opportunities only after they have been absent from the United States for at least two years following completion of their initial training or internship programs.

With respect to flight training, the proposed regulations link the duration of on-the-job or practical training to the amount of time flight trainees spend in full-time classroom study. Flight trainees will be permitted to engage in one month of on-the-job or practical training for each four months of full-time classroom study they successfully complete. This mirrors the practical training provision in the regulations governing the M visa, 8 **CFR** 214.2(m). With respect to flight training programs, the duration of the total training period, like that under the M visa, will be directly related to the amount of classroom training that trainees successfully complete, but will not exceed 18 months for the combined classroom and on-the-job practical training.

Training programs in the agricultural, hospitality, and tourism categories will be limited to 12 months' duration. The GAO, the Department's Office of Inspector General, and the Inspector General of the USIA have consistently singled out these three categories of training for review and criticism. Concerns about these training programs often focus on reviewing officers' inability to distinguish on-the-job training from employment. The Department does not embrace these criticisms in their entirety, as the simple fact that exchange visitors are working does not mean they are not engaged in training. Recognizing the value of training in these fields, but mindful of the need to prevent abuse--or the appearance thereof--the Department maintains that 12 months of training in these fields will address the underlying employment concerns while permitting opportunities for legitimate training. In addition, sponsors of agricultural programs must certify that they meet all requirements of the Fair Labor Standards Act, as amended (29 U.S.C. 201 et seq.) and the Migrant and Seasonal Agricultural Worker Protection Act, as amended (29 U.S.C. 1801 et seq.).

Regulatory Analysis

Administrative Procedure Act

The Department is publishing this rule as a proposed rule, with a 60-day provision for public comments.

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 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

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.;

PRA), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulation. The Department has determined that this proposed rule contains collection of information requirements for the purposes of the PRA. The Department will submit to OMB its request for review of new information collection as **part** of the proposal. The submission will include a Form DS-7002 Training/Internship Placement Plan, which will be the subject of a separate Federal Register notice and request for public comment. The new collection of information will replace the training

[[Page 17771]]

plans currently required under **22 CFR 62.22**.

List of Subjects in **22 CFR Part 62**

Cultural exchange programs, Reporting and recordkeeping requirements.

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

PART 62--EXCHANGE VISITOR PROGRAM

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, Public Law 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.

2. Section **62.2** is amended by removing the paragraphs defining ``Non-specialty occupation'' and ``Specialty occupation'' and by adding the following terms to read as follows:

Sec. **62.2** Definitions.

* * * * *

Clerical--means routine administrative work generally performed in an office or office-like setting, such as recordkeeping, filing, typing, mail sorting and distribution, and other general office tasks.

* * * * *

Intern--means a foreign college or university level graduate who, within 12 months following graduation, enters the United States to participate in a structured and guided period of work-based learning related to the specific field in which he or she earned a degree.

Internship--means a structured and guided work-based program that reinforces a recent graduate's academic study and provides on-the-job exposure to American techniques, methodologies, and technology, and enhances the intern's knowledge of American culture and society.

* * * * *

Trainee--means a foreign individual who has at least three years of prior related work experience in his or her occupational field and who enters the United States to participate in a structured and guided work-based training program in his or her specific occupational field.

Training--means a structured and guided work-based learning program set forth in an individualized Trainee/Internship Placement Plan that

enhances both a trainee's skills in his or her occupational specialty through exposure to American techniques, methodologies, and technology, and a trainee's understanding of American culture and society.

3. Section **62.22** is revised to read as follows:

Sec. **62.22** Trainees and Interns.

(a) Introduction. These regulations govern Exchange Visitor Programs under which foreign nationals have the opportunity to receive training in the United States. These regulations also establish a new internship program under which recent foreign post-secondary school graduates who graduated not more than 12 months prior to their Exchange Visitor Programs' begin dates may enter the United States to obtain work-based learning in the fields in which they received their degrees. Regulations dealing with training opportunities for certain foreign students who are studying at post-secondary accredited educational institutions in the United States are found at Sec. **62.23** ('College and University Students'). Regulations governing foreign medical trainees are found at Sec. **62.27** ('Alien Physicians').

(b) Purpose. (1) The primary objectives of the programs offered under these regulations are to enhance the skills and expertise of exchange visitors in their occupational or educational fields through participation in structured and guided training and internship programs and to improve participants' knowledge of American techniques, methodologies and technology. Such training and internship programs are also intended to increase participants' understanding of American culture and society and to enhance Americans' knowledge of foreign cultures and skills through an open interchange of ideas between participants and their American associates. A key goal of the Fulbright-Hays Act, which authorizes these programs, is that participants will return to their home countries and share their experiences with their countrymen. Exchange Visitor Program training and internship programs are not to be used as substitutes for ordinary employment or work purposes; nor may they be used under any circumstances to displace American workers. These regulations are designed to distinguish between bona fide training, which is permitted, and merely gaining additional work experience, which is not permitted.

(2) In addition, a specific objective of the new internship program is to provide recent foreign post-secondary school graduates a period of work-based learning in the fields in which they earned their degrees. Bridging the gap between formal education and practical work experience and gaining substantive cross-cultural experience in graduates' fields of study are major goals in educational institutions around the world. By providing opportunities for recent foreign graduates at formative stages of their development, the United States Government will build partnerships, create mutual understanding, and develop platforms for relationships that will last through generations as these graduates move into leadership roles in a broad range of professional fields in their own societies. These values are closely tied to the goals, themes, and spirit of the Fulbright-Hays Act.

(c) Designation. (1) The Department may, in its sole discretion, designate as sponsors entities meeting the eligibility requirements set forth in subpart A of **22 CFR part 62** and satisfying the Department that they have the organizational capacity successfully to administer and facilitate training or internship programs.

(2) Sponsors shall provide training and internship programs only in the category or categories for which the Department has designated them as sponsors. The Department will designate training and internship

programs in any of the following occupational categories:

- (i) Arts and Culture;
- (ii) Information Media and Communications;
- (iii) Education, Social Sciences, and Library Science;
- (iv) Management, Business, Commerce and Finance;
- (v) Health Related Occupations;
- (vi) Aviation (subject to the Statement of Policy set forth at 71 FR 3913, January 24, 2006);
- (vii) The Sciences, Engineering, Architecture, Mathematics, and Industrial Occupations;
- (viii) Construction and Building Trades;
- (ix) Agriculture (subject to the Statement of Policy set forth at 71 FR 3914, January 24, 2006), Forestry, and Fishing;
- (x) Public Administration and Law; and
- (xi) Hospitality and Tourism.

(d) Selection Criteria. In addition to satisfying the general requirements set forth in subpart A above, sponsors of trainees must verify that all potential participants in their training programs have at least three years' prior related work experience in the occupational fields related to the specific training categories of their programs and have a minimum TOEFL[reg] (Test of English as a Foreign Language) score of 550, or its equivalent. Sponsors of interns must

[[Page 17772]]

verify that all potential participants in their internship programs:

(1) Are recent graduates of accredited foreign degree-granting colleges or universities who have earned degrees in fields of study related to the specific categories in which they are seeking internships;

(2) Have not graduated more than 12 months prior to their proposed Exchange Visitor Programs' begin dates; and

(3) Have a minimum TOEFL[supreg] score of 550, or its equivalent.

(e) Issuance of Forms DS-2019. In addition to the requirements set forth in Subpart A, sponsors must ensure that:

(1) Sponsors do not issue Forms DS-2019 to potential participants in training or internship programs until the sponsors secure placements for the trainees or interns and sponsors provide them with completed Training/Internship Placement Plans;

(2) Trainees or interns have sufficient finances to support themselves for their entire stay in the United States, including housing and living expenses; and

(3) The training or internship programs are not duplicative of any experience that participants already obtained in their home countries.

(f) Obligations of Training and Internship Program Sponsors. (1) In addition to the requirements set forth in subpart A, sponsors designated by the Department to administer training or internship programs must:

(i) Ensure that trainees and interns are appropriately placed and supervise and evaluate trainees and interns on an on-going basis;

(ii) Provide guidance to trainees and interns during the placement process;

(iii) Stay in communication with trainees and interns throughout the training or internship programs;

(iv) Be available to trainees and interns to assist as facilitators, counselors, and information resources;

(v) Ensure that training or internship programs provide a balance between the trainees and interns' learning opportunities and their trainees' or interns' contributions to the organizations in which they

are placed;

(vi) Ensure that sufficient plant, equipment, and trained personnel are available to provide the specified training;

(vii) Ensure that they or third parties follow the agendas set forth in the individualized Training/Internship Placement Plans so that trainees and interns obtain skills, knowledge, and competences through structured and guided activities such as classroom training, seminars, rotation through several departments, on-the-job training, attendance at conferences, and similar learning activities, as appropriate in specific circumstances;

(viii) Ensure that trainees and interns do not displace American workers. The positions that trainees and interns fill shall exist solely to assist trainees and interns in achieving the objectives of their participation in training or internship programs; and

(ix) Certify that training and internship programs in the field of agriculture meet all requirements of the Fair Labor Standards Act, as amended (29 U.S.C. 201 et seq.) and the Migrant and Seasonal Agricultural Worker Protection Act, as amended (29 U.S.C. 1801 et seq.).

(2) Sponsors must conduct in-person interviews with potential trainees or interns in their home countries and, further, must ensure that:

(i) Suitably trained and experienced staff is designated to provide supervision and mentoring for all trainees and interns at all training sites;

(ii) They conduct periodic evaluations, as outlined below;

(iii) All employees, officers, agents, or third parties (foreign or domestic) used to conduct any aspect of training or internship programs (e.g., orientation) must be fully trained and supervised by an officer of the designated sponsors in the performance of these functions, and that they adhere to all regulatory provisions set forth in this **Part** as well as all additional terms and conditions governing exchange program administration that the Department may from time to time impose;

(iv) The training or internship programs are full-time (minimum of 32 hours a week); and

(v) Potential trainees (but not potential interns) have at least three years of prior related work experience in the occupational fields related to the specific training categories of their training programs.

(3) Sponsors, trainees or interns, and third-party placement organizations, if applicable, must jointly develop individualized Training/Internship Placement Plans on Forms DS-7002 before issuing Forms DS-2019 to trainees or interns.

(4) Sponsors must retain all documents referred to in this paragraph (f) for at least three years following the completion of all trainees' or interns' training or internship programs.

(g) Use of Third Parties. Sponsors may utilize the services of domestic or foreign third party organizations in the conduct of their designated training or internship programs. If sponsors use third parties, they must enter into written agreements meeting the requirements of paragraph (g) (3) of this section, before placement of trainees or interns. Sponsors' use of third parties does not relieve sponsors of their obligations to comply with, and to ensure third party compliance with, all Exchange Visitor Program regulations. Any failures on the parts of the third parties to comply with these regulations will be imputed to sponsors. If trainees or interns are placed at locations other than their sponsors' business premises, sponsors must:

(1) Conduct on-site visits to all third-party organizations to ensure that the organizations providing the training or internship programs possess and maintain the ability to provide structured and

guided practical experience according to the individualized Training/ Internship Placement Plans and ensure that third party organizations understand their obligations under the Exchange Visitor Program regulations.

(2) Ensure that all third party organizations providing training or internship programs have been in business for a minimum of three years.

(3) Ensure the existence of written and executed agreements between sponsors and third party organizations to administer training or internship programs prior to the placement of trainees or interns in such programs. These agreements must delineate the respective obligations and duties of the parties and identify the parties' obligations to act in accordance with these regulations to ensure that skills, knowledge, and competences are imparted to trainees or interns through structured and guided programs set forth in individualized Training/Internship Placement Plans. Such plans must be appropriate to trainees' or interns' levels of experience and skill and be consistent with all requirements of the Exchange Visitor Program. These agreements must also include third party organizations' business license numbers, Employment Identification Codes (EIDs), D-U-N-S Numbers, and points of contact. Sponsors must maintain copies of all such agreements in their files for at least three years following the completion of each training or internship program.

(4) Ensure that within 48 hours of placement, the trainees' or interns' supervisors or managers conduct entry interviews and orientations of their organizations. Such orientations must include the history, missions, goals, organizational structures, objectives, policies, and procedures of the organizations, and must provide training on the use of equipment and

[[Page 17773]]

other relevant technology at training sites.

(h) Third Party Organization Obligations. (1) Third party organizations must verify in writing that all placements are appropriate and consistent with the objectives of trainees or interns as outlined in their individualized Training/Internship Placement Plans. All parties involved in internship programs should recognize that interns are seeking basic training and experience in the fields in which they earned their degrees. Accordingly, many, if not all of the placements for interns will be entry level in nature.

(2) Third party organizations must execute written agreements with designated sponsors as set forth in paragraph (g) (3) of this section.

(3) Third party organizations must notify sponsors of any concerns about, changes in, or deviations from Training/Internship Placement Plans during training or internship programs.

(4) Third party organizations must not use trainees or interns to displace American workers. The positions that trainees and interns fill must exist solely to assist trainees and interns to achieve the objectives of their participation in training and internship programs.

(i) Training/Internship Placement Plan. (1) Prior to issuing Forms DS-2019, sponsors must provide trainees or interns with individualized Training/Internship Placement Plans on Forms DS-7002.

(2) Training/Internship Placement Plans must be on the Department's Form DS-7002 and must state the trainees' or interns' names and relevant contact information (telephone numbers, addresses, e-mail addresses, and fax numbers), the number of years of experience the trainees have had in their occupational fields, the beginning and ending dates of the training or internship programs, the address of the sponsors and locations of the training or internship programs and the

name and relevant contact information (telephone numbers, addresses, e-mail addresses, and fax numbers) of the supervisors or managers who will evaluate and monitor the trainees or interns.

(3) Training/Internship Placement Plans must also state the purposes of the training or internship programs, the skills the trainees or interns seek, whether the trainees or interns will receive any remuneration for housing and living expenses (and if so, the amount), and estimates of the living expenses and other costs the trainees or interns are likely to incur while in the United States.

(4) Training/Internship Placement Plans must be produced in triplicate and the trainees or interns, sponsors, and the third party placement organizations (if a third party organization is used in the conduct of the training) must each sign each copy.

(5) All signatories to Training/Internship Placement Plans shall receive and retain individual versions of the Training/Internship Placement Plans that contain original signatures of each of the foregoing individuals.

(6) Upon request, trainees or interns must present fully executed Training/Internship Placement Plans on Forms DS-7002 to any Consular Official interviewing them in connection with the issuance of J-1 visas.

(j) Program Exclusions. Sponsors designated by the Department to administer training or internship programs must not:

(1) Sponsor trainees or interns in unskilled or casual labor positions, in positions that require or involve child care or elder care, or in clinical or any other kind of work that involves patient care or contact, including any work that would require trainees or interns to provide therapy, medication, or other clinical or medical care (e.g., sports or physical therapy, psychological counseling, nursing, dentistry, social work, speech therapy, or early childhood education);

(2) Sponsor trainees or interns in occupations or businesses that could bring the Exchange Visitor Program or the Department into notoriety or disrepute; or

(3) Engage staffing or employment agencies to recruit, screen, orient, or place trainees or interns.

(4) Designated sponsors must ensure that the duties of trainees or interns will not involve more than 20% clerical work, and that all tasks assigned to trainees or interns are necessary for the completion of training or internship program assignments.

(k) Duration. The duration of trainees' or interns' participation in training or internship programs must be established before sponsors issue Forms DS-2019. Except as noted below, the maximum duration of training programs is 18 months, and the maximum duration of internship programs is 12 months. For trainees in agricultural training programs and hospitality and tourism training programs, the maximum duration of training programs is 12 months. No program extensions are permitted after sponsors issue Forms DS-2019.

(l) Evaluation. In order to ensure the quality of training or internship programs, sponsors must develop procedures for evaluation of all trainees or interns. For programs exceeding six months in duration, at a minimum, midpoint and concluding evaluations are required from the trainees' or interns' immediate supervisors, and both parties (supervisors and trainees or interns) must sign them prior to the completion of the training or internship programs. For programs of six months or less, at least one evaluation is required at the conclusion of the training or internship program, and it must be signed by both parties (supervisors and trainees or interns) prior to the completion of the training or internship programs. Sponsors are required to retain

trainee or intern evaluations for a period of at least three years following the completion of each training or internship program.

(m) Issuance of Certificate of Eligibility for Exchange Visitor (J-1) Status. Sponsors must not deliver or cause to be delivered any Certificate of Eligibility for Exchange Visitor (J-1) Status (Form DS-2019) to potential trainees or interns unless the individualized Training/Internship Placement Plans required by paragraph (i) of this section have been completed on Form DS-7002, and all other requirements set forth in these regulations have been met.

(n) Repeat Participation. Individuals who enter the United States under the Exchange Visitor Program to participate in training or internship programs are not eligible for repeat participation unless they have resided outside the United States for a period of at least two years after the completion of their initial training or internship programs.

(o) Flight Training. (1) The Department will consider the application for designation of flight training programs if such programs comply with the above regulations and the General Provisions set forth in Subpart A of this **part**, and, in addition, such programs are at the time of making said application:

(i) Federal Aviation Administration (FAA) pilot schools certificated pursuant to Title 14, **CFR part** 141; and

(ii) Flight training programs accredited by an agency that is listed in the current edition of the United States Department of Education's ``Nationally Recognized Accrediting Agencies and Associations,' ' or are accredited as flight training program by a member of the Council on Postsecondary Accreditation.

(2) Notwithstanding the provisions of paragraph (k) of this section, the maximum period of duration for participation in designated flight training programs is directly related to

[[Page 17774]]

the amount of time that flight trainees spend in full-time classroom study. Flight trainees are allowed to engage in one month of on-the-job or practical training for each four months of full-time classroom study they complete successfully, not to exceed 18 months for the combined classroom study and on-the-job or practical training.

(3) For purposes of meeting the evaluation requirements set forth in paragraph (1) of this section, sponsors and/or third parties conducting flight training programs may utilize the same training records as the FAA requires to be maintained pursuant to 14 **CFR** 141.101.

Dated: March 30, 2006.

Stanley S. Colvin,

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

[FR Doc. E6-4946 Filed 4-6-06; 8:45 am]

BILLING CODE 4710-05-P