

Department's Bureau of Educational and Cultural Affairs. When a student or exchange visitor accepts an offer to study or participate in an exchange program, the designated educational institution or program official will access SEVIS to enter the information electronically, collecting the student or exchange visitor data in a central database prior to issuing a Form I-20 or DS-2019.

The SEVIS-compliant versions of the I-20 are the SEVIS Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status-For Academic and Language Students, and SEVIS Form I-20, Certificate of Eligibility for Nonimmigrant (M-1) Student Status-For Vocational Students. The SEVIS compliant form for the exchange visitor is the SEVIS Form DS-2019, "Certificate of Eligibility for Exchange Visitor (J-1) Status. Visa applicants will present their SEVIS-generated form to the consular officer when applying for a visa.

Authorized consular officials will use SEVIS' data to verify in the Consolidated Consular Database (CCD) Forms I-20 and DS-2019, and to report the associated F, M, and J visa issuances to the DHS. SEVIS acts as a verification mechanism much like ISEAS, in that prior to visa issuance the SEVIS Form I-20 or DS-2019 presented with a visa application must be verified against the SEVIS data. After the authorized consular official verifies the provenance of the form presented by the visa applicant, and the appropriate F, M or J visa is issued, the existing State Department-DHS "datashare" link will be utilized to notify SEVIS of visa issuance. Once DHS implements the SEVIS user fee, authorized consular officials may also verify the payment of that fee by inspecting the appropriate receipt or reviewing the applicable data in SEVIS.

For Forms I-20 and DS-2019 issued prior to February 15, 2003, consular officials and academic advisors in the field as well as DHS Inspectors at the ports of entry will continue to receive and accept as valid pre-SEVIS "paper" Forms I-20 A-B, Certificate of Eligibility for Nonimmigrant (F-1) Student Status-For Academic and Language Students, Forms I-20 M-N, Certificate of Eligibility for Nonimmigrant (M-1) Student Status-For Vocational Students, and Forms DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status until August 1, 2003.

How Is the Department Amending Its Regulations?

The Department is amending its regulations at 22 CFR 41.61 and 41.62 regarding students and exchange visitors by adding the requirement that authorized consular officials verify the provenance of SEVIS-generated Forms I-20 or DS-2019 against SEVIS data in the CCD. It is also amending its regulations by adding the requirement that authorized consular officials verify the payment of any applicable SEVIS fee, and to make Border Commuter Students (F-3 and M-3) subject to SEVIS requirements. No F-1, F-2, F-3, M-1, M-2, M-3, J-1 or J-2 visa may be issued unless an authorized consular official has verified the provenance of the student or exchange visitor acceptance documentation against SEVIS data in the CCD, or via direct access to SEVIS.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department's implementation of this regulation as an interim rule with request for comments is based upon the "good cause" exceptions found at 5 U.S.C. 553(b) and (d)(3). The U.S.A. Patriot Act, Public Law 107-56, mandates that SEVIS be fully implemented and expanded prior to January 1, 2003. The DHS intends to have the SEVIS database fully operational as soon as is practicable after the January 1, 2003 implementation deadline. The Department determined that it had insufficient time to publish a proposed rule with a request for comments, given the need to promulgate regulations prior to the time constraints imposed by the statutory implementation deadline.

Regulatory Flexibility Act

The Department, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of entities.

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 or more 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 section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

The Department of State does not consider this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

Executive Order 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.

Paperwork Reduction Act

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

PART 41—[AMENDED]

■ 1. The authority citation for part 41 continues to read as follows:

Authority: 8 U.S.C. 1104; Pub. L. 105-277, 112 Stat. 2681 *et seq.*

■ 2. Amend paragraphs (b)(1), (b)(1)(i), (b)(1)(iii) and (d) of §41.61 to read as follows:

§ 41.61 Students-academic and nonacademic.

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(b) *Classification.* (1) An alien is classifiable under INA 101(a)(15)(F) (i)