

21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(g) The actions required by this AD shall be done in accordance with the following SB's:

Document No.	Pages	Revision	Date
AlliedSignal Inc. Alert SB No. TPE331-A73-0226 .....	1-8	Original .....	October 10, 1994.
Woodward SB No. WG64050 .....	1-13	Original .....	October 3, 1994.
Total pages: 21.			
AlliedSignal Inc. Alert SB No. TPE331-A73-0221 .....	1-3	2 .....	October 10, 1994.
	4	Original .....	June 27, 1994.
Woodward SB No. WG64047 .....	1-12	4 .....	October 3, 1994.
Total pages: 16.			
AlliedSignal Inc. SB No. TPE331-73-0224 .....	1	1 .....	September 8, 1994.
	2	Original .....	August 17, 1994.
	3-4	1 .....	September 8, 1994.
Total pages: 4.			
Woodward SB No. WG4044 .....	1-3	Original .....	June 28, 1993.
Total pages: 3.			
AlliedSignal Inc. SB No. TPE331-73-0228 .....	1-10	Original .....	September 16, 1994.
Total pages: 10.			
AlliedSignal Inc. SB No. TPE331-73-0217 .....	1-10	Original .....	July 9, 1993.
Total pages: 10.			

**Note:** The Woodward SB's are attached to the AlliedSignal Alert SB's.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AlliedSignal Inc., Aviation Services Division, Data Distribution, Dept. 64-3/2102-1M, P.O. Box 29003, Phoenix, AZ 85038-9003; telephone (602) 365-2548. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective April 18, 1995, to all persons except those persons to whom it was made immediately effective by priority letter AD 94-26-07, issued December 13, 1994, which contained the requirements of this amendment.

Issued in Burlington, Massachusetts, on March 20, 1995.

**James C. Jones,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 95-7908 Filed 3-31-95; 8:45 am]

BILLING CODE 4910-13-P

**SUMMARY:** Section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Pub. L. 103-416) amended Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) and added a new subsection (k) to Section 214 of that Act (8 U.S.C. 1184) regarding waiver of the two-year foreign residence requirement as it applies to international medical graduates. This rulemaking amends the Exchange Visitor Program regulations to reflect those legislative changes.

**DATES:** This interim final rule is effective April 3, 1995. Written comments will be accepted until May 3, 1995. All written communications received by the Agency on or before the closing date will be considered by the Agency before action on a final rule is undertaken.

**ADDRESSES:** Comments regarding this rule should be addressed as follows: United States Information Agency, Office of the General Counsel, Rulemaking 115, 301 Fourth Street, S.W., Room 700, Washington, DC 20547.

**FOR FURTHER INFORMATION CONTACT:** William G. Ohlhausen, Assistant General Counsel, United States Information Agency, 301 Fourth Street, S.W., Washington, DC 20547; telephone (202) 619-6972.

**SUPPLEMENTARY INFORMATION:** Section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Pub. L. 103-416), adopted in the closing days of the 103rd Congress, amended provisions of the Immigration and Nationality Act which deal with the two-year foreign residence requirement affecting international medical graduates (also known as "foreign medical graduates" or "FMGs") who

were admitted to the United States on the J visa, or who acquired such status after admission to the United States, and who are required to return to the country of their nationality or last residence upon the completion of their participation in an exchange visitor program.

The Immigration and Naturalization Service may grant a waiver of the two-year home country physical presence requirement upon the favorable recommendation of the Director of the United States Information Agency. Prior to the recent amendment to Sections 212 and 214 of the Immigration and Nationality Act, there were three bases upon which an alien who is a graduate of a medical school pursuing a program in graduate medical education or training could seek a waiver of the two-year foreign residence requirement. The first basis was the so-called "interested Government Agency" or "IGA" waiver. Under that basis, the Director of the United States Information Agency could recommend a waiver to INS pursuant to the request of an "interested United States Government agency."

[Immigration and Nationality Act, as amended, section 212(e) (8 U.S.C. 1182(e); 22 C.F.R. 514.44(a)(2) and (c).]

The other bases upon which a J visa foreign medical graduate could seek a waiver of the two-year foreign residence requirement were to apply to the Immigration and Naturalization Service for a waiver on the grounds that the departure of the alien physician from the United States would "impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or lawfully resident alien), or that the alien

**UNITED STATES INFORMATION AGENCY**

**22 CFR Part 514**

[Rulemaking No. 115]

**Waiver of Two-Year Home-Country Physical Presence Requirement, International Medical Graduates, Exchange Visitor Program**

**AGENCY:** United States Information Agency.

**ACTION:** Interim final rule with request for comments.

cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion." [Immigration and Nationality Act, as amended, section 212(e) (8 U.S.C. 1182(e).] Additionally, all three bases for seeking waiver required a finding by the Attorney General that the waiver was in the public interest.

The enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Pub. L. 103-416) has now provided an additional basis upon which an international medical graduate may seek a waiver of the two-year home residence requirement. Section 220(a) of that Act added a provision that authorizes a State Department of Public Health or its equivalent to request the Director of USIA to recommend that INS grant the waiver. However, in addition, the new law requires that the government of the country to which the international medical graduate is required to return must furnish the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver, and the medical graduate must demonstrate that he or she has a bona fide offer of full-employment and must agree that he or she will begin employment within 90 days of receiving a waiver, and must agree to continue to work, for a total of not less than three years, at a health care facility in an area designated by the Secretary of Health as having a shortage of health care professionals. [Immigration and Nationality Act, as amended, section 214(k)(1) (8 U.S.C. 1184(k)(1).)

Upon the favorable recommendation of the Director of USIA, the Attorney General may grant the waiver and change the medical graduate's nonimmigrant status from J-1 to H(i)(B). If the international medical graduate obtains a waiver under Public Law 103-416 and thereafter fails to fulfill the terms of his or her employment contract with the health care facility named in the waiver application, then he or she becomes ineligible to apply for an immigrant visa, permanent residence, or any other change of nonimmigrant status until the two-year foreign residence requirement has been met. [Immigration and Nationality Act, section 214(k)(2) (A) and (B). Each State is allotted no more than twenty such waivers each fiscal year. The federal fiscal year commences on October 1 and ends the following September 30. The term "State" includes the District of Columbia, Puerto Rico, Guam and the Virgin Islands of the United States.

The role of the United States Information Agency under the recent

amendments to sections 212(e) and 214 of the Immigration and Nationality Act is limited. Under the amendment to section 212(e), the Commissioner of the Immigration and Naturalization Service will now look to the Director of USIA for a recommendation on international medical graduate waiver cases brought "pursuant to the request of a State Department of Public Health, or its equivalent." Section 212(e) was also amended by adding language that makes it clear that waivers requested by a State Department of Public Health, or its equivalent, shall be subject to the requirements of the new Section 214(k).

Under new Section 214(k)(1)(A), the Attorney General will not grant the waiver unless the country to which the international medical graduate is contractually obligated to return furnishes the Director of USIA with a statement in writing that it has no objection to such waiver.

Reading amended Section 212(e) and new section 214(k) together, the Agency views its role in implementing the statute as including the following: (1) It is to be the recipient of State Department of Public Health applications for waivers for foreign medical graduates who will practice medicine in medically underserved areas; (2) it is to be the recipient of "no objection" letters from the country to which the applicant is contractually obligated to return; and (3) it is to review the applications and no objection letters, determine whether they meet the requirements of the two statutory sections, review the program, policy, and foreign relations aspects of the case, and make a recommendation to the Commissioner of the Immigration and Naturalization Service as to whether the waiver should be granted.

Current regulations regarding requests for waiver made by an interested United States Government agency require the requesting agency to determine that the granting of the waiver would be in the public interest. 22 C.F.R. 514.44(c). This Agency then reviews the program, policy, and foreign relations aspects of the case and forwards its recommendation to the Commissioner. 22 C.F.R. 514.44(c). The Agency intends to follow the same practices with respect to requests for waivers made under the recently amended section 212(e) and the new section 214(k) of the Immigration and Nationality Act.

With respect to the no-objection letters, the Agency notes that the new section 214(k)(1)(A) refers to "an alien who is otherwise contractually obligated to return to a foreign country \* \* \*." (emphasis added.) That phrase "otherwise contractually obligated" is

not defined in the statute and there is no legislative history preceding the enactment of the statute which would indicate the specific intent of Congress in using that terminology. However, the Agency believes, based upon the intent of Congress as gleaned from the legislation as a whole, that the term "otherwise contractually obligated" was not meant to have any special meaning, but rather is to be given its ordinary meaning, viz., an obligation arising out of an agreement. Foreign medical graduates are required by statute (Pub. L. 97-116) and regulation (8 C.F.R. 214.2(j)(2); INS Form I-644) to certify annually that, upon the completion or termination of participation in their medical education or training program, they will return to their respective home countries. The Agency deems that certification to be an agreement or contract that obligates the foreign medical graduate to return to his or her home country. Moreover, in almost all cases involving foreign medical graduates, the foreign medical graduate has also given a written assurance to his or her home government that he or she will return to that country upon completion of training in the United States and will engage in the practice of medicine in the area of specialization for which training is being sought. In the view of the Agency, such assurances rise to the level of a contractual obligation or agreement.

The amendment to Section 212(e) refers to "a State Department of Public Health, or its equivalent." Since enactment of the statute, the Agency has received numerous requests for information from a variety of agencies within a given State. In order to avoid confusion in the processing of waiver applications and because of the numerical limitations upon each State set forth in the new statute, this rulemaking provides that each State designate one agency as its "Department of Public Health, or equivalent" for purposes of applying for waivers under Public Law 103-416, and so notify USIA of the name, address, and telephone number of that agency, and the name of the person or persons who are authorized to sign the application for waiver.

#### The No Objection Letter

Current regulations set forth the procedure for obtaining "no objection" letters from the home country and the manner in which such letters are to be sent to the Agency. 22 C.F.R. 514.44(d). With one exception, this rulemaking provides for the same procedures to be followed with respect to applications for waivers under Public Law 103-416. In

order to avoid confusion with other applications for waivers based on no objection from the home country (hitherto unavailable to foreign medical graduates), the no objection letter submitted under Public Law 103-416 should note clearly that the request for the no objection letter was made pursuant to Public Law 103-416. The Agency does not require that a no objection letter be of or on a particular form. The following or similar language will suffice: "Pursuant to Public Law 103-416, the Government of \_\_\_\_\_ has no objection if (name and address of foreign medical graduate) does not return to \_\_\_\_\_ to satisfy the two-year foreign residency requirement of Section 212(e) of the Immigration and Nationality Act."

#### The Application Package

The application for waiver of the two-year home country residence requirement under the provisions of Public Law 103-416 is to originate in the designated State Department of Public Health. USIA is not planning to develop any new forms for such application. However the application is to include the following: (1) A letter from the Director of the designated State Department of Public Health which identifies the foreign medical graduate and states, if so determined, that it is in the public interest that a waiver of the two-year home residence requirement be granted; (2) an employment contract between the alien and the health care facility, which includes the name and address of the specific and a specific geographic area or areas in which the foreign medical graduate will practice medicine. The employment contract shall be valid for at least three years; (3) evidence that the areas of employment stipulated in the employment contract are in geographic areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals; (4) a statement by the foreign medical graduate agreeing to the contractual requirements set forth in Section 214(k)(1) (B) and (C) of the Immigration and Nationality Act; (5) copies of all forms IAP-66 issued to the foreign medical graduate seeking the waiver; (6) a completed data sheet, copies of which will be made available by the Agency to each State Department of Public Health; and (7) because of the numerical limitations on the approval of waivers under Public Law 103-416 each application from a State Department of Public Health shall be numbered sequentially. Should USIA not grant a favorable recommendation on a given application, the State Department of Public Health will be so notified and

will be advised that the number may be used on another application.

If a State Department of Public Health files in excess of twenty applications at one time, the Agency will give priority to the first twenty sequentially numbered applications.

#### Application Period Under Public Law 103-416

Section 220(c) of Public Law 103-416 states that "The amendments made by this section shall apply to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States, before, on, or after the date of enactment of this Act and before June 1, 1996." The Agency believes that the date of June 1, 1996 applies to the status of the foreign medical graduate on that date and not to the new waiver program itself. In other words, if the foreign medical graduate was admitted to the United States on a J visa or acquired a J visa prior to June 1, 1996 in order to pursue graduate medical education or training, he or she would be eligible to apply for a waiver under the provisions of Public Law 103-416 at any time in the future.

Public Law 103-416 was enacted into law on October 25, 1994. Since that date, USIA's Exchange Visitor Program office has received in excess of 100 telephone calls and letters regarding the implementation of the new law. One State Department of Public Health advised at the time of its telephone call that it already had in hand some 400 applications for waiver sponsorship. Therefore, it is imperative that the Agency promulgate implementing regulations as soon as possible. This rulemaking is therefore being promulgated as an Interim Final Rule, effective on the date it is published in the **Federal Register**. Written comments on the Interim Final Rule will be accepted during the thirty-day period following publication of the Interim Final Rule. At the conclusion of the thirty-day comment period, the Agency will review all comments and thereafter promulgate a final rule incorporating such revisions as are appropriate.

#### Regulatory Analysis and Notices

The Agency invites comments regarding this interim final rule notwithstanding the fact that it is under no legal requirement 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), specifically exempts foreign affairs

functions from the rulemaking requirements of the Act.

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 major rule within the meaning of section 1(b) of Executive Order 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

The information collection requirements contained in this rule have been presented to the Office of Management and Budget for clearance pursuant to the provisions of the Paperwork Reduction Act.

#### List of Subjects in 22 CFR Part 514

Cultural exchange programs, Reporting and recordkeeping requirements.

Dated: March 27, 1995.

**Les Jin,**  
*General Counsel.*

Accordingly, 22 CFR Part 514 is amended as follows:

#### PART 514—[AMENDED]

1. The authority citation for Part 514 is revised 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, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978, 3 CFR, 1978 Comp. p. 168.

Section 514.44 is amended as follows:

#### § 514.44 [Amended]

2. In paragraph (a)(2), by inserting "(or in the case of an alien who is a graduate of a medical school pursuing a program in graduate medical education or training, pursuant to the request of a State Department of Public Health, or its equivalent)" after "interested United States Government agency"; and

3. In paragraph (a)(2), by inserting after the words "public interest" the following: "except that in the case of a waiver requested by a State Department of Public Health, or its equivalent, the waiver shall be subject to the requirements of section 214(k) of the Immigration and Nationality Act (8 U.S.C. 1184)"; and

4. In paragraph (a)(3), by inserting the following at the end of said paragraph: "Notwithstanding the foregoing, an alien who is a graduate of a medical school pursuing a program in medical education or training may obtain a waiver of such two-year foreign residence requirements if said alien meets the requirements of section 214(k) of the Immigration and Nationality Act

(8 U.S.C. 1184) and paragraphs (a) (2) and (e) of this section"; and

5. In paragraph (d)(3), by inserting the word "solely" after the word "waiver", and by inserting the following at the end of said paragraph: "However, an alien who is a graduate of a medical school pursuing a program in medical education or training may obtain a waiver of such two-year foreign residence requirements if said alien meets the requirements of section 214(k) of the Immigration and Nationality Act (8 U.S.C. 1184) and paragraphs (a) (2) and (e) of this section"; and

6. By redesignating paragraphs (e), (f), and (g) as (f), (g), and (h), respectively; and

7. By inserting a new paragraph (e) as follows:

**§ 514.44 Two-year home-country physical presence requirement.**

\* \* \* \* \*

(e) *Requests for waiver from a State Department of Public Health, or its equivalent, on the basis of Public Law 103-416.*

(1) Pursuant to Public Law 103-416, in the case of an alien who is a graduate of a medical school pursuing a program in graduate medical education or training, a request for a waiver of the two-year home-country physical presence requirement may be made by a State Department of Public Health, or its equivalent. Such waiver shall be subject to the requirements of section 214(k) of the Immigration and Nationality Act (8 U.S.C. 1184) and this § 514.44.

(2) With respect to such waiver under Public Law 103-416, the Director of the United States Information Agency is to be furnished with a statement in writing that the country to which such alien is required to return has no objection to such waiver. The no objection statement shall be furnished to the Director in the manner and form set forth in paragraph (d) of this section and, additionally, shall bear a notation that it is being furnished pursuant to Public Law 103-416.

(3) The State Department of Public Health, or equivalent agency, shall include in the waiver application the following:

(A) A completed "Data Sheet." Copies of blank data sheets may be obtained from the Agency's Exchange Visitor Program office.

(B) A letter from the Director of the designated State Department of Public Health, or its equivalent, which identifies the foreign medical graduate by name, country of nationality or last residence, and date of birth, and states that it is in the public interest that a

waiver of the two-year home residence requirement be granted;

(C) An employment contract between the foreign medical graduate and the health care facility named in the waiver application, to include the name and address of the health care facility, and the specific geographical area or areas in which the foreign medical graduate will practice medicine. The employment contract shall include a statement by the foreign medical graduate that he or she agrees to meet the requirements set forth in Section 214(k) of the Immigration and Nationality Act. The employment contract shall be valid for at least three years and the geographical areas of employment shall only be in areas, within the respective state, designated by the Secretary of Health and Human Services as having a shortage of health care professionals;

(D) Evidence establishing that the geographic area or areas in the state in which the foreign medical graduate will practice medicine are areas which have been designated by the Secretary of Health and Human Services as having a shortage of health care professionals.

(E) Copies of all forms IAP-66 issued to the foreign medical graduate seeking the waiver;

(F) A copy of the foreign medical graduate's *curriculum vitae*;

(G) A copy of the statement of no objection from the foreign medical graduate's country of nationality or last residence; and,

(H) Because of the numerical limitations on the approval of waivers under Public Law 103-416, i.e., no more than twenty waivers for each State each fiscal year, each application from a State Department of Public Health, or its equivalent, shall be numbered sequentially, beginning on October 1 of each year.

(4) The Agency's Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case and forward its recommendation to the Commissioner. Except as set forth in § 514.44(g)(4)(i), the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency.

\* \* \* \* \*

8. In newly designated paragraph (g)(4)(i), by inserting "(or, in the case of an alien who is a graduate of a medical school pursuing a program in graduate medical education or training, pursuant to the request of a State Department of Public Health, or its equivalent)" after "interested United States Government agencies."

[FR Doc. 95-7922 Filed 3-31-95; 8:45 am]

BILLING CODE 8230-01-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 938

[PA-111-FOR]

#### Pennsylvania Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is approving, with certain exceptions, a proposed amendment to the Pennsylvania permanent regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of changes to Pennsylvania's Small Operator Assistance Program (SOAP) rules. The amendment is intended to revise the Pennsylvania SOAP program to be consistent with section 507(c) of SMCRA (Energy Policy Act of 1992) and 30 CFR part 795. The proposed amendment would provide more comprehensive assistance to SOAP participants than currently allowed.

**EFFECTIVE DATE:** April 3, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert J. Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone (717) 782-4036.

#### SUPPLEMENTARY INFORMATION:

- I. Background on the Pennsylvania Program.
- II. Submission of the Amendment.
- III. Director's Findings.
- IV. Summary and Disposition of Comments.
- V. Director's Decision.
- VI. Procedural Determinations.

#### I. Background on the Pennsylvania Program

On July 31, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background information on the Pennsylvania program including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982, **Federal Register** (47 FR 33050). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 938.11, 938.12, 938.15, and 938.16.