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## DEPARTMENT OF HOMELAND SECURITY

### 8 CFR Part 214

**[DHS Docket No. ICEB–2021–0016]**

**RIN 1653–AA87**

## Removal of Obsolete Procedures and Requirements Related to F, J, and M Nonimmigrants

**AGENCY:** U.S. Immigration and Customs Enforcement, Department of Homeland Security.

**ACTION:** Interim final rule.

**SUMMARY:** The Department of Homeland Security (DHS) is amending its regulations to update information that is no longer accurate since the creation of the Student and Exchange Visitor Information System (SEVIS). DHS is updating obsolete or unnecessary information because SEVIS, a Web-based system that DHS uses to collect and maintain current and ongoing information on Student and Exchange Visitor Program (SEVP)-certified schools, F–1 and M–1 nonimmigrant students, and J–1 Exchange Visitor Program participants and their sponsors, has replaced older paper-based processes. In addition, DHS is making technical changes to correct typographical errors, update references and citations, and make other needed changes to reflect the transfer of responsibilities to DHS from the Department of Justice (DOJ). Further, this rule removes language requiring original signatures on Form I–17, *Petition for Approval of School for Attendance by Nonimmigrant Student* or successor form, and clarifies language about the requirement of an original signature on Form I–20, *Certificate of Eligibility for Nonimmigrant Student Status* or successor form. This rulemaking introduces no substantive changes, does not raise existing costs; and places no additional burden on F, J, and M nonimmigrants, or on sponsoring academic institutions and programs.

**DATES:**

*Effective Date:* This rule is effective December 12, 2022.

*Comment Date:* Comments must be received on or before January 11, 2023.

**ADDRESSES:** You may submit comments on the entirety of this rule, which must be identified by Docket No. ICEB–2021–0016, through the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the website instructions to submit comments.

Comments submitted in a manner other than the Federal eRulemaking Portal, including emails or letters sent to DHS, will not be considered comments and will not receive a response from DHS. Please note that DHS cannot accept any comments that are hand delivered or couriered, nor any comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. If you cannot submit your material using *http://www.regulations.gov,* contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

**FOR FURTHER INFORMATION CONTACT:** Sharon Snyder, Policy and Response Unit Chief, Student and Exchange Visitor Program; U.S. Immigration and Customs Enforcement, 500 12th Street, SW, Stop 5600, Washington, DC, 20536–5600; or by email at *sevp@ice.dhs.gov* or telephone at 703/603–3400 (this is not a toll-free number). Find program information at *http://www.ice.gov/sevis/*.

**SUPPLEMENTARY INFORMATION:**

### I. Public Participation

DHS encourages all interested parties to participate in this rulemaking by submitting data, views, comments, and arguments on all aspects of this interim final rule. Comments providing the most assistance to DHS will reference a specific portion of this rule, explain the reason for any recommended change, and include the data, information, or authority that supports the recommended change. Under the guidelines of the Office of the Federal Register, all comments received will be posted to *https://www.regulations.gov* as part of the public record and will include any personal information you have provided. See the **ADDRESSES** section above for information on where to submit comments.

*A. Submitting Comments*

All comments must be submitted in English, or an English translation must be provided. If you submit comments, you must include the DHS docket number for this rulemaking (ICEB–2021–0016), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. Include data, information, or authority that supports the comment. Your comments must be submitted online by 11:59 p.m. EST of the last day of the comment period.

*Instructions:* To submit your comments online, go to *https://www.regulations.gov* and insert ''ICEB–2021–0016'' in the ''Search'' box. Click on the ''Comment Now!'' box and input your comments in the text box provided. When you are satisfied with your comments, click the ''Continue'' box and follow the prompts to submit.

DHS will post comments to the federal e-Rulemaking portal at *https://www.regulations.gov* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines is offensive. For additional information, please read the ''Privacy and Security Notice,'' via the link in the footer of *http://www.regulations.gov.* DHS will consider all comments and materials received during the comment period and may change this rule based on your comments.

*B. Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert ''ICEB–2021–0016'' in the ''Search'' box. Click on the ''Open Docket Folder,'' then click on ''View Comment'' or ''View All'' under the ''Comments'' section of the page. Individuals without internet access can make alternate arrangements for viewing comments and documents related to this rulemaking by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section

above. You may also sign up for email alerts on the online docket to be notified when comments are posted, or a final rule is published.

*C. Privacy Act*

You may consider limiting the amount of personal information that you provide in your voluntary public comment submission because anyone can electronically search comments received in any of DHS's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For additional information, please read the Privacy and Security Notice posted on *https://www.regulations.gov.*

## II. Table of Abbreviations

*Abbreviation, Amplification*

CFR Code of Federal Regulations
COVID–19 Coronavirus Disease 2019
DHS Department of Homeland Security
DOJ Department of Justice
DOS Department of State
DSO Designated School Official
EBSVERA Enhance Border Security and Visa Entry Reform Act of 2002
HSPD–2 Homeland Security Presidential Directive-2
ICE U.S. Immigration and Customs Enforcement
IIRIRA Illegal Immigration Reform and Immigrant Responsibility Act of 1996
INA Immigration and Nationality Act
INS Immigration and Naturalization Service
OMB Office of Management and Budget
SEVIS Student and Exchange Visitor Information System
SEVP Student and Exchange Visitor Program
USCIS U.S. Citizenship and Immigration Services

## III. Background and Purpose

On March 1, 2003, when the responsibilities of the former Immigration and Naturalization Service (INS) transferred from the Department of Justice (DOJ) to the Department of Homeland Security (DHS) pursuant to the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135 (Nov. 25, 2002), the Student and Exchange Visitor Program (SEVP) and the Student and Exchange Visitor Information System (SEVIS) function transferred to DHS. Within DHS, U.S. Immigration and Customs Enforcement (ICE) administers SEVP by ensuring that government agencies have essential information related to nonimmigrant students and exchange visitors to preserve national security. For the sake of simplicity in this preamble, in rules promulgated prior to March 1, 2003, any reference to the INS, or ''the Service'' as it was referred to in the past, is referred to as DHS, and any reference to the Attorney General is referred to as the Secretary of Homeland Security (the Secretary).

*A. Legal Authority*

Section 102 of the Homeland Security Act of 2002 (Pub. L. 107–296), 116 Stat. 2135), 6 U.S.C. 112, section 103(a)(1) and (3) of the Immigration and Nationality Act (INA), and 8 U.S.C. 1103(a)(1), (3), charge the Secretary with the administration and enforcement of immigration and naturalization laws of the United States to include the issuance of regulations. Section 214(a) of the INA, 8 U.S.C. 1184(a), gives the Secretary the authority to prescribe the time and conditions of admission of any noncitizen as a nonimmigrant.

The INA established who may be admitted as F, J, or M nonimmigrants. Specifically, section 101(a)(15)(F) of the INA, 8 U.S.C. 1101(a)(15)(F), established the F classification for nonimmigrants who wish to enter the United States temporarily and solely for the purpose of pursuing a full course of study at an academic or accredited language training school certified by SEVP, as well as for the spouses and minor children of such noncitizens.

Section 101(a)(15)(J) of the INA, 8 U.S.C. 1101(a)(15)(J), established the J classification for nonimmigrants who wish to come to the United States temporarily to participate in exchange visitor programs designated by the Department of State (DOS), as well as for the spouses and minor children of such noncitizens.

Section 101(a)(15)(M) of the INA, 8 U.S.C. 1101(a)(15)(M), established the M classification for nonimmigrants who wish to enter the United States temporarily and solely for the purpose of pursuing a full course of study at an established vocational or other recognized nonacademic institution (other than in a language training program) certified by SEVP, as well as for the spouses and minor children of such noncitizens.

SEVP collects information related to nonimmigrant students and exchange visitors under various statutory authorities. Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104–208, 110 Stat. 3009–704 (Sep. 30, 1996) (codified as amended at 8 U.S.C. 1372) authorized the creation of a program to collect current and ongoing information from schools and exchange visitor programs regarding nonimmigrant students and exchange visitors during the course of their stay in the United States, to be collected electronically, where practicable. Section 641(e) of IIRIRA further directed that this information collection system be self-funded by the nonimmigrant foreign students and exchange visitors. To meet these requirements, DHS promulgated separate rulemakings that established the framework for SEVIS; required mandatory compliance for all schools to use SEVIS for the admission of new F, J, and M nonimmigrant students; [1] and provided for the collection of a fee to be paid by certain nonimmigrants seeking status as F–1, F–3, M–1, or M–3 nonimmigrant students or as J–1 nonimmigrant exchange visitors.[2] The DOS placed similar mandatory SEVIS compliance requirements on DOS-designated Exchange Visitor Program sponsors regarding J nonimmigrants.[3]

SEVP is managed in accordance with Homeland Security Presidential Directive-2 (HSPD–2), *Combating Terrorism Through Immigration Policies* (Oct. 29, 2001), as amended, and section 502 of the Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107–173, 116 Stat. 543, 563 (May 14, 2002) (EBSVERA). HSPD–2 requires the Secretary to conduct periodic, ongoing reviews of institutions certified to accept F nonimmigrants, and to include checks for compliance with recordkeeping and reporting requirements. EBSVERA directs the Secretary to review the compliance with recordkeeping and reporting requirements under 8 U.S.C. 1101(a)(15)(F) and 1372 of all schools approved for attendance by F students within two years of enactment, and every two years thereafter. These additional requirements have also been promulgated in rulemakings.[4]

*B. Student and Exchange Visitor Information System*

SEVP uses SEVIS to maintain information about:

- SEVP-certified schools;

[1] *Retention and Reporting of Information for F, J, and M Nonimmigrants; Student and Exchange Visitor Information System (SEVIS).* 67 FR 76256 (Dec. 11, 2002).

[2] *Authorizing Collection of the Fee Levied on F, J, and M Nonimmigrant Classifications Under Public Law 104–208; SEVIS.* 69 FR 39814 (July 1, 2004).

[3] *Exchange Visitor Program: SEVIS Regulations.* 67 FR 76307 (Dec. 12, 2002).

[4] *Allowing Eligible Schools to Apply for Preliminary Enrollment in the Student and Exchange Visitor Information System (SEVIS),* 67 FR 44344 (July 1, 2002); *Requiring Certification of all Service Approved Schools for Enrollment in the Student and Exchange Visitor Information System (SEVIS),* 67 FR 60107 (Sept. 25, 2002); *Adjusting Program Fees and Establishing Procedures for Out-of-Cycle Review and Recertification of Schools Certified by the Student and Exchange Visitor Program to Enroll F and/or M Nonimmigrant Students,* 73 FR 55683 (Sept. 26, 2008).

- F–1 students enrolled in academic programs in the United States (and their F–2 dependents);
- M–1 students enrolled in vocational programs in the United States (and their M–2 dependents);
- DOS-designated Exchange Visitor Program sponsors; and
- J–1 Exchange Visitor Program participants (and their J–2 spouses and dependents).

SEVIS provides authorized users access to reliable information on F, J, and M nonimmigrants and their dependents. Schools use SEVIS to petition SEVP for certification, which allows the school to offer programs of study to nonimmigrant students. Designated school officials (DSOs) of SEVP-certified schools use SEVIS to:

- Update school information and apply for recertification of the school for the continued ability to issue Form I–20, *Certificate of Eligibility for Nonimmigrant Student Status* or successor form, to nonimmigrant students and their dependents;
- Issue Form I–20 or successor form to specific nonimmigrants to obtain F or M status while enrolled at the school;
- Fulfill the school's reporting responsibility regarding student addresses, courses of study, enrollment, employment, and compliance with the terms of the student status; and
- Transfer the student SEVIS records to other institutions.

Exchange Visitor programs use SEVIS to petition DOS for designation as a sponsor so they can offer educational and cultural exchange programs to exchange visitors. Responsible officers of designated Exchange Visitor programs use SEVIS to:

- Update sponsor information and apply for re-designation every two years;
- Issue Form DS–2019, *Certificate of Eligibility for Exchange Visitor (J–1) Status,* to specific individuals to obtain J status;
- Fulfill the sponsor's reporting responsibility regarding exchange visitor addresses, sites of activity, program participation, employment, and compliance with the terms of the J status; and
- Transfer the exchange visitor SEVIS records to other institutions.

Noncitizens must apply to an SEVP-certified school and be accepted for enrollment as a student. SEVP-certified schools enter the prospective student's information into SEVIS and issue a Form I–20 or successor form. The prospective student then presents that endorsed form when applying for an F or M visa with DOS abroad. Similarly, a noncitizen must apply to a DOS-designated Exchange Visitor program and be accepted for enrollment as a basis for applying for a J exchange visitor visa. The Exchange Visitor program enters the prospective exchange visitor's information into SEVIS and issues a Form DS–2019. The prospective exchange visitor then submits that endorsed form when applying for a J visa with DOS abroad.

At the time of admission into the United States, U.S. Customs and Border Protection inspection officers will enter information into DHS systems related to the F, J, or M nonimmigrant's admission. These systems interface with SEVIS to provide SEVP with entry information about nonimmigrant students and exchange visitors.

After admission and during the nonimmigrant student and exchange visitor's stay in the United States, SEVP-certified schools and Exchange Visitor programs are required to update information about approved F, J, and M nonimmigrants. SEVIS allows schools and Exchange Visitor programs to transmit required information electronically about F, J, and M nonimmigrants throughout the nonimmigrant student and exchange visitor's stay in the United States.

SEVIS enables DHS and DOS to monitor and ensure proper recordkeeping and reporting by SEVP-certified schools and Exchange Visitor programs. Further, SEVIS provides a mechanism for nonimmigrant student and exchange visitor status violators to be identified so that appropriate action may be taken (*i.e.,* denial of admission, denial of benefits, or removal from the United States). Prior to January 2003 (before the creation of SEVIS), enrollment of nonimmigrant students was an entirely manual and paper-based process, which meant that schools maintained their own paper records about nonimmigrant students that were only produced upon request.

### *C. Need for Rulemaking*

This rule removes unnecessary procedures and requirements that appear at 8 CFR 214.1, 214.2, 214.3, 214.4, 214.12, and 214.13, governing F, J, and M nonimmigrants since the implementation of SEVIS in 2003. These changes are necessary to eliminate confusion, improve clarity, and remove obsolete procedures and requirements used before the implementation of SEVIS or during the transition to SEVIS. Additionally, this rule removes language requiring original signatures on Form I–17 or successor form and clarifies the regulatory language that implies the requirement for original signatures on Form I–20 or successor form. Further, technical changes are needed to correct typographical errors, update references, and reflect changes resulting from the transfer of responsibilities to DHS from the DOJ (pursuant to the Homeland Security Act of 2002).

## IV. Discussion of Changes

### *A. General Wording, Style, and Other Changes*

This rule makes general wording, capitalization, and style changes. For example, this rule replaces numeric symbols under 10 with the corresponding word; inserts indefinite articles where appropriate; replaces phrases such as ''not pursuing'' with ''no longer pursuing'' and ''full time course of study'' with ''full course of study''; replaces the word ''shall'' with ''will'' or ''must'' as appropriate; and corrects spelling mistakes such as replacing ''United Status'' with ''United States.'' Additionally, this rule removes references to ''approval'' and its derivatives and replaces them with ''certify'' and its derivatives to connote authorization for schools to enroll foreign students. SEVP previously used both ''certified'' and ''approved'' interchangeably but now seeks to use one consistent term, ''certify'' and its derivatives, to eliminate confusion. Further, this rule updates terminology from the INS to DHS, SEVP, or U.S. Citizenship and Immigration Services (USCIS) as appropriate; Commissioner to Secretary; DHS to SEVP; and district director to SEVP or USCIS, as appropriate. These updates are necessary to reflect the transfer of certain functions and responsibilities of the former INS to DHS. Technical amendments of this nature will apply throughout the sections that are being amended; therefore, the preamble does not specifically address these types of changes in the sections below.

### *B. Revising References*

DHS is updating the following references:

- In § 214.1(b)(1), removing the incorrect reference to § 214.2(f)(5)(iii), which addresses duration of status during annual vacation, and replacing it with the correct reference to § 214.2(f)(5)(i), which addresses the general requirements of duration of status.
- In § 214.1(b)(1)–(3), removing the reference to 22 CFR 41.125(f) and replacing it with the correct reference to 22 CFR 41.112(d), which is the current section that describes automatic extension of visa validity at ports of entry.

• In § 214.1(h), removing the reference to § 2.1(a) of 8 CFR Title 8 Chapter I, which no longer exists,[5] and replacing it with the correct reference to § 2.1.

• In § 214.2(f)(2), removing the incorrect reference to 8 CFR 214.3(l)(1)(i) and replacing it with the correct reference to 8 CFR 214.3(l)(1), which provides the definition for ''designated official.''

• In § 214.2(f)(9)(ii)(A), removing the reference to (f)(9)(ii)(B) which is now reserved.[6]

• In § 214.2(f)(9)(iii), removing the reference to § 103.7(b)(1) and replacing it with 8 CFR 106.2(a)(32), which is the current section that provides the fee for Form I–765.

• In §§ 214.3(a)(1), 214.3(a)(2)(i)–(iv), and 214.3(h)(1), removing references to 101(a)(15)(F)(i) and 101(a)(15)(M)(i) and replacing it with the correct references to 101(a)(15)(F) and 101(a)(15)(M), respectively. These references were erroneous when DHS promulgated this paragraph.

• In § 214.3(a)(2)(v)(C), correcting the statutory reference to the definition for an adult education program under the Adult Education and Family Literacy Act of 1998, which was amended by Public Law 113–128. DHS notes that the statutory definition for an adult education program has changed from a focus on limiting who can benefit from the program to a new focus on what the program is intended to accomplish, regardless of who benefits. DHS will review the impact of this statutory change and may consider future rulemaking upon completion of this review.

• In § 214.3(e)(8), removing the reference to 8 CFR 214.4(i)(3) and replacing it with 8 CFR 214.4(i)(2), which describes the process for determining the date of SEVIS access termination.

• In § 214.3(h)(1)(i), removing the reference to 8 CFR 106.2 and replacing it with 8 CFR 103.7(d)(2), which is the current paragraph that provides the fee for Form I–17 when filed with SEVP.

• In § 214.3(l)(1), correcting the cross-references that use the term ''designated official'' in § 214.4.

• In § 214.4(a)(2), removing references to 8 CFR 214.3(h)(3)(v), 101(a)(15)(F)(i), and 101(a)(15)(M)(i) and replacing them with the correct references to 8 CFR 214.3(h)(2)(v), 101(a)(15)(F), and 101(a)(15)(M), respectively. These references were erroneous when DHS promulgated this paragraph.

• In § 214.4(a)(3), removing the erroneous reference to 8 CFR 214.3(h)(1), which provides only one part of the certification requirements, and replacing it with 8 CFR 214.3(h), which provides the entire certification process, including the process for filing a petition, site visits, adjudication, recertification, and denials.

• In § 214.4(h), removing the reference to 8 CFR 103.7(b)(1)(ii)(O) and replacing it with 8 CFR 103.7(d)(15), which is the current paragraph that provides the fee for Form I–290B, *Notice of Appeal or Motion,* when filed with SEVP.

• In § 214.13(g)(1)(i), removing the reference to 8 CFR 103.7(a)(1) and replacing it with 8 CFR 103.7(d)(8), which is the current section that provides the fee for Form I–901, *Fee Remittance for Certain F, J, and M Nonimmigrants.*

*C. Forms*

DHS is removing all references to obsolete and paper-based versions of nonimmigrant forms that include multiple copies and pages, designated by letter identifiers (*i.e.,* Form I–20A–B, I–20ID, and I–20M–N), for retention by the nonimmigrant student or to support administrative processing. Administrative functions related to current information on nonimmigrant students and exchange visitors are performed in SEVIS, which eliminates the need for multiple copies. Further, SEVIS no longer issues separate identifiers for Forms I–20 for F–1 nonimmigrant students (formerly Form I–20A–B) and for M–1 nonimmigrant students (formerly Form I–20M–N). Nonimmigrant students must still retain a copy of the Form I–20 for travel and employment purposes, but the student copy identifier (*i.e.,* Form I–20ID) is no longer used. All references to copies and pages of forms are removed and references to forms with letter identifiers are replaced with new references to Form I–20.

In § 214.3(a)(1)(ii) and 214.3(h)(2)(i), DHS is removing all references to obsolete and paper-based versions of supplements for Form I–17 designated by letter identifiers (*i.e.,* supplements A and B). In 2014, Form I–17 was updated and the information listed in supplements A and B was consolidated into the current Form I–17. Thus, supplements A and B no longer exist and references to these supplements are removed from § 214.3(a)(1)(ii) and 214.3(h)(2)(i).

In § 214.1(b)(2)(iv), DHS is removing references to Form IAP–66, *Certificate of Eligibility,* and replacing it with Form DS–2019, which is the most current DOS form for the J–1 Exchange Visitor program.

*D. Administrative Procedures*

In § 214.1(b)(2)(iv), DHS is removing language that non-DHS forms must be endorsed by the INS and replacing it with language that the forms be properly endorsed. This language provides the flexibility required to ensure forms are endorsed by the proper individuals, including those external to DHS. For example, Form DS–2019 requires signature by the responsible officer or alternate responsible officer approved by the DOS.

In § 214.2(f)(1)(ii)(D) and (m)(1)(ii), DHS is removing references to administrative procedures requiring inspecting officers at ports of entry to forward Form I–20 to a centralized data-entry location. These procedures were eliminated with the implementation of SEVIS.

In § 214.2(f) and (m), DHS is removing all references to administrative procedures directing DSOs and Exchange Visitor program responsible officers to submit reports to DHS on nonimmigrant status by mail to data-entry locations. These procedures were eliminated with the implementation of SEVIS, and references to Form I–538, *Certification by Designated School,* which supported paper-based reporting procedures, are also now obsolete because reporting is now done in SEVIS.

In § 214.2(f) and (m), DHS is removing all references to submission of employment, internship, and extension-related applications to Service Centers that have jurisdiction over an applicant's residence or to a school that the student is authorized to attend. DHS is also removing language that specifies the manner in which a submission is made (*i.e.,* by mail) to a Service Center. Previously, USCIS Service Centers were responsible for applications received within a certain geographic region; however, today the instructions for each form dictate to which USCIS Service Center submissions should be sent. To eliminate any confusion and provide flexibility with regard to any future changes in how USCIS Service Centers operate or how submissions are made (*e.g.,* mail, electronic), DHS is removing this specific language.

In § 214.4(a)(2)(viii), DHS is removing the reference to the submission of paper copies of the Form I–17 to SEVP to align with current practice. Form I–17 or successor form must now be submitted electronically in SEVIS.

[5] *Authority of the Secretary of Homeland Security; Delegations of Authority; Immigration Laws,* 68 FR 10922 (Mar. 6, 2003).

[6] *See Retention and Reporting of Information for F, J, and M Nonimmigrants; Student and Exchange Visitor Information System (SEVIS),* 67 FR 76256, 76270 (Dec. 11, 2002).

*E. Original Signatures*

In § 214.3, DHS is removing references to original signatures and sample signatures for the Form I–17 or successor form to allow greater flexibility to adopt electronic signatures. Currently, DSOs input information required for the Form I–17 in SEVIS, which then generates Forms I–17 that schools print to obtain the required signatures. Once original signatures are obtained, DSOs scan and electronically submit the Form I–17 via upload in SEVIS. Although DSOs are obtaining original signatures on the Form I–17, what is submitted in SEVIS is a digitally reproduced copy of an original signature. Also, DHS is allowing DSOs to use electronic signature software to sign Form I–17.[7] This change will align with practices allowed during the Coronavirus Disease 2019 (COVID–19) pandemic and enable the use of electronic signatures. Further, this change will reduce the burden on DSOs of having to obtain an original signature from other DSOs, as well as other school officials (*e.g.,* president, owner, head of the school) located on different campuses, which may require the transportation of the Form I–17 through various physical means (*e.g.,* mail, courier) to collect the required signatures.

Similarly, DHS is removing the terms ''original'' and ''print'' when referencing Form I–20 in § 214.2(f) and (m). Unlike the regulatory text for Form I–17, which specifically required an original signature, the regulatory text for Form I–20 uses the phrase ''properly endorsed'' and never specifically required an original signature. However, the regulation alluded to this requirement by referring to the student's original Form I–20; the presentation of an original Form I–20 for the admission of a spouse and minor children of an F–1 or M–1 student into the United States; and requirements that the DSO print the Form I–20 when providing a recommendation or approval for practical training. The term ''original'' could refer to the first Form I–20 properly endorsed for a student, and not necessarily refer to the requirement of an original signature. Furthermore, the reference to ''printing'' could refer to printing Form I–20 after it has been properly endorsed using electronic means. As a result of this ambiguity, DHS believes these changes are necessary to clarify that the regulations do not require an original signature for Form I–20 or successor form and that schools may instead use electronic means to sign and transmit the Form I–20 or successor form to continuing and prospective nonimmigrant students.[8] DHS will continue to rely on guidance and policy to address signature requirements for Form I–20 or successor form.

*F. Middle Schools and Parochial Schools*

In § 214.3, DHS is clarifying that references to private elementary and secondary schools are inclusive of private middle schools. DHS's regulations under 8 CFR part 214 have not been consistent with the use of ''private middle school.'' For example, § 214.2(f)(6)(i)(E) specifies that a full course of study includes ''[s]tudy in a curriculum at an approved private elementary or middle school or public or private academic high school . . .''; however, § 214.3(a)(2)(i)(E) and (F) only refer to an academic high school and private elementary school, respectively. Historically, DHS has interpreted elementary schools (both public and private) to include grades kindergarten through eight, while secondary schools (both public and private) include grades nine through 12; however, to eliminate any confusion from the public, DHS is adding ''middle'' to various paragraphs in §§ 214.3(a), (b), (c) and 214.13(a) when referencing private elementary and secondary schools. DHS is also removing the term ''parochial'' in § 214.3(b) when referring to private elementary, middle, or secondary schools to eliminate any confusion that parochial schools are distinct from private schools.

*G. Licensed Medical Professionals*

DHS is revising language to §§ 214.2(f)(6)(iii)(B) and 214.2(m)(9)(vi) to clarify that a psychiatrist or licensed psychologist is qualified to provide documentation to substantiate a nonimmigrant student's illness or medical condition for the purposes of obtaining authorization for a reduced course load. These sections currently require documentation from ''a licensed medical doctor, doctor of osteopathy, or licensed clinical psychologist'' [9] to enable a DSO to authorize a ''reduced course load (or, if necessary, no course load)'' [10] for F–1 nonimmigrant students or ''less than full course of study'' [11] for M–1 nonimmigrant students. DHS believes the current regulatory text in these paragraphs covers licensed psychologists, however, the current text could be interpreted to limit acceptable documentation for the DSO to consider due to a state's licensing practices. For example, the requirement for a *licensed clinical psychologist* poses significant challenges for a nonimmigrant student who resides in a state where the licensing board does not have a *clinical psychologist* designation.[12] A nonimmigrant student residing in such a state would be unable to obtain medical documentation if solely relying on a *licensed psychologist* to substantiate an illness or medical condition and thus might not receive a reduced course load. This revision would provide clarity to a student residing in such a state that they may obtain medical documentation from a psychiatrist or licensed psychologist. DHS believes this revision will lessen the burden on eligible nonimmigrant students by clarifying that DSOs may consider documentation from either a psychiatrist or a licensed psychologist.

*H. Obsolete Language*

In § 214.2(f) and (m), DHS is removing all language pertaining to the use of non-SEVIS forms that have not been valid since August 1, 2003. During the transition to SEVIS, nonimmigrant students and their dependents seeking admission to the United States prior to August 1, 2003, could present a non-SEVIS Form I–20 issued prior to January 30, 2003. This temporary exception expired on August 1, 2003, and all SEVP-certified schools are required to use SEVIS to issue Form I–20; any Form I–20 not generated by SEVIS is invalid. Similarly, all references to SEVIS that precede a reference to Form I–20 (*i.e.,* SEVIS Form I–20) are removed, because they are redundant.

In § 214.2, DHS is removing all references to the distinction between SEVIS and non-SEVIS schools for purposes of transferring nonimmigrant records between SEVP-certified or DOS-designated sponsors and unauthorized institutions or programs, requesting authorization for employment or training, reinstating student status, and maintaining current name and address. These procedures were allowed during the transition to SEVIS but are no longer accepted, since all SEVP-certified schools are required to use SEVIS to

[7] ICE Frequently Asked Questions for SEVP Stakeholders about COVID–19, *https://www.ice.gov/doclib/coronavirus/covid19faq.pdf* (last visited July 2021).

[8] *See* SEVP Policy Guidance—Use of Electronic Signatures and Transmission for the Form I–20, Oct. 12, 2021, *https://www.ice.gov/doclib/sevis/pdf/I20-guidance.pdf* (last visited December 2021).

[9] 8 CFR 214.2(f)(6)(iii)(B) and 8 CFR 214.2(m)(9)(vi).

[10] 8 CFR 214.2(f)(6)(iii)(B).

[11] 8 CFR 214.2(m)(9)(vi).

[12] Florida Board of Psychology, Licensing and Registration, *https://floridaspsychology.gov/licensing/* (last visited August 2021).

issue Form I–20 or successor form and comply with its recordkeeping and reporting requirements. Additional non-substantive changes are being made for brevity and clarity as a result of removing and revising paragraphs to remove this obsolete language.

DHS is removing § 214.3(h)(2)(vi), which allowed for an adjustment of the certification expiration date for the first cycle of recertification until after DHS promulgated regulations that established procedures for the oversight and recertification of schools for attendance by F or M nonimmigrant students. Those regulations were promulgated on September 26, 2008 to provide extra time for the transition.[13] Specifically, schools eligible for recertification before March 25, 2009, at a minimum, had their expiration date extended to March 25, 2009. All schools have completed the first cycle of recertification; therefore, this language is obsolete.

DHS is removing § 214.4(a)(4). This paragraph was added during the transition to SEVIS, encouraging schools to submit an electronic Form I–17 no less than 75 days prior to the SEVIS mandatory compliance deadline to allow time for adjudication by DHS and stating that a school's approval would be automatically withdrawn as of the day following the SEVIS mandatory compliance date.[14] The SEVIS mandatory compliance date was February 15, 2003;[15] thus, the language in this paragraph is obsolete.

DHS is removing and reserving § 214.12, Preliminary enrollment of schools in SEVIS, because the information is obsolete. DHS allowed eligible schools to apply for preliminary enrollment in SEVIS beginning July 1, 2002, until the later of August 16, 2002, or the date DHS began the SEVIS full-scale certification process.[16] On September 25, 2002, DHS published a rule implementing the full-scale certification process that required all schools not already approved to use SEVIS, including a school that would have been eligible for preliminary enrollment under § 214.2, to undergo the full certification process, thus closing the preliminary enrollment period.[17] Further, schools that were granted preliminary enrollment in SEVIS pursuant to § 214.12 were required to apply for certification and pay the certification fee prior to May 14, 2004. Neither DHS nor schools rely on this section for purposes of current SEVIS enrollment.

DHS is removing paragraph § 214.13(b)(3), which provided an exception to the fee requirement for nonimmigrant students or exchange visitors whose Form I–20 or Form DS–2019 for initial attendance was issued on or before August 31, 2004. As of September 1, 2004, potential nonimmigrants who are seeking status as F–1, F–3, M–1, or M–3 students or as J–1 exchange visitors are required to pay a fee.[18] SEVP has determined that it would not be possible for any student to travel with a Form I–20 issued on or before August 31, 2004, at this time as there would be significant changes to the information on the form that would require a new form to be printed. Therefore, DHS is removing this paragraph because the exception it provides is no longer relevant.

*I. Clarifying and Organizational Revisions*

DHS is adding language to the introductory paragraph in § 214.2(m)(9) to mirror the language in § 214.2(f)(6)(i). Section 214.2(f)(6)(i) provides the general introductory requirements for a full course of study for F–1 nonimmigrant students—a course of study at an SEVP-certified institution that leads to the attainment of a specific educational or professional objective—and further specifies additional requirements in the subsequent subparagraphs (*i.e.,* § 214.2(f)(6)(i)(A) through (H)). Similarly, § 214.2(m)(9) follows the same format by providing the general introductory requirements for a full course of study for M–1 nonimmigrant students—a course of study that leads to the attainment of a specific educational or vocational objective—and further specifies additional requirements in the subsequent subparagraphs (*i.e.,* § 214.2(m)(9)(i) through (iv)). DHS is adding language to § 214.2(m)(9) to reiterate that a course of study at a non-SEVP-certified institution does not satisfy the full course of study requirements. The addition of this language does not add any new requirements; rather it reiterates a requirement that is ubiquitous in this section and maintains consistency with § 214.2(f)(6)(i).

DHS is revising § 214.3(a)(3)(ii) by adding the word ''and'' to connect paragraphs (a)(3)(ii)(A) and (a)(3)(ii)(B). This was an inadvertent omission when this paragraph was promulgated and does not change how this paragraph has been applied or understood by schools.

DHS is revising § 214.3(b) and (c) to break up the paragraphs into multiple subparagraphs organized by topic (*e.g.,* licensure, approval, and accreditation documents; school operations information) and type of school (*e.g.,* public schools; private elementary, middle, and secondary schools; and private institutions of higher learning) and removing redundant and superfluous language. The changes add clarity and brevity but no new requirements.

In § 214.3(e)(8) and 214.4(i)(2), DHS is removing the word ''initial'' for clarity. This paragraph refers to notice of SEVIS access termination in general and is not limited to a termination resulting from an initial denial or withdrawal of a school's certification. The removal does not change how this paragraph has been applied or understood by schools.

In § 214.4(a)(3)(iii), DHS is revising the first and third sentences for brevity and clarity. In the first sentence, DHS is restructuring the sentence to clarify that automatic withdrawal under this section can occur for two reasons—failure to update a change of ownership in accordance with 8 CFR 214.3(h)(1) or properly file a new petition. In the third sentence, DHS is adding language to reiterate that failure to file a new petition within the allowable 60-day timeframe will result in SEVP instituting withdrawal proceedings. Both adjustments to the existing language are for clarity and add no new requirements.

In § 214.4(h), DHS is removing the phrase ''of the approval'' in the second sentence because it is superfluous. Section 214.4 is titled ''Denial of certification, denial of recertification, or

[13] *Adjusting Program Fees and Establishing Procedures for Out-of-Cycle Review and Recertification of Schools Certified by the Student and Exchange Visitor Program to Enroll F and/or M Nonimmigrant Students,* 73 FR 55683 (Sept. 26, 2008).

[14] *Requiring Certification of all Service Approved Schools for Enrollment in the Student and Exchange Visitor Information System (SEVIS),* 67 FR 60107, 60108 (Sept. 25, 2002); *Adjusting Program Fees and Establishing Procedures for Out-of-Cycle Review and Recertification of Schools Certified by the Student and Exchange Visitor Program to Enroll F and/or M Nonimmigrant Students,* 73 FR 55683, 55702 (Sept. 26, 2008) (redesignated 8 CFR 214.4(a)(3) as 8 CFR 214.4(a)(4)).

[15] U.S. DOJ OIG Report, Follow-up Review on the Immigration and Naturalization Service's Efforts to Track Foreign Students in the United States through the Student and Exchange Visitor Information System, Report No. I–2003–003, March 2003, *https://oig.justice.gov/reports/INS/e0303/background.htm* (last visited July 2021).

[16] *Allowing Eligible Schools to Apply for Preliminary Enrollment in the Student and Exchange Visitor Information System (SEVIS),* 67 FR 44344 (July 1, 2002).

[17] *Requiring Certification of all Service Approved Schools for Enrollment in the Student and Exchange Visitor Information System (SEVIS),* 67 FR 60107, 60108 (Sept. 25, 2002).

[18] *Authorizing Collection of the Fee Levied on F, J, and M Nonimmigrant Classifications Under Public Law 104–208; SEVIS,* 69 FR 39814 (July 1, 2004).

withdrawal of SEVP certification,'' and the regulatory text within this section addresses the aftermath of a denial or withdrawal of certification or recertification. Specifically, § 214.4(h) addresses the ability of a school to appeal a denial or withdrawal. DHS believes the phrase ''of the approval'' is unnecessary as it is evident by the section heading and the regulatory text that an appeal is referring to the denial of a certification or recertification or withdrawal of a certification. Further, this change is consistent with the first sentence of this paragraph, which does not use the phrase ''of the approval'' when referring to a denial or withdrawal. The change does not alter how this paragraph has been applied or understood by schools.

## V. Statutory and Regulatory Requirements

DHS developed this rule after considering numerous statutes and executive orders related to rulemaking. The below sections summarize the analyses based on a number of these statutes or executive orders.

### *A. Administrative Procedure Act: Good Cause Exception*

An agency may forgo notice and comment required under the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), if the agency for good cause finds that compliance would be impracticable, unnecessary, or contrary to the public interest.

Notice and comment is unnecessary when agencies make minor or technical determinations involving little to no agency discretion. *See Mack Trucks, Inc.* v. *EPA.,* 682 F.3d 87, 94 (D.C. Cir. 2012) (''This prong of the good cause inquiry is 'confined to those situations in which the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.''') (quoting *Util. Solid Waste Activities Grp.* v. *EPA,* 236 F.3d 749, 755 (D.C. Cir. 2001)). An agency may also bypass the APA's 30-day publication requirement if good cause exists. 5 U.S.C. 553(d)(3).

DHS finds there is good cause under the provisions of 5 U.S.C. 553(b)(B) to publish this rule without delay. The rule does not change the eligibility requirements governing any immigration benefit, nor will not confer rights or obligations on any party. It involves no discretionary actions by SEVP, introduces no substantive changes, does not raise existing costs, and places no additional burden on F, J, and M nonimmigrants, or on sponsoring academic institutions and programs (those members of the public directly impacted by SEVIS). This rule improves regulatory clarity by updating form names, removing outdated information and references to unnecessary or obsolete procedures and requirements, and correcting typographical errors. For these reasons, there is sufficient good cause under 5 U.S.C. 553(d)(3) to bypass public comment and the 30-day publication requirement.

This rule will be effective upon publication in the **Federal Register**. As noted above, this interim final rule will have a 30-day comment period that will allow F, J, and M nonimmigrants and sponsoring academic institutions and programs the opportunity to provide their input on the rule. DHS provided a full explanation of each change in the preamble of this Rule and believes all these changes are technical and non-substantive in nature. However, DHS will take those comments into consideration when deciding whether any modifications to this rule are warranted.

### *B. Executive Orders 12866 and 13563*

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

This rulemaking has not been designated a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget (OMB).

This rule removes unnecessary procedures and requirements in 8 CFR 214.1, 214.2, 214.3, 214.4, 214.12, and 214.13 that govern F, J, and M nonimmigrants. These changes are necessary to improve clarity and remove obsolete or unnecessary information that no longer applies since the implementation of SEVIS. This rulemaking introduces no substantive changes; does not raise existing costs; and places no additional burden on F, J, and M nonimmigrants or their sponsoring academic institutions and programs.

Summary of the Analysis

DHS estimates that the interim final rule will have no costs and will result in quantifiable cost savings and additional unquantifiable benefits. As shown in Table 1, DHS estimates the interim final rule will have a 10-year annualized monetized cost savings of $22,881 in 2021 dollars (for both 3 and 7 percent discount rates) and unquantified benefits with regard to convenience, time savings, and improvements to the environment from reduced paper use. It will also have minor, qualitative costs on F and M nonimmigrant students associated with printing documents. Table 1 summarizes the findings of this regulatory impact analysis.

TABLE 1—OMB CIRCULAR A–4 ACCOUNTING STATEMENT 2021 DOLLARS

| Category | Impact | Source |
|---|---|---|
| **Benefits** | | |
| Annualized Monetized Benefits ($ Million): | | |
| (3%) | $0.02 | RIA. |
| (7%) | $0.02 | RIA. |
| Annualized Quantified, but Unmonetized, Benefits. | | |
| Unquantified Benefits | Convenience and time savings in signature collection<br>Reduced Paper Use. | RIA. |
| **Costs** | | |
| Annualized Monetized Costs ($ Million): | | |
| (3%) | No Cost | RIA. |
| (7%) | No Cost | RIA. |

TABLE 1—OMB CIRCULAR A–4 ACCOUNTING STATEMENT 2021 DOLLARS—Continued

| Category | Impact | Source |
|---|---|---|
| Annualized Quantified, but Unmonetized, Costs | No Cost | RIA. |
| **Transfers** | | |
| Annualized Monetized Transfers.<br>From Whom to Whom. | | |
| **Other Analyses** | | |
| Effects on State, Local, and/or Tribal Governments | No Impact | IFR. |
| Effects on Small Business | No Impact | IFR. |
| Effects on Wages. | | |
| Effects on Growth. | | |

Baseline

This section details the regulatory baseline for this interim final rule. Table 2 below provides a summary of the anticipated changes to baseline conditions.

TABLE 2—BASELINE ANALYSIS OF INTERIM FINAL RULE

| Provision | Description of change | Affected population | Cost impact to affected population | Benefit impact to affected population |
|---|---|---|---|---|
| Original Signatures for Form I–17. | Removing original signature requirement to allow for greater freedom in adopting electronic signature and transmission of documents. | SEVP-certified schools | None | Cost savings for schools in reducing the time needed for school officials to physically sign forms for electronic filing. |
| All Other Technical Revisions. | Changing the wording in the rule to promote clarity and consistency, remove obsolete language, and codify procedures and practices. | School officials, students, and others who need to understand and follow the requirements of the rule, including legal practitioners and school administrators. | None | The benefit of the rule's greater clarity, accuracy, and currency and the promotion of an overall better understanding of the rule. |

The baseline is the state-of-the-world prior to the COVID–19 pandemic, in which all signatures on Form I–17 documents were required to be original, rather than electronic. It also includes all of the previous wording in SEVP regulations that would remain unchanged if the rule does not take effect.

Analytical Considerations and Assumptions

SEVP certifies qualifying schools and grants them access to SEVIS. DSOs at these SEVP-certified schools are their primary respondents. As employees of SEVP-certified schools, DSOs collect and enter the required information directly into SEVIS. That data is used to populate Form I–17 and Form I–20. DSOs carry nearly all of their school's reporting burden.

This rule will remove obsolete procedures and requirements and clarify regulatory language associated with SEVP. The only quantifiable economic impact will result from DHS allowing electronic signatures to replace original signatures on Form I–17 documents, which DSOs must prepare and send electronically to ICE. This change has been in place since 2020, as a result of the COVID–19 allowances that DHS implemented. However, prior to those allowances, DSOs were required to prepare their own paper copies of the Form I–17 documents, with the original signatures of each DSO who was required to sign the form, as well as the president, owner, or head of the school. Furthermore, many of those original signatures on any given Form I–17 document had to be made on the same piece of paper (on any pages in the document having space for more than one signature), thus requiring that piece of paper to be physically delivered to each individual who needed to sign their name on the same page. Within the same school, the DSOs who need to sign the same page of the Form I–17 may be located in different buildings on the same campus, or even on different campuses for schools with more than one campus location. Consequently, the signing of the Form I–17 often required the transport of the same paper document among individuals in different locations and required coordination among them and other school officials to complete the process.

During the pandemic, DHS has allowed DSOs to use electronic signature software to sign Form I–17, rather than requiring original signatures. This has enabled DSOs to electronically sign the form rather than signing a paper document that must be circulated among the various school officials. DSOs can also generate completed Form I–17 documents electronically, without needing to scan the signed paper documents before sending them electronically to ICE. In this rule, DHS is allowing these cost savings and conveniences to continue permanently after the pandemic is sufficiently mitigated and the COVID–19-related flexibilities are no longer in effect.

The other changes proposed in the rule are changes in wording that have largely become obsolete and irrelevant, such as references to ''INS'' or references to procedures that are no longer implemented. These revisions will improve the clarity, accuracy, and currency of the rule for school officials,

students and others who need to read and understand these regulations.

Analytical Considerations

In accordance with the regulatory analysis guidance articulated in OMB's Circular A–4, this regulatory analysis focuses on the likely consequences of the interim final rule relative to what would happen in its absence. DHS expresses all quantifiable impacts in 2021 dollars and uses discount rates of 3 and 7 percent, pursuant to Circular A–4.

DHS divided the analysis into two general categories: (1) the effects of DHS allowing Form I–17 documents to be signed and transmitted electronically after the COVID–19-related allowances no longer apply; and (2) the effects of revisions in language, references, and stated procedures to improve the accuracy and clarity of SEVP-related regulations and to codify practices that have already been adopted. Of these two areas of the analysis, DHS determined that only the first (involving electronic signing and transmission of Form I–17) is amenable to quantitative analysis and to the estimation of benefits and costs. DHS determined that the second area (textual changes to improve clarity and understanding of the regulations) is not amenable to quantitative measures. DHS made this determination based on the many ambiguities that would exist in any efforts to define and measure such concepts as ''clarity,'' or to define and measure the extent to which individuals would benefit from such improvements in clarity (such as in time savings or levels of comprehension). Nevertheless, DHS determined that qualitative descriptions of this second area would be sufficient to justify the changes.

Although DHS determined that the electronic signing and transmission of the Form I–17 documents can be quantitatively analyzed, DHS also recognized that a key analytical question facing such an analysis is which base year, or benchmark year, DHS should use. Although data are currently available for the numbers of F and M nonimmigrant students registered in SEVIS in 2020 and the spring term of 2021, these numbers are historically much smaller than the ones that would be expected for nonimmigrant students in the absence of the COVID–19 pandemic. SEVIS data shows there was a 72 percent decrease in new international student enrollment in calendar year 2020 when compared to calendar year 2019.[19]

[19] SEVIS by the Numbers Report, SEVP 2020, *https://www.ice.gov/doclib/sevis/pdf/sevisBTN2020.pdf* [last accessed July 2021].

The benefits and costs of the interim final rule, however, would be in relation to the expected outcomes when the COVID–19 allowances are no longer in effect since the changes in the rule are only applicable at that time. DHS therefore determined that 2019 is the most representative year for estimating the number of F and M nonimmigrant students who would be affected by the rule, since 2019 was the last year prior to the effects of the pandemic on F and M nonimmigrant student enrollments. Given the degree of uncertainty in predicting F and M nonimmigrant student enrollments in the future, DHS determined that a more in-depth analysis into trends over time in such enrollments would likely not be any more reliable than DHS using the levels in 2019 as a baseline.

DHS identified one effect of the rule, with regard to electronic signatures for the Form I–17, that could provide an additional benefit. As mentioned previously, one of the advantages of electronic signatures is that paper documents no longer need to physically travel to each person who signs the form. DHS allowance of electronic signatures avoids resources being spent by the school to transport these documents from one place to another for the required school officials to sign them. It also avoids resources being spent to place the documents in envelopes and address them and then for other individuals to open the envelopes and sign the documents.

DHS is unable to quantify this potential cost savings. DHS does not have data on how many people on average need to sign the form and how far away they are from each other (such as whether they have offices adjacent to each other or they are at campuses in different cities). Adding to the uncertainty would be whether the transport of these documents occurred along with other documents between the offices, so that no separate delivery was required to transport them individually. The burden of these original signatures would depend on whether school employees needed to take extra time to transport the documents separately from other documents delivered via intra-campus mail. DHS also does not have data on the time needed to produce electronic signatures, which would then need to be subtracted from the time needed to sign the paper documents for DHS to estimate the cost savings of electronic signatures. For example, if the mechanisms for officials to electronically sign documents are easily observed on their computers, it might not take very long to sign. However, if officials must follow complicated procedures on their computer to provide those electronic signatures, then it might take more time to sign.

Time Horizon for the Analysis

DHS estimates the economic effects of this interim final rule will be sustained indefinitely. ICE used a 10-year timeframe (from 2022 through 2031) to outline, quantify, and monetize the costs and benefits of the rule, and to demonstrate its net effects.

**Affected Population**

This interim final rule affects two types of entities: (1) SEVP-certified schools (and the DSOs who work for those SEVP-certified schools), and (2) any individuals and organizations that might benefit from improvements in the way the rule is written, including offices within DHS that interact with the affected SEVP-certified schools, and various U.S.-based and international organizations that may assist or represent F and M nonimmigrant students. In 2019, SEVP-certified schools submitted via SEVIS upload a total of 7,062 distinct Form I–17 documents to ICE.

**Costs of the Rule**

DHS determined that there are no costs associated with the rule. When considering the cost of the rule, DHS determined that there are no costs for SEVP-certified schools to develop information-technology capabilities to electronically sign and transmit documents. DHS assumes that SEVP-certified schools already have the necessary information technology capabilities in place to electronically sign and transmit the Form I–17 documents.

**Cost Savings**

DHS estimated the cost savings to SEVP-certified schools if paper copies and original signatures are no longer needed for the Form I–17 documents in accordance with the interim final rule. Table 3 displays these cost savings, estimated at $22,881, in 2021 dollars, per year. This cost-savings estimate is based on 7,062 Form I–17 documents submitted to ICE in 2019. Without the interim rule in place, DSOs would have to provide their original signatures on the Form I–17, as they did before the COVID–19 pandemic. DSOs would then need to scan these documents and send an electronic copy of them to ICE. DHS estimated that each document would require approximately 3 minutes of

labor to be scanned.[20] As shown in Table 3, this results in total labor costs of $15,819. DHS estimated the average number of pages per Form I–17 document to be 10 pages, which, at an estimated cost of $0.10 per page for paper and printing, contributes to an additional cost savings of $7,062.

TABLE 3—COST SAVINGS FROM ORIGINAL SIGNATURES NOT REQUIRED FOR FORM I–17

[In 2021 $]

| Factor in the analysis | Measures | Costs savings |
|---|---|---|
| A. Number of Forms I–17 Scanned in 2019 | 7,062 | |
| B. Number of Minutes to Scan Each Document | 3 | |
| C. Hourly Labor Rate for DSO[21] | $44.72 | |
| D. Estimated Labor Cost Per Document Scanned [(B/60)×C] | $2.24 | |
| E. Total Labor Costs (A×D) | | $15,819 |
| F. Estimated Pages Per Scan | 10 | |
| G. Estimated Cost Per Page (for Paper and Printing) | $0.10 | |
| H. Estimated Paper Costs Per Mailing (H×I) | $1.00 | |
| I. Total Paper Costs (A×H) | | 7,062 |
| Total Cost Savings for Not Preparing and Scanning the Forms I–17 (E+I) | | 22,881 |

Table 4 summarizes the impact of this interim final rule over the 10-year period, starting in 2022. The 10-year discounted cost-savings of the rule in 2021 dollars would range from $160,706 to $195,179 (with 7 and 3 percent discount rates, respectively).

TABLE 4—TOTAL ESTIMATED COST SAVINGS

[2021 Dollars]

| Year | Undiscounted cost-savings | Annual cost-savings discounted at 3% | Annual cost-savings discounted at 7% |
|---|---|---|---|
| 2022 | $22,881 | $22,214 | $21,384 |
| 2023 | 22,881 | 21,567 | 19,985 |
| 2024 | 22,881 | 20,939 | 18,678 |
| 2025 | 22,881 | 20,329 | 17,456 |
| 2026 | 22,881 | 19,737 | 16,314 |
| 2027 | 22,881 | 19,162 | 15,246 |
| 2028 | 22,881 | 18,604 | 14,249 |
| 2029 | 22,881 | 18,062 | 13,317 |
| 2030 | 22,881 | 17,536 | 12,446 |
| 2031 | 22,881 | 17,026 | 11,631 |
| Total | 228,809 | 195,179 | 160,706 |
| Annualized | 22,881 | 22,881 | 22,881 |

**Qualitative Cost Savings**

As described earlier, the qualitative benefits of the interim rule include benefits to those who may need to understand and follow the regulations, including legal analysts and school officials. Specifically, the technical revisions increase clarity, accuracy, and currency, and promote a better understanding of its effects.

**Analysis of Alternatives to the Interim Rule**

Because the interim rule does not pose any costs to the public or to the government, DHS is not able to find any alternative that could have any lower costs. In principle, even when the costs of a new rule are zero, an alternative rule could still be preferable if that rule could offer higher benefits, and thus higher net benefits. However, this too would not be possible in this case, because the benefits of any comparable rule could only be in the same form as the benefits of this interim rule—those benefits being cost savings (for SEVP-certified schools). For any alternative to offer greater benefits, it would need to reduce the costs that SEVP-certified schools incur in processing and delivering Form I–17 documents. Because the interim final rule already allows for electronic signatures and submission of the forms by email, there are no less-expensive alternatives to preparing and distributing the forms.

DHS considered the no-action alternative for this interim final rule. Table 5 summarizes the effects of this alternative. The no-action alternative would result in continued costs to SEVP-certified schools for original signatures and would maintain obsolete language. As a result, DHS rejected this alternative.

[20] *See* ARX, ROI Calculation for Digital Signatures, page 4 (May 2010).*http://hosteddocs.ittoolbox.com/digitalsignaturesroiwhitepaperover100.pdf.*

[21] U.S. Bureau of Labor Statistics, Occupational Employment and Wage Statistics: 21–1012 Educational, Guidance, and Career Counselors and Advisors, May 2020. Last accessed March 2021.

TABLE 5—SUMMARY OF ALTERNATIVES

| Action | Benefits | Costs |
|---|---|---|
| Take No Action ..... | None ..... | 1. Annual costs to SEVP-certified schools of $22,881 in the preparation and scanning of Form I–17 documents (reverting to the pre-COVID requirement that they have original signatures).<br>2. School officials, students and others who need to understand and follow requirements governing F and M nonimmigrant students, will have greater difficulty due to the inaccuracy and obsolescence of certain language in the current regulatory text. |

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. A regulatory flexibility analysis is not required when a rule is exempt from notice and comment rulemaking. This interim final rule is exempt from the notice and comment rulemaking, as stated in the APA, 5 U.S.C. 551 *et seq.,* section of the preamble. Therefore, a regulatory flexibility analysis is not required for this rule.

*D. Small Business Regulatory Enforcement Fairness Act of 1996*

This 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 United States economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

*E. Executive Order 13132: Federalism*

This rule will not have substantial direct effect 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 warrant the preparation of a federalism summary impact statement.

*F. 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 1995 dollars) or more in any one 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.

*G. Congressional Review Act*

This interim final rule is not a major rule as defined by 5 U.S.C. 804, also known as the ''Congressional Review Act,'' as enacted in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, 110 Stat. 847, 868 *et seq.* 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 U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets. *See* 5 U.S.C. 804(2). If implemented as proposed, DHS will submit to Congress and the Comptroller General of the United States a report about the issuance of the interim final rule prior to its effective date, as required by 5 U.S.C. 801(a)(1).

*H. Executive Order 12988 Civil Justice Reform*

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

*I. Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all departments are required to submit to OMB, for review and approval, any reporting requirements inherent in a rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

*J. National Environmental Policy Act*

DHS Management Directive (MD) 023–01 Rev. 01 and Instruction Manual (IM) 023–01–001–01 Rev. 01 establish the policy and procedures that DHS and its Components use to comply with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4375, and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, 40 CFR parts 1500 through 1508.

The CEQ regulations enable federal agencies to establish categories of actions that do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment or Environmental Impact Statement. 40 CFR 1508.4. The DHS Categorical Exclusions are listed in IM 023–01–001–01 Rev. 01, Appendix A, Table 1.

For an action to be categorically excluded, the action must satisfy each of the following three conditions:

(1) The entire action clearly fits within one or more of the Categorical Exclusions,

(2) The action is not a piece of a larger action, and

(3) No extraordinary circumstances exist that create the potential for a significant environmental effect. IM 023–01–001–01 Rev. 01 § V(B)(2)(a)–(c).

If the action does not clearly meet all three conditions, DHS or the Component prepares an Environmental Assessment or Environmental Impact Statement, according to CEQ requirements, MD 023–01, and IM 023–01–001–01 Rev. 01.

DHS has analyzed this action under MD 023–01 Rev. 01 and IM 023–01–001–01 Rev.01. DHS has made a determination that this rulemaking action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This action clearly fits within the Categorical Exclusion found in IM 023–01–001–01 Rev. 01, Appendix A, Table 1, number A3(d): ''*Promulgation of rules, issuance of rulings or interpretations, and the development and publication of policies, orders, directives, notices, procedures, manuals, advisory circulars, and other guidance documents of the following nature: (d) Those that interpret or amend an existing regulation without changing its environmental effect.*'' This rule is not

part of a larger action. This rule presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, more detailed NEPA review is not necessary. DHS seeks any comments or information that may lead to the discovery of any significant environmental effects from this rule.

*K. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This interim final rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.

*L. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights*

This interim final rule would not cause a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

*M. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks, requires agencies to consider the impacts of environmental health risks or safety risks that may disproportionately affect children. DHS has reviewed this interim final rule and determined that this rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children. Therefore, DHS has not prepared a statement under this E.O.

*N. National Technology Transfer and Advancement Act*

The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This interim final rule does not use technical standards. Therefore, DHS did not consider the use of voluntary consensus standards.

*O. Family Assessment*

DHS has determined that this action would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

**List of Subjects in 8 CFR Part 214**

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

Accordingly, the Department of Homeland Security amends part 214 of chapter I of title 8 of the Code of Federal Regulations as follows:

## PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 continues to read as follows:

**Authority:** 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305, 1357, and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1086).

■ 2. Amend § 214.1 as follows:
■ a. In paragraph (b)(1) introductory text, remove the reference to ''§ 214.2(f)(5)(iii)'' and ''22 CFR 41.125(f)'' and add in their place ''§ 214.2(f)(5)(i)'' and ''22 CFR 41.112(d)'', respectively.
■ b. In paragraph (b)(1)(iv) introductory text, remove ''§ 1.4'' and add in its place ''§ 1.4 of this chapter'' and remove the phrase ''the alien's Form I–20 ID copy,''.
■ c. In paragraph (b)(1)(iv)(A), remove the phrases ''page 4 of Form I–20A–B'' and ''Form I–20A'' and add in their place ''Form I–20 or successor form''.
■ d. In paragraph (b)(1)(iv)(B), remove the phrases ''Form I–20A–B'' and ''Form 1–20A'' and add in their place ''Form I–20 or successor form''.
■ e. In paragraph (b)(2) introductory text, remove the reference ''22 CFR 41.125(f)'' and add in its place ''22 CFR 41.112(d)''.
■ f. In paragraph (b)(2)(iv):
■ i. Remove the phrase ''copy three of'';
■ ii. Remove ''IAP–66'' and add in its place ''DS–''2019''; and
■ iii. Remove the phrase ''endorsed by the Service'' and add in its place ''properly endorsed''.
■ g. In paragraph (b)(3) introductory text, remove the reference ''22 CFR 41.125(f)'' and add in its place ''22 CFR 41.112(d)''.
■ h. In paragraph (b)(3)(iv), remove the phrase ''the alien's Form I–20 ID copy, and alien's properly endorsed page 4 of Form I–20M–N'' and add in its place ''and the alien's properly endorsed Form I–20 or successor form''.
■ i. In paragraph (h), remove ''§ 2.1(a)'' and ''the Service'' and add in their place ''§ 2.1'' and ''DHS'', respectively.
■ 3. Amend § 214.2 as follows:
■ a. Paragraphs (f)(1)(i)(A) through (C), (f)(1)(ii) and (iii), (f)(2), (3) and (4), (f)(5)(i) and (v), (f)(6)(i) introductory text, (f)(6)(i)(B), (C), (E), and (F), and (f)(6)(iii)(B) are revised.
■ b. Paragraph (f)(6)(iii)(D) is removed and reserved.
■ c. Paragraphs (f)(6)(iii)(E), (f)(6)(iv), (f)(7), (f)(8)(i) and (ii), (f)(9)(i), (f)(9)(ii)(A) and (D) introductory text, (f)(9)(ii)(F)(*1*), and (f)(9)(iii), (f)(10) introductory text, and (f)(10)(i) are revised.
■ d. In paragraph (f)(13)(i), remove '' his or her Form I–20 ID'' and ''which'' and add in their place ''Form I–20 or successor form'' and ''that'', respectively.
■ e. In paragraph (f)(13)(ii), remove the phrase ''an I–20 ID'' and add in its place ''a Form I–20 or successor form''.
■ f. In paragraph (f)(14), remove the phrase ''Commissioner of the Immigration and Naturalization Service or the Commissioner's designee'' and add in its place ''Secretary of Homeland Security or the Secretary's designee''.
■ g. In paragraph (f)(15), remove ''shall'' and ''SEVIS Form I–20'' and add in their place ''will'' and ''Form I–20 or successor form'', respectively.
■ h. In (f)(16)(i) introductory text, (f)(16)(i)(B), (C), and (F) introductory text, (f)(16)(ii) and (f)(17) are revised.
■ i. In paragraphs (f)(18)(i) introductory text and (f)(18)(i)(A), remove the phrase ''an approved'' and add in its place ''a certified''.
■ j. In paragraph (f)(18)(ii), remove ''approved'' and add in its place ''certified''.
■ k. In paragraph (f)(19), remove the phrase ''a Department of Homeland Security (DHS)-approved'' and add in its place ''an SEVP-certified''.
■ l. Paragraphs (m)(1)(i)(A) through (C) are revised.

■ m. Paragraph (m)(1)(ii) is removed and reserved.
■ n. Paragraphs (m)(1)(iii), (m)(2) and (3), (m)(4)(i)(A) and (B), and (m)(4)(ii) are revised.
■ o. In paragraph (m)(5), remove ''Form 1–20'', and add in its place ''Form 1–20 or successor form'' wherever it appears.
■ p. Paragraphs (m)(9) introductory test, (m)(9)(i) and (ii), (m)(9)(vi), (m)(10)(ii) and (iv), (m)(11)(ii), (m)(14)(ii) introductory text, and (m)(14)(iii) through (v) are revised.
■ q. In paragraph (m)(15), remove the phrase ''The Service shall'' and add in its place ''USCIS will''.
■ r. Paragraphs (m)(16)(i) introductory text, (m)(16)(i)(B), (C), and (F) introductory text, and (m)(16)(ii) are revised.
■ s. In paragraph (m)(17) introductory text, remove ''shall'' and ''SEVIS Form I–20'' and add in their place ''will'' and ''Form I–20 or successor form'', respectively.
■ t. Paragraphs (m)(18), (m)(19)(i) introductory text, (m)(19)(i)(A), and (m)(19)(ii) are revised.
■ u. In paragraph (m)(20), remove the phrase ''a DHS approved'' and ''8 CFR 214.13'' and add in their place ''an SEVP-certified'' and ''§ 214.13'', respectively.

The revisions read as follows:

**§ 214.2 Special requirements for admission, extension, and maintenance of status.**

* * * * *

(f) * * *

(1) * * *

(i) * * *

(A) The student presents a Form I–20 or successor form issued in the student's name by a school certified by the Student and Exchange Visitor Program (SEVP) for attendance by F–1 foreign students;

(B) The student has documentary evidence of financial support in the amount indicated on the Form I–20 or successor form;

(C) For students seeking initial admission only, the student intends to attend the school specified in the student's visa (or, where the student is exempt from the requirement for a visa, the school indicated on the Form I–20 or successor form); and

* * * * *

(ii) *Form I–20 or successor form requirements at the port-of-entry.* When an F–1 student applies for admission with a complete Form I–20 or successor form, the inspecting officer will:

(A) Transcribe the student's admission number from Form I–94 onto the student's Form I–20 or successor form (for students seeking initial admission only);

(B) Endorse the Form I–20 or successor form; and

(C) Return the Form I–20 or successor form to the student.

(iii) *Use of the Student and Exchange Visitor Information System (SEVIS).* Schools must issue a Form I–20 or successor form in SEVIS to any current student requiring a reportable action (*e.g.,* extension of stay, practical training, and requests for employment authorization), or to any alien who must obtain a new nonimmigrant student visa.

(2) *Student maintenance of Form I–20 or successor form.* An F–1 student is expected to retain for safekeeping the initial Form I–20 or successor form bearing the admission number and any subsequent Form I–20 issued to them. Should the student lose their current Form I–20 or successor form, a replacement copy bearing the same information as the lost copy, including any endorsement for employment and notations, should be issued by the designated school official (DSO) as defined in § 214.3(l)(1).

(3) *Admission of the spouse and minor children of an F–1 student.* The spouse and minor children accompanying an F–1 student are eligible for admission in F–2 status if the student is admitted in F–1 status. The spouse and minor children following-to-join an F–1 student are eligible for admission to the United States in F–2 status if they are able to demonstrate that the F–1 student has been admitted and is, or will be within 30 days, enrolled in a full course of study, or engaged in approved practical training following completion of studies. In either case, at the time they seek admission, the eligible spouse and minor children of an F–1 student must individually present a Form I–20 or successor form in the name of each F–2 dependent issued by a school certified by SEVP for attendance by F–1 students. A new Form I–20 or successor form is required for a dependent where there has been any substantive change in the F–1 student's current information.

(4) *Temporary absence.* An F–1 student returning to the United States from a temporary absence of five months or less may be readmitted for attendance at an SEVP-certified educational institution, if the student presents:

(i) A current Form I–20 or successor form properly endorsed by the DSO for reentry if there has been no substantive change to the most recent Form I–20 or successor form information; or

(ii) An updated Form I–20 or successor form if there has been a substantive change in the information on the student's most recent Form I–20 or successor form, such as in the case of a student who has changed the major area of study, who intends to transfer to another SEVP-certified institution, or who has advanced to a higher level of study.

(5) * * *

(i) *General.* Duration of status is defined as the time during which an F–1 student is pursuing a full course of study at an educational institution certified by SEVP for attendance by foreign students, or engaging in authorized practical training following completion of studies, except that an F–1 student who is admitted to attend a public high school is restricted to an aggregate of 12 months of study at any public high school(s). An F–1 student may be admitted for a period up to 30 days before the indicated report date or program start date listed on the Form I–20 or successor form. The student is considered to be maintaining status if the student is making normal progress toward completing a course of study.

* * * * *

(v) *Emergent circumstances as determined by the Secretary.* Where the Secretary has suspended the applicability of any or all of the requirements for on-campus or off-campus employment authorization for specified students pursuant to paragraphs (f)(9)(i) or (ii) of this section by notice in the **Federal Register**, an affected student who needs to reduce their full course of study as a result of accepting employment authorized by such notice in the **Federal Register** will be considered to be in status during the authorized employment, subject to any other conditions specified in the notice, provided that, for the duration of the authorized employment, the student is registered for the number of semester or quarter hours of instruction per academic term specified in the notice, which in no event shall be less than six semester or quarter hours of instruction per academic term if the student is at the undergraduate level or less than three semester or quarter hours of instruction per academic term if the student is at the graduate level, and is continuing to make progress toward completing the course of study.

* * * * *

(6) * * *

(i) *General.* Successful completion of the full course of study must lead to the attainment of a specific educational or professional objective. A course of study at an institution not certified for attendance by foreign students as provided in § 214.3(a)(3) does not satisfy the requirement of this paragraph

(f)(6)(i). A ''full course of study'' as required by section 101(a)(15)(F)(i) of the Act means:

* * * * *

(B) Undergraduate study at a college or university, certified by a school official to consist of at least 12 semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter hour systems, where all undergraduate students who are enrolled for a minimum of 12 semester or quarter hours are charged full-time tuition or are considered full-time for other administrative purposes, or its equivalent (as determined by SEVP in the school certification process), except when the student needs a lesser course load to complete the course of study during the current term;

(C) Study in a postsecondary language, liberal arts, fine arts, or other non-vocational program at a school which confers upon its graduates recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three other institutions of higher learning which are either:

(*1*) A school (or school system) owned and operated as a public educational institution by the United States or a State or political subdivision thereof; or

(*2*) a school accredited by a nationally recognized accrediting body; and which has been certified by a designated school official to consist of at least 12 clock hours of instruction a week, or its equivalent as determined by SEVP in the school certification process;

* * * * *

(E) Study in a curriculum at a certified private elementary or middle school or public or private academic high school which is certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress toward graduation.

(F) Notwithstanding paragraphs (f)(6)(i)(A) and (B) of this section, an alien who has been granted employment authorization pursuant to the terms of a document issued by the Secretary under paragraphs (f)(9)(i) or (ii) of this section and published in the **Federal Register** shall be deemed to be engaged in a ''full course of study'' if he or she remains registered for no less than the number of semester or quarter hours of instruction per academic term specified by the Secretary in the notice for the validity period of such employment authorization.

* * * * *

(iii) * * *

(B) *Medical conditions.* The DSO may authorize a reduced course load (or, if necessary, no course load) due to a student's temporary illness or medical condition for a period of time not to exceed an aggregate of 12 months while the student is pursuing a course of study at a particular program level. In order to authorize a reduced course load based upon a medical condition, the student must provide medical documentation from a licensed medical doctor, psychiatrist, doctor of osteopathy, licensed psychologist, or clinical psychologist to the DSO to substantiate the illness or medical condition. The student must provide current medical documentation and the DSO must reauthorize the drop below full course of study each new term, session, or semester. A student previously authorized to drop below a full course of study due to illness or medical condition for an aggregate of 12 months may not be authorized by a DSO to reduce their course load on subsequent occasions while pursuing a course of study at the same program level. A student may be authorized to reduce course load for a reason of illness or medical condition on more than one occasion while pursuing a course of study, so long as the aggregate period of that authorization does not exceed 12 months.

* * * * *

(E) *Reporting requirements.* In order for a student to be authorized to drop below a full course of study, the DSO must update SEVIS prior to the student reducing their course load. The DSO must update SEVIS with the date, reason for authorization, and the start date of the next term or session. The DSO must also notify SEVIS within 21 days of the student's commencement of a full course of study. If an extension of the program end date is required due to the student dropping below a full course of study, the DSO must update SEVIS by completing a new Form I–20 or successor form with the new program end date in accordance with paragraph (f)(7) of this section.

(iv) *Concurrent enrollment.* An F–1 student may be enrolled in two different SEVP-certified schools at one time as long as the combined enrollment amounts to a full course of study. In cases where a student is concurrently enrolled, the school from which the student will earn their degree or certification should issue the Form I–20 or successor form, and conduct subsequent certifications and updates to the Form I–20 or successor form. The DSO from this school is also responsible for all of the reporting requirements to SEVP. In instances where a student is enrolled in programs with different full course of study requirements (*e.g.,* clock hours vs. credit hours), the DSO is permitted to determine what constitutes a full course of study.

(7) *Extension of stay*—(i) *General.* An F–1 student who is admitted for duration of status is not required to apply for extension of stay as long as the student is maintaining status and making normal progress toward completion of their educational objective. An F–1 student who is currently maintaining status and making normal progress toward completing their educational objective, but who is unable to complete their course of study by the program end date on the Form I–20 or successor form, must apply prior to the program end date for a program extension pursuant to paragraph (f)(7)(iii) of this section.

(ii) *Report date and program completion date on Form I–20 or successor form.* When determining the report date on the Form I–20 or successor form, the DSO may choose a reasonable date to accommodate a student's need to be in attendance for required activities at the school prior to the actual start of classes. Such required activities may include, but are not limited to, research projects and orientation sessions. However, for purposes of employment, the DSO may not indicate a report date more than 30 days prior to the start of classes. When determining the program completion date on Form I–20 or successor form, the DSO should make a reasonable estimate based upon the time an average student would need to complete a similar program in the same discipline.

(iii) *Program extension for students in lawful status.* An F–1 student who is unable to meet the program completion date on the Form I–20 or successor form may be granted an extension by the DSO if the DSO certifies that the student has continually maintained status and that the delays are caused by compelling academic or medical reasons, such as changes of major or research topics, unexpected research problems, or documented illnesses. Delays caused by academic probation or suspension are not acceptable reasons for program extensions. A DSO may not grant an extension if the student did not apply for an extension until after the program end date noted on the Form I–20 or successor form. An F–1 student who is unable to complete the educational program within the time listed on Form I–20 or successor form and who is ineligible for program extension pursuant to this paragraph (f)(7) is considered out of status. If eligible, the

student may apply for reinstatement under the provisions of paragraph (f)(16) of this section.

(iv) *SEVIS update.* A DSO may grant a program extension only by updating SEVIS and issuing a new Form I–20 or successor form reflecting the current program end date. A DSO may grant an extension any time prior to the program end date listed on the student's Form I–20 or successor form.

(8) * * *

(i) *General.* A student who is maintaining status may transfer to another SEVP-certified school by following the notification procedure prescribed in paragraph (f)(8)(ii) of this section. However, an F–1 student is not permitted to remain in the United States when transferring between schools or programs unless the student will begin classes at the transfer school or program within five months of transferring out of the current school or within 5 months of the program completion date on their current Form I–20 or successor form, whichever is earlier. In the case of an F–1 student authorized to engage in post-completion optional practical training (OPT), the student must be able resume classes within 5 months of transferring out of the school that recommended OPT or the date the OPT authorization ends, whichever is earlier. An F–1 student who was not pursuing a full course of study at the school he or she was last authorized to attend is ineligible for school transfer and must apply for reinstatement under the provisions of paragraph (f)(16) of this section, or, in the alternative, may depart the country and return as an initial entry in a new F–1 nonimmigrant status.

(ii) *Transfer procedure.* To transfer schools, the student must first notify their current school (the ''transfer-out'' school) of the intent to transfer and indicate the school to which the student intends to transfer (the ''transfer-in'' school). Upon notification by the student, the transfer-out school must update SEVIS to show the student is transferring out, indicate the transfer-in school, and input the transfer release date. The release date will be the current semester or session completion date, or the date of expected transfer if earlier than the established academic cycle. The transfer-out school will retain control over the student's record in SEVIS until the student completes the current term or reaches the release date. At the request of the student, the DSO of the transfer-out school may cancel the transfer request at any time prior to the release date. As of the release date specified by the transfer-out DSO, the transfer-in school will be granted full access to the student's SEVIS record and then becomes responsible for that student. The transfer-out school conveys authority and responsibility over that student to the transfer-in school and relinquishes its SEVIS access to that student's record. As such, a transfer request may not be cancelled by the transfer-out DSO after the release date has been reached. After the release date, the transfer-in DSO must complete the transfer of the student's record in SEVIS and may issue a Form I–20 or successor form. The student is then required to contact the DSO at the transfer-in school within 15 days of the program start date listed on the Form I–20 or successor form. Upon notification that the student is enrolled in classes, the transfer-in DSO must update SEVIS to reflect the student's registration and current address, thereby acknowledging that the student has completed the transfer process. The transfer is completed when the transfer-in school notifies SEVIS that the student has enrolled in classes in accordance with the 30 days required by § 214.3(g)(2)(iii).

* * * * *

(9) * * *

(i) *On-campus employment.* On-campus employment must either be performed on the school's premises, (including on-location commercial firms which provide services for students on campus, such as the school bookstore or cafeteria), or at an off-campus location that is educationally affiliated with the school. Employment with on-site commercial firms, such as a construction company building a school building, which do not provide direct student services is not deemed on-campus employment for the purposes of this paragraph (f)(9)(i). In the case of off-campus locations, the educational affiliation must be associated with the school's established curriculum or related to contractually funded research projects at the post-graduate level. In any event, the employment must be an integral part of the student's educational program. * * * Employment authorized under this paragraph (f)(9)(i) must not exceed 20 hours a week while school is in session, unless the Secretary suspends the applicability of this limitation due to emergent circumstances, as determined by the Secretary, by means of notice in the **Federal Register**, the student demonstrates to the DSO that the employment is necessary to avoid severe economic hardship resulting from the emergent circumstances, and the DSO notates the Form I–20 or successor form in accordance with the **Federal Register** document. An F–1 student may, however, work on campus full-time when school is not in session or during the annual vacation. A student who has been issued a Form I–20 or successor form to begin a new program in accordance with the provision of § 214.3(k) and who intends to enroll for the next regular academic year, term, or session at the institution that issued the Form I–20 or successor form may continue on-campus employment incident to status. Otherwise, an F–1 student may not engage in on-campus employment after completing a course of study, except employment for practical training as authorized under paragraph (f)(10) of this section. An F–1 student may engage in any on-campus employment authorized under this paragraph (f)(9)(i) which will not displace United States residents. In the case of a transfer in SEVIS, the student may only engage in on-campus employment at the school having jurisdiction over the student's SEVIS record. Upon initial entry to begin a new course of study, an F–1 student may not begin on-campus employment more than 30 days prior to the actual start of classes.

(ii) * * *

(A) *General.* An F–1 student may be authorized to work off-campus on a part-time basis in accordance with paragraph (f)(9)(ii)(C) of this section after having been in F–1 status for one full academic year provided that the student is in good academic standing as determined by the DSO. Part-time off-campus employment authorized under this section is limited to no more than 20 hours a week when school is in session. A student who is granted off-campus employment authorization may work full-time during holidays or school vacation. The employment authorization is automatically terminated whenever the student fails to maintain status. In emergent circumstances as determined by the Secretary, the Secretary may suspend the applicability of any or all of the requirements of paragraph (f)(9)(ii) of this section by notice in the **Federal Register**.

* * * * *

(D) *Procedure for off-campus employment authorization due to severe economic hardship.* The student must request a recommendation from the DSO for off-campus employment. The DSO must complete such certification in SEVIS. The DSO may recommend the student for work off-campus for one-year intervals by certifying that:

* * * * *

(F) * * *

(*1*) The applicant should submit the economic hardship application for employment authorization on Form I–765 or successor form, with the fee required by 8 CFR 106.2, and any other supporting materials such as affidavits which further detail the unforeseen circumstances that require the student to seek employment authorization and the unavailability or insufficiency of employment under paragraph (f)(9)(i) of this section to USCIS. Students should submit the Form I–20 or successor form with the employment page demonstrating the DSO's comments and certification. USCIS will adjudicate the application for work authorization based upon severe economic hardship on the basis of Form I–20 and Form I–765 or successor forms, and any additional supporting materials. If employment is authorized, the adjudicating officer will issue an employment authorization document (EAD). USCIS will notify the student of the decision, and, if the application is denied, of the reason or reasons for the denial. No appeal will lie from a decision to deny a request for employment authorization under this section. The employment authorization may be granted in one-year intervals up to the expected date of completion of the student's current course of study. A student has permission to engage in off-campus employment only if the student receives the EAD endorsed to that effect. Off-campus employment authorization may be renewed by USCIS only if the student is maintaining status and good academic standing. The employment authorization is automatically terminated whenever the student fails to maintain status.

* * * * *

(iii) *Internship with an international organization.* A bona fide F–1 student who has been offered employment by a recognized international organization within the meaning of the International Organization Immunities Act (59 Stat. 669) must apply for employment authorization with USCIS. A student seeking employment authorization under this provision is required to present a written certification from the international organization that the proposed employment is within the scope of the organization's sponsorship, Form I–20 or successor form with employment page completed by DSO certifying eligibility for employment, and a completed Form I–765 or successor form, with the fee required by 8 CFR 106.2(a)(32).

(10) *Practical training.* Practical training may be authorized to an F–1 student who has been lawfully enrolled on a full-time basis, in an approved SEVP-certified college, university, conservatory, or seminary for one full academic year. This paragraph (f)(10) also includes students who, during their course of study, were enrolled in a study abroad program, if the student had spent at least one full academic term enrolled in a full course of study in the United States prior to studying abroad. A student may be authorized 12 months of practical training, and becomes eligible for another 12 months of practical training when they change to a higher educational level. Students in English language training programs are ineligible for practical training. An eligible student may request employment authorization for practical training in a position that is directly related to their major area of study. There are two types of practical training available:

(i) *Curricular practical training.* An F–1 student may be authorized by the DSO to participate in a curricular practical training program that is an integral part of an established curriculum. Curricular practical training is defined to be alternative work/study, internship, cooperative education or any other type of required internship or practicum that is offered by sponsoring employers through cooperative agreements with the school. Students who have received one year or more of full time curricular practical training are ineligible for post-completion academic training. Exceptions to the one academic year requirement are provided for students enrolled in graduate studies that require immediate participation in curricular practical training. A request for authorization for curricular practical training must be made to the DSO. A student may begin curricular practical training only after receiving their Form I–20 or successor form with the DSO endorsement. To grant authorization for a student to engage in curricular practical training, a DSO will update the student's record in SEVIS as being authorized for curricular practical training that is directly related to the student's major area of study. The DSO will indicate whether the training is full-time or part-time, the employer and location, and the employment start and end date. The DSO must sign, date, and return the Form I–20 or successor form to the student prior to the student's commencement of employment indicating that curricular practical training has been approved.

* * * * *

(16) * * *

(i) *General.* USCIS may consider reinstating a student who makes a request for reinstatement on Form I–539, Application to Extend/Change Nonimmigrant Status, accompanied by a properly completed Form I–20 or successor form indicating the DSO's recommendation for reinstatement. USCIS may consider granting the request if the student:

* * * * *

(B) Does not have a record of repeated or willful violations of DHS regulations;

(C) Is currently pursuing, or intending to pursue, a full course of study in the immediate future at the school which issued the Form I–20 or successor form;

* * * * *

(F) Establishes to the satisfaction of USCIS, by a detailed showing, either that:

* * * * *

(ii) *Decision.* The adjudicating officer will update SEVIS to reflect USCIS' decision. If USCIS does not reinstate the student, the student may not appeal the decision.

(17) *Current name and address.* A student must inform DHS and the DSO of any legal changes to the student's name or of any change of address, within 10 days of the change, in a manner prescribed by the school. A student can satisfy the requirement in 8 CFR 265.1 of notifying DHS by providing a notice of a change of address within 10 days to the DSO, and the DSO in turn must enter the information in SEVIS within 21 days of notification by the student. Except in the case of a student who cannot receive mail where the student resides, the address provided by the student must be the actual physical location where the student resides rather than a mailing address. In cases where a student provides a mailing address, the school must maintain a record of, and must provide upon request from DHS, the actual physical location where the student resides.

* * * * *

(m) * * *

(1) * * *

(i) * * *

(A) The student presents a Form I–20 or successor form issued in the student's own name by a school certified by SEVP for attendance by M–1 foreign students;

(B) The student has documentary evidence of financial support in the amount indicated on the SEVIS Form I–20 or successor form; and

(C) For students seeking initial admission only, the student intends to attend the school specified in the student's visa (or, where the student is exempt from the requirement for a visa, the school indicated on the Form I–20 or successor form.

(ii) [Reserved]

(iii) *Use of SEVIS.* Schools must issue a Form I–20 or successor form in SEVIS to any current student requiring a reportable action (*e.g.,* extension of stay, practical training, and requests for employment authorization) or a new Form I–20 or successor form, or for any aliens who must obtain a new nonimmigrant student visa.

(2) *Student maintenance of Form I–20 or successor form.* An M–1 student is expected to retain for safekeeping the initial Form I–20 or successor form bearing the admission number and any subsequent Form I–20 or successor form issued to the student. Should the student lose their current Form I–20 or successor form, a replacement copy bearing the same information as the lost copy, including any endorsement for employment and notations, should be issued by the DSO as defined in § 214.3(l)(1).

(3) *Admission of the spouse and minor children of an M–1 student.* The spouse and minor children accompanying an M–1 student are eligible for admission in M–2 status if the student is admitted in M–1 status. The spouse and minor children following-to-join an M–1 student are eligible for admission to the United States in M–2 status if they are able to demonstrate that the M–1 student has been admitted and is, or will be within 30 days, enrolled in a full course of study, or engaged in approved practical training following completion of studies. In either case, at the time they seek admission, the eligible spouse and minor children of an M–1 student must individually present a Form I–20 or successor form issued in the name of each M–2 dependent issued by a school certified by SEVP for attendance by M–1 students. A new Form I–20 or successor form is required for a dependent where there has been any substantive change in the M–1 student's current information.

(4) * * *

(i) * * *

(A) A properly endorsed Form I–20 or successor form if there has been no substantive change in the information on the student's most recent Form I–20 or successor form since the form was initially issued; or

(B) A new Form I–20 or successor form if there has been any substantive change in the information on the student's most recent Form I–20 or successor form since the form was initially issued.

(ii) *Student who transferred between schools.* If an M–1 student has been authorized to transfer between schools and is returning to the United States from a temporary absence in order to attend the school to which transfer was authorized as indicated on the student's Form I–20 or successor form, the name of the transfer-in school does not need to be specified in the student's visa.

* * * * *

(9) *Full course of study.* Successful completion of the course of study must lead to the attainment of a specific educational or vocational objective. A course of study at an institution not certified for attendance by foreign students as provided in § 214.3(a)(3) does not satisfy this requirement. A ''full course of study'' as required by section 101(a)(15)(M)(i) of the Act means—

(i) *Community college or junior college.* Study at a community college or junior college, certified by a school official to consist of at least twelve semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter-hour systems, where all students enrolled for a minimum of twelve semester or quarter hours are charged full-time tuition or considered full-time for other administrative purposes, or its equivalent (as determined by SEVP in the school certification process) except when the student needs a lesser course load to complete the course of study during the current term;

(ii) *Postsecondary vocational or business school.* Study at a postsecondary vocational or business school, other than in a language training program except as provided in § 214.3(a)(2)(iv), which confers upon its graduates recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three other institutions of higher learning which are either:

(A) A school (or school system) owned and operated as a public educational institution by the United States or a State or political subdivision thereof; or

(B) A school accredited by a nationally recognized accrediting body; and which has been certified by a designated school official to consist of at least 12 clock hours of instruction a week, or its equivalent as determined by SEVP in the school certification process;

* * * * *

(vi) *Reduced course load.* The designated school official may authorize an M–1 student to engage in less than a full course of study only where the student has been compelled by illness or a medical condition that has been documented by a licensed medical doctor, psychiatrist, doctor of osteopathy, licensed psychologist, or clinical psychologist to interrupt or reduce their course of study. A DSO may not authorize a reduced course load for more than an aggregate of 5 months per course of study. An M–1 student previously authorized to drop below a full course of study due to illness or medical condition for an aggregate of 5 months, may not be authorized by the DSO to reduce their course load on subsequent occasions during their particular course of study.

(A) [Reserved]

(B) *Reporting requirements.* In order for a student to be authorized to drop below a full course of study, the DSO must update SEVIS prior to the student reducing their load.

* * * * *

(10) * * *

(ii) *Application.* A student must apply to USCIS for an extension on Form I–539, Application to Extend/Change Nonimmigrant Status or successor form. A student's M–2 spouse and children seeking an extension of stay must be included in the application. The student must submit the application at least 15 days but not more than 60 days before the program end date on the student's Form I–20 or successor form. The application must also be accompanied by the student's Form I–20 or successor form and the Form I–94 of the student's spouse and children, if applicable.

* * * * *

(iv) *SEVIS update.* The Form I–20 or successor form must be endorsed with the recommendation and new program end date for submission to USCIS, with Form I–539 or successor form, and Form I–94 if applicable.

(11) * * *

(ii) *Transfer procedure.* A student must apply to USCIS on Form I–539 or successor form, for permission to transfer between schools. Upon application for school transfer, a student may affect the transfer subject to approval of the application. A student who transfers without complying with this requirement or whose application is denied after transfer (pursuant to this section) is considered to be out of status. If the application is approved, the approval date of the transfer will be determined to be the program start date listed on the Form I–20 or successor form, and the student will be granted an extension of stay for the period of time necessary to complete the new course of study plus 30 days, or for a total period of one year, whichever is less. The student must first notify their current school (the ''transfer-out'' school) of the intent to transfer and indicate the school to which the student intends to transfer

(the ''transfer-in'' school). Upon notification by the student, the transfer-out school must update SEVIS to show the student is transferring out, indicate the transfer-in school, and input the transfer release date. Once SEVIS is updated, the transfer-in school may generate a Form I–20 or successor form for transfer. However, the transfer-in school will not gain access to the student's SEVIS record until the release date. Upon receipt of the Form I–20 or successor form from the transfer-in school, the student must submit Form I–539 or successor form in accordance with this paragraph (m)(11). The student may enroll in the transfer-in school at the next available term or session and is required to notify the DSO of the transfer-in school immediately upon beginning attendance. The transfer-in school must update the student's registration record in SEVIS in accordance with § 214.3(g)(2)(iii). Upon approval of the transfer application, USCIS will transmit the approval of the transfer to SEVIS. If the application for transfer is denied, the student is out of status, and the student's record must be terminated in SEVIS.

* * * * *

(14) * * *

(ii) *Application.* An M–1 student must apply for permission to accept employment for practical training on Form I–765 or successor form, with fee as contained in 8 CFR part 106, accompanied by a properly endorsed Form I–20 or successor form by the DSO for practical training. The application must be submitted before the program end date listed on the student's Form I–20 or successor form but not more than 90 days before the program end date. By recommending practical training in SEVIS and endorsing the Form I–20 or successor form, the DSO certifies that—

* * * * *

(iii) *Duration of practical training.* When the student is authorized to engage in employment for practical training, they will be issued an EAD. The M–1 student may not begin employment until he or she has been issued an EAD by USCIS. One month of employment authorization will be granted for each four months of full-time study that the M–1 student has completed. However, an M–1 student may not engage in more than six months of practical training in the aggregate. The student will not be granted employment authorization if he or she cannot complete the requested practical training within six months.

(iv) *Temporary absence of M–1 student granted practical training.* An M–1 student who has been granted permission to accept employment for practical training and who temporarily departs from the United States, may be readmitted for the remainder of the authorized period indicated on the student's Form I–20 or successor form. The student must be returning to the United States to perform the authorized practical training. A student may not be readmitted to begin practical training which was not authorized prior to the student's departure from the United States.

(v) *Effect of strike or other labor dispute.* Authorization for all employment for practical training is automatically suspended upon certification by the Secretary of Labor or the Secretary's designee to the Secretary of Homeland Security or the Secretary's designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation at the place of employment. As used in this paragraph (m)(14)(v), ''place of employment'' means wherever the employer or joint employer does business.

(vi) *SEVP process.* The DSO must update the student's record in SEVIS to recommend that USCIS approve the student for practical training, and generate a Form I–20 or successor form with the recommendation, for the student to submit to USCIS with Form I–765 as provided in this paragraph (m)(14).

* * * * *

(16) * * *

(i) *General.* USCIS may consider reinstating a student who makes a request for reinstatement on Form I–539, Application to Extend/Change Nonimmigrant Status or successor form, accompanied by a properly completed Form I–20 or successor form indicating the DSO's recommendation for reinstatement. USCIS may consider granting the request only if the student:

* * * * *

(B) Does not have a record of repeated or willful violations of DHS regulations;

(C) Is currently pursuing, or intends to pursue, a full course of study at the school which issued the Form I–20 or successor form;

* * * * *

(F) Establishes to the satisfaction of USCIS, by a detailed showing, either that:

* * * * *

(ii) *Decision.* The adjudicating officer will update SEVIS to reflect USCIS's decision. If USCIS does not reinstate the student, the student may not appeal the decision.

* * * * *

(18) *Current name and address.* A student must inform DHS and the DSO of any legal changes to the student's name or of any change of address, within 10 days of the change, in a manner prescribed by the school. A student can satisfy the requirement in 8 CFR 265.1 of notifying DHS by providing a notice of a change of address within 10 days to the DSO, and the DSO in turn must enter the information in SEVIS within 21 days of notification by the student. Except in the case of a student who cannot receive mail where the student resides, the address provided by the student must be the actual physical location where the student resides rather than a mailing address. In cases where a student provides a mailing address, the school must maintain a record of, and must provide upon request from DHS, the actual physical location where the student resides.

(19) * * *

(i) *Applicability.* For purposes of the special rules in this paragraph (m)(19), the term ''border commuter student'' means a national of Canada or Mexico who is admitted to the United States as an M–1 student to enroll in a full course of study, albeit on a part-time basis, in a certified school located within 75 miles of a United States land border. The border commuter student must maintain actual residence and place of abode in the student's country of nationality, and seek admission to the United States at a land border port-of-entry. These special rules do not apply to a national of Canada or Mexico who is:

(A) Residing in the United States while attending a certified school as an M–1 student; or

* * * * *

(ii) *Full course of study.* A designated school official at the school may authorize an eligible border commuter student to enroll in a course load below that otherwise required for a full course of study under paragraph (m)(9) of this section, provided that the reduced course load is consistent with the border commuter student's certified course of study.

* * * * *

■ 4. Amend § 214.3 as follows:

■ a. The section heading, paragraphs (a)(1) introductory text, (a)(1)(ii), (a)(2) paragraph heading, (a)(2)(i) introductory text, (a)(2)(i)(A), and (F), (a)(2)(ii) introductory text, (a)(2)(iii) and (iv), (a)(2)(v) introductory text, and (a)(2)(v)(B), and (C) are revised.

■ b. In paragraph (a)(3)(ii)(A), add the word ''and'' to end of the paragraph.

■ c. Paragraphs (b) and (c) and the last sentence in paragraph (e)(4)(ii) are revised.
■ d. In paragraph (e)(5), remove the word ''initial''.
■ e. Paragraphs (e)(8), (g)(1) introductory text, (h)(1) introductory text, (h)(1)(i) and (ii), and (h)(2)(i) introductory text are revised.
■ f. In paragraph (j), remove ''approved'' and ''approval'' and add in their place ''SEVP-certified'' and ''certification'', respectively.
■ g. In paragraph (l)(1) introductory text, remove the references ''§§ 214.1(b), 214.2(b), 214.2(f), 214.2(m), 214.4'' and add in their place ''§§ 214.2(f) and (m), 214.3 and 214.4''.
■ h. In paragraph (l)(1)(ii), remove the phrase ''his or her'' and add in its place ''their'' in the second sentence and add the phrase ''at the main campus'' after ''PDSO'' in the third sentence.
■ i. In paragraph (l)(2), revise the paragraph heading and remove ''sample'' in the first sentence.
■ j. In paragraph (l)(3), remove ''approval'' and ''the Service'' and add in their place ''certification'' and ''DHS'', respectively.

The revisions read as follows:

**§ 214.3 Certification and recertification of schools for enrollment of F and M nonimmigrants.**

(a) * * *

(1) *General.* A school or school system seeking certification or recertification for attendance by nonimmigrant students under sections 101(a)(15)(F) or 101(a)(15)(M) of the Act, or both, must file a petition for certification or recertification with SEVP, using the Student and Exchange Visitor Information System (SEVIS), in accordance with the procedures at paragraph (h) of this section. The petition must state whether the school or school system is seeking certification or recertification for attendance of nonimmigrant students under section 101(a)(15)(F) or 101(a)(15)(M) of the Act or both. The petition must identify by name and address each location of the school that is included in the petition for certification or recertification, specifically including any physical location in which a nonimmigrant can attend classes through the school (*i.e.,* campus, extension campuses, satellite campuses, etc.).

* * * * *

(ii) *Submission requirements.* Certification and recertification petitions require that a complete Form I–17, Petition for Approval of School for Attendance by Nonimmigrant Student, bearing signatures, be included with the school's submission of supporting documentation. In submitting the Form I–17, a school certifies that the designated school officials (DSOs) signing the form have read and understand DHS regulations relating to: nonimmigrant students at § 214.1, 214.2(f), and/or 214.2(m); change of nonimmigrant classification for students at 8 CFR part 248; school certification and recertification under this section; withdrawal of school certification under this section and §§ 214.4; that both the school and its DSOs intend to comply with these regulations at all times; and that, to the best of its knowledge, the school is eligible for SEVP certification. Willful misstatements may constitute perjury (18 U.S.C. 1621).

(2) *Certification for F–1 or M–1 classification, or both*—(i) *F–1 classification.* The following schools may be certified for attendance by nonimmigrant students under section 101(a)(15)(F) of the Act:

(A) A college or university, *i.e.,* an institution of higher learning which awards recognized bachelor's, master's, doctor's or professional degrees.

* * * * *

(F) A private elementary or middle school.

* * * * *

(ii) *M–1 classification.* The following schools are considered to be vocational or nonacademic institutions and may be certified for attendance by nonimmigrant students under section 101(a)(15)(M) of the Act:

* * * * *

(iii) *Both F–1 and M–1 classification.* A school may be certified for attendance by nonimmigrant students under both sections 101(a)(15)(F) and 101(a)(15)(M) of the Act if it has both instruction in the liberal arts, fine arts, language, religion, or the professions and vocational or technical training. In that case, a student whose primary intent is to pursue studies in liberal arts, fine arts, language, religion, or the professions at the school is classified as a nonimmigrant under section 101(a)(15)(F) of the Act. A student whose primary intent is to pursue vocational or technical training at the school is classified as a nonimmigrant under section 101(a)(15)(M) of the Act.

(iv) *English language training for a vocational student.* A student whose primary intent is to pursue vocational or technical training who takes English language training at the same school solely for the purpose of being able to understand the vocational or technical course of study is classified as a nonimmigrant under section 101(a)(15)(M) of the Act.

(v) *Schools not qualified for attendance.* The following may not be certified for attendance by foreign students:

* * * * *

(B) A public elementary or middle school; or

(C) An adult education program, as defined by section 203(1) of the Adult Education and Family Literacy Act, Public Law 113–128, as amended, U.S.C. 3272(1), if the adult education program is funded in whole or in part by a grant under the Adult Education and Family Literacy Act, or by any other Federal, State, county, or municipal funding. * * *

(b) *Supporting documents.* Schools petitioning for certification or recertification must submit the following supporting documents:

(1) *Licensure, approval, and accreditation documents.* A charter will not be considered a license, approval, or accreditation.

(i) *Public Schools.* A petitioning school or school system owned and operated as a public educational institution or system by the United States or a State or a political subdivision thereof must submit a certification to that effect signed by the authorized public official. The official must certify that they are authorized to do so.

(ii) *Private elementary, middle, or secondary schools.* A petitioning private elementary, middle, or secondary school or school system must submit a certification signed by the authorized public official that it meets the requirements of the State or local public educational system. The official must certify that they are authorized to do so.

(iii) *Any other school.* Any other petitioning school not included under paragraph (b)(1)(i) or (ii) of this section must submit a certification that—

(A) The school is licensed, approved, or accredited by the authorized official, who must certify that they are authorized to do so; or

(B) If the school offers courses recognized by a State-approving agency as appropriate for study for veterans under the provisions of 38 U.S.C. 3675 and 3676, in lieu of such certification provided in paragraph (b)(1)(i)(A) of this section, the school may submit a statement of recognition signed by the authorized official of the State approving agency, who must certify that they are authorized to do so.

(2) *School operations information.* Private schools that are not accredited by a nationally recognized accrediting body or operated as part of a school that is accredited by a nationally recognized

accrediting body must submit a school catalog, if one is issued. If not included in the catalog, or if a catalog is not issued, the school must furnish a written statement containing the following information listed in paragraphs (b)(2)(i) through (vii) of this section:

(i) Size of its physical facilities;

(ii) Nature of its facilities for study and training;

(iii) Educational, vocational, or professional qualifications of the teaching staff;

(iv) Salaries of the teachers;

(v) Attendance and scholastic grading policy;

(vi) Amount and character of supervisory and consultative services available to students and trainees; and

(vii) Finances, including a certified copy of the accountant's last statement of school's net worth, income, and expenses.

(c) *Additional evidence*—(1) *Vocational, business, and language schools, and American institutions of research.* A petitioning vocational, business, or language school, or an American institution of research recognized as such by the Secretary of Homeland Security must submit evidence that its courses of study are accepted as fulfilling the requirements for the attainment of an educational, professional, or vocational objective, and have not been designated vocational or recreational through the appropriate licensing or approval officials.

(2) *Unaccredited private elementary, middle, and secondary schools.* A petitioning private elementary, middle, or secondary school that is not accredited by a nationally recognized accrediting body or operated by a school that is accredited by a nationally recognized accrediting body must submit evidence that attendance at the petitioning school—

(i) Satisfies the compulsory attendance requirements of the State in which it is located; and

(ii) Qualifies graduates for acceptance by schools of a higher educational level by a public school, a school accredited by a nationally recognized accrediting body, or a secondary school operated by a school that is accredited by a nationally recognized accrediting agency.

(3) *Unaccredited private institutions of higher learning.* A private institution of higher learning that is not accredited by a nationally recognized accrediting body must submit evidence that—

(i) It confers upon its graduates recognized bachelor, master, doctor, professional or divinity degrees; or

(ii) If it does not confer such degrees, its credits have been and are accepted unconditionally by at least three other institutions of higher learning that are public or accredited by a nationally recognized accredited body.

* * * * *

(e) * * *

(4) * * *

(ii) * * * A withdrawal for failure to respond to a notice of intent may not be appealed.

* * * * *

(8) *Notice of SEVIS Access Termination Date.* The Notice of SEVIS Access Termination Date gives the official date for the school's denial or withdrawal to be final and SEVIS access to be terminated. In most situations, SEVP will not adjust a SEVIS access termination date for that school when the appeals process has concluded and the denial or withdrawal has been upheld, in accordance with § 214.4(i)(2). The school will no longer be able to access SEVIS and SEVP will automatically terminate any remaining Active SEVIS records for that school on that date.

* * * * *

(g) * * *

(1) *Student records.* An SEVP-certified school must keep records containing certain specific information and documents relating to each F–1 or M–1 student to whom it has issued a Form I–20 or successor form, while the student is attending the school and until the school notifies SEVP, in accordance with the requirements of paragraphs (g)(1) and (2) of this section, that the student is no longer pursuing a full course of study at that school. Student information not required for entry in SEVIS may be kept in the school's student system of records, but must be accessible to DSOs. The school must keep a record of having complied with the reporting requirements for at least three years after the student is no longer pursuing a full course of study at that school. The school must maintain records on the student in accordance with paragraphs (g)(1) and (2) of this section if a school recommends reinstatement for a student who is out of status. The school must maintain records on the student for three years from the date of the denial if the reinstatement is denied. The DSO must make the information and documents required by this paragraph (g)(1) available, including academic transcripts, and must furnish them to DHS representatives upon request. Schools must maintain and be able to provide an academic transcript or other routinely maintained student records that reflect the total, unabridged academic history of the student at the institution, in accordance with paragraph (g)(1)(iv) of this section. All courses must be recorded in the academic period in which the course was taken and graded. The information and documents that the school must keep on each student are as follows:

* * * * *

(h) * * *

(1) *Certification.* A school seeking SEVP certification for attendance by nonimmigrants under section 101(a)(15)(F) or 101(a)(15)(M) of the Act must use SEVIS to file an electronic petition (which compiles the data for the Form I–17) and must submit the nonrefundable certification petition fee on-line.

(i) *Filing a petition.* The school must access the SEVP website at *https://www.ice.gov/sevis* to file a certification petition in SEVIS. The school will be issued a temporary SEVIS user ID and password in order to access SEVIS to complete and submit an electronic Form I–17. The school must submit the proper nonrefundable certification petition fee as provided in 8 CFR 103.7(d)(2).

(ii) *Site visit, petition adjudication and school notification.* SEVP will conduct a site visit for each petitioning school and its additional schools or campuses. SEVP will contact the school to arrange the site visit. The school must comply with and complete the visit within 30 days after the date SEVP contacts the school to arrange the visit, or the petition for certification will be denied as abandoned. DSOs and school officials that have signed the school's Form I–17 petition must be able to demonstrate to DHS representatives how they obtain access to the regulations cited in the certification petition as part of the site visit. Paper or electronic access is acceptable. DSOs must be able to extract pertinent citations within the regulations related to their requirements and responsibilities. SEVP will serve a notice of approval and SEVIS will be updated to reflect the school's certification if SEVP authorizes the school's certification petition.

* * * * *

(2) * * *

(i) *Filing of petition for recertification.* Schools must submit a completed Form I–17 (including any supplements and bearing signatures of all officials) using SEVIS. SEVP will notify all DSOs of a previously certified school 180 days prior to the school's certification expiration date that the school may submit a petition for recertification. A school may file its recertification

petition at any time after receipt of this notification. A school must submit a complete recertification petition package, as outlined in the submission guidelines, by its certification expiration date. SEVP will send a notice of confirmation of complete filing or rejection to the school upon receipt of any filing of a petition for recertification.

* * * * *

(1) * * *

(2) *Name, title, and signature.* * * *

* * * * *

■ 5. Amend § Section 214.4 as follows:

■ a. In paragraph (a)(2) introductory text, remove the references to ''8 CFR 214.3(h)(3)(v)'', ''101(a)(15)(F)(i)'', and ''101(a)(15)(M)(i)'' and add in their place ''§ 214.3(h)(2)(v)'', ''101(a)(15)(F)'', and ''101(a)(15)(M)'', respectively.

■ b. In paragraph (a)(2)(iv), add ''or successor form'' after ''Form I–20''.

■ c. In paragraph (a)(2)(viii), remove the phrase ''paper copies of'' and add in its place ''with''.

■ d. In paragraphs (a)(2)(x) through (xix), add ''or successor form'' after ''Form I–20'' wherever it appears.

■ e. In paragraph (a)(3) introductory text, remove the reference ''8 CFR 214.3(h)(1)'' and add in its place ''§ 214.3(h)''.

■ f. Revise the first and last sentences of paragraph (a)(3)(iii).

■ g. Remove paragraph (a)(4).

■ h. In paragraph (c), remove ''approval'' and add in its place ''certification''.

■ i. Revise paragraph (d).

■ j. In paragraph (e), remove ''approval'' and add in its place ''certification''.

■ k. In paragraph (f)(1), remove ''approval'' and ''shall'' and add in their place ''certification'' and ''will'', respectively.

■ l. In paragraph (f)(2):

■ i. Remove ''shall'' and add in its place ''will'';

■ ii. Remove ''In'' and add in its place ''At''; and

■ iii. Remove the phrase ''the district director'' and add in its place ''SEVP''.

■ m. In paragraph (h), remove the phrase ''of the approval''; and remove the reference ''8 CFR 103.7(b)(1)(ii)(O)'' and add in its place ''8 CFR 103.7(d)(15)''.

■ n. In paragraph (i)(1), remove the phrase ''Certificate of Eligibility for Nonimmigrant Student'' and add in its place ''Certificate of Eligibility for Nonimmigrant Student Status, or successor form,''.

■ o. In paragraph (i)(2), remove the word ''initial'' in the second sentence.

The revisions read as follows:

**§ 214.4 Denial of certification, denial of recertification, or withdrawal of SEVP certification.**

(a) * * *

(3) * * *

(iii) Sixty days after the occurrence of the change of ownership if the school failed to update its information in accordance with § 214.3(h)(1) or properly file a new petition, SEVP will review the petition if the school properly files such petition to determine whether the school still meets the eligibility requirements of § 214.3(a)(3) and is still in compliance with the recordkeeping, retention, reporting and other requirements of § 214.3(f), (g), (j), (k), and (l). *** SEVP will institute withdrawal proceedings in accordance with paragraph (b) of this section if, upon completion of the review, SEVP finds that the school is no longer eligible for certification, or is not in compliance with the recordkeeping, retention, reporting and other requirements of § 214.3(f), (g), (j), (k), and (l), or failed to file a new petition within the allowable 60-day timeframe.

* * * * *

(d) *Allegations admitted or no answer filed.* If the school or school system admits all of the allegations in the notice of intent to withdraw certification, or if the school or school system fails to file an answer within the 30-day period, SEVP will withdraw the certification previously granted and notify the designated school official of the decision. No appeal of SEVP's decision will be accepted if all allegations are admitted or no answer is filed within the 30-day period.

* * * * *

■ 6. Remove and reserve § 214.12.

■ 7. Amend § 214.13 as follows:

■ a. In paragraph (a)(1), add a comma and '' middle,'' after the word ''elementary''.

■ b. Remove paragraph (b)(3).

■ c. In paragraphs (d)(1) and (d)(2), remove the phrase ''a DHS approved'' and add in its place ''an SEVP-certified''.

■ d. In paragraph (d)(4), remove the term ''Status'' and add in its place ''States''.

■ d. In paragraph (g)(1)(i), remove the reference ''8 CFR 103.7(a)(1)'' and add in its place ''8 CFR 103.7(d)(8)''.

■ e. In paragraph (g)(4), remove the phrase ''an approved'' and add in its place ''a certified''.

**Alejandro N. Mayorkas,**

*Secretary, U.S. Department of Homeland Security.*

[FR Doc. 2022–26013 Filed 12–8–22; 11:15 am]

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2022–1583; Project Identifier MCAI–2022–01486–T; Amendment 39–22282; AD 2022–25–51]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. The FAA previously sent this AD as an emergency AD to all known U.S. owners and operators of these airplanes. This AD was prompted by reports of the autopilot/autothrottle system design resulting in inadvertent engagement of the autopilot when the flightcrew was attempting to engage the autothrottle late into the take-off phase or when attempting to re-engage the autothrottle during takeoff after uncommanded disconnect. This AD requires revising the Limitations section of the existing airplane flight manual (AFM) by revising the title of the existing autopilot AFM limitation, include a new warning prior to the existing autopilot engagement limitations, and include a new limitation prohibiting selecting or reselecting autothrottle during takeoff after thrust levers are advanced to the takeoff setting after the existing autopilot engagement limitations. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective December 27, 2022. Emergency AD 2022–25–51, issued on November 22, 2022, which contained the requirements of this amendment, was effective with actual notice.

The FAA must receive comments on this AD by January 26, 2023.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–