

fails to remain in compliance with this section.

[58 FR 15196, Mar. 19, 1993, as amended at 59 FR 34761, July 7, 1994]

§ 514.15 Annual reports.

Sponsors shall submit an annual report to the Agency. An illustrative form of such report may be found at Appendix D to this part. Such report shall be filed on an academic or calendar year basis, as directed by the Agency, and shall contain the following:

(a) *Program report and evaluation.* A brief summary of the activities in which exchange visitors were engaged, including an evaluation of program effectiveness;

(b) *Reciprocity.* A description of the nature and extent of reciprocity occurring in the sponsor's exchange visitor program during the reporting year;

(c) *Cross-cultural activities.* A summary of the cross-cultural activities provided for its exchange visitors during the reporting year;

(d) *Proof of insurance.* Certification of compliance with insurance coverage requirements set forth in § 514.14.

(e) *Form IAP-66 usage.* A report of Form IAP-66 usage during the reporting year setting forth the following information:

(1) The total number of blank Forms IAP-66 received from the Agency during the reporting year;

(2) The total number of Forms IAP-66 voided or destroyed by the sponsor during the reporting year and the document numbers of such forms;

(3) The total number of Forms IAP-66 issued to potential exchange visitors that were returned to the sponsor or not used for entry into the United States; and

(4) The total number and document identification number sequence of all blank Forms IAP-66 in the possession of the sponsor on the date of the report.

(f) *Program participation.* A numerical count, by category, of all exchange visitors participating in the sponsor's program for the reporting year.

(g) *Redesignation.* Sponsors may indicate their desire for redesignation, pursuant to § 514.7, by marking the appropriate box on their annual report.

§ 514.16 Employment.

(a) An exchange visitor may receive compensation from the sponsor or the sponsor's appropriate designee for employment when such activities are part of the exchange visitor's program.

(b) An exchange visitor who engages in unauthorized employment shall be deemed to be in violation of his or her program status and is subject to termination as a participant in an exchange visitor program.

(c) The acceptance of employment by an accompanying spouse or minor child of an exchange visitor is governed by Immigration and Naturalization Service regulations.

§ 514.17 Fees and charges. [Reserved]

Subpart B—Specific Program Provisions

§ 514.20 Professors and research scholars.

(a) *Introduction.* These regulations govern professors and research scholars, except:

(1) Alien physicians in graduate medical education or training, who are governed by regulations set forth at § 514.27; and

(2) Short-term scholars, who are governed by regulations set forth at § 514.21.

(b) *Purpose.* A primary purpose of the Exchange Visitor Program is to foster the exchange of ideas between Americans and foreign nationals and to stimulate international collaborative teaching and research efforts. The exchange of professors and research scholars promotes interchange, mutual enrichment, and linkages between research and educational institutions in the United States and foreign countries. It does so by providing foreign professors and research scholars the opportunity to engage in research, teaching, and lecturing with their American colleagues, to participate actively in cross-cultural activities with Americans, and ultimately to share with their fellow citizens their experiences and increased knowledge about the United States and their substantive fields.

(c) *Designation.* The Agency may, in its sole discretion, designate *bona fide*

programs which offer foreign nationals the opportunity to engage in research, teaching, lecturing, observing, or consulting at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions in the United States.

(d) *Visitor eligibility.* An individual may be selected for participation in the Exchange Visitor Program as a professor or research scholar subject to the following conditions:

(i) The participant shall not be a candidate for tenure track position; and

(ii) The participant has not been physically present in the United States as a nonimmigrant pursuant to the provisions of 8 U.S.C. 1101(a)(15)(J) for all or part of the twelve month period immediately preceding the date of program commencement set forth on his or her Form IAP-66, unless:

(A) The participant is transferring to the sponsor's program as provided in §514.42; or

(B) The participant's presence in the United States was of less than six months duration; or

(C) The participant's presence in the United States was pursuant to a Short-term scholar exchange activity as authorized by §514.21.

(e) *Insurance of Form IAP-66.* The Form IAP-66 shall be issued only after the professor or research scholar has been accepted by the institution(s) where he or she will participate in an exchange visitor program.

(f) *Location of the exchange.* Professors or research scholars shall conduct their exchange activity at the location(s) listed on the Form IAP-66, which could be either at the location of the exchange visitor sponsor or the site of a third party facilitating the exchange. An exchange visitor may also engage in activities at locations not listed on the Form IAP-66 if such activities constitute occasional lectures or consultations as permitted by §514.20(g).

(g) *Occasional lectures or consultations.* Professors and research scholars may participate in occasional lectures and short-term consultations, unless disallowed by the sponsor. Such lectures and consultations must be incidental to the exchange visitor's primary pro-

gram activities. If wages or other remuneration are received by the exchange visitor for such activities, the exchange visitor must act as an independent contractor, as such term is defined in 8 CFR 274a.1(j), and the following criteria and procedures shall be satisfied:

(1) *Criteria.* The occasional lectures or short-term consultations shall:

(i) Be directly related to the objectives of the exchange visitor's program;

(ii) Be incidental to the exchange visitor's primary program activities; and

(iii) Not delay the completion date of the visitor's program.

(2) *Procedures.*

(i) To obtain authorization to engage in occasional lectures or short-term consultations involving wages or other remuneration, the exchange visitor shall present to the responsible officer:

(A) A letter from the offeror setting forth the terms and conditions of the offer to lecture or consult, including the duration, number of hours, field or subject, amount of compensation, and description of such activity; and

(B) A letter from his or her department head or supervisor recommending such activity and explaining how it would enhance the exchange visitor's program.

(ii) The responsible officer shall review the letters required in §514.20(g)(2)(i) above and make a written determination whether such activity is warranted and satisfies the criteria set forth in §514.20(g)(1).

(h) *Category.* At the discretion of the responsible officer, professors may freely engage in research and research scholars may freely engage in teaching and lecturing, unless disallowed by the sponsor. Because these activities are so intertwined, such a change of activity will not be considered a change of category necessitating a formal approval by the responsible officer or approval by the Agency. Any Form IAP-66 issued to the exchange visitor should reflect the current category of the exchange visitor, either professor or research scholar.

(i) *Duration of participation.* The permitted duration of program participation for a professor or research scholar shall be as follows:

(1) *General limitation.* The professor and research scholar shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete his or her program, which time shall not exceed three years.

(2) *Exceptional circumstance.* The Agency may authorize a designated Exchange Visitor Program sponsor to conduct an exchange activity requiring a period of program duration in excess of three years. A sponsor seeking to conduct a discrete activity requiring more than the permitted three years of program duration, but less than six years of program duration, shall make written request to the Agency and secure written Agency approval. Such request shall include:

(i) A detailed explanation of the discrete exchange activity; and

(ii) A certification that the participation of selected research scholars will be financed directly by United States or foreign government funds.

(3) *Change of category.* A change between the categories of professor and research scholar shall not extend an exchange visitor's permitted period of participation beyond three years.

(j) *Extension of program.* Professors and research scholars may be authorized program extensions as follows:

(1) *Responsible officer authorization.* A responsible officer may extend, in his or her discretion and for a period not to exceed six months, the three year period of program participation permitted under § 514.20(i). The responsible officer exercising his or her discretion shall do so only upon his or her affirmative determination that such extension is necessary in order to permit the research scholar or professor to complete a specific project or research activity.

(2) *Agency authorization.* The Agency may extend, upon request and in its sole discretion, the three year period of program participation permitted under § 514.20(i). A request for Agency authorization to extend the period of program participation for a professor or research scholar shall:

(i) Be submitted to the Agency, unless prevented by extraordinary circumstance, no less than 60 days prior to the expiration of the participant's

permitted three year period of program participation; and

(ii) Present evidence, satisfactory to the Agency, that such request is justified due to exceptional or unusual circumstances and is necessary in order to permit the researcher or professor to complete a specific project or research activity.

(3) *Timeliness.* The Agency will not review a request for Agency authorization to extend the three year period of program participation permitted under § 514.20(i) unless timely filed; provided, however, that the Agency reserves the right to review a request that is not timely filed due to extraordinary circumstance.

(4) *Final decision.* The Agency anticipates it will respond to requests for Agency authorization to extend the three year period of program participation permitted under § 514.20(i) within 30 days of Agency receipt of such request and supporting documentation. Such response shall constitute the Agency's final decision.

[58 FR 15196, Mar. 19, 1993; 58 FR 48448, Sept. 16, 1993, as amended at 61 FR 29287, June 10, 1996]

§ 514.21 Short-term scholars.

(a) *Introduction.* These regulations govern scholars coming to the United States for a period of up to four months to lecture, observe, consult, and to participate in seminars, workshops, conferences, study tours, professional meetings, or similar types of educational and professional activities.

(b) *Purpose.* The Exchange Visitor Program promotes the interchange of knowledge and skills among foreign and American scholars. It does so by providing foreign scholars the opportunity to exchange ideas with their American colleagues, participate in educational and professional programs, confer on common problems and projects, and promote professional relationships and communications.

(c) *Designation.* The Agency may, in its sole discretion, designate *bona fide* programs which offer foreign nationals the opportunity to engage in short-term visits for the purpose of lecturing, observing, consulting, training, or