

Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at [http://www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (*see ADDRESSES* section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Alaskan Service Center, Operations Support Group, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267-9677, for a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

### The Proposal

The FAA is proposing an amendment to the Title 14 Code of Federal Regulations (14 CFR) part 71 to revise Jet Route J-120 by removing the segment from Fort Yukon to the BTI NDB. The BTI NDB decommissioning proposal was publicly circulated in Notice number 06-AAL-49NR. After reviewing public comment, the FAA decided that keeping the NDB was not feasible and that it should be decommissioned.

Jet Routes are published in paragraph 2004 of FAA Order 7400.9T, dated August 27, 2009 and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Jet Route listed in this document would be subsequently published in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant

economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify a Jet Route in Alaska.

### Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," prior to any FAA final regulatory action.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

#### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9T, Airspace Designations and Reporting Points, dated August 27, 2009, and effective September 15, 2009, is to be amended as follows:

*Paragraph 2004 Jet Routes*

\* \* \* \* \*

#### J-120 [Amended]

From Mt. Moffett, AK, NDB, via St. Paul Island, AK, NDB; Bethel, AK; McGrath, AK; Fairbanks, AK; to Fort Yukon, AK.

Issued in Washington, DC on February 2, 2010.

**Edith V. Parish,**

*Manager, Airspace and Rules Group.*

[FR Doc. 2010-2709 Filed 2-8-10; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF STATE

### 22 CFR Part 22

[Public Notice: 6887]

RIN 1400-AC58

### Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates

**AGENCY:** Bureau of Consular Affairs, State.

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes adjustments in current fees for consular services. The Department of State is adjusting the fees in light of an independent cost of service study's ("CoSS") findings that the U.S. Government is not fully covering its costs for providing these services under the current fee structure. The primary objective of the adjustments to the Schedule of Fees is to ensure that fees for consular services reflect costs to the United States of providing the services.

**DATES:** Written comments must be received on or before 30 days from February 9, 2010.

**ADDRESSES:** Interested parties may submit comments by any of the following methods:

- Persons with access to the Internet may view this notice and submit comments by going to the regulations.gov Web site at: <http://www.regulations.gov/index.cfm>.

- *Mail (paper, disk, or CD-ROM):* U.S. Department of State, Office of the Executive Director, Bureau of Consular Affairs, U.S. Department of State, Suite H1001, 2401 E Street NW., Washington, DC 20520.

- *E-mail:* [fees@state.gov](mailto:fees@state.gov). You must include the RIN (1400-AC58) in the subject line of your message.

**FOR FURTHER INFORMATION CONTACT:** Amber Baskette, Office of the Executive Director, Bureau of Consular Affairs, Department of State; phone: 202-663-2599, telefax: 202-663-2499; e-mail: [fees@state.gov](mailto:fees@state.gov).

### SUPPLEMENTARY INFORMATION:

#### Background

The proposed rule makes changes to the Schedule of Fees for Consular Services of the Department of State's

Bureau of Consular Affairs ("Schedule of Fees" or "Schedule"), as well as a conforming amendment to 22 CFR 51.51(d). As discussed below, full cost recovery is the basis on which consular fees are ordinarily set and collected. In line with this principle, the Department has reviewed its current consular fees based on a recently completed CoSS, and decided to implement a number of changes to the Schedule of Fees.

Two of these changes are particularly noteworthy. First, the proposed rule establishes a tiered application processing fee for immigrant visas depending on the category, as determined by the cost to the U.S. Government of processing that particular category of visa. Second, the proposed rule increases the adult passport book application fee from \$55 to \$70 to make this fee more consistent with full cost recovery. Moreover, certain consular services performed for no fee are included in the Schedule so that members of the public will be aware of significant consular services provided by the Department for which they will not be charged.

Nonimmigrant visa fees, including fees for Machine-Readable Visas (MRVs) and Border Crossing Cards (BCCs), have been modified pursuant to a separate rule published December 14, 2009. These modified fees are reflected in Item 21 of the Schedule below.

#### What Is the Authority for This Action?

The Department of State derives the general authority to set the amount of fees for the consular services it provides, and to charge those fees, from the general user charges statute, 31 U.S.C. 9701. *See, e.g.*, 31 U.S.C. 9701(b)(2)(A) ("The head of each agency \* \* \* may prescribe regulations establishing the charge for a service or thing of value provided by the agency \* \* \* based on \* \* \* the costs to the Government \* \* \*"). As implemented through Executive Order 10718 of June 27, 1957, 22 U.S.C. 4219 further authorizes the Department to establish fees to be charged for official services provided by U.S. embassies and consulates. Other authorities allow the Department to charge fees for consular services, but not to determine the amount of such fees, as the amount is statutorily determined. Examples include: (1) The \$13 fee for machine-readable BCCs for certain Mexican citizen minors, Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 105-277, 112 Stat. 2681-50, Div. A, Title IV, sec. 410(a) (reproduced at 8 U.S.C. 1351 note); and (2) the reciprocal

nonimmigrant visa issuance fee, 8 U.S.C. 1351.

A number of other statutes address specific fees relating to passport processing, immigrant and nonimmigrant visa processing, and overseas citizens services. For example, 22 U.S.C. 214 authorizes the Department to charge passport application and execution fees. Another law authorizes the Department to establish a fee for the processing of applications for "diversity visas," to recover the costs of the "visa lottery" program conducted under Immigration and Nationality Act (INA) sections 203 and 222, 8 U.S.C. 1153, 1201. *See* Omnibus Consolidated Appropriations Act, 1997, Public Law 104-208, 110 Stat. 3009, Div. C, Title VI, § 636 (reproduced at 8 U.S.C. 1153 note). Only those applicants who register in the lottery and are selected may apply for a visa, and those who choose to apply must pay the fee; the fee incorporates the costs to the Department of administering the lottery program. *Id.* Another statute authorizes the Department to collect and retain surcharges on passports and immigrant visas to help pay for efforts to enhance border security. *See* 8 U.S.C. 1714. While these fees were originally frozen statutorily at \$12 and \$45 respectively, subsequent legislation authorized the Department to amend these amounts administratively, provided the resulting surcharge is "reasonably related to the costs of providing services in connection with the activity or item for which the surcharges are charged." Department of State Authorities Act of 2006, Public Law 109-472, 120 Stat. 3554, sec. 6(b)(1) (reproduced at 8 U.S.C. 1714 note). Furthermore, several statutes deal with fees for nonimmigrant visas, including the issuance fee statute described above, 8 U.S.C. 1351 (establishing reciprocity as the basis for the nonimmigrant visa issuance fee), and the MRV and BCC fees modified in the proposed rule published in the **Federal Register** on December 14, 2009.

Certain persons are exempted by law or regulation from paying specific fees or are expressly made subject to a special fee regime by law. These are noted in the Schedule of Fees below. They include, for instance, several exemptions from the nonimmigrant visa application fee for certain individuals who engage in charitable activities or who qualify for diplomatic visas. *See* 8 U.S.C. 1351; 22 CFR 41.107(c). Certain Iraqi and Afghan nationals are similarly exempt from paying an immigrant visa application fee. *See* National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, 122 Stat. 3, Div. A, Title XII, sec. 1244(d) (reproduced at 11

U.S.C. 1157 note); Omnibus Appropriations Act, 2009, Public Law 111-8, 123 Stat. 524, Div. F, Title VI, sec. 602(b)(4) (reproduced at 8 U.S.C. 1101 note). As another example, qualifying Mexican citizen minors pay a special BCC fee well below what it costs the Department to process such cards. Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 105-277, Div. A, Title IV, sec. 410(a), *reproduced at* 8 U.S.C. 1351 note.

While for most consular fees, the funds collected must be deposited into the Treasury, various statutes permit the Department to retain the fees it collects. Among these are the following: (1) The MRV and BCC fees, Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 103-236, Title I, sec. 140(a)(2), 112 Stat. 2681-50 (reproduced at 8 U.S.C. 1351 note); (2) the passport expedite fee, Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995, Public Law 103-317, 108 Stat. 1724, Title V (reproduced at 22 U.S.C. 214 note); (3) the passport and immigrant visa security surcharges, 8 U.S.C. 1714; (4) the Western Hemisphere Travel Initiative (WHTI) surcharge, which is imbedded in the passport book and passport card application fees, 22 U.S.C. 214(b)(1); (5) the diversity visa lottery fee Omnibus Consolidated Appropriations Act, 1997, Public Law 104-208, Div. C, Title VI, sec. 636 (reproduced at 8 U.S.C. 1153 note); (6) the fee for an affidavit of support, Consolidated Appropriations Act, 2000, Public Law 106-113, 113 Stat. 1501, Div. A, Title II, § 232(a) (reproduced at 8 U.S.C. 1183a note); and (7) the fee to process requests from participants in the Department's Exchange Visitor Program for a waiver of the two-year home-residence requirement, 22 U.S.C. 1475e. The Department also has available to it a portion of certain fraud prevention and detection fees charged to applicants for H- and L-category visas. 8 U.S.C. 1356(v)(2)(A).

#### Why Is the Department Adjusting Fees at This Time?

With certain exceptions—such as the reciprocal nonimmigrant visa issuance fee and the reduced Mexican citizen minor BCC fee described above, as well as a congressionally mandated \$1 surcharge on all nonimmigrant visas, *see* William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110-457, 122 Stat. 5044, Title II, sec. 239 (reproduced at 8 U.S.C. 1351 note)—the Department of

State generally sets consular fees at an amount calculated to achieve recovery of the costs to the U.S. Government of providing the consular service, in a manner consistent with general user charges principles, regardless of the specific statutory authority under which the fees are authorized. As set forth in OMB Circular A-25, as a general policy, each recipient should pay a reasonable user charge for government services, resources, or goods from which he or she derives a special benefit, at an amount sufficient for the U.S. Government to recover the full costs to it of providing the service, resource, or good. *See* OMB Circular No. A-25, sec. 6(a)(2)(a). The OMB guidance covers all Federal Executive Branch activities that convey special benefits to recipients beyond those that accrue to the general public. *See id.*, sections 4(a), 6(a)(1).

While fees are thus set in accordance with full cost recovery, there are limited circumstances, such as the passport book and card application fees for minors, in which costs are allocated to related fees or the Department charges a fee that is lower than the cost of providing the service. This may be done in order to account for statutory requirements or the potential impact on the public of setting those fees at a higher level.

The Department reviews consular fees periodically to determine each fee's appropriateness in light of the OMB guidance. The Department has made the changes set forth in this proposed Schedule of Fees accordingly. In line with this guidance, the Department contracted for an independent CoSS, which conducted its work from August 2007 through June 2009. The CoSS used an activity-based costing model to determine the current direct and indirect costs to the U.S. Government associated with each consular good and service the Department provides. The contractor and Department staff surveyed and visited domestic and overseas consular sites handling a representative sample of all consular services worldwide. The study identified the cost of the various discrete consular goods and services, both direct and indirect, and the study's results formed the basis of the changes herein proposed to the Schedule. Detailed information concerning the CoSS's methodology is available from the Bureau of Consular Affairs.

In situations where services are provided with enough frequency to develop a reliable estimate of the average time involved, the Schedule generally sets a flat service fee. In situations that require services to be performed away from the office or

during after-duty hours, the Department calculates the fee based on a consular "hourly rate"; this rate, which appears at Item 75 on the Schedule below, represents the cost per hour or part thereof/per consular employee. Whether by flat fee or fee determined by hourly rate, the fees the Department charges are designed to recover—at most—the full costs the Department expects the U.S. Government to incur over the period the Schedule will be in effect. The Department based all fees in the Schedule on projected Fiscal Year 2010 workloads.

As a result of the CoSS's findings and the Department's analysis of these findings, the Department is hereby proposing adjustments to the Schedule of Fees. As noted above, adjustments to nonimmigrant visa fees, including those for BCCs, have been promulgated under a separate rule published December 14, 2009.

The last broad set of amendments to the Schedule occurred in 2005, though the Department has made piecemeal amendments to it since that time. Some fees, including items 31(a) and (b) and 35(d), are set by the Department of Homeland Security and were most recently updated by that agency on July 30, 2007. Changes to the current Schedule of Fees are discussed below. All CoSS estimates discussed below are based on projected workload for Fiscal Year 2010, and fees have been rounded to make them easier to collect, especially when converting from foreign currencies, which are most often used when paying for fees at posts abroad. This proposed rule also makes a conforming amendment to 22 CFR 51.51(d), which establishes the surcharge on the filing of each passport application in order to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458, 118 Stat. 3638 (reproduced at 8 U.S.C. 1185 note).

#### *Passport Book Application Services*

The Department is increasing the application fee for a passport book for an adult (age 17 and older) from \$55 to \$70. The application fee for a passport book for a minor (age 16 and younger) will remain at \$40. The CoSS estimated that the cost of processing first-time passport applications for both adults and minors is \$105.80 based on a projected FY10 workload of 11.9 million. This cost includes border security costs covered by the passport book security surcharge, discussed immediately below. Because a minor

passport book has a validity of just five years, in contrast with the ten-year validity period of an adult passport book, the Department has decided to leave the minor passport book application fee at \$40, and allocate the remainder of the cost of processing minor passport book applications to the adult passport application fee.

As described in 22 CFR 51.51(d), this fee incorporates the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458 (reproduced at 8 U.S.C. 1185 note). This portion of the application fee, which is embedded within the fee and not charged separately or separately itemized in the Schedule of Fees, has increased from \$20 to \$22 per application based on increased costs related to new passport agencies serving border communities.

#### *Passport Book Security Surcharge*

The Department is increasing the passport book security surcharge from \$20 to \$40 in order to cover the costs of increased border security which includes, but is not limited to, enhanced biometric features in the document itself. The passport book security surcharge is the same for adult passport books and for minor passport books.

#### *Additional Passport Visa Pages*

In the past, the Department provided extra pages in a customer's passport, to which foreign countries' visas may then be affixed, at no charge. The CoSS found that the cost of the pages themselves, of having the pages placed in the book in a secure manner by trained personnel, and of completing the required security checks results in a cost to the U.S. Government of \$82.48 based on a projected FY10 workload of 218,000. Therefore, the Department will charge \$82 for this service.

#### *Passport Card Application Services*

The CoSS projected that the cost of processing first-time applications for adult and minor passport cards will be \$77.59 based on an FY 2010 workload projection of 1.56 million cards. Adjudication costs associated with a passport card are the same as those associated with a passport book. Nevertheless, the card is intended to be a substantially less expensive document than the passport book, for the convenience of citizens who live close to land borders and cross back and forth frequently. Therefore, the Department has decided to raise the adult passport card application fee from \$20 to just

\$30, and the minor passport card application fee from \$10 to just \$15.

As described in 22 CFR 51.51(d), this application fee incorporates the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458 (reproduced at 8 U.S.C. 1185 note). This portion of the fee, which is embedded within the fee and not charged separately or separately itemized in the Schedule of Fees, has increased from \$20 to \$22 for the adult passport card and from \$10 to \$15 for the minor passport card, and is based on increased costs related to new passport agencies serving border communities.

#### *File Search and Verification of U.S. Citizenship*

When an applicant for a passport book or passport card does not present evidence of citizenship, the Department must search its files to attempt to discern his or her U.S. citizenship. The Department is raising the fee for this service from \$60 to \$150 based on the cost of providing the service, and notes that applicants can avoid paying this fee by providing adequate citizenship documentation when applying for a passport rather than to request a costly, time-intensive Department file search.

#### *Application for Consular Report of Birth Abroad of a Citizen of the United States*

The CoSS found that the cost of accepting and processing an application for a Consular Report of Birth Abroad of a Citizen of the United States is \$197.28 based on an FY10 workload projection of 80,000 applications. The Department has decided to raise the fee from \$65 to \$100, still significantly less than cost, based on its view that too high a fee might deter U.S. citizen parents from properly documenting the citizenship of their children at birth, a development the Department feels would be detrimental to national interests.

#### *Documentation for Renunciation of Citizenship*

The CoSS demonstrated that documenting a U.S. citizen's renunciation of citizenship is extremely costly, requiring American consular officers overseas to spend substantial amounts of time to accept, process, and adjudicate cases. A new fee of \$450 will be established to help defray a small portion of the total cost to the U.S. Government of documenting the renunciation of citizenship.

#### *Death and Estate Services*

The CoSS found that the average cost of assisting U.S. citizens in making arrangements for a deceased non-U.S. citizen family member abroad is \$388.19 based on an FY 2010 workload projection of 50,000 cases. The Department had previously charged a fee of \$265 per hour, the then-applicable fee for consular time (discussed below), plus expenses. The Department has decided to set the new fee for death and estate services at significantly lower than costs—\$200 plus expenses—in order to assist bereaved families.

#### *Immigrant Visa Application Processing Fee*

The Department is changing the fee for processing an immigrant visa from \$355 for all immigrant visas, to a four-tiered fee based on CoSS estimates for each discrete category of immigrant visa, as applications for certain applications cost more to process than others. Accordingly, the application fee for a family-based (immediate relative and preference) visa (processed on the basis of an I-130, I-600 or I-800 petition) will be \$330.

The application fee for an employment-based visa (processed on the basis of an I-140 petition) will be \$720. Other immigrant visa applications (including for diversity visa applicants, I-360 self-petitioners, special immigrant visa applicants and all others) will have a fee of \$305. As noted above, certain qualifying Iraqi and Afghan special immigrant visa applicants are statutorily exempt from paying a processing fee. National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, Div. A, Title XII, § 1244(d) (reproduced at 11 U.S.C. 1157 note); Omnibus Appropriations Act, 2009, Public Law 111-8, Div. F, Title VI, sec. 602(b)(4) (reproduced at 8 U.S.C. 1101 note).

#### *Immigrant Visa Security Surcharge*

The Department is increasing the immigrant visa security surcharge, which all applicants except those statutorily exempted must pay, from \$45 to \$74 to cover increased security costs as determined by the CoSS, including the costs of the enhanced security screening requirements associated with fingerprint collection which were previously included in the immigrant visa application processing fee.

#### *Diversity Visa Lottery Fee for Immigrant Visa Application*

The Department is raising the fee paid by winners of the Diversity Visa lottery who apply for immigrant visas from \$375 to \$440 based on CoSS estimates for an FY 2010 workload projection of

81,000 applications. The Department has authority to collect the surcharge only from persons who are selected through the lottery process and therefore qualify to apply for a Diversity Visa, and to set it at a level sufficient to cover the entire cost of running the lottery. Omnibus Consolidated Appropriations Act, 1997, Public Law 104-208, Div. C, Title VI, § 636 (reproduced at 8 U.S.C. 1153 note).

#### *Affidavit of Support Review*

The Department charges the affidavit of support review fee for all affidavits of support reviewed at the National Visa Center in connection with an application for an immigrant visa. The purpose of the review is to ensure that each affidavit is properly completed before the National Visa Center forwards it to a consular post for adjudication. The Department is increasing the fee from \$70 to \$88 to reflect the increase in the cost of providing this service to immigrant visa applicants.

#### *Determining Returning Resident Status*

The CoSS found that determining the status of persons who claim to be legal permanent residents of the United States but do not have documentation to prove this fact, has become less costly than before due to advances in automation, making it easier to verify U.S. immigration status. As such, the Department will lower the fee from \$400 to \$380.

#### *Providing Documentary Services*

The CoSS found the cost to the U.S. Government of providing documentary services overseas is \$76.36 per service based on a projected FY 2010 workload of 380,000 services. These are primarily notarial services, certification of true copies, provision of documents, and authentications. However, the Department is raising these fees only from \$30 to \$50, lower than cost, in order to minimize the impact on the public.

#### *Processing Letters Rogatory and Foreign Sovereign Immunities Act Judicial Assistance Cases*

The CoSS found that the cost to the U.S. Government of processing letters rogatory and Foreign Sovereign Immunities Act judicial assistance cases is \$2,274.59 based on a projected FY 2010 workload of 1400 services. The Department will accordingly raise the fee for these services to \$2,275.

#### *Taking Depositions or Executing Commissions To Take Testimony*

Several services fall under this heading, and fees for three of the

services will be raised as a result of the CoSS's estimates of costs to the U.S. Government. The new fees appear in the Schedule below.

*Consular Time Charges*

The Department previously charged a consular time fee of \$265 per hour, per employee. The CoSS estimated that consular time charges for services performed away from the office or outside business hours only costs \$231 per hour, per employee. Therefore, the Department will lower this fee to \$231 per hour.

**When Will the Department of State Implement This Proposed Rule?**

The Department intends to implement this proposed rule, and initiate collection of the fees set forth herein, as soon as practicable following the expiration of the 30-day public comment period following this proposed rule's publication in the **Federal Register**, and after the Department has had the opportunity to fully consider any public comments received.

**Regulatory Findings**

*Administrative Procedure Act*

The Department is publishing this rule as a proposed rule, with a 30-day provision for public comments.

*Regulatory Flexibility Act*

The Department, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as defined in 5 U.S.C. 601(6). This rule raises the application and processing fee for passports, immigrant visas and American citizen services. The Department of State estimates that the agency will process 16,000 total employment-based immigrant visa applications, all of which fall into the E-1, E-2, E-3, E-4, and E-5 categories. **(Note:** The Department of Homeland

Security processes domestic adjustment of status for approximately 90 percent of all employment-based immigrants; cases processed domestically do not pay Department of State fees.) The issuance of some "E" category employment-based immigrant visas may be contingent upon approval by DHS of a petition filed by a United States company, and these companies pay a fee to DHS to cover the processing of the petition. The amount of the petition fees that are paid by small entities to DHS is not controlled by the amount of the visa fees paid by individuals to the Department of State. The visa itself is sought and the application processing fees are paid for by an individual foreign national overseas who seeks to immigrate to the United States. The Department of State does not track applications for employment-based visas by the size and nature of the petitioning businesses, and therefore cannot identify the share of this impact on the small businesses versus large businesses. While some employers may choose to reimburse application costs, small businesses are not required by law to reimburse the individuals, and therefore no small businesses will be impacted. Additionally, small entities may pay judicial services fees if required for legal matters with foreign companies, but in very limited circumstances and small numbers. For instance, worldwide in FY 2009, embassies and consulates arranged only 123 depositions and processed only 156 letters rogatory.

*Unfunded Mandates 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 \$1 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501-1504.

*Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

The Department has determined that this rulemaking will not have Tribal implications, will not impose substantial direct compliance costs on Indian Tribal governments, and will not pre-empt Tribal law. Accordingly, the requirements of Section 5 of Executive Order 13175 do not apply to this rulemaking.

*Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996, since it will result in an annual effect on the economy of \$100 million or more. See 5 U.S.C.804(2).

*Executive Order 12866*

OMB considers this rule to be an economically significant regulatory action under Executive Order 12866, section 3(f)(1), Regulatory Planning and Review, Sept. 30, 1993 because it is likely to have an annual effect on the economy of \$100 million or more. 58 FR 51735. This rule is necessary in light of the Department of State's CoSS finding that the cost of processing passports and immigrant visas and of providing other consular services has generally increased since the fees were last set. The Department is setting the fees in accordance with 31 U.S.C. 9701 and other applicable authority, as described in more detail above. See, e.g., 31 U.S.C. 9701(b)(2)(A) ("The head of each agency ... may prescribe regulations establishing the charge for a service or thing of value provided by the agency ... based on ... the costs to the Government."). This regulation generally sets the fees for passports, immigrant visas and consular services at the amount required to recover the costs associated with providing this service.

Accordingly, this rule has been submitted to OMB for review.

Details of the proposed fee changes are as follows:

Item	Proposed fee	Current fee	Change in fee	Percent increase	FY09 workload	Consequent total increase in fee assuming FY09 workloads
2(a). Passport Book Application Services for Applicants age 16 or over (including renewals).	\$70 .....	\$55 .....	\$15 .....	27% .....	9,207,088	\$138,106,320
2(c). Additional passport visa pages.	\$82 .....	\$0 .....	\$82 .....	undefined .....	207,810	\$17,040,420
2(g). Passport Book Security Surcharge.	\$40 .....	\$20 .....	\$20 .....	100% .....	11,935,556	\$238,711,120

Item	Proposed fee	Current fee	Change in fee	Percent increase	FY09 workload	Consequent total increase in fee assuming FY09 workloads
6. File search and verification of U.S. citizenship.	\$150	\$60	\$90	150%	11,192	\$1,007,280
7. Application for Consular Report of Birth Abroad of a Citizen of the United States.	\$100	\$65	\$35	54%	58,198	\$2,036,930
8. Documentation of formal renunciation of U.S. citizenship.	\$450	\$0	\$450	undefined	1,188	\$534,600
9(a). Passport Card Application Services for Applicants age 16 or over (including renewals).	\$30	\$20	\$10	50%	1,196,078	\$11,960,780
9(b). Passport Card Application Services for Applicants under age 16.	\$15	\$10	\$5	50%	354,451	\$1,772,255
14(b). Making arrangements for a deceased non-U.S. citizen family member.	\$200 plus expenses.	Consular time (Item 75) plus expenses.	-\$65 per hour	-25% per hour	426	(\$27,690)
32(a). Immigrant visa application processing for immediate relative and family preference applications.	\$330	\$355	(\$25)	-7%	478,116	(\$11,952,900)
32(b). Immigrant visa application processing for employment-based applications.	\$720	\$355	\$365	103%	16,395	\$5,984,175
32(c). Immigrant visa application processing for other visa classes.	\$305	\$355	(\$50)	-14%	5,121	(\$256,050)
33. Diversity Visa Lottery fee	\$440	\$375	\$65	17%	55,368	\$3,598,920
34. Affidavit of Support Review	\$88	\$70	\$18	26%	311,038	\$5,598,684
35(a). Determining Returning Resident Status.	\$380	\$400	(\$20)	-5%	1,611	(\$32,220)
36. Immigrant visa security surcharge.	\$74	\$45	\$29	64%	575,554	\$16,691,066
41(a). Providing notarial service: First service.	\$50	\$30	\$20	67%	128,818	\$2,576,360
41(b). Providing notarial service: Each additional seal.	\$50	\$20	\$30	150%	60,782	\$1,823,460
42(a). Certification of a true copy or that no record of an official file can be located: First copy.	\$50	\$30	\$20	67%	15,611	\$312,220
42(b). Certification of a true copy or that no record of an official file can be located: Each additional copy.	\$50	\$20	\$30	150%	3,099	\$92,970
43(a-f). Provision of documents, certified copies of documents, and other certifications by the Department of State (domestic).	\$50	\$30	\$20	67%	29,425	\$588,500
44. Authentications (44a-d)	\$50	\$30	\$20	67%	18,863	\$377,260
51. Processing letters rogatory and Foreign Sovereign Immunities Act (FSIA) judicial assistance cases.	\$2,275	\$735	\$1,540	210%	156	\$240,240
52(a). Scheduling/arranging appointments for depositions.	\$1,283	\$475	\$808	170%	123	\$99,384
52(b). Attending or taking depositions, or executing commissions to take testimony.	\$309 per hour plus expenses.	\$265 per hour plus expenses.	\$44 per hour	17%	38	\$1,672
52(e). Providing seal and certification of depositions.	\$415	\$70	\$345	493%	16	\$5,520
75. Consular time charges	\$231	\$265	(\$34)	-13%	70	(\$2,380)

The Department of State does not anticipate that demand for passport, immigrant visa, and other services affected by this rule will change significantly due to these fee changes,

and welcomes public comment on that expectation.

With regard to immigrant visas, many categories are numerically capped; these caps artificially limit workload and keep current demand fairly stable. In FY

2009, the Department issued all available immigrant visas in employment-based categories (capped at 140,000 including adjustments of status processed domestically by the

Department of Homeland Security). In FY 2009, the Department issued 96 percent of the immigrant visas available under the Diversity Visa program (capped at 50,000 including adjustments of status processed domestically by the Department of Homeland Security). Also in FY 2009, the Department issued 96 percent of the immigrant visas available for family-preference categories (capped at 226,000 including adjustments of status processed domestically by the Department of Homeland Security). When fewer visas were issued than were available under the numerical cap, it was generally due to administrative processing issues rather than lack of demand. There are nearly 3.5 million applicants currently awaiting numerically controlled visas, sufficient to fill more than eight years' workload at the current annual caps. It is reasonable to expect that the immigrant visa workload for FY 2010 and FY 2011 will remain about the same as FY 2009. Please note that these estimates do not take into account variables that the Department cannot predict at this time, such as legislative changes.

With regard to passports, the Department does not believe that passport application fees are a significant determining factor when

Americans decide to travel internationally. The price of a passport book or card remains minor in comparison with other costs associated with foreign travel, given that taxes and surcharges alone on an international airfare can easily surpass \$100. As a result, the Department does not believe passport demand will be significantly affected by increases of the size proposed. In addition, the Western Hemisphere Travel Initiative has now been fully implemented, and there is no new regulatory impetus for passport demand on the horizon.

*Executive Order 13132*

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, Federalism, Aug. 4, 1999, the Department has determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. 64 FR 43255.

*Paperwork Reduction Act*

This rule does not impose or alter any reporting or record-keeping requirements.

**List of Subjects in 22 CFR Parts 22 and 51**

Consular services, fees, passports and visas.

Accordingly, for the reasons stated in the preamble, 22 CFR Part 22 and Part 51 are proposed to be amended as follows:

**PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—  
DEPARTMENT OF STATE AND FOREIGN SERVICE**

1. The authority citation for part 22 is amended to read as follows:

**Authority:** 8 U.S.C. 1101 note, 1153 note, 1183a note, 1351, 1351 note, 1714, 1714 note; 10 U.S.C. 2602(c); 11 U.S.C. 1157 note; 22 U.S.C. 214, 214 note, 1475e, 2504(a), 4201, 4206, 4215, 4219, 6551; 31 U.S.C. 9701; Exec. Order 10,718, 22 FR 4632; Exec. Order 11,295, 31 FR 10603.

2. Revise § 22.1 to read as follows:

**§ 22.1 Schedule of fees.**

The following table sets forth the U.S. Department of State's Schedule of Fees for Consular Services:

**SCHEDULE OF FEES FOR CONSULAR SERVICES**

Item No.	Fee
<b>PASSPORT AND CITIZENSHIP SERVICES</b>	
1. Passport Book or Card Execution: Required for first-time applicants and others who must apply in person (Applicants applying for both the book and card simultaneously on the same application pay only one execution fee.)	\$25.
2. Passport Book Application Services for:	
(a) Applicants age 16 or over (including renewals) .....	\$70.
(b) Applicants under age 16 .....	\$40.
(c) Additional passport visa pages .....	\$82.
(d) Passport book replacement for name change if submitted within one year of passport issuance .....	NO FEE.
(e) Passport book replacement for passport book limited in validity if submitted within one year of passport issuance. (Passport books limited in validity because of multiple losses, thefts, damage, or mutilations cannot be replaced.)	NO FEE.
(f) Passport book replacement for data correction (name, date of birth, place of birth, sex printed erroneously) if submitted within one year of passport issuance.	NO FEE.
(g) Passport Book Security Surcharge (Enhanced Border Security Fee) .....	\$40.
3. Expedited service: Passport processing within the expedited processing period published on the Department's Web site ( <i>see</i> 22 CFR 51.56(b)) and/or in-person service at a U.S. Passport Agency (not applicable abroad).	\$60.
4. Exemptions: The following applicants are exempted from all passport fees listed in Item 2 above:	
(a) Officers or employees of the United States and their immediate family members (22 U.S.C. 214) and Peace Corps Volunteers and Leaders (22 U.S.C. 2504(h)) proceeding abroad or returning to the United States in the discharge of their official duties.	NO FEE.
(b) U.S. citizen seamen who require a passport in connection with their duties aboard an American flag vessel (22 U.S.C. 214(a)).	NO FEE.
(c) Widows, children, parents, or siblings of deceased members of the Armed Forces proceeding abroad to visit the graves of such members (22 U.S.C. 214(a)).	NO FEE.
(d) Employees of the American National Red Cross proceeding abroad as members of the Armed Forces of the United States 10 U.S.C. 2602(c)).	NO FEE.
5. Travel Letter: Provided in rare, life-or-death situations as an emergency accommodation to a U.S. citizen returning to the United States when the consular officer is unable to issue a passport book.	NO FEE unless consular time charges (Item 75) apply.
6. File search and verification of U.S. citizenship: When applicant has not presented evidence of citizenship and previous records must be searched (except for an applicant abroad whose passport was stolen or lost abroad or when one of the exemptions is applicable).	\$150.

## SCHEDULE OF FEES FOR CONSULAR SERVICES—Continued

Item No.	Fee
7. Application for Consular Report of Birth Abroad of a Citizen of the United States .....	\$100.
8. Documentation of formal renunciation of U.S. citizenship .....	\$450.
9. Passport Card Application Services for:	
(a) Applicants age 16 or over (including renewals) [Adult Passport Card] .....	\$30.
(b) Applicants under age 16 [Minor Passport Card] .....	\$15.
(c) Passport card replacement for name change if submitted within one year of passport issuance .....	NO FEE.
(d) Passport card replacement for data correction (name, date of birth, place of birth, sex printed erroneously) if submitted within one year of passport issuance.	NO FEE.
(Item 10 vacant.)	
OVERSEAS CITIZENS SERVICES ARRESTS, WELFARE AND WHEREABOUTS, AND RELATED SERVICES	
11. Arrest and prison visits .....	NO FEE.
12. Assistance regarding the welfare and whereabouts of a U.S. Citizen, including child custody inquiries and processing of repatriation and emergency dietary assistance loans. (Item 13 vacant.)	NO FEE.
DEATH AND ESTATE SERVICES	
14. Assistance to next-of-kin:	
(a) After the death of a U.S. citizen abroad (providing assistance in disposition of remains, making arrangements for shipping remains, issuing Consular Mortuary Certificate, and providing up to 20 original Consular Reports of Death).	NO FEE.
(b) Making arrangements for a deceased non-U.S. citizen family member (providing assistance in shipping or other disposition of remains of a non-U.S. Citizen).	\$200 plus expenses.
15. Issuance of Consular Mortuary Certificate on behalf of a non-U.S. Citizen .....	\$60.
16. Acting as a provisional conservator of estates of U.S. Citizens:	
(a) Taking possession of personal effects; making an inventory under an official seal (unless significant time and/or expenses incurred).	NO FEE.
(b) Overseeing the appraisal, sale, and final disposition of the estate, including disbursing funds, forwarding securities, etc. (unless significant time and/or expenses incurred).	NO FEE.
(c) For services listed in Item 16(a) or (b) when significant time and/or expenses are incurred .....	Consular time (Item 75) plus expenses.
(Items 17 through 20 vacant.)	
NONIMMIGRANT VISA SERVICES	
21. Nonimmigrant visa application and border crossing card processing fees (per person):	
(a) Non-petition-based nonimmigrant visa (except E category) .....	\$140.
(b) H, L, O, P, Q and R category nonimmigrant visa .....	\$150.
(c) E category nonimmigrant visa .....	\$390.
(d) K category nonimmigrant visa .....	\$350.
(e) Border crossing card - 10-year validity (age 15 and over) .....	\$140.
(f) Border crossing card - 5-year validity (under age 15; for Mexican citizens if parent or guardian has or is applying for a border crossing card).	\$14.
22. EXEMPTIONS from nonimmigrant visa application processing fee:	
(a) Applicants for A, G, C-3, NATO and diplomatic visas as defined in 22 CFR 41.26 .....	NO FEE.
(b) Applicants for J visas participating in official U.S. Government-sponsored educational and cultural exchanges ...	NO FEE.
(c) Replacement Machine-Readable Visa when the original visa was not properly affixed or needs to be reissued through no fault of the applicant.	NO FEE.
(d) Applicants exempted by international agreement as determined by the Department, including members and staff of an observer mission to United Nations Headquarters recognized by the UN General Assembly, and their immediate families.	NO FEE.
(e) Applicants traveling to provide charitable services as determined by the Department .....	NO FEE.
(f) U.S. Government employees traveling on official business .....	NO FEE.
(g) A parent, sibling, spouse, or child of a U.S. Government employee killed in the line of duty who is traveling to attend the employee's funeral and/or burial; or a parent, sibling, spouse, son, or daughter of a U.S. Government employee critically injured in the line of duty for visitation during emergency treatment and convalescence.	NO FEE.
23. Nonimmigrant visa issuance fee, including border-crossing cards (Reciprocity Fee) .....	RECIPROCAL.
24. EXEMPTIONS from nonimmigrant visa issuance fee:	
(a) An official representative of a foreign government or an international or regional organization of which the U.S. is a member; members and staff of an observer mission to United Nations Headquarters recognized by the UN General Assembly; and applicants for diplomatic visas as defined under Item 22(a); and their immediate families.	NO FEE.
(b) An applicant transiting to and from the United Nations Headquarters .....	NO FEE.
(c) An applicant participating in a U.S. Government-sponsored program .....	NO FEE.
(d) An applicant traveling to provide charitable services as determined by the Department .....	NO FEE.
25. Fraud prevention and detection fee for visa applicant included in L blanket petition (principal applicant only) .....	\$500.
(Items 26 through 30 vacant.)	
IMMIGRANT AND SPECIAL VISA SERVICES	
31. Filing immigrant visa petition (collected for USCIS and subject to change)	

## SCHEDULE OF FEES FOR CONSULAR SERVICES—Continued

Item No.	Fee
(a) Petition to classify status of alien relative for issuance of immigrant visa .....	\$355.
(b) Petition to classify orphan as an immediate relative .....	\$670.
32. Immigrant visa application processing fee (per person)	
(a) Immediate relative and family preference applications .....	\$330.
(b) Employment-based applications .....	\$720.
(c) Other immigrant visa applications (including Diversity Visa applicants, I-360 self-petitioners, special immigrant visa applicants).	\$305.
(e) Certain Iraqi and Afghan special immigrant visa applications (per 8 U.S.C. 1101 note; 11 U.S.C. 1157 note) .....	NO FEE.
33. Diversity Visa Lottery fee (per person applying as a result of the lottery program) .....	\$440.
34. Affidavit of Support Review (only when reviewed domestically) .....	\$88.
35. Special visa services:	
(a) Determining Returning Resident Status .....	\$380.
(b) Transportation letter for Legal Permanent Residents of the United States .....	\$165.
(c) Waiver of two-year residency requirement .....	\$215.
(d) Waiver of immigrant visa ineligibility (collected for USCIS and subject to change) .....	\$545.
(e) Refugee or significant public benefit parole case processing .....	NO FEE.
36. Immigrant visa security surcharge .....	\$74.
(Items 37 through 40 vacant.)	

## DOCUMENTARY SERVICES

41. Providing notarial service:	
(a) First service (seal) .....	\$50.
(b) Each additional seal provided at the same time in connection with the same transaction .....	\$50.
42. Certification of a true copy or that no record of an official file can be located (by a post abroad):	
(a) First Copy .....	\$50.
(b) Each additional copy provided at the same time .....	\$50.
43. Provision of documents, certified copies of documents, and other certifications by the Department of State (domestic):	
(a) Documents relating to births, marriages, and deaths of U.S. citizens abroad originally issued by a U.S. embassy or consulate.	\$50.
(b) Issuance of Replacement Report of Birth Abroad .....	\$50.
(c) Certified copies of documents relating to births and deaths within the former Canal Zone of Panama from records maintained by the Canal Zone Government from 1904 to September 30, 1979.	\$50.
(d) Certifying a copy of a document or extract from an official passport record .....	\$50.
(e) Certifying that no record of an official file can be located .....	\$50.
(f) Each additional copy provided at same time .....	\$50.
44. Authentications (by posts abroad):	
(a) Authenticating a foreign notary or other foreign official seal or signature .....	\$50.
(b) Authenticating a U.S. Federal, State, or territorial seal .....	\$50.
(c) Certifying to the official status of an officer of the U.S. Department of State or of a foreign diplomatic or consular officer accredited to or recognized by the U.S. Government.	\$50.
(d) Each authentication .....	\$50.
45. Exemptions: Notarial, certification, and authentication fees (Items 41-44) or passport file search fees (Item 6) will not be charged when the service is performed:	
(a) At the direct request of any Federal Government agency, any State or local government, the District of Columbia, or any of the territories or possessions of the United States (unless significant costs would be incurred).	NO FEE.
(b) With respect to documents to be presented by claimants, beneficiaries, or their witnesses in connection with obtaining Federal, State, or municipal benefits.	NO FEE.
(c) For U.S. citizens outside the United States preparing ballots for any public election in the United States or any of its territories.	NO FEE.
(d) At the direct request of a foreign government or an international agency of which the United States is a member if the documents are for official noncommercial use.	NO FEE.
(e) At the direct request of a foreign government official when appropriate or as a reciprocal courtesy .....	NO FEE.
(f) At the request of direct-hire U.S. Government personnel, Peace Corps volunteers, or their dependents stationed or traveling officially in a foreign country.	NO FEE.
(g) With respect to documents whose production is ordered by a court of competent jurisdiction .....	NO FEE.
(h) With respect to affidavits of support for immigrant visa applications .....	NO FEE.
(i) With respect to endorsing U.S. Savings Bonds Certificates .....	NO FEE.
(Items 46 through 50 vacant.)	

## JUDICIAL ASSISTANCE SERVICES

51. Processing letters rogatory and Foreign Sovereign Immunities Act (FSIA) judicial assistance cases, including providing seal and certificate for return of letters rogatory executed by foreign officials.	\$2,275.
52. Taking depositions or executing commissions to take testimony:	
(a) Scheduling/arranging appointments for depositions, including depositions by video teleconference (per daily appointment).	\$1,283.
(b) Attending or taking depositions, or executing commissions to take testimony (per hour or part thereof) .....	\$309 per hour plus expenses.
(c) Swearing in witnesses for telephone depositions .....	Consular time (Item 75) plus expenses.

