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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]

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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. 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.

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

