Issued in Washington, DC, on September 11, 2012.

Gary A. Norek,

Manager, Airspace Policy and ATC Procedures Group.

[FR Doc. 2012–22802 Filed 9–14–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

[Public Notice: 8026]

22 CFR Parts 22 and 42

RIN 1400–AD06

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

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Final rule.

SUMMARY: This rulemaking addresses public comments regarding an Interim Final Rule that makes changes to the Schedule of Fees for Consular Services (Schedule) for a number of different visa fees. The Department of State adopts the rule as final, without change.

DATES: Effective September 17, 2012.

FOR FURTHER INFORMATION CONTACT: Special Assistant, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202–663–1576, telefax: 202–663–2526; email: *fees@state.gov*.

SUPPLEMENTARY INFORMATION: For the complete explanation of the background of this rule, including the rationale for the change, the authority of the Department of State (''Department'') to make the fee changes in question, and an explanation of the study that produced the fee amounts, consult the prior public notices: 77 FR 18907 (March 29, 2012); 77 FR 20294 (April 4, 2012); and 75 FR 14111 (March 24, 2010).

Background

The Department published an interim final rule in the **Federal Register** (77 FR 18907, March 29, 2012) amending 22 CFR parts 22 and 42. Specifically, the rule made changes to the Schedule of Fees for Consular Services for visa fees and provided 60 days for comments from the public. During the comment period 18 comments were received, either by email or through the submission process at *www.regulations.gov*. The Department analyzed these 18 comments and reproduces that analysis in the Analysis of Comments section below.

This rule finalizes the following fees for the categories below, as determined by the Cost of Service Model (CoSM), which took effect on April 13, 2012.

- Non-Petition based Nonimmigrant Visa Application (except E category): from $140 to $160
- H, L, O, P, Q and R visa categories: from $150 to $190
- E visa category: from $390 to $270
- K visa category: from $350 to $240
- BCC Adult: from $140 to $160
- BCC Minor: from $14 to $15
- Family-Based Immigrant visa: from $330 to $230
- Employment-Based Immigrant visa: from $720 to $405
- Other Immigrant visas (including I–360 self-petitioners and special immigrant visas): from $305 to $220
- Diversity Visa Lottery Fee (per person applying as a result of the lottery program): from $440 to $330
- Determining Returning Resident Status: from $380 to $275
- Transportation Letters for Lawful Permanent Residents of the United States: from $165 to $0

Analysis of Comments

The interim rule was published for public comment on March 29, 2012. During this period, the Department received 18 comments/questions. The following analysis addresses these 18 comments.

Four comments were questions regarding when the fee changes took effect. To answer: applicants paid the fee amount that was effective on the date they paid the fee. Receipts for fees paid under the prior fee schedule were accepted for 90 days following the effective fee change (i.e., July 12, 2012). In short, if a fee was paid on or before April 12, 2012 the receipt for the prior fee was valid until July 12, 2012. If a fee was paid April 13, 2012 or later, an applicant paid the new fee.

Four comments criticized the increase of the nonimmigrant visa application processing fee, arguing that the increase would make it more difficult for visitors to bring their families to the United States to visit. Although the Department understands the financial difficulties that may result from a fee increase, the Department must recover the cost of providing those services and sets the fees for those services accordingly, including nonimmigrant visa application processing fees.

Seven comments from H–2 employers opposed the H visa fee increase from $150 to $190. Those comments stated that the fee increase would be an added tax burden and competitive disadvantage for U.S. domestic food producers who compete in a global marketplace. The comments also stated that increasing the cost of the H–2 visa to fund expanded adjudication capacity and physical infrastructure improvements at consulates in China and Brazil was unfair because very few H–2 workers come from either of these countries. In addition, the comments questioned whether the H–2 fee increase would lead to any improvements in the H–2 program, particularly in Mexico where most employers hire their H–2 workers.

The Department is adjusting the processing fee for H-category visas from $150 to $190 because processing an H visa application requires a review of extensive documentation and a more in-depth interview of the applicant than for other categories of nonimmigrant visas. Because the fees are set based on cost, a more time-consuming process necessarily will result in a higher fee. Although some of the comments expressed the belief that adjudicating H category visas should require simpler processing for repeat applicants, the Cost of Service Model (CoSM) showed that H visas require more time and resources to process than others. The Department determined it would be fairer to charge a higher fee for those visa categories requiring more complex processing (H, L, O, P, Q, R, E, and K), rather than spreading those additional costs out across all other visa categories. In addition, the fees established by this rule are based on unit costs, which represent the global average costs for each service as a whole. The most recent CoSM, the activity-based costing model the Department used to determine the new processing fees, improved substantially upon prior cost of service models by identifying unit costs not just for nonimmigrant visas as a whole, but for specific visa classes that involved more work to process. The CoSM did not, however, distinguish between subcategories of visas within a single category, such as an H–1B versus an H–2. Instead, the cost model averaged together the cost of processing all subcategories within a particular category of visa, which the Department used to calculate a single processing fee for that visa category. Although the time to process individual visa applications will vary from application to application, the fee is set based on the average cost to process a visa application from that visa category.

The costs for worldwide physical upgrades and personnel increases, including in China and Brazil, were spread out across all nonimmigrant visa categories in order to keep the impact minimal. In addition to the upgrades to the Department's facilities in China and Brazil, the Department opened a new consulate facility in Tijuana in 2010 and

plans to open a new facility in Monterrey in 2014. The Department also recently opened application service centers in Mexicali, Piedras Negras, and Reynosa to accommodate additional applicants along the U.S.-Mexico border.

Of the three remaining comments, one noted its support for the reduced K visa fee and one applauded the Department for decreasing consular fees on certain nonimmigrant, immigrant, and special visa services, while also expressing concern for the increases to the other visa categories. One comment expressed a desire for a discount on all minor NIVs, not just minor BCCs. We note that the Department is required by law to set the fee for the minor BCC below cost at $15. The same requirement does not apply to other minor NIVs, which the Department sets on the basis of cost as described more fully above.

Conclusion

The Department has adjusted the fees to ensure that sufficient resources are available to meet the costs of providing consular services in light of the CoSM's findings. Pursuant to OMB guidance and federal law, the Department endeavors to recover the cost of providing services that benefit specific individuals rather than the public at large. See OMB Circular A–25, sections 6(a)(1), (a)(2)(a); 31 U.S.C. 9701(b). For this reason, the Department has adjusted the Schedule.

Regulatory Findings

For a summary of the regulatory findings and analyses regarding this rulemaking, please refer to the findings and analyses published with the interim final rule, which can be found at 77 FR 18907, which are adopted herein. The rule became effective April 13, 2012. As noted above, the Department has considered the comments submitted in response to the interim final rule, and does not adopt them. Thus, the rule remains in effect without modification.

In addition, as noted in the interim final rule, this rule was submitted to and reviewed by OMB pursuant to E.O. 12866. The Department of State has also considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Accordingly, the Interim Final Rule amending 22 CFR parts 22 and 42 which was published at 77 FR 18907 on March 29, 2012, is adopted as final without change.

Dated: September 4, 2012.

Patrick F. Kennedy,

Under Secretary of State for Management, U.S. Department of State.

[FR Doc. 2012–22862 Filed 9–14–12; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9598]

RIN 1545–BK98

Integrated Hedging Transactions of Qualifying Debt

Correction

In rule document 2012–21986 appearing on pages 54808–54811 in the issue of Thursday, September 6, 2012 make the following correction:

On page 54811, in the first column, on the eleventh line from the bottom of the page, ''(i) *Expiration date.* This section expires on September 4, 2012'', should read ''(i) *Expiration date.* This section expires on September 4, 2015.''

[FR Doc. C1–2012–21986 Filed 9–14–12; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2012–OS–0102]

32 CFR Part 319

Privacy Act; Implementation

AGENCY: Defense Intelligence Agency, DoD.

ACTION: Direct final rule with request for comments.

SUMMARY: The Defense Intelligence Agency is updating the Defense Intelligence Agency Privacy Act Program, by adding the (k)(2) exemption to accurately describe the basis for exempting the records in the system of records notice LDIA 10–0002, Foreign Intelligence and Counterintelligence Operation Records. This direct final rule makes non-substantive changes to the Defense Intelligence Agency Privacy Program rules. These changes will allow the Department to exempt records from certain portions of the Privacy Act. This will improve the efficiency and effectiveness of DoD's program by ensuring the integrity of ongoing Foreign Intelligence and Counterintelligence Operations Records related to the protection of national security, DoD personnel, facilities and equipment of the Defense Intelligence Agency and the Department of Defense.

This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

DATES: The rule will be effective on November 26, 2012 unless comments are received that would result in a contrary determination. Comments will be accepted on or before November 16, 2012. If adverse comment is received, DoD will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery at (202) 231–1193.

SUPPLEMENTARY INFORMATION:

Direct Final Rule and Significant Adverse Comments

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves non-substantive changes dealing with DoD's management of its Privacy Programs. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive