APPENDIX D—Continued

Entities required to file	Filing period (anytime during the month)	Study period
All others in SPP that did not file in June including all power marketers that sold in SPP and have not already been found to be Category 1 sellers.	December, 2009	Dec. 1, 2006–Nov. 30, 2007.
All others in Southwest that did not file in December including all power marketers that sold in the Southwest and have not already been found to be Category 1 sellers.	June, 2010	Dec. 1, 2007–Nov. 30, 2008.
All others in Northwest that did not file in June including all power marketers that sold in the Northwest and have not already been found to be Category 1 sellers.	December, 2010	Dec. 1, 2007–Nov. 30, 2008.
Others in Northeast that did not file in December and have not been found to be Category 1 sellers.	June, 2011	Dec. 1, 2008–Nov. 30, 2009.
Others in Southeast that did not file in June and have not been found to be Category 1 sellers.	December, 2011	Dec. 1, 2008–Nov. 30, 2009.
Others in Central that did not file in December and have not been found to be Category 1 sellers.	June, 2012	Dec. 1, 2009–Nov. 30, 2010.
Others in SPP that did not file in June and have not been found to be Category 1 sellers.	December, 2012	Dec. 1, 2009–Nov. 30, 2010.
Others in Southwest that did not file in December and have not been found to be Category 1 sellers.	June, 2013	Dec. 1, 2010–Nov. 30, 2011.
Others in Northwest that did not file in June and have not been found to be Category 1 sellers.	December, 2013	Dec. 1, 2010–Nov. 30, 2011.

[FR Doc. E7–24736 Filed 12–19–07; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF STATE

22 CFR Part 22

RIN 1400–AC42

[Public Notice: 6035]

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

AGENCY: Department of State.

ACTION: Interim final rule.

SUMMARY: This rule amends the Schedule of Fees for Consular Services. Specifically, it raises from $100 to $131 the fee charged for the processing of an application for a nonimmigrant visa (MRV) and Border Crossing Card (BCC) and increases the immigrant visa fee by $20.00. The Department of State is adjusting the fees as an emergency measure to ensure that sufficient resources are available to meet the costs of processing non-immigrant and immigrant visas in light of increased security measures put in place since 2004 and fee collection mandates on behalf of the Federal Bureau of Investigation.

DATES: *Effective date:* This interim final rule becomes effective January 1, 2008.

Comment date: The Department of State will accept written comments from interested persons up to February 29, 2008.

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 H1004, 2401 E Street, NW., Washington, DC 20520.
- *E-mail: fees@state.gov.* You must include the RIN (1400–AC42) in the subject line of your message.

FOR FURTHER INFORMATION CONTACT: Suzanne Inzerillo, Office of the Executive Director, Bureau of Consular Affairs, Department of State; phone: 202–663–3923, telefax: 202–663–2499; e-mail: *fees@state.gov.*

SUPPLEMENTARY INFORMATION:

Background

What Is the Authority for This Action?

The majority of the Department of State's consular fees are established pursuant to the general user charges statute, 31 U.S.C. 9701 (which directs that certain government services be self-sustaining to the extent possible), and/or title 22 U.S.C. 4219, which as implemented through Executive Order 10718 of June 27, 1957, authorizes the Secretary of State to establish fees to be charged for official services provided by U.S. embassies and consulates. In addition, a number of statutes address specific fees. A cost-based, nonimmigrant visa processing fee for the machine readable visa (MRV) and for a combined border crossing and nonimmigrant visa card (BCC) (see 22 CFR 41.32) is authorized by section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, Public Law 103–236 (April 30, 1994), as amended. Various statutes permit the Department to retain some of the consular fees it collects, including the MRV and MRV/BCC fees. Section 103 of the Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107–173 (May 14, 2002), amended section 140(a) of Public Law 103–236 to permit the Department to retain all MRV fees until they are expended. Public Law 103–317 (FY 95 CJS Appropriation Act, 8 U.S.C. 1356 note) gives retention authority for an increase to IV fees ''caused by processing an applicant's fingerprints.''

Consistent with OMB Circular A–25 guidelines, the Department conducted a Cost of Service Study (COSS) from January 2003 to June 2004 to update the Schedule of Fees for Consular Services. The results of that study were the foundation of the current Schedule, which was published as a final rule on February 2, 2005, at Volume 70, No. 21 FR Doc. 05–1930. The Schedule went into effect on March 8, 2005. The $100 MRV fee, however, was based on the previous COSS completed in 2002 and was not raised as a result of the 2004/2005 COSS, which indicated that the actual cost for MRV services was $107.32. The Department intends to initiate collection of the fee at the increased rate on January 1, 2008. Furthermore, on January 1, 2008, the

FBI will begin charging the Department of State for fingerprint and name checks. The additional charges will cover the FBI fees, and the collection of 10 prints and systems related costs.

The increase in the Immigration visa application fee is merely the sum of the fee that Department must remit to the FBI for each set of prints taken and the collection costs to the Department.

Why Is the Department Raising the MRV and BCC Fees to $131, and the Immigrant Visa Application Fee to $355 at This Time?

The primary reason for increasing the fees is that in January 2008, the Department will begin paying fees to the FBI for checking the fingerprints against the FBI's Integrated Automated Fingerprint Identification System (IAFIS) and for running visa applicant names through Security Advisory Opinion (SAO) processes.

In addition, the $100 MRV fee that went into effect on November 1, 2002 was based on estimates of visa demand, taking the 2001 COSS as a baseline. The fee was calculated taking into account the costs of worldwide nonimmigrant visa operations, visa demand, and other related costs. The 2004 COSS subsequently determined that the MRV and BCC fees should be set at $107.32 based on revised costs and demand. However, in response to public comment and its own concern over the cost to the applicant, the Department of State determined that it would continue to charge $100 per applicant rather than the actual cost to the Department of $107.32.

Because of the need for additional measures to enhance border security, however, the costs to the Department of processing non-immigrant visas have since risen even further. The increased costs include the cost of collecting ten fingerprints from applicants at all visa processing locations and performing name checks on all applicants. Based on these increased costs, the Department has determined that an MRV and BCC fee of $131 will be required to recover the full cost of processing nonimmigrant visa applications during the anticipated period of the current Schedule of Fees. Failure to increase the fees at this time could jeopardize the Department's ability to continue critical programs, including the enhanced border security measures recently undertaken. Given the uncertainty with respect to actual applicant volume, the fee may need to be adjusted in the future.

The FBI fingerprint fee will also be assessed in all immigrant visa cases. In order to recoup the Department's cost of collecting and providing the 10 fingerprints to the FBI as well as the FBI fee for the fingerprint check, the immigrant visa fee will increase by $20.00 to $355. Since the Department has the authority to retain fees, this increase will be used to pay the FBI fee and fund the department's associated collection costs.

The estimated total increase in cost for nonimmigrant visa applicants is $310,000,000 ($31.00 per applicant, with an estimated 10,000,000 applicants).

The estimated total increase in cost for immigrant visa applicants is $14,000,000 ($20 per applicant, with an estimated 700,000 applicants).

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as an interim final rule, with a 60-day provision for post-promulgation public comments, and with an effective date less than 30 days from the date of publication, based on the ''good cause'' exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). Delaying implementation of this rule would be contrary to the public interest because failure to increase the fees on January 1 would jeopardize the Department's ability to continue critical programs, including visa screening procedures that are necessary for national security. As explained above, the FBI will begin charging the Department a fee to process the fingerprints of visa applicants and to perform name checks of those applicants beginning January 1. The Department's ability to perform this screening is of vital public interest because it is an essential component of efforts to enhance the nation's border security.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

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.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

Executive Order 12866

OMB considers this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to OMB for review.

Executive Order 13132

This regulation 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, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements. It will affect OMB collection numbers 1405–0018 and 1405–0015 by increasing the public cost burden.

List of Subjects in 22 CFR Part 22

Consular services, Fees, Passports and visas.

■ Accordingly, 22 CFR part 22 is amended as follows:

PART 22—[AMENDED]

■ 1. The authority citation for part 22 continues to read as follows:

Authority: 8 U.S.C. 1153 note, 1351, 1351 note; 10 U.S.C. 2602(c); 22 U.S.C. 214, 2504(a), 4201, 4206, 4215, 4219; 31 U.S.C. 9701; Pub. L. 105–277, 112 Stat. 2681 et seq.; Pub. L. 108–447, 118 Stat. 2809 et seq.; E.O. 10718, 22 FR 4632, 3 CFR, 1954–1958 Comp., p. 382; E.O. 11295, 31 FR 10603, 3 CFR, 1966–1970 Comp., p. 570.

■ 2. Section 22.1 is amended by:
■ a. Revising item No. 21(a) and (b), and item 32 to read as set forth below:
■ b. Removing item 35(f).

§ 22.1 Schedule of fees.

* * * * *

Item No.	Fee
* * * * * * *	
Nonimmigrant Visa Services	
21. Nonimmigrant visa application and border crossing card processing fees (per person):	
(a) Nonimmigrant visa [21-MRV Processing]	$131
(b) Border crossing card—10 year (age 15 and over) [22–131 BCC 10 Year]	131
* * * * * * *	
Immigrant and Special Visa Services	
32. Immigrant visa application processing fee (per person) [31–IV Application]	355
* * * * * * *	

Dated: December 11, 2007.

Patrick Kennedy,

Under Secretary of State for Management, Department of State.

[FR Doc. E7–24646 Filed 12–19–07; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

22 CFR Part 62

[Public Notice: 6033]

RIN 1400–AC29

Rule Title: Exchange Visitor Program—Sanctions and Terminations

AGENCY: Department of State.

ACTION: Final Rule.

SUMMARY: The Department of State (Department) published a Proposed Rule regarding sponsor sanctions and program terminations, together with a request for comments, on May 31, 2007. A total of 49 comments were submitted, reviewed and evaluated. The Department herewith adopts the Proposed Rule, with minor edits, as a Final Rule.

DATES: *Effective Date:* This Final Rule is effective January 22, 2008.

SUPPLEMENTARY INFORMATION: The former United States Information Agency (USIA) and, as of October 1, 1999, its successor, the U.S. Department of State (Department), have promulgated regulations governing the Exchange Visitor Program. Those regulations now appear at 22 CFR Part 62. The regulations governing sanctions appear at 22 CFR 62.50, and regulations governing termination of a sponsor's designation, at 22 CFR 62.60 through 62.62. The ultimate goals of the sanctions regulations are to further the foreign policy interests of the United States, and to protect the health, safety, and welfare of Exchange Visitor Program participants. These regulations largely have remained unchanged since 1993, when the USIA undertook a major regulatory reform of the Exchange Visitor Program, as administered by the Office of Exchange Coordination and Designation (Office).

On May 31, 2007, the Department published a Proposed Rule on sanctions and terminations with a comment period ending July 30, 2007. 72 FR 30302–30308. Forty-nine (49) parties filed comments, which the Department reviewed and evaluated. Two membership organizations filed comments on behalf of a large number of individual designated program sponsors. Twenty-five (25) commenting parties favored the Proposed Rule. The remaining commenting parties criticized the Proposed Rule in one or more respects, and several parties recommended changes to the Proposed Rule.

Having thoroughly reviewed the comments and the changes that commenting parties recommended, the Department has determined that it will, and hereby does, adopt the Proposed Rule, with minor edits, and promulgates it as a Final Rule. The Department's evaluation of the written comments and recommendations follows.

As the Department noted in the Supplementary Information accompanying the Proposed Rule,

> The [Fulbright-Hays] Act authorizes the President to provide for such exchanges if it would strengthen international cooperative relations. The language of the Act and its legislative history make it clear that the Congress considered international educational and cultural exchanges to be a significant part of the public diplomacy efforts of the President in connection with Constitutional prerogatives in conducting foreign affairs. Thus, exchange visitor programs that do not further the public diplomacy goals of the United States should not be designated initially, or retain their designation. Accordingly, it is imperative that the Department have the power to revoke program designations or deny applications for program redesignation when it determines that such programs do not serve the country's public diplomacy goals.

The above statement is the underpinning for the Department's entire approach to the sanctions regime of the Exchange Visitor Program.

Comment Analysis

One of the overall criticisms of the Proposed Rule was that the Department eliminated the requirement that it find alleged violations of Part 62 to be willful or negligent before imposing sanctions. Fifteen (15) comments were opposed to the change. The Department believes that such criticism is without merit. A program sponsor, prior to being designated or redesignated, must demonstrate that it (i.e., the responsible officer and alternate responsible officer(s)), its employees, and third parties acting on its behalf have the knowledge and ability to comply and remain in continual compliance with all provisions of Part 62. [§ 62.3(b)(1); § 62.9(a) and (f)(1) and (2); and § 62.11(a).] Since knowledge and ability to comply and remain in full compliance with the regulations are fundamental requirements of sponsor designation, it is essentially irrelevant whether a sponsor violates regulations willfully, negligently, or even inadvertently. Violations, whether or not willful or negligent, may harm the national security or the public diplomacy goals of the United States, or pose a threat to the health, safety or welfare of program participants, and the Department must have the capacity to