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United States Government Accountability Office
Washington, DC 20548

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March 14, 2008

The Honorable Joseph R. Biden
Chairman
The Honorable Richard G. Lugar
Ranking Minority Member
Committee on Foreign Relations
United States Senate

The Honorable Howard L. Berman
Acting Chairman
The Honorable Ileana Ros-Lehtinen
Ranking Minority Member
Committee on Foreign Affairs
House of Representatives

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

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of State (Department), entitled “Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates” (RIN: 1400-AC41). We received the rule on March 6, 2008. It was published in the Federal Register as an interim final rule on January 29, 2008. 73 Fed. Reg. 5087.

The interim final rule revises the Schedule of Fees for Consular Services to reflect an increase in the surcharge related to consular services in support of enhanced border security and a reduction in the execution fee for the passport book. As a result, the total cost for a first-time passport for an adult will increase from \$97 to \$100, the total cost for a renewal passport for an adult will increase from \$67 to \$75, and the total cost for a passport for a child will increase from \$82 to \$85.

Enclosed is our assessment of the Department’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Department complied with the applicable requirements.

The Congressional Review Act requires a 60-day delay before a major rule can become effective. 5 U.S.C. § 801(a)(3). The interim final rule became effective on February 1, 2008, less than 60 days after publication in the *Federal Register* or receipt by Congress. The Department found good cause to waive the 60-day delay in effective date under 5 U.S.C. § 808.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236.

signed

Robert J. Cramer
Associate General Counsel

Enclosure

cc: Alice M. Kottmyer
Attorney-Adviser
Department of State

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF STATE
ENTITLED
"SCHEDULE OF FEES FOR CONSULAR SERVICES,
DEPARTMENT OF STATE AND
OVERSEAS EMBASSIES AND CONSULATES"
(RIN: 1400-AC41)

(i) Cost-benefit analysis

The Department of State (Department) performed a cost-benefit analysis in conjunction with this interim final rule. The Department determined that the net increase per application would provide the Department with an estimated additional \$232 million in fiscal year 2008. The Department estimates that the increased cost of a passport book over its 10-year lifetime will be minimal. Finally, the Department estimates that the interim final rule will have the non-quantifiable benefit of enabling the Department to advance its goal of enhancing border security while simultaneously investing in infrastructure and other developments needed to meet projected level of passport book demand in fiscal year 2008 and beyond.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Department certifies that the interim final rule will not have a significant impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The interim final rule will not result in any expenditure by state, local or tribal governments.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The Department found "good cause" under 5 U.S.C. § 553 to issue the rule with an effective date less than 30 days after publication. The Department states that delaying implementation would be contrary to the public interest because it would jeopardize the Department's ability to fund consular services in support of enhanced border security and would undermine the integrated implementation of other

security-related initiatives designed to go into effect during the same time period. The final rule does include a 60-day provision for post-promulgation comments.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The interim final rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

Statutory authorization for the rule

The interim final rule amending the border security surcharge is authorized under the Department of State Authorities Act of 2006, Public Law 109-472, section 6, 120 Stat. 3554 (2007) (codified at 8 U.S.C. § 1714 note).

Executive Order No. 12,866

The Department considers the interim final rule to be an economically significant regulatory action under the executive order, and the interim final rule has been reviewed by the Office of Management and Budget.

Executive Order No. 13,132 (Federalism)

The Department states that the interim final rule would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power among various levels of government; therefore the executive order is not applicable.