

methods of communicating test results to consumers.

The agency's implementation of this delay of effective date without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and (d)(3). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. The temporary 60-day delay in the effective date is necessary to give the Department of Health and Human Services officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001, sent to all executive departments and agencies. Given the imminence of the effective date, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest in the orderly issuance and implementation of regulations. The imminence of the effective date is also good cause for making this action effective immediately upon publication.

Dated: March 23, 2001.

**Ann M. Witt,**

*Acting Associate Commissioner for Policy.*

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**BILLING CODE 4160-01-S**

## DEPARTMENT OF STATE

### 22 CFR Part 22

[Public Notice 3625]

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

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Schedule of Fees for Consular Services. Specifically, it reduces to \$0 the current \$100 fee for determination or adjudication of citizenship for applicants born abroad who do not have previously issued U.S. Government documentary proof of citizenship. Because the fee does not accurately reflect the cost of the service, the Department is reducing the fee pending the next fee study.

**DATES:** Effective March 30, 2001.

**ADDRESSES:** Office of the Executive Director, Bureau of Consular Affairs, Department of State, SA-1, 10th Floor, 2401 E Street, NW., Washington, DC 20522-0111; fax (202) 663-2499.

**FOR FURTHER INFORMATION CONTACT:**

Susan Abeyta, Office of the Executive Director, Bureau of Consular Affairs, Department of State, SA-1, 10th Floor, 2401 E Street, NW., Washington, DC 20522-0111; telephone (202) 663-2500 telefax (202) 663-2499; e-mail address AbeytaSK@state.gov.

**SUPPLEMENTARY INFORMATION:** This amendment to the Schedule of Fees is published as a final rule because it will not have adverse impact on the public and because it is important to have a final rule in place as close in time as possible to the February 27, 2001 effective date of the Child Citizenship Act of 2000 (CCA), Public Law 106-395. The Department is reducing to \$0 the current \$100 fee for adjudication of citizenship cases for persons born abroad who have no prior documentation of their U.S. citizenship. This fee is applicable when a U.S. citizen born abroad applying for a passport cannot present a previous passport, a Consular Report of Birth Abroad, a Certificate of Nationality or a Certificate of Citizenship. The \$100 fee reflected the fact that such persons typically are seeking to establish U.S. citizenship long after their birth; as a result, adjudication of their cases is relatively time consuming. At the time of the cost study underlying the fee, the Department estimated that a fee of \$100 would ensure full cost recovery, allocate the cost to the actual users, and be consistent with the fee established by the Immigration and Naturalization Service for its comparable service, thus removing any cost-based incentive for applicants to file with one agency over the other. See 62 FR 63478, 63479-80 (Dec. 1, 1997).

The Department has decided to reduce the fee to \$0 pending the next fee study for a number of reasons. In practice, the amount of time required by the category of cases varies so greatly that the fee seems excessive in some cases that in fact require little time to adjudicate, while in others it is far below cost recovery. While the \$100 fee was intended to average the costs involved over all users of the particular service, the Department wishes to revisit this approach in light of the wide variation in time required for cases covered by the fee. Also, the number of cases to which the fee applies has been relatively small, so that discontinuing the fee will not have a significant impact on fee revenues. In addition, the Child Citizenship Act of 2000 has created a new class of persons who will be seeking citizenship documentation service and who would be required to pay the \$100 fee if it were maintained.

The Department believes it best to cease collecting the fee until the cost of this service can be reviewed again.

The Department notes that it is in the process of examining its fees in a number of areas, and that subsequent revisions to the fee schedule may result in the restoration of this fee at an appropriate level or the allocation of the cost of this service to other services to ensure appropriate cost recovery. (Prior to the 1998 amendments to the schedule of fees, the cost of this service was allocated to the passport fee.)

#### *Comment Period and Effective Date—Exceptions*

This rule is being promulgated as a final rule without prior notice and comment, and will take effect in less than 30 days after publication. The Department has determined that the rule is exempt from the advance notice and comment procedures of the Administrative Procedures Act under 5 U.S.C. 553(b)(3)(B) (the "good cause" exception to notice and comment and 553(d)(3) (the good cause exception to delayed effective date). The rule reduces a consular fee from \$100 to zero and hence will benefit the public without causing any related adverse impact. Moreover, it is important to have a final rule in place as close in time as possible to the February 27, 2001 effective date of the Child Citizenship Act of 2000 (CCA), Public Law 106-395.

This fee is established under the user charge statutes, 31 U.S.C. 9701 and 22 U.S.C. 4219, which authorizes the President (who delegated his authority to the Secretary of State in Executive Order 10718 of June 27, 1957), to prescribe the fees to be charged for official services performed by U.S. embassies and consulates. Within the Department, these authorities are delegated to the Under Secretary for Management. There is no one in that position at present, but the Under Secretary's authorities have been delegated by the Secretary to the Assistant Secretary for Diplomatic Security until an Under Secretary for Management is appointed.

The Schedule of Fees for Consular Services is set forth in 22 CFR 22.1, as most recently amended on September 7, 2000 (64 FR 54297).

#### **Regulatory Findings**

##### *Administrative Procedure Act*

The Department is publishing this rule as a final rule for the reasons set forth above. The rule makes no substantive regulatory changes.

*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 Reform 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 export markets.

*Executive Order 12866*

The Department of State does not consider this rule, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and 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 record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

**List of Subjects in 22 CFR Part 22**

Passports and visas.

**Final Rule**

Accordingly, this rule amends 22 CFR part 22 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.*; 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. § 22.1, revise item 4 in the table to read as follows:

**§ 22.1 Schedule of fees.**

Item No.	Fee
<b>Passport and Citizenship Services</b>	
*	*
4. Determination or adjudication of U.S. citizenship for applicants born overseas who have not presented a U.S. passport, Report of Birth Abroad of a Citizen of the United States, or Certificate of Naturalization or Citizenship from the Immigration and Naturalization Service.	No fee.
*	*

Dated: March 22, 2001.  
**David G. Carpenter,**  
*Assistant Secretary for Diplomatic Security,*  
*Department of State.*  
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**DEPARTMENT OF STATE**

**22 CFR Part 41**

[Public Notice 3626]

**Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended: Aliens Ineligible To Transit Without Visas (TWOV)**

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

**ACTION:** Interim rule with request for comments.

**SUMMARY:** Section 212(d)(4)(A) of the Immigration and Nationality Act (INA) permits the Secretary of State, acting

jointly with the Attorney General, to waive the visa and passport requirement of INA 212(a)(7)(B) for certain aliens in direct transit through the United States. This waiver allows an alien to transit the United States without a passport and visa provided the alien is traveling on a carrier signatory to an agreement with the Immigration and Naturalization Service (INS) in accordance with INA 233(c) and bears documentation establishing identity and nationality which permits the alien's entry into another country. This rule adds Colombia to the list of countries that are ineligible to transit without visa (TWOV).

**DATES:** *Effective Date:* This interim rule is effective April 2, 2001.

*Comment Date:* Written comments may be submitted sixty days from March 30, 2001.

**ADDRESSES:** Submit comments, in duplicate, to the Chief, Legislation and Regulations Division, Visa Services,

Department of State, Washington, DC 20522-0106.

**FOR FURTHER INFORMATION CONTACT:** H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Room L603-C, SA-1, Department of State, Washington, DC 20520-0106, (202) 663-1204; or e-mail: [odomhe@state.gov](mailto:odomhe@state.gov).

**SUPPLEMENTARY INFORMATION:**

**What Is the Authority for Allowing or Prohibiting Transit Without Visa?**

Section 212(d)(4)(C) of the Immigration and Nationality Act (INA) provides the authority for the Secretary of State, acting jointly with the Attorney General, to waive the passport and/or visa requirement for a nonimmigrant who is in immediate and continuous transit through the United States and is using a carrier that has entered into a Transit Without Visa (TWOV) Agreement as provided in INA 233(c).