

DEPARTMENT OF STATE**22 CFR Part 22**

[Public Notice: 11465]

RIN 1400-AE15

Schedule of Fees for Consular Services—Passport Security Surcharge

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule adopts as final the notice of proposed rulemaking (NPRM) published in the **Federal Register** on March 26, 2021. This final rule adjusts the Schedule of Fees for Consular Services (Schedule of Fees) by increasing the passport book security surcharge (PSS) from \$60 to \$80. This increase reflects increases in security-related costs for processing passports attributed to the PSS. Increases in security-related costs are largely due to a 37 percent increase in compensation costs for passport adjudicators and enhanced printing technology costs for the Next Generation (NextGen) passport book. Based on FY 2022 projections of 15.9 million passport products for which the PSS is included as part of the overall fee (passport books, and passport books and card combinations), the Department anticipates an additional \$318 million in revenue. The Department retains all PSS revenue, and it is used to cover the costs associated with passport application processing that support enhanced border security. The adjustment will result in a more accurate alignment of the fees for consular services to the costs of providing the services.

DATES: This final rule is effective on December 27, 2021.

FOR FURTHER INFORMATION CONTACT: Johanna Cruz, Management Analyst, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202-485-8915, telefax: 202-485-6826; email: fees@state.gov.

SUPPLEMENTARY INFORMATION:**Background**

This final rule adjusts the Schedule of Fees for Consular Services (Schedule of Fees) by increasing the PSS from \$60 to \$80. The Department of State (Department) published a NPRM on March 26, 2021 (86 FR 16149), with 60 days provided for public comment. This rule addresses the two comments received by the Department. Justification for this rulemaking and PSS change, including relevant authorities and information on the study

used to calculate this surcharge, can be found in the NPRM.

Analysis of Comments

As noted above, the Department received two comments in response to the NPRM. One commenter requested to view the entire activity dictionary, or at least the list of activities before and after it was streamlined. The commenter suggested that this comparison would allow the public to understand what tasks changed and how those changes led to the fee increase. As explained in the NPRM, the activity dictionary changes focused on standardizing and clarifying tasks, ultimately improving accuracy in cost assignments. These changes resulted in more security-related costs being attributed to the PSS, since this methodology update determined more precisely which passport activities are security-related and assigned them accordingly. For example, the new dictionary has an activity called “Adjudicate,” which combines several of the previous model’s sub-activities (or tasks) like “process and adjudicate first-time passport applications for Minors (DS-11),” “process and adjudicate passport renewal applications (DS-82),” and “process EPDP [emergency photo digital passport] passports.” The Department found that these sub-activities could be consolidated, because they require the same amount of effort and resources and follow the same process steps. The consolidated activities help reduce possibilities for over-, mis-, or under-attribution of costs to the sub-activity level. By consolidating the sub-activities, the model more accurately reflects the activities required to accept, adjudicate, and issue passports and better assigns costs more consistently to those activities. It is important to note, however, that the activity dictionary update is not the main driver that led to the proposed increase in the PSS. The Department has experienced a steady increase each year in costs associated with passport application processing that support enhanced border security since the last adjustment to the PSS. As detailed in the NPRM, the increases in security-related costs are largely due to an increase in compensation costs for passport adjudicators (an approximately \$8.00 per unit increase), passport books (a \$7.00 per unit increase), and enhanced printing technology costs for the more secure Next Generation (NextGen) passport books that include state-of-the-art anti-counterfeiting improvements (a \$3.45 per unit increase). Other less significant increases and decreases in the many

other cost categories comprise the small remainder of the \$20.00 cost increase.

A second comment, which was duplicated three times, suggested that the fee increase is too high and that every taxpayer should receive no-fee services as tax dollars should fund this activity. While the Department is sympathetic to the impact the fee increase may have on those who seek this service, the Department generally sets consular fees at an amount calculated to achieve full cost recovery for the U.S. Government of providing the consular service, consistent with its statutory authorities and guidance from the Office of Management and Budget (OMB). As set forth in OMB Circular A-25, as a general policy, each identifiable recipient should pay a 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 of providing the service, resource, or good. See OMB Circular No. A-25, sec. 6(a)(1), (a)(2)(a). Similarly, the Government Accountability Office’s Federal User Fees Guide (<https://www.gao.gov/products/gao-08-386sp>) states that “user fees can be designed to reduce the burden on taxpayers to finance the portions of activities that provide benefits to identifiable users above and beyond what is normally provided to the public. By charging the costs of those programs or activities to beneficiaries, user fees can also promote economic efficiency and equity.”

Fees collected for passport processing and retained by the Department are the main source of operational funding for the Passport office, which typically does not rely on taxpayer or appropriated funding to support its operations. Passport fees are set based on the costs the Department incurs in processing passports and charged only to individuals applying for a passport. While the PSS is proposed to increase 33 percent, it is only one component of the overall adult passport book fee. The PSS increase will result in an increase from \$110 to \$130 in the overall passport book application fee for adults seeking a renewal (DS-82), which is an 18 percent increase overall, or a 1.8 percent increase each year during the 10-year validity of an adult passport book. This increase to the PSS is necessary to assist the Department in its effort to continue to support services, such as passport services, that benefit only identifiable recipients instead of the general public. These services are funded primarily with fee collections instead of taxpayer dollars/appropriations.

Conclusion

The Department will adjust the PSS in light of the Cost of Service Model's findings that the U.S. government is not recovering fully its costs related to enhanced border security for passport services. Consistent with OMB guidance, the Department endeavors to recover through user fees the cost of services that provide special benefits to an identifiable recipient beyond those that accrue to the general public. See OMB Circular A-25, sec. 6(a)(1), (a)(2)(a). For this reason, the Department will adjust the Schedule of Fees.

Regulatory Findings

Administrative Procedure Act

The Department published this rulemaking as a proposed rule and provided 60 days for public comment. It will be effective 60 days after publication, in accordance with 5 U.S.C. 553(d).

Regulatory Flexibility Act

The Department has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities as defined in 5 U.S.C. 601(6).

Unfunded Mandates Act of 1995

This rule is not expected to result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 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, 2 U.S.C. 1501-1504.

Congressional Review Act

This rule is a major rule as defined by 5 U.S.C. 804(2).

Executive Orders 12866 and 13563

The Department has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in the Executive Orders. OMB has determined that this rule is economically significant under Executive Order 12866.

The final rule is necessary in light of the Department of State's Cost of Service Model's findings that costs associated with passport application processing that support enhanced border security have increased significantly since the last update to the PSS and justify this adjustment through the rulemaking process. See Public Law 109-472, section 6, 120 Stat. 3555, reproduced at 8 U.S.C. 1714 (note) (requiring that the amount of the surcharge be reasonably related to the costs of providing the service).

The following table summarizes the impact of this final rule:

Item No.	Fee	Current fee	Change in fee	Percentage increase	Estimated annual number of applications ¹	Estimated change in annual fees collected ²
Schedule of Fees For Consular Services						
Passport and Citizenship Services						
2. Passport Book Application Services for: (g) Passport book security surcharge (enhanced border security fee)	\$80	\$60	\$20	33.33	FY22: 15,900,000	FY22: \$318,000,000
Total	80	60	20	33.33	15,900,000	318,000,000

¹ Projected passport workload is FY 2022 receipts projected by the PPT directorate as of July 2021.
² The Department of State retains this fee.
³ The Department anticipates implementing this fee change in FY 2022. FY 2022 volumes are used to project fee collection totals.

As noted in the NPRM, the Department of State does not anticipate that demand for passport services will change significantly as a result of this rule. The price of a passport book or card will remain minor in comparison with other costs associated with foreign travel. As a result, the Department does not believe passport demand will be significantly affected by the new fee. This is especially true because an adult passport book is valid for 10 years, and a minor passport book is valid for 5 years or until the applicant turns 18. As a result, the cost to the applicant of the PSS increase is spread over the lifetime of the passport book use.

Executive Order 12372 and 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. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Executive Order 13175

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 22

Consular services, Fees. Accordingly, for the reasons stated in the preamble, 22 CFR part 22 is amended as follows:

PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

- 1. Revise the authority citation for part 22 to read as follows:

Authority: 8 U.S.C. 1101 note, 1153 note, 1157 note, 1183a note, 1184(c)(12), 1201(c), 1351, 1351 note, 1713, 1714, 1714 note; 10 U.S.C. 2602(c); 22 U.S.C. 214, 214 note, 1475e, 2504(h), 2651a, 4206, 4215, 4219, 6551; 31 U.S.C. 9701; 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. In § 22.1, amend the table by revising entry 2(g) under the heading “Passport and Citizenship Services” to read as follows:

§ 22.1 Schedule of fees.
* * * * *

SCHEDULE OF FEES FOR CONSULAR SERVICES

Item No.	Fee
Schedule of Fees for Consular Services	
Passport and Citizenship Services	
2. Passport Book Application Services for:	
(g) Passport book security surcharge (enhanced border security fee)	\$80

Rena Bitter,
Assistant Secretary for Consular Affairs,
Department of State.
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Electronic Availability
This document and additional information concerning OFAC are available on OFAC’s website: www.treasury.gov/ofac.

(the “Regulations”), to implement E.O. 13660, E.O. 13661, and E.O. 13662 (79 FR 26365, May 8, 2014). The President has issued additional Executive orders pursuant to the national emergency declared in E.O. 13660, and expanded in E.O. 13661 and E.O. 13662, which are not discussed in this publication as they are not relevant to the web GLs being published.

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 589

Publication of Ukraine-Related Web General License 16 and Subsequent Iterations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of web general licenses.

SUMMARY: The Department of the Treasury’s Office of Foreign Assets Control (OFAC) is publishing six Ukraine-related web general licenses (GLs) in the **Federal Register**: GL 16, GL 16A, GL 16B, GL 16C, and GL 16D, each of which was previously issued on OFAC’s website and is now expired, as well as GL 16E, which was previously issued on OFAC’s website and was revoked.

DATES: GL 16E was revoked on January 27, 2019. See **SUPPLEMENTARY INFORMATION** of this rule for additional relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Background

On March 6, 2014, the President, invoking the authority of, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (IEEPA), issued Executive Order (E.O.) 13660, “Blocking Property of Certain Persons Contributing to the Situation in Ukraine” (79 FR 13493, March 10, 2014). In E.O. 13660, the President determined that the actions and policies of persons including persons who have asserted governmental authority in the Crimean region without the authorization of the Government of Ukraine that undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States, and declared a national emergency to deal with that threat.

The President subsequently issued E.O. 13661 of March 16, 2014, “Blocking Property of Additional Persons Contributing to the Situation in Ukraine” (79 FR 15535, March 19, 2014), and E.O. 13662 of March 20, 2014, “Blocking Property of Additional Persons Contributing to the Situation in Ukraine” (79 FR 16169, March 24, 2014), pursuant to the national emergency declared in E.O. 13660. E.O. 13661 and E.O. 13662 expanded the scope of the national emergency declared in E.O. 13660. On May 8, 2014, OFAC published the Ukraine Related Sanctions Regulations, 31 CFR part 589

OFAC, in consultation with the Department of State, issued GL 16 on June 4, 2018, pursuant to the Regulations, to authorize certain transactions and activities ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements, including the importation of goods, services, or technology into the United States, involving EN+ Group PLC, JSC EuroSibEnergO, or any entity in which EN+ Group PLC or JSC EuroSibEnergO owns, directly or indirectly, a 50 percent or greater interest, and that were in effect prior to April 6, 2018, through 12:01 a.m. eastern daylight time, October 23, 2018.

Subsequently, OFAC issued five further iterations of GL 16, each of which extended the period the authorizations in GL 16 remained in effect: On September 21, 2018, OFAC issued GL 16A, which replaced and superseded GL 16, and extended the authorizations through 12:01 a.m. eastern standard time, November 12, 2018; on October 12, 2018, OFAC issued GL 16B, which replaced and superseded GL 16A, and extended the authorizations through 12:01 a.m. eastern standard time, December 12, 2018; on November 9, 2018, OFAC issued GL 16C, which replaced and superseded GL 16B, and extended the authorizations through 12:01 a.m. eastern standard time, January 7, 2019;