

Operating Reserve-Supplemental to provide for the inclusion of other technologies that could reliably contribute to operating reserves, including demand-side management.<sup>58</sup>

#### IV. Information Collection Statement

48. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting and recordkeeping (collections of information) imposed by an agency.<sup>59</sup> The information contained here is also subject to review under section 3507(d) of the Paperwork Reduction Act of 1995.<sup>60</sup> By remanding the proposed Reliability Standard the Commission is maintaining the status quo until future revisions to the Reliability Standard are approved by the Commission. Thus, the Commission's proposed action does not add to or increase entities' reporting burden.

#### V. Environmental Analysis

49. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.<sup>61</sup> The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.<sup>62</sup> The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

#### VI. Regulatory Flexibility Act Certification

50. The Regulatory Flexibility Act of 1980 (RFA)<sup>63</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a

substantial number of small entities. The Small Business Administration's Office of Size Standards develops the numerical definition of a small business.<sup>64</sup> For electric utilities, a firm is small if, including affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours. The RFA is not implicated by this proposed rule because by remanding the proposed Reliability Standard the Commission is maintaining the status quo until future revisions to the Reliability Standard are approved by the Commission.

#### VII. Comment Procedures

51. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due May 24, 2010. Comments must refer to Docket No. RM09-15-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

52. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

53. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC 20426.

54. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

#### VIII. Document Availability

55. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through

FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

56. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

57. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or e-mail at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov).

By direction of the Commission.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2010-6477 Filed 3-23-10; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF STATE

### 22 CFR Part 22

[Public Notice: 6928]

**RIN 1400-AC57 and 1400-AC58**

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

**AGENCY:** Department of State.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** The Department of State ("Department") published two proposed rules in the **Federal Register** on December 14, 2009, and February 9, 2010, proposing to amend the Schedule of Fees for Consular Services. In this supplemental proposed rule, the Department of State is providing additional supplementary information regarding the Cost of Survey Study (CoSS), the activity-based costing model that the Department used to determine the fees for consular services proposed in. The Department is also re-opening the comment periods on both proposed rules for an additional 15 days.

**DATES:** Written comments must be received on or before 15 days from the date of publication in the **Federal Register**.

<sup>58</sup> The Commission recognizes that there may be regional limitations on the amount of demand-side management, or other technically capable resources, that can be reliably employed. Any modifications proposed to the Commission must allow regional discretion to make this determination based on the technical issues inherent to those regions.

<sup>59</sup> 5 CFR 1320.11.

<sup>60</sup> 44 U.S.C. 3507(d).

<sup>61</sup> *Regulations Implementing the National Environmental Policy Act of 1969*, Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

<sup>62</sup> 18 CFR 380.4(a)(2)(ii).

<sup>63</sup> 5 U.S.C. 601-612.

<sup>64</sup> See 13 CFR 121.201.

**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 H1001, 2401 E Street, NW., Washington, DC 20520.

- *E-mail:* [fees@state.gov](mailto:fees@state.gov). You must include the RIN (either 1400-AC57 or 1400-AC58, or both) in the subject line of your message.

**FOR FURTHER INFORMATION CONTACT:** Rob Kline, Office of the Comptroller, Bureau of Consular Affairs, phone (202) 663-2513. E-mail: [fees@state.gov](mailto:fees@state.gov).

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

The Department of State (“Department”) published two proposed rules in the **Federal Register** on December 14, 2009 (74 FR 66076, Public Notice 6851, RIN 1400-AC57), and on February 9, 2010 (75 FR 6321, Public Notice 6887, RIN 1400-AC58), proposing to amend sections of part 22 of Title 22 of the Code of Federal Regulations, the Schedule of Fees for Consular Services. The Department’s proposed rules solicited comments, and a number of comments requested additional detail on the Consular Services Cost of Service Study (CoSS) as well as time to comment on that detail. In response, the Department is providing the additional written detail below.

#### **Additional Detail on the Cost of Service Study**

##### *Activity-Based Costing Generally*

Office of Management and Budget (OMB) Circular A-25 states that it is the objective of the United States Government to “(a) ensure that each service, sale, or use of Government goods or resources provided by an agency to specific recipients be self-sustaining; [and] (b) promote efficient allocation of the Nation’s resources by establishing charges for special benefits provided to the recipient that are at least as great as costs to the Government of providing the special benefits \* \* \*.” OMB Circular A-25, ¶ 5(a)-(b); see also 31 U.S.C. 9701(b)(2)(A) (agency “may prescribe regulations establishing the charge for a service or thing of value provided by the agency \* \* \* based on \* \* \* the costs to the Government \* \* \*”). To set prices that are “self-

sustaining,” the Department must determine the true cost of providing consular services. Following guidance provided in Statement #4 of OMB’s Statement of Federal Accounting Standards (SFFAS), available at <http://www.fasab.gov/pdf/ffiles/sffas-4.pdf>, the Department chose to develop and use an activity-based costing (ABC) model to determine the true cost of the services listed in its Schedule of Fees, both those whose fee the Department proposes to change, as well as those whose fee will remain unchanged from prior years. The Department refers to the specific ABC model that underpins the proposed fees in the above-referenced rules as the “Cost of Service Study” or “CoSS.”

The Government Accountability Office (GAO) defines activity-based costing as a “set of accounting methods used to identify and describe costs and required resources for activities within processes.” Because an organization can use the same staff and resources (computer equipment, production facilities, etc.) to produce multiple products or services, ABC models seek to precisely identify and assign costs to processes and activities and then to individual products and services through the identification of key cost drivers referred to as “resource drivers” and “activity drivers.”

*Example:* Imagine a government agency that has a single facility it uses to prepare and issue a single product—a driver’s license. In this simple scenario, every cost associated with that facility (the salaries of employees, the electricity to power the computer terminals, the cost of a blank driver’s license, etc.) can be attributed directly to the cost of producing that single item. If that agency wants to ensure that it is charging a “self-sustaining” price for driver’s licenses, it only has to divide its total costs for a given time period by an estimate of the number of driver’s licenses to be produced during that same time period.

However, if that agency issues multiple products (driver’s licenses, non-driver ID cards, etc.), has employees that work on other activities besides licenses (for example, accepting payment for traffic tickets), and operates out of multiple facilities it shares with other agencies, it becomes much more complex for the agency to determine exactly how much it costs to produce any single product. In those instances, the agency would need to know what percent of time its employees spend on each service and how much of its overhead (rent, utilities, facilities maintenance, etc.) are consumed in delivering each service to determine the cost of producing each of its various products—the driver’s license, the non-driver ID card, etc. Using an ABC model would allow the agency to develop those costs.

##### *Components of Activity-Based Costing*

As noted in SFFAS Statement #4, “activity-based costing has gained broad

acceptance by manufacturing and service industries as an effective managerial tool.” SSFAS Statement #4, ¶ 147. There are no “off-the-shelf” ABC models that allow the Department (or any other entity) to simply populate a few data points and generate an answer. ABC models require financial and accounting analysis and modeling skills combined with a detailed understanding of all the organization’s business processes, which, in an entity the size of the Department’s Bureau of Consular Affairs, are exceedingly complex. More specifically, ABC models require an organization to:

- Identify all of the activities that are required to produce a particular product or service (“activities”);
- Identify all of the resources consumed (costs) in the course of producing that product or service (“resources”);
- Measure the quantity of resources consumed (“resource driver”); and
- Measure the frequency and intensity of demand placed on activities to produce services (“activity driver”).

For more information, SFFAS Statement #4 provides a detailed discussion of the use of cost accounting by the U.S. Government.

*Example:* To consume a peanut butter and jelly sandwich, a person might engage in multiple activities: grocery shopping, sandwich making, sandwich eating, and kitchen cleaning. Each of these activities consumes resources: grocery shopping, for example, requires gas to drive to the store, time to make the trip, and money to buy the peanut butter, jelly, and bread. A person might be able to make 25 peanut butter and jelly sandwiches with a single jar of peanut butter; as a result, the resource driver for peanut butter would be 1/25th of a jar of peanut butter. If a person chooses to eat two peanut butter and jelly sandwiches at a meal, the activity driver for “kitchen cleaning” would be ½ since the person would eat two sandwiches, but only have to clean the kitchen once.

Although the Department has used a sophisticated and detailed ABC model to set fees for a number of years, in its October 10, 2007, report “Transparent Cost Estimates Needed to Support Passport Execution Fee Decisions,” available at <http://www.gao.gov/products/GAO-08-63>, the GAO asked the Department to expand the sophistication of its cost model by identifying even more discrete activities and modeling a broader array of products and services. To provide this additional detail, the Department launched a multi-year plan to refine the CoSS with the help of a team of experienced outside consultants led by The QED Group, LLC, and including Booz Allen Hamilton, Inc. as a

subcontractor. The consultant team was made up of experts in cost modeling capable of providing an objective, outside assessment of costs.

#### *Consular Service Activities*

Working with its consultants, the Department reviewed all of its consular operations and identified 262 distinct activities—including 77 visa-specific activities, 11 passport-specific activities, 58 activities specific to overseas citizen services, and 116 cross-cutting activities (such as cashiering, fraud prevention, and public affairs outreach). This list includes more than five times as many activities than the Department's cost model from the prior CoSS, which broke out 52 activities. The Department provides the following examples of some of the activities that make up a consular operation to illustrate the substantial complexity that the CoSS must be capable of taking into account:

- Processing a passport book (Items 1, 2a/2b, and 2g of the proposed Schedule of Fees). Fifty-two separate CoSS activities are required to process a first-time application for a passport book, including the following actions:
  - Public outreach, such as maintaining passport information on the Department's Web site (<http://travel.state.gov>) and operating appointment systems for our passport agencies;
  - Answering phone and written inquiries from the public regarding passport rules and pending applications;
  - Nine separate activities related to data entry of applications, from capturing applicant photos and processing payment to supervisor audits of the process;
  - Investigation of and coordination with federal law enforcement on potentially fraudulent applications;
  - Actual adjudication of the application;
  - Production of the personalized passport itself; and
  - Archiving completed applications for future reference.
- Adding additional visa pages to a passport (Item 2c of the proposed Schedule of Fees). Among the 51 activities involved in adding additional pages to a passport are the following:
  - Receiving the application and entering data from it into the system;
  - Performing a name check for the applicant and reviewing the results to determine if there any legal impediments to providing the service, such as an outstanding federal warrant for the applicant's arrest;
  - Physically affixing the pages to the passport; and

—Auditing of the process by a supervisor.

- Processing a non-petition-based machine-readable nonimmigrant visa (MRV) (Item 21a of the proposed schedule of fees). Ninety-nine CoSS activities are required in processing an application for a non-petition-based MRV, such as a tourist visa, including:
  - Public outreach, such as responding to public inquiries as to the status of MRV applications;
  - Conducting an interview of the MRV applicant;
  - Collecting biometrics from the MRV applicant;
  - Actual adjudication of the application;
  - Requesting advisory opinions from attorneys at headquarters regarding how specific laws and regulations apply to complicated applications;
  - Requesting security advisory opinions from headquarters about applicants the consular officer believes may present a risk to U.S. national security;
  - Investigating possible fraud in those applications; and
  - Producing the actual, physical visa, affixing it to the applicant's passport, and returning that product to the applicant.
- Processing a fiancé(e) (K category) MRV (Item 21d). One hundred and three CoSS activities are required to process an application for a K1-category fiancé(e) nonimmigrant visa, including:
  - Pre-processing of the case at the National Visa Center, where the petition is received from the Department of Homeland Security, packaged and assigned to the appropriate embassy or consulate; and
  - Intake and review of materials required for a K visa that are not required for other nonimmigrant visas, such as the I-134 affidavit of support and the DS-2054 medical examination report;
  - Conducting an interview of the K visa applicant;
  - Collecting biometrics from the K visa applicant;
  - Actual adjudication of the application;
  - Requesting legal opinions from headquarters as necessary;
  - Investigating possible fraud in those applications; and
  - Producing the physical visa, affixing it to the applicant's passport, and returning that product to the applicant.
- Processing a letter rogatory (Item 51). Sixty CoSS activities are required to service a request for a letter rogatory, covering actions including:

- Receipt of the request at headquarters and dispatch of a telegram to an embassy or consulate instructing that the service be initiated;
- Preparation of a diplomatic note to be sent to the appropriate foreign government; and
- Monitoring the case as it progresses through foreign government channels, and regularly updating the customer on the status of the case.

By taking the 52 activities from the prior CoSS and breaking them down further into 262 activities in the current CoSS, the Department was able to model its costs much more precisely. As a result, the Department was able to identify differences in both resource drivers and activity drivers that had previously been obscured. For example, the Department has better data now on how much additional time a consular officer spends on reviewing the case file for a K fiancé(e) visa (resource driver) as well as how much more frequently an officer seeks assistance from fraud prevention resources as part of a K visa application (activity driver) compared to a standard tourist visa application. Not surprisingly, this additional detail has dramatically increased the complexity of the CoSS because the Department now matches costs with activities at a more granular level.

#### *Determining the Cost of Performing Each Consular Activity*

After defining each activity, the Department used the CoSS model to determine the total costs to perform that activity. As noted in SFFAS Statement #4, “[d]epending on feasibility and cost-benefit considerations, resource costs may be assigned to activities in three ways: (a) Direct tracing; (b) estimation based on surveys, interviews, or statistical sampling; or (c) allocations.” SSFAS Statement #4, ¶ 149(2).

Direct trace costs are quite obvious and easy to identify. For the activities listed above they include, for example, what the Department pays for each physical passport book, the paper affixed to the book of a customer who requests additional pages, or the visa foil that is placed into an applicant's passport.

Determining how to assign other types of costs to activities is much more difficult than direct trace costs since an employee or resource may be involved in many different activities or processes. To give a few examples from among the large number of factors that go into determining “assigned costs” for the scores of consular services, such costs would include how much time a passport specialist spent to adjudicate a particular passport application; how

much time a passport agency employee spent processing payment for a passport; how much time another employee spent performing a quality-control check on this and other passport work; how much time a consular officer at an embassy or consulate spent interviewing a visa applicant, and another employee spent taking the applicant's fingerprints; how much time that officer then spent adjudicating the visa application; how much time the fraud unit spent investigating whether bank documents submitted in a visa application are fraudulent; and how much time legal staff at headquarters spent determining whether an individual's claim to citizenship is adequately documented.

Finally, the third set of costs, allocated costs, is neither obvious nor easy to trace. With assigned costs, the entire amount is counted as a consular cost and the decision is what share of that cost should be assigned to what activity. In determining allocated costs, only a portion of the whole are included in the model because only that portion can be assigned to consular activities. One example of this is the Department's Bureau of Human Resources, which provides services to all of the Department. The CoSS model includes only a portion of that Bureau's costs, based on the percentage of Department employees who perform consular work. To provide another example, when considering the cost to keep a particular facility (embassy, consulate, passport agency, etc.) functioning, the Department first determined what portion of that facility is used to provide consular services, and then allocated within the CoSS model how much of that smaller amount should be charged to the activities associated with providing a given customer with a given service—such as a passport or a nonimmigrant visa—at that location.

The Department estimates that, on the whole, 19.6% of its consular costs are direct trace, 60.7% are assigned costs, and the remaining 19.7% are allocated costs, although the exact breakdown of these costs varies by activity. Given that such a high percentage of the Department's costs are assigned or allocated costs, the Department devoted substantial efforts to modeling these costs.

#### *Assigning Costs*

To assign labor costs, the Department relied on a variety of industry standard estimation methodologies. For example, the Department analyzed passport agency task reports to determine how much time passport specialists working at a passport agency devote to particular

tasks—for example, time spent serving customers in the window versus time spent in training or performing administrative duties versus time spent actually adjudicating passports. To estimate how much time consular officers overseas spend on consular activities, the Department asked consular officers at 200 overseas posts to complete a 98-question survey. This survey asked Consular Affairs personnel to break out the time they spend on each consular activity they perform during a typical month—visa interviews, visa adjudication, passport adjudication, performing welfare and whereabouts visits, responding to judicial assistance requests from American citizens abroad, notarizing documents for American citizens abroad, issuing consular reports of birth abroad, and so forth. The responses to the survey were then used to develop resource drivers to assign labor costs to activities. To give one example, in the survey responses, foreign service national (FSN) employees in Mumbai, India, indicated that as a whole they spent 6,586 hours on consular activities in a typical month, of which 955 hours (14.5% of their time) were spent on performing nonimmigrant visa application intake. Total annual compensation for Mumbai FSNs was \$783,988. Based on the percentage calculated above, 14.5% of their compensation, or \$113,678, was calculated as the cost of this one activity for this one post for this one labor category.

To assign activity costs to the individual services, the Department extracted volume data by product type from its data systems. For example, to determine how to assign the costs of adjudicating nonimmigrant visas, the Department analyzed the volume of nonimmigrant visas issued by category (B, H, K, L, and so forth) for a given time period, which in turn became the activity driver for this data. For activities at embassies and consulates abroad, this volume data is collected from the "Consular Package" every consular section submits annually via the Internet-based Consular Workload Statistics System (CWSS). For more than 30 years, the Consular Package has been the single most important document consular managers use to report, plan, and budget for consular operations, and is the key document linking consular objectives to resource and personnel requirements. CWSS collects and evaluates data from 239 individual consular sections in consulates and embassies worldwide, and provides customizable reports of available data. CWSS is designed to provide the most

comprehensive picture of each post's consular operations and cumulatively of embassies and consulates by region and worldwide. It provides an overview of the volume and nature of the embassy's or consulate's consular workload; personnel and work hours devoted to it; the challenges faced; and the outlook for the future. These reports yield a wealth of data and are an exceptionally valuable management tool for determining consular resource needs. Volume data for all consular services the Department provides at its embassies and consulates overseas—passport and citizenship services, emergency services to American citizens, nonimmigrant and immigrant visa services, judicial services, etc.—is captured from the CWSS. Using the Mumbai example above, the costs for the processing of nonimmigrant visa application intake activity were assigned to nonimmigrant visas according to volume by visa category, as collected from the CWSS—an activity driver referred to as "nonimmigrant visa applications." Of the 253,394 nonimmigrant visas issued in Mumbai during FY 2008, 209,120 (82.5%) of them were "base MRVs," that is non-petition-based nonimmigrant visas (excluding the E category). Thus, 82.5% of the FSN costs for this activity (\$93,784 of the \$113,678 total) were assigned to "base MRVs" for this one cost element.

For consular activities that take place in the United States, the Department collects volume data from periodic workload reports pertaining to the passport or visa facilities in question. For example, for volume data on the processing of passport applications or requests for additional pages submitted to one of the many passport agencies in cities across the United States, the Department collects volume data from monthly workload reports pulled from the passport management information system, a management database.

After collecting and analyzing all available cost and workload data, the Department converted this raw data into resource drivers and activity drivers for each resource and activity. The resulting 14-gigabyte database constitutes the CoSS model. Because the CoSS is a complex series of iterative computer processes incorporating more than a million calculations, it cannot itself be reduced to a tangible form such as a document, notwithstanding the use of the word "study" in the term "cost of service study."

The final component required to determine unit costs is "scenario planning," described in the following section.

### Scenario Planning

Scenario planning allowed the Department to predict levels of future demand for specific services and evaluated their impact on unit costs. Without scenario planning, an activity-based costing model can only determine historical costs, or how much it cost to produce something in the past. As there is no mechanism for the Department to charge retroactive fees to recipients of prior services, and in accordance with OMB objectives, the Department endeavors to determine a “self-sustaining” price for future service delivery. OMB Circular A–25, ¶ 5(a). Through scenario planning, the Department can convert historical data about service costs into forward-looking estimates of how much a service will cost in the future.

Private industry has significantly greater flexibility in altering its personnel and overhead costs based on changes in demand than do government agencies. As roughly 70% of the workforce involved in providing consular services are full-time federal employees, if demand for a service falls precipitously, the Department cannot shed employees as quickly as the private sector. (For that matter, should demand rise precipitously, the Department cannot add employees as quickly, since delivering the vast majority of consular services requires specially trained employees, and these persons cannot begin their training until they have completed the federal hiring process and passed a security clearance.) Additionally, given government procurement rules and security requirements, the Department commits to many of its facilities and infrastructure costs years before a facility comes online. Even if demand changes, the Department is still obligated to cover these costs. As a result, when setting fees, the Department must assume that the majority of its short-term costs cannot drop significantly. Given these and other constraints on altering the Department’s cost structure in the short term, changes in service volumes can have dramatic effects on whether a fee is “self-sustaining,” and forecasting demand becomes crucial.

*Example:* In the original example above involving the issuance of driver’s licenses, assume that the agency is obligated to spend \$1 million per year on staff and facilities costs regardless of how many applicants apply for a driver’s license. If that agency believes 100,000 people will apply for a driver’s license next year, then charging \$10 for each driver’s license would be a “self-sustaining” fee. However, if only 75,000 people actually applied for a \$10 driver’s

license, the agency would face a \$250,000 budget shortfall (or 25% of its total budget). If the agency had known in advance that demand was more likely to be 75,000 people in the next year, it could have set a self-sustaining price of \$13.33 for each license.

The Department devotes significant internal resources to monitoring current demand for consular services and forecasting future demand. After reviewing its own historical data and conferring with its CoSS consultants from the team led by The QED Group, the Department developed a range of demand scenarios for each service or product that it ran through its model. From this range, the Department deliberated and, based on historical demand and experience, chose the most likely demand scenario for each service or product. It then used this demand scenario to populate the final version of the CoSS.

These estimates took into account, among other factors, the likely impact of the global economic downturn on demand for consular services.

Using the activities listed above as examples, the Department forecasted that it will receive in FY 2010:

- A total of 13,618,092 applications for passport products, an 18.5% decrease from actual figures in FY 2008, the last full year available to the Department at the time it modeled the fees proposed in the rules at issue in this notice, and a year in which impending Western Hemisphere Travel Initiative (WHTI) implementation resulted in very high demand;
- 217,576 applications for extra passport pages, a 5.3% decrease from FY 2008 due to the post-WHTI decrease in overall demand for passport products;
- 5,787,040 applications for nonimmigrant visas that do not require a petition, a 10.6% decrease from FY 2008 due to the addition of eight countries to the Visa Waiver Program and the effects of the global economic downturn;
- 98,077 applications for K1-category fiancé(e) visas, a 10.7% decrease from FY 2008 due to the decrease in overall demand for visas resulting from the global economic downturn;
- 543 requests for processing of letters rogatory and Foreign Sovereign Immunities Act (FSIA) judicial assistance cases, a 20.9% increase from FY 2008 based on the historical rates of increase for judicial services requests.

### Running the Data Through the CoSS Model

The costs the Department entered into the CoSS model included every line item of costs for the Department, including items such as physical material for making passports and visas, salaries, rent, supplies, travel, and so forth. The Department then determined a resource driver (from, for example, the responses to the overseas survey, data from the passport agency task report, etc.) for each of these costs, as discussed in the “Assigning Costs” section above, and entered the resource drivers and assignments into the model. This allowed the model to calculate the activity cost for each activity. The Department then selected an activity driver, such as the volume data from CWSS discussed above, for each activity, in order to assign these costs to each service type. This process allowed the model to calculate a total cost for each of the Schedule of Fees’ line items for visa services, passport services, and overseas citizen services. The model then divided this total cost by the total volume of the service or product in question in order to determine a final unit cost for the service or product for the historical base year. Projected cost increases for predictive years were also included to take account of changes *inter alia* in the size of consular staff, the exchange rates, inflation, and cost of living factors. At this stage, the final demand projections discussed in the “Scenario Planning” section above were applied to each appropriate element in the model using business rules that allowed the model to project unit costs for future years. The calculation of these costs allowed the Department to determine the appropriate fee to propose. As this series of calculations demonstrates, the CoSS is an extremely complex yet comprehensive model that captures historical costs while attempting to predict future costs based on the Department’s best knowledge and predictive abilities.

### Conclusion

Based on the information outlined and explained above, the Department believes these fees are entirely consistent with the objective in OMB Circular A–25 to “promote efficient allocation of the Nation’s resources by establishing charges for special benefits provided to the recipient that are at least as great as costs to the Government of providing the special benefits \* \* \*.” OMB Circular A–25, ¶ 5(b). The Department takes seriously its obligation to be a good steward of public resources (including user fees) and

understands clearly the important role it plays in encouraging and enabling international trade and commerce.

As noted above, the Department determined its proposed fees using a federally approved fee-setting model—activity-based costing—developed with the assistance of independent professional consultants experienced in activity-based cost modeling, and believes that these proposed fees will be self-sustaining when implemented. Moreover, the Department continues to refine and update the CoSS so it can regularly monitor its fees and make adjustments as required to continue to set fees commensurate with what it costs the Department to provide the service in question.

Dated: March 18, 2010.

**Patrick F. Kennedy,**  
Under Secretary of State for Management,  
Department of State.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2007-0587; FRL-9130-1]

#### Approval of Implementation Plans of Wisconsin: Nitrogen Oxides Reasonably Available Control Technology

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Wisconsin State Implementation Plan (SIP) submitted on June 12, 2007 and on September 14, 2009. These revisions incorporate provisions related to the implementation of nitrogen oxides (NO<sub>x</sub>) Reasonably Available Control Technology (RACT) for major sources in the Milwaukee-Racine and Sheboygan ozone nonattainment areas. EPA is proposing to approve SIP revisions that address the requirements found in section 182(f) of the Clean Air Act (CAA). EPA is also proposing to approve other miscellaneous rule changes that affect NO<sub>x</sub> regulations that were previously adopted and approved into the SIP.

**DATES:** Comments must be received on or before *April 23, 2010*.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2007-0587, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: [damico.genevieve@epa.gov](mailto:damico.genevieve@epa.gov).

3. *Fax*: (312) 385-5501.

4. *Mail*: Genevieve Damico, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: Genevieve Damico, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2007-0587. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage

at *http://www.epa.gov/epahome/dockets.htm*.

**Docket:** All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Douglas Aburano, Environmental Engineer, at (312) 353-6960, before visiting the Region 5 office.

#### FOR FURTHER INFORMATION CONTACT:

Douglas Aburano, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6960, [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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#### I. What Action Is EPA Proposing To Take?

Throughout this document wherever "we," "us," or "our" are used, we mean EPA.

##### NO<sub>x</sub> RACT Approval

EPA is proposing to approve revisions to Wisconsin's SIP, submitted on June 12, 2007 and on September 14, 2009. The CAA amendments of 1990 introduced the requirement for existing major stationary sources of NO<sub>x</sub> in nonattainment areas to install and operate NO<sub>x</sub> RACT. Specifically, section 182(b)(2) of the CAA requires States to adopt RACT for all major sources of volatile organic compounds (VOC) in ozone nonattainment areas; section 182(f) extends the RACT provisions to major stationary sources of NO<sub>x</sub>.

Wisconsin was not required to adopt NO<sub>x</sub> RACT rules under the 1-hour ozone standard because all of the ozone nonattainment areas in Wisconsin were