



441 G St. N.W.
Washington, DC 20548

B-335170

May 15, 2023

The Honorable Richard J. Durbin
Chairman
The Honorable Lindsey Graham
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Jim Jordan
Chairman
The Honorable Jerrold Nadler
Ranking Member
Committee on the Judiciary
House of Representatives

The Honorable Robert Menendez
Chairman
The Honorable James E. Risch
Ranking Member
Committee on Foreign Relations
United States Senate

The Honorable Michael McCaul
Chairman
The Honorable Gregory Meeks
Ranking Member
Committee on Foreign Affairs
House of Representatives

Subject: *Department of State: Schedule of Fees for Consular Services—Nonimmigrant and Special Visa Fees*

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 (State) entitled “Schedule of Fees for Consular Services—Nonimmigrant and Special Visa Fees” (RIN: 1400-AF33). We received the rule on March 29, 2023. It was published in the *Federal Register* as a final rule on March 28, 2023. 88 Fed. Reg. 18243. The effective date is May 30, 2023.

According to State, this final rule adopts final adjustments to the Schedule of Fees for Consular Services for several nonimmigrant visa application processing fees and the Border Crossing Card for Mexican citizens age 15 and over. State noted that these adjustments are based on the findings of the most recently approved update to the Cost of Service Model and incorporate revised projections for nonimmigrant visa demand. State also stated that the rule addresses

public comments received by the agency regarding the originally proposed fee recommendations found in the notice of proposed rulemaking.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The rule was published in the *Federal Register* on March 28, 2023. 88 Fed. Reg. 18243. The rule was received by the Senate on April 17, 2023. 169 Cong. Rec. EC1122 (daily ed. May 1, 2023). The *Congressional Record* does not yet reflect the date of receipt by the House of Representatives. According to State, the Department sent the rule to the House by email on March 29, 2023. Email from Attorney-Adviser, Department of State, to Staff Attorney, GAO, *Subject: CRA submission from Dept. of State – RIN 1400-AF33* (Mar. 30, 2023). The rule has a stated effective date of May 30, 2023. Therefore, based on the date of receipt by the Senate, the final rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of State's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. 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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in cursive script that reads "Shirley A. Jones".

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Alice Kottmyer
Attorney-Adviser, Office of the Legal 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—
NONIMMIGRANT AND SPECIAL VISA FEES”
(RIN: 1400-AF33)

(i) Cost-benefit analysis

The Department of State (State) conducted an economic analysis of this final rule. State stated that the rule’s fee increases would result in minimal increases in the totality of overall costs to both travelers and those seeking work visas. State indicated that it does not believe that the rule’s increased application processing costs will deter non-U.S. citizens from applying for visas, because these fee increases do not significantly impact the costs of an applicant’s travel to the United States. Additionally, State noted that although the rule’s economic impact on individual applicants is minimal, the rule’s fee increases will generate revenue that will be used to cover the costs of providing consular services. State stated that this revenue will help guarantee the continued functioning of its consular operations, which will provide a direct benefit to U.S. citizens.

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

State certified that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Act.

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

State determined that this final rule will not 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 that the rule will not significantly or uniquely affect small governments.

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

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

On December 29, 2021, State published a proposed rule. 86 Fed. Reg. 74018. In response to the proposed rule, State received a total of 328 comments, 94 of which were duplicates. State responded to comments in this final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

State determined that this final rule does not impose any new reporting or recordkeeping requirements subject to the Act.

Statutory authorization for the rule

State promulgated this final rule pursuant to various sections of titles 8, 10, 22, and 31 of the United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

In this final rule, State stated that the Office of Management and Budget has determined that the rule is economically significant under the Order.

Executive Order No. 13132 (Federalism)

State determined that this final rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Accordingly, State determined the rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.