(b) *Sponsors. See* Nos. 068727 and 068882 in § 510.600(c) of this chapter.

* * * * *

Dated: September 14, 2009.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. E9–22384 Filed 9–16–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF STATE

22 CFR Parts 22 and 51

[Public Notice 6650]

RIN 1400–AC39

Passport Procedures—Amendment to Expedited Passport Processing Regulation

AGENCY: Bureau of Consular Affairs, State Department.

ACTION: Final Rule.

SUMMARY: This rule revises the expedited passport process and changes the definition of expedited passport processing from three business days, beginning when the application arrives at a passport agency or when the request for expedited processing is approved, to the number of business days published on the Department's Web site at *http://www.travel.state.gov.* This change ensures that the Department can continue to offer this service consistent with its regulations while maintaining sufficient flexibility to adapt to fluctuations in passport demand. It also ensures that the public can easily determine the current standards for expedited passport processing.

DATES: September 17, 2009.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Susan M. Bozinko, Bureau of Consular Affairs, Passport Services, Division of Legal Affairs, U.S. Department of State, Washington, DC 20037 or e-mailed at *BozinkoSM@state.gov.*

SUPPLEMENTARY INFORMATION: The Department published an interim final rule, Public Notice 5888, Vol. 72 **Federal Register** No. 158, amending Parts 22 and 51 of Title 22 of the Code of Federal Regulations, along with a request for comments. The interim final rule was implemented to change the definition of expedited passport processing. The Department's reasons for implementing the change were discussed in detail in the interim final rule. This final rule is unchanged from the interim final rule. Further, this final rule makes a conforming amendment to the Schedule of Fees for Consular Services to reflect a change to the regulation affected by this rule.[1]

Analysis of Comments

Eight comments were submitted in response to the request for comments. Two were unsolicited business offers and one was a test e-mail to ascertain the accessibility of the e-mailbox being used. Five were substantive comments, including comments submitted by the American Immigration Lawyers Association (AILA).

Notice to the Public

Three individuals expressed concern that the publication of the expedited passport processing standard on the Department's Web site would not provide sufficient notice of the standard to the public.

The Department indicates on its Web site the date on which any change to the number of business days constituting expedited passport processing becomes effective. Moreover, the number of business days that constitutes expedited passport processing is a matter of policy determined by the Department. Under 5 U.S.C. 553(b), statements of general agency policy are not subject to the requirement of notice and comment rulemaking. Thus, any modifications of the policy regarding what constitutes expedited passport processing, including changes to the number of business days that constitute expedited processing, are not subject to notice and comment rulemaking.

While one commenter felt that the link to processing times was too difficult to locate, it should be noted that the link appears at the top of the home page for passport information and as such, is readily accessible to anyone seeking information on U.S. passports. In fact, the *http://www.travel.state.gov* Web site was designed with ease of use for the public as a primary goal. The Department believes the current Web site design is sufficient to meet the public's needs.

Nature of Service

Two commenters stated that Web site publication of the expedited processing standard raised the possibility that applicants paying the expedite fee would not receive the same service and that they would not be able to quickly obtain a passport in case of emergency.

Applicants who request expedited service and pay the expedited processing fee can expect to receive expedited processing within the context of circumstances affecting passport application processing times. Changes to the expedited processing time published on the Web site are intended to reflect those circumstances. In addition, citizens in emergency situations have always been and continue to be a priority to the Department. Applicants with urgent travel needs may apply for expedited processing either by mail or in person at a passport agency.

Refunds

One commenter suggested that the Department should provide a waiver of the expedited processing fee or a refund for failure to process expedited passport applications within the time published on the Department's Web site. The Department's regulations at 22 CFR 51.53 already provide for a refund of the expedited processing fee in cases where the Department does not provide expedited processing as defined in 22 CFR 51.56. Applicants seeking such a refund of the expedite fee must submit a written refund request to the Department. Such requests may be submitted to the Department by mail at the address provided on the Department's Web site, *http://www.travel.state.gov,* or by e-mail at the address provided on *http://www.travel.state.gov.* A link to the Department's e-mail portal for expedite fee refund requests is included on the Web site.

Procedural Issues

One commenter said the interim final rule was procedurally deficient because it sought to incorporate by reference information from the Department's Web site in the regulation. The commenter objected to the Department's alleged failure to follow the procedure for incorporation by reference. However, the rules applying to incorporation by reference—contained in 1 CFR Part 51, which implements 5 U.S.C. 552 (*see* the paragraph following 5 U.S.C. 552(a)(1)(E))—normally apply when a rule imposes a burden or regulatory standard on the public. This rule does not regulate the public; rather, it sets the standard for agency conduct. For this reason, the procedures relating to incorporation by reference do not apply to this rule.

[1] A final rule reorganizing and updating the regulations relating to passports, and which incorporated the interim final rule redefining expedited passport processing, was published at 72 FR 64930 (Nov. 19, 2007). As a result of the reorganization implemented by that rule, the regulation affected by this final rule is now at 22 CFR 51.56(b).

Regulatory Findings

Administrative Procedure Act

The Department published this rule as an interim final rule, with a 60-day provision for post-promulgation public comments. The comment period closed on October 15, 2007.

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 is not expected to have a significant economic impact on a substantial number of small entities because only individuals can apply for passports.

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 $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.

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 the U.S.-based companies to compete with foreign based companies in domestic and import 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). In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations, in conjunction with a domestic agency, that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory and philosophy and principles set forth in Executive Order 12866.

OMB does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f).

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 recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. 35.

List of Subjects

22 CFR Part 22

Consular services, Fees, Passports and Visas.

22 CFR Part 51

Administrative practice and procedure, Drug traffic control, Passports and Visas.

■ Accordingly, for the reasons set forth above, Title 22, Parts 22 and 51 are amended as follows:

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

■ 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; Public Law 105–277, 112 Stat. 2681 *et seq.*; Public Law 108–447, 118 Stat. 2809 *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. Section 22.1 is amended by revising entry 3 of the table to read as follows:

§ 22.1 Schedule of Fees

* * * * *

SCHEDULE OF FEES FOR CONSULAR SERVICES

Item No.	Fee
Passport and Citizenship Services	
* * * * * * *	
3. Expedited Service: Passport processing within expedited processing period published on the Department's Web site (22 CFR 51.56(b)) (not applicable abroad)	$60
* * * * * * *	

PART 51—PASSPORTS

■ 3. The authority citation for Part 51 continues to read as follows:

Authority: 22 U.S.C. 211a, 213, 2651a, 2671(d)(3), 2714, and 3926; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966–1970 Comp. p. 570; Sec. 236 Public Law 106–113, 113 stat. 1501A–430; 18 U.S.C. 1621(a)(2); 42 U.S.C. 652, as amended by Sec. 370 Public Law 104–193 and Sec. 7303 Public Law 109–171.

■ 4. Section 51.56(b) is revised to read as follows:

§ 51.56 Expedited passport processing.

* * * * *

(b) Expedited passport processing shall mean completing processing within the number of business days published on the Department's Web site, *http://www.travel.state.gov,* commencing when the application reaches a Passport Agency or, if the application is already with a Passport Agency, commencing when the request for expedited processing is approved. The processing will be considered completed when the passport is ready to be picked up by the applicant or is mailed to the applicant, or a letter of passport denial is transmitted to the applicant.

* * * * *

Dated: September 9, 2009.

Janice L. Jacobs,

Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. E9–22417 Filed 9–16–09; 8:45 am]

BILLING CODE 4710–06–P