

### What Is the Impact of section 457 of the Homeland Security Act on Current Programs?

The Service recognizes that this statutory amendment has the effect of terminating the existing source of funding for the asylum and refugee programs and, accordingly, will impair the Service's ability to adjudicate applications for these programs. This amendment also terminates the existing source of funding for the adjudication of other applications for which the Service has granted a fee waiver under the relevant standards, thereby eliminating the ability of the Service to grant fee waivers and exemptions. However, the Service has no choice in taking this action to revise the current fee schedule because Congress has mandated that result, effective January 24, 2003.

### Good Cause Exception

This interim rule is effective on January 24, 2003, although the Service invites post promulgation comments and will address any such comments in a final rule. The Service finds that good cause exists to adopt this rule without the prior notice and comment period and delayed effective date ordinarily required by 5 U.S.C. 553(b) and (d), since section 457 of the Homeland Security Act of 2002, Public Law 107-296 takes effect on January 24, 2003.

### Regulatory Flexibility Act

The Acting Commissioner, Immigration and Naturalization Service, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and by approving it has determined that this rule will not have a significant economic impact on a substantial number of small entities. The majority of applications and petitions are submitted by individuals and not small entities as that term is defined in 5 U.S.C. 601(6).

Although the Service acknowledges that a number of small entities, particularly those filing business-related applications and petitions, such as Form I-140, Immigrant Petition for Alien Worker; Form I-526, Immigrant Petition by Alien Entrepreneur; and Form I-829, Petition by Entrepreneur to Remove Conditions, may be affected by this rule, the rule will have a positive impact since the Service will be reducing the costs of petitions and applications.

### 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 one 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

This rule is considered by the Department of Justice to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget (OMB) for review.

The Service has assessed both the costs and benefits of this rule as required by section 1(b)(6) of Executive Order 12866 and has made a determination that the Service has no alternative other than to eliminate the surcharge in order to comply with section 457 of Public Law 107-296.

### Executive Order 13132

This rule 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, the Department of Justice has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

### Executive Order 12988: Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

### Paperwork Reduction Act

This rule requires that the fees for application and petition forms identified in this interim rule be reduced to comply with section 457 of Public Law 107-296. Since a reduction of these fees will reduce the cost burden on the public the Service has submitted

the required Paperwork Reduction Change Worksheet (OMB-83C) to the Office of Management and Budget (OMB) reflecting the new fees and cost burdens on the public, and OMB has approved the changes.

To ensure that the public is fully aware of these changes the new fees will be highlighted on the Services Web site at: <http://www.ins.usdoj.gov>.

### List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (government agencies), Freedom of Information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, part 103 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

### PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

**Authority:** 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p.166; 8 CFR part 2.

2. Section 103.7(b)(1) is amended by revising the entries for the following forms, to read as follows:

#### § 103.7 Fees.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

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Form I-17. For filing a petition for school approval or recertification—\$517 plus \$350 per additional campus listed on Form I-17B.

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Form I-90. For filing an application for a Permanent Resident Card (Form I-551) in lieu of an obsolete card or in lieu of one lost, mutilated, or destroyed, or for a change in name—\$95.

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Form I-102. For filing a petition for an application (Form I-102) for Arrival/Departure Record (Form I-94) or Crewman's Landing (Form I-95), in lieu of one lost, mutilated, or destroyed—\$73.

Form I-129. For filing a petition for a nonimmigrant worker, a base fee of \$96. For filing an H-1B petition a base fee of \$96 plus an additional \$1,000 fee in a single remittance of \$1,096. The remittance may be in the form of one or two checks (one in the amount of \$1,000 and the other in the amount of \$96). Payment of this additional \$1,000 fee is not waivable under § 103.7(c)(1). Payment of this additional \$1,000 fee is not required if an organization is exempt under § 214.2(h)(19)(iii) of this chapter, and this additional \$1,000 fee also does not apply to certain filings by any