

Stat. 2101, 2121 (November 5, 1990), Congress further provided that "fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees may also be set at a level that will recover any additional costs associated with the administration of the fees collected." 8 U.S.C. 1356(m).

The House Conference Report to the bill, entitled "Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the Fiscal Year Ending September 30, 1996, and For Other Purposes" H.R. Conf. Rep. No. 104-378, at 82 (1995), directs the Service to fund the cost of the Cuban-Haitian Entrant Program from the IEFA. The Report states "(t)he conferees have also agreed that the activities related to the resettlement of Cubans and Haitians should be transferred to the * * * Service and that the costs of these activities should be supported by the [IEFA]." *Id.*

In a final rule effective October 13, 1998, (except for the Form N-400, which took effect on January 15, 1999)

the Service raised the majority of fees to recover the full costs of processing immigration benefit applications, and added a "surcharge" setting the fees at a level sufficient to fund the processing of asylum and refugee applications as well as those immigration benefit applications processed at no charge to applicants/petitioners. The Service subsequently adjusted the levels of fees in the IEFA, after notice and comment, effective February 19, 2002.

The Impact of Section 457 of the Homeland Security Act on the Fee Structure

In section 457 of the Homeland Security Act of 2002, Congress amended section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) by striking "services, including the costs of similar services provided without charge to asylum applicants or other immigrants." and inserting "services." This amendment effectively repealed the statutory basis for surcharges. Accordingly, the Service reduced the immigration benefit application fees by an average of \$50, or 25 percent, for the surcharges applied to the majority of immigration benefit applications (see 68 FR 3798, dated January 24, 2003).

The Impact of the Homeland Security Act Amendments of 2003

In section 107 of Homeland Security Act Amendments of 2003, Congress amended the Homeland Security Act by striking section 457, including the amendment made by such section. As a result, the Service is once again authorized to add a surcharge to immigration benefit applications in order to fund the processing of asylum and refugee applications as well as those immigration benefit applications processed at no charge to applicants/petitioners. Accordingly, the Service is readjusting the immigration benefit application fee schedule by adding in the surcharges that were removed on January 24, 2003, thus restoring the fees to the pre-January 24, 2003, levels. The submission of the reinstated fees reflected in the table below is required for applications submitted on or after February 27, 2003. The Service will accept applications or petitions submitted with the fee that was in effect before the publication of this interim rule, if the application or petition is postmarked on or before February 27, 2003. The following table displays the new immigration benefit application fees.

TABLE 1.—CURRENT VERSUS NEW IMMIGRATION BENEFIT APPLICATION FEES

Form No.	Description	Fee prior to 1/23/03	Current fee	Fee under this rule
I-17	Petition for Approval of School Attendance by Nonimmigrant Student ..	\$580	\$517	\$580
I-90	Application to Replace Permanent Resident Card	130	95	130
I-102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Record.	100	73	100
I-129	Petition for A Nonimmigrant Worker	130	96	130
I-129F	Petition for Alien Fiancé(e)	110	81	110
I-130	Petition for Alien Relative	130	96	130
I-131	Application for Travel Document	110	80	110
I-140	Immigrant Petition for Alien Worker	135	99	135
I-191	Application for Permission to Return to an Unrelinquished Domicile	195	142	195
I-192	Application for Advance Permission to Enter as a Nonimmigrant	195	142	195
I-193	Application for Waiver of Passport and/or Visa	195	142	195
I-212	Application for Permission to Reapply for Admission into the U.S. After Deportation or Removal.	195	142	195
I-485	Application to Register Permanent Residence or to Adjust Status	255	186	255
I-526	Immigrant Petition by Alien Entrepreneur	400	290	400
I-539	Application to Extend/Change Nonimmigrant Status	140	102	140
I-600/600 A	Petition to Classify Orphan as an Immediate Relative/Application for Advance Processing or Orphan Petition.	460	332	460
I-601	Application for Waiver of Grounds of Excludability	195	142	195
I-612	Application for Waiver of the Foreign Residence Requirement	195	142	195
I-751	Petition to Remove the Conditions on Residence	145	105	145
I-765	Application for Employment Authorization	120	88	120
I-817	Application for Family Unity Benefits	140	102	140
I-824	Application for Action on an Approved Application or Petition	140	103	140
I-829	Petition by Entrepreneur to Remove Conditions	395	286	395
N-400	Application for Naturalization	260	188	260
N-565	Application for Replacement Naturalization Citizenship Document	155	113	155
N-600	Application for Certification of Citizenship	185	134	185
N-643	Application for Certificate of Citizenship in Behalf of an Adopted Child	145	105	145