

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Citizenship and Immigration Services

#### 8 CFR Part 103

[CIS No. 2233-02]

RIN 1615-AA84

#### Adjustment of the Immigration Benefit Application Fee Schedule

**AGENCY:** Bureau of Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to adjust the fee schedule of the Immigration Examinations Fee Account (IEFA) for immigration benefit applications and petitions, as well as the fee for capturing biometric information of applicants/petitioners who apply for certain immigration benefit applications and petitions. Fees collected from persons filing immigration benefit applications are deposited into the IEFA and used to fund the full cost of providing immigration benefits; the full cost of providing similar benefits to asylum and refugee applicants; and the full cost of similar benefits provided to other immigrants, as specified in the regulation, at no charge. This rule proposes to adjust the immigration benefit application fees by approximately \$55 per application, and increases the biometric fee by \$20, in order to ensure sufficient funding to process incoming applications.

**DATES:** Written comments must be submitted on or before March 4, 2004.

**ADDRESSES:** Please submit written comments to the Director, Regulations and Forms Services Division, Bureau of Citizenship and Immigration Services (BCIS), Department of Homeland Security, 425 I Street NW., Room 4034, Washington, DC 20536. To ensure proper handling, please reference CIS No. 2233-02 on your correspondence. You may also submit comments

electronically at [rfs.regs@dhs.gov](mailto:rfs.regs@dhs.gov). When submitting comments electronically, you must include CIS No. 2233-02 in the subject box so that your comments can be properly routed to the appropriate office. Comments and other docketed materials (including additional information regarding the rate-setting process) are available for public inspection at the above address by calling (202) 514-3206 to arrange for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Paul L. Schlesinger, Acting Budget Director, Office of Budget, U.S. Citizenship and Immigration Services, 425 I Street NW., Room 5307, Washington, DC 20536, telephone (202) 514-3206.

#### SUPPLEMENTARY INFORMATION:

##### What Legal Authority Does BCIS Have To Charge Fees?

Section 286(m) of the Immigration and Nationality Act (INA) provides for the collection of fees at a level that will ensure recovery of the full costs of providing adjudication and naturalization services, including the costs of providing similar services without charge to asylum applicants and other immigrants. [8 U.S.C. 1356(m).] The INA further states that the fees may recover administrative costs as well. This revenue remains available to provide immigration and naturalization benefits and the collection, safeguarding, and accounting for fees. [8 U.S.C. 1356(n).]

The BCIS must also conform to the requirements of the Chief Financial Officers Act of 1990 (CFO Act), Public Law No. 101-576, 104 Stat. 2838 (1990). Section 205(a)(8) of the CFO Act requires each agency's Chief Financial Officer to "review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value." *Id.*, 104 Stat. at 2844, 31 U.S.C. 902(a)(8).

##### What Federal Cost Accounting and Fee Setting Standards and Guidelines Were Used in Developing These Fee Changes?

The authority provided by section 286(m) of the INA permits BCIS to recover the full costs of providing all immigration adjudication and naturalization services, including those

services provided to individuals other than those paying fees. When developing fees for services, the BCIS also looks, to the extent applicable, to the cost accounting concepts and standards recommended by the Federal Accounting Standards Advisory Board (FASAB). The FASAB was established in 1990, and its purpose is to recommend accounting standards for the Federal Government. The FASAB defines "full cost" to include "direct and indirect costs that contribute to the output, regardless of funding sources." Federal Accounting Standards Advisory Board, Statement of Financial Accounting Standards No. 4: Managerial Cost Accounting Concepts and Standards for the Federal Government 36 (July 31, 1995). To obtain full cost, FASAB identifies various classifications of costs to be included, and recommends various methods of cost assignment. *Id.* at 36-42. Full costs include, but are not limited to, an appropriate share of:

(a) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement;

(b) Physical overhead, consulting, and other indirect costs, including material and supply costs, utilities, insurance, travel and rents or imputed rents on land, buildings, and equipment; and,

(c) Management and supervisory costs.

Full costs are determined based upon the best available records of the agency.

##### How Is the Processing of Immigration Benefit Applications Funded and Supported?

In 1988, Congress established the IEFA. *See* Public Law No. 100-459, sec. 209, 102 Stat. at 2203. Since 1989, fees deposited into the IEFA have been the primary source of funding for providing immigration and naturalization benefits, and other benefits as directed by Congress. In subsequent legislation, Congress directed use of IEFA revenue to fund the cost of asylum processing and other services provided to immigrants at no charge. *See* Public Law No. 101-515, sec. 210(d)(2), 104 Stat. at 2121. Consequently, the immigration benefit application fees were increased to recover these additional costs.

The current immigration benefit application fees are based on the review conducted in 1997 adjusted for cost of living increases (most recently on

February 19, 2002) (66 FR 65811). The current fees also include a \$5 per immigration benefit application surcharge to recover information technology and quality assurance costs. This surcharge allows BCIS to improve upon the delivery of services to its customers such as offering electronic filing for certain immigration benefit applications.

With reference to the biometric fee, the Department of Justice Appropriations Act, 1998, Public Law No. 105-119, 111 Stat. 2440, 2448 (1997), authorized the collection of a fee for fingerprinting applicants for certain immigration benefits. *Id.* The fees are deposited into the IEFA established by 8 U.S.C. 1356(m)-(p). The current fee is \$50.

### How Are the Application Fees Changing in This Rule?

#### A. National Security Enhancements

In processing immigration benefit applications, BCIS is making national security a high priority. Since July 2002, BCIS has added security checks to the processing of all immigration benefit applications to help ensure that those who receive immigration benefits have come to join the people of the United States in building a better society and not to do harm.

The process of performing security checks has been designed to compare information on applicants, petitioners, beneficiaries, derivatives and household members who apply for an immigration benefit on a BCIS immigration benefit application against various Federal lookout systems.

The purpose of conducting security checks is to help law enforcement agencies identify risks to the community and/or to national security and to prevent ineligible individuals from obtaining immigration benefits. BCIS performs two routine checks; one when the application is initially received, and one at the time of adjudication.

This change in the manner in which BCIS processes immigration benefit applications has increased processing costs because the costs of performing these checks were not factored into the initial fee schedule. As a result, existing resources have been diverted in order to perform the additional security checks until the fees could be adjusted to cover these costs.

To determine the impact on resources of the additional security checks, BCIS developed a methodology to identify the additional time or "level of effort" needed to perform the additional security checks by an adjudicator, since

time is a key factor in determining immigration benefit application fees.

In identifying the average time for the additional security checks, BCIS employed a time and motion study through on-site visits to various field offices. To collect a representative sample, BCIS reviewed adjudications at small, medium, and large-sized field offices. To ensure the integrity of the process, BCIS personnel interviewed those who performed the security checks on various immigration benefit applications, validated the times through random observations, and revalidated those times with BCIS personnel.

BCIS calculated the total time requirements using average check times, average number of checks per application, as well as application volumes (using number of applications received for the initial check and number of applications completed for the adjudications check). The total time was then converted into the total cost of performing the additional security checks.

The analysis revealed an annual cost of about \$140 million to recover the costs of security enhancements. This equates to a \$21 per application charge.

#### B. Program Enhancements and New Activities

The rule proposes adjusting the fees to cover an annual cost of about \$46 million to support other program enhancements and new activities. This equates to a \$7 per application charge. A description of these activities follow.

*Improving Refugee Processing.* Currently, the BCIS Office of Refugee Affairs (ORA) has neither the workforce nor the management structure needed to meet the processing challenges facing BCIS overseas, particularly in the wake of the September 11, 2001 terrorist attacks and the resulting security mandates. ORA relies on temporary duty personnel borrowed from other BCIS programs, in particular the Asylum Program, to meet virtually all its processing responsibilities. When refugee processing was largely confined to well-defined caseloads at limited and easily accessible locations, small numbers of temporary duty personnel were usually able to generate enough refugee approvals to meet refugee admissions goals. However, as the U.S. Refugee Program (USRP) continues to focus on more diverse, at-risk populations and to attempt to increase the responsiveness of the USRP to these populations, it is increasingly difficult for it to meet its responsibilities with the limited flexibility and resources that can be provided by other programs with

equally critical missions. Therefore, BCIS plans to establish a refugee corps with dedicated staff focused on this population.

This new structural and functional arrangement will greatly improve the quality of refugee adjudications and oversight, provide cost-effective immigration services, and significantly improve the nation's ability to secure our borders without compromising humanitarian objectives.

*Providing Naturalization Services for Military Personnel.* On November 24, 2003, the President signed the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136). Title XVII of this Act, among other things, removes the fees for individuals eligible for expedited naturalization through military service under sections 328 and 329 of the INA, 8 U.S.C. 1439 and 1440, effective October 1, 2004. The Congressional Budget Office (CBO) estimates two-thirds (over 30,000) of the eligible persons would apply for naturalization, including an additional twenty-five positions to provide naturalization services to military personnel in overseas locations, as also authorized by Title XVII. Therefore, the rule proposes to adjust the fees to recover these additional costs. A conforming change to the reference to the N-400 fee in the rule is also made in order to implement the fee limitation provided by Title XVII.

*Office of Citizenship.* Section 451(f) of the Homeland Security Act of 2002 states, "There shall be a position of Chief of the Office of Citizenship and Immigration Services. The Chief of the Office of Citizenship and Immigration Services shall be responsible for promoting instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens of the United States, including the development of educational materials."

*Other Activities.* BCIS is undergoing a significant competitive sourcing study for public-private job competitions of the functions performed by Immigration Information Officers and Contact Representatives. In addition, BCIS seeks to recover the annual costs of litigation settlements. These legal costs are not included in the current fee structure.

#### C. Administrative Support Costs

As previously stated, BCIS has authority under the INA to recover full costs of the program, including administrative costs. To date, these administrative costs have been funded through discretionary appropriations. In FY 2004, BCIS was appropriated \$235 million of which \$155 million

supported administrative costs (e.g. records management, forms management, human resources, procurement, budget, finance). Since these costs are associated with the processing of immigration benefit applications, BCIS proposes adjusting the fees to recover these costs in accordance with the INA. The annual amount, adjusted for FY 2004 and FY 2005, of \$157 million equates to a \$23 per application charge.

#### D. Cost of Living

To maintain current service levels, the current immigration benefit application fees were adjusted for cost of living increases for FY 2004 and FY 2005

based upon inflationary rates used for the President's annual budget request. This increase in the annual amount of \$28 million equates to a \$4 average per application charge.

#### How Is the Biometric Fee Changing in This Rule?

BCIS charges a fee to recover the operating costs of its fingerprinting program. The costs of the program have risen since 1999, the time of the last fee review. The annualized cost of the program is \$96 million, which includes the capability to electronically capture and retain necessary biometrics (photo, signature, and press-print images) for certain immigration benefit applications

at the time of the applicant/petitioner's first visit to a BCIS Application Support Center. This equates to an increase of \$20. Therefore, the new biometric fee will be \$70.

To better describe the services provided under this fee, the proposed rule refers to it as a biometric fee rather than a fingerprinting fee.

#### What Are the New Application Fees and How Do the New Fees Compare to the Current Fees?

The proposed new immigration benefit application fees and their dollar differences are displayed in Table 1.

TABLE 1.—CURRENT VERSUS NEW APPLICATION AND PETITION FEES

Form No.	Description	New fee	Current fee	Change
I-90	Application to Replace Permanent Resident Card	\$185	\$130	\$55
I-102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Record	155	100	55
I-129	Petition for a Nonimmigrant Worker	185	130	55
I-129F	Petition for Alien Fiancé(e)	165	110	55
I-130	Petition for Alien Relative	185	130	55
I-131	Application for Travel Document	165	110	55
I-140	Immigrant Petition for Alien Worker	190	135	55
I-191	Application for Permission to Return to an Unrelinquished Domicile	250	195	55
I-192	Application for Advance Permission to Enter as a Nonimmigrant	250	195	55
I-193	Application for Waiver of Passport and/or Visa	250	195	55
I-212	Application for Permission to Reapply for Admission into the U.S. After Deportation or Removal.	250	195	55
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	185	130	55
I-485	Application to Register Permanent Residence or to Adjust Status	315	255	60
I-526	Immigrant Petition by Alien Entrepreneur	465	400	65
I-539	Application to Extend/Change Nonimmigrant Status	195	140	55
I-600/600A	Petition to Classify Orphan as an Immediate Relative/Application for Advance Processing or Orphan Petition.	525	460	65
I-601	Application for Waiver on Grounds of Excludability	250	195	55
I-612	Application for Waiver of the Foreign Residence Requirement	250	195	55
I-687	For Filing Application for Status as a Temporary Resident	240	185	55
I-690	Application for Waiver of Excludability	90	35	55
I-694	Notice of Appeal of Decision	105	50	55
I-695	Application for Replacement Employment Authorization or Temporary Residence Card	65	15	50
I-698	Application to Adjust Status from Temporary to Permanent Resident	175	120	55
I-751	Petition to Remove the Conditions on Residence	200	145	55
I-765	Application for Employment Authorization	175	120	55
I-817	Application for Family Unity Benefits	195	140	55
I-824	Application for Action on an Approved Application or Petition	195	140	55
I-829	Petition by Entrepreneur to Remove Conditions	455	395	60
I-881	NACARA—Suspension of Deportation or Application for Special Rule Cancellation of Removal.	275	215	60
I-914	Application for T Nonimmigrant Status	255	200	55
N-300	Application to File Declaration of Intention	115	60	55
N-336	Request for Hearing on a Decision in Naturalization Procedures	250	195	55
N-400	Application for Naturalization	320	260	60
N-470	Application to Preserve Residence for Naturalization Purposes	150	95	55
N-565	Application for Replacement Naturalization Citizenship Document	210	155	55
N-600	Application for Certification of Citizenship	240	185	55
N-600K	Application for Citizenship and Issuance of Certificate under Section 322	240	185	55

BCIS is also making a number of non-substantive stylistic corrections to the fee provisions amended by this rule, and updating the cross-reference to fee regulations under the Freedom of Information Act in 8 CFR 103.7(b)(2) to

refer to Department of Homeland Security rather than Department of Justice regulations. Reference to Form I-700 has been deleted, as this form is no longer used.

#### Does BCIS Have the Authority To Waive Fees on a Case-By-Case Basis?

Yes, BCIS has the authority to waive fees on a case-by-case basis pursuant to 8 CFR 103.7(c). In all fee waiver requests, applicants are required to

demonstrate “inability to pay.” In determining “inability to pay,” BCIS officers will consider all factors, circumstances, and evidence supplied by the applicant including age, disability, household income, and qualification within the past 180 days for a Federal means tested benefit.

#### **How Will BCIS Inform the Public of Future Fee Adjustments Based Solely on Inflation?**

The proposed rule provides that in subsequent years, starting with FY 2006, BCIS will adjust the current immigration benefit application fees on October 1st each year based upon the inflation level enacted by Congress. If Congress has not enacted the inflationary rate by the start of the fiscal year, BCIS will use the anticipated inflation rates used in the President’s annual budget request. BCIS will inform the public of the new fee schedule through a notice published in the **Federal Register** and on its Web site.

#### **Regulatory Flexibility Act**

This rule has been reviewed in accordance with 5 U.S.C. 605(b), and the Department of Homeland Security certifies 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).

BCIS acknowledges, however, 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. For the FY 2004/2005 biennial time period, BCIS projects that approximately 190,000 Forms I-140, 435 Forms I-526, and 508 Forms I-829 will be filed. However, this volume represents petitions filed by a variety of businesses, ranging from large multinational corporations to small domestic businesses. BCIS does not collect data on the size of the businesses filing petitions, and therefore does not know the number of small businesses that may be affected by this rule. However, even if all of the employers applying for benefits met the definition of small businesses, the resulting degree of economic impact would not require a Regulatory Flexibility Analysis to be performed.

#### **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 a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will result in an annual effect on the economy of more than \$100 million, in order to generate the revenue necessary to fully fund the increased cost associated with the processing of immigration benefit applications and associated support benefits; the full cost of providing similar benefits to asylum and refugee applicants; and the full cost of similar benefits provided to other immigrants, as specified in the regulation, at no charge. The increased costs will be recovered through the fees charged for various immigration benefit applications.

#### **Executive Order 12866**

This rule is considered by the Department of Homeland Security to be a “significant regulatory action” under Executive Order 12866, section 3(f), Regulatory Planning and Review. The implementation of this interim rule would provide BCIS with an additional \$232 million in FY 2004 and \$394 million in FY 2005 in annual fee revenue, based on a projected annual fee-paying volume of 6.8 million, over the fee revenue that would be collected under the current fee structure. This increase in revenue will be used pursuant to subsections 286(m) and (n) of the INA to fund the full costs of processing immigration benefit applications and associated support benefits; the full cost of providing similar benefits to asylum and refugee applicants; and the full cost of similar benefits provided to other immigrants at no charge. If BCIS does not adjust the current fees to recover the full costs of processing immigration benefit applications, the backlog will likely increase. The revenue increase is based on BCIS costs and projected volumes that were available at the time of the rule. Accordingly, this rule has been reviewed by the Office of Management and Budget.

#### **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 Homeland Security 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**

Under the Paperwork Reduction Act of 1995, Public Law No. 104–13, 109 Stat. 163 (1995), all Departments are required to submit to OMB, for review and approval, any reporting or recordkeeping requirements inherent in a rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

It should be noted that the changes to the fees will require changes to the application/petition forms to reflect the new fees. BCIS will submit a notification to OMB with respect to any such changes.

#### **List of Subjects in 8 CFR Part 103**

Administrative practice and procedures, 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 proposed to be amended as follows:

#### **PART 103—POWERS AND DUTIES; AVAILABILITY OF RECORDS**

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

**Authority:** 5 U.S.C. 301, 552, 552(a); 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. Section 103.7(b) is amended by:

- a. Removing the entry “For fingerprinting by the Service” and adding the entry “For capturing biometric information” in its place, and by revising the entries for the following forms in paragraph (b)(1);

- b. Adding the entry for "Form N-600K" in paragraph (b)(1);  
 c. Revising paragraph (b)(2); and by  
 d. Adding a new paragraph (b)(3).  
 The revisions and additions read as follows:

**§ 103.7 Fees.**

\* \* \* \* \*  
 (b) \* \* \*  
 (1) \* \* \*  
 \* \* \* \* \*

For capturing biometric information. A service fee of \$70 will be charged for any individual who is required to have biometric information captured in connection with an application or petition for certain immigration and naturalization benefits (other than asylum), and whose residence is in the United States.

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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—\$185.

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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—\$155.

Form I-129. For filing a petition for a nonimmigrant worker—\$185.

Form I-129F. For filing a petition to classify a nonimmigrant as a fiancée or fiancé under section 214(d) of the Act—\$165.

Form I-130. For filing a petition to classify status of an alien relative for issuance of an immigrant visa under section 204(a) of the Act—\$185.

Form I-131. For filing an application for travel documents—\$165.

Form I-140. For filing a petition to classify preference status of an alien on the basis of profession or occupation under section 204(a) of the Act—\$190.

Form I-191. For filing an application for discretionary relief under section 212(c) of the Act—\$250.

Form I-192. For filing an application for discretionary relief under section 212(d)(3) of the Act, except in an emergency case, or where the approval of the application is in the interest of the United States Government—\$250.

Form I-193. For filing an application for waiver of passport and/or visa—\$250.

Form I-212. For filing an application for permission to reapply for an excluded, deported or removed alien, an alien who has fallen into distress, an alien who has been removed as an alien enemy, or an alien who has been

removed at government expense in lieu of deportation—\$250.

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Form I-360. For filing a petition for an Amerasian, Widow(er), or Special Immigrant—\$185, except there is no fee for a petition seeking classification as an Amerasian.

Form I-485. For filing an application for permanent resident status or creation of a record of lawful permanent residence—\$315 for an applicant 14 years of age or older; \$215 for an applicant under the age of 14 years; no fee for an applicant filing as a refugee under section 209(a) of the Act.

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Form I-526. For filing a petition for an alien entrepreneur—\$465.

Form I-539. For filing an application to extend or change nonimmigrant status—\$195.

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Form I-600. For filing a petition to classify an orphan as an immediate relative for issuance of an immigrant visa under section 204(a) of the Act. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.)—\$525.

Form I-600A. For filing an application for advance processing of orphan petition. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.)—\$525.

Form I-601. For filing an application for waiver of ground of inadmissibility under section 212(h) or (i) of the Act. (Only a single application and fee shall be required when the alien is applying simultaneously for a waiver under both those subsections.)—\$250.

Form I-612. For filing an application for waiver of the foreign-residence requirement under section 212(e) of the Act—\$250.

Form I-687. For filing an application for status as a temporary resident under section 245A(a) of the Act. A fee of \$240 for each application or \$105 for each application for a minor child (under 18 years of age) is required at the time of filing with the Department of Homeland Security. The maximum amount payable by a family (husband, wife, and any minor children) shall be \$585.

Form I-690. For filing an application for waiver of a ground of inadmissibility under section 212(a) of the Act as amended, in conjunction with the application under sections 210 or 245A of the Act, or a petition under section 210A of the Act—\$90.

Form I-694. For appealing the denial of an application under sections 210 or

245A of the Act, or a petition under section 210A of the Act—\$105.

Form I-695. For filing an application for replacement of temporary resident card (Form I-688)—\$65.

Form I-698. For filing an application for adjustment from temporary resident status to that of lawful permanent resident under section 245A(b)(1) of the Act. For applicants filing within 31 months from the date of adjustment to temporary resident status, a fee of \$135 for each application is required at the time of filing with the Department of Homeland Security. The maximum amount payable by a family (husband, wife, and any minor children (under 18 years of age living at home)) shall be \$405. For applicants filing after thirty-one months from the date of approval of temporary resident status, who file their applications on or after July 9, 1991, a fee of \$175 (a maximum of \$525 per family) is required. The adjustment date is the date of filing of the application for permanent residence or the applicant's eligibility date, whichever is later.

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Form I-751. For filing a petition to remove the conditions on residence, based on marriage—\$200.

Form I-765. For filing an application for employment authorization pursuant to 8 CFR 274a.13—\$175.

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Form I-817. For filing an application for voluntary departure under the Family Unity Program—\$195.

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Form I-824. For filing for action on an approved application or petition—\$195.

Form I-829. For filing a petition by entrepreneur to remove conditions—\$455.

Form I-881. For filing an application for suspension of deportation or special rule cancellation of removal (pursuant to section 203 of Public Law 105-100):

—\$275 for adjudication by the Department of Homeland Security, except that the maximum amount payable by family members (related as husband, wife, unmarried child under 21, unmarried son, or unmarried daughter) who submit applications at the same time shall be \$550.

—\$155 for adjudication by the Immigration Court (a single fee of \$155 will be charged whenever applications are filed by two or more aliens in the same proceedings). The \$155 fee is not required if the Form I-881 is referred to the Immigration Court by the Department of Homeland Security.

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Form I-914. For filing an application to classify an alien as a nonimmigrant under section 101(a)(15)(T) of the Act

(victims of a severe form of trafficking in persons and their immediate family members)—\$255. For each immediate family member included on the same application, an additional fee of \$105 per person, up to a maximum amount payable per application of \$510.

Form N-300. For filing an application for declaration of intention—\$115.

Form N-336. For filing a request for hearing on a decision in naturalization proceedings under section 336 of the Act—\$250.

Form N-400. For filing an application for naturalization (other than such application filed on or after October 1, 2004, by an applicant who meets the requirements of sections 328 or 329 of the Act with respect to military service, for which no fee is charged)—\$320.

\* \* \* \* \*

Form N-470. For filing an application for benefits under section 316(b) or 317 of the Act—\$150.

Form N-565. For filing an application for a certificate of naturalization or declaration of intention in lieu of a certificate or declaration alleged to have been lost, mutilated, or destroyed; for a certificate of citizenship in a changed name under section 343(c) of the Act; or for a special certificate of naturalization to obtain recognition as a citizen of the United States by a foreign state under section 343(b) of the Act—\$210.

Form N-600. For filing an application for a certificate of citizenship under section 309(c) or section 341 of the Act—\$240, for applications filed on behalf of a biological child and \$200 for applications filed on behalf of an adopted child.

Form N-600K. For filing an application for citizenship and issuance of certificate under section 322 of the Act—\$240, for an application filed on behalf of a biological child and \$200 for an application filed on behalf of an adopted child.

\* \* \* \* \*

(2) Fees for production or disclosure of records under 5 U.S.C. 552 shall be charged in accordance with the regulations of the Department of Homeland Security, 6 CFR 5.11.

(3) The fees prescribed in paragraph (b)(1) of this section shall be adjusted at least annually on or after October 1, 2005, by publication of an inflation adjustment. The inflation adjustment will be announced by notice in the **Federal Register**, and shall be based upon the inflation rate enacted by Congress. If Congress has not enacted the inflation rate by the start of the year, BCIS will use the anticipated inflation rates used in the President's annual budget request. The prescribed fee or

charge shall be the amount prescribed in paragraph (b)(1) of this section, as amended by the latest of any such inflation adjustment. The fees have been rounded to the nearest whole \$5 increment in accordance with BCIS' standard practice.

\* \* \* \* \*

Dated: January 30, 2004.

**Tom Ridge,**

*Secretary of Homeland Security.*

[FR Doc. 04-2290 Filed 1-30-04; 2:44 pm]

**BILLING CODE 4410-10-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

**[Docket No. FAA-2004-16914; Airspace Docket No. 04-AAL-01]**

#### Proposed Establishment of Class E Airspace; Akhiok, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This action proposes to establish new Class E airspace at Akhiok, AK. A new Standard Instrument Approach Procedure (SIAP) and a new Departure Procedure are being published for the Akhiok Airport. There is no existing Class E airspace to contain aircraft executing the new instrument approach at Akhiok, AK. Adoption of this proposal would result in the establishment of Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Akhiok, AK.

**DATES:** Comments must be received on or before March 19, 2004.

**ADDRESSES:** Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2004-16914/Airspace Docket No. 04-AAL-01, at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic

Division, Federal Aviation Administration, Manager, Operations Branch, AAL-530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587.

#### FOR FURTHER INFORMATION CONTACT:

Jesse Patterson, AAL-538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587; telephone number (907) 271-5898; fax: (907) 271-2850; e-mail: [Jesse.ctr.Patterson@faa.gov](mailto:Jesse.ctr.Patterson@faa.gov). Internet address: <http://www.alaska.faa.gov/at>.

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2004-16914/Airspace Docket No. 04-AAL-01." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov> or the Superintendent of Document's Web page at <http://www.access.gpo.gov/nara>.

Additionally, any person may obtain a copy of this notice by submitting a