

§103.7 Fees.

(a) *Remittances.* (1) Fees shall be submitted with any formal application or petition prescribed in this chapter in the amount prescribed by law or regulation. Except for fees remitted directly to the Board of Immigration Appeals pursuant to the provisions of 8 CFR 1003.8, or as the Attorney General otherwise may provide by regulation, any fee relating to any Department of Justice Executive Office for Immigration Review proceeding shall be paid to, and accepted by, any USCIS office authorized to accept fees. The immigration court does not collect fees. Payment of any fee under this section does not constitute filing of the document with the Board of Immigration Appeals or with the Immigration Court. The Department of Homeland Security shall return to the payer, at the time of payment, a receipt for any fee paid. The USCIS shall also return to the payer any documents, submitted with the fee, relating to any Immigration Court proceeding.

(2) Remittances must be drawn on a bank or other institution located in the United States and be payable in United States currency. Fees in the form of postage stamps shall not be accepted. Remittances to the Department of Homeland Security shall be made payable to the "Department of Homeland Security" except that in case of applicants residing in the Virgin Islands of the United States, the remittances shall be made payable to the "Commissioner of Finance of the Virgin Islands" and, in the case of applicants residing in Guam, the remittances shall be made payable to the "Treasurer, Guam." If an application to the Department of Homeland Security is submitted from outside the United States, remittance may be made by bank international money order or foreign draft drawn on a financial institution in the United States and payable to the Department of Homeland Security. Remittances to the Board of Immigration Appeals shall be made payable to the "United States Department of Justice," in accordance with 8 CFR 1003.8. A charge of \$30.00 will be imposed if a check in payment of a fee or any other matter is not honored by the bank or financial institution on which it is drawn. A receipt issued by a Department of Homeland Security officer for any remittance shall not be binding upon the Department of Homeland Security if the remittance is found uncollectible. Furthermore, legal and statutory deadlines will not be deemed to have been met if payment is not made within 10 business days after notification by the Department of Homeland Security of the dishonored check.

(b) *Amounts of fees.* (1) *Prescribed fees and charges.* (i) *USCIS fees.* A request for immigration benefits submitted to USCIS must include the required fee as prescribed under this section. The fees prescribed in this section are associated with the benefit, the adjudication, and the type of request and not solely determined by the form number listed below. The term "form" as defined in 8 CFR part 1, may include a USCIS-approved electronic equivalent of such form as USCIS may prescribe on its official Web site at <http://www.uscis.gov>.

(A) *Certification of true copies:* \$2.00 per copy.

(B) *Attestation under seal:* \$2.00 each.

(C) *Biometric services (Biometric Fee).* For capturing, storing, or using biometrics (Biometric Fee). A service fee of \$85 will be charged of any individual who is required to have biometrics captured, stored, or used in connection with an application or petition for certain immigration and naturalization benefits (other than asylum), whose application fee does not already include the charge for biometric services. No biometric services fee is charged when:

(1) A written request for an extension of the approval period is received by USCIS prior to the expiration date of approval of an Application for Advance Processing of Orphan Petition, if a Petition to

Classify Orphan as an Immediate Relative has not yet been submitted in connection with an approved Application for Advance Processing of Orphan Petition. This extension without fee is limited to one occasion. If the approval extension expires prior to submission of an associated Petition to Classify Orphan as an Immediate Relative, then a complete application and fee must be submitted for a subsequent application.

(2) The application or petition fee for the associated benefit request has been waived under paragraph (c) of this section; or

(3) The associated benefit request is an Application for Posthumous Citizenship (Form N-644); Refugee/Asylee Relative Petition (Form I-730); Application for T Nonimmigrant Status (Form I-914); Petition for U Nonimmigrant Status (Form I-918); Application for Naturalization (Form N-400) by an applicant who meets the requirements of sections 328 or 329 of the Act with respect to military service under paragraph (b)(1)(i)(WW) of this section; Application to Register Permanent Residence or Adjust Status (Form I-485) from an asylee under paragraph (b)(1)(i)(U) of this section; Application To Adjust Status under Section 245(i) of the Act (Supplement A to Form I-485) from an unmarried child less than 17 years of age, or when the applicant is the spouse, or the unmarried child less than 21 years of age of a legalized alien and who is qualified for and has applied for voluntary departure under the family unity program from an asylee under paragraph (b)(1)(i)(V) of this section; or a Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360) meeting the requirements of paragraphs (b)(1)(i)(T)(1), (2), (3) or (4) of this section.

(D) *Immigrant visa DHS domestic processing fees.* For DHS domestic processing and issuance of required documents after an immigrant visa is issued by the Department of State: \$165.

(E) *Request for a search of indices to historical records to be used in genealogical research (Form G-1041):* \$20. The search fee is not refundable.

(F) *Request for a copy of historical records to be used in genealogical research (Form G-1041A):* \$20 for each file copy from microfilm, or \$35 for each file copy from a textual record. In some cases, the researcher may be unable to determine the fee, because the researcher will have a file number obtained from a source other than USCIS and therefore not know the format of the file (microfilm or hard copy). In this case, if USCIS locates the file and it is a textual file, USCIS will notify the researcher to remit the additional \$15. USCIS will refund the records request fee only when it is unable to locate the file previously identified in response to the index search request.

(G) *Application to Replace Permanent Resident Card (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: \$365.

(H) *Application for Replacement/Initial Nonimmigrant Arrival-Departure Document (Form I-102).* For filing a petition for an application for Arrival/Departure Record (Form I-94) or Crewman's Landing Permit (Form I-95), in lieu of one lost, mutilated, or destroyed: \$330.

(I) *Petition for a Nonimmigrant Worker (Form I-129).* For filing a petition for a nonimmigrant worker: \$325.

(J) *Petition for a CNMI-Only Nonimmigrant Transitional Worker (Form I-129CW).* For an employer to petition on behalf of one or more beneficiaries: \$325 plus a supplemental CNMI education funding fee of \$150 per beneficiary per year. The CNMI education funding fee cannot be waived.

(K) *Petition for Alien Fiancé(e) (Form I-129F).* For filing a petition to classify a nonimmigrant as a

fiancée or fiancé under section 214(d) of the Act: \$340; there is no fee for a K-3 spouse as designated in 8 CFR 214.1(a)(2) who is the beneficiary of an immigrant petition filed by a United States citizen on a Petition for Alien Relative (Form I-130).

(L) *Petition for Alien Relative (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: \$420.

(M) *Application for Travel Document (Form I-131)*. For filing an application for travel document:

(1) \$135 for a Refugee Travel Document for an adult age 16 or older.

(2) \$105 for a Refugee Travel Document for a child under the age of 16.

(3) \$360 for advance parole and any other travel document.

(4) No fee if filed in conjunction with a pending or concurrently filed Application to Register Permanent Residence or Adjust Status (Form I-485) when that application was filed with a fee on or after July 30, 2007.

(N) *Immigrant Petition for Alien Worker (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: \$580.

(O) *Application for Advance Permission to Return to Unrelinquished Domicile (Form I-191)*. For filing an application for discretionary relief under section 212(c) of the Act: \$585.

(P) *Application for Advance Permission to Enter as a Nonimmigrant (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: \$585.

(Q) *Application for Waiver for Passport and/or Visa (Form I-193)*. For filing an application for waiver of passport and/or visa: \$585.

(R) *Application for Permission to Reapply for Admission into the United States After Deportation or Removal (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: \$585.

(S) *Notice of Appeal or Motion (Form I-290B)*. For appealing a decision under the immigration laws in any type of proceeding over which the Board of Immigration Appeals does not have appellate jurisdiction: \$630. The fee will be the same for appeal of a denial of a benefit request with one or multiple beneficiaries. There is no fee for an appeal or motion associated with a denial of a petition for a special immigrant visa from an Iraqi or Afghan national who worked for or on behalf of the U.S. Government in Iraq or Afghanistan.

(T) *Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360)*. For filing a petition for an Amerasian, Widow(er), or Special Immigrant: \$405. The following requests are exempt from this fee:

(1) A petition seeking classification as an Amerasian;

(2) A self-petitioning battered or abused spouse, parent, or child of a United States citizen or lawful

permanent resident;

(3) A Special Immigrant Juvenile; or

(4) An Iraqi or Afghan national who worked for, or on behalf of the U.S. Government in Iraq or Afghanistan.

(U) *Application to Register Permanent Residence or Adjust Status (Form I-485)*. For filing an application for permanent resident status or creation of a record of lawful permanent residence:

(1) \$985 for an applicant 14 years of age or older; or

(2) \$635 for an applicant under the age of 14 years when it is:

(i) Submitted concurrently for adjudication with the Form I-485 of a parent;

(ii) The applicant is seeking to adjust status as a derivative of his or her parent; and

(iii) The child's application is based on a relationship to the same individual who is the basis for the child's parent's adjustment of status, or under the same legal authority as the parent.

(3) There is no fee if an applicant is filing as a refugee under section 209(a) of the Act.

(V) *Application to Adjust Status under section 245(i) of the Act (Supplement A to Form I-485)*. Supplement A to Form I-485 for persons seeking to adjust status under the provisions of section 245(i) of the Act: \$1,000. There is no fee when the applicant is an unmarried child less than 17 years of age, or when the applicant is the spouse, or the unmarried child less than 21 years of age of a legalized alien and who is qualified for and has applied for voluntary departure under the family unity program.

(W) *Immigrant Petition by Alien Entrepreneur (Form I-526)*. For filing a petition for an alien entrepreneur: \$1,500.

(X) *Application To Extend/Change Nonimmigrant Status (Form I-539)*. For filing an application to extend or change nonimmigrant status: \$290.

(Y) *Petition to Classify Orphan as an Immediate Relative (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. Only one fee is required when more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters: \$720.

(Z) *Application for Advance Processing of Orphan Petition (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.): \$720. No fee is charged if Form I-600 has not yet been submitted in connection with an approved Form I-600A subject to the following conditions:

(1) The applicant requests an extension of the approval in writing and the request is received by USCIS prior to the expiration date of approval.

(2) The applicant's home study is updated and USCIS determines that proper care will be provided

to an adopted orphan.

(3) A no fee extension is limited to one occasion. If the Form I-600A approval extension expires prior to submission of an associated Form I-600, then a complete application and fee must be submitted for any subsequent application.

(AA) *Application for Waiver of Ground of Inadmissibility (Form I-601) and Application for Provisional Unlawful Presence Waiver (I-601A)*. For filing an application for waiver of grounds of inadmissibility or an application for a provisional unlawful presence waiver: \$585.

(BB) *Application for Waiver of the Foreign Residence Requirement (under Section 212(e) of the Act) (Form I-612)*. For filing an application for waiver of the foreign residence requirement under section 212(e) of the Act: \$585.

(CC) *Application for Status as a Temporary Resident under Section 245A of the Act (Form I-687)*. For filing an application for status as a temporary resident under section 245A(a) of the Act: \$1,130.

(DD) *Application for Waiver of Grounds of Inadmissibility under Sections 245A or 210 of the Act (Form I-690)*. For filing an application for waiver of a ground of inadmissibility under section 212(a) of the Act in conjunction with the application under sections 210 or 245A of the Act, or a petition under section 210A of the Act: \$200.

(EE) *Notice of Appeal of Decision under Sections 245A or 210 of the Act (or a petition under section 210A of the Act) (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: \$755.

(FF) *Application to Adjust Status from Temporary to Permanent Resident (Under Section 245A of Public Law 99-603) (Form I-698)*. For filing an application to adjust status from temporary to permanent resident (under section 245A of Public Law 99-603): \$1020. The adjustment date is the date of filing of the application for permanent residence or the applicant's eligibility date, whichever is later.

(GG) *Petition to Remove the Conditions of Residence based on marriage (Form I-751)*. For filing a petition to remove the conditions on residence based on marriage: \$505.

(HH) *Application for Employment Authorization (Form I-765)*: \$380; no fee if filed in conjunction with a pending or concurrently filed Application to Register Permanent Residence or Adjust Status (Form I-485) when that request was filed with a fee on or after July 30, 2007.

(II) *Petition to Classify Convention Adoptee as an Immediate Relative (Form I-800)*.

(1) There is no fee for the first Form I-800 filed for a child on the basis of an approved Application for Determination of Suitability to Adopt a Child from a Convention Country (Form I-800A) during the approval period.

(2) If more than one Form I-800 is filed during the approval period for different children, the fee is \$720 for the second and each subsequent petition submitted.

(3) If the children are already siblings before the proposed adoption, however, only one filing fee of \$720 is required, regardless of the sequence of submission of the immigration benefit.

(JJ) *Application for Determination of Suitability to Adopt a Child from a Convention Country (Form I-*

800A). For filing an application for determination of suitability to adopt a child from a Convention country: \$720.

(KK) *Request for Action on Approved Application for Determination of Suitability to Adopt a Child from a Convention Country (Form I-800A, Supplement 3)*. This filing fee is not charged if Form I-800 has not been filed based on the approval of the Form I-800A, and Form I-800A Supplement 3 is filed in order to obtain a first extension of the approval of the Form I-800A: \$360.

(LL) *Application for Family Unity Benefits (Form I-817)*. For filing an application for voluntary departure under the Family Unity Program: \$435.

(MM) *Application for Temporary Protected Status (Form I-821)*. For first time applicants: \$50. This \$50 application fee does not apply to re-registration.

(NN) *Application for Action on an Approved Application or Petition (Form I-824)*. For filing for action on an approved application or petition: \$405.

(OO) *Petition by Entrepreneur to Remove Conditions (Form I-829)*. For filing a petition by entrepreneur to remove conditions: \$3,750.

(PP) *Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Pub. L. 105-100) (Form I-881)*:

(1) \$285 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 \$570.

(2) \$165 for adjudication by the Immigration Court (a single fee of \$165 will be charged whenever applications are filed by two or more aliens in the same proceedings).

(3) The \$165 fee is not required if the Form I-881 is referred to the Immigration Court by the Department of Homeland Security.

(QQ) *Application for Authorization to Issue Certification for Health Care Workers (Form I-905)*: \$230.

(RR) *Request for Premium Processing Service (Form I-907)*. The fee must be paid in addition to, and in a separate remittance from, other filing fees. The request for premium processing fee will be adjusted annually by notice in the FEDERAL REGISTER based on inflation according to the Consumer Price Index (CPI). The fee to request premium processing: \$1,225. The fee for Premium Processing Service may not be waived.

(SS) *Civil Surgeon Designation*. For filing an application for civil surgeon designation: \$615. There is no fee for an application from a medical officer in the U.S. Armed Forces or civilian physician employed by the U.S. government who examines members and veterans of the armed forces and their dependents at a military, Department of Veterans Affairs, or U.S. Government facility in the United States.

(TT) *Application for Regional Center under the Immigrant Investor Pilot Program (Form I-924)*. For filing an application for regional center under the Immigrant Investor Pilot Program: \$6,230.

(UU) *Petition for Qualifying Family Member of a U-1 Nonimmigrant (Form I-929)*. For U-1 principal applicant to submit for each qualifying family member who plans to seek an immigrant visa or adjustment

of U status: \$215.

(VV) *Application to File Declaration of Intention (Form N-300)*. For filing an application for declaration of intention to become a U.S. citizen: \$250.

(WW) *Request for a Hearing on a Decision in Naturalization Proceedings (under section 336 of the Act) (Form N-336)*. For filing a request for hearing on a decision in naturalization proceedings under section 336 of the Act: \$650. There is no fee if filed on or after October 1, 2004, by an applicant who has filed an Application for Naturalization under sections 328 or 329 of the Act with respect to military service and whose application has been denied.

(XX) *Application for Naturalization (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): \$595.

(YY) *Application to Preserve Residence for Naturalization Purposes (Form N-470)*. For filing an application for benefits under section 316(b) or 317 of the Act: \$330.

(ZZ) *Application for Replacement Naturalization/Citizenship Document (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: \$345. There is no fee when this application is submitted under 8 CFR 338.5(a) or 343a.1 to request correction of a certificate that contains an error.

(AAA) *Application for Certificate of Citizenship (Form N-600)*. For filing an application for a certificate of citizenship under section 309(c) or section 341 of the Act for applications filed on behalf of a biological child: \$600. For applications filed on behalf of an adopted child: \$550. There is no fee for any application filed by a member or veteran of any branch of the United States Armed Forces.

(BBB) *Application for Citizenship and Issuance of Certificate under section 322 of the Act (Form N-600K)*. For filing an application for citizenship and issuance of certificate under section 322 of the Act: \$600, for an application filed on behalf of a biological child, and \$550 for an application filed on behalf of an adopted child.

(CCC) *American Competitiveness and Workforce Improvement Act (ACWIA) fee*. \$1500 or \$750 for filing certain H-1B petitions as described in 8 CFR 214.2(h)(19) and USCIS form instructions.

(DDD) *Fraud detection and prevention fee*. \$500 for filing certain H-1B and L petitions, and \$150 for H-2B petitions as described in 8 CFR 214.2(h)(19).

(EEE) *Public Law 111-230 fee*. Petitioners who are required to submit the Fraud Detection and Prevention Fee described in paragraph (b)(1)(i)(DDD) of this section are also required to submit an additional \$2000 for an H-1B petition or an additional \$2250 for an L-1 petition if:

(1) The petitioner employs 50 or more persons in the United States;

(2) More than 50 percent of those employees are in H-1B or L-1 status; and

(3) The petition is filed prior to the expiration of section 402 of Public Law 111-230.

(ii) *Other DHS immigration fees.* The following fees are applicable to one or more of the immigration components of DHS:

(A) *DCL System Costs Fee.* For use of a Dedicated Commuter Lane (DCL) located at specific ports-of-entry of the United States by an approved participant in a designated vehicle: \$80.00, with the maximum amount of \$160.00 payable by a family (husband, wife, and minor children under 18 years of age). Payable following approval of the application but before use of the DCL by each participant. This fee is non-refundable, but may be waived by DHS. If a participant wishes to enroll more than one vehicle for use in the PORTPASS system, he or she will be assessed with an additional fee of: \$42 for each additional vehicle enrolled.

(B) *Form I-17.* For filing a petition for school certification: \$1,700, plus a site visit fee of \$655 for each location listed on the form.

(C) *Form I-68.* For application for issuance of the Canadian Border Boat Landing Permit under section 235 of the Act: \$16.00. The maximum amount payable by a family (husband, wife, unmarried children under 21 years of age, and parents of either husband or wife) shall be \$32.00.

(D) *Form I-94.* For issuance of Arrival/Departure Record at a land border port-of-entry: \$6.00.

(E) *Form I-94W.* For issuance of Nonimmigrant Visa Waiver Arrival/Departure Form at a land border port-of-entry under section 217 of the Act: \$6.00.

(F) *Form I-246.* For filing application for stay of deportation under 8 CFR part 243: \$155.00.

(G) *Form I-823.* For application to a PORTPASS program under section 286 of the Act—\$25.00, with the maximum amount of \$50.00 payable by a family (husband, wife, and minor children under 18 years of age). The application fee may be waived by the district director. If fingerprints are required, the inspector will inform the applicant of the current Federal Bureau of Investigation fee for conducting fingerprint checks prior to accepting the application fee. Both the application fee (if not waived) and the fingerprint fee must be paid to CBP before the application will be processed. The fingerprint fee may not be waived. For replacement of PORTPASS documentation during the participation period: \$25.00.

(H) *Form I-901.* For remittance of the I-901 SEVIS fee for F and M students: \$200. For remittance of the I-901 SEVIS fee for certain J exchange visitors: \$180. For remittance of the I-901 SEVIS fee for J-1 au pairs, camp counselors, and participants in a summer work/travel program: \$35. There is no I-901 SEVIS fee remittance obligation for J exchange visitors in federally-funded programs with a program identifier designation prefix that begins with G-1, G-2, G-3 or G-7.

(I) *Special statistical tabulations*—a charge will be made to cover the cost of the work involved: DHS Cost.

(J) *Set of monthly, semiannual, or annual tables entitled "Passenger Travel Reports via Sea and Air":* \$7.00. Available from DHS, then the Immigration & Naturalization Service, for years 1975 and before. Later editions are available from the United States Department of Transportation, contact: United States Department of Transportation, Transportation Systems Center, Kendall Square, Cambridge, MA 02142.

(K) *Classification of a citizen of Canada to be engaged in business activities at a professional level pursuant to section 214(e) of the Act (Chapter 16 of the North American Free Trade Agreement):* \$50.00.

(L) *Request for authorization for parole of an alien into the United States*: \$65.00.

(M) *Global Entry*. For filing an application for Global Entry—\$100.

(N) *U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card*. For filing an application for the card—\$70.

(2) *Fees for copies of records*. 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 at 6 CFR 5.11.

(3) *Adjustment to fees*. The fees prescribed in paragraph (b)(1)(i) of this section may be adjusted annually by publication of an inflation adjustment. The inflation adjustment will be announced by a publication of a notice in the FEDERAL REGISTER. The adjustment shall be a composite of the Federal civilian pay raise assumption and non-pay inflation factor for that fiscal year issued by the Office of Management and Budget for agency use in implementing OMB Circular A-76, weighted by pay and non-pay proportions of total funding for that fiscal year. If Congress enacts a different Federal civilian pay raise percentage than the percentage issued by OMB for Circular A-76, the Department of Homeland Security may adjust the fees, during the current year or a following year to reflect the enacted level. The prescribed fee or charge shall be the amount prescribed in paragraph (b)(1)(i) of this section, plus the latest inflation adjustment, rounded to the nearest \$5 increment.

(4) *Fees for immigration court and Board of Immigration Appeals*. Fees for proceedings before immigration judges and the Board of Immigration Appeals are provided in 8 CFR 1103.7.

(c) *Waiver of fees*. (1) *Eligibility for a fee waiver*. Discretionary waiver of the fees provided in paragraph (b)(1)(i) of this section are limited as follows:

(i) The party requesting the benefit is unable to pay the prescribed fee.

(ii) A waiver based on inability to pay is consistent with the status or benefit sought including requests that require demonstration of the applicant's ability to support himself or herself, or individuals who seek immigration status based on a substantial financial investment.

(2) *Requesting a fee waiver*. To request a fee waiver, a person requesting an immigration benefit must submit a written request for permission to have their request processed without payment of a fee with their benefit request. The request must state the person's belief that he or she is entitled to or deserving of the benefit requested, the reasons for his or her inability to pay, and evidence to support the reasons indicated. There is no appeal of the denial of a fee waiver request.

(3) *USCIS fees that may be waived*. No fee relating to any application, petition, appeal, motion, or request made to U.S. Citizenship and Immigration Services may be waived except for the following:

(i) Biometric Fee, except for the biometric fee required for provisional unlawful presence waivers filed under 8 CFR 212.7(e).

(ii) Application to Replace Permanent Resident Card,

(iii) A Petition for a CNMI-Only Nonimmigrant Transitional Worker, or an Application to Extend/Change Nonimmigrant Status only in the case of an alien applying for CW-2 nonimmigrant status,

- (iv) Application for Travel Document when filed to request humanitarian parole,
- (v) Application for Advance Permission to Return to Unrelinquished Domicile,
- (vi) Notice of Appeal or Motion, when there is no fee for the underlying application or petition or that fee may be waived,
- (vii) Petition to Remove the Conditions of Residence based on marriage (Form I-751),
 - (viii) Application for Employment Authorization,
 - (ix) Application for Family Unity Benefits,
 - (x) Application for Temporary Protected Status,
- (xi) Application for Suspension of Deportation or Special Rule Cancellation of Removal (pursuant to section 203 of Pub. L. 105-110),
- (xii) Application to File Declaration of Intention, Request for a Hearing on a Decision in Naturalization Proceedings (under section 336 of the INA),
 - (xiii) Application for Naturalization,
 - (xiv) Application to Preserve Residence for Naturalization Purposes,
 - (xv) Application for Replacement Naturalization/Citizenship Document,
 - (xvi) Application for Certificate of Citizenship,
- (xvii) Application for Citizenship and Issuance of Certificate under section 322 of this Act,
- (xviii) Any fees associated with the filing of any benefit request by a VAWA self-petitioner or under sections 101(a)(15)(T) (T visas), 101(a)(15)(U) (U visas), 106 (battered spouses of A, G, E-3, or H nonimmigrants), 240A(b)(2) (battered spouse or child of a lawful permanent resident or U.S. citizen), and 244(a)(3) (Temporary Protected Status), of the Act (as in effect on March 31, 1997); and
- (xix) Petition for Nonimmigrant Worker (Form I-129) or Application to Extend/Change Nonimmigrant Status (Form I-539), only in the case of an alien applying for E-2 CNMI Investor nonimmigrant status under 8 CFR 214.2(e)(23).

(4) The following fees may be waived only for an alien for which a determination of their likelihood of becoming a public charge under section 212(a)(4) of the Act is not required at the time of an application for admission or adjustment of status.:

- (i) Application for Advance Permission to Enter as Nonimmigrant;
- (ii) Application for Waiver for Passport and/or Visa;
- (iii) Application to Register Permanent Residence or Adjust Status;

(iv) Application for Waiver of Grounds of Inadmissibility.

(5) *Immigration Court fees.* The provisions relating to the authority of the immigration judges or the Board to waive fees prescribed in paragraph (b) of this section in cases under their jurisdiction can be found at 8 CFR 1003.8 and 1003.24.

(6) *Fees under the Freedom of Information Act (FOIA).* FOIA fees may be waived or reduced if DHS determines that such action would be in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(d) *Exceptions and exemptions.* The Director of USCIS may approve and suspend exemptions from any fee required by paragraph (b)(1)(i) of this section or provide that the fee may be waived for a case or specific class of cases that is not otherwise provided in this section, if the Director determines that such action would be in the public interest and the action is consistent with other applicable law. This discretionary authority will not be delegated to any official other than the USCIS Deputy Director.

(e) *Premium processing service.* A person submitting a request to USCIS may request 15 calendar day processing of certain employment-based immigration benefit requests.

(1) *Submitting a request for premium processing.* A request for premium processing must be submitted on the form prescribed by USCIS, including the required fee, and submitted to the address specified on the form instructions.

(2) *15-day limitation.* The 15 calendar day processing period begins when USCIS receives the request for premium processing accompanied by an eligible employment-based immigration benefit request.

(i) If USCIS cannot reach a final decision on a request for which premium processing was requested, as evidenced by an approval notice, denial notice, a notice of intent to deny, or a request for evidence, USCIS will refund the premium processing service fee, but continue to process the case.

(ii) USCIS may retain the premium processing fee and not reach a conclusion on the request within 15 days, and not notify the person who filed the request, if USCIS opens an investigation for fraud or misrepresentation relating to the benefit request.

(3) *Requests eligible for premium processing.*

(i) USCIS will designate the categories of employment-related benefit requests that are eligible for premium processing.

(ii) USCIS will announce by its official Internet Web site, currently <http://www.uscis.gov>, those requests for which premium processing may be requested, the dates upon which such availability commences and ends, and any conditions that may apply.

(f) *Authority to certify records.* The Director of USCIS, or such officials as he or she may designate, may certify records when authorized under 5 U.S.C. 552 or any other law to provide such records.

[38 FR 35296, Dec. 27, 1973]

EDITORIAL NOTES: 1. For FEDERAL REGISTER citations affecting §103.7, see the List of CFR Sections Affected,

which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

2. At 73 FR 55698, Sept. 26, 2008, §103.7 was amended by revising Form I-290B. However the amendment could not be incorporated because the text of the newly revised form was not provided.

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§103.8 Service of decisions and other notices.

This section states authorized means of service by the Service on parties and on attorneys and other interested persons of notices, decisions, and other papers (except warrants and subpoenas) in administrative proceedings before Service officers as provided in this chapter.

(a) *Types of service*—(1) *Routine service*. (i) Routine service consists of mailing the notice by ordinary mail addressed to the affected party and his or her attorney or representative of record at his or her last known address, or

(ii) If so requested by a party, advising the party of such notice by electronic mail and posting the decision to the party's USCIS account.

(2) *Personal service*. Personal service, which shall be performed by a Government employee, consists of any of the following, without priority or preference:

(i) Delivery of a copy personally;

(ii) Delivery of a copy at a person's dwelling house or usual place of abode by leaving it with some person of suitable age and discretion;

(iii) Delivery of a copy at the office of an attorney or other person, including a corporation, by leaving it with a person in charge;

(iv) Mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address; or

(v) If so requested by a party, advising the party by electronic mail and posting the decision to the party's USCIS account.

(3) *Personal service involving notices of intention to fine*. In addition to any of the methods of personal service listed in paragraph (a)(2) of this section, personal service of Form I-79, Notice of Intention to Fine, may also consist of delivery of the Form I-79 by a commercial delivery service at the carrier's address on file with the National Fines Office, the address listed on the Form I-849, Record for Notice of Intent to Fine, or to the office of the attorney or agent representing the carrier, provided that such a commercial delivery service requires the addressee or other responsible party accepting the package to sign for the package upon receipt.

(b) *Effect of service by mail*. Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, 3 days shall be added to the prescribed period. Service by mail is complete upon mailing.

(c) *When personal service required*—(1) *Generally*. In any proceeding which is initiated by the Service, with proposed adverse effect, service of the initiating notice and of notice of any decision by a

Service officer shall be accomplished by personal service, except as provided in section 239 of the Act.

(2) *Persons confined, minors, and incompetents*—(i) *Persons confined*. If a person is confined in a penal or mental institution or hospital and is competent to understand the nature of the proceedings initiated against him, service shall be made both upon him and upon the person in charge of the institution or the hospital. If the confined person is not competent to understand, service shall be made only on the person in charge of the institution or hospital in which he is confined, such service being deemed service on the confined person.

(ii) *Incompetents and minors*. In case of mental incompetency, whether or not confined in an institution, and in the case of a minor under 14 years of age, service shall be made upon the person with whom the incompetent or the minor resides; whenever possible, service shall also be made on the near relative, guardian, committee, or friend.

(d) *When personal service not required*. Service of other types of papers in proceedings described in paragraph (c) of this section, and service of any type of papers in any other proceedings, may be accomplished either by routine service or by personal service.

[37 FR 11470, June 8, 1972, as amended at 39 FR 23247, June 27, 1974; 62 FR 10336, Mar. 6, 1997; 64 FR 17944, Apr. 13, 1999. Redesignated and amended at 76 FR 53781, Aug. 29, 2011]

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§103.9 Request for further action on an approved benefit request.

(a) *Filing a request*. A person may request further action on an approved benefit request as prescribed by the form instructions. Requests for further action may be submitted with the original benefit request or following the approval of such benefit.

(b) *Processing*. The request will be approved if the requester has demonstrated eligibility for the requested action. There is no appeal from the denial of such request.

[Redesignated and amended at 76 FR 53781, Aug. 29, 2011]

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§103.10 Precedent decisions.

(a) Proceedings before the immigration judges, the Board of Immigration Appeals and the Attorney General are governed by part 1003 of 8 CFR chapter V.

(b) *Decisions as precedents*. Except as Board decisions may be modified or overruled by the Board or the Attorney General, decisions of the Board, and decisions of the Attorney General, shall be binding on all officers and employees of the Department of Homeland Security or immigration judges in the administration of the immigration laws of the United States. By majority vote of the permanent Board members, selected decisions of the Board rendered by a three-member panel or by the Board en banc may be designated to serve as precedents in all proceedings involving the same issue or issues. Selected decisions designated by the Board, decisions of the Attorney General, and decisions of the Secretary of Homeland Security to the extent authorized in paragraph (i) of this section, shall serve as precedents in all proceedings involving the same issue or issues.

(c) *Referral of cases to the Attorney General.* (1) The Board shall refer to the Attorney General for review of its decision all cases which:

(i) The Attorney General directs the Board to refer to him.

(ii) The Chairman or a majority of the Board believes should be referred to the Attorney General for review.

(iii) The Secretary of Homeland Security, or specific officials of the Department of Homeland Security designated by the Secretary with the concurrence of the Attorney General, refers to the Attorney General for review.

(2) In any case the Attorney General decides, the Attorney General's decision shall be stated in writing and shall be transmitted to the Board or Secretary, as appropriate, for transmittal and service as provided in paragraph (c) of this section or 8 CFR 1003.1(h)(2).

(d) *Publication of Secretary's precedent decisions.* The Secretary of Homeland Security, or specific officials of the Department of Homeland Security designated by the Secretary with the concurrence of the Attorney General, may file with the Attorney General Service precedent decisions as set forth in §103.3(c).

(e) *Precedent decisions.* Bound volumes of designated precedent decisions, entitled "Administrative Decisions under Immigration and Nationality Laws of the United States," may be purchased from the Superintendent of Documents, U.S. Government Printing Office. Prior to publication in volume form, current precedent decisions are available from the Department of Justice, Executive Office for Immigration Review's Virtual Law Library at: <http://www.justice.gov/eoir/vll/libindex.html>.

(f) [Reserved]

[68 FR 9832, Feb. 28, 2003. Redesignated and amended at 76 FR 53781, Aug. 29, 2011]

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Subpart B—Biometric Requirements

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§103.16 Collection, use and storage of biometric information.

(a) *Use of biometric information.* Any individual may be required to submit biometric information if the regulations or form instructions require such information or if requested in accordance with 8 CFR 103.2(b)(9). DHS may collect and store for present or future use, by electronic or other means, the biometric information submitted by an individual. DHS may use this biometric information to conduct background and security checks, adjudicate immigration and naturalization benefits, and perform other functions related to administering and enforcing the immigration and naturalization laws.

(b) *Individuals residing abroad.* An individual who is required to provide biometric information and who is residing outside of the United States must report to a DHS-designated location to have his or her biometric information collected, whether by electronic or non-electronic means.

[76 FR 53782, Aug. 29, 2011]

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§103.17 Biometric service fee.

(a) *Required fees.* DHS will charge a fee, as prescribed in 8 CFR 103.7(b)(1), for collecting biometric information at a DHS office, other designated collection site overseas, or a registered State or local law enforcement agency designated by a cooperative agreement with DHS to provide biometric collection services, to conduct required law enforcement checks, and to maintain this biometric information for reuse to support other benefit requests. Requests for benefits must be submitted with the biometric service fee for all individuals who are required to submit biometric information and a biometric services fee and who reside in the United States at the time of filing for the benefit.

(b) *Non-payment of biometric service fee.* (1) If a benefit request is received by DHS without the correct biometric service fee, DHS will notify the applicant, petitioner, and, when appropriate, the applicant or petitioner's representative, of the deficiency, and no further action will be taken on the benefit request until payment is received. Failure to submit the correct biometric service fee in response to a notice of deficiency within the time allotted in the notice will result in denial of the benefit request. There is no appeal from the denial of a benefit request for failure to submit the correct biometric service fee. A motion to reopen a benefit request denied for failure to submit the correct biometric service fee will be granted only on proof that:

(i) The correct biometric service fee was submitted at the time of filing the benefit request;

(ii) The correct biometric service fee was submitted in response to the notice of deficiency within the time allotted in the notice; or

(iii) The notice of deficiency was sent to an address other than the address on the benefit request or the notice of representation, or the applicant or petitioner notified DHS, in writing, of a change of address or change of representation subsequent to filing and before the notice of deficiency was sent and the DHS notice of deficiency was not sent to the new address.

(2) If the reason for the deficiency in the biometric service fee is that a check or financial instrument used to pay the biometric service fee is returned as not payable, the remitter must be allowed 14 calendar days to pay the fee and any associated service charges. If the fee and charges are not paid within 14 calendar days, the benefit request will be denied.

[76 FR 53782, Aug. 29, 2011]

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§§103.20-103.36 [Reserved]

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Subpart C [Reserved]

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Subpart D—Availability of Records

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§103.38 Genealogy Program.

(a) *Purpose.* The Department of Homeland Security, U.S. Citizenship and Immigration Services Genealogy Program is a fee-for-service program designed to provide genealogical and historical records and reference services to genealogists, historians, and others seeking documents maintained within the historical record systems.

(b) *Scope and limitations.* Sections 103.38 through 103.41 comprise the regulations of the Genealogy Program. These regulations apply only to searches for and retrieval of records from the file series described as historical records in 8 CFR 103.39. These regulations set forth the procedures by which individuals may request searches for historical records and, if responsive records are located, obtain copies of those records.

[73 FR 28030, May 15, 2008]

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§103.39 Historical Records.

Historical Records are files, forms, and documents now located within the following records series:

(a) *Naturalization Certificate Files (C-Files), from September 27, 1906 to April 1, 1956.* Copies of records relating to all U.S. naturalizations in Federal, State, county, or municipal courts, overseas military naturalizations, replacement of old law naturalization certificates, and the issuance of Certificates of Citizenship in derivative, repatriation, and resumption cases. The majority of C-Files exist only on microfilm. Standard C-Files generally contain at least one application form (Declaration of Intention and/or Petition for Naturalization, or other application) and a duplicate certificate of naturalization or certificate of citizenship. Many files contain additional documents, including correspondence, affidavits, or other records. Only C-Files dating from 1929 onward include photographs.

(b) *Microfilmed Alien Registration Forms, from August 1, 1940 to March 31, 1944.* Microfilmed copies of 5.5 million Alien Registration Forms (Form AR-2) completed by all aliens age 14 and older, residing in or entering the United States between August 1, 1940 and March 31, 1944. The two-page form called for the following information: Name; name at arrival; other names used; street address; post-office address; date of birth; place of birth; citizenship; sex; marital status; race; height; weight; hair and eye color; date, place, vessel, and class of admission of last arrival in United States; date of first arrival in United States; number of years in United States; usual occupation; present occupation; name, address, and business of present employer; membership in clubs, organizations, or societies; dates and nature of military or naval service; whether citizenship papers filed, and if so date, place, and court for declaration or petition; number of relatives living in the United States; arrest record, including date, place, and disposition of each arrest; whether or not affiliated with a foreign government; signature; and fingerprint.

(c) *Visa Files, from July 1, 1924 to March 31, 1944.* Original arrival records of immigrants admitted for permanent residence under provisions of the Immigration Act of 1924. Visa forms contain all information normally found on a ship passenger list of the period, as well as the immigrant's places of residence for 5 years prior to emigration, names of both the immigrant's parents, and other data. In most cases, birth records or affidavits are attached to the visa, and in some cases, marriage, military, or police records may also be attached to the visa.

(d) *Registry Files, from March 2, 1929 to March 31, 1944.* Original records documenting the creation of immigrant arrival records for persons who entered the United States prior to July 1, 1924, and for whom no arrival record could later be found. Most files also include documents supporting the immigrant's claims regarding arrival and residence (e.g., proofs of residence, receipts, and employment records).

(e) *Alien-Files numbered below 8 million (A8000000), and documents therein dated prior to May 1, 1951.* Individual alien case files (A-files) became the official file for all immigration records created or consolidated after April 1, 1944. The United States issued A-numbers ranging up to approximately 6 million to aliens and immigrants who were within or entered the United States between 1940 and 1945. The United States entered the 6 million and 7 million series of A-numbers between circa 1944 and May 1, 1951. Any documents dated after May 1, 1951, though found in an A-File numbered below 8 million, will remain subject to FOIA/PA restrictions.

[73 FR 28030, May 15, 2008]

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§103.40 Genealogical Research Requests.

(a) *Nature of requests.* Genealogy requests are requests for searches and/or copies of historical records relating to a deceased person, usually for genealogy and family history research purposes.

(b) *Manner of requesting genealogical searches and records.* Requests must be submitted on Form G-1041, Genealogy Index Search Request, or Form G-1041A, Genealogy Records Request, and mailed to the address listed on the form. Beginning on August 13, 2008, USCIS will accept requests electronically through its Web site at <http://www.USCIS.gov>. A separate request on Form G-1041 must be submitted for each individual searched, and that form will call for the name, aliases, and all alternate spellings relating to the one individual immigrant. Form G-1041A may be submitted to request one or more separate records relating to separate individuals.

(c) *Information required to perform index search.* As required on Form G-1041, all requests for index searches to identify records of individual immigrants must include the immigrant's full name (including variant spellings of the name and/or aliases, if any), date of birth, and place of birth. The date of birth must be at least as specific as a year, and the place of birth must be at least as specific as a country (preferably the country name as it existed at the time of the immigrant's immigration or naturalization). Additional information about the immigrant's date of arrival in the United States, residence at time of naturalization, name of spouse, and names of children may be required to ensure a successful search.

(d) *Information required to retrieve records.* As required on Form G-1041A, requests for copies of historical records or files must identify the record by number or other specific data used by the Genealogy Program Office to retrieve the record. C-Files must be identified by a naturalization certificate number. Forms AR-2 and A-Files numbered below 8 million must be identified by Alien Registration Number. Visa Files must be identified by the Visa File Number. Registry Files must be identified by the Registry File Number (for example, R-12345).

(e) *Information required for release of records.* Subjects will be presumed deceased if their birth dates are more than 100 years prior to the date of the request. In other cases, the subject is presumed to be living until the requestor establishes to the satisfaction of the Genealogy Program Office that the subject is deceased. As required on Form G-1041A, primary or secondary documentary evidence of the subject's death will be required (including but not limited to death records, published obituaries or eulogies, published death notices, church or bible records, photographs of gravestones, and/or copies of

official documents relating to payment of death benefits). All documentary evidence must be attached to Form G-1041A or submitted in accordance with instructions provided on Form G-1041A.

(f) *Processing of index search requests.* This service is designed for customers who are unsure whether USCIS has any record of their ancestor, or who suspect a record exists but cannot identify that record by number. Each request for index search services will generate a search of the indices to determine the existence of responsive historical records. If no record is found, USCIS will notify the customer accordingly. If records are found, USCIS will provide the customer with the search results, including the type of record found and the file number or other information identifying the record. The customer can use this information to request a copy of the record(s).

(g) *Processing of record copy requests.* This service is designed for customers who can identify a specific record or file to be retrieved, copied, reviewed, and released. Customers may identify one or more files in a single request. However, separate fees will apply to each file requested. Upon receipt of requests identifying specific records by number or other identifying information, USCIS will retrieve, review, duplicate, and then mail the record(s) to the requester. It is possible that USCIS will find a record that contains data that is not releasable to the customer. An example would be names and birth dates of persons who might be living. The FOIA/PA only permits release of this type of information when the affected individual submits a release authorization to USCIS. Therefore, the Genealogy Program Office will contact and inform the customer of this requirement. The customer will have the opportunity to submit the release authorization. The customer can also agree to the transfer of the document request to the FOIA/PA program for treatment as a FOIA/PA request as described in 6 CFR Part 5. Document retrieval charges will apply in all cases where documents are retrieved.

[73 FR 28031, May 15, 2008]

8 U.S. Code § 1356 - Disposition of moneys collected under the provisions of this subchapter

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(a) Detention, transportation, hospitalization, and all other expenses of detained aliens; expenses of landing stations

All moneys paid into the Treasury to reimburse the Service for detention, transportation, hospitalization, and all other expenses of detained aliens paid from the appropriation for the enforcement of this chapter, and all moneys paid into the Treasury to reimburse the Service for expenses of landing stations referred to in section [1223\(b\)](#) of this title paid by the Service from the appropriation for the enforcement of this chapter, shall be credited to the appropriation for the enforcement of this chapter for the fiscal year in which the expenses were incurred.

(b) Purchase of evidence

Moneys expended from appropriations for the Service for the purchase of evidence and subsequently recovered shall be reimbursed to the current appropriation for the Service.

(c) Fees and administrative fines and penalties; exception

Except as otherwise provided in subsection (a) and subsection (b) of this section, or in any other provision of this subchapter, all moneys received in payment of fees and administrative fines and penalties under this subchapter shall be covered into the Treasury as miscellaneous receipts: Provided, however, That all fees received from applicants residing in the Virgin Islands of the

United States, and in Guam, required to be paid under section [1351](#) of this title, shall be paid over to the Treasury of the Virgin Islands and to the Treasury of Guam, respectively.

(d) Schedule of fees

In addition to any other fee authorized by law, the Attorney General shall charge and collect \$7 per individual for the immigration inspection of each passenger arriving at a port of entry in the United States, or for the preinspection of a passenger in a place outside of the United States prior to such arrival, aboard a commercial aircraft or commercial vessel.

(e) Limitations on fees

(1) Except as provided in paragraph (3), no fee shall be charged under subsection (d) of this section for immigration inspection or preinspection provided in connection with the arrival of any passenger, other than aircraft passengers, whose journey originated in the following:

(A) Canada,

(B) Mexico,

(C) a State, territory or possession of the United States, or

(D) any adjacent island (within the meaning of section [1101\(b\)\(5\)](#) of this title).

(2) No fee may be charged under subsection (d) of this section with respect to the arrival of any passenger—

(A) who is in transit to a destination outside the United States, and

(B) for whom immigration inspection services are not provided.

(3) The Attorney General shall charge and collect \$3 per individual for the immigration inspection or pre-inspection of each commercial vessel passenger whose journey originated in the United States or in any place set forth in paragraph (1): Provided, That this requirement shall not apply to immigration inspection at designated ports of entry of passengers arriving by ferry, or by Great Lakes vessels on the Great Lakes and connecting waterways when operating on a regular schedule. For the purposes of this paragraph, the term “ferry” means a vessel, in other than ocean or coastwise service, having provisions only for deck passengers and/or vehicles, operating on a short run on a frequent schedule between two points over the most direct water route, and offering a public service of a type normally attributed to a bridge or tunnel.

(f) Collection

(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the United States shall—

(A) collect from that individual the fee charged under subsection (d) of this section at the time the document or ticket is issued; and

(B) identify on that document or ticket the fee charged under subsection (d) of this section as a Federal inspection fee.

(2) If—

(A) a document or ticket for transportation of a passenger into the United States is issued in a foreign country; and

(B) the fee charged under subsection (d) of this section is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the United States and shall provide such passenger a receipt for the payment of such fee.

(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Attorney General at any time before the date that is thirty-one days after the close of the calendar quarter in which the fees are collected, except the fourth quarter payment for fees collected from airline

passengers shall be made on the date that is ten days before the end of the fiscal year, and the first quarter payment shall include any collections made in the preceding quarter that were not remitted with the previous payment. Regulations issued by the Attorney General under this subsection with respect to the collection of the fees charged under subsection (d) of this section and the remittance of such fees to the Treasury of the United States shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes imposed by subchapter C of chapter 33 of title 26, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section.

(g) Provision of immigration inspection and preinspection services

Notwithstanding section 1353b of this title, or any other provision of law, the immigration services required to be provided to passengers upon arrival in the United States on scheduled airline flights shall be adequately provided when needed and at no cost (other than the fees imposed under subsection (d) of this section) to airlines and airline passengers at:

(1) immigration serviced airports, and

(2) places located outside of the United States at which an immigration officer is stationed for the purpose of providing such immigration services.

(h) Disposition of receipts

(1)

(A) There is established in the general fund of the Treasury a separate account which shall be known as the "Immigration User Fee Account". Notwithstanding any other section of this subchapter, there shall be deposited as offsetting receipts into the Immigration User Fee Account all fees collected under subsection (d) of this section, to remain available until expended.^u At the end of each 2-year period, beginning with the creation of this account, the Attorney General, following a public rulemaking with opportunity for notice and comment, shall submit a report to the Congress concerning the status of the account, including any balances therein, and recommend any adjustment in the prescribed fee that may be required to ensure that the receipts collected from the fee charged for the succeeding two years equal, as closely as possible, the cost of providing these services.

(B) Notwithstanding any other provisions of law, all civil fines or penalties collected pursuant to sections 1253(c), 1321, and 1323 of this title and all liquidated damages and expenses collected pursuant to this chapter shall be deposited in the Immigration User Fee Account.

(2)

(A) The Secretary of the Treasury shall refund out of the Immigration User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General in providing immigration inspection and preinspection services for commercial aircraft or vessels and in—

(i) providing overtime immigration inspection services for commercial aircraft or vessels;

(ii) administration of debt recovery, including the establishment and operation of a national collections office;

(iii) expansion, operation and maintenance of information systems for nonimmigrant control and debt collection;

(iv) detection of fraudulent documents used by passengers traveling to the United States, including training of, and technical assistance to, commercial airline personnel regarding such detection;

(v) providing detention and removal services for inadmissible aliens arriving on commercial aircraft and vessels and for any alien who is inadmissible under section 1182(a) of this title who

has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry; and

(vi) providing removal and asylum proceedings at air or sea ports-of-entry for inadmissible aliens arriving on commercial aircraft and vessels including immigration removal proceedings resulting from presentation of fraudulent documents and failure to present documentation and for any alien who is inadmissible under section [1182\(a\)](#) of this title who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry.

The Attorney General shall provide for expenditures for training and assistance described in clause (iv) in an amount, for any fiscal year, not less than 5 percent of the total of the expenses incurred that are described in the previous sentence.

(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

(i) Reimbursement

Notwithstanding any other provision of law, the Attorney General is authorized to receive reimbursement from the owner, operator, or agent of a private or commercial aircraft or vessel, or from any airport or seaport authority for expenses incurred by the Attorney General in providing immigration inspection services which are rendered at the request of such person or authority (including the salary and expenses of individuals employed by the Attorney General to provide such immigration inspection services). The Attorney General's authority to receive such reimbursement shall terminate immediately upon the provision for such services by appropriation.

(j) Regulations

The Attorney General may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

(k) Advisory committee

In accordance with the provisions of the Federal Advisory Committee Act, the Attorney General shall establish an advisory committee, whose membership shall consist of representatives from the airline and other transportation industries who may be subject to any fee or charge authorized by law or proposed by the Immigration and Naturalization Service for the purpose of covering expenses incurred by the Immigration and Naturalization Service. The advisory committee shall meet on a periodic basis and shall advise the Attorney General on issues related to the performance of the inspectional services of the Immigration and Naturalization Service. This advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Attorney General shall give substantial consideration to the views of the advisory committee in the exercise of his duties.

(l) Report to Congress

In addition to the reporting requirements established pursuant to subsection (h) of this section, the Attorney General shall prepare and submit annually to the Congress, not later than March 31st of each year, a statement of the financial condition of the "Immigration User Fee Account" including beginning account balance, revenues, withdrawals and their purpose, ending balance, projections for the ensuing fiscal year and a full and complete workload analysis showing on a port by port basis the current and projected need for inspectors. The statement shall indicate the

success rate of the Immigration and Naturalization Service in meeting the forty-five minute inspection standard and shall provide detailed statistics regarding the number of passengers inspected within the standard, progress that is being made to expand the utilization of United States citizen by-pass, the number of passengers for whom the standard is not met and the length of their delay, locational breakdown of these statistics and the steps being taken to correct any nonconformity.

(m) Immigration Examinations Fee Account

Notwithstanding any other provisions of law, all adjudication fees as are designated by the Attorney General in regulations shall be deposited as offsetting receipts into a separate account entitled "Immigration Examinations Fee Account" in the Treasury of the United States, whether collected directly by the Attorney General or through clerks of courts: Provided, however, That all fees received by the Attorney General from applicants residing in the Virgin Islands of the United States, and in Guam, under this subsection shall be paid over to the treasury of the Virgin Islands and to the treasury of Guam: Provided further, 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.

(n) Reimbursement of administrative expenses; transfer of deposits to General Fund of United States Treasury

All deposits into the "Immigration Examinations Fee Account" shall remain available until expended to the Attorney General to reimburse any appropriation the amount paid out of such appropriation for expenses in providing immigration adjudication and naturalization services and the collection, safeguarding and accounting for fees deposited in and funds reimbursed from the "Immigration Examinations Fee Account".

(o) Annual financial reports to Congress

The Attorney General shall prepare and submit annually to Congress statements of financial condition of the "Immigration Examinations Fee Account", including beginning account balance, revenues, withdrawals, and ending account balance and projections for the ensuing fiscal year.

(p) Additional effective dates

The provisions set forth in subsections (m), (n), and (o) of this section apply to adjudication and naturalization services performed and to related fees collected on or after October 1, 1988.

(q) Land Border Inspection Fee Account

(1)

(A)

(i) Notwithstanding any other provision of law, the Attorney General is authorized to establish, by regulation, not more than 96 projects under which a fee may be charged and collected for inspection services provided at one or more land border points of entry. Such projects may include the establishment of commuter lanes to be made available to qualified United States citizens and aliens, as determined by the Attorney General.

(ii) This subparagraph shall take effect, with respect to any project described in clause (1) ⁽²⁾ that was not authorized to be commenced before September 30, 1996, 30 days after submission of a written plan by the Attorney General detailing the proposed implementation of such project.

(iii) The Attorney General shall prepare and submit on a quarterly basis a status report on each land border inspection project implemented under this subparagraph.

(B)The Attorney General, in consultation with the Secretary of the Treasury, may conduct pilot projects to demonstrate the use of designated ports of entry after working hours through the use of card reading machines or other appropriate technology.

(2)All of the fees collected under this subsection, including receipts for services performed in processing forms I-94, I-94W, and I-68, and other similar applications processed at land border ports of entry, shall be deposited as offsetting receipts in a separate account within the general fund of the Treasury of the United States, to remain available until expended. Such account shall be known as the Land Border Inspection Fee Account.

(3)

(A)The Secretary of the Treasury shall refund, at least on a quarterly basis amounts to any appropriations for expenses incurred in providing inspection services at land border points of entry. Such expenses shall include—

(i)the providing of overtime inspection services;

(ii)the expansion, operation and maintenance of information systems for nonimmigrant control;

(iii)the hire of additional permanent and temporary inspectors;

(iv)the minor construction costs associated with the addition of new traffic lanes (with the concurrence of the General Services Administration);

(v)the detection of fraudulent documents used by passengers travelling to the United States;

(vi)providing for the administration of said account.

(B)The amounts required to be refunded from the Land Border Inspection Fee Account for fiscal years 1992 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years: Provided, That any proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of Public Law 101-162.

(4)The Attorney General will prepare and submit annually to the Congress statements of financial condition of the Land Border Immigration Fee Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.

(r) Breached Bond/Detention Fund

(1)Notwithstanding any other provision of law, there is established in the general fund of the Treasury a separate account which shall be known as the Breached Bond/Detention Fund (in this subsection referred to as the “Fund”).

(2)There shall be deposited as offsetting receipts into the Fund all breached cash and surety bonds, in excess of \$8,000,000, posted under this chapter which are recovered by the Department of Justice, and amount ^(a) described in section [1255\(i\)\(3\)\(b\)](#) ^(a) of this title.

(3)Such amounts as are deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Attorney General for the following purposes—

(i)for expenses incurred in the collection of breached bonds, and

(ii)for expenses associated with the detention of illegal aliens.

(4)The amounts required to be refunded from the Fund for fiscal year 1998 and thereafter shall be refunded in accordance with estimates made in the budget request of the President for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after Congressional reprogramming notification in accordance with the reprogramming guidelines for the applicable fiscal year.

(5) The Attorney General shall prepare and submit annually to the Congress, statements of financial condition of the Fund, including the beginning balance, receipts, refunds to appropriations, transfers to the general fund, and the ending balance.

(6) For fiscal year 1993 only, the Attorney General may transfer up to \$1,000,000 from the Immigration User Fee Account to the Fund for initial expenses necessary to enhance collection efforts: Provided, That any such transfers shall be refunded from the Fund back to the Immigration User Fee Account by December 31, 1993.

(s) H-1B Nonimmigrant Petitioner Account

(1) In general

There is established in the general fund of the Treasury a separate account, which shall be known as the “H-1B Nonimmigrant Petitioner Account”. Notwithstanding any other section of this subchapter, there shall be deposited as offsetting receipts into the account all fees collected under paragraphs (9) and (11) of section [1184\(c\)](#) of this title.

(2) Use of fees for job training

50 percent of amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for demonstration programs and projects described in section [2916a](#) of title [29](#).

(3) Use of fees for low-income scholarship program

30 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended for scholarships described in section [1869c](#) of title [42](#) for low-income students enrolled in a program of study leading to a degree in mathematics, engineering, or computer science.

(4) National Science Foundation competitive grant program for K-12 math, science and technology education

(A) In general

10 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended to carry out a direct or matching grant program to support private-public partnerships in K-12 education.

(B) Types of programs covered

The Director shall award grants to such programs, including those which support the development and implementation of standards-based instructional materials models and related student assessments that enable K-12 students to acquire an understanding of science, mathematics, and technology, as well as to develop critical thinking skills; provide systemic improvement in training K-12 teachers and education for students in science, mathematics, and technology; support the professional development of K-12 math and science teachers in the use of technology in the classroom; stimulate system-wide K-12 reform of science, mathematics, and technology in rural, economically disadvantaged regions of the United States; provide externships and other opportunities for students to increase their appreciation and understanding of science, mathematics, engineering, and technology (including summer institutes sponsored by an institution of higher education for students in grades 7-12 that provide instruction in such fields); involve partnerships of industry, educational institutions, and community organizations to address the educational needs of disadvantaged communities; provide college preparatory support to expose and prepare students for careers in science, mathematics, engineering, and technology; and provide for carrying out systemic reform activities under section [1862\(a\)\(1\)](#) of title [42](#).

(5) Use of fees for duties relating to petitions

5 percent of the amounts deposited into the H–1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Homeland Security until expended to carry out duties under paragraphs (1) and (9) of section [1184\(c\)](#) of this title related to petitions made for nonimmigrants described in section [1101\(a\)\(15\)\(H\)\(i\)\(b\)](#) of this title, under paragraph (1)(C) or (D) of section [1154](#) of this title related to petitions for immigrants described in section [1153\(b\)](#) of this title.

(6) Use of fees for application processing and enforcement

For fiscal year 1999, 4 percent of the amounts deposited into the H–1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for decreasing the processing time for applications under section [1182\(n\)\(1\)](#) of this title and for carrying out section [1182\(n\)\(2\)](#) of this title. Beginning with fiscal year 2000, 5 percent of the amounts deposited into the H–1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for decreasing the processing time for applications under section [1182\(n\)\(1\)](#) of this title and section [1182\(a\)\(5\)\(A\)](#) of this title.

(t) Genealogy Fee

(1) There is hereby established the Genealogy Fee for providing genealogy research and information services. This fee shall be deposited as offsetting collections into the Examinations Fee Account. Fees for such research and information services may be set at a level that will ensure the recovery of the full costs of providing all such services.

(2) The Attorney General will prepare and submit annually to Congress statements of the financial condition of the Genealogy Fee.

(3) Any officer or employee of the Immigration and Naturalization Service shall collect fees prescribed under regulation before disseminating any requested genealogical information.

(u) Premium fee for employment-based petitions and applications

The Attorney General is authorized to establish and collect a premium fee for employment-based petitions and applications. This fee shall be used to provide certain premium-processing services to business customers, and to make infrastructure improvements in the adjudications and customer-service processes. For approval of the benefit applied for, the petitioner/applicant must meet the legal criteria for such benefit. This fee shall be set at \$1,000, shall be paid in addition to any normal petition/application fee that may be applicable, and shall be deposited as offsetting collections in the Immigration Examinations Fee Account. The Attorney General may adjust this fee according to the Consumer Price Index.

(v) Fraud Prevention and Detection Account

(1) In general

There is established in the general fund of the Treasury a separate account, which shall be known as the “Fraud Prevention and Detection Account”. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under paragraph (12) or (13) of section [1184\(c\)](#) of this title.

(2) Use of fees to combat fraud

(A) Secretary of State

One-third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of State until expended for programs and activities at United States embassies and consulates abroad—

(i) to increase the number of diplomatic security personnel assigned exclusively or primarily to the function of preventing and detecting fraud by applicants for visas described in subparagraph (H) (i), (H)(ii), or (L) of section [1101\(a\)\(15\)](#) of this title;

(ii) otherwise to prevent and detect visa fraud, including primarily fraud by applicants for visas described in subparagraph (H)(i), (H)(ii), or (L) of section [1101\(a\)\(15\)](#) of this title, in cooperation with the Secretary of Homeland Security or pursuant to the terms of a memorandum of understanding or other agreement between the Secretary of State and the Secretary of Homeland Security; and

(iii) upon request by the Secretary of Homeland Security, to assist such Secretary in carrying out the fraud prevention and detection programs and activities described in subparagraph (B).

(B) Secretary of Homeland Security

One-third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of Homeland Security until expended for programs and activities to prevent and detect immigration benefit fraud, including fraud with respect to petitions filed under paragraph (1) or (2)(A) of section [1184\(c\)](#) of this title to grant an alien nonimmigrant status described in subparagraph (H) or (L) of section [1101\(a\)\(15\)](#) of this title.

(C) Secretary of Labor

One-third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of Labor until expended for wage and hour enforcement programs and activities otherwise authorized to be conducted by the Secretary of Labor that focus on industries likely to employ nonimmigrants, including enforcement programs and activities described in section [1182\(n\)](#) of this title and enforcement programs and activities related to section [1184\(c\)\(14\)\(A\)\(i\)](#) of this title.

(D) Consultation

The Secretary of State, the Secretary of Homeland Security, and the Secretary of Labor shall consult one another with respect to the use of the funds in the Fraud Prevention and Detection Account or for programs and activities to prevent and detect fraud with respect to petitions under paragraph (1) or (2)(A) of section [1184\(c\)](#) of this title to grant an alien nonimmigrant status described in section [1101\(a\)\(15\)\(H\)\(ii\)](#) of this title.