

(iii) Minimum charge of \$131 (\$151, on or after March 1, 2008) per individual product;

(iv) Minimum charge of \$60 (\$69, on or after March 1, 2008) for each additional lot of the same product.

(2) [RESERVED]

(c) When performing inspections of products from sea containers unloaded directly from sea transportation or when palletized products unloaded directly from sea transportation are not offered for inspection at dock-side, the carlot fees in "a" of this section shall apply.

(d) When performing inspections for Government agencies, or for purposes other than those prescribed in paragraphs (a) through (c) of this section, including weight-only and freezing-only inspections, fees for inspections shall be based on the time consumed by the grader in connection with such inspections, computed at a rate of \$64 (\$74, on or after March 1, 2008) per hour;

*Provided, that:*

(1) Charges for time shall be rounded to the nearest half hour;

(2) The minimum fee shall be two hours for weight-only inspections, and one-half hour for other inspections;

(3) When weight certification is provided in addition to quality and/or condition inspection, a one hour charge shall be added to the carlot fee;

(4) When inspections are performed to certify product compliance for Defense Personnel Support Centers, the daily or weekly charge shall be determined by multiplying the total hours consumed to conduct inspections by the hourly rate. The daily or weekly charge shall be prorated among applicants by multiplying the daily or weekly charge by the percentage of product passed and/or failed for each applicant during that day or week. Waiting time and overtime charges shall be charged directly to the applicant responsible for their incurrence.

(e) When performing inspections at the request of the applicant during periods which are outside the grader's regularly scheduled work week, a charge for overtime or holiday work shall be made at the rate of \$33 for overtime and \$66 for holiday work (\$38 for overtime and \$74 for holiday work, on or after March 1, 2008) per hour or portion thereof in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Overtime or holiday charges for time shall be rounded to the nearest half hour.

(f) When an inspection is delayed because product is not available or readily accessible, a charge for waiting time shall be made at the prevailing

hourly rate in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Waiting time shall be rounded to the nearest half hour.

Dated: July 26, 2007.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E7-14826 Filed 7-31-07; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

#### 8 CFR Part 103

[CIS No. 2415-07; Docket No. USCIS-2007-0039]

RIN 1615-AB60

#### Temporary Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule for Certain Adjustment of Status and Related Applications

**AGENCY:** U.S. Citizenship and Immigration Services, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule temporarily amends the applicable fees for employment-based Forms I-485, "Application to Register Permanent Residence or Adjust Status," and applications for derivative benefits associated with such Forms I-485 filed pursuant to the Department of State's July Visa Bulletin No. 107, dated June 12, 2007. The fees for all other petitions and applications administered by U.S. Citizenship and Immigration Services will continue in force as effective on July 30, 2007.

**DATES:** *Effective Date:* This rule is effective July 30, 2007, at 12:02 a.m. EST.

**FOR FURTHER INFORMATION CONTACT:** Efren Hernandez III, Business and Trade Services, Service Center Operations (Business and Trade Services), U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, Suite 3000, Washington, DC 20001, telephone (202) 272-8400.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

###### 1. USCIS Fee Schedule

On May 30, 2007, USCIS published the final rule, effective July 30, 2007, "Adjustment of the Immigration and

Naturalization Benefit Application and Petition Fee Schedule," amending 8 CFR part 103 to prescribe new fees to fund the cost of processing applications and petitions for immigration and naturalization benefits and services, and USCIS' associated operating costs pursuant to section 286(m) of the Immigration and Nationality Act (INA), 8 U.S.C. 1356(m). 72 FR 29851. That rule provides that applications that are submitted to USCIS with the incorrect fee will be rejected. For the reasons described below, USCIS, through this rule, is amending the fees again on a temporary basis for certain applications. This rule will become effective immediately after the final fee rule published on May 30, 2007, and makes only temporary modifications to that rule to respond to the events described below. The rule provides limited relief for specific applicants from the final fee rule published on May 30, 2007. The effect of this rule is limited to those applications filed before August 18, 2007. For applications filed on or after August 18, 2007, the fees set forth in the final rule published on May 30, 2007, will be required. USCIS will remove this regulation by another rule to be published in **Federal Register** on or about August 17, 2007, to be effective August 18, 2007.

###### 2. Visa Availability—Summary

The INA establishes formulas and numerical limits for regulating persons immigrating to the United States for permanent residence, to include defining the employment-based immigrant visa classifications. INA sec. 201 *et seq.*, 8 U.S.C. 1151 *et seq.* The INA provides an annual world-wide numerical limit on the number of aliens who may immigrate to the United States, as well as an annual per-country numerical limit on the number of aliens who may emigrate from a particular country. INA sections 201(d) and 202(a)(2), 8 U.S.C. 1151(d) and 1152(a)(2). In addition, the INA allocates the total number of world-wide visas among five employment-based categories or preferences. INA sec. 203(b), 8 U.S.C. 1153(b). Taken together, the total number of visas, the country from which an alien emigrates, and the allocation of visas among the preference categories, determines whether a particular alien may immigrate to the United States at a certain date.

The Department of State (DOS) determines the availability of immigrant visa numbers. See INA sections 203(e) and (g), 8 U.S.C. 1153(e) and (g). DOS also controls individual allocation of employment-based immigrant visas. 22 CFR 42.32. DOS publishes a "Visa

Bulletin" each month which summarizes the availability of immigrant visa numbers.

The INA provides that the Secretary of Homeland Security may approve an application to adjust status if an immigrant visa is immediately available at the time the application is filed. *See* INA sec. 245(a)(3), 8 U.S.C. 1255(a)(3). Pursuant to Department of Homeland Security regulations, an immigrant visa is considered available, and an adjustment of status application can be filed and processed, if the applicant has a priority date earlier than the date shown in the current DOS Visa Bulletin. 8 CFR 245.1(g)(1).

### 3. The July Visa Bulletin

On June 12, 2007, DOS published July Visa Bulletin No. 107. This Visa Bulletin indicated that all visas were current and immediately available for most employment-based categories. On July 2, 2007, DOS published Visa Bulletin No. 108, announcing that there would be no further visa number authorizations for employment-based applications. USCIS announced on that day that it would not accept any additional employment-based adjustment of status applications.

### 4. USCIS July 17, 2007 Announcement

After consulting with USCIS, DOS advised USCIS that July Visa Bulletin No. 107 should be relied upon for purposes of determining whether employment-based immigrant visa numbers are currently available. DOS has withdrawn Visa Bulletin No. 108. Consequently, USCIS announced that, beginning July 17, 2007, and ending at the close of business on August 17, 2007, it will accept employment-based Forms I-485 filed by aliens whose priority dates are current under Visa Bulletin No. 107. *See* "USCIS Announces Revised Processing Procedures for Adjustment of Status Applications" at <http://www.uscis.gov/files/pressrelease/VisaBulletinUpdate17Jul07.pdf>. Visa Bulletin No. 107 is available at the DOS Web site at [http://travel.state.gov/visa/frvi/bulletin/bulletin\\_3258.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_3258.html) or may be obtained by calling the Information contact listed in this rule. Applicable derivative benefit applications are Form I-765, "Application for Employment Authorization," and Form I-131, "Application for Travel Document," eligibility for which are based on the Form I-485 filing.

### 5. Changes Made by This Rule

Because of the mid-month change to the Visa Bulletin, USCIS has determined that aliens in employment-based

categories filing applications pursuant to Visa Bulletin No. 107 should not be required to pay filing fees based on the fee schedule that becomes effective July 30, 2007. Therefore, as a result of this rule, aliens who file an employment-based Form I-485 and any related Forms I-765 and I-131, pursuant to Visa Bulletin No. 107, through August 17, 2007, must include the filing fees in effect prior to July 30, 2007. The new fee schedule becomes effective on July 30, 2007, for all other immigration and naturalization applications and petitions and on August 18, 2007, for Forms I-485 filed pursuant to Visa Bulletin No. 107 and to all subsequent or "renewal" applications for advance parole and employment authorization based on pending Forms I-485 filed pursuant to Visa Bulletin No. 107.

This rule does not affect the increase in fees, pursuant to the final fee schedule, set to take effect on July 30, 2007, for Form I-140, "Immigrant Petition for Alien Worker." Therefore, aliens who file Form I-140 concurrently with Form I-485 based on Visa Bulletin No. 107 between July 30, 2007, and August 17, 2007, must provide the post-July 30, 2007, fee for the Form I-140 and the pre-July 30, 2007, fee for Form I-485. *See* 8 CFR 245.2(a)(2)(i)(C) (concurrent filing provisions). The current fee for Form I-485 is \$325. Therefore, under this rule, the application fee for an employment-based Form I-485 filed between July 17 and August 17, 2007, pursuant to Visa Bulletin No. 107 is \$325. In another rulemaking to be published on or about August 17, 2007, USCIS will separately terminate the effect of this rule, as of August 18, 2007 the fees will be as prescribed by the final rule of May 30, 2007, or \$930 for Form I-485.

Similarly, this rule amends the effective date of the increase in the Biometric Services Fee that must accompany Forms I-485 or Forms I-131 or I-765 that are based on a pending I-485, submitted pursuant to Visa Bulletin No. 107 between July 30, 2007 and August 17, 2007. As of July 30, 2007, the fee for biometric services is \$80 for all other benefits for which biometrics must be provided.

This rule also provides that applicants filing Forms I-131 and I-765 in conjunction with a pending employment-based Form I-485 submitted pursuant to Visa Bulletin No. 107, must include the pre-July 30, 2007, fees for these applications with their filings: \$170 for Form I-131 and \$180 for Form I-765. Moreover, all Forms I-131 or I-765 filed as of August 18, 2007, while adjudication of their Forms I-485 is pending must be accompanied by the

new application fee. USCIS will not charge a fee for all other Forms I-131 and I-765 when either is filed by an applicant who has paid the new Form I-485 application fee because the new fee schedule "bundles" the fees for current and subsequent Forms I-131 and I-765 filed while the applicant awaits adjudication of Form I-485.

## II. Rulemaking Requirements

This rule relates to internal agency management, procedure, and practice and is temporary in nature. 5 U.S.C. 553(b)(A). This rule does not alter substantive criteria by which USCIS will approve or deny applications or determine eligibility for any immigration benefit, but relieves certain requirements for a definite period of time for specific applications. As a result, DHS is not required to provide the public with notice of a proposed rule and the opportunity to submit comments on the subject matter of this rule. DHS finds that good cause exists for adopting this final rule, without prior notice and public comment because the urgency of adopting this rule make prior notice and comment impractical and contrary to the public interest. 5 U.S.C. 553(b)(B).

This rule relates to internal agency management, and, therefore, is exempt from the provisions of Executive Order Nos. 12630, 12988, 13045, 13132, 13175, 13211, and 13272. Further, this action is not a rule as defined by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and is therefore exempt from the provisions of that Act. In addition, this rule is not subject to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. Ch. 17A, 25, or the E-Government Act of 2002, 44 U.S.C. 3501, note.

DHS finds that good cause exists for promulgating this rule without delaying the effective date of the rule because the rule relieves a requirement of existing regulations, must be adopted with an immediate effective date, and is temporary in nature. 5 U.S.C. 553(d)(1).

This rule does not affect any information collections, reporting or recordkeeping requirements under the Paperwork Reduction Act.

### List of Subjects in 8 CFR Part 103

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

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

**PART 103—POWERS AND DUTIES; 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 is amended by revising the entries “For capturing biometric information” and the entries for “Form I–131”, “Form I–485”, and “Form I–765” in paragraph (b)(1) read as follows:

**§ 103.7 Fees.**

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

For capturing biometric information (Biometric Fee). A service fee of \$80 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; provided that:

(1) *Extension for intercountry adoptions:* If applicable, no biometric service fee is charged when a written request for an extension of the approval period is received by USCIS prior to the expiration date of approval indicated on the Form I–171H if a Form I–600 has not yet been submitted in connection with an approved Form I–600A. This extension without fee is limited to one occasion. If the approval extension expires prior to submission of an associated Form I–600, then a complete application and fee must be submitted for a subsequent application.

(2) *Pursuant to Visa Bulletin No. 107:* The Biometric Services Fee that must accompany Forms I–485, or Forms I–131 or I–765 that are based on a pending I–485, that are submitted pursuant to U.S. Department of State Visa Bulletin No. 107, and filed with USCIS on or after July 30, 2007, and on or before August 17, 2007, is \$70.

Form I–131. For filing an application for travel document—\$305. However, the fee for Form I–131 that is submitted pursuant to U.S. Department of State Visa Bulletin No. 107 based on a pending I–485, and filed with USCIS on

or after July 30, 2007, and on or before August 17, 2007, is \$170.

\* \* \* \* \*

Form I–485. For filing an application for permanent resident status or creation of a record of lawful permanent residence—\$930 for an applicant fourteen years of age or older; \$600 for an applicant under the age of fourteen years when submitted concurrently for adjudication with the Form I–485 of a parent and the applicant is seeking to adjust status as a derivative of the parent, based on a relationship to the same individual who provides the basis for the parent’s adjustment of status, or under the same legal authority as the parent; no fee for an applicant filing as a refugee under section 209(a) of the Act; provided that no additional fee will be charged for a request for travel document (advance parole) or employment authorization filed by an applicant who has paid the Form I–485 application fee, regardless of whether the Form I–131 or Form I–765 is required to be filed by such applicant to receive these benefits. However, for aliens who file an employment-based Form I–485 pursuant to Visa Bulletin No. 107, and filed with USCIS on or after July 30, 2007, and on or before August 17, 2007, the fee is \$325, plus a fee of \$170 will be charged for a request for travel document (advance parole) and \$180 to request employment authorization for an applicant who has paid the Form I–485 application fee, regardless of whether the Form I–131 or Form I–765 is required to be filed by such applicants to receive these benefits.

\* \* \* \* \*

Form I–765. For filing an application for employment authorization pursuant to 8 CFR 274a.13—\$340. However, the fee for a Form I–765 that is submitted pursuant to U.S. Department of State Visa Bulletin No. 107 based on a pending I–485, and filed with USCIS on or after July 30, 2007, and on or before August 17, 2007, is \$180.

\* \* \* \* \*

Dated: July 27, 2007.  
**Michael Chertoff,**  
*Secretary.*  
[FR Doc. 07–3762 Filed 7–30–07; 9:56 am]

**BILLING CODE 4410–10–P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 9330]

**RIN 1545–BG66**

**Built-in Gains and Losses Under Section 382(h); Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to temporary regulations.

**SUMMARY:** This document contains a correction to temporary regulations (TD 9330) that were published in the **Federal Register** on Thursday, June 14, 2007 (72 FR 32792) applying to corporations that have undergone ownership changes within the meaning of section 382. These regulations provide guidance regarding the treatment of prepaid income under the built-in gain provisions of section 382(h).

**DATES:** This correction is effective August 1, 2007.

**FOR FURTHER INFORMATION CONTACT:** Keith Stanley at (202) 622–7750 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The correction notice that is the subject of this document is under section 382 of the Internal Revenue Code.

**Need for Correction**

As published, temporary regulations (TD 9330) contain an error that may prove to be misleading and is in need of clarification.

**Correction of Publication**

Accordingly, the publication of the temporary regulations (TD 9330), which was the subject of FR Doc. E7–11438, is corrected as follows:

On page 32794, column 1, in the preamble, under the paragraph heading “Special Analyses”, line 4, the language “Executive Order 12666. Therefore, a” is corrected to read “Executive Order 12866. Therefore, a”.

**LaNita Van Dyke,**  
*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*  
[FR Doc. E7–14802 Filed 7–31–07; 8:45 am]

**BILLING CODE 4830–01–P**