

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 205

[Doc. No. AMS–NOP–21–0073]

RIN 0581–AE06

#### National Organic Program (NOP); Organic Livestock and Poultry Standards; Correction

**AGENCY:** Agricultural Marketing Service, Department of Agriculture (USDA).

**ACTION:** Final rule; correction.

**SUMMARY:** The Agricultural Marketing Service (AMS) is correcting non-substantive errors in the regulatory text of the Organic Livestock and Poultry Standards (OLPS) final rule published on November 2, 2023. The corrections are intended to improve readability and clarity.

**DATES:** Effective January 12, 2024.

**FOR FURTHER INFORMATION CONTACT:** Erin Healy, Director, Standards Division; Telephone: (202) 720–3252; Email: [erin.healy@usda.gov](mailto:erin.healy@usda.gov).

**SUPPLEMENTARY INFORMATION:** The OLPS final rule published on November 2, 2023 (88 FR 75394), delayed December 13, 2023 (88 FR 86259), amends the USDA organic regulations related to the production of livestock, including poultry, marketed as organic. This action corrects five errors in the OLPS regulatory text published on November 2, 2023, to improve the readability and clarity of the rule. The corrections do not change the meaning of the regulations.

Section 553 of the Administrative Procedure Act, 5 U.S.C.553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. AMS has determined that there is good cause

for making these corrections final without prior proposal and opportunity for comment because AMS is merely correcting minor non-substantive errors and omissions in the regulatory text. Accordingly, AMS finds that there is good cause to dispense with notice and public procedure under 5 U.S.C. 553(b)(B). With respect to the effective date, this final rule correction is not substantive in nature, and there is good cause to dispense with a 30-day delayed effective date. This final rule correction will be effective January 12, 2024, in conjunction with the entirety of the rule, as provided by FR Doc. 2023–27255 (88 FR 86259; December 13, 2023).

#### Corrections

In FR Doc. 2023–23726 appearing in the **Federal Register** of November 2, 2023, at 88 FR 75394, the following corrections are made:

##### § 205.2 [Corrected]

■ 1. On page 75444, in the third column, in § 205.2, in the definition of *Cattle wattling*, “The surgical separation of two layers of the skin from the connective tissue for along a 2-to-4-inch path” is corrected to read “The surgical separation of two layers of the skin from the connective tissue along a 2-to-4-inch path”.

##### § 205.239 [Corrected]

■ 2. On page 75447, in the first column, in § 205.239, in paragraph (c)(4), “provide each animal with an average of at least 30 percent DMI” is corrected to read “provide each animal with an average of at least 30 percent dry matter intake (DMI)”.

##### § 205.241 [Corrected]

■ 3. On page 75447, in the second column, in § 205.241, in paragraph (a), “including: year-round access to outdoors;” is corrected to read, “including: year-round access to the outdoors;”.

■ 4. On page 75447, in the third column, in § 205.241, in paragraph (b)(4)(i), “a certifier may approve practices that provide less than 1 linear feet per 360 birds” is corrected to read, “a certifier may approve practices that provide less than 1 linear foot per 360 birds”.

■ 5. On page 75448, in the second column, in § 205.241, in paragraph (d)(8), “For 4–H, National FFA Organization, and other youth projects,

provided that temporary confinement for no more than one week prior to a fair or other demonstration,” is corrected to read, “For 4–H, National FFA Organization, and other youth projects, for no more than one week prior to a fair or other demonstration.”.

**Erin Morris,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2023–28499 Filed 12–27–23; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HOMELAND SECURITY

### 8 CFR Part 106

[CIS No. 2757–23; DHS Docket No. USCIS–2018–0003]

RIN 1615–ZC05

#### Adjustment to Premium Processing Fees

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Homeland Security (DHS) is increasing premium processing fees charged by U.S. Citizenship and Immigration Services (USCIS) to reflect the amount of inflation from June 2021 through June 2023 according to the Consumer Price Index for All Urban Consumers. The adjustment increases premium processing fees from \$1,500 to \$1,685, \$1,750 to \$1,965, and \$2,500 to \$2,805.

#### **DATES:**

*Effective date:* This rule is effective on February 26, 2024.

*Compliance date:* Requests for premium processing postmarked on or after February 26, 2024 must include the new fee.

**FOR FURTHER INFORMATION CONTACT:** Carol Cribbs, Deputy Chief Financial Officer, U.S. Citizenship and Immigration Services, Department of Homeland Security, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone 240–721–3000 (this is not a toll-free number).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

CFR—Code of Federal Regulations  
CPI—Consumer Price Index

CPI-U—Consumer Price Index for All Urban Consumers DHS—Department of Homeland Security  
 E.O.—Executive Order  
 Form I-129—Petition for a Nonimmigrant Worker  
 Form I-140—Immigrant Petition for Alien Workers  
 Form I-539—Application to Extend/Change Nonimmigrant Status  
 Form I-765—Application for Employment Authorization  
 FY—Fiscal Year  
 INA—Immigration and Nationality Act  
 NEPA—National Environmental Protection Act  
 NIW—National Interest Waiver  
 SBREFA—Small Business Regulatory Enforcement Fairness Act of 1996  
 USCIS—U.S. Citizenship and Immigration Services  
 USCIS Stabilization Act—Emergency Stopgap USCIS Stabilization Act  
 USCIS Stabilization Rule—Implementation of the Emergency Stopgap USCIS Stabilization Act Final Rule, published March 30, 2022

## I. Background and Authority

Section 286(u) of the INA, 8 U.S.C. 1356(u), provides the Secretary with authority to establish and collect a premium fee for the premium processing of certain immigration benefit types.<sup>1</sup> Premium processing means that DHS collects a fee in addition to the regular filing fee from persons seeking expedited processing of eligible immigration benefit requests.<sup>2</sup>

On October 1, 2020, the Continuing Appropriations Act, which included the Emergency Stopgap USCIS Stabilization Act (USCIS Stabilization Act), set new fees for premium processing of immigration benefit requests that had been designated for premium processing as of August 1, 2020, and expanded DHS authority to establish and collect new premium processing fees, and to use those additional funds for expanded purposes. See Emergency Stopgap USCIS Stabilization Act, Public Law 116-159, sec. 4102 (Oct. 1, 2020); INA sec. 286(u), 8 U.S.C. 1356(u).

On October 16, 2020, USCIS announced it would increase the fees for premium processing, as required by the USCIS Stabilization Act, effective October 19, 2020.<sup>3</sup> As of that date, the fee for Form I-907, Request for Premium Processing Service, increased from \$1,440 to \$2,500 for all immigration

benefit requests that were designated for premium processing as of August 1, 2020, with the exception that the premium processing fee for petitioners filing Form I-129, Petition for a Nonimmigrant Worker, requesting H-2B or R-1 nonimmigrant status increased from \$1,440 to \$1,500. USCIS further announced that, while the USCIS Stabilization Act gave USCIS the ability to expand premium processing to additional forms and immigration benefit requests, USCIS was not yet taking such action and that any expansion of premium processing to other forms would be implemented as provided in the legislation.<sup>4</sup>

Effective May 31, 2022, DHS amended its premium processing regulations to codify the fees set by the USCIS Stabilization Act and establish new fees and processing timeframes consistent with the conditions and eligibility requirements set forth by section 4102(b)(1) of the USCIS Stabilization Act. See Final rule, *Implementation of the Emergency Stopgap USCIS Stabilization Act* (USCIS Stabilization Rule), 87 FR 18227 (Mar. 30, 2022); see also 8 CFR 106.4. The fees established by the USCIS Stabilization Act and codified by the USCIS Stabilization Rule were as follows:

- For all immigration benefit requests that were designated for premium processing as of August 1, 2020, increased from \$1,440 to \$2,500, with the exception that the premium processing fee for petitioners filing Form I-129, Petition for a Nonimmigrant Worker, requesting H-2B or R-1 nonimmigrant status increased from \$1,440 to \$1,500.<sup>5</sup>

- For those requesting premium processing for EB-1 immigrant classification as a multinational executive or manager or EB-2 immigrant classification as a member of professions with advanced degrees or exceptional ability seeking a national interest waiver (NIW) on Form I-140, Immigrant Petition for Alien Working, the fee was established as \$2,500.<sup>6</sup>

- For those requesting premium processing of a change of status to F-1, F-2, J-1, J-2, M-1, or M-2 nonimmigrant status or a change of status to or extension of stay in E-1, E-2, E-3, H-4, L-2, O-3, P-4, or R-2 nonimmigrant status on Form I-539,

Application to Extend/Change Nonimmigrant Status, the fee was established as \$1,750;<sup>7</sup> and

- For those requesting premium processing for employment authorization on Form I-765, Application for Employment Authorization, the fee was established as \$1,500.<sup>8</sup>

USCIS is now increasing those premium processing fees provided by Congress in the USCIS Stabilization Act and codified through the USCIS Stabilization Rule by the inflationary adjustment calculation provided by INA 286(u)(3)(C), 8 U.S.C. 1356(u)(3)(C). See USCIS Stabilization Act, Public Law 116-159 (Oct. 1, 2020).

## II. Basis for Adjustment

Section 286(u)(3)(C) of the INA, 8 U.S.C. 1356(u)(3)(C), provides that DHS may adjust the premium fees on a biennial basis by the percentage by which the Consumer Price Index (CPI) for All Urban Consumers for the month of June preceding the date on which such adjustment takes effect exceeds the CPI for All Urban Consumers (CPI-U) for the same month of the second preceding calendar year. See also 8 CFR 106.4(d) (codifying section 286(u)(3)(C) of the INA, 8 U.S.C. 1356(u)(3)(C) in 8 CFR part 106, USCIS Fee Schedule).

The USCIS Stabilization Act established the current premium processing fees and the authority for DHS to adjust the premium fees on a biennial basis on October 1, 2020. DHS has not adjusted the statutory premium fees since October 1, 2020. As authorized by the USCIS Stabilization Act, DHS is now increasing the statutory premium fees as provided for by the USCIS Stabilization Act by the percentage by which the CPI-U for the month of June preceding the date on which such adjustment takes effect exceeds the CPI-U for the same month of the second preceding calendar year. This rule is effective on February 26, 2024, therefore “the month of June preceding the date on which such adjustment takes effect” is June 2023. As such, June 2021 is “the same month of the second preceding calendar year,” because it is two years before the June “on which such adjustment takes effect.” Therefore, DHS is using the CPI-U as of June 2023 as the end point and June 2021 as the starting point for the period of inflation to establish the new premium processing fees. In June

<sup>1</sup> “Premium fees” and “premium processing fees” are used interchangeably throughout this rule.

<sup>2</sup> See 8 CFR 1.2 for the definition of “Benefit request”; See 8 CFR 106.4 for those immigration benefit requests currently eligible for premium processing.

<sup>3</sup> See USCIS, Premium Processing Fee Increase Effective Oct. 19, 2020, <https://www.uscis.gov/news/premium-processing-fee-increase-effective-oct-19-2020> (last visited July 19, 2023).

<sup>4</sup> *Id.*

<sup>5</sup> See USCIS Stabilization Act, Public Law 116-159 at sec. 4102(a) (codified as amended at 8 U.S.C. 1356(u)(3)(A) (Oct. 1, 2020); USCIS Stabilization Rule, 87 FR 18227,18231 (Mar. 30, 2022). See also 8 CFR 106.4(c).

<sup>6</sup> See *id.* at sec. 4102(b)(1)(A) (Oct. 1, 2020); USCIS Stabilization Rule, 87 FR 18227,18231 (Mar. 30, 2022). See also 8 CFR 106.4(c).

<sup>7</sup> See *id.* at sec. 4102(b)(1)(B)&(C) (Oct. 1, 2020); USCIS Stabilization Rule, 87 FR 18227,18231 (Mar. 30, 2022). See also 8 CFR 106.4(c).

<sup>8</sup> See *id.* at sec. 4102(b)(1)(D) (Oct. 1, 2020); USCIS Stabilization Rule, 87 FR 18227,18231 (Mar. 30, 2022). See also 8 CFR 106.4(c).

2021 the CPI-U was 271.696, and in June 2023 it was 305.109.<sup>9</sup> Therefore, between June 2021 and June 2023, the CPI-U increased by 12.30 percent.<sup>10</sup> When this percentage increase is applied to the current premium processing fees, the premium processing fees that were \$1,500, increase to \$1,685; the premium processing fees that were \$1,750, increase to \$1,965; and the premium processing fees that were \$2,500, increase to \$2,805.<sup>11</sup> See new 8 CFR 106.4(c).

A request for premium processing postmarked on or after February 26, 2024 must include the new fee. A premium processing request must be submitted on USCIS Form I-907, Request for Premium Processing, and in the manner prescribed by USCIS in the form instructions. If the request for premium processing is submitted together with the underlying immigration benefit request, all required fees in the correct amount must be paid. The fee to request premium processing service may not be waived and must be paid in addition to, and in a separate remittance from, other filing fees. See 8 CFR 106.4(b).

USCIS is adjusting current premium processing fees to ensure that the premium processing fees keep pace with inflation as contemplated by Congress in the USCIS Stabilization Act. It is USCIS' intention that premium processing fees will be adjusted biennially to consistently protect the real dollar value of the premium processing service that USCIS provides. When making an inflationary adjustment to the premium processing fees provided by INA 286(u)(3)(C), 8 U.S.C. 1356(u)(3)(C), the adjustment is limited to the percentage by which the CPI-U for the month of June preceding the date on which such adjustment takes effect exceeds the CPI-U for the same month of the second preceding calendar year. By consistently adjusting premium processing fees biennially USCIS will fully capture any increase in inflation that could be missed by increasing premium processing fees

over periods of time greater than two years.

DHS will use the revenue generated by the premium processing fee increase to provide premium processing services; make improvements to adjudications processes; respond to adjudication demands, including reducing benefit request processing backlogs; and otherwise fund USCIS adjudication and naturalization services.

On January 4, 2023, DHS proposed new fees to replace its current fee schedule in its entirety. See, *U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements*, 88 FR 402 (Jan. 4, 2023) (2023 Proposed Fee Rule).<sup>12</sup> The 2023 Proposed Fee Rule proposed to republish 8 CFR 106.4(c) *Designated benefit requests and fee amounts* as it was codified in the final rule entitled, "Implementation of the Emergency Stopgap USCIS Stabilization Act," on March 30, 2022 without adjusting any of the fees for premium processing. *Id.* at 595. As the 2023 Proposed Fee Rule has not yet been finalized, this rule would replace the premium processing fees at 8 CFR 106.4(c) that were set by the USCIS Stabilization Act and codified in the USCIS Stabilization Rule. See new 8 CFR 106.4(c).

### III. Regulatory Requirements

#### A. Administrative Procedure Act

The Administrative Procedure Act generally requires agencies to issue a proposed rule before issuing a final rule, subject to certain exceptions. See 5 U.S.C. 553(b). Section 286(u)(3)(C) of the INA, 8 U.S.C. 1356 (u)(3)(C), exempts DHS from the requirements of 5 U.S.C. 553. Section 286(u)(3)(C) of the INA, 8 U.S.C. 1356(u)(3)(C), specifically provides that "the provisions of section 553 of Title 5 shall not apply to an adjustment authorized under [section 286(u)(3)(C) of the INA, 8 U.S.C. 1356(u)(3)(C)]." Therefore, DHS is not required to issue a proposed rule when adjusting premium fees under section 286(u)(3)(C) of the INA, 8 U.S.C. 1356 (u)(3)(C).

The regulations at 8 CFR 106.4(d) provide that fees to request premium processing service may be adjusted by notice in the **Federal Register**. However, the Federal Register Act (44 U.S.C. 1510) and its implementing regulations (1 CFR part 21) provide that publishing

a Notice document in the **Federal Register** announcing a new fee amount, without amending the regulations, does not effectuate a change of the Code of Federal Regulations (CFR). Because current premium processing fees are codified in the CFR, it is necessary for DHS to publish this rule to amend the regulatory text.

#### B. Other Regulatory Requirements

Because this action is not subject to the notice-and-comment requirements under the Administrative Procedure Act, a final regulatory flexibility analysis is not required. See 5 U.S.C. 604(a). This action is not subject to the written statement requirements of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Orders 13132 or 13175.

Executive Order 12988 (Civil Justice Reform)

This rule was drafted and reviewed in accordance with Executive Order (E.O.) 12988, Civil Justice Reform. DHS has determined that this final rule meets the applicable standards provided in section 3 of E.O. 12988.

National Environmental Policy Act

The Department is not aware of any significant impact on the environment, or any change in environment that would result from the changes in fees. The Department finds that promulgation of this rule clearly fits within categorical exclusion A3, as established in DHS's National Environmental Policy Act (NEPA) implementing procedures set forth in DHS's Directive 023-01, Revision 01, and Instruction Manual 023-01-001-01, Revision 01 ("Instruction Manual") Appendix A, Table 1.

This rule is a standalone rule and is not part of any larger action. This rule would not result in any major Federal action that would significantly affect the quality of the human environment. Furthermore, the Departments have determined that no extraordinary circumstances exist that would create the potential for significant environmental effects. Therefore, this rule is categorically excluded from further NEPA review.

Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act)

The Congressional Review Act (CRA) was included as part of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) by section 804 of SBREFA, Public Law

<sup>9</sup> The latest CPI-U data is available at <http://data.bls.gov/cgi-bin/surveymost?bls> (last visited 07/27/2023). Select CPI-U 1982-84 = 100 (Unadjusted)—CUUR0000SA0 and click the Retrieve data button.

<sup>10</sup> DHS calculated this by subtracting the June 2021 CPI-U (271.696) from the June 2023 CPI-U (305.109), then dividing the result (33.413) by the June 2021 CPI-U (271.696). Calculation:  $(305.109 - 271.696) / 271.696 = .1230 \times 100 = 12.30$  percent.

<sup>11</sup> DHS generally rounds USCIS fees that it establishes by rulemaking to the nearest \$5 increment. See e.g., 81 FR 73292, 73303 (Oct. 24, 2016).

<sup>12</sup> On January 9, 2023, USCIS published a correction to the 2023 Proposed Fee Rule to correct two fees that were erroneous as the result of typographical errors. See U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements; Correction, 88 FR 1172 (Jan. 9, 2023).

104–121, 110 Stat. 847, 868, *et seq.* The Office of Information and Regulatory Affairs has determined that this rule is a major rule as defined by the CRA. DHS has complied with the CRA’s reporting requirements and has sent this final rule to Congress and to the Comptroller General as required by 5 U.S.C. 801(a)(1).

Executive Order 12866

Executive Orders 12866 (Regulatory Planning and Review), as amended by Executive Order 14094 (Modernizing

Regulatory Review), and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules,

and of promoting flexibility. The Office of Management and Budget (OMB) has not designated this rule a “significant regulatory action” as defined under section 3(f) of E.O. 12866, as amended by Executive Order 14094. Accordingly, OMB has not reviewed this rule.

DHS estimates an additional annual transfer of \$184,715,135 in revenue to be collected from fee-paying applicants and petitioners (public) to DHS, due to the increase in premium processing fees subject to an adjustment for inflation (Table 1).<sup>13</sup>

TABLE 1—SUMMARY OF PROVISIONS AND IMPACTS OF THE FINAL RULE

Rule provisions	Description of changes to provisions	Estimated annual form receipts	Estimated annual change in transfers
1. Form I–129, Petition for a Nonimmigrant Worker.	This rule increased the premium processing fees for Form I–129. The premium processing fee for H–2B and R–1 nonimmigrant status will increase from \$1,500 to \$1,685. The premium processing fee for all other available Form I–129 classifications (E–1, E–2, E–3, H–1B, H–3, L–1A, L–1B, LZ, O–1, O–2, P–1, P–1S, P–2, P–2S, P–3, P–3S, Q–1, TN–1, and TN–2) will increase from \$2,500 to \$2,805.	Form I–129 H–2B and R–1 Classifications: 10,892. All other Form I–129 Classifications: 310,146. Total Form I–129 receipts: 321,038.	This will result in an increase in transfer payments from the Form I–129 fee-paying population to DHS of \$96,609,550.
2. Form I–140, Immigrant Petition for Alien Workers.	This rule increased the premium processing fees for Form I–140. The premium processing fee for employment-based (EB) classifications E11, E12, E21 (non-NIW), E31, E32, EW3, as well as recently available E13 and E21 (NIW), will increase from \$2,500 to \$2,805.	Form I–140 E11, E12, E21 (non-NIW), E31, E32, EW3 Classifications: 85,399. Form I–140 E13 and E21 (NIW) Classifications: 40,800. Total Form I–140 receipts: 126,199.	This will result in an increase in transfer payments from the Form I–140 fee-paying population to DHS of \$38,490,695.
3. Form I–539, Application to Extend/Change Nonimmigrant Status.	This rule increased the premium processing fees for Form I–539 classifications F–1, F–2, M–1, M–2, J–1, J–2, E–1, E–2, E–3, L–2, H–4, O–3, P–4, and R–2. The premium processing fee for this population will increase from \$1,750 to \$1,965.	Form I–539 F–1, F–2, M–1, M–2, J–1, J–2 Classifications: 11,144. Form I–539 E–2, E–3, L–2, H–4, O–3, P–4, and R–2 Classifications: 71,160. Total Form I–539 receipts: 82,304.	This will result in an increase in transfer payments from the Form I–539 fee-paying population to DHS of \$17,695,360.
4. Form I–765, Application for Employment Authorization.	This rule increased the premium processing fees for Form I–765. The premium processing fee for certain F–1 students will increase from \$1,500 to \$1,685.	Form I–765 OPT and OPT–STEM Classifications Currently Eligible: 114,116. Form I–765 Classifications Likely Eligible in the Future: 58,422. Total Form I–765 receipts: 172,538.	This will result in an increase in transfer payments from the Form I–765 fee-paying population to DHS of \$31,919,530.

<sup>13</sup> Additional revenue collected calculation: \$96,609,550 + \$38,490,695 + \$17,695,360 +

\$31,919,530 = \$184,715,135 for forms I–129, I–140, I–539 and I–765, respectively.

In addition to the impacts summarized above, the table below

presents the prepared accounting statement showing the costs and

benefits to each individual affected by this final rule.<sup>14</sup>

**OMB A-4 ACCOUNTING STATEMENT**  
[\$ Millions, FY 2022; Time period: FY 2024 through FY 2025]

Category	Primary estimate	Minimum estimate	Maximum estimate	Source citation
<b>BENEFITS</b>				
Monetized Benefits .....	N/A			Regulatory Impact Analysis (“RIA”) See E.O. 12866.
Annualized quantified, but unmonetized, benefits	N/A	N/A	N/A	E.O. 12866.
Unquantified Benefits .....	N/A			E.O. 12866.
<b>COSTS</b>				
Annualized monetized costs (7%) .....	N/A	N/A	N/A	E.O. 12866.
Annualized monetized costs (3%) .....	N/A	N/A	N/A	
Annualized quantified, but unmonetized, costs ...	N/A			
Qualitative (unquantified) costs .....	N/A			E.O. 12866.
<b>TRANSFERS</b>				
Annualized monetized transfers .....	\$184.7	N/A	N/A	E.O. 12866.
From whom to whom? .....	From the fee-paying applicants and petitioners of Form I-129, I-140, I-539, and I-765 to DHS.			
Qualitative (unquantified) transfers .....	None			None.
Miscellaneous Analyses/Category .....	Effects			Source Citation.
Effects on State, local, or tribal governments .....	None			None.
Effects on small businesses .....	None			None.
Effects on wages .....	None			None.
Effects on growth .....	None			None.

Table 2 shows the estimated total receipts received and refunds issued by USCIS for Form I-907, Request for Premium Processing Service, from fiscal

year (FY) 2018 through FY 2022. Based on a 5-year annual average, DHS estimates the annual receipts for Form I-907 to be 406,437 for the biennial

period after this rule takes effect. In addition, based on the 5-year average, the annual number of refunds issued for Form I-907 is estimated to be 297.<sup>15</sup>

**TABLE 2—FORM I-907, REQUEST FOR PREMIUM PROCESSING SERVICE, RECEIPTS AND REFUNDS ISSUED, FY 2018 THROUGH FY 2022**

FY	Form I-907 receipts			Form I-907 refunds *		
	Form I-129	Form I-140	Total	Form I-129	Form I-140	Total
2018 .....	292,297	78,232	370,529	123	101	224
2019 .....	333,175	79,752	412,927	259	48	307
2020 .....	276,107	64,529	340,636	500	51	551
2021 .....	309,596	107,908	417,504	89	126	215
2022 .....	394,015	96,573	490,588	167	22	189
Total .....	1,605,190	426,994	2,032,184	1,138	348	1,486
5-year Annual Average .....	321,038	85,399	406,437	228	70	297

Source: USCIS, Office of Policy and Strategy, Policy Research Division, CLAIMS3 and ELIS database, July 18, 2023.

\* **Note:** For refunds, the report reflects the most up-to-date data available at the time the system was queried. Any duplicate case information has been removed.

<sup>14</sup> White House, OMB, *Circular A-4* (April 6, 2023), available at <https://www.whitehouse.gov/wp-content/uploads/2023/04/DraftCircularA-4.pdf> (last viewed Aug 3, 2023).

<sup>15</sup> USCIS presents data on refunds issued by USCIS because 8 CFR 106 guarantees processing for

premium processing requests within 15, 30 or 45 days. The required period generally begins when USCIS properly receives the correct version of Form I-907, Request for Premium Processing Service, with fee, at the correct filing address or the date that all prerequisites for adjudication, the form

prescribed by USCIS, and fee(s) are received by USCIS. Within the required period, USCIS will issue either an approval notice, denial notice, notice of intent to deny, or request for evidence, or open an investigation for fraud or misrepresentation.

Table 3 shows the percentage of the eligible Form I-129, Petition for Non-Immigrant Worker, petitioners who opted to submit a premium processing

request along with their Form I-129 from FY 2018 through FY 2022. The 5-year annual average percentage of eligible Form I-129 petitioners who

choose to submit a premium processing request was 57 percent.

TABLE 3—FORM I-907, REQUEST FOR PREMIUM PROCESSING SERVICE, FILED WITH FORM I-129, PETITION FOR A NONIMMIGRANT WORKER, FY 2018 THROUGH FY 2022

FY	Total Form I-129 receipts	Total Form I-129 petitions submitted with Form I-907	Percentage of Form I-907 receipts that come with Form I-129
2018 .....	548,910	292,297	53
2019 .....	551,789	333,175	60
2020 .....	555,058	276,107	50
2021 .....	531,851	309,596	58
2022 .....	629,424	394,015	63
Total .....	2,817,032	1,605,190	.....
5-year Annual Average .....	563,406	321,038	57

Source: USCIS, Office of Policy and Strategy, Policy Research Division, CLAIMS3 and ELIS database, July 18, 2023.

Table 4 shows the percentage of the eligible Form I-140, Immigrant Petition for Alien Workers, petitioners who chose to submit a premium processing request from FY 2018 through FY 2022. Through FY 2022, not all Form I-140

petitioners are eligible for premium processing; therefore, DHS only discusses the percentage of those who are eligible for premium processing during these fiscal years compared to the total number of premium processing

requests submitted.<sup>16</sup> The 5-year annual average percentage of eligible Form I-140 petitioners who chose to submit a premium processing request was 53 percent.

TABLE 4—FORM I-140 RECEIPTS ELIGIBLE FOR PREMIUM PROCESSING, FY 2018 THROUGH FY 2022

FY	Total Form I-140 petitions eligible for premium processing	Total Form I-140 petitions submitted with Form I-907	Percentage of Form I-907 receipts
2018 .....	62,262	35,889	58
2019 .....	70,215	34,958	50
2020 .....	65,029	29,060	45
2021 .....	112,521	65,685	58
2022 .....	91,605	48,616	53
Total .....	401,632	214,208	.....
5-year Annual Average .....	80,326	42,842	53

Source: USCIS, Office of Policy and Strategy, Policy Research Division, CLAIMS3 and ELIS database, July 18, 2023.

**Note:** Form I-140 eligible petitioners include the following classifications are currently designated for premium processing: EB-1 Aliens of extraordinary ability (E11), EB-1 Outstanding professors and researchers (E12), EB-2 Members of professions with advanced degrees or exceptional ability not seeking a National Interest Waiver (E21), EB-3 Skilled workers (E31), EB-3 Professionals (E32), and EB-3 Workers other than skilled workers and professionals (EW3).

To estimate the probability that an eligible petitioner may choose to request premium processing, DHS computes a ratio of the 5-year annual average number of requests to the 5-year annual average number of eligible petitioners. Table 5 shows that of those currently eligible for premium processing, 57 percent chose to submit a premium

processing request. Based on prior agency experience,<sup>17</sup> DHS assumes that the demand rate will carry forward and will use this percentage to estimate the possible adoption volumes of Form I-140, Immigrant Petition for Alien Workers, Multinational Executives and Managers (E-13) and Members of professions with advanced degrees or

exceptional ability seeking a national interest waiver (E-21);<sup>18</sup> Form I-539, Application to Extend/Change Nonimmigrant Status; and I-765, Application for Employment Authorization, applicants.

<sup>16</sup> For more information on eligibility, please see “How Do I Request Premium Processing?” <https://www.uscis.gov/forms/all-forms/how-do-i-request-premium-processing> (last visited Aug 3, 2023).

<sup>17</sup> Table 7 in the “Implementation of the Emergency Stopgap USCIS Stabilization Act” rule at 87 FR 18241 shows that in FY 2021, when the fee was increased, Form I-129 petitioners were still willing to pay for premium processing. “This provides suggestive evidence that petitioners’

demand for premium processing is insensitive to the price increases effected by [the USCIS Stabilization] rule.”

<sup>18</sup> The USCIS Stabilization Act, codified by the USCIS Stabilization rule, established E-13 multinational executive and manager petitioner and E-21 national interest waiver petitioners eligible for premium processing. USCIS began accepting Form I-907 applications for these petitioners beginning January 30, 2023. See <https://www.uscis.gov/>

[newsroom/alerts/uscis-announces-final-phase-of-premium-processing-expansion-for-eb-1-and-eb-2-form-i-140-petitions](https://www.uscis.gov/newsroom/alerts/uscis-announces-final-phase-of-premium-processing-expansion-for-eb-1-and-eb-2-form-i-140-petitions). Because of the short time period USCIS has been accepting Form I-907 applications for these petitioners, USCIS uses the historical 5-year average of 57 percent submission rate to estimate their possible premium processing request adoption volumes.

TABLE 5—PERCENTAGE OF PREMIUM PROCESSING REQUESTS, FY 2018 THROUGH FY 2022

	5-year annual average of Forms submitted with Form I-907	5-year annual average of total receipts by Form	Percentage of Form I-907 receipts
Form I-129 .....	321,038	563,406	57
Form I-140 .....	42,842	80,326	53
Total .....	363,880	643,732	57

Source: USCIS Analysis.

(a) Form I-129, Petition for a Nonimmigrant Worker, Transfer Payments

Currently, petitioners requesting certain benefits on Form I-129, Petition for a Nonimmigrant Worker, are eligible to also submit a request for premium

processing with their immigration benefit request. Table 6 shows the population of petitioners who submitted Form I-907 with Form I-129 based on the corresponding nonimmigrant classifications from FY 2018 through FY 2022.

Based on a 5-year annual average, DHS estimates the annual receipts from Form I-907 filed with Form I-129 H-2B or R-1 classifications to be 10,892. Based on a 5-year annual average, DHS estimates the annual receipts for Form I-907 associated with all other Forms I-129 to be 310,146.

TABLE 6—FORM I-907, REQUEST FOR PREMIUM PROCESSING SERVICE, FILED WITH FORM I-129, PETITION FOR A NONIMMIGRANT WORKER, FY 2018 THROUGH FY 2022

FY	Form I-129 H-2B or R-1 request receipts	Form I-129 all other visa request receipts*	Total Form I-907 receipts
2018 .....	9,127	283,170	292,297
2019 .....	10,505	322,670	333,175
2020 .....	7,125	268,982	276,107
2021 .....	11,866	297,730	309,596
2022 .....	15,838	378,177	394,015
Total .....	54,461	1,550,729	1,605,190
5-year Annual Average .....	10,892	310,146	321,038

Source: USCIS, Office of Policy and Strategy, Policy Research Division, CLAIMS3 and ELIS database, July 18, 2023.

\* Note: All other includes the following classifications: E-1, E-2, E-3, H-1B, H-2A, H-3, L-1A, L-1B, LZ, O-1, O-2, P-1, P-1S, P-2, P-2S, P-3, P-3S, Q-1, TN-1, and TN-2. H-2B or R-1 equals 3.4% and All other I-129 equals 96.6%. of Total Form I-907 Receipts filed with a Form I-129 petition.

This rule increases the premium processing fees for Form I-129. The premium processing fee for H-2B or R-1 nonimmigrant status will increase from \$1,500 to \$1,685, an increase of \$185, which is the result of a 12.3 percent increase in the CPI-U from June 2021 to June 2023.<sup>19</sup> The premium fee for all other available Form I-129 classifications (E-1, E-2, E-3, H-1B, H-3, L-1A, L-1B, LZ, O-1, O-2, P-1, P-1S, P-2, P-2S, P-3, P-3S, Q-1, TN-1, and TN-2) will increase from \$2,500 to

\$2,805, an increase of \$305. Because the fee for premium processing for the Form I-129 H-2B and R-1 classifications will increase by a different amount than for all other Form I-129 classifications, the data for the Form I-129 H-2B and R-1 classifications data was separated from the data for all other classifications.

Based on a 5-year annual average, DHS estimates an additional \$2,015,020 annually in transfer payments will be collected from these new, higher premium processing fees for Forms H-

2B and R-1.<sup>20</sup> DHS will collect an additional \$94,594,530 annually in transfer payments from premium processing requestors filing Form I-129 for all other visa classifications to DHS, based on a 5-year annual average.<sup>21</sup> Accordingly, DHS estimates the total increase in transfer payments from the Form I-129 fee-paying population to DHS will be \$96,609,550 (Table 7) annually, for the biennial period after this rule takes effect.

<sup>19</sup> DHS calculated this by subtracting the June 2021 CPI-U (271.696) from the June 2023 CPI-U (305.109), then dividing the result (33.413) by the June 2021 CPI-U (271.696). Calculation:

$(305.109 - 271.696) / 271.696 = .1230 \times 100 = 12.3$  percent.

<sup>20</sup> Calculation: 10,892 annual Form I-129 H-2B or R-1 petitions \* \$185 (\$1,685 fee - \$1,500 fee) = \$2,015,020.

<sup>21</sup> Calculation: 310,146 annual Form I-129 petitions for other than H-2B and R-1 classifications \* 305 (\$2,805 fee - \$2,500 fee) = \$94,594,530.

TABLE 7—FEES FOR FORM I-907, REQUEST FOR PREMIUM PROCESSING SERVICE, FILED WITH FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

Period of analysis	5-Year annual average receipts (FY 2018 through FY 2022)	Fee	Total annual fee revenue
Post-USCIS Stabilization Act (Baseline Costs) .....	10,892	\$1,500	\$16,338,000
2023 CPI-U Adjustment .....	10,892	1,685	18,353,020
Change in Transfer Payments for Form I-129 H-2B and R-1 .....			2,015,020
Post-USCIS Stabilization Act (Baseline Costs) .....	310,146	2,500	775,365,000
2023 CPI-U Adjustment .....	310,146	2,805	869,959,530
Change in Transfer Payments for Form I-129 All Other* .....			94,594,530
Total Change in Transfer Payments for Form I-129 .....			96,609,550

Source: USCIS Analysis.

\* Note: All other includes the following classifications (E-1, E-2, E-3, H-1B, H-2A, H-3, L-1A, L-1B, LZ, O-1, O-2, P-1, P-1S, P-2, P-2S, P-3, P-3S, Q-1, TN-1, and TN-2).

(b) Form I-140, Immigrant Petition for Alien Worker, Transfer Payments

The estimated population of petitioners who submitted Form I-907, Request for Premium Processing Service, with Form I-140, Immigrant Petition for Alien Workers, based on the corresponding employment-based (EB)

classifications that are currently designated for premium processing is 85,399 (Table 2) per year.<sup>22</sup> The fee for all Form I-140 petitioners requesting premium processing will increase from \$2,500 to \$2,805, based off the 12.3 percent increase in the CPI-U from June 2021 to June 2023.<sup>23</sup> Using the historical

5-year annual average from FY 2018 through FY 2022, DHS estimates that as a result of the increase in filing fees for premium processing the additional annual transfer payments from the Form I-140 fee-paying population to DHS will be \$26,046,695 (Table 8) for the biennial period after this rule takes effect.

TABLE 8—FEES FOR FORM I-907, REQUEST FOR PREMIUM PROCESSING SERVICE, CURRENTLY FILED WITH FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKERS \*

Period of analysis	5-Year annual average receipts (FY 2018 through FY 2022)	Fee	Total annual fee revenue
Post-USCIS Stabilization Act (Baseline Costs) .....	85,399	\$2,500	\$213,497,500
2023 CPI-U Adjustment .....	85,399	2,805	239,544,195
Total Change in Transfer Payments for Form I-140 .....			\$26,046,695

Source: USCIS Analysis.

\* Note: Classifications: E11, E12, E21 (non-NIW), E31, E32, EW3.

As of January 30, 2023, Form I-140 petitions under an E13 multinational executive and manager classification and petitions under an E21 national interest waiver (NIW) classification are eligible to request premium

processing.<sup>24</sup> Table 9 shows the estimated E13 multinational executive and manager classification and E21 (NIW) classification populations that are now eligible for premium processing. Based on a 5-year annual average, DHS

estimates the annual average receipts of Form I-140, E13 to be 11,752 and Form I-140, E21 to be 59,827 for a total of 71,579.

TABLE 9—FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKERS, E13 AND E21 CLASSIFICATIONS, FY 2018 THROUGH FY 2022

FY	E13	E21 (NIW)	Total
2018 .....	13,596	61,650	75,246
2019 .....	12,489	65,718	78,207
2020 .....	11,220	53,288	64,508
2021 .....	10,279	55,991	66,270
2022 .....	11,178	62,487	73,665
Total .....	58,762	299,134	357,896
5-year Annual Average .....	11,752	59,827	71,579

Sources: USCIS, Office of Policy and Strategy, Policy Research Division, CLAIMS3 and ELIS database, July 18, 2023.

<sup>22</sup> See supra FN 16.

<sup>23</sup> See supra FN 19.

<sup>24</sup> See supra FN 16.

Since E13 and E21 (NIW) Form I-140 applicants have only been recently eligible to request premium processing, DHS has no historical data to determine how many of the newly eligible population will take advantage of premium processing. Therefore, DHS uses the 57 percent average of Forms I-129 and Forms I-140 developed in Table 5, that request premium

processing for this newly eligible population as a proxy. DHS is using the same methodology to estimate the transfers from the USCIS Stabilization Rule, because there is insufficient current data available for this population.<sup>25</sup>

Table 10 shows the total population by percentage for E13 and E21 (NIW) petitioners who may choose to file Form

I-140. The estimated population of petitioners who are projected to submit Form I-907, Request for Premium Processing Service, with Form I-140, Immigrant Petition for Alien Workers, based on the corresponding E13 and E21 (NIW) classifications that were recently designated for premium processing is 40,800 (Table 10) per year.

TABLE 10—FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER, ESTIMATED ANNUAL AVERAGE PETITIONS FILED FOR PREMIUM PROCESSING, BY CLASSIFICATION, FY 2018 THROUGH FY 2022

Percent	E13	E21 (NIW)	Total
Estimate of Eligible Form I-140 Petitions (57%) .....	<sup>A</sup> 6,699	<sup>B</sup> 34,101	40,800

<sup>A</sup> Calculation: 6,699 = 11,752 (Table 9) × 0.57.  
<sup>B</sup> Calculation: 34,101 = 59,827 (Table 9) × 0.57.  
 Source: USCIS Analysis.

Using this historical 5-year annual average from FY 2018 through FY 2022, DHS estimates that as a result of the increase in filing fees for premium

processing the additional annual transfer payments from these Form I-140 fee-paying populations to DHS will be \$12,444,000 (Table 11), for the

biennial period after this rule takes effect.

TABLE 11—FEES FOR FORM I-907, REQUEST FOR PREMIUM PROCESSING SERVICE, CURRENTLY FILED WITH FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKERS \*

Period of analysis	5-Year Annual average receipts (FY 2018 through FY 2022)	Fee	Total annual fee revenue
Post-USCIS Stabilization Act (Baseline Costs) .....	40,800	\$2,500	\$102,000,000
2023 CPI-U Adjustment .....	40,800	2,805	114,444,000
Total Change in Transfer Payments for Form I-140 .....			12,444,000

Source: USCIS Analysis.  
 \* **Note:** Classifications: E13 and E21 (NIW).

Total estimated transfer payments for Form I-140, Immigrant Petition for Alien Worker, is \$38,490,695 (\$26,046,695 + \$12,444,000) per year.

(c) Form I-539, Application To Extend/Change Nonimmigrant Status, Transfer Payments

The USCIS Stabilization Act authorized USCIS to permit premium processing for newly eligible Form I-539 filers. Per the statute, the fee was originally set at \$1,750. In June 2023, USCIS announced eligibility for, F-1, F-

2, J-1, J-2, M-1, and M-2 change of status filers.<sup>26</sup> This newly eligible population of filers are students and exchange visitors. Because premium processing was allowed for these classifications recently, DHS does not know how many currently eligible Form I-539 applicants will choose to submit a premium processing request. For purposes of this analysis, we present historical Form I-539 filing rates and use projections of the premium processing demand rates for Form I-129 and Form I-140 filers to estimate the

change in transfer payments as a result of the inflationary adjustment.

Table 12 shows the 5-year annual average receipt volumes for the classifications that are now eligible for premium processing for FY 2018 through FY 2022. DHS estimates the 5-year annual average of the currently eligible F-1, F-2, J-1, J-2, M-1, M-2 classifications to be 19,550, and the 5-year annual average of the future eligible E-1, E-2, E-3, L-2, H-4, O-3, P-4, R-2 classifications to be 124,842.

TABLE 12—USCIS TOTAL OF FORM I-539, APPLICATION TO EXTEND/CHANGE NONIMMIGRANT STATUS, RECEIPTS BY CLASSIFICATION, FY 2018 THROUGH FY 2022

FY	F-1, F-2, J-1, J-2, M-1, M-2 Total	E-1, E-2, E-3, L-2, H-4, O-3, P-4, R-2 Total
2018 .....	19,464	124,228
2019 .....	17,565	123,528
2020 .....	20,005	141,986

<sup>25</sup> See 87 FR 18227.

<sup>26</sup> <https://www.uscis.gov/newsroom/alerts/uscis-expands-premium-processing-for-applicants->

[seeking-to-change-into-f-m-or-j-nonimmigrant-status](#) (last visited Aug 3, 2023).

TABLE 12—USCIS TOTAL OF FORM I-539, APPLICATION TO EXTEND/CHANGE NONIMMIGRANT STATUS, RECEIPTS BY CLASSIFICATION, FY 2018 THROUGH FY 2022—Continued

FY	F-1, F-2, J-1, J-2, M-1, M-2 Total	E-1, E-2, E-3, L-2, H-4, O-3, P-4, R-2 Total
2021 .....	16,645	124,055
2022 .....	24,072	110,414
Total .....	97,751	624,211
5-year Annual Average .....	19,550	124,842

Source: USCIS, Office of Policy and Strategy, Policy Research Division (PRD), CLAIMS3 and ELIS database, July 18, 2023.

DHS calculated that 19,550 of the 144,392 newly eligible applicants would be applying for F-1, F-2, J-1, J-2, M-1, M-2 classifications (14%), and the remaining 124,842 would be applying for E-1, E-2, E-3, L-2, H-4, O-3, P-4, R-2 classifications (86%). DHS uses the 57 percent averages of those requesting premium processing for Forms I-129

and I-140 for the newly eligible Form I-539 population as a proxy.

Of the 19,550 newly eligible applicants for F-1, F-2, J-1, J-2, M-1, M-2 classifications per year, DHS estimates that 11,144 applicants (57 percent of the eligible population, rounded) may submit a premium processing request along with their

Form I-539 application. Of the 124,842 newly eligible applicants for E-1, E-2, E-3, L-2, H-4, O-3, P-4, R-2 classifications per year, DHS estimates that 71,160 applicants (57 percent of the eligible population, rounded) may submit a premium processing request along with their Form I-539 application as shown in Table 13.

TABLE 13—ESTIMATED ANNUAL AVERAGE PREMIUM PROCESSING REQUESTS FOR FORM I-539, APPLICATION TO EXTEND/CHANGE NONIMMIGRANT STATUS

Classification type	Form I-539 5-year annual average receipts (FY 2018 through FY 2022)	Pct. requesting prem. proc.	Total
F-1, F-2, J-1, J-2, M-1, M-2 classifications .....	19,550	57	11,144
E-1, E-2, E-3, L-2, H-4, O-3, P-4, R-2 classifications .....	124,842	57	71,160
Total .....			82,304

Source: USCIS, Office of Policy and Strategy, Policy Research Division, CLAIMS3 and ELIS database, July 18, 2023.

The fee for all Form I-539 petitioners requesting premium processing will increase from \$1,750 to \$1,965, based off of the 12.3 percent increase in the CPI-U from June 2021 to June 2023.<sup>27</sup>

Using the estimated premium processing requests developed in Table 13 above. In Table 14, DHS estimates the increase in filing fees for premium processing results in annual transfer

payments from the Form I-539 fee-paying population to DHS of \$17,695,360, for the biennial period after this rule takes effect.

TABLE 14—FEES FOR FORM I-907, REQUEST FOR PREMIUM PROCESSING SERVICE, CURRENTLY FILED WITH FORM I-539, APPLICATION TO EXTEND/CHANGE NONIMMIGRANT STATUS

Period of analysis	5-Year annual average receipts (FY 2018 through FY 2022)	Fee	Total annual fee revenue
F-1, F-2, J-1, J-2, M-1, M-2 classifications:			
Post-USCIS Stabilization Act (Baseline Costs) .....	11,144	\$1,750	\$19,502,000
2023 CPI-U Adjustment .....	11,144	1,965	21,897,960
Total Transfer Payments .....			2,395,960
E-1, E-2, E-3, L-2, H-4, O-3, P-4, R-2 classifications:			
Post-USCIS Stabilization Act (Baseline Costs) .....	71,160	1,750	124,530,000
2023 CPI-U Adjustment .....	71,160	1,965	139,829,400
Total Transfer Payments .....			15,299,400
Total Change in Transfer Payments for Form I-539 .....			17,695,360

Source: USCIS Analysis.

<sup>27</sup> See *supra* FN 19.

(d) Form I-765, Application for Employment Authorization, Transfer Payments

The USCIS Stabilization Act authorized USCIS to permit premium processing of the Form I-765, Application for Employment Authorization. The USCIS Stabilization Act set the fee for the premium processing of Form I-765 at \$1,500.<sup>28</sup> USCIS began premium processing for Forms I-765 for students applying for Optional Practical Training (OPT) and students seeking science, technology, engineering, and mathematics (STEM) OPT extensions in March 2023.<sup>29</sup>

Table 15 shows the estimated OPT and STEM-OPT populations that are now eligible as well as the estimated

population of other I-765 categories the USCIS Stabilization Rule projected to become eligible for premium processing in the near future. Based on a 5-year annual average, DHS estimates the annual average receipts of Form I-765 from the OPT and STEM-OPT populations to be 200,204 for the biennial period after this rule takes effect. Additionally, DHS estimates the annual average receipts to be 102,495 from additional categories of Form I-765 that are likely to become eligible for premium processing in the future.<sup>30</sup> This population is included in Table 15 because Form I-765 categories that become eligible in the near future may be impacted by the inflationary adjustments discussed in this rule. The USCIS Stabilization Rule's Regulatory

Impact Analysis further projected 1,136,691 annual Form I-765 receipts belonging to classifications for which USCIS will consider, but has no immediate plans to expand premium processing eligibility as well as a final group of 802,145 belonging to I-765 classifications USCIS is unlikely to ever make eligible for premium processing.<sup>31</sup> These projected groups are excluded from Table 15 and this Rule's analysis because they are unlikely to be impacted by the decision to adjust premium processing fees for inflation over this biennial cycle. These impacts would be more appropriately quantified in a future inflation adjustment rule, when some reasonable expectation exists that premium processing eligibility is likely in the future.

**TABLE 15—FORM I-765, APPLICATION FOR EMPLOYMENT AUTHORIZATION, CLASSIFICATIONS BY IMPLEMENTATION, FY 2017 THROUGH FY 2022**

FY	Form I-765 OPT and STEM-OPT receipts currently eligible	Form I-765 receipts likely eligible in the future
2017 .....	.....	96,806
2018 .....	225,277	100,316
2019 .....	215,212	110,743
2020 .....	198,498	110,449
2021 .....	173,773	94,160
2022 .....	188,258	.....
<b>Total .....</b>	<b>1,001,018</b>	<b>512,474</b>
<b>5-year Annual Average .....</b>	<b>200,204</b>	<b>102,495</b>

Sources: USCIS, Office of Policy and Strategy, Policy Research Division, CLAIMS3 and ELIS database, July 18, 2023; Implementation of the Emergency Stopgap USCIS Stabilization Act, 87 FR 18227 (Mar. 30, 2022).

Since Form I-765 OPT and STEM-OPT applicants have only been recently eligible to request premium processing, DHS has no historical data to determine how many of the newly eligible population will take advantage of premium processing. Therefore, DHS uses the 57 percent average of Forms I-129 and I-140 developed in Table 5, that request premium processing for this newly eligible population as a proxy for all eligible Form I-765 categories. DHS used the same methodology to estimate the transfers from the USCIS Stabilization Rule.

DHS estimates that 114,116 applicants (57 percent of the eligible population) out of the 200,204 (Table 15) Form I-765 OPT and STEM-OPT applicants

who apply annually may submit a premium processing request with their Form I-765 application.<sup>32</sup> DHS also estimates that 58,422 applicants (57 percent of the eligible population) out of the 102,495 (Table 15) employment authorization document applicants who apply annually may become eligible to submit a premium processing request with their Form I-765 application in the near future.<sup>33</sup>

In Table 16, DHS uses the 114,116 and 58,422 population estimates from OPT and OPT-STEM population as well as the likely future eligible Form I-765 population to DHS to estimate transfer payments for each category. The fee for all Form I-765 applicants requesting premium processing will increase from

\$1,500 to \$1,685, based off the 12.3 percent increase in the CPI-U from June 2021 to June 2023.<sup>34</sup> DHS estimates that annual transfer payments from currently eligible OPT and OPT-STEM Form I-765 applicants requesting premium processing using Form I-907 will be \$21,111,460 to DHS for the biennial period after this rule takes effect. DHS estimates that annual transfer payments from likely future eligible will be \$10,808,070 to DHS. Accordingly, DHS estimates that total annual transfer payments from Form I-765 applicants requesting request premium processing using Form I-907 will be \$31,919,530 to DHS.

<sup>28</sup> See USCIS Stabilization Act, Public Law 116-159 at sec. 4102(b)(1)(D)(Oct. 1, 2020). See also 8 CFR 106.4(c).

<sup>29</sup> See <https://www.uscis.gov/newsroom/news-releases/uscis-announces-premium-processing-new-online-filing-procedures-for-certain-f-1-students-seeking-opt> (last visited Aug. 3, 2023).

<sup>30</sup> See Implementation of the Emergency Stopgap USCIS Stabilization Act, 87 FR 18227 (Mar. 30,

2022) <https://www.federalregister.gov/documents/2022/03/30/2022-06742/implementation-of-the-emergency-stopgap-uscis-stabilization-act#h-34>.

<sup>31</sup> The Implementation of the Emergency Stopgap USCIS Stabilization Act Final Rule, published March 30, 2022 estimated the number of newly eligible applicants beginning around FY 2025 based on data from FY 2017 through FY 2021 actuals. This still serves as a reasonable measure should this

population become available for premium processing in the near future. See 87 FR 18250.

<sup>32</sup> Calculation: 200,204 applicants \* 57 percent = 114,116.

<sup>33</sup> Calculation: 102,495 applicants \* 57 percent = 58,422.

<sup>34</sup> See *supra* FN 19.

TABLE 16—FEES FOR FORM I-765, APPLICATION FOR EMPLOYMENT AUTHORIZATION, APPLICANTS REQUESTING PREMIUM PROCESSING USING FORM I-907, REQUEST FOR PREMIUM PROCESSING SERVICE

Period of analysis	5-Year annual average receipts (FY 2018 through FY 2022)	Fee	Total annual fee revenue
Form I-765 OPT and OPT-STEM Receipts Currently Eligible:			
Post-USCIS Stabilization Act (Baseline Costs) .....	114,116	\$1,500	\$171,174,000
2023 CPI-U Adjustment .....	114,116	1,685	192,285,460
<b>Total Transfer Payments</b> .....			<b>21,111,460</b>
Period of analysis	5-year annual average receipts (FY 2017 through FY 2021)	Fee	Total
Form I-765 Receipts Likely Eligible in the Future:			
Post-USCIS Stabilization Act (Baseline Costs) .....	58,422	\$1,500	\$87,633,000
2023 CPI-U Adjustment .....	58,422	1,685	98,441,070
<b>Total Transfer Payments</b> .....			<b>\$10,808,070</b>
<b>Total Change in Transfer Payments for Form I-765</b> .....			<b>\$31,919,530</b>

Source: USCIS Analysis.

**Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–12, DHS must submit to OMB, for review and approval, any reporting requirements inherent in a rule unless they are exempt. This rule does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act. USCIS will update the fee for filing USCIS Form I-907 as appropriate.

**List of Subjects in 8 CFR Part 106**

Fees, Immigration.

For the reasons set out in the preamble, the Department of Homeland Security amends 8 CFR part 106 as follows:

**PART 106—USCIS FEE SCHEDULE**

■ 1. The authority citation for part 106 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1254a, 1254b, 1304, 1356; Pub. L. 107-296; 48 U.S.C 1806; Pub. L. 115-218; Pub. L. 116-159.

■ 2. Section 106.4 is amended by revising paragraph (c) to read as follows:

**§ 106.4 Premium processing service.**

\* \* \* \* \*

(c) Designated benefit requests and fee amounts. Benefit requests designated for premium processing and the corresponding fees to request premium processing service are as follows:

(1) Application for classification of a nonimmigrant described in section 101(a)(15)(E)(i), (ii), or (iii) of the INA—\$2,805.

(2) Petition for classification of a nonimmigrant described in section 101(a)(15)(H)(i)(b) of the INA or section 222(a) of the Immigration Act of 1990, Public Law 101-649—\$2,805.

(3) Petition for classification of a nonimmigrant described in section 101(a)(15)(H)(ii)(b) of the INA—\$1,685.

(4) Petition for classification of a nonimmigrant described in section 101(a)(15)(H)(iii) of the INA—\$2,805.

(5) Petition for classification of a nonimmigrant described in section 101(a)(15)(L) of the INA—\$2,805.

(6) Petition for classification of a nonimmigrant described in section 101(a)(15)(O)(i) or (ii) of the INA—\$2,805.

(7) Petition for classification of a nonimmigrant described in section 101(a)(15)(P)(i), (ii), or (iii) of the INA—\$2,805.

(8) Petition for classification of a nonimmigrant described in section 101(a)(15)(Q) of the INA—\$2,805.

(9) Petition for classification of a nonimmigrant described in section 101(a)(15)(R) of the INA—\$1,685.

(10) Application for classification of a nonimmigrant described in section 214(e) of the INA—\$2,805.

(11) Petition for classification under section 203(b)(1)(A) of the INA—\$2,805.

(12) Petition for classification under section 203(b)(1)(B) of the INA—\$2,805.

(13) Petition for classification under section 203(b)(2)(A) of the INA not involving a waiver under section 203(b)(2)(B) of the INA—\$2,805.

(14) Petition for classification under section 203(b)(3)(A)(i) of the INA—\$2,805.

(15) Petition for classification under section 203(b)(3)(A)(ii) of the INA—\$2,805.

(16) Petition for classification under section 203(b)(3)(A)(iii) of the INA—\$2,805.

(17) Petition for classification under section 203(b)(1)(C) of the INA—\$2,805.

(18) Petition for classification under section 203(b)(2) of the INA involving a waiver under section 203(b)(2)(B) of the INA—\$2,805.

(19) Application under section 248 of the INA to change status to a classification described in section 101(a)(15)(F), (J), or (M) of the INA—\$1,965.

(20) Application under section 248 of the INA to change status to be classified as a dependent of a nonimmigrant described in section 101(a)(15)(E), (H), (L), (O), (P), or (R) of the INA, or to extend stay in such classification—\$1,965.

(21) Application for employment authorization—\$1,685.

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**Alejandro N. Mayorkas,**

*Secretary, U.S. Department of Homeland Security.*

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