



USCIS PUBLISHES FINAL FEE RULE, EFFECTIVE APRIL 1, 2024

The Good, the Bad, Who Should File Now, and Who Should Wait to File

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On January 31, 2024, USCIS published its final ruleⁱ on fee changes for applications, due to take effect on April 1, 2024. For quick review, see the table of fee changes at 89 Fed. Reg. 6198-6204 or on USCIS's FAQs on the new fee rule at <https://www.uscis.gov/forms/filing-fees/frequently-asked-questions-on-the-uscis-fee-rule>.

This high level practice alert provides a brief summary of the key changes and some quick takes for practitioners, including who may want to *wait* until the new rule takes effect to file in order to benefit from lower fees or other more advantageous policies, as opposed to prioritize filing before the fee rule goes into effect on April 1. We will update our website soon with more details and resources on the fee rule.

The Bad News

- Most fees will go up;
- Unfortunately, USCIS is continuing with its plan to “un-bundle” I-765 and I-131 application fees for adjustment applicants (these individuals will be able to apply for work permits at half price, however);
- USCIS will be offering \$50 discounts on fees to those who file online, where available, thereby disadvantaging those applicants who do not have reliable access to the internet or the digital literacy necessary to file forms online.

The Good News

- Longstanding fee waiver policy will be codified and a child's receipt of means-tested benefits can be the basis for an applicant's fee waiver request under the receipt of means-tested benefits ground as long as the child is part of the applicant's household (this change will only be made in the instructions for Form I-912, not in the regulations);
- USCIS is expanding fee waiver exemptions (to humanitarian applicants who traditionally had to seek a fee waiver first, but ultimately most were able to file for free);
- USCIS is extending eligibility for the reduced naturalization fee to those individuals with incomes between 150% and 400% of the Federal Poverty Guidelines (FPG) (currently available only to applicants at 150%-200% FPG);

- Applicants will be able to indicate their request for reduced fee on the N-400, rather than on the separate I-942 form, although anyone requesting the reduced naturalization fee must file their N-400 on paper rather than online;
- USCIS is consolidating biometrics fees as part of the general application fee for most forms, so starting April 1, 2024 there will no longer be a separate \$85 biometrics fee (the exceptions are TPS and EOIR filings, which will continue to have a separate biometrics fee, reduced from \$85 to \$30).

Any application, petition, or request **postmarked** on or after April 1, 2024 must include payment of the fees established by this final rule and use updated forms effective April 1, 2024 (note there will be a grace period to use the older version of most forms until June 3, 2024—new forms that will not have a grace period include a few employment-based forms and orphan petition forms I-600 and I-600A). Until April 1, 2024, applicants should continue to file applications and request fee waivers under existing fees and fee waiver policy.

However, it may be beneficial for some applicants to delay filing UNTIL April 1, 2024, to take advantage of some of the positive changes in the new fee rule.

Who might want to prioritize filing their applications BEFORE April 1, 2024?

- **Family-based and employment-based adjustment applicants.** Beginning April 1, 2024, adjustment applicants will have to pay separate application fees to request work permission (I-765) and travel permission (I-131), although the I-765 fee will be half price for those applying based on a pending adjustment. Presently, adjustment applicants may file I-765 and I-131 at no cost, either at the same time as their I-485 filing or afterwards, with a copy of their I-485 receipt notice.

Who might want to WAIT until April 1, 2024 to file?

- **Humanitarian applicants**, like T/U/VAWA/SIJ, because under the new fee rule these applicants will be exempt from paying the application fee on all petitions and application forms through adjustment of status whereas currently, such individuals must seek a fee waiver in order to avoid having to pay the fee.
- **Naturalization applicants with income between 200% and 400% of the FPG.** Starting April 1, 2024 these applicants will also be eligible for the reduced (half price) naturalization fee. Currently, such applicants make too much to qualify for a fee waiver (must have income at or below 150% FPG) or reduced fee (must have income at or below 200% FPG) so they must pay the full naturalization fee.
- **Green card renewal applicants.** On April 1, 2024, the I-90 green card renewal fee will decrease, from \$540 (with biometrics) to \$415 if filed online or \$465 if paper filed.



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ⁱ DHS, *U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements*, 89 Fed. Reg. 6194 (Jan. 31, 2024), <https://www.govinfo.gov/content/pkg/FR-2024-01-31/pdf/2024-01427.pdf>.