carton or equivalent is established for Florida citrus covered under the Order.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2026–08358 Filed 4–28–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 103, 106, 208, 244, and 274a

[CIS No. 2841–26; DHS Docket No. USCIS–2026–0133]

RIN 1615–AD09

USCIS Immigration Fees and Related Procedures Required by H.R.1 Reconciliation Bill

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Interim final rule; request for comments.

SUMMARY: The U.S. Department of Homeland Security (DHS) issues this interim final rule (IFR) to codify certain immigration fees and other provisions required by the One Big Beautiful Bill Act (H.R.1). This IFR amends U.S. Citizenship and Immigration Services (USCIS) regulations to codify: the asylum and annual asylum fees, including the consequences of non-payment of these fees; the new Form I–94 fee requirement; the validity period for certain types of employment authorization; and the retention of the Form I–589 filing fee for every application.

DATES: This interim final rule is effective May 29, 2026. DHS invites public comment on all aspects of this interim final rule; written comments must be submitted on this interim final rule on or before June 29, 2026.

ADDRESSES: You may submit comments on the entirety of this interim final rule package, identified by DHS Docket No. USCIS–2026–0133, through the Federal eRulemaking Portal: *http://www.regulations.gov.* In accordance with 5 U.S.C. 553(b)(4), the summary of this rule found above may also be found at *https://www.regulations.gov.* Follow the website instructions for submitting comments. Comments must be submitted in English, or an English translation must be provided. Comments that will provide the most assistance to USCIS in implementing these changes will reference a specific portion of the interim final rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. Comments submitted in a manner other than the one listed above, including emails or letters sent to DHS or USCIS officials, will not be considered comments on the rule and may not receive a response from DHS. Please note that DHS and USCIS cannot accept any comments that are hand-delivered or couriered. USCIS cannot accept comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. USCIS is also not accepting mailed comments at this time. If you cannot submit your comment by using *http://www.regulations.gov,* please contact the Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by telephone at (240) 721–3000 for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Office of Policy and Strategy, 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). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

Table of Contents

Table of Abbreviations

AAF—Annual Asylum Fee
APA—Administrative Procedure Act
BLS—U.S. Bureau of Labor Statistics
CBP—U.S. Customs and Border Protection
CFO Act—Chief Financial Officers Act
CFR—Code of Federal Regulations
CPI–U—Consumer Price Index for All Urban Consumers
CRA—Congressional Review Act
DHS—Department of Homeland Security
DOJ—Department of Justice
DOL—Department of Labor
EAD—Employment Authorization Document
E.O.—Executive Order
EOIR—Executive Office for Immigration Review
FR—Federal Register
FRN—Federal Register Notice
FY—Fiscal Year
H.R.1—One Big Beautiful Bill Act
HSA—Homeland Security Act of 2002
IFR—Interim Final Rule
INA—Immigration and Nationality Act
IPF—Immigration Parole Fee
NATO—North Atlantic Treaty Organization
NEPA—National Environmental Policy Act
NTA—Notice to Appear
OMB—Office of Management and Budget
PRA—Paperwork Reduction Act
RFA—Regulatory Flexibility Act of 1980
RIA—Regulatory Impact Analysis
SBREFA—Small Business Regulatory Enforcement Fairness Act of 1996
SIJ—Special Immigrant Juvenile
TPS—Temporary Protected Status
UMRA—Unfunded Mandates Reform Act of 1995
USCIS—U.S. Citizenship and Immigration Services

I. Public Participation

DHS invites all interested parties to participate in this rulemaking by submitting written data, views, comments, and arguments on all aspects of this interim final rule. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim final rule. Comments must be submitted in English, or an English translation must be provided. Comments that will provide the most assistance to USCIS in implementing these changes will reference a specific portion of the interim final rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. Comments submitted in a manner other than the one listed above, including emails or letters sent to DHS or USCIS officials,

will not be considered comments on the interim final rule and may not receive a response from DHS.

Instructions: If you submit a comment, you must include the agency name (U.S. Citizenship and Immigration Services) and the DHS Docket No. USCIS–2026–0133 for this interim final rule. Please note all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy and Security Notice available at *http://www.regulations.gov.*

Docket: For access to the docket and to read background documents or comments received, go to *http://www.regulations.gov,* referencing DHS Docket No. USCIS–2026–0133. You may also sign up for email alerts on the online docket to be notified when comments are posted or a final rule is published.

II. Executive Summary

A. Purpose of the Regulatory Action

On July 4, 2025, the President signed into law H.R.1—One Big Beautiful Bill Act, Public Law 119–21, 139 Stat. 72 (''H.R.1''). H.R.1 was a comprehensive legislative package that changed many laws and added new laws that touch many areas of the United States government. Among those changes, the law established several new provisions and fees to the Immigration and Nationality Act (INA). *See* H.R.1, Title X, Subtitle A, Part I, Sections 100001 through 1000018. This IFR codifies several of the H.R.1 immigration fee provisions and other limitations on aliens.

Specifically, the IFR does the following: (1) codification in the Code of Federal Regulations (CFR) of the Form I–94 fee requirement set forth in 8 U.S.C. 1807 as it applies to USCIS; (2) codification of the Annual Asylum Fee (AAF) requirement in 8 U.S.C. 1808, including consequences for failure to pay the AAF and limitations related to employment authorization required by 8 U.S.C. 1810(b); (3) codification of the requirement that every asylum application include the fee required by 8 U.S.C. 1802 at filing regardless of whether the application is rejected, and is not refundable; and (4) codification of the H.R.1 limits on the validity of Temporary Protected Status (TPS) employment authorization required by 8 U.S.C. 1803(c) and 8 U.S.C. 1811(a).

B. Legal Authority

This rule is issued under section 208(d)(3) of the Immigration and Nationality Act (INA), 8 U.S.C. 1158(d); section 102 of the Homeland Security Act of 2002 (HSA), 6 U.S.C. 112; and sections 100002 through 100018 of H.R.1, codified at 8 U.S.C. 1802 through 1815. These statutes authorize DHS to administer the asylum process, and collect certain fees as required by law.

DHS is issuing this rule as an interim final rule under the ''good cause'' exception of 5 U.S.C. 553(b)(B), as prior notice and comment would be impracticable and contrary to the public interest. H.R.1 requires immediate implementation to ensure compliance with the statutory mandate and provides no discretion to DHS on the provisions implemented in this rule.

C. Summary of the Regulatory Action

This rule codifies certain H.R.1 fee provisions applicable to USCIS:

- Form I–94 Fee required by 8 U.S.C. 1807: Establishes a fee requirement that, for USCIS, is applicable to the filing of Form I–102, Application for Replacement/Initial Nonimmigrant Arrival–Departure Document. New 8 CFR 103.7(d)(4).
- Annual Asylum Fee required by 8 U.S.C. 1808: Codifies the requirement that an alien pay the AAF and establishes that, procedurally, failure to pay within 30 days of notice results in rejection of the pending asylum application and the denial of any associated application for employment authorization. New 8 CFR 106.2(c)(15)(ii) and 208.3(c)(6).
- Retention of Asylum Application Fee required by 8 U.S.C. 1802: Codifies the fee requirement and provides that the asylum application filing fee is retained by USCIS if a Form I–589 is rejected. New 8 CFR 106.2(c)(14).
- TPS Employment Authorization Validity required by 8 U.S.C. 1803(c) and 8 U.S.C. 1811(a): Limits work authorization and any associated employment authorization document under TPS to one year, or the remaining period of designation if shorter, with conforming changes to ensure consistency across DHS regulations. New 8 CFR 274a.12(a)(12) and 274.12(c)(19).

D. Summary of Costs and Benefits

DHS also analyzed the costs and benefits of this rule. Because the rule codifies statutory mandates or procedural processes, DHS estimates minimal incremental cost beyond those imposed by Congress. Qualitative benefits include improved fee transparency, reduced administrative ambiguity, and enhanced enforcement efficiency consistent with the goals of H.R.1.

III. Background and Authority

A. H.R.1—One Big Beautiful Bill Act

The H.R.1 Reconciliation Act of 2025 (H.R.1), Public Law 119–21, established a new framework of immigration fees that Congress directed DHS to implement beginning FY 2025.[1] Congress intended H.R.1 to ensure that aliens who apply for or maintain eligibility for immigration benefits bear more of the costs of administering the immigration system.[2] In explaining its decision, Congress made clear that these new fees were long overdue and necessary to recover the growing costs of adjudicating the millions of pending asylum applications before both USCIS, a component agency of DHS, and the Department of Justice, Executive Office for Immigration Review (EOIR).[3] H.R.1 requires that these fees be applied commencing in FY 2025 ''in addition to any other fee authorized by law.''[4]

[1] H.R.1, Public Law 119–21 (2025), 139 Stat. 221 (2025) (codified at 8 U.S.C. 1802–1815).

[2] *Id.;* H. Comm. on the Judiciary, Markup of H.R.1, 119th Cong. (Apr. 30, 2025) (statement of Chairman Jordan), *https://www.congress.gov/event/119th-congress/house-event/118180;* Am. First Policy Inst., Remarks of Chairman Jim Jordan, Conversation with Chad Wolf (June 25, 2025), *https://www.americafirstpolicy.com/issues/securing-the-border-restoring-the-law-a-conversation-with-rep-jim-jordan.*

[3] H.R. Rep No. 119–106, Book 1, at 843–856 (2025).

[4] *See* 8 U.S.C. 1802(a) (''In addition to any other fee authorized by law, the Secretary of Homeland Security or the Attorney General, as applicable, shall require the payment of a fee, equal to the amount specified in this section, by any alien who files an application for asylum under section 208 (8 U.S.C. 1158) at the time such application is filed.''); see also 8 U.S.C. 1803(a)(1) (initial application for employment authorization under section 208(d)(2)); 8 U.S.C. 1803(b)(1) (initial application for employment authorization filed by any alien paroled into the United States); 8 U.S.C. 1803(c)(1) (initial application for employment authorization under section 244(a)(1)(B)); 8 U.S.C. 1805(a) (any alien, parent, or legal guardian of an alien applying for SIJ status under section 101(a)(27)(J)); 8 U.S.C. 1808(a) (for each calendar year that an alien's asylum application remains pending); 8 U.S.C. 1809(a) (any parolee who seeks a renewal or extension of employment authorization based on a grant of parole); 8 U.S.C. 1810(a) (any alien who has applied for asylum for each renewal or extension of employment authorization); 8 U.S.C. 1811(a) (renewal or

Continued

Unless otherwise described in this rule with respect to a specific fee, the fees set forth in H.R.1 are imposed in addition to fees in 8 CFR part 106, or any other fee promulgated by DHS under INA sec. 286(m), 8 U.S.C. 1356(m), and are not refundable. *See* 89 FR 6194 (Jan. 31, 2024); 90 FR 34511 (July 22, 2025). On July 22, 2025, USCIS published a **Federal Register** notice (FRN) announcing the implementation of several fees administered by USCIS mandated by H.R.1 (H.R.1 Fee notice). 90 FR 34511 (July 22, 2025).[5] That notice implemented a minimum $100 asylum application filing fee commencing in FY 2025 under 8 U.S.C. 1802 and a minimum $100 annual asylum fee (AAF) starting in FY 2025 for each calendar year an asylum application remains pending under 8 U.S.C. 1808. 90 FR 34511 (July 22, 2025). The notice also announced fees for Temporary Protected Status (TPS), special immigrant juveniles (SIJs) under 8 U.S.C. 1805, and certain categories of employment authorization under 8 U.S.C. 1803(a)–(c). 90 FR 34511 (July 22, 2025).

The USCIS notice also provides that USCIS will issue personal, individualized notice to each asylum applicant with an application pending with USCIS from whom the AAF is required, and that the notice will include the amount of the fee, when and how the fee must be paid, and the consequences of failure to pay.[6] For the AAF due for FY 2025, DHS has issued AAF notices that only state that failure to pay the fee before the deadline may negatively affect the application, but do not specify what will occur if the fee is not paid.[7]

The H.R.1 Fee notice expressly deferred announcement of multiple statutory fees. Among them were: (1) the Immigration Parole Fee (IPF) required by 8 U.S.C. 1804, which includes multiple enumerated statutory exceptions, and (2) the Form I–94 fee required by 8 U.S.C. 1807 applicable to any alien who submits an application for a Form I–94 Arrival/Departure Record. 90 FR 34511 at 34516 (July 22, 2025). In both cases, USCIS explained that further interpretation and guidance were necessary before implementation could proceed. 90 FR 34511 (July 22, 2025). On October 16, 2025, DHS published an additional FRN to address the Immigration Parole Fee (IPF) required by 8 U.S.C. 1804. 90 FR 48317 (Oct. 16, 2025). The IPF notice announced the new fee to be administered by DHS components, including USCIS, and specified the classes of applicants to whom the fee applies, the effective date of the new requirement, and instructions for remitting payment. 90 FR 48317 (Oct. 16, 2025). It also described the circumstances under which the fee exceptions may apply in accordance with the statutory exceptions provided in H.R.1 and clarified the consequences for failure to pay. 90 FR 48317 (Oct. 16, 2025). The IPF notice fulfilled the commitment made in the H.R.1 Fee notice, which stated that the fee mandated by 8 U.S.C. 1804, subject to multiple statutory exceptions requiring agency interpretation, would be announced in a future publication. 90 FR 34511 (July 22, 2025). By providing this follow-up guidance, DHS ensured that members of the public received the necessary information to comply fully with the new statutory mandate.

H.R.1 requires that DHS, beginning in FY 2026 and continuing for each subsequent fiscal year, adjust the immigration-related fees for inflation. H.R.1 prescribes that DHS use the percentage change to the CPI–U for the month of July in the current year compared to the preceding calendar year, and round each fee to the next lowest multiple of $10 or down to the nearest dollar as authorized by H.R.1. In furtherance of enacting the text of H.R.1, DHS components published multiple FRNs announcing the new H.R inflationary increases (90 FR 52085 (Nov. 19, 2025), 90 FR 52425 (Nov. 20, 2025), and 90 FR 52693 (Nov. 21, 2025)).

B. DHS General Rulemaking Authority

The Secretary of Homeland Security's authority for the regulatory amendment is found in various sections of the INA, 8 U.S.C. 1101 *et seq.* and the Homeland Security Act of 2002 (HSA), 6 U.S.C. 101 *et seq.* General authority for issuing this IFR is found in section 103(a) of the INA, 8 U.S.C. 1103(a), which authorizes the Secretary to administer and enforce the immigration and nationality laws and establish such regulations as the Secretary deems necessary for carrying out such authority,[8] as well as sections 102 of the HSA, 6 U.S.C. 112, which vests all of the functions of DHS in the Secretary and authorizes the Secretary to issue regulations.[9] In addition to the general authority, the asylum-specific authority at INA sec. 208(d)(5)(B), 8 U.S.C. 1158(d)(5)(B), states that ''the Attorney General may provide by regulation for any other conditions or limitations on the consideration of an application for asylum not inconsistent with this chapter.'' [10]

The H.R.1 text ''in addition to any other fee authorized by law'' is clear.[11] H.R.1 fees do not supersede or replace the fee schedule DHS promulgated in 8 CFR part 106 and related provisions, nor do they limit DHS's authority under INA sec. 286(m), 8 U.S.C. 1356(m), to recover the costs of providing adjudication and naturalization services. The H.R.1 fees are a distinct set of statutory requirements intended to raise revenue to support enforcement priorities, improve public safety, and provide revenue to the Treasury while USCIS continues to fund adjudicatory functions through its existing fee authority. To interpret H.R.1 as supplanting the USCIS fees DHS codified in 8 CFR part 106 would produce a large shortfall in USCIS' operating revenue, compromise USCIS' ability to fund its operations, and jeopardize service levels Congress has not indicated should be curtailed.

IV. Discussion of Changes Made in This IFR

This IFR expands upon the H.R. 1 Fee notice and the IPF notice to more fully implement the H.R.1 fees related to USCIS. Congressional intent, reflected in both the statutory text of H.R.1 and in the accompanying legislative history, makes clear that these statutory provisions were enacted to expeditiously strengthen immigration enforcement and improve public

extension of employment authorization based on a grant of temporary protected status).

[5] In furtherance of enacting the text of H.R.1, DHS published multiple FRNs (90 FR 34511 (July 22, 2025), 90 FR 42025 (Aug. 28, 2025), 90 FR 43223 (Sept. 8, 2025), and 90 FR 48317 (Oct. 16, 2025)) announcing the new H.R.–1 fees that are administered by DHS components.

[6] *See* new 8 CFR 106.2(15).

[7] On October 30, 2025, the United States District Court for the District of Maryland issued an order in *Asylum Seeker Advocacy Project* v. *United States Citizenship and Immigration Services, et al.,* SAG–25–03299 (D. Md.), staying the Annual Asylum Fee (AAF) implementation provisions by USCIS as provided in the July 22, 2026 notice. In accordance with the order, USCIS paused the issuance of AAF notices. The stay was lifted on February 2, 2026. Once this rule is effective, DHS will send notices to applicants who have not paid informing them of how non-payment affects their application.

[8] *See* 6 U.S.C. 522 (''Nothing in [the HSA], any amendment made by [the HSA], or in section 1103 of Title 8, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.'').

[9] Although several provisions of the INA discussed in this IFR refer exclusively to the ''Attorney General,'' such provisions are now to be read as referring to the Secretary of Homeland Security by operation of the HSA. *See* 6 U.S.C. 202(3), 251, 271(b), 542 note, 557; 8 U.S.C. 1103(a)(1) and (g), 1551 note; *Nielsen* v. *Preap,* 586 U.S. 392, 397 n.2 (2019).

[10] INA sec. 208(d)(5)(B).

[11] 8 U.S.C. 1801–1815.

safety.[12] The specific changes are as follows:

A. Form I–94 Immigration Fee

H.R.1 requires ''any alien who submits an application for a Form I–94 Arrival/Departure Record to pay a minimum of $24.'' [13] This new fee shall be adjusted annually for inflation and is to be collected ''in addition to any other fee authorized by law.'' [14] The statute specifies that this fee ''shall not be waived or reduced.'' [15] This IFR codifies the new 8 U.S.C. 1807 fee requirement for applicants that submit a Form I–94 Arrival/Departure Record and that the fee must be submitted when the applicants request the Form I–94 in addition to the fee required by 8 CFR 106.2(a)(2).[16]

USCIS interprets the language ''submits an application for a Form I–94'' in 8 U.S.C. 1807 to apply exclusively to scenarios where an applicant files an application explicitly requesting a Form I–94 Arrival/Departure record. This interpretation limits USCIS' collection of the Form I–94 fee solely to Form I–102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document, or successor form, as required by 8 U.S.C. 1807.[17]

USCIS recognizes that in many adjudications, the agency may create or update an electronic Form I–94 record in its systems when approving an application or petition that confers, extends, or changes a period of authorized stay. However, this process is distinct from a direct request for a Form I–94 through the filing of Form I–102. Accordingly, as it pertains to USCIS' collection, the Form I–94 fee required by 8 U.S.C. 1807 is limited to cases involving the direct filing of Form I–102 and does not extend to an adjudication that results in the incidental creation or amendment of a Form I–94 record.[18]

Form I–102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document, is the application an alien requests the issuance, replacement, or correction of a Form I–94. Form I–102 may be filed for a range of reasons, as outlined in the USCIS form instructions and codified at 8 CFR 264.6.[19] These include the ''general filing'' category, which applies where an applicant requires replacement of a lost, stolen, mutilated, or damaged Form I–94 or otherwise needs a Form I–94 not covered by one of the specific exceptions. In addition, applicants may file Form I–102 where U.S. Customs and Border Protection (CBP) did not issue a Form I–94 at the time of admission at a land border, airport, or seaport, where a correction of a Forms I–94, I–94W, Nonimmigrant Visa Waiver Arrival/Departure Record, or I–95, Alien Crew Landing Permit, is necessary through no fault of the applicant, or where the record cannot be retrieved electronically through CBP's website.[20] Other categories reflect special provisions for nonimmigrant members of the U.S. Armed Forces, North Atlantic Treaty Organization (NATO) forces, or Partnership for Peace programs, where initial requests may be exempt from the underlying USCIS filing fee but subsequent requests remain subject to it.[21]

Under 8 U.S.C. 1807 and new 8 CFR 103.7(d)(4), benefit requests submitted on Form I–102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document are subject to the new Form I–94 fee, in addition to the existing DHS filing fees. Even in instances where the DHS filing fee is waived or set at $0, the H.R.1 Form I–94 fee remains applicable.[22] The only exception to the H.R.1 Form I–94 fee is for Form I–102 filings when the application is submitted to correct a DHS error. The fees eligible for a waiver request under 8 CFR 106.3(a) do not include the H.R.1 Form I–94 fee.

Table 1 shows the current USCIS paper filing fee for each Form I–102 filing category, the additional minimum $24 H.R.1 Form I–94 fee, and the total fee to be collected. This format follows the structure used in the H.R.1 Fee notice and complements the parallel CBP notice for the H.R.1 Form I–94 fee published August 28, 2025. 90 FR 34511 (July 22, 2025); 90 FR 42025 (Aug. 28, 2025).[23]

TABLE 1—FORM I–102 FEES UNDER 8 U.S.C. 1807

Filing category/general reason	Current USCIS fee	Minimum H.R.1 form I–94 fee[24]	Total fee
General Filing (lost, stolen, mutilated, damaged, or other reasons not covered elsewhere)	$560	$24	$584
Nonimmigrant member of U.S. armed forces—Request for initial Form I–94	0	24	24
NATO armed forces/civil component—Request for initial Form I–94	0	24	24
Partnership for Peace under SOFA—Request for initial Form I–94	0	24	24
Replacement for USCIS error	0	0	0

[12] H.R. Rep No. 119–106, Book 1, at 843–856 (2025).

[13] 8 U.S.C. 1807.

[14] *Id; see also,* 90 FR 52085 (Nov. 19, 2025) (adjusting the Form I–94 fee mathematically for inflation although no change was made in the FY26 amount).

[15] 8 U.S.C. 1807.

[16] *Id; see also* new 8 CFR 103.7(d)(4).

[17] CBP also collects the I–94 fee under certain circumstances. *See* CBP Immigration Fees Required by H.R.1 for Fiscal Year 2025, 90 FR 42025 (Aug. 28, 2025).

[18] *See* new 8 CFR 103.7(d)(4).

[19] USCIS, Form I–102, ''Application for Replacement/Initial Nonimmigrant Arrival-Departure Document'' (last updated Oct. 28, 2025), *https://www.uscis.gov/i-102.*

[20] Under 8 U.S.C. 1807, the Form I–94 fee only applies to an application for a Form I–94 Arrival/Departure Record. Accordingly, although Form I–102 may be used to request replacement or correction of a Form I–94, Form I–94W, or Form I–95, only requests involving a Form I–94 are subject to the fee. *See* USCIS, Form I–102, ''Application for Replacement/Initial Nonimmigrant Arrival-Departure Document,'' Instructions 2–3 (Apr. 1, 2024) (identifying eligibility for replacement or correction of Forms I–94, I–94W, and I–95); *see also* 8 CFR 264.1(b) (identifying Forms I–94 and I–95 as evidence of alien registration).

[21] *Id.;* USCIS, Form G–1055, ''Fee Schedule'' (last updated Oct. 28, 2025), *https://www.uscis.gov/g-1055.*

[22] The fee does not apply when DHS issued an incorrect I–94 at its fault because DHS has a responsibility to issue a replacement for the Form I–94 it issued incorrectly. DHS utilizes the Form I–102 to track the development of the new, correct Form I–94 in its system, but we do not consider the correction an application to which 8 U.S.C. 1807 applies, and do not perform an adjudication service to which a fee applies under 8 U.S.C. 1356(m).

[23] S*ee also,* 90 FR 52085 (making no change in the FY26 amount of the Form I–94 fee).

[24] This fee shall be adjusted annually for inflation per 8 U.S.C. 1807.

B. Asylum Application Fee

1. Background and Statutory Context

In this rule, DHS codifies the asylum application fee requirement set forth in 8 U.S.C. 1802,[25] and provides that USCIS will retain the asylum application fee when a Form I–589 is rejected for any reason consistent with 8 CFR 103.2. Currently, a Form I–589 is filed as an incomplete application if it does not include a signature, does not include a response to the questions on the form, or is missing required evidence or materials. 8 CFR 208.3(c). DHS is adding in 8 CFR 208.3(c) that a filed Form I–589 is also incomplete if it does not include the asylum application fee, which is consistent with DHS's other regulations. DHS is also adding the asylum application fee to 8 CFR 103.7 which is subject to submission requirements in 8 CFR 103.2.

INA sec. 208 establishes the statutory framework for asylum applications and requires the Government to impose ''fees for the consideration of an application for asylum.'' [26] The asylum application fee required by 8 U.S.C. 1802 is due at the time the application is filed and provides that the fee may not be waived or reduced.[27] In the H.R.1 Fee notice, USCIS implemented 8 U.S.C. 1802 by announcing the initial minimum $100 asylum application fee and clarifying that I–589 filings must include the new fee or they will be rejected if the fee is missing. 90 FR 34511 (July 22, 2025). However, that notice did not address applications that are received by USCIS and therefore filed,[28] but subsequently rejected under 8 CFR 103.2(a)(7) or returned under 8 CFR 208.3(c).

DHS regulations require that a form must be executed in accordance with the form instructions and filed with the fee(s) required by regulation, and filing fees are non-refundable, except at the discretion of USCIS. 8 CFR 103.2(a)(1). In addition, regulations provide that USCIS records the receipt date as of the actual date of physical receipt of a benefit request, a rejected request will not retain a receipt date, and a request will be rejected if not submitted with the correct fee. 8 CFR 103.2(a)(7)(ii)(D). Those filing requirements and receipt rules have been in place for benefit request filings since at least 1964.[29] For the purpose of 8 CFR 103.2(a)(7), USCIS has long defined the term ''rejected'' to mean that the benefit request and fee payment are returned for failure to comply with all filing requirements without being fully considered, and can be re-filed when properly completed. *See, e.g.,* Immigration Benefits Business Transformation, Increment I, 76 FR 53764, 53770 (August 29, 2011).[30] However, the term ''rejection'' is not codified, defined, or promulgated in DHS regulations. ''Denied,'' on the other hand, generally means that the request is fully adjudicated and considered, and the requestor is determined ineligible for the benefit sought. *Id.* Denied is also defined only in practice and not codified.[31]

Consistent with the discretion provided in 8 CFR 103.2(a)(1) regarding the non-refundability of fees, DHS is providing that if an asylum application is rejected, the asylum application fee will be retained and not returned or refunded when a filed asylum application is rejected. *See* new 8 CFR 106.2.

DHS is retaining the fee both for legal and practical reasons. First, such treatment is directed by H.R.1 given the requirement in 8 U.S.C. 1802 that each application when filed must include the fee. H.R.1 provides that DHS shall require the payment of a $100 fee by any alien who files an application for asylum at the time such application is filed. 8 U.S.C. 1802(a). That provision requires a fee at the time of the application without regard for the services DHS must provide or the applicant must receive in exchange for the fee or how the fee is treated if the application is denied, rejected, abandoned, delayed, etc. *Id.*[32] On the other hand, the lack of a statutory link in H.R.1 to the services DHS must provide contrasts with INA 286(m), 8 U.S.C. 1356(m) that provides that DHS may set benefit request fees to recover the costs of providing such services. DHS has interpreted ''fees for providing adjudication and naturalization services'' in section 1356(m) as meaning the fee is required for the provision of a service, in effect, an adjudication of the filed request. When the request is rejected and the only service performed is to determine if it is minimally acceptable, no fee is due, and the fee is returned.[33]

Next, retention of the H.R.1 asylum application fee promotes deterrence of defective filings, recoups intake costs, and concretely advances Congress's expressed intent to resource enforcement and ensure aliens, not American taxpayers, bear specified administrative costs.[34] The H.R.1 Fee notice implementation details (effective dates, payment mechanics, and rejection for missing fees) are consistent with this reading. In this IFR, DHS establishes regulations with the force and effect of law to provide for retention of filing fees when asylum applications are rejected, to include when an asylum application is rejected due to nonpayment of the AAF.[35]

DHS is also referencing 8 CFR 103.2 which provides some administrative discretion to USCIS to refund a fee if the agency determines that is appropriate. For example, in the past, USCIS on a rare occasion has erroneously requested that an individual file an unnecessary form along with the associated fee. Another example is where an individual pays a required fee more than once or otherwise pays a fee in excess of the amount due and USCIS accepts the incorrect overpayment. Therefore, DHS references 8 CFR 103.2 noting that while the fee will be retained and not returned or refunded when a filed asylum application is rejected, DHS's existing regulations provide limited refunds at DHS discretion.

[25] *See* new 8 CFR 106.2(c)(14). Per 8 U.S.C. 1802(d), fifty percent of the fees received by USCIS will be credited to USCIS and fifty percent to EOIR.

[26] INA sec. 208(d)(3); 8 U.S.C. 1158(d)(3).

[27] 8 U.S.C. 1802(a), (e).

[28] Consistent with CFR 208.4(a)(2)(ii), USCIS considers an asylum application filed on the date that USCIS receives it. And consistent with 8 CFR 208.3(c), a filed asylum application may subsequently be deemed complete or incomplete and rejected or returned to the applicant.

[29] 29 FR 11956 (Aug. 21, 1964) (final rule codifying 8 CFR 103.2(a)(1) that provided that every application shall be executed and filed in accordance with the instructions on the form, applications received shall be stamped to show the time and date of their actual receipt and regarded as filed when so stamped unless returned as improperly executed).

[30] The only exception is when an appeal filed by a requestor not entitled to file is rejected, the filing fee will not be refunded. 8 CFR 103.3(a)(2)(v)(A)(*1*).

[31] 8 CFR 103.2 uses the terms filed and submitted as synonyms.

[32] 8 U.S.C. 1802(e) also provides that there is no waiver or reduction of this fee. DHS has codified multiple fee exemptions utilizing the fee-setting authority in INA sec. 286(m), 8 U.S.C. 1356(m) because that provision does not require USCIS to charge a fee and DHS may set fees at less than full cost or provide services for free. *See* 8 CFR 106.3(c). The statute does not use the word ''exemption,'' but DHS has exercised its discretion to provide free services using that term. Consistent with that interpretation, DHS interprets ''shall not be waived or reduced'' in multiple provisions of H.R.1 as precluding fee exemptions, $0 fees, or no fee, regardless of the words exempt or exemption not being in the statute.

[33] When DHS has determined the fee should not be returned it has codified retention. *See* 8 CFR 103.3(a)(2)(v)(A)(*1*) (providing that USCIS does not refund the filing fee when it rejects an appeal filed by a person or entity not entitled to file an appeal).

[34] *Id.;* Further Consolidated Appropriations Act, Public Law 118–47 (Mar. 23, 2024); Joint Explanatory Statement, Division C, Department of Homeland Security Appropriations Act, Public Law 118–47 (Mar. 22, 2024) (appropriating funds to USCIS to address the affirmative asylum application backlog); 8 CFR 208.4(a)(5)(v).

[35] *Id.*

2. Summary of Regulatory Text Changes

DHS adopts the following regulatory changes to implement H.R.1's asylum application fee under 8 U.S.C. 1802 and to clarify the retention of the fee upon rejection:

- New 8 CFR 106.2(c)(14): Codifies that the new Asylum Application Fee is due at filing, and if a Form I–589 is rejected, USCIS will retain the fee and that it will be consistent with 8 CFR 103.2.

C. Implementation and Administration of the Annual Asylum Fee

1. AAF Background

On July 22, 2025, USCIS published the H.R.1 Fee notice implementing 8 U.S.C. 1808 by announcing how the AAF would be administered for FY 2025 and beyond. 90 FR 34511 (July 22, 2025). H.R.1 requires all asylum applicants with pending asylum applications to pay a minimum $100 annual fee for each calendar year the application ''remains pending,'' in addition to any other applicable fee. 8 U.S.C. 1808.

In the H.R.1 Fee notice, DHS interpreted the statutory phrase ''remains pending'' to encompass any Form I–589 filed with USCIS or DOJ and that remains pending with any federal government agency, court, or entity with jurisdiction over asylum claims. 90 FR 34511 (July 22, 2025). The notice further clarified that the initial minimum $100 AAF must be paid by asylum applicants whose applications had been filed with USCIS on or before October 1, 2024, and that were still pending at the close of FY 2025 on September 30, 2025. 90 FR 34511 (July 22, 2025). In doing so, USCIS provided several months' notice to impacted applicants that they would be subject to a fee if they chose to pursue their application through and beyond September 2025.

The H.R.1 Fee notice also explained how the AAF applies in subsequent years. For asylum applications pending during the entirety of FY 2025, the AAF would become due on September 30 for each subsequent year that the application remains pending. For Forms I–589 filed after October 1, 2024 that remain pending for 365 days after filing, the AAF becomes due annually on the one-year anniversary of the filing date each year the application remains pending. 90 FR 34511 (July 22, 2025). USCIS determined that H.R.1 does not impose the AAF retroactively for years prior to FY 2025, but that the plain language of 8 U.S.C. 1808 requires applying the minimum $100 fee to applications that were already pending at the start of FY 2025. 90 FR 34511 (July 22, 2025). In reaching this conclusion, USCIS cited established principles of statutory interpretation and U.S. Supreme Court case law, *Landgraf* v. *USI Film Products,* which distinguishes between impermissible retroactive rules and prospective procedural changes. 90 FR 34511 (July 22, 2025). Because H.R.1 expressly mandated that the AAF ''shall'' apply beginning in and for FY 2025, applying the requirement to pending cases as of October 1, 2024, was deemed consistent with both congressional intent and case law. 90 FR 34511 (July 22, 2025).

Finally, the July notice established USCIS' administrative process for collecting the AAF. For FY 2025, consistent with the H.R.1 Fee notice, USCIS sent individual, personalized notices to asylum applicants with pending cases, identifying the amount owed, the time period in which to pay the fee, the method of payment, and the consequences of failure to pay. 90 FR 34511 (July 22, 2025). USCIS requires the AAF to be paid online through the agency's electronic fee payment system. The framework established by USCIS was designed to facilitate compliance by applicants, to make the AAF process unconfusing and as un-burdensome as possible, and to ensure the government can reliably administer the new statutory requirement across all pending asylum applications. 90 FR 34511 (July 22, 2025).

2. Consequences of Failure To Pay the AAF

i. Summary of Consequences

H.R.1 requires, and this IFR codifies in regulation, for FY 2025 and beyond, payment of the AAF for each calendar year that an asylum application remains pending. 8 U.S.C. 1808. The statute mandates collection and enforcement of the AAF and prohibits waivers. 8 U.S.C. 1808. Regulatory codification of the consequences for failure to pay the AAF is essential to give clarity to applicants and give effect to Congress's mandate. USCIS has never required an annual fee for an application or petition that is pending with USCIS. Therefore, USCIS cannot rely on current or past practice to determine the consequences for nonpayment of the AAF. A clearly defined regulatory consequence implements the statutory requirement most effectively because the statutory requirement would risk becoming ineffective, allowing applicants to avoid their obligations while maintaining pending asylum claims indefinitely.[36] Such a result would undercut H.R.1's purpose, create inequities between compliant and non-compliant applicants, and fail to place costs on applicants rather than being subsidized by fees paid by legal immigrants.[37] Pursuant to H.R.1 sec. 100018, INA sec. 208(d)(3) was amended to require that USCIS ''impose fees for the consideration of an application for asylum.'' One of those mandatory fees is the AAF. 8 U.S.C. 1808. Without established consequences for failure to pay the AAF, USCIS would be required to adjudicate an asylum application without statutory authority or keep applications with unpaid AAFs in the backlog indefinitely.

DHS codifies in this rule that, following individualized notice and a 30-day window for online payment, failure to pay the AAF results in rejection of the pending Form I–589.[38] Rejection results in the termination of the asylum application with USCIS, meaning that USCIS will take no further action on the application. If the alien wishes to reapply for asylum, he or she will need to file a new Form I–589, including a new mandatory filing fee as required by 8 U.S.C. 1802. If the alien maintains lawful status, USCIS will not issue a Notice to Appear (NTA) or initiate removal solely based on the AAF nonpayment.[39] If the alien lacks lawful status, DHS will either initiate expedited removal under INA sec. 235(b), 8 U.S.C. 1225(b), where the applicant is amenable to expedited removal, or issue an NTA under INA sec. 239, 8 U.S.C. 1229, in other cases.[40] Consistent with existing asylum jurisdiction rules, once the NTA is filed after rejection, any subsequent defensively filed Form I–589 is submitted to and adjudicated by an immigration judge under 8 CFR 1208.2(b). If the alien maintains lawful status, USCIS will reject Form I–589 for nonpayment but will only issue an NTA if the facts support a charge of removability.[41]

Further, rejection for nonpayment will stop the asylum employment-authorization clock under new 8 CFR 208.7(a)(1)(i) as the application will no longer be pending. Further, any pending application for employment authorization under 8 CFR 274a.12(c)(8) would be rejected or denied per new 8 CFR 208.7(a)(1)(iii) and (iv). Upon

[36] INA sec. 208, 8 U.S.C. 1158; *see* also 8 U.S.C. 1808.

[37] H.R. Rep No. 119–106, Book 1, at 859 (2025).

[38] *See* new 8 CFR 106.2(c)(15); new 8 CFR 208.3(c)(3), (a)(6); and 8 U.S.C. 1808.

[39] *See* 8 U.S.C. 1229(a).

[40] *Id.;* INA sec. 235(b), 8 U.S.C. 1225(b); 8 CFR 235.3(b); INA sec. 239, 8 U.S.C. 1229.

[41] *See* INA sec. 239(a)(1); 8 U.S.C. 1229(a)(1) (providing for general information needed for NTA issuance).

rejection of the asylum application by USCIS, any existing employment authorization pursuant to 8 CFR 274a.12(c)(8) will terminate immediately per new 8 CFR 208.7(b)(1). Per 8 U.S.C. 1810(b)(2) and new 8 CFR 208.7(b)(2), if the asylum application is denied or rejected by an immigration judge at EOIR, the employment authorization will terminate immediately on the date that is 30 days after the date of denial or rejection, unless the alien makes a timely appeal to the Board of Immigration Appeals. Per 8 U.S.C. 1810(b)(3) and new 8 CFR 208.7(b)(3), if the Board of Immigration Appeals denies an appeal of a denial or rejection of an asylum application, employment authorization will terminate immediately.[42]

ii. Summary of Regulatory Text Changes

DHS adopts the following amendments to 8 CFR part 208 to implement H.R.1's AAF requirement:

- 8 CFR 208.3(c)(3) and (6) (filing consequences):[43] This IFR clarifies that even if an application is initially accepted as complete, upon non-payment of the AAF, it will be considered incomplete and rejected by USCIS. Further, upon rejection, accrual of time toward the period after which the applicant may file an application for employment authorization is stopped.
- 8 CFR 208.7(a)(1) (consequences of rejected application—new language added): As amended, this provides that USCIS will reject an application for employment authorization submitted by an applicant whose asylum application has been previously denied or rejected. Further, if an asylum application is denied or rejected prior to a decision on a pending application for employment authorization, the application for employment authorization will be denied.
- 8 CFR 208.7(b)(1) through (3) (consequences of rejected application—new language added):
  - Pursuant to 8 U.S.C. 1810(b)(1) through (3), employment authorization will terminate immediately upon denial or rejection of an asylum application by USCIS (which does not include asylum applications referred to an immigration judge); or
  - On the date that is 30 days after the date on which an immigration judge denies an asylum application, unless the alien makes a timely appeal to the Board of Immigration Appeals; or
  - Immediately following the denial by the Board of Immigration Appeals of an appeal of a denial or rejection of an asylum application.

iii. Rejection of a Pending Asylum Application for Failure To Pay the AAF

a. DHS Authority Under H.R.1 and INA Sec. 208

Section 208 of the INA, 8 U.S.C. 1158, establishes the statutory framework governing asylum applications and related procedures. Section 208(a) provides a general statement that any alien physically present in or arriving at the United States may apply for asylum, either pursuant to section 208 or section 235 where applicable, and also provides exceptions describing certain aliens who are not eligible to apply for asylum. Section 208(b) defines the standards for granting asylum and permits DHS to establish additional limitations and conditions under which an alien will be ineligible for asylum.[44] Section 208(d) sets procedural requirements and expressly authorizes the Government to impose ''fees for the consideration of an application for asylum'' and ''fees for employment authorization under this section,'' and permits DHS to ''provide by regulation for any other conditions or limitations on the consideration of an application for asylum.'' [45]

Congress thus recognized that an alien's pursuit of asylum status before DHS is contingent on the payment of reasonable administrative fees and that failure to comply with such procedural requirements renders any attempted asylum application a nullity because DHS is unable to consider it.[46] As such, section 208 of the INA permits DHS to condition the continued pendency of an asylum application—and retention of benefits associated with it—on compliance with established fee obligations.[47] H.R.1's requirement that DHS collect the AAF for each year an application remains pending operates squarely within the bounds of section 208 of the INA.[48] Thus, DHS codifies that failure to pay the AAF within a 30-day payment period will result in consequences consistent with both the procedural requirements of the asylum statute and the immigration enforcement purpose of H.R.1 previously described in its H.R.1 Fee notice.[49] 90 FR 34511 (July 22, 2025).

b. Rejection Aligns With USCIS Filing Rules and Administrative Practice

USCIS' general filing regulations require that any benefit request be submitted ''in accordance with the form instructions and applicable regulations,'' which include fee requirements.[50] USCIS regulations also provide that a benefit request ''will be rejected'' if it is submitted with an incorrect fee, no fee, or otherwise fails to satisfy required fee payment conditions—codifying the longstanding practice of rejecting filings that do not include proper fees.[51] Fees are a filing prerequisite and USCIS may reject filings that do not meet fee requirements prescribed by statute, regulation, or form instructions.[52] Because 8 U.S.C. 1808(b) ties fee payment to each year the application ''remains pending,'' the administrable, logical, and uniform consequence for nonpayment—after individualized notice and a 30-day payment period—is rejection rather than allowing it to remain pending for consideration contrary to the applicable statutes.[53] 90 FR 34511 (July 22, 2025).

c. Rejection for Failure To Pay Is Consistent With the Best Interpretation of 8 U.S.C. 1808(b)

Congress intended 8 U.S.C. 1808 to have operative effect such that failure to pay the AAF would carry meaningful consequences. Under settled principles of statutory construction, including the rule against superfluities, a statute must be interpreted so that each provision is given effect.[54] Reading 8 U.S.C. 1808 to impose a mandatory annual fee without consequence for nonpayment would render the provision a nullity, contrary to Congress' intent.[55]

DHS further interprets H.R.1's silence regarding the specific consequence for nonpayment of the AAF consistent with longstanding USCIS practice. USCIS has consistently required that benefit requests be accompanied by proper fee payment as a condition of filing and

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[42] 8 U.S.C. 1810(b)(1)–(3); *see* new 8 CFR 208.7(b)(1)–(3), (a)(2); 8 CFR 274a.12(c)(8).

[43] DHS also divides 8 CFR 208.3(c) in this rule into more paragraphs to make it less dense and more readable, without making changes to its substance.

[44] INA sec. 208(b)(2)(C), 8 U.S.C. 1158(b)(2)(C).

[45] INA sec. 208(d)(3) and (5), 8 U.S.C. 1158(d)(3) and (5).

[46] *Id.*

[47] *Id.*

[48] *Id.*

[49] *See* new 8 CFR 106.2(c)(15), 8 CFR 208.3(c)(3) and (c)(6), 8 CFR 208.7(a)(1) and (b)(1)–(2); H. Comm. on the Judiciary, Markup of H.R.1, 119th Cong. (Apr. 30, 2025) (statement of Chairman Jordan), *https://www.congress.gov/event/119th-congress/house-event/118180.*

[50] 8 CFR 103.2(a)(1) (requiring compliance with form instructions and regulations, including fees).

[51] 8 CFR 103.2(a)(7)(ii) (benefit request will be rejected if not accompanied by the proper fee or if an incorrect fee is submitted); see also 8 CFR part 106 (USCIS fee regulations).

[52] 8 CFR 103.2(a)(7)(ii)(A) and 106.1(a).

[53] 8 U.S.C. 1808; INA sec. 208(d)(3), 8 U.S.C. 1158(d)(3); *see* new 8 CFR 106.2(c)(15)(ii), 8 CFR 208.3(c)(3) and (6).

[54] *Hibbs* v. *Winn,* 542 U.S. 88, 101 (2004) (''A statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant . . .'').

[55] *Id.*

routinely rejects benefit requests that do not include the proper fee.[56] This well-established framework for requiring payment of the proper fee predates H.R.1 and is reflected in existing DHS regulations.[57] As such, DHS thinks the best reading of the statute is that Congress, in enacting the AAF requirement, presumed that USCIS would apply its existing practice for fee compliance and did not see a need to codify the consequences for nonpayment explicitly in the statute. Accordingly, DHS interprets 8 U.S.C. 1808 to operate in concert with existing USCIS fee practice, under which noncompliance with fee requirements results in rejection of the benefit request.[58]

Thus, DHS believes the best interpretation of H.R.1's AAF mandate, when read together with INA sec. 208, is to require fee compliance as a condition of continued pendency and USCIS' consideration of the asylum application.[59] Interpreting INA sec. 208(d)(3) and 8 U.S.C. 1808(b) to authorize rejection of a Form I–589 for nonpayment after notice and a 30-day payment period is the best reading because Congress tied an annual fee to each year an application ''remains pending,'' thereby making ongoing pendency and USCIS' consideration of the application after such year contingent on payment.[60] 90 FR 34511 (July 22, 2025). This construction also satisfies the reasoned decisionmaking standard because it directly advances Congress's cost-recovery and deterrence objectives through a clear, administrable trigger.[61] Further, this interim final rule will not have retroactive effect because it does not ''impair rights a party possessed when he acted, increase a party's liability for past conduct, or impose new duties with respect to transactions already completed.'' [62] The triggering event is the pendency of the application for one year as of a date after enactment and the continued pendency of the application. The earliest any AAF payments became due was the close of FY 2025 and the specific consequences articulated in the rule will not be applied until an applicant receives notice of such consequences under the rule and a 30-day opportunity to fulfill the requirement. As such, timely payment is a prospective requirement, not an impermissible retroactive penalty. Accordingly, codifying rejection for AAF nonpayment implements the best interpretation of INA sec. 208(d)(3) and 8 U.S.C. 1808(b).[63]

d. Nonpayment Will Result in the Rejection or Denial of Applications for Employment Authorization or Immediate Termination of Previously Approved Employment Authorization

Under this final rule, failure to pay the AAF required by 8 U.S.C. 1808 results in rejection of the pending asylum application pursuant to new 8 CFR 106.2(c)(15)(ii) and new 8 CFR 208.3(c)(3). Consistent with that determination, rejection for failure to pay the AAF will result in the termination of accrual of time toward employment authorization eligibility under new 8 CFR 208.3(c)(3)(i) and 8 CFR 208.7(a)(1)(i). Further, rejection of the Form I–589 for failure to pay the AAF will result in the rejection or denial of any related application for employment authorization still pending under new 8 CFR 208.7(a)(1)(iii) or (iv), or the immediate termination of related employment authorization as required by 8 U.S.C. 1810(b)(1) and new 8 CFR 208.7(b)(1).[64] These consequences will require asylum applicants to meet the fee obligations in the law while still maintaining their pending asylum claims. These changes ensure that both a denial and a rejection of a Form I–589, result in the same consequence for purposes of employment authorization eligibility under 8 CFR 274a.12(c)(8).

iv. Alternative Consequences for Nonpayment of the AAF Considered

DHS evaluated several alternatives to the adopted consequence framework to ensure the rule reflects the best interpretation of H.R.1 and the INA and satisfies the Administrative Procedure Act (APA)'s requirement for reasoned decisionmaking.[65] For the reasons explained below, DHS concluded that the selected approach—rejection for nonpayment of the AAF (and possibly NTA issuance or initiation of expedited removal where applicable) best effectuates H.R.1's enforcement and deterrence purposes and is administratively superior to the following alternatives considered.

a. Denial for AAF Nonpayment in Lieu of Rejection

DHS considered treating nonpayment as grounds for denial under 8 CFR 103.2(a)(7)(ii)(D)(1) rather than a rejection tied to a statutory filing condition. Using rejection for a fee-compliance defect fits the existing 8 CFR 103.2 framework, in which filings ''must be executed and filed in accordance with the form instructions and applicable regulations,'' including fee requirements, and ''will be rejected'' if submitted with an incorrect or missing fee.[66] Further, a denial in lieu of a rejection could trigger motions processes under 8 CFR 103.3 and 103.5, adding layers of procedure and delay inconsistent with H.R.1's direction that the AAF accompany each year an application ''remains pending.'' [67] Finally, current asylum regulations [68] contemplate denial of an I–589 where the applicant is maintaining lawful immigration status or is in a valid period of parole.

b. Rejection With No NTA and a Bar on Refiling Asylum

DHS also considered an alternative where an unpaid AAF would result in rejection, with no subsequent NTA but with a prohibition on refiling a Form I–589 with USCIS. DHS rejected this alternative because a categorical bar on refiling would potentially require an administratively burdensome process for evaluating exceptions in order to maintain consistency with INA section 208(a)(1), 8 U.S.C. 1158(a)(1). Additionally, a blanket refile ban would be difficult to administer fairly and could preclude bona fide protection claims, contrary to the statute's humanitarian purpose.[69] Issuing an NTA or initiating expedited removal provides a path for aliens to present their bona fide protection claims either before an immigration judge with authority to grant withholding of removal or protection under the Convention against Torture, or an

[56] 8 CFR 103.2(a)(1) and (7)(ii); U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, Final Rule, 89 FR 6194 (Jan. 31, 2024) (reaffirming fee-compliance prerequisites).

[57] *Id.*

[58] *Id.*

[59] *Loper Bright Enters.* v. *Raimondo,* 603 U.S. 369 (2024) (rejecting Chevron deference and requiring courts—and by extension agencies in rulemaking—to adhere to the best reading of the statute).

[60] 8 U.S.C. 1808; INA sec. 208(d)(3), 8 U.S.C. 1158(d)(3).

[61] *See Loper Bright Enters.* v. *Raimondo,* 603 U.S. 369 (2024).

[62] *Landgraf* v. *USI Film Prods.,* 511 U.S. 244 (1994) (prospective procedural rules are not impermissibly retroactive); 8 U.S.C. 1808 (effective in FY 2025 and thereafter).

[63] INA sec. 208(d)(3), 8 U.S.C. 1158(d)(3); 8 U.S.C. 1808.

[64] *See* new 8 CFR 208.7(a)(1), and (b)(1)–(2); 8 U.S.C. 1810(b)(1).

[65] *Loper Bright Enters.* v. *Raimondo,* 603 U.S. 369 (2024) (requiring the best interpretation of the statute); *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29 (1983) (reasoned decisionmaking).

[66] 8 CFR 103.2(a)(1) and (7)(ii); 8 CFR 208.7(a)(2).

[67] 8 U.S.C. 1808.

[68] *See, e.g.,* 8 CFR 208.14(c)(d).

[69] INA sec. 208(b), 8 U.S.C. 1158(b).

asylum officer with authority to conduct a fear screening.[70]

c. Holding Applications in Abeyance Until AAF Is Paid

DHS also considered holding applications in abeyance upon nonpayment (*i.e.,* no decision, no rejection, and no charging interest), thereby keeping the case pending until the mandatory AAF fee is paid. This approach was rejected because it would allow indefinite pendency notwithstanding noncompliance, frustrating H.R.1's requirement that the annual fee accompany each year an application ''remains pending.'' [71] The structure of the AAF also demonstrates Congress's concern with asylum applicants filing Form I–589 to baselessly avoid removal and obtain employment authorization while relying on the asylum backlog or using dilatory tactics to avoid a final adjudication of their application. Were DHS to hold Form I–589 applications in indefinite abeyance for failure to pay the AAF, this would exacerbate the very problem that Congress intended to address. Abeyance also would exacerbate backlogs and resource strain rather than advance H.R.1's enforcement and cost-recovery objectives, contrary to the APA's expectation of prompt administrative disposition.[72] In short, abeyance would preserve or worsen the very incentives H.R.1's AAF was designed to counteract and therefore not appropriate. 8. U.S.C. 1808.

D. Implementation of the Limits on Employment Authorization Based on Temporary Protected Status

1. H.R.1 Text Limiting Validity of Employment Authorization

Congress enacted H.R.1, in part, to specify new, uniform limits and fees for employment authorization and employment authorization periods in connection with TPS.[73] 8 U.S.C. 1803(c) provides that each initial TPS-based employment authorization ''shall be valid for a period of 1 year, or for the duration of the alien's temporary protected status, whichever is shorter,'' and imposes an additional fee for an alien who files an initial TPS EAD application that may not be waived or reduced. 8 U.S.C. 1811(a) likewise provides that any employment authorization for an alien granted TPS, or any renewal or extension of such authorization, ''shall be valid for a period of 1 year or for the duration of the designation of temporary protected status, whichever is shorter,'' and establishes a renewal or extension fee that may not be waived or reduced. By their terms, these provisions cap TPS-related work authorization at one year or the remaining designation, whichever is shorter, with no TPS-specific exception to exceed the cap.[74]

In its H.R.1 Fee notice, USCIS summarized these TPS employment authorization fee provisions and restated the one-year-or-duration of designation validity rules for initial and renewal/extension filings, noting the statutory prohibition on waiver of the H.R.1 fees and the separate preexisting regulatory fee that may still be waived under 8 CFR part 106. 90 FR 34511 (July 22, 2025). Thereafter, USCIS began applying the validity rules to TPS-based employment authorization.[75] This IFR updates DHS regulations at 8 CFR parts 244 and 274a to conform to the statutory mandate in H.R.1.

2. INA Sec. 244 and Prior Practice

INA sec. 244, 8 U.S.C. 1254a, authorizes the Secretary to designate countries for TPS, to grant TPS to eligible nationals, and to provide benefits to an alien in TPS status including eligibility for employment authorization. INA sec. 244(a)(1), 8 U.S.C. 1254a(a)(1) states that the Secretary ''may grant the alien temporary protected status'' and ''shall authorize the alien to engage in employment in the United States and provide the alien with an employment authorized endorsement or other appropriate work permit.'' INA sec. 244(a)(2), 8 U.S.C. 1254a(a)(2), adds that the work authorization associated with TPS ''shall be effective throughout the period the alien is in temporary protected status under this section.'' INA sec. 244(a)(4), 8 U.S.C. 1254a(a)(4), further requires provision of temporary treatment benefits—including employment authorization—to an alien who establishes a prima facie case of eligibility for TPS until a final determination is made or until a reasonable opportunity to register opens, as applicable.

DHS's regulations governing the regulations that provide the employment-authorization categories reflect the requirements of INA sec. 244(a), 8 U.S.C. 1254a(a). Under 8 CFR 274a.12(a)(12), aliens granted TPS are authorized for employment ''incident to status'' as a condition of their immigration status. An alien may request an EAD by filing Form I–765, Application for Employment Authorization, and USCIS will issue EADs in category (a)(12) to individuals who have been granted TPS and file Form I–765. Under 8 CFR 274a.12(c)(19), USCIS will grant employment authorization and issue EADs in category (c)(19) to TPS applicants whom USCIS has determined are prima facie eligible for TPS and therefore receive temporary treatment benefits while their applications are pending. The regulation at 8 CFR 244.5 mirrors INA sec. 244(a)(4), 8 U.S.C. 1254a(a)(4), by providing temporary treatment benefits, including employment authorization, for prima facie-eligible applicants during the pendency of adjudication of the TPS application. Since the inception of TPS, DHS has treated both TPS beneficiaries and prima facie-eligible TPS applicants as employment authorized continuously during the designation and through any designation extensions, using **Federal Register** notices to automatically extend the validity of existing TPS-based EADs—typically for six or twelve months—to provide continued evidence of employment authorization while re-registrants await adjudication of their Forms I–765 to obtain renewal EADs.[76]

[70] 8 CFR 208.16(a) and (c)(4); 8 CFR 208.17(b); 8 CFR 208.18(b).

[71] 8 U.S.C. 1808. It is also consistent with past USCIS fee requirements to reject a pending request at the point the fee that was paid is determined to have been the incorrect amount. *See* 8 CFR 103.2(a)(7)(ii)(D) (providing that when USCIS begins to adjudicate a request and determines the correct fee was not paid, that request may be rejected or denied).

[72] 5 U.S.C. 555(b) (''With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it.''); see *Telecomms. Research & Action Ctr. (TRAC)* v. *FCC,* 750 F.2d 70 (D.C. Cir. 1984).

[73] 8 U.S.C. 1803(c) and 1811; INA sec. 244; 8 CFR 244.5; 8 CFR 274a.12.

[74] 8 U.S.C. 1803(c) and 1811(a).

[75] Given that some TPS designations in effect at the time H.R.1 was signed into law in July 2025 exceeded 12 months, USCIS calculated the H.R.1 caps from the date of adjudication and back-dated renewal EADs to the expiration date of the previous EAD to ensure against gaps in employment authorization documentation. Since that time, as several TPS designations have terminated and the remaining do not exceed 12 months, there is no longer a need for USCIS to continue this mitigation measure.

[76] *See, e.g.,* Extension of the Designation of El Salvador for Temporary Protected Status, 90 FR 5953 (Jan. 17, 2025) (''Accordingly, through this **Federal Register** notice, DHS automatically extends through March 9, 2026, the validity of certain EADs previously issued under the TPS designation of El Salvador. As proof of continued employment authorization through March 9, 2026, TPS beneficiaries can show their EAD with the notation A12 or C19 under Category and a 'Card Expires' date of March 9, 2025, June 30, 2024, Dec. 31, 2022, Oct. 4, 2021, Jan. 4, 2021, Jan. 2, 2020, Sept. 9, 2019, or March 9, 2018.'').

3. H.R.1 Controls and Supersedes Prior TPS Employment Authorization Duration Practices Under INA Sec. 244

Textually, 8 U.S.C. 1803(c) and 8 U.S.C. 1811(a) appear to conflict with the phrasing of INA sec. 244(a)(2), 8 U.S.C. 1254a(a)(2) that TPS-based employment authorization is ''effective throughout'' the period of TPS, because they impose a specific one-year-or-duration of designation cap on the TPS-related employment authorization, whereas section 244(a)(2), 1254a(a)(2), speaks in status-based terms without prescribing a duration.[77] DHS must implement H.R.1's explicit caps for TPS-related employment authorization periods in a manner faithful to both the new and previously existing statutory text.

H.R.1's duration provisions are later-enacted and speak directly to the temporal scope of TPS-based employment authorization; they impose an express ceiling—one year or the duration of the designation (whichever period is shorter)—on how long employment authorization may remain valid in any single grant or renewal.[78] Reading 8 U.S.C. 1803(c) and 8 U.S.C. 1811(a) together with INA sec. 244, 8 U.S.C. 1254a, under the ordinary tools of construction, DHS gives effect to both statutes by assigning them complementary roles: INA sec. 244, 8 U.S.C. 1254a, continues to define who is eligible to be employment-authorized (TPS beneficiaries under 8 CFR 274a.12(a)(12) and prima facie–eligible applicants receiving temporary treatment benefits under 8 CFR 274a.12(c)(19) and 8 CFR 244.5), while H.R.1 supplies the maximum duration for each period of authorization across both categories.[79]

Where INA sec. 244(a)(2), 8 U.S.C. 1254a(a)(2), states that employment authorization is ''effective throughout'' TPS, DHS reads that as a status-based entitlement to be eligible for authorization during the life of the TPS designation, not as a guarantee that any single authorization period may exceed H.R.1's specific limit.[80] Applying the later-in-time canon resolves the textual tension by allowing the INA sec. 244, 8 U.S.C. 1254a entitlement to persist while H.R.1's later, more specific command regulates how long each authorization may run.[81] This harmonized reading provides a clear, administrable rule that aligns with H.R.1's structure of initial and renewal fees tied to time-limited employment authorization periods.[82]

DHS is enforcing the H.R.1 employment authorization period limits by requiring that TPS employment authorization be renewed at intervals of one year—or the remaining TPS designation, if shorter—for both 8 CFR 274a.12(a)(12) beneficiaries and 8 CFR 274a.12(a)(19) prima facie-eligible applicants.[83] DHS recognizes that, where a TPS designation is longer than 12 months, a possible impact of this renewal requirement may be that some TPS beneficiaries or prima facie-eligibility applicants could face gaps in employment authorization and suffer temporary job loss until they receive a renewal of employment authorization. At present, current TPS designation timeframes do not place TPS beneficiaries and applicants at risk of experiencing gaps in employment authorization.[84] In addition, in instances where TPS designations have been automatically extended for 6 months, USCIS has automatically extended EADs in order to prevent gaps in employment authorization. Should future TPS designations, redesignations, or extensions be set for more than 12 months, applicants seeking to avoid gaps in employment authorization and EAD validity would need to file timely renewals to maintain employment authorization for the remainder of the designation or extension, and each renewal will be approved only for the maximum period permitted under H.R.1—that is, for one year or the remaining duration of the TPS designation, whichever is shorter.[85] By requiring TPS beneficiaries and prima facie eligible applicants to regularly renew their requests for employment authorization, this approach provides predictable checkpoints for identity, eligibility, and security vetting.[86] It helps ensure that aliens do not possess facially-valid EADs based on TPS when the underlying TPS designations no longer exist, including when a designation nears conclusion or is terminated.[87] Any document evidencing employment authorization (*e.g.,* an EAD) must reflect—and may not exceed—the underlying authorization period established by H.R.1, so that documentary validity and the legal authorization it evidences remain aligned.[88]

4. Summary of Regulatory Text Changes

DHS adopts the following regulatory changes to implement H.R.1's substantive cap on employment authorization incident to TPS—1 year or the remaining duration of the TPS designation, whichever is shorter:

- New 8 CFR 244.5(d) (Prima facie applicants/temporary treatment benefits):

DHS is revising this section to (1) provide that employment authorization granted as a temporary treatment benefit to prima facie-eligible TPS applicants may not exceed 1 year or the remaining TPS designation, whichever is shorter; and (2) require the applicant to obtain a renewal of employment authorization if the TPS designation has not yet terminated to continue authorization beyond each employment authorization period.

- Revised 8 CFR 244.12(a) and (d) (TPS beneficiaries):

DHS revises 8 CFR 244.12(a) to (1) establish the one-year-or-duration of the designation limit on employment authorization for TPS beneficiaries; and (2) require the beneficiary to obtain a renewal of employment authorization if the TPS designation has not yet terminated to continue authorization beyond each employment authorization period. DHS also revises 8 CFR 244.12(d) to subject extensions of employment authorization during the pendency of any renewal or appeal in administrative proceedings to the one-year-or-duration of the designation limitation described in revised 8 CFR 244.12(a).

- Conforming revisions to 8 CFR 274a.12(a)(12) and (c)(19):

DHS revises 8 CFR 274a.12(a)(12) and (c)(19) to cross-reference the validity period limitations specified in 8 CFR 244.5(d) and 244.12(a) and aligns EAD

[77] *Cf.* 8 U.S.C. 1803(c) and 1811(a), with INA sec. 244(a)(2), 8 U.S.C. 1254a(a)(2).

[78] 8 U.S.C. 1803(c) and 1811(a).

[79] INA sec. 244(a)(1), (2), (4), 8 U.S.C. 1254a(a)(1), (2), (4); 8 CFR 274a.12(a)(12) and (c)(19); 8 CFR 244.5; 8 U.S.C. 1803(c) and 1811(a).

[80] INA sec. 244(a)(2), 8 U.S.C. 1254a(a)(2); 8 U.S.C. 1803(c) and 1811(a).

[81] *See e.g., Watt* v. *Alaska,* 451 U.S. 259 (1981); *Chae Chan Ping* v. *United States* (The Chinese Exclusion Case), 130 U.S. 581 (1889) (recognizing Congress's plenary power over exclusion and applying the later-in-time rule—*i.e.,* a subsequent statute may supersede a conflicting treaty).

[82] 8 U.S.C. 1803(c) and 1811(a); 8 CFR 274a.12(a)(12), (c)(19); 8 CFR 244.5(d).

[83] 8 U.S.C. 1803(c) (initial fee); 8 U.S.C. 1811(d) (renewal/extension fee); see also 8 U.S.C. 1811(a) (renewal/extension limited to one year or designation).

[84] Of the current TPS designations, none exceed one year. The latest designation period is for TPS Ukraine, which ends on October 19, 2026. Many designations have been terminated but are subject to ongoing litigation; TPS benefits have continued for these designations. *See* USCIS Temporary Protected Status web pages at *https://www.uscis.gov/humanitarian/temporary-protected-status* (last reviewed/updated 03/17/2026).

[85] 8 U.S.C. 1811(a)–(d); 8 U.S.C. 1803(c).

[86] *See* 8 CFR 274a.12.

[87] INA sec. 244(b), 8 U.S.C. 1254a(b); 8 U.S.C. 1803(c) and 1811(a).

[88] 8 U.S.C. 1803(a), 1811(a); 8 CFR 274a.12; 8 CFR 244.5.

validity to the underlying authorized period of employment.

E. Severability

Although DHS is not codifying a severability provision in the regulatory text, DHS intends for the provisions of this interim final rule to be fully severable. The decision not to codify a severability clause is to avoid potential confusion across multiple CFR parts amended here (8 CFR parts 103, 106, 208, 244, and 274a), which govern distinct programs, authorities, and procedures, and to keep the regulatory text concise and readable. DHS believes that the provisions in this rule can function independently of each other and the absence of a codified severability provision should not be taken to suggest any different intent than if such language were included. If any provision of this rule—or the application of any provision to any person, entity, or circumstance—is stayed or held invalid, the remainder of the rule, and the application of the affected provision to other persons, entities, or circumstances, will not be affected. Without limitation, each amended section, subsection, sentence, clause, and item (including but not limited to the fee provisions under part 106, the asylum fee provisions and AAF consequence in part 208, and the TPS employment-authorization duration and renewal requirements in parts 244 and 274a) is intended to be independently operative and severable from the others.

F. Fee Waivers and Exemptions

DHS is not changing any fee exemptions and fee waivers in 8 CFR part 106 in this rule. Fees imposed by HR–1 cannot be waived or reduced. While INA section 245(l)(7), 8 U.S.C. 1255(l)(7) requires DHS to allow a request for waiver of the fees required for certain immigration benefit requests, H.R.1 supersedes that requirement. Therefore, USCIS cannot waive such a fee required by H.R.1 and a request for such may not be submitted. The inability to waive an H.R.1 fee requires no changes to the DHS fee regulations at 8 CFR parts 103 and 106. Fee waivers and exemptions in 8 CFR 106.3(a)(3) list the USCIS fees that may be waived or are exempt, and by leaving those provisions unchanged, H.R.1 fees are neither explicitly nor implicitly included as fees that may be waived or exempt. In addition, public interest fee waivers and exemptions authorized by 8 CFR 106.3(c) must be consistent with the applicable law. Thus, that provision does not authorize relief from the payment of H.R.1 fees and no amendment or clarification is required.

The fee exemptions provided by 8 CFR part 106 do not apply to the new fees codified in this rule. Thus, for example, the fee exemptions provided for USCIS Form I–131 by 8 CFR 106.2(a)(7)(v) and (vi) apply to the base USCIS fee for Form I–131, while the H.R.1 fee for being paroled into the United States is still required.

V. Statutory and Regulatory Requirements

A. Administrative Procedure Act

1. Statutorily Required Changes

As noted elsewhere in the preamble, DHS is conforming its regulations to statutory changes that provide little agency discretion in its interpretation and promulgation. When regulations merely restate the statute they implement (*i.e.,* when the rule does not change the established legal order), the APA does not require the agency to use notice-and-comment procedures. *See* 5 U.S.C. 553(b)(B); *Gray Panthers Advocacy Comm.* v. *Sullivan,* 936 F.2d 1284, 1291 (D.C. Cir. 1991). So long as the agency does not expand the substantive reach of the statute to impose new obligations, penalties, or substantive eligibility requirements—*i.e.,* so long as the agency ''merely restate[s]'' the statute—notice and comment are unnecessary. *See World Duty Free Americas, Inc.* v. *Summers,* 94 F. Supp. 2d 61, 65 (D.D.C. 2000).

In addition, courts have consistently held that ''good cause'' under the APA's notice-and-comment exemption exists where delay would be impracticable, unnecessary, or contrary to the public interest.[89] Rulemaking procedures are deemed ''unnecessary'' when the use of rulemaking would be inconsequential to the industry and the rule is routine.[90] Courts have found that the unnecessary prong is satisfied if, for example, the rescission or change of a rule is needed for consistency with legislation or judicial decision and there is no room for public debate over the agency's course of action.[91]

2. Procedural Rule

The APA requires DHS to provide public notice and seek public comment on substantive regulations. *See* 5 U.S.C. 553. The APA, however, provides limited exceptions to this requirement for notice and public comment, including for ''rules of agency organization, procedure or practice.'' 5 U.S.C. 553(b)(A).

H.R.1, signed into law on July 4, 2025, sets forth the requirement that DHS collect new statutory fees during FY 2025, limit the length of EADs, and execute enforcement of such fees.[92] This final rule both codifies statutory requirements to pay and collect fees, and provides that the fees cannot be waived or reduced. DHS acknowledges the substantive impact of new fees on the affected parties, but DHS has no discretion but to impose those fees, and must dictate their implementation, attendant processes, and consequences for failure to comply.[93] H.R.1 law was effective on enactment and DHS must implement it by providing the procedures both for applicants and for USCIS to pay, collect, and for failure to pay.[94]

While DHS began collecting many of the H.R.1 fee provisions via notice,[95] DHS also noted that some of the fees would require additional implementation. This IFR codifies a number of H.R.1 statutory requirements to pay certain fees in addition to existing fees, that the asylum application fee is required at filing and will be retained regardless of the application being rejected, and the new EAD statutory periods for asylum applicants and TPS.

[89] *See, e.g., Util. Solid Waste Activities Grp.* v. *EPA,* 236 F.3d 749, 754–55 (D.C. Cir. 2001); *Hawai'i Helicopter Operators Ass'n* v. *FAA,* 51 F.3d 212, 214 (9th Cir. 1995).

[90] *See, e.g., Util. Solid Waste Activities Grp.* v. *EPA,* 236 F.3d 749, 7555 (D.C. Cir. 2001); *See Nat'l Customs Brokers & Forwarders Ass'n of Am.* v. *United States,* 59 F.3d 1219, 1224 (Fed. Cir. 1995) (accepting Customs' good cause argument that, because Congress directed Customs to change the regulations in the way it did, delaying implementation by going through notice and comment procedures was unnecessary). Juan J. Lavilla, *The Good Cause Exemption to Notice and Comment Rulemaking Requirements Under the Administrative Procedure Act,* 3 Admin. L.J. 317, 354 (1989).

[91] *See EME Homer City Generation, LP* v. *EPA,* 795 F.3d 118, 134–35 (D.C. Cir. 2015) (EPA had good cause to issue interim rule rescinding agency prior regulatory approvals of certain state implementation plans under the Clean Air Act, consistent with D.C. Circuit decision holding those approvals have been erroneous, as commenters would have had little to say.'').

[92] 8 U.S.C. 1801–1815.

[93] *See* 6 U.S.C. 522 (''Nothing in [the HSA], any amendment made by [the HSA], or in section 1103 of Title 8, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.'').

[94] *Id.*

[95] *See* 90 FR 34511 and 90 FR 48317.

DHS acknowledges that not all rules that might be categorized as procedural are exempted and that the distinction between substantive and procedural rules is not a clear line.[96] Almost all procedural rules affect substantive rights to some degree and substantive rules are bounded and defined by procedural dictates.[97] A procedural rule cannot alter the rights or interests of parties, although it may alter the manner in which the parties present themselves or their viewpoints to the agency, and the determining factor is whether the substantive effect is enough to provide that notice and comment are needed to safeguard the policies underlying the APA.[98]

Applying the exception to this rule DHS finds that the procedures put in place to process the new statutory fee requirements are intertwined with the fees themselves and to not apply them would render the fee requirements ineffectual. Thus, DHS is of the opinion that it could bypass rulemaking altogether and could retain the asylum application fee and reject a Form I–589 for failure to pay the AAF through internal guidance. However, DHS is codifying this requirement in the interest of accessibility and public awareness. Therefore, because the procedures codified necessarily attendant to implement the fees so as to add no more requirements than the law's fee requirements themselves, they relate to agency procedure and practice (5 U.S.C. 553(b)(A)) and advance notice and comment is unnecessary.

Accordingly, DHS finds good cause to issue this rule as an IFR. Immediate effect is necessary to meet Congress's directive and in the public interest. Although H.R.1 prescribes these requirements, DHS recognizes the value of public comments and is publishing this rule as an IFR with a request for public comment. DHS intends to publish a final rule and will consider all timely comments submitted during the public comment period as described in the **ADDRESSES** section in developing that rule as well as in issuing guidance related to H.R.1.

[96] *JEM Broad. Co., Inc.* v. *FCC,* 22 F.3d 320, 326 (D.C. Cir. 1994).

[97] *Lamoille Valley R. Co.* v. *ICC,* 711 F.2d 295, 328 (D.C. Cir. 1983).

[98] *James V. Hurson Assocs., Inc.* v. *Glickman,* 229 F.3d 277, 280 (D.C. Cir. 2000).

B. Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

Executive Orders 12866 (Regulatory Planning and 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that ''any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.''

The Office of Management and Budget (OMB) has not designated this rule a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, OMB has not reviewed it.

This rule is not an Executive Order 14192 regulatory action because it is being issued with respect to an immigration-related function of the United States. The rule's primary direct purpose is to implement or interpret the immigration laws of the United States (as described in INA sec. 101(a)(17), 8 U.S.C. 1101(a)(17)) or any other function performed by the U.S. Federal Government with respect to aliens. *See* OMB Memorandum M–25–20, ''Guidance Implementing Section 3 of Executive Order 14192, titled 'Unleashing Prosperity Through Deregulation' '' (Mar. 26, 2025).

1. Baseline

Generally, rulemaking begins with the articulation of a problem that needs to be solved and analysis of the mechanisms by which the amended regulations would solve the relevant issues and what the resulting impacts would be relative to the appropriate baseline. A baseline is the best assessment of the way the world would look absent the regulatory action, *i.e.,* a baseline measures the current state of the world. DHS assesses the benefits and costs of a regulatory action relative to the baseline. In this rule, DHS is updating the CFR to codify the details and changes required in H.R.1. Therefore, the proper baseline for this IFR is a statutory baseline, such as H.R.1 in this case, from which we can assess the economic impact of the rule relative to current, existing law.

As described in the preamble, this IFR implements the following regulatory changes:

1. Form I–94 Fee required by 8 U.S.C. 1807: Establishes a fee requirement that, for USCIS, is applicable to the filing of Form I–102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document. New 8 CFR 103.7(d)(4).[99]

2. Annual Asylum Fee required by 8 U.S.C. 1808: Codifies the requirement that an alien pay the AAF and establishes that, procedurally, failure to pay within 30 days of notice results in rejection of the pending asylum application and the denial of any associated application for employment authorization. New 8 CFR 106.2(c)(15)(ii) and 208.3(c)(6).

3. Retention of Asylum Application Fee required by 8 U.S.C. 1802: Codifies the fee requirement and provides that the asylum application filing fee is retained by USCIS if a Form I–589 is rejected, consistent with 8 CFR 103.2. New 8 CFR 106.2(c)(14).

4. TPS Employment Authorization Validity required by 8 U.S.C. 1803(c) and 8 U.S.C. 1811(a): Limits work authorization and any associated employment authorization document under TPS to one year, or the remaining period of designation if shorter, with conforming changes to ensure consistency across DHS regulations. New 8 CFR 274a.12(a)(12) and 274.12(c)(19).

All 4 items are explicitly required by statute. However, DHS is exercising limited discretion in the implementation of items 1–3 to set forth procedural changes required for such implementation. Therefore, this analysis discusses the impacts of how DHS implements the Form I–102 fees (for a replacement Form I–94 as required by H.R.1), the consequences of failure to pay the AAF, and the retention of the asylum application fee after Form I–589 rejection.

2. Summary

Table 2 summarizes the estimated impacts of the provisions of the IFR.

[99] USCIS notes that this fee is already collected by CBP when CBP issues a Form I–94. The provision described here is limited to USCIS' provision of Forms I–94 requested via Forms I–102.

TABLE 2—SUMMARY OF PROVISIONS AND ECONOMIC IMPACTS OF THE IFR

Provisions	IFR regulatory text	Estimated impact of regulatory change
New Immigration Fee Required by H.R.1 Section 100008.	8 CFR 103.7(d)(4)(ii)	Quantitative: *Transfers* • Affected aliens will transfer $98,880 annually to the Federal Government through additional filing fees for Form I–102. Qualitative: *Benefits* • The Federal Government may realize some benefits from optimizing the allocation of its resources.
Consequences of Nonpayment of the Annual Asylum Fee (AAF).	8 CFR 208.3(c)(3) and 8 CFR 208.7(a)(2).	Qualitative: *Costs* • Certain aliens who fail to pay the AAF will incur time burdens (either through expedited removal proceedings or the NTA process).[100] • Certain aliens who fail to pay the AAF may lose wages due to the loss of employment authorization. • Certain employers who would have employed an affected alien may lose productivity due to the loss of employment authorization. • Affected aliens without lawful status that are placed in expedited removal may incur economic losses due to time spent in custody due to mandatory detention. • The government may incur costs associated with expedited removal proceedings, including mandatory detention of affected aliens placed in expedited removal and transportation costs. *Benefits* • Improved resource allocation as DHS will be able to focus resources on processing asylum filings. • Increased immigration enforcement.
Retention of the H.R.1 sec. 100002 Asylum Application Fee After Form I–589 is Rejected.	8 CFR 106.2(c)(14)	Qualitative: *Transfers* • Retention of asylum application fees for filed and rejected Forms I–589 will transfer administration and immigration enforcement costs from taxpayers to aliens.
Implementation of H.R.1 Section 100012 Limits on Temporary Protected Status Employment Authorization Document Va.	8 CFR 244.5, 8 CFR 244.12, 8 CFR 274a.12(a)(12) and (c)(19).	Qualitative: *Costs* • Certain aliens may incur lost wages due to the (a)(12) and (c)(19) EAD validity period being shortened. • Certain employers who would have employed an affected alien may lose productivity due to the EAD validity period being shortened. *Benefits* • Harmonized regulations provide clarity and improved operability of the rule.
Familiarization	USCIS believes a subset of future petitioners will need to familiarize themselves with the rule.	Qualitative: *Costs:* • Per person opportunity cost of time for familiarization with the rule will range from $23.79 to $53.88 depending on the wages of the affected alien. The total opportunity cost of time to become familiarized with the rule is $144.96 for lawyers.

Source: USCIS analysis.

In additionto the impacts summarized above, and as required by OMB Circular A–4, DHS presents in Table 3 the accounting statement showing the anticipated costs, benefits, and transfers associated with this regulation.[101]

TABLE 3—OMB A–4 ACCOUNTING STATEMENT ($ MILLIONS, 2024)

[Time period: FY 2025 through FY 2033]

Category	Primary estimate	Minimum estimate	Maximum estimate	Source citation (RIA, RFA, SEA, preamble, etc.)
Benefits:				
Monetized Benefits	N/A	N/A	N/A	
Annualized quantified, but un-monetized benefits	N/A	N/A	N/A	

[100] The population of aliens that would experience additional costs due to failure to the pay the AAF are aliens that would have otherwise been approved but for failure to pay the AAF.

[101] OMB, Circular A–4, ''Regulatory Analysis,'' p. 44 (Sep. 17, 2003), *https://trumpwhitehouse.archives.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf.*

TABLE 3—OMB A–4 ACCOUNTING STATEMENT ($ MILLIONS, 2024)—Continued
[Time period: FY 2025 through FY 2033]

Category	Primary estimate	Minimum estimate	Maximum estimate	Source citation (RIA, RFA, SEA, preamble, etc.)
Unquantified benefits	The Federal Government may realize some benefits from optimizing the allocation of its resources, given that CBP already has an operational and effective substitute for Form I–102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document, filings. The government may also be able to better optimize resource allocation if the required fees reduce frivolous filings and the resources used on them are reallocated to genuine asylum filings. This IFR may also increase compliance with immigration laws and regulations by providing DHS more resources. This rule will make the affected regulations more consistent and clearer thereby improving the functioning of the immigration system.			RIA.
Costs:				
Annualized monetized costs	N/A	N/A	N/A	RIA.
Annualized quantified, but un-monetized costs for 10-year period starting in FY 2025 through FY 2034.	N/A	N/A	N/A	RIA.
Qualitative (unquantified) costs	Affected aliens may incur costs due to legal proceedings stemming from failure to pay the required fees or lost wages due to the loss of employment authorization and shortened EAD validity periods. Affected employers may also lose productivity due to the loss of employment authorization and shortened EAD validity periods. Affected aliens may incur costs due to time spent in mandatory detention as a result of expedited removal proceedings. The government may face increased costs associated with mandatory detention and transportation of aliens placed in expedited removal proceedings. Affected stakeholders may also need to spend time familiarizing themselves with the rule.			
Transfers:				
Annualized monetized transfers:				
From Aliens to the Federal Government	$0.1	$0.1	$0.1	RIA.
Miscellaneous Analyses/Category	Effects.			
Effects on State, local, and/or Tribal governments	None.			N/A.
Effects on small businesses	None.			N/A.
Effects on wages	None.			N/A.
Effects on growth	None.			N/A.

3. Background and Purpose of the IFR

H.R.1 was signed into law on July 4, 2025, and mandated specific fees for various immigration-related forms, benefits, statuses, petitions, applications, and requests administered by multiple government agencies. In furtherance of enacting the text of H.R.1, USCIS and DHS published multiple FRNs (90 FR 34511 (July 22, 2025), 90 FR 42025 (Aug. 28, 2025), 90 FR 43223 (Sept. 8, 2025), and 90 FR 48317 (Oct. 16, 2025)) announcing some of the new fees that are administered by USCIS, to whom those fees apply, when the new fees take effect, instructions on their payment, when and if the fees may be waived, and consequences of the failure to pay. The purpose of this IFR is to expand upon the prior FRNs and codify the statutory requirements of H.R.1, and this Regulatory Impact Analysis (RIA) analyzes the impacts of this regulatory action.

4. Population

This IFR codifies the implementation of fees for several alien populations at the direction of Congress, as stated in H.R.1. The relevant populations are described below.

Section 1807 of 8 U.S.C. requires a $24 fee for any alien who ''submits an application for a Form I–94.'' Because USCIS implements this fee through the filing of Form I–102, the plain language application of this portion of H.R.1 for USCIS indicates that the appropriate affected population is filers of USCIS Form I–102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document. Table 4 shows data on Form I–102 filings for FY 2021 through FY 2025, including the 5-year average.

TABLE 4—HISTORICAL FORMS I–102, APPLICATION FOR REPLACEMENT/INITIAL NONIMMIGRANT ARRIVAL-DEPARTURE DOCUMENT, FY 2021–FY 2025

Fiscal year	Receipts	Approvals	Denials	Completions
2021	4,282	2,436	629	3,065
2022	4,272	3,017	1,295	4,312
2023	3,737	3,505	1,813	5,318
2024	3,855	3,391	1,268	4,659
2025*	4,454	2,940	868	3,808

TABLE 4—HISTORICAL FORMS I–102, APPLICATION FOR REPLACEMENT/INITIAL NONIMMIGRANT ARRIVAL-DEPARTURE DOCUMENT, FY 2021–FY 2025—Continued

Fiscal year	Receipts	Approvals	Denials	Completions
5-year Average	4,120	3,058	1,175	4,232

Source: Data are compiled from annual USCIS "Quarterly All Forms" datasets. See the following data sets for fiscal years 2021–2025, respectively: *https://www.uscis.gov/sites/default/files/document/reports/Quarterly_All_Forms_FY2021Q4.csv, https://www.uscis.gov/sites/default/files/document/data/Quarterly_All_Forms_FY2022_Q4.csv, https://www.uscis.gov/sites/default/files/document/reports/quarterly_all_forms_fy2023_q4.csv, https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2024_q4.xlsx, https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2025_q2.xlsx*.

* Data for FY2025 are calculated. Receipts, Approvals, Denials, and completions are estimated by doubling the actual values through the end for Q2, FY 2025.

The estimated population for affected Form I–102 filers is 4,120 aliens per year.

H.R.1 requires new fees for aliens seeking asylum. First, H.R.1 requires the payment of a $100 fee by any alien who files an application for asylum at the time such application is filed. 8 U.S.C. 1802. Table 5 shows historical data for Form I–589 filings for fiscal years 2021 through 2025 including the 5-year average of the historical data.

TABLE 5—HISTORICAL POPULATION OF FORM I–589 FILINGS

Fiscal year	Receipts *	Approvals	Denials	Completions	Pending
2021	61,158	7,118	17,888	39,681	412,796
2022	195,279	10,099	17,059	41,160	571,628
2023	455,054	15,468	5,848	54,211	1,022,163
2024	419,825	16,932	4,600	126,660	1,344,743
2025 **	557,500	13,256	14,652	191,818	1,710,425
5-year Average	337,763	12,575	12,009	90,706	1,012,351

Source: Data are compiled from annual USCIS "Quarterly All Forms" datasets. See the following data sets for fiscal years 2021–2025, respectively: *https://www.uscis.gov/sites/default/files/document/reports/Quarterly_All_Forms_FY2021Q4.csv, https://www.uscis.gov/sites/default/files/document/data/Quarterly_All_Forms_FY2022_Q4.csv, https://www.uscis.gov/sites/default/files/document/reports/quarterly_all_forms_fy2023_q4.csv, https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2024_q4.xlsx, and https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2025_q2.xlsx*.

* Receipts do not equal approval, denials, and completions in any particular fiscal year as cases may have been adjudicated in a later fiscal year than the one in which they were received.

** Data for FY 2025 are calculated. Receipts, Approvals, Denials, and Completions are estimated by doubling the actual values through the end for Q2, FY2025. The Pending population is calculated by adding the estimated FY2025 receipts to the actual FY2024 pending population and then subtracting the estimated FY 2025 completions.

USCIS estimates that the applicable population for the asylum application fee will be 337,763 aliens annually.

Second, Section 100009 of H.R.1, 8 U.S.C. 1808, requires USCIS to collect the AAF for FY 2025 and beyond.[102] 90 FR 34511 (July 22, 2025). This entails that all asylum applicants with pending applications must pay a minimum $100 annual fee for each calendar year the application "remains pending," in addition to any other applicable fee. 8 U.S.C. 1808. Therefore, the relevant population subject to this fee is all current and future aliens that have filed or will file Form I–589, respectively, with USCIS.

Table 6 shows the estimated population over the analysis period, with a total 10-year population of 30,692,385 aliens required to pay the congressionally mandated annual asylum fee.[103]

TABLE 6—ESTIMATED NUMBER OF FORM I–589 FILINGS, FY 2026–FY 2035

Fiscal year	Receipts	Approvals	Denials	Completions	Pending
2026	337,763	12,575	12,009	90,706	1,957,482
2027	337,763	12,575	12,009	90,706	2,204,539
2028	337,763	12,575	12,009	90,706	2,451,596
2029	337,763	12,575	12,009	90,706	2,698,653
2030	337,763	12,575	12,009	90,706	2,945,710
2031	337,763	12,575	12,009	90,706	3,192,767
2032	337,763	12,575	12,009	90,706	3,439,824
2033	337,763	12,575	12,009	90,706	3,686,881
2034	337,763	12,575	12,009	90,706	3,933,938
2035	337,763	12,575	12,009	90,706	4,180,995
Total	.....	.....	.....	.....	30,692,385

Source: USCIS Analysis.

[102] USCIS Immigration Fees Required by H.R.1, Public Law 119–21 (2025).

[103] The total 10-year population represents a possible scenario based on the continuation of recent trends. It represents a reasonable baseline estimate given historical information and does *not* represent a prospective estimate that accounts for all possible behavioral responses to this IFR and other possible regulatory changes. As such, USCIS notes that the pending asylum population may be less if this IFR, or other regulatory changes, causes asylum filings to substantially drop.

Note: The Pending population is calculated by adding the estimated previous fiscal year's receipts to the estimated fiscal year pending population and then subtracting the estimated fiscal year's completions. The pending population for FY2026 is based on the estimated pending population from FY2025, as shown in Table 5.

Finally, H.R.1 also amends the validity period of employment authorization for aliens who have applied for TPS or who have been granted TPS such that the validity period of employment authorization and the resultant Employment Authorization Document (EAD) is limited to a year or the duration of the temporary status, whichever is shorter. This provision would affect two separate employment authorization categories: [104] (a)(12) for individuals who have been granted TPS and (c)(19) for applicants who USCIS has determined are prima facie eligible for TPS. Table 7 and Table 8 show historical data for both the (a)(12) and the (c)(19) classifications for fiscal year 2021 through fiscal year 2025, including the 5-year averages.

TABLE 7—HISTORICAL FORM I–765 APPLICATIONS, (A)(12) CLASSIFICATION

Fiscal year	Receipts	Approvals	Denials
2021	41,159	14,145	393
2022	51,459	41,068	840
2023	267,863	80,613	3,538
2024	240,947	362,645	8,238
2025*	418,192	20,262	2,930
5-year Average	203,924	103,747	3,188

Source: Data are compiled from annual USCIS "Quarterly All Forms" datasets. See the following data sets for fiscal years 2021–2025, respectively: *https://www.uscis.gov/sites/default/files/document/reports/Quarterly_All_Forms_FY2021Q4.csv, https://www.uscis.gov/sites/default/files/document/data/Quarterly_All_Forms_FY2022_Q4.csv, https://www.uscis.gov/sites/default/files/document/reports/quarterly_all_forms_fy2023_q4.csv, https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2024_q4.xlsx, https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2025_q2.xlsx.*

*Data for FY2025 are calculated. Receipts, Approvals, and Denials, are estimated by doubling the actual values through the end for Q2, FY2025.

TABLE 8—HISTORICAL FORM I–765 APPLICATIONS WITH (C)(19) CLASSIFICATION, FY 2021–FY 2025

Fiscal year	Receipts	Approvals	Denials
2021	107,927	4,859	106
2022	49,022	74,601	1,089
2023	61,624	82,520	6,733
2024	155,748	136,200	4,992
2025*	76,450	11,472	700
5-year Average	90,154	61,930	2,724

Source: Data are compiled from annual USCIS "Quarterly All Forms" datasets. See the following data sets for fiscal years 2021–2025, respectively: *https://www.uscis.gov/sites/default/files/document/reports/Quarterly_All_Forms_FY2021Q4.csv, https://www.uscis.gov/sites/default/files/document/data/Quarterly_All_Forms_FY2022_Q4.csv, https://www.uscis.gov/sites/default/files/document/reports/quarterly_all_forms_fy2023_q4.csv, https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2024_q4.xlsx, https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2025_q2.xlsx.*

*Data for FY2025 are calculated. Receipts, Approvals, and Denials, are estimated by doubling the actual values through the end for Q2, FY2025.

Given that employment authorization must be approved for there to be a validity period, the appropriate population for both classifications is approved Forms I–765. Assuming that historical trends continue to be stable in the future, the affected estimated populations are 103,747 for (A)(12) EADs and 61,930 for (C)(19) EADs (see Table 7 and Table 8).

5. Cost-Benefit Analysis

The background and population sections above describe the populations affected by this rule. In most instances, the impacts to these populations come directly from changes Congress articulated in H.R.1 and therefore are not considered impacts from this rulemaking. In other instances, however, USCIS seeks to codify aspects of H.R.1 where congressional direction was ambiguous or missing through the promulgation of this IFR. The costs, benefits, cost savings, and transfers (whether quantitative or qualitative) are described below.

i. Costs

Aspects of this IFR may impose qualitative costs. Aliens without lawful status who fail to pay the AAF in a timely manner (within 30 days) will have their Form I–589 rejected and will either be placed in expedited removal proceedings or will be issued an NTA. This necessarily entails time engaging in those processes, though USCIS cannot properly assess the actual costs given the fact-specific nature of each individual proceeding.

Furthermore, aliens who fail to pay the AAF in a timely manner (within 30 days) could experience disruptions to employment authorization and therefore, both the alien and a hypothetical employer would experience economic losses (in the form of lost wages for the alien and lost productivity for the employer). Similarly, the EAD validity period for some TPS recipients may have been shortened by H.R.1. This would entail economic losses (in the form of lost wages for the affected alien and lost productivity for an affected employer). These impacts are fact specific (including the duration and nature of

[104] USCIS provides for employment authorization in multiple categories. Please see *https://www.uscis.gov/sites/default/files/document/forms/i-765instr.pdf* for information regarding the specifics of the different categories.

proceedings, lost wages for aliens, lost productivity for employers, etc.).

The relative increase in the usage of expedited removal (for certain aliens) may also increase costs to affected populations because of the additional time in mandatory detention and transportation costs if removed. Affected aliens will realize costs due to lost wages due to additional time in detention (subject to the wage ranges discussed above). The government will also face increased costs in this instance because of increased infrastructure, administration, and oversight costs required by the increased prevalence of mandatory detention. Increased use of expedited removal may also increase transportation costs. DHS cannot accurately estimate these costs because it lacks sufficient data regarding the possibly affected population and rate of non-compliance with the AAF.

Additionally, DHS expects that aliens (or their representatives in some circumstances) will need to read and understand this rule in order to successfully understand and be responsive to the regulatory changes. As a result, we expect this rule will impose familiarization costs associated with reading this rule.

To estimate the costs of rule familiarization, we estimate the time it would take to read and understand the IFR by assuming a reading speed of 250 words per minute.[105] This rule has approximately 17,000 words. Using a reading speed of 250 words per minute, DHS estimates it will take approximately 1.13 hours to read and understand this rule.

To properly calculate these costs, USCIS must account for the opportunity cost of time for the affected population, which requires information regarding the relevant wages. The Federal minimum wage is currently $7.25 per hour,[106] but many states have implemented higher minimum wage rates.[107] However, the Federal Government does not track a nationwide population-weighted minimum wage estimate. Individuals in the population of interest for an analysis could be located anywhere within the United States and may be subject to a range of minimum wage rates depending on the state or city in which they live.

For this IFR, DHS uses the most recent wage data from the U.S. Department of Labor (DOL), Bureau of Labor Statistics (BLS), National Occupational Employment and Wage Estimates. More specifically, we use the 10th percentile hourly wage estimate for all occupations as a reasonable proxy for the effective minimum wage when estimating the opportunity cost of time for individuals in populations of interest who are likely to earn an entry-level wage.[108] We also use the 10th percentile hourly wage estimate for individuals who are unemployed, or for individuals who cannot, or choose not to, participate in the labor market, as these individuals incur opportunity costs, assign valuation in deciding how to allocate their time, or both.

Due to the wide variety of non-paid activities an individual could pursue, such as childcare, housework, or other activities without paid compensation, it is difficult to estimate the value of that time, and even when an individual is not working for wages, their time still has value. In addition, using a percentile of the hourly wage estimate for all occupations allows DHS the flexibility to adjust its estimates, when necessary, depending on the population(s) of interest for regulatory impact analyses. Moreover, BLS estimates account for changes in wages across the United States labor market, which includes any future changes to state minimum wage rates.

Furthermore, DHS does not rule out the possibility that some portion of the population might earn higher wages. Given that DHS lacks detailed information on the affected population, it is reasonable to use a range of wages to calculate the cost of the IFR's provisions to the affected populations. The aforementioned 10th percentile wage serves as the lower for the affected population, while DHS utilizes the mean wage from BLS as the upper bound. DHS will continue to evaluate the most appropriate wage assumptions for the populations of interest in its regulatory impact analyses.

The 10th percentile hourly wage estimate for all occupations is currently $14.42, not accounting for worker benefits while the mean hourly wage estimate for all occupations is $32.66.[109] Furthermore, DHS recognizes that affected aliens may have chosen to hire a lawyer or accredited representative during their immigration proceedings. The BLS estimates that the average hourly wage for a lawyer is $87.86.

DHS also must account for worker benefits when estimating the opportunity cost of time by calculating a benefits-to-wage multiplier. The benefits-to-wage multiplier is calculated using the most recent BLS report detailing average total employee compensation for all civilian U.S. workers.[110] DHS estimates the benefits-to-wage multiplier to be 1.46, which incorporates employee wages and salaries and the full cost of benefits, such as paid leave, insurance, and retirement.[111] Therefore, using the benefits-to-wage multiplier, DHS calculates the lower bound of total compensation for individuals as $21.05 per hour for this IFR, where the 10th percentile hourly wage estimate is $14.42 per hour and the average benefits are $6.63 per hour.[112] Similarly, the upper bound for total compensation is $47.68, where the mean wage is $32.66 per hour and the average benefits are $15.02 per hour.[113] Similarly, DHS estimates the average total hourly compensation for a lawyer is $128.28.[114]

As discussed above, the hourly total compensation for aliens earning the 10th percentile wage is $21.05, the total hourly compensation of aliens earning the average wage is $47.68, and total hourly compensation for lawyers is $128.28. Therefore, the estimated opportunity cost of time for each type of applicant to read and understand the rule for non-working petitioners is approximately $23.79 for aliens earning the 10th percentile wage, $53.88 for aliens earning the average wage, and $144.96 for lawyers.[115]

[105] *See https://www.healthguidance.org/entry/13263/1/what-is-the-average-reading-speed-and-the-best-rate-of-reading.html.*

[106] *See* DOL, ''Minimum Wage,'' *https://www.dol.gov/general/topic/wages/minimumwage* (last visited Nov. 6, 2025).

[107] *See* DOL, ''State Minimum Wage Laws,'' *https://www.dol.gov/agencies/whd/minimum-wage/state* (last updated July 31, 2025).

[108] *See* BLS, ''Occupational Employment and Wage Statistics,'' May 2024, United States, All Occupations (SOC #00–0000), *https://www.bls.gov/oes/2024/may/oes_nat.htm#00-0000* (last updated July 23, 2025).

[109] *Id.*

[110] *See* BLS, Economic News Release, ''Employer Costs for Employee Compensation Summary—December 2024,'' Table 1, Employer costs for employer compensation by ownership, p. 4 (Mar. 14, 2025), *https://www.bls.gov/news.release/archives/ecec_03142025.pdf.*

[111] The benefits-to-wage multiplier is calculated as follows: (Total Employee Compensation per hour) ÷ (Wages and Salaries per hour) = $47.92 ÷ $32.92 = 1.46 (rounded). See BLS, Economic News Release, ''Employer Costs for Employee Compensation—December 2024,'' Table 1, Employer costs for employer compensation by ownership, p. 4 (June 13, 2025), *https://www.bls.gov/news.release/archives/ecec_06132025.pdf.*

[112] The calculation of the benefits-weighted 10th percentile hourly wage estimate: $14.42 per hour × 1.46 benefits-to-wage multiplier = $21.05 (rounded) per hour.

[113] The calculation of the benefits-weighted 10th percentile hourly wage estimate: $32.66 per hour × 1.46 benefits-to-wage multiplier = $47.68 (rounded) per hour.

[114] The calculation of the benefits-weighted Lawyer wage estimate: $87.86 per hour × 1.46 benefits-to-wage multiplier = $128.28 (rounded) per hour.

[115] Calculation, 10th percentile wage = $21.05 hourly total compensation * 1.13 hours = $23.79 (rounded).

ii. Benefits

DHS believes that there are several benefits to this rule. First, this IFR benefits the Federal Government by improving the ability to allocate scarce resources. Because the consequence for failure to pay the AAF in this rule is rejection of the pending request, for instance, it could reduce the number of asylum applications USCIS must process to approval or denial. By reducing the number of pending asylum applications, rejection for failure to pay the AAF will also reduce filings of USCIS Form I–765, Application for Employment Authorization, from an applicant for asylum or their derivatives. USCIS processes a Form I–765 from asylum applicants for free.[116] Thus, because some level of nonpayment of the AAF is quite likely, USCIS will benefit by being able to shift resources from processing Forms I–589 and I–765 for asylum applicants who will be rejected after this rule takes effect to requests from those who pay their AAF as required. Such a shift will facilitate better allocation of scarce resources for USCIS.

Another important benefit of the IFR is the general strengthening of the immigration system. Rejection for failure to pay the AAF and the retention of the Form I–589 filing fee if the form is rejected advances H.R.1's deterrence and enforcement objectives by ensuring that noncompliance results in swift and predictable consequences consistent with DHS' mission to enforce the immigration laws and ensure the security of the Nation's borders.

iv. Transfers

This IFR will likely impact transfer payments between various populations. Some of these transfers can be quantified, while others can be described only qualitatively.

a. Quantitative Transfers

This IFR codifies that Form I–102 filings must include the statutorily mandated $24 fee for any alien who ''submits an application for a Form I–94''. As such, an estimated 4,120 Form I–102 filers per year (see Table 4) will be required to submit this fee in addition to any fees required for Form I–102 itself. Therefore, annual transfers from affected aliens to the Federal Government under the rule are estimated to be $98,880 per year.[117] Total transfers from affected aliens to the Federal Government are estimated to be $988,800 over the entire analysis period.[118]

b. Qualitative Transfers

This IFR codifies that the asylum application fee required by H.R.1 will be retained by the Federal Government if a Form I–589 is rejected. The decision to retain such fees does represent a transfer from asylum applicants to the Federal Government. The rule itself does not *create* or *change* such transfers, but only clarifies their treatment in the case of rejected applications. While filing fees are typically thought of as transfers since USCIS sets fees so that they properly cover the cost of adjudication and administrative burdens associated with the form, the retention of the asylum application fee represents a transfer because the transfer occurs irrespective of the filing's acceptance. In this instance, the IFR's provision furthers H.R.1's goal of shifting immigration enforcement and oversight costs from taxpayers to aliens. USCIS cannot reliably quantify the amount of these transfers since the implementation of the asylum application fee is new and there is a lack of information to estimate the rate of noncompliance or the rate of rejected filings that would include the asylum application fee.[119]

6. Alternatives Considered

As discussed above, this rule largely serves to codify the changes that Congress dictated by the passage of H.R.1. Therefore, this rule generally does *not* represent an independent action by USCIS to assert its discretion to amend the CFR.

As discussed above, DHS evaluated several alternatives to the procedural provisions described in this IFR. Each option was evaluated with the goal of ensuring that the rule reflects the best interpretation of H.R.1 and the INA and satisfies the APA's requirement for reasoned decisionmaking.[120] For the reasons explained in this analysis, DHS concluded that the selected approaches—applicability of the Form I–94 fee to the Form I–102, rejection of a nonpaying I–589 resulting in an NTA or expedited removal where applicable and the loss of employment authorization, retention of the asylum application fees in the event of rejection, and harmonization of EAD validity periods for certain TPS applicants and recipients—best effectuate H.R.1's enforcement and deterrence purposes and are administratively superior to the following alternatives considered.

C. Regulatory Flexibility Act (Certification)

The Regulatory Flexibility Act of 1980 (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires Federal agencies to consider the potential impact of regulations on small businesses, small governmental jurisdictions, and small organizations during the development of their rules. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.[121]

The IFR does not directly regulate small entities and is not expected to have a direct effect on small entities. Rather, this IFR regulates individuals, and individuals are not defined as ''small entities'' by the RFA. While some employers could experience costs or transfer effects, these impacts would be indirect. As discussed previously, the no-action baseline for this IFR *includes* the fees mandated by H.R.1 so any behavioral response from those fees would not be attributable to this IFR. For instance, any reduction in the number of aliens requesting Forms I–765 under either (a)(12) or (c)(19) classifications would be attributable to H.R.1 and not to this IFR. In any case, this rule would not impact the ability to employ eligible aliens and also would not impact the actual eligibility criteria

Calculation, mean wage = $47.68 hourly total compensation * 1.13 hours = $53.88 (rounded).

Calculation, lawyer = $128.28 hourly total compensation * 1.13 hours = $144.96 (rounded).

[116] 8 CFR 106.2(a)(44(ii)(G).

[117] Calculation: 4,120 affected aliens × $24 filing fee for Form I–94 = $98,880 in transfers. Also note that these calculations do not include inflation adjustments as described in H.R.1.

[118] Calculation: $98,880 in annual transfers due to Form I–94 filing fees × 10 years = $988,800 in new transfers due to the rule.

[119] As discussed above, USCIS estimates that approximately 337,763 Forms I–589 will be filed annually over the 10-year analysis period. Internal data show that, for the first half of FY2026, USCIS rejected approximately 42% of Forms I–589 that were filed. These data indicate that, should these rates remain constant over the analysis period, USCIS would reject approximately 141,860 Forms I–589 annually. USCIS notes, however, that the historical rate of rejection applied to historical filing population is an unreliable proxy for the rate of rejection after complete implementation of the fees (and consequences for lack thereof) described by H.R.1 because the establishment of fees for Forms I–589 represents a significant change from past practice and disincentivizes frivolous filing. USCIS presents these datapoints as context but does not believe that they should be relied upon in and of themselves.

[120] *Loper Bright Enters.* v. *Raimondo,* 603 U.S. 369 (2024) (requiring the best interpretation of the statute); *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29 (1983) (reasoned decision-making).

[121] A small business is defined as any independently owned and operated business not dominant in its field of operation that qualifies as a small business per the Small Business Act, 15 U.S.C. 632.

for employment authorization. As such, the impact of this rule on small entities will be negligible.

Based on the evidence presented in this analysis and throughout this preamble, DHS certifies that this IFR would not have a significant economic impact on a substantial number of small entities. DHS nonetheless welcomes comments regarding potential impacts on small entities, which DHS may consider as appropriate in a final rule.

D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and Tribal governments. Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed rule, or final rule for which the agency published a proposed rule, that includes any Federal mandate that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector.[122]

The inflation adjusted value of $100 million in 1995 is approximately $206 million in 2024 based on the Consumer Price Index for All Urban Consumers (CPI–U).[123] This IFR does not contain a Federal mandate as the term is defined under UMRA.[124] The requirements of title II of UMRA, therefore, do not apply, and DHS has not prepared a statement under UMRA.

E. 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 subtitle E of SBREFA, Public Law 104–121, title II, 110 Stat. 847, 868, *et seq.* While this IFR does not meet the criteria set forth in 5 U.S.C. 804(2) because it is not likely to result in an annual effect on the economy of $100 million or more, DHS has complied with the CRA's reporting requirements and has sent this rule to Congress and the Comptroller General as required by 5 U.S.C. 801(a)(1).

F. Executive Order 13132 (Federalism)

This IFR will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of E.O. 13132, Federalism, 64 FR 43255 (Aug. 4, 1999), it is determined that this IFR does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. Executive Order 12988 (Civil Justice Reform)

This IFR is drafted and reviewed in accordance with E.O. 12988, Civil Justice Reform. This IFR was written to provide a clear legal standard for affected conduct and was reviewed carefully to eliminate drafting errors and ambiguities so as to minimize litigation and undue burden on the Federal Court system. DHS has determined that this rule meets the applicable standards provided in section 3 of E.O. 12988.

H. Family Assessment

DHS has reviewed this rule in line with the requirements of section 654 of the Treasury General Appropriations Act, 1999.[125] DHS has systematically reviewed the criteria specified in section 654(c)(1), by evaluating whether this regulatory action: (1) impacts the stability or safety of the family, particularly in terms of marital commitment; (2) impacts the authority of parents in the education, nurture, and supervision of their children; (3) helps the family perform its functions; (4) affects disposable income or poverty of families and children; (5) only financially impacts families, if at all, to the extent such impacts are justified; (6) may be carried out by State or local government or by the family; or (7) establishes a policy concerning the relationship between the behavior and personal responsibility of youth and the norms of society. If the agency determines a regulation may negatively affect family well-being, then the agency must provide an adequate rationale for its implementation.

DHS has no data that indicate that this IFR will have any impacts on disposable income or the poverty of certain families and children, including U.S. citizen children. DHS acknowledges that this rule would increase the fees that some families must submit and thus may affect the disposable income for certain families. However, the IFR would provide USCIS and the Federal Government with funds that would be used to administer the affected programs and meet the intent of H.R.1. DHS is required to collect the subject fees and is authorized to make adjustments to them to effectuate the policy and funding goals of the law. While the new fees could have a financial impact on a family that chooses to submit an immigration benefit request, DHS has few alternatives other than this rulemaking. DHS also determined that this rule would not have any impact on the autonomy or integrity of the family as an institution.

I. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

This IFR does not have Tribal implications under Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, because it will not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

J. National Environmental Policy Act

DHS and its components analyze final actions to determine whether the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* applies and, if so, what degree of analysis is required. DHS Directive 023–01 Rev. 01 ''Implementing the National Environmental Policy Act'' (Dir. 023–01 Rev. 01) and Instruction Manual 023–01–001–01 Rev. 01 (Instruction Manual) [126] establish the policies and procedures that DHS and its components use to comply with NEPA.

NEPA allows Federal agencies to establish, in their NEPA implementing procedures, categories of actions (''categorical exclusions'') that experience has shown do not, individually or cumulatively, have a

[122] *See* 2 U.S.C. 1532(a).

[123] *See* BLS, ''Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. city average, all items, by month,'' *https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202412.pdf* (last visited Nov. 6, 2025). Calculation of inflation: (1) Calculate the average monthly CPI–U for the reference year (1995) and the current year (2024); (2) Subtract reference year CPI–U from current year CPI–U; (3) Divide the difference of the reference year CPI–U and current year CPI–U by the reference year CPI–U; and (4) Multiply by 100 = [(Average monthly CPI–U for 2024–Average monthly CPI–U for 1995) ÷ (Average monthly CPI–U for 1995)] × 100 = [(313.689 − 152.383) ÷ 152.383] = (161.306/152.383) = 1.059 × 100 = 105.86% percent = 106 percent (rounded). Calculation of inflation-adjusted value: $100 million in 1995 dollars × 2.06 = $206 million in 2024 dollars.

[124] The term ''Federal mandate'' means a Federal intergovernmental mandate or a Federal private sector mandate. *See* 2 U.S.C. 1502(1), 658(6).

[125] *See* Public Law 105–277, 112 Stat. 2681 (1998).

[126] The Instruction Manual contains DHS's procedures for implementing NEPA and was issued November 6, 2014, *https://www.dhs.gov/ocrso/eed/epb/nepa* (last updated July 29, 2025).

significant effect on the human environment and, therefore, do not require an environmental assessment or environmental impact statement.[127] The Instruction Manual, Appendix A lists the DHS Categorical Exclusions.[128]

Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.[129]

This IFR implements and clarifies certain immigration fees that DHS is required to collect under H.R.1, provides consequences from non-payment of certain fees, and allows USCIS to retain the Form I–589 filling fee, if the application is rejected. The rule is intended to provide the regulations authorized and required by H.R.1 and to clarify and fully carry out its requirements for USCIS fees.

This IFR is strictly administrative and procedural. DHS has reviewed this IFR and finds that no significant impact on the environment, or any change in environmental effect, will result from the amendments being promulgated in this IFR.

Accordingly, DHS finds that the promulgation of this IFR's amendments to current regulations clearly fits within categorical exclusion A3 established in DHS's NEPA implementing procedures as an administrative change with no change in environmental effect, that is not part of a larger Federal action, and that does not present extraordinary circumstances that create the potential for a significant environmental effect. Therefore, this IFR is categorically excluded from further NEPA review.

K. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3512, DHS must submit to the Office of Management and Budget (OMB) for review and approval any reporting requirements inherent in a rule, unless they are exempt. This rule does not impose any new reporting or recordkeeping requirements under the PRA.

This rule addresses the submission of USCIS Form I–102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document, (OMB control number 1615–0079) but it makes no substantive changes in the estimated completion burden for or the estimated annual number of respondents who would submit the collection.

H.R.1 provides that each initial employment authorization for an alien with parole or TPS shall be valid for a period of 1 year or for the duration of the alien's parole or TPS. 8 U.S.C. 1803(b)(1), (c)(1), 1809(a). USCIS policy has previously provided for longer authorization periods or automatic renewal of an EAD.[130] Thus, the shorter periods of employment authorization may result in more Forms I–765 being submitted. USCIS will analyze and revise, as necessary, the approved information collection for Form I–765 (OMB Control No. 1650–0040) as required by the PRA to account for the change in respondents. This revision project is independent of and being conducted outside of this rulemaking.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Freedom of information, Immigration, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 106

Citizenship and naturalization, Fees, Immigration.

8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 244

Administrative practice and procedure, Immigration.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Penalties, Reporting and recordkeeping requirements, Students.

Accordingly, for the reasons set forth in the preamble, the Secretary of Homeland Security amends 8 CFR parts 103, 106, 208, 244, and 274a as follows:

PART 103—IMMIGRATION BENEFIT REQUESTS; USCIS FILING REQUIREMENTS; BIOMETRIC REQUIREMENTS; AVAILABILITY OF RECORDS

■ 1. The authority citation for part 103 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356, 1365b, 1372, 1801–1815; 8 U.S.C. 1185 note; 31 U.S.C. 9701; 48 U.S.C. 1806; Pub. L. 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; 31 CFR part 223.

■ 2. Amend § 103.7 by revising the introductory text of paragraph (d) and paragraph (d)(4) to read as follows:

§ 103.7 Fees.

* * * * *

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

* * * * *

(4) *Form I–94 fee.* (i) For issuance of an Arrival/Departure Record at a land border port-of-entry: $6.00.

(ii) Each applicant requesting an Arrival/Departure Record from USCIS, must submit the fee required by 8 U.S.C. 1807.

* * * * *

PART 106—USCIS FEE SCHEDULE

■ 3. The authority citation for part 106 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1254a, 1254b, 1304, 1356, 1801—1815; 48 U.S.C. 1806; Pub. L. 107–609, 115 Stat. 1012; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 101 note).

■ 4. Amend § 106.2 by revising the section heading and the introductory text of paragraph (c) and adding paragraphs (c)(14) and (15) to read as follows:

§ 106.2 USCIS fees.

* * * * *

(c) *G Forms, statutory fees, and non-form fees.* A schedule of all USCIS fees including fees required by law can be viewed on the USCIS website.

* * * * *

(14) *Application for Asylum and for Withholding of Removal, I–589.* To apply for asylum under 8 U.S.C. 1158, the applicant must submit the fee required by 8 U.S.C. 1802. The fee will be retained and not returned or refunded when a filed asylum application is rejected consistent with 8 CFR 103.2(a).

(15) *Annual asylum fee.* For each calendar year that a Form I–589 remains pending, the applicant must pay an

[127] *See* 42 U.S.C. 4336(a)(2), 4336e(1).

[128] *See* Instruction Manual, Appendix A, Table 1.

[129] Instruction Manual at V.B(2)(a)–(c).

[130] *See* 8 CFR 274A.12(a). USCIS may, in its discretion, determine the validity period assigned to any document issued evidencing an alien's authorization to work in the United States.

annual asylum fee as required by 8 U.S.C. 1808 within 30-days of the date the notice is sent.

(i) DHS will send each applicant a notice informing them that their annual asylum fee is due, when it is due, and how it must be paid; and

(ii) If the annual asylum fee is not paid, the asylum application will be rejected.

* * * * *

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

■ 5. The authority citation for part 208 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282, 1802, 1808; 48 U.S.C. 1806; 8 CFR part 2.

■ 6. Amend § 208.3 by:
■ a. Revising paragraph (c)(3);
■ b. Removing the word ''and'' at the end of paragraph (c)(4);
■ c. Removing the period at the end of paragraph (c)(5) and adding ''; and'' in its place; and
■ d. Adding paragraph (c)(6).

The revision and addition read as follows:

§ 208.3 Form of application.

* * * * *

(c) * * *

(3) An asylum application must be signed and include a response to each of the questions contained in the application, the materials required by paragraph (a)(1) of this section, and any required fee; otherwise, it will be deemed an incomplete filing. An incomplete application will be rejected and will:

(i) Not commence the period after which the applicant may file an application for employment authorization in accordance with § 208.7;

(ii) Be returned by mail (if the request is filed on paper) to the applicant within 30 days of the receipt of the application by the Service. If the Service has not mailed the incomplete application back to the applicant within 30 days, it will be deemed complete; and

(iii) Be resubmitted by the applicant as a complete application if he or she wishes to have the application considered;

* * * * *

(6) If an applicant does not pay the annual asylum fee required by § 106.2(c)(15) of this chapter within 30 days of the fee notice date, the application will be rejected and this paragraph (c) shall not apply.

■ 7. Amend § 208.7 by revising paragraphs (a)(1) and (b)(1) and (2) and adding paragraph (b)(3) to read as follows:

§ 208.7 Employment authorization.

(a) * * *

(1) Subject to the restrictions contained in sections 208(d) and 236(a) of the Act, an applicant for asylum who is not an aggravated felon shall be eligible pursuant to 8 CFR 274a.12(c)(8) and 274a.13(a) to request employment authorization subject to the following conditions:

(i) Except in the case of an alien whose asylum application has been recommended for approval, or in the case of an alien who filed an asylum application prior to January 4, 1995, the application shall be submitted no earlier than 150 days after the date on which a complete asylum application submitted in accordance with §§ 208.3 and 208.4 has been received. The 150-day period will not start if the asylum application is rejected as incomplete in accordance with § 208.3(c)(3).

(ii) In the case of an applicant whose asylum application has been recommended for approval, the applicant may apply for employment authorization when he or she receives notice of the recommended approval.

(iii) USCIS will reject an application for employment authorization submitted by an applicant whose asylum application has been denied or rejected.

(iv) If an asylum application is denied or rejected prior to a decision on a pending application for employment authorization, the application for employment authorization shall be denied.

* * * * *

(b) * * *

(1) If the asylum application is denied or rejected by USCIS, the employment authorization shall terminate immediately. This termination does not apply where USCIS refers the asylum application to an immigration judge pursuant to § 208.14(c)(1) or (c)(4).

(2) If the asylum application is denied or rejected by an immigration judge, the employment authorization shall terminate immediately on the date that is 30 days after the date on which an immigration judge denies or rejects an asylum application, unless the alien submits an appeal to the Board of Immigration Appeals as provided by 8 CFR 1003.38.

(3) If Board of Immigration Appeals denies an appeal of a denial or rejection of an asylum application, employment authorization shall terminate immediately.

* * * * *

PART 244—TEMPORARY PROTECTED STATUS FOR NATIONALS OF DESIGNATED STATES

■ 8. The authority citation for part 244 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1254, 1254a note, 1803, 1811; 8 CFR 2.9.

■ 9. Amend § 244.5 by adding paragraph (d) to read as follows:

§ 244.5 Temporary treatment benefits for eligible aliens.

* * * * *

(d) *Employment authorization validity for prima facie–eligible aliens.* Initial employment authorization provided under this section to an applicant afforded temporary treatment benefits based on a prima facie showing of eligibility will be valid for a period of 1 year or for the remaining duration of the country's designation of Temporary Protected Status, whichever is shorter. If the country's designation of Temporary Protected Status has not terminated by the expiration of the authorized period of employment authorization, the alien must obtain a renewal to continue employment authorization. The renewal will be valid for 1 year or for the remaining duration of the country's designation of Temporary Protected Status, whichever is shorter.

■ 10. Amend § 244.12 by revising paragraphs (a) and (d) to read as follows:

§ 244.12 Employment authorization.

(a) Upon approval of an application for Temporary Protected Status, USCIS shall grant employment authorization and, subject to 8 CFR 274a.12(a), issue an employment authorization document valid for a period of 1 year or for the remaining duration of the country's designation of Temporary Protected Status, whichever is shorter. If the country's designation of Temporary Protected Status has not terminated by the expiration of the employment authorization period, the alien must obtain a renewal to continue employment authorization, which will be valid for 1 year or for the remaining duration of the country's designation of Temporary Protected Status, whichever is shorter.

* * * * *

(d) If the application is renewed or appealed in deportation or exclusion proceedings, or pending administrative appeal pursuant to § 244.18(b), employment authorization will be extended during the pendency of the renewal and/or appeal, subject to the limitation in section paragraph (a) of this section.

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

■ 11. The authority citation for part 274a is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1105a, 1324a; 48 U.S.C. 1806; 28 U.S.C. 2461; 8 CFR part 2.

■ 12. Amend § 274a.12 by revising paragraphs (a)(12) and (c)(19) to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

(a) * * *

(12) An alien granted Temporary Protected Status under section 244 of the Act for the period of time described in 8 CFR 244.12, as evidenced by an employment authorization document issued by the Service;

* * * * *

(c) * * *

(19) An alien applying for Temporary Protected Status pursuant to section 244 of the Act must apply for employment authorization in accordance with the procedures set forth in 8 CFR part 244. Employment authorization and any document evidencing employment authorization issued under this paragraph (c)(19) are subject to the limitations described in 8 CFR 244.5.

* * * * *

Markwayne Mullin,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2026–08333 Filed 4–28–26; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket ID OCC–2025–0141]

RIN 1557–AF33

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R–1876]

RIN 7100–AH08

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 324

RIN 3064–AG17

Regulatory Capital Rule: Community Bank Leverage Ratio Framework

AGENCY: Office of the Comptroller of the Currency, Treasury; the Board of Governors of the Federal Reserve System; and the Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation are adopting a final rule that lowers the community bank leverage ratio (CBLR) requirement from 9 percent to 8 percent, consistent with the lower bound provided in section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. The final rule also extends the length of time that certain depository institutions and depository institution holding companies can remain in the CBLR framework while not meeting all of the qualifying criteria for the CBLR framework from two consecutive quarters to four consecutive quarters, subject to a limit of eight quarters in the previous five-year period.

DATES: The final rule is effective July 1, 2026.

FOR FURTHER INFORMATION CONTACT:

OCC: Benjamin Pegg, Technical Expert, Capital Policy, (202) 649–6370; or Carl Kaminski, Assistant Director, Ron Shimabukuro, Senior Counsel, Daniel Perez, Counsel, or Scott Burnett, Counsel, Bank Advisory Group, Chief Counsel's Office, (202) 649–5490, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

Board: Juan Climent, Deputy Associate Director, (202) 872–7526; Morgan Lewis, Manager, (202) 407–5093; Missaka Nuwan Warusawitharana, Manager, (202) 452–3461; Lars Arnesen, Senior Financial Institution Policy Analyst, (202) 868–0546; James Caldera, Senior Economist (202) 843–4017, Division of Supervision and Regulation; or Jay Schwarz, Deputy Associate General Counsel, (202) 731–8852; Mark Buresh, Senior Special Counsel, (202) 499–0261; Jasmin Keskinen, Counsel, (202) 853–7872, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263–4869.

FDIC: Benedetto Bosco, Chief, Capital Policy Section; Michael Maloney, Senior Policy Analyst; Kyle McCormick, Senior Policy Analyst; Keith Bergstresser, Senior Policy Analyst; Matthew Park, Financial Analyst; Capital Markets and Accounting Policy Branch, Division of Risk Management Supervision; Catherine Wood, Counsel; Merritt Pardini, Counsel; Nicholas Soyer, Attorney; Legal Division, *regulatorycapital@fdic.gov,* (202) 898–6888; Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

On December 1, 2025, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) published in the **Federal Register** a notice of proposed rulemaking (the proposal) to amend the community bank leverage ratio (CBLR) framework.[1] The proposal would have lowered the CBLR requirement from 9 percent to 8 percent and would have extended the length of time that certain depository institutions and depository institution holding companies can remain in the CBLR framework while not meeting one or more of the qualifying criteria from two consecutive quarters to four consecutive quarters, subject to a limit of eight quarters in the previous five-year period. Following review of the comments received on the proposal, the agencies are finalizing the proposal without revision. Elements of the final rule also address comments received from the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) review.[2]

A. Economic Growth, Regulatory Relief, and Consumer Protection Act

The CBLR framework[3] implements section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), which requires the agencies to establish a CBLR requirement of not less than 8 percent and not more than 10 percent

[1] 90 FR 55048 (Dec. 1, 2025).

[2] The agencies, together with the Federal Financial Institutions Examination Council, commenced a review of their prescribed regulations under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 in 2024 to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions. The agencies have reviewed and considered these comments. Public Law 104–208, Div. A, Title II, section 2222, 110 Stat. 3009–414, (1996) (codified at 12 U.S.C. 3311). *See also* Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996, 90 FR 35241 (Jul. 25, 2025).

[3] 12 CFR 3.12 (OCC); 12 CFR 217.12 (Board); 12 CFR 324.12 (FDIC).