DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

[DHS Docket No. ICEB–2026–0100]

RIN 1653–AB01

Optional Practical Training Fees

AGENCY: U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This rule proposes new fees for Optional Practical Training (OPT) to combat fraud, strengthen the integrity of the immigration system, and protect U.S. workers. The following fees would apply for each F–1 nonimmigrant student to engage in OPT through a Student and Exchange Visitor Program-certified institution: $70,000 for initial OPT; and $30,000 for any subsequent OPT.

DATES: Comments must be received on or before November 9, 2026. *Information collection comment period:* Comments on the information collection described in the *Paperwork Reduction Act* section below must be received by December 7, 2026.

ADDRESSES: You may submit comments on the entirety of this rule, which must be identified by Docket No. ICEB–2026–0100, through the following method:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the website instructions to submit comments.

Comments on the information collection may be submitted to the same docket as the NPRM or as described in the ''submitting comments'' section below. In addition, all comments on the information collection must include the OMB Control Number in the body of the comments.

Comments submitted in a manner other than the Federal eRulemaking Portal, including emails or letters sent to the Department of Homeland Security (the Department or DHS), will not be considered comments, and will not receive a response from DHS. Please note that DHS cannot accept any hand delivered or couriered comments, nor any comments contained on any form of digital media storage devices, such as CDs, DVDs, and USB drives. If you cannot submit your material using *https://www.regulations.gov,* contact the office in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Office of the Principal Legal Advisor, Regulatory Affairs Unit, U.S. Immigration and Customs Enforcement, Department of Homeland Security, 500 12th Street SW, Washington, DC 20536–5901. Telephone 202–732–6960 (not a toll-free number) (for questions only—no comments will be accepted at this phone number).

SUPPLEMENTARY INFORMATION:

I. Public Participation

DHS encourages all interested parties to participate in this rulemaking by submitting data, views, comments, and arguments on all aspects of this notice of proposed rulemaking. Comments providing the most assistance to DHS will reference a specific portion of this rule, explain the reason for any recommended change, and include the data, information, or authority that supports the recommended change. See the **ADDRESSES** section above for information on where to submit comments.

A. Submitting Comments

All comments must be submitted in English, or an English translation must be provided. If you submit comments, you must include the DHS docket number for this rulemaking (ICEB–2026–0100), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. Include data, information, or authority that supports the comment. Your comments must be submitted online by 11:59 p.m. ET of the last day of the comment period.

Instructions: To submit your comments online, go to *https://www.regulations.gov* and insert ''ICEB–2026–0100'' in the ''Search'' box. Click on the rule that appears in the ''Search Results.'' Click on the ''Comment'' box under the name of the rule and input your comments in the text box provided. When you are satisfied with your comments, follow the prompts, and then click ''Submit Comment.''

Collection of information. You must submit comments on the collection of information discussed in this notice of proposed rulemaking to either DHS's docket or the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA). OIRA will have access to and view the comments submitted in the docket. OIRA submissions can also be sent using any of the following alternative methods:

- *Email (alternative): dhsdeskofficer@omb.eop.gov* (include the docket number and ''Attention: Desk Officer for U.S. Immigration and Customs Enforcement, DHS'' in the subject line of the email).
- *Fax:* 202–395–6566.
- *Mail:* Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503; Attention: Desk Officer, U.S. Immigration and Customs Enforcement, DHS.

DHS will post your comments to the federal e-Rulemaking Portal at *https://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. DHS may withhold from public viewing information provided in comments that it determines is offensive or is otherwise deemed inappropriate for posting. For more information, please read the ''Privacy & Security Notice'' via the link in the footer of *https://www.regulations.gov.* DHS will consider all comments and materials received during the comment period and may change this rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov* and insert ''ICEB–2026–0100'' in the ''Search'' box. Click on the ''Open Docket Folder,'' then click on ''View Comment'' or ''View All'' under the ''Comments'' section of the page. Individuals without internet access can make alternate arrangements for viewing comments and documents related to this rulemaking by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section above. 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.

C. Privacy Act

You may consider limiting the amount of personal information that you provide in your voluntary public comment submission because anyone can electronically search comments received in any of DHS's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For additional information, please read the Privacy and Security Notice posted on *https://www.regulations.gov.*

II. Table of Abbreviations

CBP U.S. Customs and Border Protection

CPT Curricular Practical Training
COS Change of Status
DHS U.S. Department of Homeland Security
DSO Designated School Official
EAD Employment Authorization Document
EOS Extension of Stay
FICA Federal Insurance Contributions Act
HSPD–2 Homeland Security Presidential Directive-2
ICE U.S. Immigration and Customs Enforcement
INA Immigration and Nationality Act
INS Immigration and Naturalization Service
IIRIRA Illegal Immigration Reform and Immigrant Responsibility Act of 1996
OMB Office of Management and Budget
OPT Optional Practical Training
PRC People's Republic of China
SEVIS Student and Exchange Visitor Information System
SEVP Student and Exchange Visitor Program
STEM Science, Technology, Engineering, and Mathematics
USCIS U.S. Citizenship and Immigration Services

III. Background

A. Legal Authority

The authority to promulgate this rule rests on multiple, independent, and mutually reinforcing statutory sources. The Secretary of Homeland Security (Secretary) has broad authority under Section 102 of the Homeland Security Act of 2002 (HSA) (Pub. L. 107–296, 116 Stat. 2135), 6 U.S.C. 112, and section 103(a)(1) and (3) of the Immigration and Nationality Act (INA), 8 U.S.C. 1103(a)(1), (3), to administer and enforce the immigration and naturalization laws of the United States, to include the issuance of regulations that he deems necessary.[1] Section 214(a) of the INA, 8 U.S.C. 1184(a), authorizes the Secretary [2] to prescribe the time and conditions of admission of any alien as a nonimmigrant.

In the INA, Congress established who may be admitted as F nonimmigrants. Specifically, section 101(a)(15)(F) of the INA, 8 U.S.C. 1101(a)(15)(F), established the F visa classification for bona fide students who have a residence in a foreign country and wish to enter the United States temporarily and solely for the purpose of pursuing a full course of study at an academic or accredited language training school. Participating schools must be certified by U.S. Immigration and Customs Enforcement's (ICE) Student and Exchange Visitor Program (SEVP).[3] The authority to admit foreign students on a temporary basis dates back to the Immigration Act of 1924, in which Congress first established a student visa category similar to the modern F visa classification, referring to ''[a]n immigrant who is a bona fide student . . . who seeks to enter the United States solely for the purpose of study at an accredited school . . . which shall have agreed to report to the Secretary of Labor the termination of attendance of each immigrant student. . . .'' [4] In the decades that followed, regulations codified a hands-on educational program for F–1 nonimmigrants related to their field of study, known as practical training.

The Secretary of DHS has the authority to regulate the time and conditions of nonimmigrants' admission to the United States under INA 214(a), 8 U.S.C. 1184(a).[5] In the context of F–1 nonimmigrants, setting the parameters of practical training has historically been acknowledged as a valid exercise of DHS's statutory authority stemming under the ''time-and-conditions'' provision in the INA.[6] The period of practical training prescribed by DHS through its regulations is considered part of the ''time'' of an F–1 nonimmigrant's admission to the United States, and the requirements for the training are part of the ''conditions'' of such a status.[7] Accordingly, DHS is authorized to regulate under INA 214(a)(1), 8 U.S.C. 1184(a)(1), the ability for F–1 nonimmigrant students to ''engage in limited periods of employment for practical training . . . according to the terms set out in the [OPT] [r]ule.'' [8] The regulations governing F–1 nonimmigrants under INA 214(a)(1), 8 U.S.C. 1184(a), are reasonably related to the purpose of the visas issued under INA 101(a)(15)(F)(i), 8 U.S.C. 1101(a)(15)(F)(i).[9] Furthermore, the INA ''need not specifically authorize each and every action taken by [DHS], so long as [such] action is reasonably related to the duties imposed upon [the Secretary].'' [10] As part of the conditions of admission, DHS is now setting a fee to ensure employers, students, and institutions are engaging in appropriate activities consistent with admission as an F–1 nonimmigrant.[11]

Within DHS, ICE administers SEVP and the Student and Exchange Visitor Information System (SEVIS), which collects information related to nonimmigrant students and exchange visitors and shares data with other federal agencies with national security, immigration enforcement, and immigration benefit adjudication responsibilities.[12] This allows government agencies to access essential information to preserve national security and monitor immigration compliance.[13] The Secretary has authority to determine which aliens, including F–1 nonimmigrant students, are ''authorized'' to obtain employment in the United States.[14]

As stated, DHS derives its authority to administer the programs in which F nonimmigrant students engage, and the institutions that run these programs, from several sources.[15] Additionally, Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) [16] authorized the creation of a program for ongoing collection of current information provided by schools and exchange visitor programs regarding F and other nonimmigrants during the course of their stays in the United States, using electronic reporting technology where practicable. Consistent with this statutory authority, DHS manages these programs pursuant to Homeland Security Presidential Directive-2 (HSPD–2), Combating Terrorism Through Immigration Policies, as amended,[17] and Section 502 of the

[1] Although provisions of the INA discussed in this NPRM refer 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.

[2] Although provisions of the INA discussed in this NPRM refer 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.

[3] *See* 8 CFR 214.3.

[4] Immig. Act of 1924, Public Law 68–139, 4(e), 43 Stat. 153, 155 (May 26, 1924); *accord* INA 101(a)(15)(F)(i), 8 U.S.C. 1101(a)(15)(F)(i).

[5] INA 103(a)(1), (3), 8 U.S.C. 1103(a)(1).

[6] *See Wash. All. of Tech. Workers* v. *U.S. Dep't of Homeland Sec.,* 50 F.4th 164, 180–82 (D.C. Cir. 2022). *See also* Section 102 of the Homeland Security Act of 2002 (HSA) (Pub. L. 107–296, 116 Stat. 2135), 6 U.S.C. 112, and section 103(a)(1) and (3) of the INA, 8 U.S.C. 1103(a)(1), (3).

[7] *Wash. All. of Tech. Workers,* 50 F.4th at 180–82.

[8] *Id.* at 169.

[9] *Id.* at 179.

[10] *Narenji* v. *Civiletti,* 617 F.2d 745, 747 (D.C. Cir. 1979).

[11] *Id.* at 168 (noting that while INA 101(a)(15)(F)(i), 8 U.S.C. 1101(a)(15)(F)(i), sets the terms of entry for F–1 nonimmigrant students, INA 214(a)(1), 8 U.S.C. 1184(a)(1), provides DHS additional authority to regulate the ''time'' and ''conditions'' of the students' stay where the regulation is reasonably related to the terms of the F–1 visa).

[12] *See* U.S. Immigration & Customs Enf't, *Student and Exchange Visitor Program, https://www.ice.gov/sevis* (last updated Aug. 11, 2026).

[13] *Id.*

[14] *See generally* INA 274A(h)(3), 8 U.S.C. 1324a(h)(3).

[15] *See* Section 102 of the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2135), 6 U.S.C. 112; INA 103(a)(1), (3), 8 U.S.C. 1103(a)(1), (3).

[16] Illegal Immig. Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, 110 Stat. 3009–546, 3009–704 (Sept. 30, 1996) (codified as amended at 8 U.S.C. 1372).

[17] Homeland Sec. Presidential Directive-2, *Combating Terrorism Through Immig. Policies* (Oct.

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Enhanced Border Security and Visa Entry Reform Act of 2002.[18] HSPD–2 requires the Secretary to conduct periodic, ongoing reviews of schools certified to accept F nonimmigrant students, and to include checks for compliance with recordkeeping and reporting requirements.[19] This includes the ability for DHS to verify through records that an SEVP-certified institution has filed all appropriate paperwork and fees to continue to participate in the SEVP program.[20]

As part of DHS's authority to administer the programs F nonimmigrant students engage in and regulate the institutions in which they enroll, Section 502 of the Enhanced Border Security and Visa Entry Reform Act of 2002 directs the Secretary to review the compliance with recordkeeping and reporting requirements under INA 101(a)(15), 8 U.S.C. 1101(a)(15)(F), and Section 641 of IIRIRA, 8 U.S.C. 1372, for all schools approved for attendance by F–1 nonimmigrant students within two years of enactment, and every two years thereafter. Moreover, as is the case with all DHS programs, the programs discussed in this proposed rule are carried out in keeping with DHS's primary mission, which encompasses the responsibility to ''ensure that the overall economic security of the United States is not diminished by the efforts, activities, and programs aimed at securing the homeland.'' [21] DHS's authority to regulate SEVP-certified institutions has historically authorized regulations applying to educational institutions throughout 8 CFR 214, including requiring schools to file a petition for certification and recertification, as the Secretary has deemed them necessary to administer the program.[22]

B. Regulatory History

Historically, the statutes have largely remained silent on the definition of practical training, even after the passage of the INA in 1952,[23] leaving executive agencies with regulatory authority to define and shape the scope of the practical training programs over the years.[24] In 1991, the Immigration and Naturalization Service (INS) articulated that practical training had to be ''directly related to [the student's] major area of study,'' [25] a requirement that had been stated more generally in the prior regulations under 8 CFR 214.2(f)(10) (Jan. 1, 1991) (requiring the training to be ''related''). The requirement that practical training be ''directly related'' to the F–1 nonimmigrant student's ''major area of study'' remains in the current regulations.[26] Thereafter, in 1992, the former INS reorganized the F–1 nonimmigrant student regulations and further clarified the scope of practical training by establishing Optional Practical Training (OPT). Among other things, this rule prescribed that OPT could take place while school was in session—provided the OPT did not exceed twenty hours a week—and after the program of study was completed.[27] In 2008, DHS officially coined two types of OPT as pre-completion and post-completion OPT.[28]

In addition, the regulations governing the duration of practical training have changed throughout the years. However, it was not until 2008 that DHS significantly increased the duration by allowing an additional 17-month extension to the initial 12 months of OPT for F–1 nonimmigrants who had completed an eligible degree in a science, technology, engineering, and mathematics (STEM) [29] field from an SEVP-certified institution.[30] Again, in 2016, DHS promulgated a new STEM OPT rule, substantially increasing the duration of the post-completion STEM OPT extension to 24 months while further adding requirements for educational institutions, F–1 nonimmigrant students, and employers.[31] The 2016 rule on STEM OPT largely remains unchanged,[32] with the exception of the cap-gap rule in 2024.[33]

29, 2001), available at *https://georgewbush-whitehouse.archives.gov/news/releases/2001/10/20011030-2.html* [hereinafter Homeland Security Presidential Directive-2].

[18] Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107–173, 116 Stat. 543, 563 (May 14, 2002) (codified at 8 U.S.C. 1762).

[19] *See* Homeland Security Presidential Directive-2, *supra note* 17.

[20] *Id.*

[21] *See* 6 U.S.C. 111(b)(1)(F).

[22] *E.g.* 8 CFR 214.2(f)(6)(iii)(A–C) (authorizing the DSO to reduce a student's course load); 214.2(f)(6)(iii)(E) (requiring DSOs to update SEVIS); 214.2(f)(7) (establishing the conditions under which a DSO is permitted to grant and prohibited from granting an extension of stay and requiring DSOs to update SEVIS); 214.2(f)(9)(ii)(D) (requiring DSO to complete employment authorization certification in SEVIS); 214.2(f)(9)(iii) (requiring educational institutions to provide SEVP access to certain information); 214.2(f)(10)(ii)(C) (requiring DSOs to recommend OPT extension as a prerequisite for nonimmigrant students participation); 214.2(f)(11)(ii) (requiring additional DSO responsibilities, such as recommending a nonimmigrant for OPT as a condition of nonimmigrant students' participation and maintaining an OPT student's SEVIS record); and 214.3 (requiring schools to file a petition for certification or recertification with SEVP).

[23] *See, e.g.,* Immig. and Nationality Act of 1952, Public Law 82–414, 101(a)(15)(F), 402(f), 66 Stat. 163, 168, 276 (June 27, 1952) (addresses student visa and amends the United States Information and Educational Exchange Act of 1948, 22 U.S.C. 1446, but it is silent on any practical training experiences for students); Immig. Act of 1924, Public Law 68–139, 4(e), 43 Stat. 153, 155 (May 26, 1924) (establishes student visa category but does not address practical training).

[24] Since 1947, federal regulations have provided that alien students may work in cases where employment for practical training is required or recommended by their educational institution and approved by immigration officials. *See, e.g.,* 12 FR 5355, 5357 (Aug. 7, 1947) (''In cases where employment for practical training is required or recommended by the school, the district director may permit the student to engage in such employment for a six-month period subject to extension for not over two additional six-month periods . . .''); 18 FR 3526, 3529 (June 19, 1953) (''Whenever employment for practical training is required or recommended by the institution or place of study attended by the applicant, the district director or officer in charge having administrative jurisdiction over the place in which the institution is located may permit such employment of the alien for a six-month period subject to extension for not over two additional six-month periods . . .''); 38 FR 35425, 35426 (Dec. 28, 1973) (''If a student requests permission to accept or continue employment in order to obtain practical training, an authorized school official must certify that the employment is recommended for that purpose and will provide the student with practical training in his field of study . . .''). *See also* Congressional Research Service (CRS), Optional Practical Training (OPT) for Foreign Students in the United States (Apr. 9, 2024), available at *https://www.congress.gov/crs-product/IF12631.*

[25] *Nonimmigrant Classes, Students, F and M Classifications,* 56 FR 55608 (Oct. 29, 1991).

[26] *See* 8 CFR 214.2(f)(10) (current).

[27] *See Pre-Completion Interval Training: F–1 Student Work Authorization,* 57 FR 31954 (July 20, 1992).

[28] *See Extending Period of Optional Practical Training by 17 Months for F–1 Nonimmigrant Students With STEM Degrees and Expanding Cap-Gap Relief for All F–1 Students With Pending H–1B Petitions,* 73 FR 18944 (Apr. 8, 2008).

[29] The educational degrees eligible for the STEM OPT extension must be in a field determined by DHS on the STEM Designated Degree Program List to qualify within a STEM field. Since the 2016 rule, DHS has periodically updated and published the STEM Designated Degree Program List and requested input from the public on fields of study that should be considered. *See, e.g., Update to the Department of Homeland Security STEM Designated Degree Program List,* 87 FR 3317 (Jan. 21, 2022); *Update to the Department of Homeland Security STEM Designated Degree Program List,* 88 FR 44381 (July 12, 2023); *Update to the Department of Homeland Security STEM Designated Degree Program List,* 89 FR 59748 (July 23, 2024).

[30] *See Extending Period of Optional Practical Training by 17 Months for F–1 Nonimmigrant Students With STEM Degrees and Expanding Cap-Gap Relief for All F–1 Students With Pending H–1B Petitions,* 73 FR 18944 (Apr. 8, 2008).

[31] *See Improving and Expanding Training Opportunities for F–1 Nonimmigrant Students with STEM Degrees and Cap-Gap Relief for All Eligible F–1 Students,* 81 FR 13040 (Mar. 11, 2016). The 2016 rulemaking followed litigation challenging the 2008 rule, during which the U.S. District Court for the District of Columbia vacated the rule as unlawfully issued in violation of the Administrative Procedure Act but stayed the vacatur to allow DHS to issue a new rule. *See Wash. All. of Tech. Workers* v. *U.S. Dep't of Homeland Sec.,* 156 F. Supp. 3d 123 (D.D.C. 2015), *vacated on other grounds,* 650 Fed. App'x. 13 (D.C. Cir. 2016).

[32] *See* 8 CFR 214.2(f)(10)(ii)–(f)(12).

[33] *See Modernizing H–1B Requirements, Providing Flexibility in the F–1 Program, and Program Improvements Affecting Other Nonimmigrant Workers,* 89 FR 103054 (Dec. 18,

The ''cap-gap'' regulations, which were amended in 2024,[34] specifically intended for F–1 nonimmigrant students to automatically extend status and/or employment authorization if they are selected beneficiaries of an H–1B cap petition that has been timely filed and is pending USCIS adjudication.[35] The cap-gap occurs because an employer may not file, and USCIS may not accept, a cap-subject H–1B petition submitted more than 6 months in advance of the date of actual need for the beneficiary's services or training.[36] As a result, the earliest date that an employer can file an H–1B cap-subject petition is April 1 for the following fiscal year, which starts October 1.[37] When the F–1 nonimmigrant student's OPT employment authorization is set to expire before the H–1B start date of October 1, the ''cap-gap'' period starts when the F–1 nonimmigrant student's status and OPT employment authorization expire and, unless terminated, ends on April 1 of the fiscal year for which the H–1B status is being requested or on the validity start date of the approved petition, whichever is earlier.[38]

C. Student and Exchange Visitor Program

SEVP, under Homeland Security Investigations within ICE, manages and oversees the F and M nonimmigrant student process, including the certification and oversight of schools in the United States to enroll F academic and M vocational nonimmigrant students. Nonimmigrants in F and M status can attend and study only at an SEVP-certified school in the United States. Additionally, SEVP manages SEVIS, which is a web-based system used to facilitate the certification of schools, maintain information on certified schools, track and manage F and M nonimmigrant students in the United States, and track J nonimmigrants and their participation in authorized Exchange Visitor programs. SEVP also works closely with and ensures other government components and agencies, including U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), and the U.S. Department of State, have access to essential data on nonimmigrant students and exchange visitors for use in their respective functions involving preservation of national security and immigration compliance oversight.

D. Practical Training for F–1 Nonimmigrants

Students in F–1 status are nonimmigrants who enter the United States with the primary purpose of pursuing an academic or language training course of study at an SEVP-certified school or program.[39] With limited exceptions, an F–1 nonimmigrant student may not be employed in the United States.[40] The regulation on practical training under 8 CFR 214.2(f)(10) provides that an F–1 nonimmigrant student who has been enrolled in post-secondary study on a full-time basis for at least one full academic year at a college, university, conservatory, or seminary certified by SEVP, and who has otherwise maintained nonimmigrant status, may be authorized practical training.[41] The current regulations provide two types of practical training: Curricular Practical Training (CPT) and OPT. The scope of this proposed rule is specific to OPT and does not address CPT.[42]

1. Optional Practical Training

OPT is practical training that is directly related to the F–1 nonimmigrant student's major area of study but not necessarily an integral part of the established curriculum.[43] OPT is not mandatory to fulfill the requirements of an F–1 nonimmigrant student's program of study, and F–1 nonimmigrant students can engage in OPT before (pre-completion OPT) or after program completion (post-completion OPT). F–1 nonimmigrant students who have participated in one year or more of full-time CPT are ineligible for post-completion OPT, but part-time CPT does not trigger this limitation on OPT.[44]

To engage in OPT, an F–1 nonimmigrant student must first obtain a recommendation from a Designated School Official (DSO) at the relevant educational institution, who must ensure that the F–1 nonimmigrant student is eligible for the type and period of OPT and aware of the responsibilities for maintaining status while engaged in OPT.[45] For the initial 12-month OPT period, an F–1 nonimmigrant student does not have to secure a training opportunity before the DSO can recommend OPT.[46] Upon issuing the OPT recommendation, the DSO provides the F–1 nonimmigrant student with a signed Form I–20, and the educational institution must assume the added responsibility of maintaining the student's SEVIS record for the entire period of authorized OPT.[47] The F–1 nonimmigrant student will then file a Form I–765, Application for Employment Authorization, with USCIS, which will adjudicate the application on the basis of the DSO's recommendation and other eligibility considerations.[48] Additionally, if an F–1 nonimmigrant student is requesting OPT after the F–1 nonimmigrant student's initial 4-years of admission, the F–1 nonimmigrant student would also need to apply for an extension of stay (EOS) with USCIS in addition to the Form I–765. *See* 8 CFR 214.1(c); 214.2(f)(7)(v). Alternatively, if the F–1 nonimmigrant student does not wish to apply for an EOS, that F–1 nonimmigrant student would need to depart the United States, and upon return, seek admission to the United States through CBP for a new admission period. *See* 8 CFR 214.2(f)(10)(ii)(D).

2. STEM OPT Extension

F–1 nonimmigrant students with certain qualifying STEM degrees[49] who

2024). *See also* 8 CFR 214.2(f)(5)(vi). Under the 2008 and 2016 rule, the cap-gap extension coverage extended until October 1. But in 2024, DHS amended the ''cap-gap'' period to further extend coverage until April 1 of the fiscal year for which the H–1B status is being requested or until the validity start date of the approved petition, whichever is earlier.

[34] *See Modernizing H–1B Requirements, Providing Flexibility in the F–1 Program, and Program Improvements Affecting Other Nonimmigrant Workers,* 89 FR 103054 (Dec. 18, 2024).

[35] *See* 8 CFR 214.2(f)(5)(vi). *See also* U.S. Citizenship and Immig. *Services, Extension of Post Completion Optional Practical Training (OPT) and F–1 Status for Eligible Students under the H–1B Cap-Gap Regulations,* available at *https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations/extension-of-post-completion-optional-practical-training-opt-and-f-1-status-for-eligible-students* (last visited Sept. 9, 2025).

[36] *Id.*

[37] *Id.*

[38] *Id.*

[39] *See* INA 101(a)(15)(F), 8 U.S.C. 1101(a)(15)(F)(i) ''an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study . . . '' *See also* 8 CFR 214.2(f).

[40] *See* 8 CFR 214.2(f)(9)–(10); 8 CFR 274a.12(b)(6).

[41] *See* 8 CFR 214.2(f)(10).

[42] *See* 8 CFR 214.2(f)(10)(i).

[43] *See* 8 CFR 214.2(f)(10)(ii).

[44] See 8 CFR 214.2(f)(10)(i).

[45] *See* 8 CFR 214.2(f)(11)(i)–(ii).

[46] *See* 8 CFR 214.2(f)(11).

[47] 8 CFR 214.2(f)(11)(ii).

[48] 8 CFR 214.2(f)(10)(ii), (f)(11)(iii).

[49] For purposes of STEM OPT, a STEM field is one included in the Department of Education's Classification of Instructional Programs taxonomy within the two-digit series containing engineering, biological sciences, mathematics, and physical sciences, or a related field. 8 CFR 214.2(f)(10)(ii)(C)(2). DHS periodically publishes the DHS STEM Designated Degree Program List which includes a complete list of fields of study that DHS considers to be STEM fields of study for purposes of the 24-month STEM OPT extension. *See* U.S. Immig. and Customs Enf't, *DHS STEM*

Continued

finish their program of study and participate in an initial period of post-completion OPT have the option to apply for a STEM OPT extension of 24 months, if the STEM degree is in a field of study included on the DHS STEM Designated Degree Program List and from an accredited U.S. educational institution.[50] The F–1 nonimmigrant student must apply for employment authorization through a Form I–765, Application for Employment Authorization, with USCIS to obtain employment authorization for STEM OPT.[51] Additionally, if an F–1 nonimmigrant student is requesting a STEM OPT extension after the F–1 nonimmigrant student's initial 4-years of admission, the F–1 nonimmigrant student would also need to apply for an extension of stay (EOS) with USCIS in addition to the Form I–765. *See* 8 CFR 214.1(c); 214.2(f)(7)(v). Alternatively, if the F–1 nonimmigrant student does not wish to apply for an EOS, that F–1 nonimmigrant student would need to depart the United States, and upon return, seek admission to the United States through CBP for a new admission period. *See* 8 CFR 214.2(f)(10)(ii)(D). The STEM OPT regulations provide additional requirements for the educational institutions, F–1 nonimmigrant students, and their employers, for participating in STEM OPT.[52] A student must submit the Form I–983, *Training Plan for STEM OPT Students* or successor form, which includes the employer's attestation of adherence to the training plan, to the student's DSO at his or her most recent educational institution, prior to the new DSO recommendation for STEM OPT.[53] For STEM OPT, DHS may conduct site visits at the employer locations where the F–1 nonimmigrant students are employed.[54]

IV. Need for Rulemaking

A. Combating Fraud and Abuse of OPT

With the increased number of F–1 nonimmigrant students being recommended by DSOs for OPT, SEVP has encountered more institutions, DSOs, employers, and F–1 nonimmigrant students engaged in schemes to exploit the current OPT regulations for fraudulent purposes. Reports indicate that there has been widespread use of OPT as an informal and unlimited employment benefit that has little to or no relationship to an F–1 nonimmigrant student's program of study.[55] This has resulted in DHS devoting significant resources to identifying and investigating cases in which improper OPT authorization has been used to facilitate F–1 nonimmigrant student visa fraud.[56] The egregious cases of fraud and abuse of OPT[57] demonstrate that additional action is needed to combat such problems. While the SEVP-certified educational institutions are entrusted with being the initial gatekeepers in determining whether to recommend an F–1 student for OPT, the sheer numbers of F–1 students[58] and fraudulent cases[59] in OPT in recent years indicate that the gates have opened too widely, permitting the program to be flooded with participants seeking to exploit the program for improper purposes.

Over the years, the practical training program has confronted egregious cases of abuse, particularly with OPT. For example, in 2020, a Chinese businesswoman was convicted for conspiracy to commit visa fraud for providing false employment documents to at least 2,693 aliens, primarily Chinese F–1 nonimmigrant students seeking OPT, in exchange for a fee.[60]

Designated Degree Program List, available at *https://www.ice.gov/doclib/sevis/pdf/stemList2024.pdf* (last updated July 22, 2024).

[50] *See* 8 CFR 214.2(f)(10)(ii)(C). A list of institutional accrediting agencies recognized by the Secretary is available at the U.S. Department of Education's website. *See* U.S. Dep't of Educ., *Off. of Postsecondary Educ., Institutional Accrediting Agencies,* available at *https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/college-accreditation/institutional-accrediting-agencies* (last visited Apr. 21, 2025).

[51] 8 CFR 214.2(f)(11)(i)(C). If the F–1 nonimmigrant ''timely and properly'' files Form I–765, the student's Employment Authorization Document (EAD) is automatically extended until USCIS adjudicates the pending Form I–765 or for up to 180 days from the date that the prior EAD expired, whichever comes earlier. *Id. See also* 8 CFR 274a.12(b)(6)(iv).

[52] Such requirements include the employer's participation in E-Verify; reporting requirements by the institutions, students, and employers, such as material changes or early termination/departure; and the student's self-evaluation reports on progress toward the training goals. 8 CFR 214.2(f)(10)(ii)(C)(*5*)–(C)(*10*); 214.2(f)(11), (f)(12).

[53] 8 CFR 214.2(f)(10)(ii)(C)(*7*). On Form I–983, the student and employer must identify the STEM OPT learning objectives and a training plan, and the employer must attest the following: that it has sufficient resources to provide such training; that the student will not replace U.S. workers; that the terms and conditions of the training are commensurate with similarly situated U.S. workers; and that the STEM OPT will assist the student in reaching the training goals. *See* 8 CFR 214.2(f)(10)(ii)(C)(*6*)–(*10*).

[54] *See* 8 CFR 214.2(f)(10)(ii)(C)(*11*). During the site visit, DHS verifies that the information reported on the F–1 nonimmigrant student's Form I–983 about the training opportunity is accurate. Site visits are limited to checking information related to the F–1 nonimmigrant student's STEM OPT employment and ensuring that F–1 nonimmigrant students and employers are engaged in work-based learning experiences that are consistent with the information supplied on the F–1 nonimmigrant student's Form I–983. As part of a site visit, DHS may confirm that the employer has sufficient resources and supervisory personnel to effectively maintain the program and ask employers to provide the evidence they used to assess wages of similarly situated U.S. workers.

[55] *See, e.g.,*U.S. Immigr. & Customs Enf't, *HSI data shows rampant foreign student fraud—ICE director says this is only the beginning,* YouTube (May 12, 2026), available at *https://www.youtube.com/watch?v=fdnwUGmXkT0;* NBC Bay Area, *Shell Companies Sell Job Letters to Foreign Students, ICE Keeping New Data Private* (Nov. 19, 2021), available at *https://www.nbcbayarea.com/investigations/shell-companies-sell-job-letters-to-foreign-students-ice-keeping-new-data-private/2737070/;* Bloomberg, *The STEM Graduate System Is Broken. Here's How to Fix It* (Mar. 10, 2021), available at *https://www.bloomberg.com/graphics/2021-opinion-optional-practical-training-problems-stem-graduates-deserve-better-jobs-opportunities/* (''OPT has also opened a side door into the U.S. job market with minimal labor protections and oversight. It is increasingly funneling cheaper and more pliable, visa-dependent foreign candidates . . . ''); U.S. Immig. and Customs Enf't, *ICE arrests 15 nonimmigrant students for OPT-related fraud* (Oct. 21, 2020), available at *https://www.ice.gov/news/releases/ice-arrests-15-nonimmigrant-students-opt-related-fraud.*

[56] *See, e.g.,* U.S. Immigr. & Customs Enf't, *HSI data shows rampant foreign student fraud—ICE director says this is only the beginning,* YouTube (May 12, 2026), available at *https://www.youtube.com/watch?v=fdnwUGmXkT0* (HSI investigation revealed 10,000 highly suspected employers and agency indicated this was only the beginning); U.S. Immigr. & Customs Enf't, *ICE conducts visits to employers in Northern Virginia to ensure legal compliance when hiring foreign student workers* (Oct. 15, 2025), available at *https://www.ice.gov/news/releases/ice-conducts-visits-employers-northern-virginia-ensure-legal-compliance-when-hiring* (''ICE will take decisive action to hold bad actors accountable and will intensify investigations to mitigate fraud and address security risks associated with the Optional Practical Training programs''); U.S. Immig. and Customs Enf't, ICE arrests 15 nonimmigrant students for OPT-related fraud (Oct. 21, 2020), available at *https://www.ice.gov/news/releases/ice-arrests-15-nonimmigrant-students-opt-related-fraud* (ICE announced findings from ''Operation OPTical Illusion, a law enforcement operation targeting nonimmigrant students who fraudulently used the [OPT] program to remain in the United States''); U.S. Gov't Accountability Off., GAO 19–297, Student and Exch. Visitor Program: DHS Can Take Additional Steps to Manage Fraud Risks Related to School Recertification and Program Oversight (Mar. 18, 2019), available at *https://www.gao.gov/products/gao-19-297* (GAO noted that while the OPT program oversight has improved, it recommended that the agency further enhance controls over schools and school employees).

[57] *Id.*

[58] *See* Table 2 in section VII.A.3.

[59] *See, e.g.,* U.S. Immig. and Customs Enf't, *ICE arrests 15 nonimmigrant students for OPT-related fraud* (Oct. 21, 2020), available at *https://www.ice.gov/news/releases/ice-arrests-15-nonimmigrant-students-opt-related-fraud;* U.S. Immigr. & Customs Enf't, *HSI data shows rampant foreign student fraud—ICE director says this is only the beginning,* YouTube (May 12, 2026), available at *https://www.youtube.com/watch?v=fdnwUGmXkT0.*

[60] U.S. Attorney's Office, *Chinese Businesswoman Sentenced to 37 Months in Federal Prison for Conspiracy to Commit Visa Fraud* (June 26, 2020), available at *https://www.justice.gov/usao-ndil/pr/chinese-businesswoman-sentenced-37-months-federal-prison-conspiracy-commit-visa-fraud; See also* NBC Bay Area, *Kelly Huang Criminal Compliant* (Mar. 28, 2019), available at *https://media.nbcbayarea.com/2019/09/KellyHuangCriminalComplaint.pdf.*

She founded two shell companies through which she advertised fraudulent visa-related employment and provided false offer letters and employment verification letters.[61] Her company provided assistance to an F–1 nonimmigrant student who was convicted of conspiracy to act as an agent of a foreign government, acting as an agent of the People's Republic of China (PRC), and making a materially false statement to the United States Army.[62] Separately, in 2020, ICE arrested 15 F–1 nonimmigrant students who were charged with fraudulently using OPT to remain in the United States.[63] Strikingly, there have been alarming reports of shell companies selling jobs to foreign students, bypassing H–1B visa caps and fees.[64] In 2021, a news article reported that it had identified more than a dozen potential shell companies, which in the aggregate, employed nearly 4,000 F–1 nonimmigrant students through OPT.[65] Furthermore, in 2025, during employer site visits in Northern Virginia, ICE personnel discovered evidence of fraud and non-compliance associated with OPT, ''including evidence of nonfunctional or staged worksites and supervisors who lacked knowledge of laws and regulations related to employing foreign students while visiting local IT services companies.''[66]

Most recently, DHS announced an investigation that identified more than 10,000 F–1 nonimmigrant students who were engaged in OPT and were working for highly suspect employers.[67] Key findings included the following: nationwide fraud, with problematic worksites across multiple states; empty buildings and false claims of employment, including ''pay-to-stay'' visa fraud with nonexistent worksites; residential addresses listed as worksites with no employees present; financial red flags, including tax liens and suspicious transactions; missing employment records and offshore operations; and ''phantom employees'' who never reported for work.[68] The probe found multiple employers claiming the same address as the location of their business, but further investigation found that none of the employers was actually listed on the lease of the building.[69] Furthermore, the investigation revealed that many employers listed residential addresses as work sites for hundreds of foreign students, yet no employees were present.[70]

Specifically, HSI site visits at STEM OPT worksites found coordinated employer clusters, with identical websites and shared personnel, falsely denying business relationships.[71] There were also findings of shell companies with multiple employers established by the same owner/operator.[72] Additionally, HSI found multi-state networks farming out students to unreported third-party employers and evidence of international financial fraud involving complex transactions.[73] Criminal activities were detected among employers located throughout the country, including Texas, Georgia, New Jersey, and New York.[74]

In the last few years, the growth rate of OPT has exponentially outpaced the number of companies that DHS is able to effectively review and investigate. In 2024, 194,554 F–1 nonimmigrant students were granted Employment Authorization Documents (EADs) for pre-completion or post-completion OPT and reported working for an employer in the 2024 calendar year, compared to 160,627 F–1 nonimmigrant students who reported such OPT employment in the 2023 calendar year.[75] As indicated in the Office of the Citizenship and Immigration Services Ombudsman's Annual Report 2020, ''[t]here are significant indications that the OPT program is vulnerable to fraud because agency compliance resources are not scaled to (or keeping pace with) the size of the program.''[76]

As of June 2026, there were approximately 6,186 SEVP-certified schools (ranging from the K–12 level to universities), divided into approximately 60 territories, each of which typically has one SEVP field representative.[77] The SEVP field representative is responsible for making site visits to each school in their territory (potentially hundreds, depending on the territory) at least once a year where the representative will typically review school and nonimmigrant student records in SEVIS, provide training, and answer questions about SEVP requirements and regulations.[78] School visits made by a SEVP field representative and other DHS site visits to schools, employers, and F–1 nonimmigrant student employment sites are complex, multilayered, and require considerable time, resources, and coordination with other HSI components and occasionally other federal agencies depending on the scope of the investigation.[79]

Notably, there have also been a number of congressional inquiries highlighting concerns of fraud and abuse of OPT, as well as legislative efforts to limit or eliminate the practical training programs.[80] Furthermore, in

[61] *Id.*

[62] U.S. Dep't. of Justice, *Chinese National Sentenced to Eight Years for Acting within the United States as an Unregistered Agent of the People's Republic of China* (Jan. 25, 2023), available at *https://www.justice.gov/archives/opa/pr/chinese-national-sentenced-eight-years-acting-within-united-states-unregistered-agent-people.*

[63] U.S. Immig. and Customs Enf't, *ICE arrests 15 nonimmigrant students for OPT-related fraud* (Oct. 21, 2020), available at *https://www.ice.gov/news/releases/ice-arrests-15-nonimmigrant-students-opt-related-fraud.*

[64] NBC Bay Area, *Shell Companies Sell Job Letters to Foreign Students, ICE Keeping New Data Private* (Nov. 19, 2021), available at *https://www.nbcbayarea.com/investigations/shell-companies-sell-job-letters-to-foreign-students-ice-keeping-new-data-private/2737070/.*

[65] *Id.*

[66] U.S. Immigr. & Customs Enf't, *ICE conducts visits to employers in Northern Virginia to ensure legal compliance when hiring foreign student workers* (Oct. 15, 2025), available at *https://www.ice.gov/news/releases/ice-conducts-visits-employers-northern-virginia-ensure-legal-compliance-when-hiring.*

[67] U.S. Immigr. & Customs Enf't, *HSI data shows rampant foreign student fraud—ICE director says this is only the beginning,* YouTube (May 12, 2026), available at *https://www.youtube.com/watch?v=fdnwUGmXkT0.*

[68] *Id.* at 1:40–2:59. One employer even claimed over 150 student employees but only one student was present and was trained remotely by a foreign company. *Id.* at 5:45–6:00.

[69] *Id.* at 2:04–2:13.

[70] *Id.* at 2:13–2:20.

[71] *Id.* at 3:33–3:41.

[72] *Id.* at 3:49.

[73] *Id.* at 4:26–4:43.

[74] *Id.* at 1:57, 6:44.

[75] U.S. Immig. and Customs Enf't, *SEVIS By the Numbers 2024* (June 5, 2025), available at *https://www.ice.gov/doclib/sevis/btn/25_0605_2024-sevis-btn.pdf.*

[76] Office of the Citizenship and Immigration Services Ombudsman, *Annual Report 2020* (June 30, 2020), available at *https://www.dhs.gov/sites/default/files/publications/20_0630_cisomb-2020-annual-report-to-congress.pdf* [hereinafter *Annual Report 2020*].

[77] U.S. Immigration and Customs Enforcement, Certified School List, (June 16, 2026), available at *https://studyinthestates.dhs.gov/school-search.*

[78] *See* U.S. Dep't of Homeland Sec., *Study in the States, SEVP Field Representatives,* available at *https://studyinthestates.dhs.gov/schools/apply/sevp-field-representatives* (last updated Nov. 14, 2025).

[79] *See* U.S. Dep't of Homeland Sec., *Study in the States, Read this Overview of STEM OPT Employer Site Visits* (Feb. 13, 2020), available at *https://studyinthestates.dhs.gov/2020/02/read-overview-stem-opt-employer-site-visits; see also* U.S. Dep't of Homeland Sec., *Study in the States, Employer Site Visits* (May 25, 2023), available *https://studyinthestates.dhs.gov/stem-opt-hub/for-employers/employer-site-visits; see also* U.S. Dep't of Homeland Sec., *Study in the States, SEVP Site Visits and School Visits* (Apr. 3, 2017), available at *https://studyinthestates.dhs.gov/2017/04/sevp-site-visits-and-school-visits.*

[80] *See, e.g.,* H.R. 3983, 117th Cong. (2022), available at *https://www.congress.gov/bill/117th-congress/house-bill/3983* (bill to limit OPT to 6 months, exclude certain foreign nationals with degree/work in sensitive field, and require the U.S. Dep't of Labor to conduct a wage analysis of OPT and CPT); H.R. 4644, 117th Cong. (2022), available at *https://www.congress.gov/bill/117th-congress/house-bill/4644* (bill to eliminate OPT or any successor program unless Congress expressly

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2019, the U.S. Government Accountability Office (GAO) issued a report highlighting the prevalence of fraud associated generally with SEVP-certified schools enrolling F–1 nonimmigrant students.[81] The F–1 visa itself has historically faced vulnerabilities involving visa fraud,[82] and DHS is working to address those issues as well, consistent with its statutory authority.[83]

DHS notes that without the fees proposed in this rule, it cannot operate OPT consistent with its focus on preventing fraud and may shut down the program entirely.

B. Protecting American Workers

The recent Executive Orders and other presidential documents direct agencies to protect the interests of U.S. workers [84] and identify any regulations that may be harmful to the interests of the United States.[85] As such, DHS has reviewed its regulations and identified the need to amend the OPT regulations by proposing to establish fees which would ensure that only highly qualified eligible F–1 students participate in OPT and the labor market is not oversaturated with low-paid foreign workers. DHS believes that this fee is necessary to place the United States' interests first and protect American workers. The fee is necessary to ensure that schools, students, and employers participate in OPT for its intended purpose instead of a means to circumvent the H–1B visa program.

Since the 2016 STEM OPT regulatory amendments extended post-completion OPT by an additional 24 months for F–1 nonimmigrant students with qualifying STEM degrees,[86] the use of OPT and related fraudulent activities in OPT have expanded significantly.[87] It is indisputable that STEM OPT has increased the amount of foreign labor in the STEM labor market.[88] As described in *Washington All. of Tech. Workers* (''*WashTech*''), there are U.S. workers directly competing with F–1 nonimmigrant students working through OPT and F–1 nonimmigrant students who are using OPT to remain in the United States longer.[89] Against this backdrop, American workers are not only competing against the surge of F–1 students participating in practical training programs but are also facing challenges in finding employment resulting from the H–1B visa program abuses, exacerbating imbalance in the labor market.[90]

According to the Presidential Proclamation, *Restriction on Entry of Certain Nonimmigrant Workers,* ''among college graduates ages 22 to 27, computer science and computer engineering majors face some of the highest unemployment rates in the country at 6.1 percent and 7.5 percent, respectively—more than double the unemployment rates of recent biology and art history graduates.'' [91] The presidential proclamation also indicates that unemployment rates among

authorizes such program); H.R. 4843, 118th Cong. (2023), available at *https://www.congress.gov/bill/118th-congress/house-bill/4843* (bill to limit OPT to 4 months and bar OPT for foreign nationals with degrees/work in sensitive fields, or who are employed by or affiliated with an entity owned or controlled by the Communist Party of China); H.R. 2315, 119th Cong. (2025), available at *https://www.congress.gov/bill/119th-congress/house-bill/2315* (bill to eliminate OPT or any successor program unless Congress expressly authorizes such program). *See also* U.S. Senate Committee on the Judiciary, *Grassley Examines Lax Oversight of 'Visa Mills' Offering Visas to Foreign Students* (Mar. 26, 2018), available at *https://www.judiciary.senate.gov/press/rep/releases/grassley-examines-lax-oversight-of-visa-mills-offering-visas-to-foreign-students#_ftn38;* House Select Committee on the CCP, Press Release, *Chairman Moolenaar Demands Transparency from Universities on National Security Risks Posed by Chinese Nationals in STEM Programs* (Mar. 19, 2025), available at *https://selectcommitteeontheccp.house.gov/media/press-releases/chairman-moolenaar-demands-transparency-universities-national-security-risks.*

[81] ICE has implemented five of the recommendations and has partially implemented the remaining two. *See* U.S. Gov't Accountability Off., GAO 19–297, *Student and Exch. Visitor Program: DHS Can Take Additional Steps to Manage Fraud Risks Related to School Recertification and Program Oversight* (Mar. 18, 2019), available at *https://www.gao.gov/products/gao-19-297* (last visited July 21, 2026) [hereinafter GAO 19–297] (The report includes implementation status updates through June 2025). *See also* U.S. Immig. and Customs Enf't, *New Initiative: Fraud Training and Resources for DSOs* (Nov. 3, 2025), available at *https://studyinthestates.dhs.gov/2025/11/new-initiative-fraud-training-and-resources-for-dsos.*

[82] *See, e.g.,* U.S. Attorney's Office, *Monrovia Man Sentenced to 4 Years in Prison for Scheming to Fraudulently Obtain Student Visas for Wealthy Foreign Nationals* (Oct. 3, 2022), available at *https://www.justice.gov/usao-cdca/pr/monrovia-man-sentenced-4-years-prison-scheming-fraudulently-obtain-student-visas;* U.S. Attorney's Office, *San Fernando Valley Man Admits Guilt in English Proficiency Exam Scheme for Chinese Nationals Seeking Student Visas* (Oct. 3, 2019), available at *https://www.justice.gov/usao-cdca/pr/san-fernando-valley-man-admits-guilt-english-proficiency-exam-scheme-chinese-nationals;* U.S. Immig. and Customs Enf't, *President of Bay Area university convicted in student visa fraud scheme* (Mar. 24, 2014), available at *https://www.ice.gov/news/releases/president-bay-area-university-convicted-student-visa-fraud-scheme;* U.S. Attorney's Office, *Former CEO Of Local University Pleads Guilty to Submitting False Documents to Department of Homeland Security* (Apr. 9, 2015), available at *https://www.justice.gov/usao-ndca/pr/former-ceo-local-university-pleads-guilty-submitting-false-documents-department;* U.S. Immig. and Customs Enf't, *Owner of Los Angeles-area schools that illegally allowed foreign nationals to remain in US as foreign 'students' pleads guilty to federal fraud charges* (Feb. 19, 2017), available at: *https://www.ice.gov/news/releases/owner-los-angeles-area-schools-illegally-allowed-foreign-nationals-remain-us-foreign;* Federal Bureau of Investigation, *Head of English Language School Sentenced to Federal Prison for Immigration Fraud Conspiracy* (Aug. 31, 2009), available at *https://archives.fbi.gov/archives/atlanta/press-releases/2009/atl083109.htm;* U.S. Attorney's Office, *Operator of English Language Schools Charged in Massive Student Visa Fraud Scheme* (Apr. 9, 2008), available at: *https://www.justice.gov/archive/usao/cac/Pressroom/pr2008/038.html;* U.S. Department of Justice, *School Official Admits Visa Fraud* (Mar. 12, 2012), available at *https://www.justice.gov/archive/usao/pae/News/2012/Mar/tkhir_release.htm;* U.S. Attorney's Office, *Three Senior Executives Sentenced In Manhattan Federal Court For Their Roles In Student Visa And Financial Aid Frauds At For-Profit Schools* (Jan. 27, 2016), available at *https://www.justice.gov/usao-sdny/pr/three-senior-executives-sentenced-manhattan-federal-court-their-roles-student-visa-and.*

[83] *See Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media,* 90 FR 42070 (Aug. 28, 2025).

[84] *See generally,* Proclamation No. 10973, 90 FR 46027, *Restriction on Entry of Certain Nonimmigrant Workers* (Sep. 24, 2025) (''The H–1B nonimmigrant visa program was created to bring temporary workers into the United States to perform additive, high-skilled functions, but it has been deliberately exploited to replace, rather than supplement, American workers with lower-paid, lower-skilled labor. The large-scale replacement of American workers through systemic abuse of the program has undermined both our economic and national security. Some employers, using practices now widely adopted by entire sectors, have abused the H–1B statute and its regulations to artificially suppress wages, resulting in a disadvantageous labor market for American citizens, while at the same time making it more difficult to attract and retain the highest skilled subset of temporary workers, with the largest impact seen in critical science, technology, engineering, and math (STEM) fields.''); Exec. Order No. 14150, 90 FR 8337 (Jan. 20, 2025), *America First Policy Directive to the Secretary of State* (''the foreign policy of the United States shall champion core American interests and always put America and American citizens first''); Presidential Memoranda, *Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis,* 90 FR 8245 (Jan. 20, 2025) (directing departments and agencies to ''create employment opportunities for American workers, including drawing discouraged workers into the labor force'').

[85] Exec. Order No. 14219, 90 FR 10583 (Feb. 19, 2025), Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative; Presidential Memoranda, *Directing the Repeal of Unlawful Regulations* (Apr. 9, 2025), available at *https://www.whitehouse.gov/presidential-actions/2025/04/directing-the-repeal-of-unlawful-regulations/.*

[86] *See Improving and Expanding Training Opportunities for F–1 Nonimmigrant Students with STEM Degrees and Cap-Gap Relief for All Eligible F–1 Students,* 81 FR 13040 (Mar. 11, 2016).

[87] *See* section IV.A Combating Fraud and Abuse of OPT.

[88] *See generally, Wash. All. of Tech. Workers* v. *U.S. Dep't of Homeland Sec.,* 50 F.4th 164, 176 (D.C. Cir. 2022) (finding that ''there is little dispute that the 2016 OPT Rule has increased the labor supply in the STEM field,'' in reference to 34,000 individuals participating in the STEM OPT extensions in 2016).

[89] *Id. See also* section IV.A Combating Fraud and Abuse of OPT.

[90] *Supra note* 84.

[91] *Id.*

workers in computer occupations jumped from an average of 1.98 percent in 2019 to 3.02 percent in 2025. On the other hand, the number of foreign STEM workers in the United States has more than doubled between 2000 and 2019, increasing from 1.2 million to almost 2.5 million, while overall STEM employment has only increased 44.5 percent during that time.[92] Among computer and math occupations, the foreign share of the workforce grew from 17.7 percent in 2000 to 26.1 percent in 2019.[93]

Following the 2016 STEM OPT rule, the anticipated number of participants in the extension program far surpassed DHS's estimated calculations, and the numbers have continued to grow each year.[94] In 2016, DHS estimated that the number of potentially eligible F–1 nonimmigrant students for STEM OPT could ''be almost 50,000 in year one and grow to approximately 92,000 in year 10 [in 2026].'' [95] However, DHS records indicate that by 2024, there were already 165,524 F–1 nonimmigrant students participating in STEM OPT, in addition to 194,554 F–1 nonimmigrant students participating in pre- and post-completion OPT.[96]

In 2016, when the STEM OPT rule was first implemented, the impact of the program on the U.S. labor market was not fully ascertainable. At that time, DHS acknowledged that the 2016 rule ''include[d] neither a quantified estimate of potential negative impacts to individual U.S. workers nor a quantified estimate of specific benefits to U.S. educational institutions or the overall economy.'' [97] In 2016, DHS based the STEM OPT rule on ''the widely accepted proposition that educational and cultural exchange, a strong post-secondary education system, and a focus on STEM innovation are, on the whole, positive contributors to the U.S. economy and U.S. workers and in the overall national interest.'' [98] However, nearly a decade after the 2016 rule, DHS believes that the practical training programs have widely drifted from their intended purpose, in part due to the unforeseen substantial rise in participation of the practical training programs.

Currently, the practical training programs have become a channel for F–1 nonimmigrant students to circumvent employment visa caps and obtain extended employment in the United States.[99] The H–1B visas have an annual statutory numerical limit of 65,000 each fiscal year,[100] and 20,000 for aliens who have earned a master's degree or higher from a U.S. institution.[101] However, there are no statutory limits on the number of F–1 nonimmigrant students who can participate in the optional practical training programs. The 2016 STEM OPT rule was not created to undermine the statutory requirements of the H–1B visas, but the rule has resulted in an unprecedented increase of F–1 nonimmigrant students working through STEM OPT such that, based on 2024 information, the 165,524 F–1 nonimmigrant students participating in STEM OPT is nearly double the number of H–1B visas allowed each fiscal year.[102]

While the 2016 STEM OPT rule included some provisions that were intended to protect U.S. workers, such provisions have not sufficiently addressed the shortfalls of STEM OPT, such as the significant rise in participants.[103] Additionally, STEM OPT employers are subject to self-reporting requirements on the Form I–983, including certifying that the F–1 nonimmigrant student will not replace a U.S. worker and that the terms and conditions of the employment will be commensurate with those of a similarly situated U.S. worker hired by the employer.[104] However, the employers for STEM OPT are not required to submit any business documents or supporting documents to DHS, such as tax records or proof of business. Furthermore, DHS does not generally verify the employer attestations unless and until there is a site visit.[105]

With the rapid growth of participation in OPT and STEM OPT, several concerns have been raised relating to these programs and their impact on the U.S. workforce.[106] For example, some critics of the practical training programs have indicated that the Federal Insurance Contributions Act (FICA) tax exemption creates a substantial incentive for employers to hire F–1 nonimmigrant students instead of U.S. workers, which could negatively impact the U.S. labor market.[107] F–1 nonimmigrant students employed in practical training programs generally are not subject to FICA taxes or Social Security and Medicare contributions until after their first five calendar years

[92] *Id.*

[93] *Id.*

[94] *Id.*

[95] 81 FR 13040, *supra* note 31.

[96] U.S. Immig. and Customs Enf't, 2024 SEVIS by the Numbers Report (June 5, 2025), available at *https://www.ice.gov/doclib/sevis/btn/25_0605_2024-sevis-btn.pdf.*

[97] 81 FR 13040, *supra* note 31.

[98] *Id.*

[99] *See* INA 101(a)(15)(H)(i)(B), 8 U.S.C. 1101(a)(15)(H)(i)(b).

[100] 8 U.S.C. 1184(g)(1).

[101] 8 U.S.C. 1184(g)(5)(C).

[102] *See* U.S. Immig. and Customs Enf't, 2024 SEVIS by the Numbers Report (June 5, 2025), available at *https://www.ice.gov/doclib/sevis/btn/25_0605_2024-sevis-btn.pdf.* Indeed, in 2008, DHS published the STEM OPT interim final rule, explaining the limitations on the number of H–1B visas available and stating that the STEM OPT extension was instituted to address the immediate competitive disadvantage faced by U.S. high-tech industries and the ability of schools to attract foreign talent. *See* 73 FR 18944, *supra* note 30. However, in the 2016 STEM OPT final rule, DHS reiterated that the STEM OPT program was not designed to circumvent the statutory requirements of the H–1B visa program, including the congressionally established cap on H–1B visas. *See* 81 FR 13040, *supra* note 31.

[103] *Supra note* 76 (''OPT fails to include many of the customary protections that would have been legislated in (or negotiated out) had it been developed by Congress, rather than created by regulation that did not include analysis of necessary resources to securely administer a program that would eventually dwarf the H–1B program, and tangentially impact U.S. workers working in STEM or other disciplines.'').

[104] *See* 8 CFR 214.2(f)(10)(ii)(C)(*5*)–(*6*), (*8*).

[105] *See* 8 CFR 214.2(f)(10)(ii)(C)(*11*).

[106] *See, e.g.,* Ctr. for Immig. Stud., *ICE's Controversial Foreign Student Employment Programs Not Protecting U.S. Workers* (Sept. 15, 2024), available at *https://cis.org/Report/ICEs-Controversial-Foreign-Student-Employment-Programs-Not-Protecting-US-Workers* (''[T]here is no penalty process built into the STEM OPT program as there is for employers who violate prevailing wage and related requirements of the H–1B program. . .''); Bloomberg, *The STEM Graduate System Is Broken. Here's How to Fix It* (Mar. 10, 2021), available at *https://www.bloomberg.com/graphics/2021-opinion-optional-practical-training-problems-stem-graduates-deserve-better-jobs-opportunities/* (''OPT has also opened a side door into the U.S. job market with minimal labor protections and oversight. It is increasingly funneling cheaper and more pliable, visa-dependent foreign candidates into fields such as software engineering and development, depressing wages and making a once-attractive career path less desirable. . . it can undercut American students looking for work.''); Economic Policy Institute, *Congressional Testimony: The Impact of High-Skilled Immigration on U.S. Workers* (Mar. 1, 2016), available at *https://www.epi.org/publication/congressional-testimony-the-impact-of-high-skilled-immigration-on-u-s-workers-4/* (''The L–1 visa and F–1 visa Optional Practical Training (OPT) programs . . . have no protections for American workers or foreign workers. There are no recruitment or non-displacement requirements for either program. American workers can and are replaced by these workers.'').

[107] Economic Policy Institute, *Congressional Testimony: The Impact of High-Skilled Immigration on U.S. Workers* (Mar. 1, 2016), available at *https://www.epi.org/publication/congressional-testimony-the-impact-of-high-skilled-immigration-on-u-s-workers-4/* (''The L–1 visa and F–1 visa Optional Practical Training (OPT) programs . . . have no protections for American workers or foreign workers. There are no recruitment or non-displacement requirements for either program. American workers can and are replaced by these workers.'') (''The STEM OPT program makes de facto guestworkers significantly cheaper than U.S. workers by waiving the employer's obligation to pay federal payroll taxes. This creates a financial incentive for employers to hire OPT employees instead of U.S. workers in STEM jobs, which is an obvious disadvantage for U.S. workers, most of whom are likely to be recent STEM graduates seeking entry-level jobs.'').

in F–1 nonimmigrant student status.[108] As such, an employer saves an amount equal to 6.2 percent of the F–1 nonimmigrant student's salary up to the taxable wage base and an additional 1.45 percent of the total salary that would have been the employer's contribution to the Social Security and Medicare trust funds.[109] There have been concerns that these tax exemptions have incentivized employers to hire F–1 nonimmigrant students over U.S. workers.[110] According to this Administration, ''[a] 2017 study showed that wages for American computer scientists would have been 2.6 percent to 5.1 percent higher and employment in computer science for American workers would have been 6.1 percent to 10.8 percent higher in 2001 absent the importation of foreign workers into the computer science field.'' [111] Employing foreign workers in entry-level positions at discounted rates, such as through practical training programs, undercuts American worker wages and opportunities.[112] The large-scale replacement of American workers through systemic abuse of the OPT program undermines the U.S. economy. For the initial 12-month OPT period, F–1 nonimmigrant students are not required to find an employer before seeking approval for OPT. The OPT program instead relies heavily on DSOs, who are often overwhelmed by the program responsibilities and not fully trained, to be the initial gatekeepers for OPT authorization.[113] Form I–765 applications are submitted by F–1 nonimmigrant students, and USCIS has no interaction with the DSOs or potential employers. This substantial rise in the number of OPT participants has created increased operational burdens.

Accordingly, DHS notes that without the fees proposed in this rulemaking, it cannot administer OPT consistent with its focus on protecting American workers and may shut down the program entirely.

C. Establishing the Optional Practical Training Fees

After considering the problematic issues plaguing the practical training programs in recent years and substantial rise in participants, as discussed above in section IV.A–C, DHS believes that program fees are necessary for all types of OPT. DHS believes that its mission in combating fraud, as well as protecting U.S. workers and upholding the integrity of the immigration system, would be furthered through a fee, which would deter the participation by adverse actors and increase the level of oversight and scrutiny by schools when endorsing OPT for its students.

As noted above, DHS believes that absent these fees, it will not be able to operate OPT consistent with its focus on preventing fraud and protecting American workers and may shut down the program entirely.

Specifically, DHS believes this proposed fee would incentivize educational institutions to exercise greater oversight and selectivity when recommending students for OPT, thereby reducing fraudulent authorizations and curbing ''visa mill'' activities. By establishing a financial obligation through a fee, this proposed rule would encourage schools to ensure that OPT opportunities provide genuine educational value that aligns with the original intent of the practical training program, thereby promoting shared responsibility and accountability. Schools would have a direct stake in the integrity of the OPT program, incentivizing them to strengthen their internal compliance and selection processes and only issue OPT recommendations to those students for whom the school will pay the required fee. The financial costs would deter schools from recommending students with questionable qualifications for OPT, leading to higher program integrity. DHS anticipates that schools will consider adopting internal policies and procedures that prioritize quality and compliance over quantity of participants, stabilizing the number of OPT participants. This fee would result in a smaller pool of participants, as schools would be more selective in determining which students are qualified to participate in OPT. In turn, the rule, as proposed, would effectively eliminate students who engage in OPT as a pathway for low-paid employment or those who are trying to circumvent the H–1B visa cap and fee requirements, as they would no longer be able to obtain ''automatic'' recommendations for OPT from their schools. DHS believes that this proposed fee would incentivize schools to only recommend the most promising students to engage in OPT after a thorough review and payment of the required fee. Limiting the pool of OPT participants to talented students who are in genuine educational programs and placed in training programs that directly relate to their major area of study would protect the interests and jobs of American workers in the long run. The proposed rule would alleviate the job market from depressed wages and low-paid jobs otherwise held by F–1 nonimmigrant students. Additionally, the proposed rule would curb the number of students and employers attempting to circumvent the H–1B visa cap and fee, and thus, result in less replacement of U.S. workers, as schools would have greater equity and stake than employers in determining who participates in OPT due to their financial responsibilities.

A reduction in the pool of OPT applicants, along with the stabilization of participant numbers, would alleviate DHS's resource burden tied to enforcement activities related to OPT and enable the agency to conduct more focused and efficient oversight of SEVP programs. Enhanced school compliance would reduce the investigative and enforcement burden on DHS, allowing limited resources to be focused on higher-priority cases. Specifically, it would allow SEVP to strategically allocate resources to other programs that it administers and regulates. With fewer applicants to monitor, SEVP would be able to focus its investigative efforts on high-risk industries and sectors where OPT abuse is more likely to occur, such as technology and critical infrastructure. This targeted approach would enable

[108] Under 26 U.S.C. 3121(b)(19), FICA taxation is exempted for certain services when they are performed by F–1 nonimmigrants (among other nonimmigrant classifications) who are nonresidents for Federal tax purposes for a period of time. 26 U.S.C. 3121(b)(19). See generally 26 CFR 3121(b)(19)–1. It is possible that STEM OPT participants will already have accrued five calendar years at the start of their STEM OPT extension and thus, be subject to FICA taxes thereafter. *See* U.S. Dep't of Homeland Sec., *Study in the States, STEM OPT Frequently Asked Questions,* available at *https://studyinthestates.dhs.gov/stem-opt-hub/additional-resources/stem-opt-frequently-asked-questions* (last visited Sept. 9, 2025). Nonetheless, the F–1 nonimmigrants and their employers potentially enjoy the FICA tax exemption through CPT and OPT employment during the first five calendar years in F–1 nonimmigrant status. As such, this could still be an incentive for employers to hire F–1 nonimmigrants over U.S. workers, which is a real and ongoing concern.

[109] *See* U.S. Dep't of Homeland Sec., *Study in the States, STEM OPT Frequently Asked Questions,* available at *https://studyinthestates.dhs.gov/stem-opt-hub/additional-resources/stem-opt-frequently-asked-questions* (last visited Sept. 9, 2025).

[110] Economic Policy Institute, *Congressional Testimony: The Impact of High-Skilled Immigration on U.S. Workers* (Mar. 1, 2016), available at *https://www.epi.org/publication/congressional-testimony-the-impact-of-high-skilled-immigration-on-u-s-workers-4/* (''The L–1 visa and F–1 visa Optional Practical Training (OPT) programs . . . have no protections for American workers or foreign workers. There are no recruitment or non-displacement requirements for either program. American workers can and are replaced by these workers.'').

[111] *Cf.* Proclamation No. 10973, 90 FR 46027 (Sep. 24, 2025), *Restriction on Entry of Certain Nonimmigrant Workers.*

[112] *Cf.* Proclamation No. 10973, 90 FR 46027 (Sep. 24, 2025), *Restriction on Entry of Certain Nonimmigrant Workers.*

[113] *See* Annual Report 2020 and GAO 19–297, *supra* notes 76 and 81.

more thorough reviews of participating students and schools, while freeing up personnel to support other programs managed by SEVP, including OPT and CPT, and provide heightened customer service and technical support to educational institutions and other stakeholders. In turn, by streamlining operational planning and focusing resources where vulnerabilities are greatest, DHS would improve the quality and effectiveness of compliance checks, fraud detection, and enforcement actions, ultimately strengthening the integrity of the OPT program and related SEVP initiatives.

This streamlining and strategic allocation of DHS resources, combined with the reporting requirements under 20 U.S.C. 1011f of the Higher Education Act that are already in place will enable law enforcement to detect, analyze, and investigate suspicious financial transactions tied to foreign governments or threat actors that may seek to use OPT to steal US technology or advance other national security threats. Generally, schools would need to track how they are funding the OPT fees in their financial reports and disclosures for accounting purposes. These reporting and accounting mechanisms could aid law enforcement in tracking the origin and purpose of the funds. Since the funding of OPT participation is costly and requires transparency, the OPT fee could expose attempts by foreign adversaries to subsidize these costs through targeted investments or donations to schools offering OPT to F–1 nonimmigrant students. For example, large or unusual financial contributions from foreign sources, especially those tied to programs that rely heavily on OPT, could serve as red flags for further investigation into fraud and national security concerns.

Furthermore, INA 274A(h)(1), 8 U.S.C. 1324a(h)(1), notes that, ''[i]n providing documentation or endorsement of authorization of aliens . . . authorized to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.'' As such, DHS believes the financial obligation of the proposed fee, in tandem with the requirement that SEVP-certified institutions provide proof of payment of this fee when submitting a recommendation for OPT, also serves as a deterrent to schools, foreign students, and employers seeking to abuse OPT.

DHS believes that this proposed rule does not need to define which OPT experiences provide genuine educational value that is directly related to the F–1 nonimmigrant student's major area of study, given that the current regulations provide the eligibility framework for OPT and schools are in a better position to assess the weight and value of hands-on educational programs offered through OPT. Moreover, this proposed fee rule does not propose the imposition of specific limitations or restrictions on how the schools should collect or source the requisite funds to make the fee payments for each student engaged in OPT, to the extent that the school complies with all other applicable laws, including reporting foreign gifts and contracts under 20 U.S.C. 1011f. DHS acknowledges that the schools may pass the financial obligation of this proposed fee onto F–1 nonimmigrant students, all students, or employers. If the proposed fee is passed on to F–1 nonimmigrant students or employers, it would further discourage misuse of OPT by increasing the cost of participation for those whose intent is primarily to work or reside in the U.S. without legitimate academic purpose and for employers displacing U.S. workers.

While DHS understands that the proposed fees are not nominal amounts, such costs are reasonably related to the purposes of INA 101(a)(15)(F)(i), 8 U.S.C. 1101(a)(15)(F)(i),[114] and this proposed rule which addresses the vulnerabilities of OPT. Furthermore, these fees are intended to discourage aliens from using the OPT program to market themselves to employers seeking to bypass H–1B caps, fees, and prevailing wage requirements. In weighing the educational costs and the value of hands-on training experience in the United States, DHS believes that the OPT fees are on par with the educational costs that foreign students incur for one or two years of education in a program of study in the United States. However, DHS acknowledges that there may be instances in which a refund of the payment is necessary when OPT does not proceed as initially intended. The proposed rule includes refund provisions so that educational institutions may seek a refund if the student does not receive an OPT employment authorization document.

The proposed rule intends for schools to pay the applicable fees for eligible students who will engage in a form of OPT, regardless of the manner in which the foreign student obtained F–1 status—whether admitted in F–1 status or through a change of status (COS) within the United States—and irrespective of how the F–1 student obtained an extension of stay when seeking to engage in a form of OPT. In other words, the proposed fee would apply equally for all schools and students seeking to engage in OPT, regardless of whether the F–1 student received an Extension of Stay (EOS) authorization through USCIS or through CBP after traveling abroad to obtain a new I–94 to engage in OPT.

DHS proposes to establish two different OPT fee amounts. DHS believes that the initial OPT fee amount should be higher than the subsequent fee amounts because, when nonimmigrant students initially apply for employment authorization, they may not have been vetted by the U.S. Government since their initial application for an F–1 visa and subsequent admission into the country.[115] The importance of ensuring integrity in the OPT program is most prevalent at this stage. For the initial fee, DHS also considered the possibility that nonimmigrants could undermine the H–1B visa payment by abusing OPT.[116] As such, DHS selected a fee amount for OPT comparable to the fee for H–1B visas [117] that would deter visa fraud. The fee amount is designed to closely align with the H–1B fees to reduce students and employers from using OPT to circumvent the H–1B visa program fees. Schools would have to pay the OPT fee prior to the DSO entering the recommendation for OPT in SEVIS. To be clear, no DSO would be able to enter an OPT recommendation without the school having paid the applicable fee. Through this rule, DHS intends to verify whether the schools have made OPT fee payments for each student that they recommend for OPT,

[114] *See Narenji,* 617 F.2d at 745.

[115] DHS recognizes that the application requirements for EOS under 8 CFR 214.1(c) and 214.2(f)(7)(v) may provide DHS with additional opportunities to vet F–1 nonimmigrant students. *See* ''Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media,'' 91 FR 44976 (July 17, 2026). This final rule (hereinafter ''Duration of Status Final Rule'') amended the admission period for F nonimmigrant classification from duration of status to a fixed time period and implemented additional changes to admission and extension requirements. However, not all F–1 nonimmigrant students are required to apply for an EOS to engage OPT, such as those participating in pre-completion OPT or those grandfathered under the Duration of Status Final Rule and subject to the regulations at 8 CFR 214.2(m). DHS believes that the regulations currently in effect, together with the proposed OPT fee rule, will provide a comprehensive and holistic approach for DHS to effectively regulate the OPT program.

[116] *See* Proclamation No. 10973, 90 FR (Sept. 19, 2025), *Restriction on Entry of Certain Nonimmigrant Workers.*

[117] *Id.*

thereby strengthening the integrity of the program.

Notably, the proposed OPT fees collected under this rule would be deposited in the Treasury of the United States as a miscellaneous receipt pursuant to 31 U.S.C. 3302. ICE would not maintain or use the funding collected under these OPT fee provisions promulgated pursuant to INA 214(a), 8 U.S.C. 1184, because the statute does not provide legal authority for ICE to retain the funds collected. While the OPT fees would be deposited into the Treasury of the United States and not specifically earmarked for ICE SEVP or immigration enforcement activities, the collection of these fees remain essential in addressing the vulnerabilities of the OPT program for the reasons explained in this section. It is also conceivable that funds collected could later be effectively appropriated by Congress to various government agencies to further enhance the integrity of the immigration system. However, the deterrent nature of the OPT fee remains regardless of whether these funds are appropriated by Congress to government agencies for this purpose.

DHS considered some alternative regulatory approaches to address the issues in OPT that were discussed in sections IV.A. and IV.B. of the rule, such as applying STEM OPT requirements like site visits, training plans, and additional reporting to OPT more generally. However, DHS ultimately determined that proposing a fee for participation in the OPT program would offer an immediate and effective means to strengthen the integrity of OPT with minimal administrative burdens on the government. Unlike more complex regulatory alternatives, such as expanded site visits, increased reporting requirements, additional processes, and stricter procedural mandates, a fee can be implemented quickly and uniformly across all participants. This approach does not require DHS to deploy significant additional resources for enforcement or oversight. Moreover, the effect of a financial commitment is nearly immediate—those seeking to abuse the program are less likely to invest in participation when faced with a tangible cost, making engagement in OPT for nefarious purposes less attractive to bad actors. Furthermore, the financial commitment of this fee may encourage schools to apply a heightened level of scrutiny when reviewing an F–1 nonimmigrant student's request for OPT to ensure that the student is engaging in a legitimate OPT opportunity.

Although STEM OPT has regulatory safeguards, including reporting obligations, employer site visits, and the Form I–983 training plan requirement, DHS does not believe that simply extending those requirements to the initial period of post-completion OPT would be sufficient as an initial response to the overarching OPT program integrity concerns. Experience with STEM OPT indicates that additional procedural and documentation requirements, while useful, do not eliminate the risk of fraud, abuse, or noncompliance and may require substantial time and resources to implement, monitor, and enforce effectively. Solutions requiring self-attestations, reporting, or reliance on an honor system, without more, are insufficient to ensure the integrity of the OPT program. These mechanisms would need to be paired with enforcement activity, such as conducting more site visits across a broader range of employers, which may function less as a proactive fraud-prevention measure and more as reactive response to violations after they occur. In contrast, by requiring a financial commitment through an OPT fee, DHS would encourage participant to demonstrate a seriousness and genuine intent to comply with program requirements. The fee establishes a tangible stake in the process, helping to distinguish those who are committed to lawful participation from those who may seek to exploit the program. In addition to the current regulatory mechanisms in place, this additional layer of accountability supports the Department's broader efforts to uphold the integrity and effectiveness of the OPT program.

The Department recognizes the importance of restoring and maintaining public confidence in the OPT program through an immediate, effective regulatory solution, rather than a complex bureaucratic framework that may take years to yield results. By proposing a fee, rather than alternative administrative procedures, the Department seeks to minimize overregulation and complexities while responding to serious program integrity concerns that cannot be addressed quickly through such procedures alone. Recent concerns regarding misuse and fraud and the displacement of American workers have underscored the need for visible, effective action to reinforce the integrity of the program. The fee serves as a clear signal to the public and stakeholders that the Department is taking meaningful steps to safeguard the OPT program, while ensuring that legitimate participants continue to benefit from its opportunities.

DHS believes the OPT fee is a crucial first step to urgently address fraud, abuse, and noncompliance, in a targeted and immediately implementable manner. This measured approach allows for ongoing evaluation of the fee's impact and effectiveness, providing the agency with valuable data to inform future policy decisions. Importantly, the implementation of a fee should not be interpreted as precluding future changes to the OPT program through additional regulatory requirements; rather, it represents an immediate first step in a graduated strategy to address the urgent program integrity concerns. The Department seeks to retain flexibility to pursue additional regulatory measures in the future should further action be warranted.

In considering fees, DHS carefully evaluated various fee options, including exemptions to the fee for small educational institutions. *See* sec. VII.B.6. However, DHS estimates that 56 percent of regulated SEVP-certified institutions are small entities. *Id.* This approach could leave significant fraud vulnerabilities unaddressed, given that many SEVP-certified institutions are small entities. Various factors and data were considered in this proposed rule, as explained in section VII.B.6.

Separately, DHS acknowledges that OPT is not the only practical training program with the potential for significant fraud and national security issues. Fraud and national security threats in CPT have also been historically prevalent and have increased along with the number of students engaging in CPT. DHS will continue to monitor these concerning trends within the CPT program and will take additional actions as necessary.

D. Technical Edits

The addition of an OPT fee under 8 CFR 214.13 would require clarifying that the other fees listed under the current regulations are solely in reference to SEVP fees, as evidenced by the section heading titled ''*SEVIS fee* for certain F, J, and M nonimmigrants.'' [118] The proposed rule would add provisions regarding OPT fees under this section, such that it would be necessary to clarify which fees are specific SEVP fees and which are OPT fees.

V. Discussion of Changes

A. Establishing a Fee for Initial and Any Subsequent OPT

The proposed rule would establish a fee of $70,000 per F–1 nonimmigrant

[118] *See 8* CFR 214.13 (current) (emphasis added).

student applicable to SEVP-certified schools that recommend an F–1 nonimmigrant student to engage in OPT for the first time. *See* proposed 8 CFR 214.2(f)(11)(ii) and 214.13(i)(1). This fee amount would apply to any type of OPT that the student participates in for the first time (irrespective of whether it is pre-completion OPT or post-completion OPT). *Id.* The initial $70,000 is a one-time fee that an SEVP-certified educational institution must pay for each F–1 nonimmigrant student prior to a DSO's initial recommendation of an F–1 nonimmigrant student to participate in any type of OPT under 8 CFR 214.2(f)(10)(ii) for the first time. To be clear, this OPT fee would not be tied to a specific employer; rather the OPT fee would be applicable when a school decides to recommend an F–1 nonimmigrant student for any type of OPT.

The proposed rule would also establish a fee of $30,000 per F–1 nonimmigrant student applicable to SEVP-certified schools that make any subsequent OPT recommendation for an F–1 nonimmigrant student who has previously participated in OPT and has previously paid the initial OPT fee of $70,000. *See* proposed 8 CFR 214.13(i)(2). As such, this subsequent $30,000 fee would apply to any type of OPT that an F–1 nonimmigrant student participates in after having completed their initial OPT (regardless of whether it is another pre-completion OPT, post-completion OPT, or STEM OPT extension). *Id.* The OPT fee is not triggered by a change in employer but rather a school's decision to recommend a student for any type of OPT. For example, if an F–1 nonimmigrant student obtains a DSO recommendation for pre-completion OPT and completes the training, they would need to obtain a subsequent DSO recommendation for post-completion OPT, regardless of whether the employer is the same for post-completion OPT and pre-completion OPT. In this instance, the school would need to pay $70,000 for the student's pre-completion OPT and $30,000 for the student's post-completion OPT. As with the initial OPT fee, the subsequent OPT fee would need to be paid for the F–1 nonimmigrant student prior to the DSO entering the OPT recommendation in SEVIS. *See* proposed 8 CFR 214.2(f)(11)(ii). Additionally, USCIS would not grant employment authorization to any student prior to payment of the applicable OPT fee for the student. *See* proposed 8 CFR 214.2(f)(11)(iii).

The proposed rule reiterates that the schools must pay the applicable OPT fees prior to the DSO entering the OPT recommendation for an F–1 nonimmigrant student in SEVIS. *See* proposed 8 CFR 214.2(f)(11)(i)–(ii), 214.13(i). A DSO may not enter the OPT recommendation in SEVIS if the OPT fee has not yet been paid. The proposed rule requires the DSO to confirm that the school has paid the applicable OPT fee prior to updating SEVIS with the DSO's recommendation and before the student can apply to USCIS for employment authorization. *See* proposed 8 CFR 214.2(f)(11)(ii)(B). The DSO would need to provide the F–1 nonimmigrant student with a new I–20 with the DSO's recommendation and OPT fee payment information so that the student may file the Form I–765 with USCIS. *See* proposed 8 CFR 214.2(f)(11)(i), (ii)(C). The proposed rule provides that USCIS would not grant employment authorization to any student where the school has failed to pay the applicable OPT fee prior to issuing an OPT recommendation or in instances where the school has completely failed to pay the applicable OPT fees. *See* proposed 8 CFR 214.2(f)(11)(iii).

For the initial OPT fees, the proposed rule provides that a school may request a refund if the F–1 nonimmigrant student has not received an employment authorization document for OPT for which the payment has been made. *See* proposed 8 CFR 214.13(i)(1). The proposed rule makes clear that this fee would not be refunded under any circumstances once the F–1 nonimmigrant student has received an employment authorization document for OPT. *Id.* Similarly, for subsequent OPT fees, the proposed rule provides that a school may request refund if the student has not received an employment authorization document for OPT or an OPT extension. *See* proposed 8 CFR 214.13(i)(2). The DSO would need to remove the F–1 nonimmigrant student's OPT recommendation in SEVIS before requesting a refund. For all refund requests, SEVP would review each request on a case-by-case basis and exercise discretion in adjudicating the request. *See* proposed 8 CFR 214.13(i)(1)–(2). The proposed rule also provides that SEVP may consider providing further guidance on its website regarding the refund request adjudication. *Id.* SEVP's determination on the refund request would be final and not appealable. *Id.*

DHS has also considered, as an alternative to the approach described above, having the one-time initial fee of $70,000 apply again to any initial period of OPT following the F–1 student's change to a higher educational level (*e.g.,* to a post-bachelor's degree OPT and again to the student's master's degree OPT). DHS welcomes public comments on the rule in its entirety but especially encourages input from the public on this potential alternative.

B. Technical Amendments

Since an additional fee is being proposed within 8 CFR 214.13, DHS has also proposed some clarifying amendments to the current regulatory text to refer to a ''SEVIS fee'' rather than a ''fee.'' *See* proposed 8 CFR 214.13(b), (e), (e)(1), (e)(3), (g)(3), and (h).

C. Transition Period and Effective Date of the Final Rule

To facilitate the transition, DHS is proposing that the final rule take effect 60 days after the date of publication of the final rule in the **Federal Register** (''effective date''), which would allow school officials, F–1 nonimmigrant students, and employers to prepare for changes in this fee rule. *See* proposed 8 CFR 214.13(i)(3).

The OPT fee of $70,000 would start to apply for F–1 nonimmigrant students who will receive a DSO recommendation for any type of OPT that is dated on or after the effective date of the final rule. *See* proposed 8 CFR 214.13(i)(3). Thereafter, any subsequent DSO recommendations for OPT issued for any F–1 student who has previously participated in OPT, and for which the $70,000 OPT fee has been paid, will be subject to the subsequent OPT fee of $30,000 per alien. *Id.*

VI. Reliance interests

Throughout this rulemaking process, DHS has considered whether there are any serious reliance interests that would be affected by the implementation of this rule. Based on its review and analysis, DHS is proposing to apply this rule prospectively to those F–1 nonimmigrant students who apply for OPT after the effective date. DHS has considered the reliance interests of all parties and entities affected by the proposed rule and believes the agency has good reason for the rulemaking along with the statutory authority to take such action.[119] In proposing this rule, DHS considered the following: fraud concerns; the need to ensure that institutions are remaining diligent in their oversight of F–1 nonimmigrant students such that F–1 nonimmigrant students are engaging in legitimate OPT directly related to the F–1 nonimmigrant student's major area of study; protecting the interests of U.S.

[119] For a full discussion on Transition Period and Effective Date, see section V.C above.

workers; and the benefits of providing clarity on the requirements of OPT for F–1 nonimmigrant students, educational institutions, and employers. DHS has determined that these issues outweigh any stakeholder's reliance interest. The national interest in protecting American workers and program integrity far outweighs any reliance interests of foreign students, employers (including state and government employers), or educational institutions. The F–1 visa was never intended to provide a pathway to employment in the United States.

Throughout the INA, Congress has drawn clear distinctions between different classes of aliens and the benefits to which they are entitled.[120] The F–1 visa classification is for nonimmigrants who intend to come to the United States ''solely for the purpose of pursuing . . . a course of study'' and not an ancillary purpose, such as seeking employment.[121] Additionally, the F–1 nonimmigrant classification is for aliens who have no intention of abandoning their foreign residence.[122] A number of factors play a role in an F–1 nonimmigrant student selecting an institution and course of study, including, but not limited to: geographic location, school rankings and prestige, program availability, campus culture, housing, sporting programs, and tuition costs. While DHS considered that the opportunity an institution provides for OPT may be one of many factors, it is speculative to assume that the ability to participate in OPT, which requires authorization by a SEVP-certified educational institution and the U.S. Government and is by law temporary in nature, is the sole reason a student decided to enter the United States on a F–1 classification. In fact, only about 20 percent of F–1 nonimmigrants participated in OPT in 2024 out of the 1.4 million F–1 nonimmigrants in the higher education system, which demonstrates that the vast majority of F–1 nonimmigrants choose to study in the United States for reasons other than to pursue work through OPT.[123] Regardless of whether F–1 nonimmigrants participate in OPT, which is by definition not required to obtain their degree, they realize enormous benefits in studying at the prestigious institutions America offers and obtaining degrees from these institutions. Moreover, F–1 nonimmigrants may pursue appropriate channels to obtain employment in the United States other than the OPT, such as through the H–1B visa following graduation or on-campus or off-campus employment during the program of study. Accordingly, DHS believes that any potential reliance interests on the part of prospective F–1 students and current F–1 students who have not yet received a DSO recommendation for OPT is outweighed by the benefits described above.[124] In addition, DHS is proposing to apply this rule to those F–1 nonimmigrant students who receive a DSO recommendation for OPT that is dated on or after the effective date of the final rule. DHS believes this should address any potential reliance interests of students who have applied for OPT employment authorization before the effective date.

As for the reliance interests of SEVP-certified educational institutions, they should be able to attract foreign students without relying on OPT and STEM OPT, as students rely on myriad factors when applying for and selecting a school to pursue a course of study. Educational institutions must be diligent when recommending F–1 nonimmigrant students to participate in OPT to ensure the students are maintaining status. To the extent that an institution may have to alter its budget that was prepared without consideration of being required to pay the proposed fee, DHS has weighed those interests with those explained in this rule and determined that the purpose of and urgent need to address fraud through this proposed rule far outweigh such interests. DHS notes that in weighing the competing interests, schools may mitigate their budgetary impact by passing the financial obligation of this proposed fee onto F–1 nonimmigrant students, all students, or employers. Additionally, DSOs are not required to recommend F–1 nonimmigrants for OPT and can elect not to pay the fee for a particular F–1 nonimmigrant who is not a strong candidate for OPT or whose participation in OPT could adversely affect the integrity of the program.

Similarly, DHS believes that any potential reliance interests of employers have been adequately addressed in this proposed rule. Employers, including state and local governments, have a variety of methods to hire workers, and any decrease in participation from this rule is far outweighed by the fraud concerns and interest in protecting American workers as outlined above. To the extent employers staffing levels may be impacted by this proposed fee, they can minimize this impact by recruiting U.S. citizens or candidates with other lawful work authorization to fill the vacancies. Additionally, participation in OPT is temporary by law, which diminishes an employer's reliance interests in using OPT to infuse its workforce. As discussed, in section IV.A–C, the government is prioritizing the significant need to address fraud, protect U.S. workers, and strengthen the integrity of the immigration programs. Notably, ''regulatory agencies do not establish rules of conduct to last forever,'' and ''an agency must be given ample latitude to adapt their rules and policies to the demands of changing circumstances.'' [125] The transition period accounts for the employers' interests by proposing to apply the rule to only F–1 nonimmigrant students who have not yet obtained a DSO recommendation prior to the effective date of the final rule, rather than those who are engaging in OPT or have received a DSO recommendation for OPT that was issued prior to the effective date of the final rule.

The rule, as proposed, would lead to SEVP-certified educational institutions recommending high achieving eligible F–1 nonimmigrant students who are pursuing OPT directly related to the F–1 nonimmigrant student's major program of study, thereby ensuring both F–1 nonimmigrant students and employers benefit from OPT. In sum, DHS has considered the reliance interests from various stakeholders and has made a reasoned decision for this rulemaking, concluding that the interests of the relevant stakeholders are far outweighed by the national interests of the United States.

DHS believes that a 30-day public comment period, a delayed effective date, and prospectively applying the new fees provide ample time and notice for F–1 nonimmigrant students to apply for a change of status, depart the United States, or make any other necessary arrangements. SEVP-certified institutions will not be required to pay this fee for an F–1 nonimmigrant student's OPT if the student is currently engaging in previously approved OPT,

[120] *See generally* INA secs. 214(a)(1) and 274A, 8 U.S.C. secs 1184(a)(1) and 1324a.

[121] INA 101(a)(15)(F)(i), 8 U.S.C. 1101(a)(15)(F)(i).

[122] *See* INA 101(a)(15)(F)(i), 8 U.S.C. 1101(a)(15)(F)(i).

[123] U.S. Immig. and Customs Enf't, *SEVIS By the Numbers 2024* (June 5, 2025), available at *https://www.ice.gov/doclib/sevis/btn/25_0605_2024-sevis-btn.pdf.*

[124] DHS acknowledges that current F–1 nonimmigrants who have not yet received a DSO recommendation for OPT are in a different position than prospective F–1 nonimmigrants who have not already moved to America to pursue a degree. Nevertheless, the reasons F–1 nonimmigrant's reliance interests do not outweigh the benefits of this rule still apply to current F–1 nonimmigrants, as described throughout this section.

[125] *Motor Vehicle Mfrs. Ass'n of U.S., Inc.* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29, 43 (1983) (internal citations omitted).

has been approved for OPT prior to the effective date of this rule, or has received a DSO recommendation for OPT prior to the effective date of this rule. However, under this proposed rule, if the F–1 nonimmigrant student submits a subsequent request for OPT on or after the effective date of the final rule, the fee provisions as outlined in this proposed rule will apply. An F–1 nonimmigrant student's expectation to engage in OPT or STEM OPT in the United States or gain post-completion employment in the United States is speculative and any assumption that such employment will be automatically granted undermines the original intent of the F–1 nonimmigrant visa to solely pursue a full course of study.

VII. Statutory and Regulatory Requirements

DHS developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. The below sections summarize the analyses based on a number of these statutes or executive orders.

A. Executive Orders 12866, 13563, and 14192

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, harmonizing rules, and 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 designated this proposed rule a ''significant regulatory action'' that is economically significant, as defined under section 3(f)(1) of E.O. 12866. Accordingly, the rule has been reviewed by OMB.

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 section 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. Summary

DHS is proposing an initial fee of $70,000 per F–1 nonimmigrant student OPT recommendation by a SEVP-certified institution, and an additional $30,000 for any subsequent OPT recommendations for the F–1 nonimmigrant student. The purpose of this proposed rule is to establish fees for OPT prior to a DSO recommending an F–1 nonimmigrant student for OPT. DHS believes that implementing the proposed fee would reduce the rampant fraud and abuse of OPT. The benefits of this proposed fee include strengthening the integrity of the immigration system, protecting U.S. workers, and alleviating burdens imposed on DHS tied to OPT investigations. SEVP-certified institutions would need to consider both the costs of OPT participation and the value each F–1 nonimmigrant student's OPT participation brings to the institution.

The period of analysis for this proposed rule covers 10 years, denoted Year 1 through Year 10. To compare impacts over time, DHS applies 3 percent and 7 percent discount rates to the total estimated impacts of the proposed rule. This analysis estimates the annualized value of future costs using two discount rates: 3 percent and 7 percent. In Circular A–4,[126] OMB recommends that a 3-percent discount rate be used when a regulation affects private consumption, and a 7-percent discount rate be used in evaluating a regulation that will mainly displace or alter the use of capital in the private sector. The discount rate accounts for the fact that costs that occur sooner are greater in present value.

Due to high uncertainty in regulated parties' behavioral responses, DHS uses ranges to estimate costs and transfers. These ranges reflect different scenarios for how many OPT fees the educational institutions would fund. If all OPT fees are paid by schools, the main impact would be the transfer of payments from the fees. If some OPT fees are not paid by schools due to reduced participation, there would be opportunity costs from the lost OPT participation. DHS estimates the annualized costs of the proposed rule would range from $32 million to $8.2 billion, with a primary estimate of $4.1 billion discounted at 3 percent. Discounted at 7 percent, the estimated annualized costs of the proposed rule would range from $34 million to $8.2 billion, with a primary estimate of $4.1 billion. DHS estimates the 10-year total costs of the proposed rule would be $275 million to $69.9 billion, with a primary estimate of $35.1 billion discounted at 3 percent (see Table 10). Discounted at 7 percent, the estimated total costs of the proposed rule would be $241 million to $57.7 billion, with a primary estimate of $29.0 billion.

DHS estimates the annualized transfers of the proposed rule to be $8.7 billion to $16.9 billion, with a primary estimate of $12.8 billion discounted at 3 percent. Discounted at 7 percent, the estimated annualized transfers range from $8.8 billion to $17.0 billion, with a primary estimate at $12.9 billion. DHS estimates the 10-year transfers of the proposed rule to be $74.6 billion to $144.3 billion, with a primary estimate of $109.4 billion discounted at 3 percent (see Table 4). Discounted at 7 percent, the estimated transfers of the proposed rule would be $61.8 billion to $119.3 billion, with a primary estimate of $90.6 billion.

Table 1 presents the OMB Circular A–4 accounting statement with a summary of the quantitative and qualitative costs, benefits, and transfers associated with this rule.[127] DHS recognizes that the proposed rule would result in certain populations incurring costs. Some of the costs have been quantified based on available data, and the remaining costs are qualitative.

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[126] OMB Circular A–4, Regulatory Analysis (Sept. 17, 2003), *trumpwhitehouse.archives.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf* (last visited June 29, 2026).

Table 1: OMB A-4 Accounting Statement

A-4 Accounting Statement ($ millions, 2025$) **Time Period: 10 years**					
Category		**Primary Estimate**	**Minimum Estimate**	**Maximum Estimate**	**Source Citation**
BENEFITS					
Annualized Monetized Benefits	Not Estimated				Regulatory impact analysis (RIA)
Annualized quantified, but unmonetized, benefits	N/A		N/A	N/A	RIA
Qualitative (unquantified) Benefits	• Enhance DHS's ability to enforce the unlawful presence provisions of the INA at the conclusion of F nonimmigrants full time enrolled student status. • Deter F-1 nonimmigrants, employers of F-1 nonimmigrants and representatives of educational institutions from engaging in fraud and abuse and strengthen the integrity of the F-1 nonimmigrant classification system. • Incentivize educational institutions to provide more oversight and careful consideration of recommendations for OPT. • Protects U.S. workers by reducing possible excess supply of lower-paid foreign workers in the labor market. • Fewer OPT participants would allow DHS to more thoroughly review fraud cases tied to OPT investigations. • Proposed financial obligation encourages schools to ensure OPT opportunities provide genuine educational value, aligning with the original intent of the practical training program. • If OPT employment is replaced by workers subject to FICA payroll taxes, there may be increased federal tax revenue. • The rule would incentivize schools to recommend only the most promising students for OPT, reducing "visa mill" activities.				RIA
COSTS					
Category	**Discount Rate**	**Primary Estimate**	**Minimum Estimate**	**Maximum Estimate**	**Source Citation**
Annualized monetized costs for 10-year period	3%	$4,112	$32	$8,192	
	7%	$4,122	$34	$8,210	RIA
Annualized quantified, but unmonetized, costs	N/A				RIA
Qualitative (unquantified) costs	• Costs due to additional budgeting, accounting, and audit burdens to pay and track OPT fees. • Changes to payment processes, possibly requiring enhanced recordkeeping, tracking, and compliance. • Financial entities (e.g., banks) may incur extra costs for processing, validating, and authorizing payments. • When fees are funded from cost sharing with other entities, institutions receiving funds from students, employers, or external sources may face additional administrative burdens to manage payments.				RIA

	• DHS must establish processes to confirm fee payments, possibly requiring IT system updates; other agencies may also incur costs. • Refund requests may result in additional administrative costs for educational institutions and ICE.				
TRANSFERS					
Category	**Discount Rate**	**Primary Estimate**	**Minimum Estimate**	**Maximum Estimate**	**Source Citation**
Annualized monetized transfers:	3%	$12,830	$8,746	$16,915	RIA
	7%	$12,896	$8,803	$16,988	RIA
From whom to whom?	From SEVP-certified institutions to the Federal Government				RIA
Annualized monetized transfers: "off-budget"	N/A				RIA
From whom to whom?	N/A				RIA
Miscellaneous Analyses/Category	Effects				Source Citation (RIA, preamble, etc.)
Effects on State, local, or tribal governments	N/A				RIA
Effects on small businesses	DHS estimates that the proposed rule would result in a significant economic impact on a substantial number of small entities due to additional fees, familiarization, and payment processing burden.				Initial Regulatory Flexibility Act (IRFA) analysis
Effects on wages	N/A				RIA
Effects on growth	N/A				RIA

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2. Background and Purpose of the Proposed Rule

a. Background on Optional Practical Training

Aliens in the F–1 nonimmigrant student category have the option of training through employment in the United States by engaging in practical training during or after their program of study. The training must be directly related to the F–1 nonimmigrant student's major area of study. Generally, OPT can be authorized for up to 12 months at each educational level, with limitations around pre-completion or post-completion OPT, unless the F–1 nonimmigrant student previously engaged in one year or more of full time CPT. For a full discussion of OPT, *see* section III.D. DSOs provide the F–1 nonimmigrant student with a new Form I–20 that demonstrates the DSO recommendation for this OPT employment. Once a recommendation is received from the DSO, the F–1 nonimmigrant student seeking to engage in OPT must file a completed Form I–765, Application for Employment Authorization, with USCIS and pay the associated filing fee. If USCIS approves the Form I–765, USCIS notifies the F–1 nonimmigrant student of the decision and sends the F–1 nonimmigrant student an approved Form I–766 ''Employment Authorization Document'' (EAD). The F–1 nonimmigrant student may only start working after receiving his or her EAD.

b. STEM OPT–24 Month Extension

F–1 nonimmigrant students who earn a qualifying STEM degree from an accredited SEVP-certified college or university may be eligible for an additional 24 months of OPT. To apply for the STEM OPT extension, the F–1 nonimmigrant student and his or her prospective employer must complete and sign Form I–983, ''Training Plan for STEM OPT Students.'' The DSO verifies that Form I–983 is complete, keeps it in the F–1 nonimmigrant student's record, and issues a new Form I–20 recommending the STEM OPT extension. The F–1 nonimmigrant student must then apply for work authorization by submitting a Form I–765 to USCIS with the required filing fee. If approved, USCIS issues a STEM OPT EAD to the F–1 nonimmigrant student. If the Form I–765 for the STEM OPT extension is timely filed, and the F–1's current OPT period expires while the Form I–765 is pending, the F–1 nonimmigrant student will receive an automatic 180-day extension of his/her employment authorization. This automatic 180-day extension ceases once USCIS adjudicates the STEM OPT extension application.

Extension of Stay

On July 17, 2026, DHS issued the ''*Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media*'' final rule (91 FR 44976). Once effective, this rule requires the F–1 nonimmigrant student to submit a Form I–539, ''Application to Extend Nonimmigrant Status,'' or alternatively depart and seek admission through CBP for a new admission period,'' when their stay in the United States exceeds the new regulatory time limit, or in addition to other new regulatory requirements.

Some F–1 nonimmigrant students who plan to enroll in OPT may have to submit a Form I–539, in addition to the I–765. Refer to the final rule for a discussion of the impacts due to the new regulatory time limits. The specific impacts related to submitting an I–539 have been taken into account and are therefore not considered in the OPT proposed rule.

c. Purpose of Proposed Regulatory Changes

DHS proposes requiring SEVP-certified institutions to pay a $70,000 fee for each initial F–1 nonimmigrant student recommendation, and a $30,000 fee per subsequent OPT recommendation for the same F–1 nonimmigrant student. The purpose of these fees is to encourage institutions to be more selective and deliberate in their OPT recommendations. As discussed in Section IV Need for Rulemaking, DHS has publicly reported suspected fraud and abuse in the OPT program. As the program has grown, DHS's ability to review each case and verify compliance with program requirements is limited by available resources. As such, these fees are intended to reduce fraudulent use of OPT as a way to bypass other employment-based visa programs, such as the capped H–1B program.

3. Baseline and Population

a. SEVP-Certified Institutions

To identify SEVP-certified institutions that recommend F–1 nonimmigrant students for OPT, DHS reviewed OPT authorizations with employment start dates in 2022, 2023, and 2024. DHS found 2,478 schools that enrolled F–1 nonimmigrant students and had F–1 nonimmigrant students that participated in OPT. DHS assumes this is the estimated regulated population affected by the proposed rule.

b. F–1 Nonimmigrant Students Engaged in OPT and STEM OPT

Table 2 shows the annual number of F–1 nonimmigrants students engaged in OPT and STEM OPT with employment start dates from 2014 to 2024.[128] The numbers include both pre-completion and post-completion OPT authorizations.

Table 2: Total number of annual OPT and STEM OPT Authorizations with Employment Start Dates During an Indicated Calendar Year from 2015 to 2024

Calendar Year	OPT Students	OPT Percentage Change	STEM OPT Students	STEM OPT Percentage Change
2015	99,323	N/A	27,493	N/A
2016	137,570	39%	41,782	52%
2017	152,681	11%	64,481	54%
2018	145,564	-5%	69,650	8%
2019	138,898	-5%	72,116	4%
2020	122,699	-12%	63,906	-11%
2021	115,651	-6%	61,543	-4%
2022	117,301	1%	64,844	5%
2023	160,627	37%	62,036	-4%
2024	194,554	21%	95,384	54%

Current participation in OPT and STEM OPT has generally increased, but there have been fluctuations and some periods of decline. Therefore, DHS uses both the recent annual averages (2022–2024) and the most recent year (2024) to estimate OPT and STEM OPT participation over the 10-year period of analysis, absent this rule (see Table 3). Based on the 2022–2024 annual average, DHS estimates a low-end future annual OPT population of 88,374 and a low-end annual STEM OPT population of 74,088. For the high-end annual estimate, DHS used 2024 data, the highest year in the dataset, with 194,554 OPT and 95,384 STEM OPT participants.

DHS acknowledges that the proposed fee represents a significant increase in the cost of participating in OPT and STEM OPT, which could affect future participation rates. DHS cannot confidently predict the extent of any reduction in participation due to these new requirements. Accordingly, DHS evaluated various scenarios to create a range for estimating how many prospective F–1 nonimmigrant students DSOs may recommend for participation in OPT and STEM OPT and thus incur the proposed fees.

In the high participation scenario, DHS assumes that there is no change in how many F–1 nonimmigrant students schools recommend for OPT and STEM OPT, and all F–1 nonimmigrant students under the baseline will continue to participate. DHS uses the estimate of 194,554 for OPT and 95,384 for STEM OPT, based on calendar year 2024 data, in this high scenario.

[128] Based on Student Exchange Visitor Program (SEVP) Total Number of Annual OPT, STEM OPT and CPT Authorizations with Employment Start Dates During an Indicated Calendar Year from 2007 to 2024, available at *https://www.ice.gov/doclib/sevis/btn/2024/TotalNumberAnnualOPT__STEM__OPT__CPT__AuthorizationsWithEmpStartDatesDuringIndicatedCY2007__2024.pdf.*

To estimate how the rule might change overall OPT participation, DHS considered the fee expense of one year of OPT to the value of initial OPT and an additional 24-month STEM OPT extension. For the low scenario, DHS assumes institutions with non-STEM degree F–1 nonimmigrant students eligible only for one year of OPT may be less likely to pay the $70,000 initial fee. This would be because of the limited benefit of paying $70,000 for only a single year compared to paying $100,000 for up to three years with STEM OPT eligibility. In a low participation scenario, DHS assumes institutions would pay the initial OPT fee for only F–1 nonimmigrant students eligible for the 24-month STEM OPT extension. In contrast, institutions with F–1 nonimmigrants eligible for the additional two years of STEM OPT may be more willing to pay both the $70,000 initial and $30,000 extension fees. Based on 2021–2024 data, approximately 56 percent of OPT participants obtained a STEM OPT extension the following year. DHS used this percentage to estimate the number of initial OPT fees primarily associated with STEM majors, 88,374.[129] For the primary fee estimate, DHS uses an average of the high and low participation scenario estimate.

4. Transfers

For purposes of this rule, all fees paid by the SEVP-certified institutions to the Federal Government for OPT participation are considered transfers.[130] Section *a. Estimated OPT Fees* describes the calculations to estimate the amount of fees estimated to be transferred from the SEVP-certified institutions to the Federal Government because of the proposed rule.

a. Estimated OPT Fees

DHS applies the proposed fees to the respective estimate of OPT and STEM OPT participation under the low, high, and primary participation scenario to estimate the annual fees potentially collected under the proposed rule. For this analysis, DHS applies the initial fee of $70,000 to the OPT participation data and applies the subsequent fee of $30,000 to the STEM OPT participation data. To model the transition period in Year 1, DHS assumes all participants will pay $70,000, including those in STEM OPT. However, DHS classifies STEM OPT conducted in later years as subsequent OPT and the $30,000 fee applies. Under the proposed rule, when a F–1 non-immigrant participates in pre-completion OPT and then post-completion OPT, his or her institution pays $70,000 for pre-completion and $30,000 for post-completion. Rather than paying the two fees and $100,000 in total, DHS assumes institutions and F–1 nonimmigrants will shift to post-completion OPT to pay $70,000 for 12 months of OPT versus paying $100,000 when splitting the 12 months between pre-completion and post-completion OPT. DHS discusses this topic further in VII.A.5.d Other Unquantified Impacts. The annual fees collected would range from $8.4 billion to $16.5 billion, with a primary estimate of $12.4 billion; see Table 3.

Table 3: Estimated Annual OPT and STEM OPT Fees ($billions)

Assumptions and scenarios	Range Estimate	OPT Students	OPT Fees ($70k)	STEM OPT Students	STEM OPT Fees ($30k)	Total Fees
2024 Population	High	194,554	$13.6	95,384	$2.9	**$16.5**
Prospective STEM OPT annual average (56% of annual average OPT) (2022-2024)	Low	88,374	$6.2	74,088	$2.2	**$8.4**
Average of Low and High Fees Estimate	Primary					**$12.4**

If educational institutions are unable to pay or choose not to pay the fee for OPT/STEM OPT, there would be opportunity costs to the SEVP-certified institutions, F–1 nonimmigrant students, and employers. DHS discusses such opportunity costs later in this analysis. Table 4 summarizes the estimated fee transfers over the ten-year period and provides the estimated total transfers discounted and the annualized discounted costs at 3 percent and 7 percent.

[129] 157,494 was the annual average for calendar year 2022 to 2024. DHS calculated 88,374 by multiplying 157,494 by 56.11 percent.

[130] Transfer payments are monetary payments from one group to another that do not affect total resources available to society. The proposed fee would shift resources between private entities and the government without necessarily changing total social resources. See OMB, Circular A 4, Regulatory Analysis, page 38, (Sept. 17, 2003), available at: *https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf.* available at: *https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf.*

Table 4: Fee Transfers over Ten Year Period ($millions)

Calendar Year	Low	Primary	High
Year 1	$11,372.3	$15,834.0	$20,295.7
Year 2	$8,408.8	$12,444.5	$16,480.3
Year 3	$8,408.8	$12,444.5	$16,480.3
Year 4	$8,408.8	$12,444.5	$16,480.3
Year 5	$8,408.8	$12,444.5	$16,480.3
Year 6	$8,408.8	$12,444.5	$16,480.3
Year 7	$8,408.8	$12,444.5	$16,480.3
Year 8	$8,408.8	$12,444.5	$16,480.3
Year 9	$8,408.8	$12,444.5	$16,480.3
Year 10	$8,408.8	$12,444.5	$16,480.3
Undiscounted Total	$87,051.5	$127,834.9	$168,618.4
Total with 3% discounting	$74,605.9	$109,445.2	$144,284.5
Total with 7% discounting	$61,829.5	$90,573.0	$119,316.5
Annualized, 3% discount rate, 10 years	$8,746.1	$12,830.3	$16,914.5
Annualized, 7% discount rate, 10 years	$8,803.1	$12,895.6	$16,988.0

5. Costs

a. Implementation Costs

DHS anticipates there would be costs for employees of SEVP-certified institutions to familiarize themselves with the rule once it takes effect, adapt their processes and procedures for selecting F–1 nonimmigrant students to recommend for OPT given the new fees, administer fee payment, and establish methods for funding the new fees. Each OPT and STEM OPT recommendation would require additional time for fee submission, and documentation review. DHS estimates these costs in the following sections.

(1) Rule Familiarization and Adaptation

The proposed rule would impact DSOs and administrators from SEVP-certified institutions whose F–1 nonimmigrant students use OPT by requiring time for rule familiarization, training, modification of training materials, and establishing new review processes for the OPT program. Based on best professional judgement, SEVP estimates that DSOs and institution administrators will each require 30 hours for rule familiarization, 10 hours to create and modify training materials, and 25 hours to adapt to the rule through system-wide briefings and systemic changes. To estimate the DSO-specific costs, DHS multiplied the total familiarization/adaptation burden estimate (65 hours) by the loaded wage rate for DSOs ($50.14 = $34.34 wage rate × 1.46 loaded wage rate factor [131]) and by the number of DSOs (10,800 [132]). For the institution administrator costs, DHS multiplied the same total familiarization/adaptation burden estimate (65 hours) by the loaded wage rate for school administrators ($88.83 = $60.84 wage rate × a 1.46 loaded wage rate factor [133]) and by an estimated number of administrators required to familiarize themselves with the rule per institution (12,390 = 2,478 schools × 5 administrators per institution).

DHS estimates that rule familiarization and adaptation, including the burdens for the DSOs and administrators, will cost $106.7 million undiscounted ([$50.14 loaded wage rate × 65 hours × 10,800 DSOs] + [$88.83 loaded wage rate × 65 hours × 12,390 administrators]), or $103.6 million and $99.7 million at discount rates of 3 and 7 percent, respectively, during the first year only once the rule takes effect (see Table 7).

(2) OPT Approval and Payment Processing Costs

In addition to the DSO and administrator rule familiarization and adaptation costs, DHS accounts for increased review and approval processes for OPT applications after the rule takes effect. DHS acknowledges that with the added fee, SEVP-certified institutions may increase the scrutiny of applications to ensure that paying the fee is associated with a legitimate OPT opportunity. DHS assumes that, under the rule, each OPT application would

[131] Based on the Bureau of Labor Statistics (BLS) mean hourly wage for SOC 21–1012 (Educational, Guidance, and Career Counselors and Advisors) for May 2025 of $34.34 (available at *https://www.bls.gov/news.release/archives/ocwage_05152026.pdf*). The benefits-to-wage multiplier is calculated by the BLS, using March 2026, released on June 12, 2026, as (Total Employee Compensation per hour) / (Total wages and Salaries per hour) = $49.32 / $33.72 = 1.46, based on the average mean wage for all occupations (*see* Civilian workers in Table 1; *https://www.bls.gov/news.release/archives/ecec_06122026.pdf*).

[132] The numbers of DSOs and ROs are based on a SEVP SEVIS pull for year 2026. More information on SEVIS can be found at *https://www.ice.gov/sevis/overview*.

[133] Based on the Bureau of Labor Statistics (BLS) mean hourly wage for SOC 11–9033 (Education Administrators, Postsecondary) for May 2025 or $60.84 (available at *https://www.bls.gov/news.release/archives/ocwage_05152026.pdf*). The benefits-to-wage multiplier is calculated by the BLS, using March 2026, released on June 12, 2026, as (Total Employee Compensation per hour)/(Total wages and Salaries per hour) = $49.32/$33.72 = 1.46, based on the mean national wage for all occupations (*see* Civilian workers in Table 1; *https://www.bls.gov/news.release/archives/ecec_06122026.pdf*).

result in an additional 0.5 hours of review, including updating SEVIS with fee payment information, to the DSO. To account for increased approval burden, DHS multiplied the annual number of OPT applications by 0.5 hours and the loaded wage rate for DSOs ($50.14 = $34.34 wage rate × a 1.46 loaded wage rate factor).

Additionally, it is unlikely that DSOs would be fully authorized to complete payments of $70,000, and SEVP-certified institutions may require additional controls for payments of that scale. DHS assumed that institution administrators would require an additional 0.5 hours to complete and record each payment of the fee. To account for increased approval burden, DHS multiplied the annual number of OPT applications by 0.5 hours and the loaded wage rate for administrators ($88.83 = $60.84 wage rate × a 1.46 loaded wage rate factor). These annual costs for review and payment processing, using the range of estimated OPT and STEM OPT applications, are shown in Table 5. Results range from $11.3 million to $20.2 million, depending on the number of OPT applications per year. DHS estimates a primary estimate for annual total costs of $15.7 million, based on the average of the low and high estimates.

Table 5: Review and Payment Processing Costs ($millions)

Assumptions and scenarios	Range Estimate	OPT Students	STEM OPT Students	DSO Review Cost	Administrator Payment Approval Cost	Total Cost (Annual)
2024 Population	High	194,554	95,384	$7.27	$12.88	$20.15
Prospective STEM OPT annual average (56% of prior year OPT) (2022-2024)	Low	88,374	74,088	$4.07	$7.22	$11.29
Average of High and Low Estimate	Primary	141,464	84,736	$5.67	$10.05	$15.72

The following tables display the first-year familiarization costs and the review and processing costs over a ten-year period, including the range based on estimated scenarios.

Table 6: Implementation Costs of the Proposed Rule (Low Estimate) ($millions)

Calendar Year	Rule Familiarization	DSO Review Cost	Administrator Review Cost	Total Costs
Year 1	$106.73	$4.07	$7.22	$118.02
Year 2	$0.00	$4.07	$7.22	$11.29
Year 3	$0.00	$4.07	$7.22	$11.29
Year 4	$0.00	$4.07	$7.22	$11.29
Year 5	$0.00	$4.07	$7.22	$11.29
Year 6	$0.00	$4.07	$7.22	$11.29
Year 7	$0.00	$4.07	$7.22	$11.29
Year 8	$0.00	$4.07	$7.22	$11.29
Year 9	$0.00	$4.07	$7.22	$11.29
Year 10	$0.00	$4.07	$7.22	$11.29
Undiscounted Total	**$106.73**	**$40.73**	**$72.15**	**$219.61**
Total with 3% discounting				**$199.91**
Total with 7% discounting				**$179.03**
Annualized, 3% discount rate, 10 years				**$23.44**
Annualized, 7% discount rate, 10 years				**$25.49**

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Table 7: Implementation Costs of the Proposed Rule (Primary Estimate) ($millions)

Calendar Year	Rule Familiarization	DSO Review Cost	Administrator Review Cost	Total Costs
Year 1	$106.73	$5.67	$10.05	$122.45
Year 2	$0.00	$5.67	$10.05	$15.72
Year 3	$0.00	$5.67	$10.05	$15.72
Year 4	$0.00	$5.67	$10.05	$15.72
Year 5	$0.00	$5.67	$10.05	$15.72
Year 6	$0.00	$5.67	$10.05	$15.72
Year 7	$0.00	$5.67	$10.05	$15.72
Year 8	$0.00	$5.67	$10.05	$15.72
Year 9	$0.00	$5.67	$10.05	$15.72
Year 10	$0.00	$5.67	$10.05	$15.72
Undiscounted Total	**$106.73**	**$56.70**	**$100.46**	**$263.90**
Total with 3% discounting				**$237.69**
Total with 7% discounting				**$210.14**
Annualized, 3% discount rate, 10 years				**$27.86**
Annualized, 7% discount rate, 10 years				**$29.92**

Table 8: Implementation Costs of the Proposed Rule (High Estimate) ($millions)

Calendar Year	Rule Familiarization	DSO Review Cost	Administrator Review Cost	Total Costs
Year 1	$106.73	$7.27	$12.88	$126.88
Year 2	$0.00	$7.27	$12.88	$20.15
Year 3	$0.00	$7.27	$12.88	$20.15
Year 4	$0.00	$7.27	$12.88	$20.15
Year 5	$0.00	$7.27	$12.88	$20.15
Year 6	$0.00	$7.27	$12.88	$20.15
Year 7	$0.00	$7.27	$12.88	$20.15
Year 8	$0.00	$7.27	$12.88	$20.15
Year 9	$0.00	$7.27	$12.88	$20.15
Year 10	$0.00	$7.27	$12.88	$20.15
Undiscounted Total	**$106.73**	**$72.68**	**$128.77**	**$308.19**
Total with 3% discounting				**$275.47**
Total with 7% discounting				**$241.24**
Annualized, 3% discount rate, 10 years				**$32.29**
Annualized, 7% discount rate, 10 years				**$34.35**

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b. Opportunity Costs Due to OPT Reduction

DHS recognizes that, under the baseline scenario without the proposed fees, SEVP-certified institutions, F–1 nonimmigrant students, and employers all benefit from OPT participation. If the proposed rule reduces OPT participation, various parties may incur opportunity costs. F–1 nonimmigrant students could lose access to work experience and associated earnings. Employers may face productivity losses if they are unable to replace F–1 nonimmigrant student OPT participants with other qualified workers. SEVP-certified institutions could also experience declines in F–1 nonimmigrant student enrollment if prospective students are deterred by the new fee requirements.

Given the uncertainty regarding the value and distribution of opportunity costs among stakeholders, DHS uses unpaid OPT fees as a proxy for opportunity costs. In this context, the opportunity cost of lost OPT participation is equal or close to the net societal benefits that would have been generated by these F–1 nonimmigrant students' employment—including the value of their labor to employers, their contribution to the U.S. economy, and the enhancement of educational outcomes through practical experience. Further, SEVP-certified institutions may experience societal benefits from OPT, as its availability may contribute to increased enrollment and associated revenue. If OPT participation encourages some F–1 nonimmigrant students to enroll, SEVP-certified institutions could face opportunity costs in the form of reduced enrollment revenue if OPT is no longer available from institutions that are not able to fund the proposed fees. DHS recognizes that the true opportunity cost may be higher or lower than the fee amounts. Due to limited data on the value placed on OPT by SEVP-certified institutions, F–1 nonimmigrant students, and employers, DHS cannot precisely quantify opportunity costs. DHS assumes these opportunity costs are equal to or less than the proposed fee per OPT instance. DHS recognizes that in some instances, the societal benefits associated with OPT participation may have exceeded this amount, but assumes that if the benefit of OPT exceeds the fees, affected parties could collectively cost share to preserve OPT. DHS also recognizes that using the fee as a proxy for the opportunity cost may also overstate actual costs, as U.S. educational institutions remain highly attractive, employers may find alternative workers, and students may pursue other employment or visa options. DHS does not attempt to estimate all possible scenarios, instead DHS uses unpaid baseline OPT fees as a proxy for opportunity costs.

In a high participation scenario, where SEVP-certified institutions cover all OPT fees, there would be no opportunity costs from lost OPT participation. In the low participation scenario, where DSOs recommend only the prospective STEM OPT F–1 nonimmigrant students for OPT, the rule would result in opportunity costs for prospective non-STEM OPT F–1 nonimmigrant students unable to participate in OPT. Further, employers able to replace F–1 nonimmigrant students who would have participated in OPT with other equivalent workers would not experience opportunity costs; instead, the rule would result in transfers to alternative workers.

Due to limited data on the value placed on OPT by SEVP-certified institutions, F–1 nonimmigrant students, and employers, DHS cannot precisely quantify opportunity costs.

Therefore, DHS conservatively assumes that opportunity costs are equivalent to the unpaid fees for lost OPT participation. This approach may overstate actual costs, as U.S. educational institutions remain highly attractive, employers may find alternative workers, and F–1 nonimmigrant students may pursue other employment or visa options. DHS does not attempt to estimate all possible scenarios, instead using unpaid baseline OPT fees as a proxy for opportunity costs.

DHS uses the values in Table 4 to estimate the range of opportunity costs presented in Table 9. In the high participation scenario, opportunity costs are zero, as OPT participation remains unchanged. At the other end of the range, the annual difference between the low participation scenario (where non-STEM OPT is no longer recommended, $11.37 billion during the transition period and $8.41 billion after the transition period) and the high participation scenario ($20.30 billion during the transition period and $16.48 billion after the transition period) yields an estimated $8.92 billion in opportunity costs during the transition period and $8.07 billion in opportunity costs after the transition period. DHS's primary estimate is the average of these values. These costs are assumed to be shared among affected parties, but due to data limitations, DHS does not allocate impacts by stakeholder group.

Table 9: Opportunity costs from Reduced OPT ($millions)

Calendar Year	Low	Primary	High
Year 1	$0.00	$4,461.67	$8,923.35
Year 2	$0.00	$4,035.75	$8,071.51
Year 3	$0.00	$4,035.75	$8,071.51
Year 4	$0.00	$4,035.75	$8,071.51
Year 5	$0.00	$4,035.75	$8,071.51
Year 6	$0.00	$4,035.75	$8,071.51
Year 7	$0.00	$4,035.75	$8,071.51
Year 8	$0.00	$4,035.75	$8,071.51
Year 9	$0.00	$4,035.75	$8,071.51
Year 10	$0.00	$4,035.75	$8,071.51
Undiscounted Total	**$0.00**	**$40,783.45**	**$81,566.89**
Total with 3% discounting	**$0.00**	**$34,839.30**	**$69,678.61**
Total with 7% discounting	**$0.00**	**$28,743.49**	**$57,486.99**
Annualized, 3% discount rate, 10 years	**$0.00**	**$4,084.23**	**$8,168.46**
Annualized, 7% discount rate, 10 years	**$0.00**	**$4,092.43**	**$8,184.85**

c. Total Costs of the Proposed Rule

Table 10 summarizes the impacts of the proposed rule. Total monetized costs of the proposed rule include familiarization, OPT review and processing, and lost OPT opportunity costs. For the low total cost estimate, DHS combined the low opportunity costs, which were zero, with the high implementation costs (Table 8). DHS uses the high implementation costs with the lowest opportunity costs because in this scenario all OPT participation was paid for through fees. This would result in the highest implementation costs due to review and processing costs for all OPT instances. Inversely, for the high estimate, DHS combined the high opportunity costs (Table 9) with the low implementation costs (Table 6). For the primary estimates, DHS added the primary opportunity cost estimates (Table 9) with the primary implementation costs estimates (Table 7).

Table 10: Total Costs of the Proposed Rule (millions)

Calendar Year	Low	Primary	High
Year 1	$126.88	$4,584.12	$9,041.37
Year 2	$20.15	$4,051.47	$8,082.79
Year 3	$20.15	$4,051.47	$8,082.79
Year 4	$20.15	$4,051.47	$8,082.79
Year 5	$20.15	$4,051.47	$8,082.79
Year 6	$20.15	$4,051.47	$8,082.79
Year 7	$20.15	$4,051.47	$8,082.79
Year 8	$20.15	$4,051.47	$8,082.79
Year 9	$20.15	$4,051.47	$8,082.79
Year 10	$20.15	$4,051.47	$8,082.79
Undiscounted Total	**$308.19**	**$41,047.35**	**$81,786.51**
Total with 3% discounting	**$275.47**	**$35,076.99**	**$69,878.52**
Total with 7% discounting	**$241.24**	**$28,953.63**	**$57,666.02**
Annualized, 3% discount rate, 10 years	**$32.29**	**$4,112.09**	**$8,191.89**
Annualized, 7% discount rate, 10 years	**$34.35**	**$4,122.35**	**$8,210.34**

d. Other Unquantified Impacts

(1) Costs for Budgeting and Administering Financial Transactions

Given that the proposed OPT fee amounts are significantly higher than the current SEVP fees, DHS anticipates increased scrutiny from both SEVP-certified institutions and the financial institutions that retain their funds. SEVP-certified institutions recommending F–1 nonimmigrant students for OPT would need to consider the costs for paying the proposed fees, including budget planning and identifying funding sources. While the proposed rule does not restrict how schools may fund OPT fees, DHS expects that regulated entities would establish budgeting processes to assess their costs, financial capacity, and related accounting and audit processes. This may result in additional administrative burdens with financial transactions.

Although SEVP-certified institutions already submit fee payments to DHS, the proposed changes may alter their processes. Institutions must submit separate payments per OPT occurrence for each OPT participant, however, institutions may choose to submit these payments on a periodic basis (*e.g.,* at the end or beginning of the academic year).[134] This could require enhanced budget processing to ensure sufficient funds are available for each OPT recommendation. Schools may need to develop recordkeeping and tracking mechanisms for these transactions to support auditing and maintain evidence of compliance.

Financial entities (*e.g.,* banks) may incur additional costs due to increased time spent processing these transactions, reviewing institutions' available funds, and validating payment authorizations. In cases where institutions receive funding from students, employers or other entities, there may be further time burdens to establish payment methods and to track and administer these funds for both the regulated entities and external parties.

DHS would also need to establish processes to receive and confirm fee payments. These activities may require additional time and potential IT system updates to retrieve and store relevant data by SEVP-certified institution and OPT request. Other agencies, such as the Treasury of the United States, may also incur costs to modify their systems to accommodate the new fees.

Due to the various scenarios and conditions associated with these financial transactions, and because this rule introduces a new fee, DHS is unable to estimate the cost impacts of these processes. DHS requests comments on these potential burdens.

(2) Costs for Refunds

DHS anticipates that educational institutions may, in some cases, request refunds of the OPT fee. The proposed rule allows for refunds subject to ICE review. Educational institutions would incur time burdens to submit refund requests, and ICE would incur costs to review and process these requests. If refunds are granted, ICE would also bear the burden of transferring funds back to the educational institution and providing confirmation of these transactions. DHS does not have sufficient information to estimate the number of refund applications or the associated costs. DHS requests comments on these potential burdens and impacts.

(3) Impact on Participation in Pre-Completion OPT

The initial fee of $70,000 applies when an F–1 nonimmigrant participates in OPT for the first time, whether it is pre-completion or post-completion OPT. A subsequent OPT participation incurs a $30,000 fee, regardless of whether it is pre-completion OPT, post-completion OPT, or a STEM OPT extension. OPT participation, excluding the STEM extension, is limited to a total of 12 months; pre-completion OPT reduces the amount of time available for post-completion OPT. Consequently, a total fee of $100,000 would be assessed should the F–1 nonimmigrant engage in pre-completion and post-completion OPT, compared to $70,000 if the entire OPT period occurs post-completion. DHS anticipates that institutions would encourage F–1 nonimmigrants to use only post-completion OPT to benefit from the fee differential for the same total authorized OPT period. While DHS expects future participation in pre-completion OPT to decline, DHS cannot reasonably predict the extent of this

[134] If a school chooses to submit periodic payments, the full amount must be paid prior to the issuance of the OPT recommendation.

decrease. DHS requests comments and any available data regarding this discussion which could further improve these estimates.

6. Benefits

As discussed in section IV of this proposed rule, DHS has identified fraudulent use of OPT by F–1 nonimmigrants to overstay or illegally work outside of their program of study. DHS believes this proposed rule would reduce fraud and abuse risks in the OPT program. Compared to the current process, in which educational institutions recommend F–1 students for OPT without monetary risk, DHS believes that the proposed rule would likely result in more scrutiny of the use of OPT recommendation by DSOs.

The proposed regulatory financial obligation would encourage schools to ensure OPT opportunities provide genuine educational value, aligning with the original intent of the practical training program. The rule would incentivize schools to recommend only the most promising students for OPT, reducing ''visa mill'' activities and improving compliance with immigration regulations. The rule could also serve as a deterrent to those who would otherwise plan to engage in fraud or abuse of these nonimmigrant classifications.

To the extent that OPT participation decreases, there could be transfers to other workers who may perform the same job functions as the F–1 nonimmigrant students in OPT. The rule may provide job opportunities to U.S. workers who would have lost job opportunities to OPT students in the absence of the rule. DHS intends for the rule to reduce an excess of low-paid foreign workers in the labor market, thereby increasing job opportunities for U.S. workers and minimizing possible wage depression.

Further, under current law, many F–1 nonimmigrant students in OPT and their employers are exempt from paying the Social Security and Medicare payroll taxes under the Federal Insurance Contributions Act (FICA). This exemption may provide an incentive to hire F–1 nonimmigrant students in OPT over U.S. citizens or others subject to FICA payroll taxes. The availability of fewer F–1 nonimmigrant students with employment authorization through OPT could provide job transfers to U.S. workers. To the extent that some F–1 nonimmigrant students in OPT are replaced with FICA-subject workers, there could be additional transfers for federal taxes collected.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider whether the proposed rule would have a significant impact on a substantial number of small entities. The term ''small entities'' is comprised of small business, 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. DHS requests information and data from the public that would assist in better understanding the impact of this proposed rule on small entities. DHS also seeks input from the public on alternatives that would accomplish the same objectives and minimize the proposed rule's economic impact on small entities.

Section 603(b) of the Regulatory Flexibility Act prescribes the content of the Initial Regulatory Flexibility Analysis, which addresses the following:

1. A description of the reasons why action by the agency is being considered;

2. A succinct statement of the objectives of, and legal basis for, this proposed rule;

3. A description of and, where feasible, an estimate of the number of small entities to which this proposed rule will apply, or an Explanation of Why No Such Estimate is Available;

4. A description of the projected reporting, recordkeeping, and other compliance requirements of this proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

5. An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule; and

6. A description of any significant alternatives to this proposed rule that accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the proposed rule on small entities.

1. A Description of the Reasons Why the Action by the Agency Is Being Considered

DHS proposes new fees for OPT to combat fraud, strengthen the integrity of the immigration system, protect U.S. workers, and alleviate the burdens imposed on DHS resources tied to OPT investigations.

2. A Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The proposed rule would establish a $70,000 fee applicable to SEVP-certified institutions when they initially recommend an F–1 nonimmigrant student to engage in OPT and a $30,000 fee each time there is a subsequent OPT recommendation for that student. The fee helps to combat fraud by encouraging institutions to conduct a more in-depth review of OPT documentation.

The Secretary has authority under Section 102 of the Homeland Security Act of 2002 (HSA) (Pub. L. 107–296, 116 Stat. 2135), 6 U.S.C. 112, and section 103(a)(1) and (3) of the Immigration and Nationality Act (INA), 8 U.S.C. 1103(a)(1), (3), to administer and enforce the immigration and naturalization laws of the United States, to include the issuance of regulations that he deems necessary.[135] Section 214(a) of the INA, 8 U.S.C. 1184(a), authorizes the Secretary to prescribe the time and conditions of admission of any alien as a nonimmigrant.

DHS has also considered, as an alternative, having the one-time initial fee of $70,000 apply again to any initial period of OPT following the F–1 student's change to a higher educational level (*e.g.,* to a post-bachelor's degree OPT and again to the student's master's degree OPT). DHS welcomes public comment on this potential alternative.

3. A Description of, and, Where Feasible, an Estimate of, the Number of Small Entities to Which the Proposed Rule Will Apply, or an Explanation of Why No Such Estimate Is Available

The small entities to which the proposed rule would apply include all small SEVP-certified institutions that recommend F–1 nonimmigrants for OPT. As of June 2026, there were 6,186 institutions authorized to enroll F–1 nonimmigrant students.[136]

To identify small institutions impacted by the proposed rule, DHS reviewed authorizations of OPT with employment start dates in 2022, 2023, and 2024 and identified 2,478 institutions eligible to enroll F–1 nonimmigrants who had been recommended OPT at least once over the three-year period. Of these institutions, DHS estimates 1044 are

[135] Although provisions of the INA discussed in this NPRM refer 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.

[136] U.S. Immigration and Customs Enforcement, Certified School List, (June 16, 2026), available at *https://studyinthestates.dhs.gov/school-search.*

public, 1,294 are private non-profit, and 140 are private for-profit entities. DHS assumes that all 1,044 public institutions are not small as they are run by states whose jurisdictions are larger than 50,000 people.[137] DHS conservatively assumes that all 1,294 private non-profit institutions are small entities because they are non-dominant in their field.[138]

To determine which of the remaining 140 for-profit institutions are considered a small entity, DHS referenced the SBA size standards represented by average annual receipts. Receipts are generally defined as a firm's total income or gross income. SBA's Table of Small Business Size Standards provides business size standards for all sections of the North American Industry Classification System (NAICS) for industries.[139] DHS matched information provided by the institutions in SEVIS regarding what programs of study they are engaged in with an appropriate six-digit NAICS industry description. NAICS is the standard classification used to categorize business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. economy. DHS found that the revenue of 95 of the 140 for-profit institutions fell below the SBA size standard of a small business, according to their industry. Table 11 shows a breakdown of the number of small for-profit SEVP-certified institutions by industry.

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Table 11: For-Profit SEVP-Certified Institutions by Industry

Industry	NAICS codes	Size standard in millions of dollars	Number of small Institutions	Number of non-small Institutions	Total	Percentage Small
Junior Colleges	611210	$33	8	2	10	80%
Colleges, Universities and Professional Schools	611310	$35	80	36	116	69%
Flight Training	611512	$34	3	3	6	50%
Other Technical and Trade Schools	611519	$21	2	0	2	100%
Fine Arts Schools	611610	$9	2	4	6	33%
Total			95	45	140	68%

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DHS estimated each of the private institution's annual receipts by multiplying the approximate annual cost of room, board, and tuition by the average number of total students, based on data provided by the institutions to SEVP. DHS acknowledges that this method of estimating receipts may be an incomplete account of an institution's income, which may also include contributions from private individuals, endowments, or other sources.

Table 12 shows a summary, by institution type, of the number of SEVP-certified institutions authorized to enroll F–1 nonimmigrants and small entities.

[137] When reviewing public schools enrolling F–1 students, DHS reviewed a sample of the data and found that the schools were state-run colleges and universities. Therefore, DHS assumes that all 1,044 are public.

[138] Section 601(4) of the Regulatory Flexibility Act defines the term ''small organization'' to mean any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

[139] U.S. Small Business Administration, Tables of Small Business Size Standards Matched to NAICS Codes (effective March 17, 2023), available at *https://www.sba.gov/sites/default/files/2023-06/Table%20of%20Size%20Standards_Effective%20March%2017%2C%202023%20%282%29.pdf.*

Table 12: SEVP-Certified Schools Recommending F-1 Nonimmigrants for OPT by Institution Type

Type	Total Estimated Number Institutions	Number of Small Institutions	Percentage Small
Public	1,044	0	0%
Private, nonprofit	1,294	1,294	100%
For-profit	140	95	68%
Total Number of SEVP-Certified Institutions	2,478	1,389	56%
Note: An institution is included if it is authorized to enroll F-1 nonimmigrant students and recommended at least one student for OPT with an authorized employment start date between 2022 and 2024.			

4. A Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities That Would Be Subject to the Requirement and the Types of Professional Skills Necessary for Preparation of the Report or Record

DHS anticipates that small institutions enrolling F–1 nonimmigrant students participating in OPT would incur costs from familiarization, payment processing, and payment of the fee. DHS refers to these institutions as small affected institutions. The cost would vary at each small affected institution depending on the number of enrolled students who participate in OPT.

To ensure compliance with the proposed rule, DHS expects that all small affected institutions would incur familiarization costs. To estimate the DSO-specific costs, DHS multiplied the total familiarization/adaptation burden estimate (65 hours) by the loaded wage rate for DSOs ($50.14 [140]) and by the number of DSOs per small institution. For the institution administrator costs, DHS multiplied the same total familiarization/adaptation burden estimate (65 hours) by the loaded wage rate for institution administrators ($88.83 [141]) and by an estimated number of 5 administrators required to familiarize themselves with the rule per institution. These costs were summed to a total familiarization cost per institution and then divided by the revenue to determine impact to the small institutions. Of the small institutions affected, 88.8 percent have effects for familiarization smaller than 1 percent of their reported revenue, as shown in Table 13 below.

Table 13: Familiarization Costs as Percentage of Annual Revenue

Type	Familiarization costs as a percentage of annual revenue			Total
	<1%	1% to <5%	5% to <10%	
Private, nonprofit	1,162	98	34	1,294
For-profit	71	20	4	95
Total Small	1,233	118	38	1,389
% of Small	88.8%	8.5%	2.7%	100%

To assess the potential maximum impact of the proposed rule, DHS utilized data on OPT authorizations with employment start dates in calendar years 2022, 2023, and 2024. DHS used Python, an interpreted, object-oriented, high level programming language, to compile OPT authorizations and assign fee values.[142] To determine initial and subsequent fees, DHS reviewed optional practical training for every F–1 nonimmigrant student and assigned an initial fee amount of $70,000 to the earliest dated instance and a subsequent $30,000 fee for additional instances. All

[140] Based on the Bureau of Labor Statistics (BLS) mean hourly wage for SOC 21–1012 (Educational, Guidance, and Career Counselors and Advisors) for May 2025 of $34.34 (available at *https://www.bls.gov/news.release/archives/ocwage_05152026.pdf*). The benefits-to-wage multiplier is calculated by the BLS, using March 2026, released on June 12, 2026, as (Total Employee Compensation per hour)/(Total wages and Salaries per hour) = $49.32/$33.72 = 1.46, based on the mean national wage for all occupations (*see* Civilian workers in Table 1; *https://www.bls.gov/news.release/archives/ecec_06122026.pdf*).

[141] Based on the Bureau of Labor Statistics (BLS) mean hourly wage for SOC 11–9033 (Education Administrators, Postsecondary) for May 2025 of $60.84 (available at *https://www.bls.gov/news.release/archives/ocwage_05152026.pdf*). The benefits-to-wage multiplier is calculated by the BLS, using March 2026, released on June 12, 2026, as (Total Employee Compensation per hour)/(Total wages and Salaries per hour) = $49.32/$33.72 = 1.46, based on the mean national wage for all occupations (*see* Civilian workers in Table 1; *https://www.bls.gov/news.release/archives/ecec_06122026.pdf*).

[142] Python Software Found., *Welcome to Python.org,* Python, *python.org* (last visited July 17, 2026).

authorizations of STEM OPT were assigned the subsequent fee value as the program is an extension of OPT that necessitated a prior authorization. The number of initial and subsequent fees was then tallied for each year by institution. DHS then calculated the maximum annual amount that an institution would have paid based on 2022–2024 authorizations for both the initial and subsequent fee. For example, if an institution had the highest initial authorizations in 2022 and the highest sequential authorizations in 2024, the highest years are picked for each category and then used to estimate the maximum annual fee impact. This data assumes that the historical OPT participation trends would continue into the future, even with the new proposed fees for OPT. Table 14 shows the total and average maximum fee impact across types of schools. The methodology discussed above is labeled post-transition in the relevant tables.

DHS also modeled fee impacts in the transition period when all F–1 nonimmigrants recommendations would be subject to the initial fee amount of $70,000 regardless of whether the recommendation is for OPT or STEM OPT. If an OPT fee has not previously been paid for an F–1 nonimmigrant, they are subject to the initial fee of $70,000. DHS divides the analysis into a transition year, when the initial fee of $70,000 must be paid for all F–1 nonimmigrants recommended for any type of OPT, and a post-transition period when the first OPT recommendation requires the initial fee of $70,000 and the STEM OPT extension requires the subsequent fee of $30,000. DHS assigned the $70,000 fee to the maximum number of OPT and STEM OPT participants for each institution based on the historic 2022–2024 OPT authorization data. Tables 14, 15, and 17 contain both transition year and post-transition annual impacts.

Table 14: Annual Maximum Fee Estimate for Small Institutions

Max Annual Fee Impact			
Type of School	**Number of Schools**	**Total Max Fee**	**Average Max Fee**
Transition Year			
Private, non-profit	1,294	$9,412,410,000	$7,273,887
For-Profit Small	95	$181,440,000	$1,909,895
Total Small	1,389	$9,593,850,000	$6,907,019
Post-Transition			
Private, non-profit	1,294	$7,739,610,000	$5,981,151
For-Profit Small	95	$170,120,000	$1,790,737
Total Small	1,389	$7,909,730,000	$5,694,550

Next, DHS compared the institution's maximum annual fee amount to their estimated annual revenue as reported on their I–17 in SEVIS. Table 15 shows the number of small institutions within the stratified impact range of each institution's estimated fee costs as a percentage of the institution's annual revenue. Of the 1,389 small affected institutions, under the post transition period, 622 would experience an impact less than or equal to 1 percent of their estimated annual revenue as a result of the fee. While 483 would experience an impact between 1 percent and 5 percent of their estimated annual revenue, 104 would experience an impact between 5 percent and 10 percent, 82 would experience an impact between 10 percent and 20 percent, and 98 would experience an impact greater than 20 percent.

Table 15: Annual Cost of Fee Payments as a Percentage of Revenue for Small SEVP-certified Institutions

Type of School	Total fee costs as a percentage of annual revenue					Total
	<1%	1% to <5%	5% to <10%	10% to <20%	>20%	
Transition Year						
Private, nonprofit schools	558	476	112	67	81	1294
For-profit schools	24	20	12	10	29	95
Total Small Schools	582	496	124	77	110	1,389
% of Small Schools	41.9%	35.7%	8.9%	5.5%	7.9%	100%
Post-Transition						
Private, nonprofit schools	598	460	95	72	69	1294
For-profit schools	24	23	9	10	29	95
Total Small Schools	622	483	104	82	98	1,389
% of Small Schools	44.8%	34.8%	7.5%	5.9%	7.1%	100%

Due to the large monetary amount of the proposed fees, DHS assumes a DSO may not have the authority to authorize transmissions of the fees to the government. Instead, a higher-level institution administrator with financial authority to transmit large amounts of money would be involved in the payment process. DHS anticipates the transmission of the fee itself would require 30 minutes of DSO time for a final review and 30 minutes of time for an institution administrator to do a final review and fee transmission. To estimate these costs, DHS assumed 30 minutes of approval and processing of each OPT application for the DSO and an administrator. The burden hours were multiplied by the combined loaded wage rate for the DSO and administrator and the number of expected OPT applications per institution. The results in Table 16 show that nearly all small affected institutions would incur an annual impact of less than 1 percent of their annual revenue due to approval and processing costs.

Table 16: Annual Approval and Processing Costs as a Percentage of Annual Revenue

Type	Annual Approval and Processing costs as a percentage of annual revenue			Total
	<1%	1% to <5%	5% to <10%	
Private, nonprofit	1,292	0	2	1,294
For-profit	95	0	0	95
Total Small	1,387	0	2	1,389
% of Small	99.9%	0.0%	0.1%	100%

To assess maximum annual impact, DHS summed the annual estimated cost of the fees, the approval and processing burden, and familiarization and compared the total cost per institution to the institution's revenue in the transition year estimates of Table 17. The post-transition year estimates exclude the familiarization costs as these would only be borne by institutions in the initial year after the proposed rule would go into effect. During the transition year which has higher costs than the post-transition period, DHS found that 548 small entities (39.5 percent) would experience estimated impacts of less than 1 percent of revenue, 505 small entities (36.4 percent) would experience estimated impacts between 1 percent and 5 percent of revenue, 135 small entities (9.7 percent) would experience estimated impacts between 5 percent and 10 percent of revenue, 85 small entities (6.1 percent) would experience estimated impacts between 10 percent and 20 percent of revenue, and 116 small entities (8.4 percent) would experience estimated impacts greater than 20 percent of revenue. DHS estimates that out of 1,389 total small institutions, 841 (60.5 percent) would experience impacts greater than 1 percent of their estimated revenue.

Table 17: Total Annual Impact as a Percentage of Annual Revenue

Type of School	Total Annual Impact as a Percentage of Annual Revenue					Total
	<1%	1% to <5%	5% to <10%	10% to <20%	>20%	
Transition Year						
Private, nonprofit schools	526	486	122	73	87	1,294
For-profit schools	22	19	13	12	29	95
Total Small Schools	548	505	135	85	116	1,389
% of Small Schools	39.5%	36.4%	9.7%	6.1%	8.4%	100%
Post-Transition						
Private, nonprofit schools	597	461	95	72	69	1,294
For-profit schools	24	23	9	10	29	95
Total Small Schools	621	484	104	82	98	1,389
% of Small Schools	44.7%	34.8%	7.5%	5.9%	7.1%	100%

DHS assessed the impacts on small affected institutions by comparing estimated costs to revenue derived from tuition and other student-related sources. The proposed rule does not preclude institutions from funding the OPT fees through financial contributions from external parties, such as employers or organizations. As a result, the estimated annual impacts as a percentage of revenue may be overstated for institutions that can obtain additional funding. However, some small affected institutions may be unable to secure such funding, potentially resulting in opportunity costs from lost OPT participation, including declining enrollment and reduced revenue. DHS cannot accurately predict how many schools or OPT participants would be affected due to lack of funding. To the extent that schools are unable to pay the fees and OPT participation declines, DHS assumes that unpaid fees may serve as a proxy for the opportunity costs faced by small schools, which may include changes in enrollment and tuition revenue.

5. An Identification, to the Extent Practicable, of All Relevant Federal Rules Which May Duplicate, Overlap or Conflict With the Proposed Rule

DHS does not identify any rules that are specifically duplicative or overlap with this rule. There are no rules or proposed rules that conflict with the rule proposed here. There may be rules that seek the same benefit of eliminating fraud within the student visa program, but this rule targets fraud specifically within the OPT program, and therefore is not duplicative of other rules.

6. Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Proposed Rule and Why Each One of the Other Significant Alternatives to the Rule Considered by the Agency That Affect the Impact on Small Entities Was Rejected

DHS considered a no-action alternative, under which institutions could continue to recommend F–1 nonimmigrant students to engage in OPT without paying an additional fee. DHS determined that this alternative does not provide enough accountability for schools to ensure the OPT is in compliance with all regulatory requirements. DHS assumes that including a fee per OPT recommendation would provide incentive for schools to more diligently review the need for each OPT recommendation, assess the benefits of the OPT to the nonimmigrant, and ensure compliance.

DHS considered an alternative that exempts small educational institutions from the fee requirements in the proposed rule. DHS estimates that 56 percent of regulated SEVP-certified institutions are small entities. This would mean that fraud could still continue given the majority are small entities.

DHS has also considered, as an alternative to the approach described above, having the one-time initial fee of $70,000 apply again to any initial period of OPT following the F–1 student's change to a higher educational level (*e.g.,* to a post-bachelor's degree OPT and again to the student's master's degree OPT). DHS welcomes public comment on this potential alternative.

DHS also considered more complex regulatory alternatives, such as expanded site visits, increased reporting requirements, additional processes, or stricter procedural mandates. DHS rejected these alternatives because it found proposing a fee for participation in the OPT program would offer an immediate and effective means to strengthen program integrity with minimal administrative burdens on the government. For further discussion, see IV.C.

C. Small Business Regulatory Enforcement Fairness Act of 1996

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult ICE using the contact information provided in the **FOR FURTHER INFORMATION CONTACT** section above.

D. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any year. Though this proposed rule would not result in such an expenditure, DHS does discuss the effects of this rule elsewhere in this preamble.

The Unfunded Mandate 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 or final agency rule 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. The value equivalent of $100 million in 1995 adjusted for inflation to 2025 levels by the Consumer Price Index for All Urban Consumers is $211.36 million. This rule exceeds the $100 million expenditure threshold in the first year of implementation (adjusted for inflation), and therefore DHS is providing this UMRA analysis.

1. An Identification of the Provision of Federal Law Under Which the Rule Is Being Promulgated

The Secretary has authority under Section 102 of the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2135), 6 U.S.C. 112, and section 103(a)(1) and (3) of the INA, 8 U.S.C. 1103(a)(1), (3), to administer and enforce the immigration and naturalization laws of the United States, to include the issuance of regulations that he deems necessary. Section 214(a) of the INA, 8 U.S.C. 1184(a), authorizes the Secretary to prescribe the time and conditions of admission of any alien as a nonimmigrant.

2. A Qualitative and Quantitative Assessment of the Anticipated Costs and Benefits of the Federal Mandate, Including the Costs and Benefits to State, Local, and Tribal Governments or the Private Sector, as Well as the Effect of the Federal Mandate on Health, Safety, and the Natural Environment

The affected population of the rule is the SEVP-certified educational institutions responsible for the F–1 nonimmigrant students who are applying to participate in OPT. The major costs to the institutions associated with this rule are the OPT application fees, the familiarization and adaptation burden incurred in year 1, and additional time to review applications and process payment for OPT applications. The familiarization and adaptation burden applies to the full population, although in different amounts per institution, depending on the number of DSOs and administrators who become familiarized with the rule. DHS expects DSOs and administrators to incur costs for familiarization and adaptation burden and make changes to their OPT approval processes to ensure the fees paid are legitimate requests for OPT. Institutions which choose to submit OPT recommendations would incur the fees, either $70,000 or $30,000 per filing. Institutions can choose how they would approve OPT recommendations with the fee; therefore, the fee and all costs associated with approval and payment would be dependent on each institution's number of OPT filings. Institutions may choose to have more stringent OPT processes to ensure all OPT opportunities are legitimate, leading to variable costs per institution.

DHS does not believe that this rule would have impacts on health or safety. The impact of this rule on environmental issues is discussed more fully in Review under the National Environmental Policy Act (NEPA), Section VII, subpart I of this proposed rule.

3. Estimates by the Agency, if and to the Extent That the Agency Determines That Accurate Estimates Are Reasonably Feasible of Future Compliance Costs of the Federal Mandate and Any Disproportionate Budgetary Effects of the Federal Mandate Upon Any Particular Regions of the Nation or Particular State, Local, or Tribal Governments, Urban or Rural or Other Types of Communities, or Particular Segments of the Private Sector

DHS has provided compliance costs for the main provisions that may indirectly trigger Federal mandates of each provision of this proposed rule as well as in the IRFA. DHS reiterates that state and private sector entities make the cost-benefit decisions of whether to expend finances to engage with foreign nonimmigrants participating in the OPT program, and if additional funding sources are needed to utilize this program.

4. Estimates by the Agency of the Effect on the National Economy, Such as the Effect on Productivity, Economic Growth, Full Employment, Creation of Productive Jobs, and International Competitiveness of United States Goods and Services, if and to the Extent That the Agency in Its Sole Discretion Determines That Accurate Estimates Are Reasonably Feasible and That Such Effect Is Relevant and Material

DHS has provided discussions of the effect of this rule on the economy in the Regulatory Impact Analysis of this rule. *See* Section VII, subpart B of the proposed rule.

5. A Description of the Extent of the Agency's Prior Consultation With Elected Representatives (Under Section 204) of the Affected State, Local, and Tribal Governments; a Summary of the Comments and Concerns That Were Presented by State, Local, or Tribal Governments Either Orally or in Writing to the Agency; and a Summary of the Agency's Evaluation of Those Comments and Concerns

DHS did not consult with elected representatives of the affected State, local, and tribal governments. DHS is accepting public comments on the proposed rule for entities to express support, concern, or provide additional information about the costs and benefits of the proposed rule.

E. Paperwork Reduction Act—Collection of Information

Under the Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (1995) (PRA), all Departments are required to submit to OMB, for review and approval, any reporting or

recordkeeping requirements inherent in a rule. DHS is revising an information collection under OMB Control No. 1653–0038 to propose non-substantive edits in association with this rulemaking action.

DHS invites the general public and other federal agencies to comment on the impact of the proposed collection of information. In accordance with the PRA, the information collection notice is published in the **Federal Register** to obtain comments regarding the proposed edits to the information collection instrument.

Comments are encouraged and will be accepted for 60 days from the publication date of the proposed rule. All submissions received must include the OMB Control Number 1653–0038 in the body of the letter and the agency name. To avoid duplicate submissions, please use only *one* of the methods under the **ADDRESSES** and Public Participation section of this rule to submit comments. Comments on this information collection should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The Student and Exchange Visitor Information System (SEVIS)

Overview of Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* The Student and Exchange Visitor Information System (SEVIS).

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form number not applicable. Information to be collected by ICE SEVP.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* DSOs at SEVP-certified institutions will be responsible for updating SEVIS with information relating to payment confirmation of applicable OPT fees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for this information collection is 10,800, which represents the number of DSOs, and the total number of responses is 226,200 based on the estimated number of OPT fees.[143] The estimated hour burden per response is .083 hours (5 minutes).

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual burden associated with this collection of information in hours is 18,850.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $945,138.

F. Executive Order 13132: Federalism

This proposed rule would 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. DHS does not expect that this proposed rule would impose substantial direct compliance costs on State and local governments or preempt State law. Therefore, in accordance with section 6 of Executive Order 13132, *Federalism,* it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. Executive Order 12988: Civil Justice Reform

This proposed rule meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, *Civil Justice Reform,* to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

DHS has analyzed this proposed rule under Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.* DHS has determined that it is not a ''significant energy action'' under that order because it is a ''significant regulatory action'' under Executive Order 12866 but is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Environmental Policy Act (NEPA)

DHS Management Directive (MD) 023–01 Rev. 01 and Instruction Manual (IM) 023–01–001–01 Rev. 01 establish the policy and procedures that DHS and its Components use to comply with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4375.

NEPA allows Federal agencies to establish categories of actions (''categorical exclusions'') that experience has shown do not, individually or cumulatively, have a significant effect on the human environment and, therefore, do not require an environmental assessment (EA) or environmental impact statement (EIS).[144] *See* 42 U.S.C. 4336(a)(2), 4336e(1). The Instruction Manual, Appendix A, Table 1, lists the DHS Categorical Exclusions.[145]

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.[146] DHS proposes to amend its regulations to set fees for OPT, to strengthen the integrity of the immigration program, address fraud and protect U.S. workers.

DHS has analyzed this proposed rule under MD 023–01 Rev. 01 and IM 023–01–001–01 Rev. 01. DHS has determined that this proposed rulemaking action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule completely fits within the Categorical Exclusion found in IM 023–01–001–01 Rev. 01, Appendix A, Table 1, number A3(d): ''Promulgation of rules. that interpret or amend an existing regulation without changing its environmental effect.'' This proposed rule is not part of a larger action. This proposed rule presents no extraordinary

[143] DHS estimates 289,938 based on summing the latest year and high estimate of 194,554 OPT and 95,384 STEM OPT.

[144] *See* also 40 CFR 1501.4 and 1507.3(e)(2)(ii).

[145] *See* Appendix A, Table 1.

[146] U.S. Dep't of Homeland Sec.,Instruction Manual 023–01–001–01, Rev 01, ''Implementation of the National Environmental Policy Act (NEPA)'' (Nov.6, 2014).

circumstances, creating the potential for significant environmental effects. Therefore, this proposed rule is categorically excluded from further NEPA review.

DHS seeks any comments or information that may lead to the discovery of any significant environmental effects from this proposed rule.

J. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments,* because it would 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.

K. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights.*

L. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, *Protection of Children from Environmental Health Risks and Safety Risks,* requires agencies to consider the impacts of environmental health risk or safety risk that may disproportionately affect children. DHS has reviewed this proposed rule and determined that even though this rule is an economically significant rule, it would not create an environmental risk to health or risk to safety that might disproportionately affect children. Therefore, DHS has not prepared a statement under this executive order.

M. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

N. Family Assessment

DHS has determined that this proposed action would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

Regulatory Amendments

Accordingly, DHS proposes to amend part 214 of chapter I, subchapter B, of title 8 of the Code of Federal Regulations as follows:

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1188, 1221, 1281, 1282, 1301–1305, 1357, and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1086).

■ 2. Amend § 214.2 as follows:
■ a. Revise paragraph (f)(11)(ii); and
■ b. Revise paragraph (f)(11)(iii).
The revisions read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

(f) * * *

* * * * *

(11) * * *

* * * * *

(i) *Student responsibilities.* A student must initiate the OPT application process by requesting a recommendation for OPT from his or her DSO. Upon making the recommendation, the DSO will provide the student a signed Form I–20 indicating the recommendation and payment information of the initial OPT fee or subsequent OPT fee, as applicable pursuant to 8 CFR 214.13(i).

(ii) *Additional DSO responsibilities.* A student must have a recommendation from his or her DSO in order to apply for OPT. Prior to the DSO issuing a recommendation to a student for OPT, the DSO must confirm that the school has paid the applicable OPT fee for the student pursuant to § 214.13(i)(1) or (2) and then update SEVIS with the OPT fee payment information. The DSO assumes the added responsibility for maintaining the SEVIS record of that student for the entire period of authorized OPT, consistent with paragraph (f)(12) of this section.

* * * * *

(B) The DSO must update the student's SEVIS record to confirm that the educational institution has paid the applicable OPT fee prior to issuing the DSO's recommendation for OPT and before the student can apply to USCIS for employment authorization. The DSO will indicate in SEVIS whether the OPT employment is to be full-time or part-time, or for a student seeking a recommendation for a 24-month OPT extension under paragraph (f)(10)(ii)(C) of this section whether the OPT employment meets the minimum hours requirements described in paragraph (f)(10)(ii)(C)(*8*) of this section, and note in SEVIS the OPT start and end dates.

(C) The DSO must provide the student with a signed, dated Form I–20 or successor form indicating that OPT has been recommended and confirmation that the educational institution paid the applicable OPT fee.

* * * * *

(iii) *Decision on application for OPT employment authorization.* USCIS will adjudicate a student's Form I–765, Application for Employment Authorization or successor form on the basis of the DSO's recommendation and other eligibility considerations. USCIS may not grant employment authorization to any student where the DSO issued the recommendation prior to the school paying the required OPT fees or where the school has failed to pay all applicable OPT fees, consistent with paragraph (f)(11)(ii) of this section and § 214.13(i)(1) and (2).

* * * * *

■ 3. Amend 214.13 as follows:
■ a. Revise the section heading in § 214.13 to remove ''SEVIS fee for certain F, J, and M nonimmigrants'' and add in its place ''SEVIS fee for certain

F, J, and M nonimmigrants and optional practical training fees'';

■ b. Revise paragraph (b) to remove ''*Aliens not subject to a fee*'' and add in its place ''*Aliens not subject to a SEVIS fee*'';

■ c. Revise paragraph (c) to remove ''*Special Fee for Certain J–1 Nonimmigrants*'' and add in its place ''*Special SEVIS Fee for Certain J–1 Nonimmigrants*'';

■ d. Revise paragraph (e) to remove ''*Circumstances where no new fee is required*'' and add in its place ''*Circumstances where no new SEVIS fee is required*'';

■ e. Revise paragraph (e)(1) to remove the word ''fee'' and add in its place ''SEVIS fee'';

■ f. Revise paragraph (e)(3) to remove the word ''fee'' and add in its place ''SEVIS fee'';

■ g. Revise paragraph (g)(3) to remove ''*Electronic record of fee payment*'' and add in its place ''*Electronic record of SEVIS fee payment*'';

■ h. Revise paragraph (h) to remove ''*Failure to pay the fee*'' and add in its place ''*Failure to pay the SEVIS fee*''; and

■ i. Add paragraph (i) to read as follows:

(i) *Optional practical training fees.* For optional practical training (OPT), the following will apply:

(1) An SEVP-certified educational institution must pay a one-time initial fee of $70,000 for each F–1 student the first time that the alien is recommended to participate in OPT under section 214.2(f)(10)(ii). This payment must be made prior to the DSO recommending a student for OPT, pursuant to section 214.2(f)(11)(ii). SEVP may exercise discretion to grant a refund request from a school on a case-by-case basis, provided that the F–1 student has not been issued the employment authorization document for OPT associated with the fee that is subject to the refund request. This fee will not be refunded under any circumstances once the F–1 student has been granted the employment authorization document for OPT. The DSO must remove the student's OPT recommendation in SEVIS before requesting a refund. SEVP may issue further guidance on fee refund adjudications on the SEVP website at *https://studyinthestates.dhs.gov* (or successor uniform resource locator). Refund request determinations are not subject to any administrative appeals.

(2) An SEVP-certified educational institution must pay the amount of $30,000 for each F–1 student prior to a subsequent recommendation of the alien to participate in OPT under section 214.2(f)(10)(ii) if the alien has previously participated in OPT and paid the initial OPT fee of $70,000. This payment must be made prior to the DSO recommending a student for OPT, pursuant to section 214.2(f)(11)(ii). SEVP may exercise discretion to grant a refund request from a school on a case-by-case basis, provided that the F–1 student has not been issued the OPT employment authorization document for the subsequent OPT, or granted OPT extension, associated with the fee that is subject to the refund request. This fee will not be refunded under any circumstances once the F–1 student is issued the employment authorization document for the OPT or OPT extension. The DSO must remove the student's OPT recommendation in SEVIS before requesting a refund. SEVP may issue further guidance on fee refund adjudications on the SEVP website at *https://studyinthestates.dhs.gov* (or successor uniform resource locator). Refund request determinations are not subject to any administrative appeals.

(3) *Transition period.* SEVP-certified schools recommending any type of OPT for an alien must pay the fee of $70,000 for each alien who receives a DSO recommendation for OPT that is dated on or after [60 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE]. Thereafter, any subsequent DSO recommendations for OPT issued for any F–1 student who has previously participated in OPT, and for which the $70,000 OPT fee has been paid, will be subject to the subsequent OPT fee of $30,000 per alien.

Markwayne Mullin,

Secretary, U.S. Department of Homeland Security.

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