Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

8 CFR Part 103

[Docket No: ICEB–2026–0034]

RIN 1653–AA98

Increasing the Fee for Certain Aliens Ordered Removed in Absentia as Established by the HR–1 Reconciliation Bill

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: DHS is proposing to update the fee required by section 100016 of the Budget Reconciliation Act (known as the HR–1). This fee applies to certain aliens ordered removed in absentia who fail to depart the United States and are subsequently arrested by ICE. DHS is proposing to increase the fee from $5,130 to $18,000. This rule also makes clear that DHS will adjust this fee for inflation each year.

DATES: Comments must be received on or before June 22, 2026.

ADDRESSES: You may submit comments on this NPRM, identified by DHS Docket Number ICEB–2026–0034, through the Federal eRulemaking Portal at *https://www.regulations.gov.* All comments must be submitted in English, or an English translation must be provided. Follow the website instructions for submitting comments.

Comments submitted in a manner other than the one listed above, including emails or letters sent to DHS officials, will not be considered comments on the rule and may not receive a response from DHS. DHS cannot accept any comments that are hand-delivered or couriered. In addition, DHS cannot accept comments contained on any form of digital media storage devices, such as CDs, DVDs, or USB drives. DHS is not accepting mailed comments at this time. If you cannot submit your comment using *https://www.regulations.gov,* please see the **FOR FURTHER INFORMATION CONTACT** section of this document.

FOR FURTHER INFORMATION CONTACT: The Office of the Principal Legal Advisor, 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 call) (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 proposed 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–2026–0034), 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. EST on the last day of the comment period.

Instructions: To submit your comments online, go to *https://www.regulations.gov* and insert ''ICEB–2026–0034'' 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.''

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–2026–0034'' 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 office 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.

II. Background and Purpose

A. Legal Authority

The authority of the Secretary of Homeland Security (the Secretary) to implement the proposed regulatory amendments in this rule can be found in various provisions of the immigration laws. The Secretary derives the authority to promulgate regulations primarily from the Immigration and Nationality Act (INA), as amended. *See* 8 U.S.C. 1101 *et seq.* Section 102 of the Homeland Security Act of 2002, Public Law 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), charge the Secretary with the administration and enforcement of the immigration and naturalization laws of the United States. Section 103(a)(3) of the INA, 8 U.S.C. 1103(a)(3), grants the Secretary the power to take actions ''necessary for carrying out'' the Secretary's authority under the provisions of the INA. DHS also has broad discretion to employ the procedures it reasonably concludes are appropriate to enforce immigration laws, including the assessment and collection of authorized fees.[1] *See Vt. Yankee Nuclear Power Corp.* v. *Nat. Res. Def. Council, Inc.,* 435 U.S. 519, 543 (1978) (''Absent constitutional constraints or extremely compelling circumstances the administrative agencies should be free to fashion their own rules of procedure and to pursue

[1] Furthermore, ICE has delegated authority from the Secretary to impose fees. *See* DHS Delegation No.7030.2(2)(H), *Delegation of Authority to the Assistant Secretary for U.S. Immigration and Customs Enforcement* (Nov. 13, 2004).

methods of inquiry capable of permitting them to discharge their multitudinous duties.'' (quotation marks omitted) (quoting *FCC* v. *Schreiber,* 381 U.S. 279, 290 (1965)).[2]

8 U.S.C. 1814 requires a fee for aliens ordered removed in absentia, unless the alien's order is rescinded pursuant to section 240(b)(5)(C) (8 U.S.C. 1229a(b)(5)(C)).[3] This unwaivable fee applies to any alien who is ordered removed in absentia pursuant to section 240(b)(5)(A) (8 U.S.C. 1229a(b)(5)(A)) and is subsequently arrested by U.S. Immigration and Customs Enforcement (ICE). The fee serves as partial reimbursement to the government for the cost of the arrests.[4] HR–1 requires this new fee to be a minimum of $5,130 per alien for Fiscal Year (FY) 2026. However, 8 U.S.C. 1814 authorizes the Secretary to adjust the fee through rulemaking and requires the fee to be adjusted annually based on the Consumer Price Index for All Urban Consumers (CPI–U).[5]

1. ICE Immigration Enforcement Authority

DHS immigration officers have broad authority to arrest and detain aliens pending immigration proceedings and for removal from the United States, who have not established a legal right to remain, pursuant to a warrant issued by the Department of Homeland Security, or without a warrant.[6] Both arrest and detention come at great expense to the U.S. taxpayer. Those expenses exponentially increase when removable aliens, including those with final orders of removal issued in absentia, fail to depart, which results in ICE being forced to take further enforcement action.

Pursuant to section 287(a)(1)–(2) of the INA, 8 U.S.C. 1357(a)(1)–(2), DHS immigration officers have the authority to interrogate and to arrest aliens for whom there is probable cause to believe are removable from the United States.[7] Arrests made without a warrant must be accompanied by a determination that the alien would be likely to escape before a warrant could be obtained.[8] Certain aliens arrested and placed in removal proceedings may be detained pending a decision on whether they should be removed from the United States.[9] Detention is mandatory for all applicants for admission pending removal proceedings under section 240 of the INA, 8 U.S.C. 1229a.[10] The regulatory standards for enforcement activities are set forth in 8 CFR 287.8, and they include the authority and procedures for the conduct of arrests.[11]

In addition to these authorities, INA 241, 8 U.S.C. 1231, provides DHS with the authority to detain aliens to effectuate a removal order, including a removal order entered in absentia.[12] When an immigration judge orders an alien removed in the alien's absence, the order of removal becomes final upon entry of the order, requiring the alien to immediately depart the United States.[13] If the alien fails to comply with a final order of removal,[14] the alien will be arrested and taken into custody by ICE, generally pursuant to a warrant of removal, and will be removed from the United States.[15]

2. In Absentia Removal Orders and Subsequent Arrest by ICE

Under INA sec. 240, 8 U.S.C. 1229a, an alien receives notice of the removal proceedings and hearing date when DHS serves the alien with a Notice to Appear (NTA).[16] The NTA advises the alien of the nature of the proceedings, the charges against the alien, the time and place at which the proceedings will be held, and the requirements that the alien provide DHS with an address and telephone number (if any) and any changes of address or telephone number thereafter.[17] Notably, the NTA also states the consequences for failing to provide an updated address and telephone number,[18] and for failing to appear at the proceedings.[19] Once the NTA is filed with the Immigration Court, the Immigration Court issues notices of future hearings (hearing notice) dates and/or changes in dates or location.[20]

The NTA and hearing notices are served in person to the alien or, if personal service is not practicable, through service by mail to the alien or the alien's counsel of record.[21] When an alien fails to appear in court and DHS establishes by ''clear, unequivocal, and convincing evidence'' that the alien is removable and that the alien or the alien's counsel of record was provided the NTA or hearing notice (*i.e.,* the written notice of the time and place of the proceedings and the consequences of failing to appear), an immigration judge shall order the alien removed in absentia.[22] Where the alien has failed to provide the address and telephone number (if any) as required under INA 239(a)(1)(F), or has failed to update such information in accordance with INA 239(a)(1)(F), written notice is not required, and DHS is not obligated to provide further notice of the proceeding. Any notice issued after the NTA has been received is sufficient if it is given at the most recent address provided by the alien. If the alien fails to provide an address pursuant to INA 239(a)(1)(F), ''no written notice shall be required.'' [23]

[2] *See also Arizona* v. *United States,* 567 U.S. 387, 394 (2012) (noting that the Supreme Court has long recognized that the federal government has broad and undoubted power over the subject of immigration and the status of aliens).

[3] The One Big Beautiful Bill Act, Public Law 119–21, 139 Stat. 72, 8 U.S.C. 1814 (HR–1) was signed into law on July 4, 2025.

[4] 8 U.S.C. 1814(a); *see Arizona,* 567 U.S. at 394; *see generally* U.S. Immigration and Customs Enforcement, *The Department of Homeland Security U.S. Immigration and Customs Enforcement Budget Overview Fiscal Year 2026,* June 13, 2025, available at *https://www.dhs.gov/sites/default/files/2025-06/25_0613_ice_fy26-congressional-budget-justificatin.pdf.* The new HR–1 immigration fee is imposed in addition to any other fees authorized by law and by the heads of relevant departments.

[5] 8 U.S.C 1814(b), *see* 90 FR 52425 (Nov. 20, 2025) for the FY 2026 adjusted fee based on the Consumer Price Index for All Urban Consumers (CPI–U).

[6] *See generally* INA secs. 235, 236, 241, 287, and 8 U.S.C. 1225, 1226, 1231, and 1357.

[7] *See* 8 CFR 287.8(c)(2)(i).

[8] INA sec. 287(a)(2), 8 U.S.C. 1357(a)(2); 8 CFR 287.8(c)(2)(ii).

[9] INA sec. 236, 8 U.S.C. 1226. *See also Demore* v. *Kim,* 538 U.S. 510, 523 (2003) (''[T]he court recognizes detention during removal as a constitutionally valid aspect of removal proceedings.'') and *Wong Wing* v. *U.S.,* 163 U.S. 228, 235 (1896) (stating that detention is a constitutionally valid aspect of the removal process).

[10] INA sec. 235(b)(2)(A), 8 U.S.C. 1225(b)(2)(A).

[11] 8 CFR 287.8(c).

[12] *See generally Zadvydas* v. *Davis,* 533 U.S. 678 (2001).

[13] *See* 8 CFR 1241.1(e).

[14] Aliens with a final order of removal in absentia have already had the opportunity to participate in their removal proceedings under INA sec. 240, 8 U.S.C. 1229a. and have lost the right to contest removal, absent scenarios such as those outlined in INA sec. 240(b)(5)(C), 8 U.S.C. 1229a(b)(5)(C).

[15] *See* 8 CFR 241.3.

[16] INA 239(a)(1)(G), 8 U.S.C. 1229(a)(1)(G).

[17] INA 239(a)(1), 8 U.S.C. 1229(a)(1).

[18] INA 239(a)(1)(F)(iii), 8 U.S.C. 1229(a)(1)(F)(iii). Failure to provide address information means that written notice is no longer required. INA 240(b)(5)(B), 8 U.S.C. 1229a(b)(5)(B).

[19] INA 239(a)(1)(G)(ii), 8 U.S.C. 1229(a)(1)(G)(ii). An alien who fails to appear will be ordered removed in absentia if DHS meets its burden of proof to establish that written notice was provided and that the alien is removable. INA 240(b)(5)(A), 8 U.S.C. 1229a(b)(5)(A).

[20] INA 239(a)(2), 8 U.S.C. 1229(a)(2).

[21] INA 239(a)(1), (2), 8 U.S.C. 1229(a)(1), (2).

[22] INA 240(b)(5), 8 U.S.C. 1229a(b)(5); 8 CFR 1003.26(c).

[23] INA 239(a)(2)(B), 8 U.S.C. 1229(a)(2)(B); 8 CFR 1003.23(b)(4)(ii), 1003.26(d). DHS acknowledges that, in *Jones* v. *Flowers,* 547 U.S. 220 (2006), the Supreme Court held that ''failure to comply with a statutory obligation to keep [ones'] address updated'' does not mean the party ''forfeits his right to constitutionally sufficient notice'' and that the state was required to ''take additional reasonable steps to provide notice.'' *Id.* at 232. The Court explained, however, that ''assessing the adequacy of a particular form of notice requires balancing the interest of the [Government] against the individual interest sought to be protected by [the due process clause]'' *Id.* at 229 (citations and quotations omitted). Here, DHS has ample procedures in place

Continued

HR–1 provides an exception from the immigration enforcement fee authorized in section 1814, 8 U.S.C. 1814, in certain circumstances when the removal order in absentia is rescinded pursuant to INA 240(b)(5)(C), 8 U.S.C. 1229a(b)(5)(C).[24] The immigration judge may rescind an order of removal in absentia if the alien files a motion to reopen: (1) within 180 days of the order if the alien demonstrates that the failure to appear was due to ''exceptional circumstances''; or (2) at any time if the alien can demonstrate that the alien did not receive the requisite notice or the alien was in Federal or State custody and the failure to appear was through no fault of the alien.[25] The INA provides examples of ''exceptional circumstances'' such as ''battery or extreme cruelty to the alien or any child or parent of the alien, serious illness of the alien, or serious illness or death of the spouse, child, or parent of the alien, but not including less compelling circumstances,'' which are ''beyond the control of the alien.'' [26] An alien must provide adequate evidence to support a claim of exceptional circumstances which corroborates the reason for the alien's failure to appear.[27] During the pendency of a motion to reopen to rescind an in absentia order premised on lack of notice, the removal of the alien is automatically stayed pending the disposition of the motion by the immigration judge.[28]

B. Background

Effective September 8, 2025, ICE began issuing the FY 2025 fee of $5,000 from any alien who falls under 8 U.S.C. 1814. *See* 90 FR 43223 (Sept. 8, 2025). The triggering event for issuance of the fee is the date the alien was subsequently arrested by ICE, regardless of the date the final removal order in absentia was issued. *Id.* On November 20, 2025, ICE adjusted the fee for inflation from $5,000 to $5,130 for FY 2026, effective December 1, 2025. 90 FR 52425 (Nov. 20, 2025). As mandated by statute, 50 percent of the funds collected from the fee are deposited into ICE's Detention and Removal Office Fee Account to be expended by ICE, and the remaining amounts are deposited into the General Fund of the U.S. Treasury.[29]

An alien subject to the fee under 8 U.S.C. 1814 receives written notice of the fee. This notice of the fee assessment provides the alien with a list of determinations made by the arresting officer, including the date the alien was ordered removed in absentia, the fact that the alien was subsequently arrested, and the fee amount. The written notice of the fee assessment makes clear that failure to promptly pay the fee results in consequences such as the accrual of interest, administrative costs, and a late payment penalty charge pursuant to 31 U.S.C. 3717, 6 CFR 11.10, and 31 CFR 901.9. An alien may dispute the written fee notice within 30 days of issuance of the notice.[30]

C. Need for the Rulemaking

1. Costs for Immigration Enforcement Actions and Partial Reimbursement to the Government

ICE has reviewed the data on the cost of ICE immigration enforcement actions and determined that the partial reimbursement fee of $5,130 is too low to sufficiently reimburse ICE for the cost of arresting an alien who has been ordered removed in absentia.

The total cost of arresting an alien ordered removed in absentia requires consideration of the broader costs of identifying, detaining, processing, and removing such alien, in addition to the direct cost of the arrest subsequent to the in absentia removal order. ICE also incurs a variety of indirect and overhead costs, including, but not limited to, training, vehicles, and support staff. These costs are subsumed in the cost of arresting an alien. Just as the act of arresting an alien directly imposes costs to detain, process, and remove that alien.

ICE's immigration enforcement lifecycle (IEL) cost framework, produced by ICE's Office of Budget and Program Performance (OBPP) Performance Analysis and Evaluation (PA&E) Unit, provides information on the cost of each stage of the IEL, including direct costs, indirect costs, and overhead costs. On average, the total cost of the IEL for an alien is $18,042, justifying the DHS Secretary's exercise of authority to increase the $5,130 fee amount required by 8 U.S.C. 1814.

The table below details each phase of the IEL and reflects the direct and indirect costs involved in an arrest, ending with removal.[31] These costs reflect the average cost of each stage of the IEL across all ICE enforcement activities, not just those specific to aliens with final orders of removal.[32]

to warn the alien of the consequences of failing to provide updated contact information, including a potential order of removal in absentia. However, this NPRM involves a fee established by legislation, not the Government's exercise of ''extraordinary power.'' Aliens are warned of their address obligations upon initiation of section 240 removal proceedings, *see* INA 239(a)(1)(F), 8 U.S.C. 1229(a)(1)(F), and DHS is taking steps to ensure that all aliens are aware of, and comply with, registration and address requirements consistent with this Administration's policies. DHS has a reasonable expectation that aliens will take these requirements seriously because failure to do so can result in a range of consequences including criminal penalties. INA 266, 8 U.S.C. 1306. Additionally, DHS provides convenient and reliable ways for aliens to update their addresses including through online portals.

[24] 8 U.S.C. 1814(c).

[25] INA 240(b)(5)(C), 8 U.S.C. 1229a(b)(5)(C); 8 CFR 1003.23(b)(4)(ii).

[26] INA 240(e)(1), 8 U.S.C. 1229a(e)(1); 8 CFR 1003.23(b)(4)(ii).

[27] *See, e.g., Matter of B–A–S–,* 22 I&N Dec. 57, 58–59 (BIA 1998) (''[w]here an alien argues that his failure to appear resulted from a 'serious illness,' [the court] normally would expect specific, detailed medical evidence to corroborate the alien's claim''); *Matter of S–A–,* 21 I&N Dec. 1050, 1051 (BIA 1997) (holding that an alien's general assertion that he was prevented from reaching his hearing on time by heavy traffic did not constitute reasonable cause that would warrant reopening of his proceedings).

[28] INA 240(b)(5)(C), 8 U.S.C. 1229a(b)(5)(C); 8 CFR 1003.23(b)(4)(ii).

[29] *See* 8 U.S.C. 1814(d). Fifty percent of the fees collected pursuant to 8 U.S.C. 1814(d) shall be deposited into the Detention and Removal Office Fee Account and credited to ICE. ICE may use these funds without further appropriation, with the remaining 50 percent of the fee collections deposited into the general fund of the U.S. Treasury.

[30] The notice of the fee assessment provides that an alien may request to inspect and copy records and to enter into a reasonable written repayment agreement that is acceptable to the agency to pay this debt in installments.

[31] The Secretary's determination to raise the fee to $18,000 is not only authorized by Congressional statute but also reflects the agency's considered examination of relevant data and ''articulate[s] a satisfactory explanation for its action including a ''rational connection between the facts found and the choice made.'' '' *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mutual Automobile Ins. Co.,* 463 U.S. 29 (1983) (citing *Burlington Truck Lines, Inc.* v. *United States,* 371 U.S. 156, 168 (1962)).

[32] ICE's cost model allocates direct, indirect, and overhead costs across shared enforcement activities and does not produce separate nationwide unit cost estimates for aliens ordered removed in absentia. These aliens are typically located and arrested after failing to comply with a final order of removal and then follow the same detention, processing, and removal path as other aliens with final orders, so DHS uses the IEL average cost per alien as the best available estimate of the costs this fee is intended to partially reimburse. In addition, locating and arresting aliens who have failed to comply with a final order of removal can involve additional time and operational steps. The actual costs for these cases may exceed the IEL average.

ICE MANAGERIAL COST ACCOUNTING MODEL

[FY 2024 Immigration Enforcement Lifecycle Costs,[33] FY 2026$ [34]]

Immigration enforcement lifecycle (IEL) phase	Direct cost ($k) (program)	Indirect cost ($k) (program)	Overhead cost ($k) (mission support)	Total cost ($k)	Number of events	Cost per alien ($)
Identify	$279,407	$94,414	$71,162	$444,982	690,407	$645
Arrest	136,960	39,117	33,530	209,607	117,950	1,777
Detain	2,640,499	704,039	566,016	3,910,555	362,056	10,801
Process	679,540	526,314	245,967	1,451,820	2,406,280	603
Remove	252,683	664,393	227,505	1,144,582	271,484	4,216
Total	3,989,090	2,028,276	1,144,180	7,161,546	.....	18,042

Moreover, during the last several years the number of aliens ordered removed in absentia has drastically increased. Specifically, data from the Executive Office for Immigration Review (EOIR) indicates that between 2022 and 2024 there was a 257 percent increase in the number of in absentia removal orders issued—62,510 in 2022 and 222,920 in 2024.[35] Data for 2025 show an additional increase of 39 percent occurred between 2024 and 2025 for a total of 309,700 in absentia removal orders issued.[36]

The $18,000 fee proposed in this NPRM constitutes a partial reimbursement of ICE's total costs in accordance with 8 U.S.C. 1814(a). ICE data on the IEL indicates that the average cost accrued by ICE to identify, arrest, detain, process, and remove a single alien in 2025 is $18,040. The meaningful increase in the number of aliens ordered removed in absentia combined with the overall cost of the IEL continues to put a significant strain on ICE's already stretched enforcement resources and diverts those essential resources from other immigration enforcement priorities. To alleviate the strain on resources and reduce the amount paid by U.S. taxpayers for these enforcement activities,[37] Congress created the fee at 8 U.S.C. 1814 to partially reimburse ICE for the cost of arresting aliens ordered removed in absentia,[38] which necessarily involves identifying such alien fugitives prior to arrest. For aliens with a final removal order—including an in absentia removal order—the arrest is a first step in effectuating the removal order, and detention, processing, and removal flow from the arrest consistent with the agency's authorities and mission to repatriate aliens with final orders of removal. Notably, the proposed fee assessment does not include immigration enforcement costs incurred by DHS prior to an alien being ordered removed in absentia. Furthermore, 8 U.S.C. 1814, authorizes a ''partial reimbursement for the cost of arresting an alien . . . who is ordered removed in absentia pursuant to section 1229a(b)(5) of this title; and is subsequently arrested by U.S. Immigration and Customs Enforcement.'' DHS interprets this to refer to the costs of the arrest incurred by ICE subsequent to the in absentia final order of removal.

Additionally, because 8 U.S.C. 1814 provides that 50 percent of the fee shall be deposited into the General Fund of the U.S. Treasury, a $18,000 fee ensures actual and meaningful partial reimbursement to ICE. DHS believes rulemaking is needed to ensure that DHS collects a more appropriate partial reimbursement fee that properly reflects the enormous amount of resources expended on aliens ordered removed in absentia who fail to depart and are subsequently arrested by ICE.[39]

2. Protecting the Integrity of Immigration Enforcement Authority and Public Safety

The changes proposed in this NPRM also protect the integrity of immigration enforcement and help promote public safety. An alien who fails to depart the United States upon issuance of a final order of removal in absentia has already violated U.S. immigration laws and processes.[40] Once an alien fails to comply with the final order of removal in absentia, ICE must expend additional time and resources to arrest the alien to effectuate the removal order.[41] Arrest of aliens ordered removed in absentia involves identifying, locating, and removing them from the United States. This population of aliens have absconded from law enforcement and are violating an immigration court order by remaining unlawfully in the United States. Aliens who evade final removal orders undermine the orderly administration of the immigration system and rule of law, create uncertainty regarding their whereabouts, and increase the likelihood of enforcement encounters occurring in uncontrollable settings, which then heightens risks to DHS personnel and the public. Accordingly, DHS considers these aliens fugitives and a high priority for removal from the United States.

Furthermore, an in absentia removal order can only be rescinded if the alien files a motion to reopen with the immigration judge, *see Matter of Guzman,* 22 I&N Dec. 722 (BIA 1999).When an Immigration Judge

[33] Amounts are rounded to the nearest dollar; as a result, subtotals and totals may differ from the sum of components. Lifecycle costs are shown in thousands of dollars, indicated as ($k) in the table.

[34] Lifecycle cost data from FY 2024. To adjust costs in 2024 dollars to 2025 dollars, DHS multiplies 2024-dollar costs by the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) from July of 2024 (314.540) to July of 2025 (323.048), a 2.705 percent increase. To adjust costs from 2025 dollars to 2026 dollars in the absence of CPI–U data for 2026, DHS multiplies in 2025 dollars costs by the Sept 2025 Federal Open Market Committee median projected change in 2026 Personal Consumption Expenditure (PCE) inflation, a 2.6 percent increase. As a result, DHS calculates 2026-dollar costs to be 5.4 percent higher than 2024-dollar costs. DHS is using this in lieu of available CPI data. DHS will harmonize future inflation adjustments in accordance with HR–1 Sec. 100016(b)(2)(B) as CPI data becomes available.

[35] Office of Homeland Security Statistics analysis of EOIR data as of October 2025. Dep't of Justice, Executive Office for Immigration Review, *In Absentia Removal Orders,* available at *https://www.justice.gov/eoir/media/1344881/dl?inline* (last visited Oct. 2025).

[36] *Id.*

[37] E.O. 14218, *Ending Taxpayer Subsidization of Open Borders,* 90 FR 10581 (Feb. 25, 2025) (''To prevent taxpayer resources from acting as a magnet and fueling illegal immigration to the United States, and to ensure, to the maximum extent permitted by law, that no taxpayer-funded benefits go to unqualified aliens'').

[38] Public Law 119–21 sec. 100016(a).

[39] *See* E.O. 14159, *Protecting the American People Against Invasion,* 90 FR 8443 (Jan. 20, 2025).

[40] *See* INA 240(b)(5), 8 U.S.C. 1229a(b)(5); 8 CFR 1003.26(c).

[41] *See* U.S. Immigration and Customs Enforcement, *Fact Sheet: ICE Fugitive Operations Program,* available at *https://www.ice.gov/doclib/news/library/factsheets/pdf/fugops.pdf* (last visited Jan. 14, 2025).

enters an in absentia order of removal, the order becomes final and enforceable, and the alien is determined to be removable as charged, forfeits the opportunity to contest removability or seek relief in those proceedings, and is subject to all regulatory and statutory consequences flowing from a final order. In addition, the alien becomes ineligible for certain forms of discretionary relief, including ineligibility for a period of ten (10) years from the date of the in absentia order to receive cancellation of removal, adjustment of status, change of status, registry,[42] or voluntary departure.[43] If an alien fails to or refuses to attend a removal proceeding without reasonable cause, the alien is inadmissible for five years after their departure or removal.[44]

An alien's failure to depart creates additional enforcement costs that could otherwise be spent on DHS' and the administration's vast immigration enforcement priorities.[45] Instead, DHS must spend finite resources locating, arresting, and removing these aliens from the United States. These costs are in addition to the costs already expended to prosecute and adjudicate an alien's removal proceedings to completion in the first instance. Inefficient use of ICE resources risks undermining the overall integrity of the immigration system, and risks further incentivizing aliens to simply ignore removal orders.

3. Effective Implementation

Codifying the fee at 8 U.S.C. 1814 into regulation provides clarity to the public and easy access to the law. Additionally, codification assists with a more effective implementation of the law and disincentivizes aliens from engaging in violations of immigration law.

III. Discussion of Changes

Congress established a minimum fee at 8 U.S.C. 1814 and afforded the Secretary the ability to increase that fee in her discretion.[46] DHS proposes to codify the provisions of 8 U.S.C. 1814 into regulations and to exercise its discretion to increase the fee from $5,130 to $18,000 due to the significant costs that the agency incurs in arresting aliens ordered removed in absentia. By seeking a partial reimbursement of the enforcement activities associated with arresting aliens ordered removed in absentia, the proposed changes are a critical part of DHS's efforts to use all statutorily available tools to achieve the Administration's immigration enforcement and border security objectives.

Under this proposal, the new fee of $18,000 is a partial reimbursement to the agency for its costs associated with arresting aliens ordered removed in absentia. The new fee will apply to all aliens who are ordered removed in absentia pursuant to section 240(b)(5)(A) (8 U.S.C. 1229a(b)(5)(A)) and are subsequently arrested by ICE on or after the effective date of the final rule.[47] The fee will be issued to the alien notifying the alien of how the fee was assessed and how to pay the fee. Consistent with 8 U.S.C. 1814, this $18,000 fee will be adjusted annually based on the CPI–U and will be announced in the **Federal Register**. The fee will not apply to any alien who was ordered removed in absentia if the order was rescinded pursuant to section 240(b)(5)(C) (8 U.S.C. 1229a(b)(5)(C)).

As described in the background above, the notice of the fee assessment provides the alien with a list of determinations made by the arresting officer, including the date the alien was ordered removed in absentia, the fact that the alien was subsequently arrested, and the fee amount. The notice of fees also makes clear that failure to promptly pay the fee has consequences, including the accrual of interest, administrative costs, and a late payment penalty charge pursuant to 31 U.S.C. 3717, 6 CFR 11.10, and 31 CFR 901.9. An alien may dispute the notice within 30 days of issuance.[48]

DHS has proposed these amendments at 8 CFR 103.7(d). 8 CFR 103.7(d) describes fees related to immigration enforcement, including but not limited to fees assessed and collected by the Department of Justice (DOJ), U.S. Customs and Border Protection (CBP), U.S. Citizenship and Immigration Services (USCIS), and ICE. Therefore, DHS is proposing to amend this section of the CFR to add this statutorily required fee and allow for the continued application of this fee in subsequent fiscal years, with annual adjustments for inflation as authorized by statute.

IV. Statutory and Regulatory Requirements

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

The Office of Management and Budget (OMB) has designated this rule a ''significant regulatory action'' as defined under section 3(f)(1) of E.O. 12866 because its annual effects on the economy exceed $100 million annually. 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 sec. 101(a)(17), 8 U.S.C. 1101(a)(17)) or any other function performed by the U.S. Federal Government with respect to aliens. *See* OMB Memorandum M–25–20, ''Guidance Implementing Section 3 of Executive Order 14192, titled 'Unleashing Prosperity Through Deregulation''' (Mar. 26, 2025). This NPRM proposes to increase fees on aliens who have remained in the United States in violation of a final order of removal issued in absentia. DHS believes that this effort will achieve

[42] *See* INA 249, 8 U.S.C. 1259.

[43] *See* INA 240(b)(7), 8 U.S.C. 1229a(b)(7); INA 240A, 240B, 245, 248, 249; 8 U.S.C. 1229b, 1229c, 1255, 1258, 1259; *see also* E.O. 14159, *Protecting the American People Against Invasion,* 90 FR 8443 (Jan. 20, 2025).

[44] INA 212(a)(6)(B); 8 U.S.C. 1182(a)(6)(B).

[45] *See, e.g.,* E.O. 14161, *Protecting the United States From Foreign Terrorists and Other National Security and Public Safety Threats,* 90 FR 8451 (Jan. 30, 2025).

[46] *See Loper Bright Enterprises* v. *Ramando,* 603 US 269 (2024) (finding that Congress may have in some cases, by statute, delegated authority to an agency to exercise a degree of discretion).

[47] DHS does not believe that Congress intended for collection of the fee proposed under this NPRM to be retroactively applied to aliens who have been arrested or removed in absentia prior to the enactment of HR–1. An agency generally may not implement a rule with retroactive effect. There is a presumption against retroactivity such that ''we read laws as prospective in application unless Congress has unambiguously instructed'' otherwise. *See Cox* v. *Kijakazi,* 77 F.4th 983, 991 (D.C. Cir. 2023) (quoting *Vartelas* v. *Holder,* 566 U.S. 257, 266 (2012)).

[48] The notice of fees provides that an alien may request to inspect and copy records and to enter into a reasonable written repayment agreement that is acceptable to the agency to pay this debt in installments.

Congress's purpose of partially reimbursing ICE for the costs associated with arresting and removing these aliens.

Summary of the Proposed Rule

DHS proposes raising the fee for aliens who have been ordered removed in absentia and subsequently arrested by ICE from $5,130 to $18,000, which serves as a partial reimbursement for the total cost of arresting such an alien. This increase is due to the significant costs that ICE incurs for the arrest of aliens ordered removed in absentia. In FY 2024, ICE incurred an average of $18,042 per alien (in 2026 dollars), a significant cost and use of crucial immigration resources that could have been applied to other immigration enforcement priorities.

Need for the Rule

ICE has reviewed the data on the cost of ICE immigration enforcement actions and determined that the partial reimbursement fee of $5,000 is too low to sufficiently reimburse ICE for the cost of arresting an alien who has been ordered removed in absentia.

In addition to the actual cost of arresting an alien, ICE also incurs a variety of indirect and overhead costs, including, but not limited to, training, vehicles, and support staff. These costs are inseparable from the cost of the arrest of an alien, just as the arrest of an alien is inseparable from that alien's removal. The proposed fee increase, from $5,130 to $18,000, serves as a partial reimbursement to DHS for the significant enforcement expenses incurred, which have risen due to a surge in in absentia removal orders. This proposed rule aims to protect the integrity of immigration enforcement, discourage noncompliance with removal orders, and alleviate the strain on ICE's essential and limited resources.

Affected Population

The proposed rule would impact aliens who are ordered removed in absentia and subsequently arrested by ICE. To identify the impacted population, DHS reviewed data from the Office of Homeland Security Statistics on the number of aliens ordered removed in absentia and how many arrests of this population are made each year by ICE. Table 1 shows the number of removal orders issued in absentia between fiscal years 2016 and 2025 from EOIR.

TABLE 1—EOIR REMOVAL ORDERS ISSUED IN ABSENTIA BY DECISION: FISCAL YEARS 2016 TO 2025

Decision FY	Total
2016	34,480
2017	42,270
2018	46,670
2019	90,900
2020	87,150
2021	8,660
2022	62,510
2023	159,900
2024	222,920
2025	309,700
Total	1,065,160

Note: In absentia removal orders issued in removal, deportation, and exclusion cases. Source: OHSS analysis of EOIR data as of October 2025.

The total number of in absentia removal orders issued each year represents a maximum estimate of the affected population, as an alien having been issued an in absentia removal order is only the first of two conditions required for the fee to be applied. Some aliens issued removal orders in absentia may depart the country voluntarily, evade arrest, or have their in absentia removal order rescinded prior to ICE arrest. To further analyze the affected population, DHS reviewed arrest data from ICE Enforcement and Removal Operations (ERO) as shown in Table 2. In fiscal year 2025, there were 23,670 arrests of aliens with removal orders issued in absentia.

TABLE 2—ERO ADMINISTRATIVE ARRESTS WITH REMOVAL ORDERS IISSUED IN ABSENTIA FISCAL YEARS 2016 TO 2025 YTD

FY	Arrests with removal orders issued in absentia [1]
2016	6,540
2017	9,140
2018	10,740
2019	10,390
2020	8,220
2021	3,160
2022	3,220
2023	6,330
2024	7,990
2025	23,670

TABLE 2—ERO ADMINISTRATIVE ARRESTS WITH REMOVAL ORDERS IISSUED IN ABSENTIA FISCAL YEARS 2016 TO 2025 YTD—Continued

FY	Arrests with removal orders issued in absentia [1]
Total	89,400

Note: The same individual may have multiple arrests. Due to rounding, the sum of individual cells may not exactly match the reported total.

[1] Number of ICE Admin arrests of aliens who have ever previously been issued an absentia order.

Source: OHSS analysis of ICE, CBP, and EOIR data as of October 2025.

DHS faces challenges forecasting the affected population because of data quality issues and several other factors impacting population size. The Covid–19 pandemic appears to have dramatically lowered the number of removal orders issued and arrests made in 2021 affecting what would be a trendline in the future without a pandemic. The announcement of the fee will likely change the behavior of the affected alien population. Aliens may be more likely to appear in immigration court, decreasing the number of removal orders issued in absentia. Additionally, aliens issued removal orders in absentia are more likely to leave the country on their own accord than risk the prospect of arrest and a fee. Significant funding from HR–1 for immigration enforcement, including the hiring of 10,000 ICE officers, will likely lead to more arrests being made. As a result of these countervailing forces, DHS presumes the number of arrests will remain at the same levels as FY 2025, 23,670 for FY 2026 and FY 2027.

Transfers

Transfer payments are monetary payments from one group to another that do not affect the total resources available to society. Transfers such as insurance payments, fees, direct subsidies, and indirect subsidies can have significant efficiency effects in addition to distributional effects and are not included in the estimates of the benefits and costs of a regulation. Transfers are analyzed in this proposed rule because the proposed fee is a transfer from the affected alien population to ICE and the U.S. Treasury.

DHS assumes there will be 23,670 arrests in FY 2026 and 2027. The maximum possible amount of transfers then would be equal to the number of arrests (23,670) times the fee ($18,000) resulting in $426,060,000 transferred annually. The net transfer resulting from this rule would be equal to the number of arrests (23,670) multiplied by the change in fee ($18,000 − $5,130 = $12,870). DHS found the net transfers resulting from the rule to range between $15,231,645 and $304,632,900 with a midpoint estimate of $159,932,273.

ICE began issuing this fee once the fee became effective on September 8, 2025. Since then, DHS has experienced uncertainty in estimating collection rates due to the short time frame this fee has been in effect and the current operational realities. The current operational pace has introduced a specific challenge in the fee collection process, as the removal of aliens is not being postponed due to unpaid fees. Because of these factors, DHS anticipates that the collection of this fee and its impacts may not be realized until aliens seek future admission to the United States. For example, aliens who were previously removed due to an in absentia removal order, and have outstanding fees, may seek lawful admission to the United States or an immigration benefit at a later point. In addition to considering prior unlawful presence, the prior removal order, and the prior failure to appear for proceedings,[49] the adjudicator may consider the outstanding debt to affect the alien's admissibility.[50] The adjudicator may flag the outstanding debt such that collection would be further pursued upon readmission. DHS believes the true collection rate may not be known until more time has passed to allow for situations such as the aforementioned example to occur.

To address the uncertainty regarding collection rates, DHS has modeled high, midpoint, and low collection rate estimates. DHS assumes a 100 percent collection rate as an upper bound estimate of the dollar amount of transfers from aliens to ICE and the U.S. Treasury to assess the maximum potential impact on the alien population. DHS also modeled a low estimate, assuming a 5 percent collection rate and the midpoint of the two other estimates at 52.5 percent. DHS uses the midpoint estimate as the primary estimate in Table 4.

TABLE 3—HIGH, MIDPOINT, AND LOW COLLECTION RATE ESTIMATES AND TRANSFERS

Estimate	Arrests	Fee	Fee increase	Collection rate	Total transfers	Net transfers from rule
High	23,670	$18,000	$12,870	1	$426,060,000	$304,632,900
Midpoint (Primary)	23,670	18,000	12,870	0.525	223,681,500	159,932,273
Low	23,670	18,000	12,870	0.05	21,303,000	15,231,645

Benefits

The proposed fee would serve as a partial reimbursement for the lifecycle costs incurred by DHS from the arrest of aliens ordered removed in absentia. This reimbursement will allow DHS to apply its limited immigration resources to other immigration enforcement priorities.

Costs

The proposed fee would likely result in more aliens attending court appearances which may extend legal proceedings and require additional resources. Additionally, DHS recognizes that a fee of $18,000 could be costly for aliens to pay, but as explained above, this fee amount is justified by Congress's intent to provide ICE with partial reimbursement of the total IEL costs of arresting aliens ordered removed in absentia.

Alternatives

DHS considered the alternative of the fee remaining at $5,130 and increasing the fee to amounts less than $18,000. These alternatives were deemed unacceptable as such amounts would not result in actual and meaningful partial reimbursements for the total IEL costs incurred by ICE during the arrest of an alien ordered removed in absentia.

DHS also considered the alternative of increasing the fee to $36,000 to account for the fact that 50 percent of the fee is deposited into the U.S. Treasury General Fund. A fee of $36,000 would ensure that ICE receives $18,000 in partial reimbursement from each fee it assesses and collects, which is closer to the actual IEL costs compared to 50 percent of an $18,000 fee. However, after reviewing the limited legislative history of HR–1 [51], DHS believes that the $18,000 fee is more closely aligned with congressional intent, which is for the fee to provide a partial reimbursement to the United States Government as a whole, not a partial reimbursement to ICE and a partial reimbursement to the U.S. Treasury. Ultimately, this alternative was not adopted because it

[49] *See* INA 212(a)(6)(B), (9)(A)–(B), 8 U.S.C. 1182(a)(6)(B), (9)(A)–(B).

[50] *See, e.g.,* INA 212(a)(4), 8 U.S.C. 1182(a)(4).

[51] *See Congress.gov,* H.R.1—An act to provide for reconciliation pursuant to title II of H. Con. Res. 14, available at *https://www.congress.gov/bill/119th-congress/house-bill/1/all-actions?s=2&r=1&hl=One+big+beautiful+bill* (last visited Apr. 30, 2026).

does not align with the congressional intent for this fee.

Accounting Statement

Table 4 presents the accounting statement as required by Circular A–4 for the total impacts of the rule. The proposed rule would result in annualized net transfers of $304,632,900 (discounted at 3 percent and 7 percent) from aliens to ICE and the U.S. Treasury for FY 2026 and FY 2027.

TABLE 4—ACCOUNTING STATEMENT FOR FY 2026–FY 2027
(in millions, 2026 dollars)

Category	*3 Percent discount rate*	*7 Percent discount rate*	*Source citation (RIA, preamble, etc.)*
Benefits:			
Annualized monetized ($k)	None.		Preamble, E.O. 12866 analysis.
Annualized quantified	None.		Preamble, E.O. 12866 analysis
Qualitative	Partial reimbursement of costs to DHS. Reduced strain on ICE resources.		Preamble, E.O. 12866 analysis
Costs:			
Annualized monetized ($k)	None.		Preamble, E.O. 12866 analysis.
Annualized quantified	None.		Preamble, E.O. 12866 analysis.
Qualitative	Immigration Courts may incur additional costs from more aliens appearing in court and extending legal proceedings.		Preamble, E.O. 12866 analysis.
Transfers:			
Annualized monetized ($millions)	Primary Estimate: $159.9 High Estimate: $304.6 Low Estimate: $15.2	Primary Estimate: $159.9 High Estimate: $304.6 Low Estimate: $15.2	Preamble, E.O. 12866 analysis.
From/To	Aliens to ICE and U.S. Treasury.		
Effects on State, Local, and/or Tribal Government	None.		
Effects on small businesses	None. The fee paid by individuals who are not, for purposes of the RFA, within the definition of small entities established.		RFA.
Wages Growth	None. None.		

B. Regulatory Flexibility Act

DHS has reviewed this proposed regulation in accordance with the Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, tit. II, 110 Stat. 847, and has determined that this rule would not have a significant economic impact on a substantial number of small entities. The rule would not regulate ''small entities'' as the term is defined in 5 U.S.C. 601(6). The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 people.

By codifying the 8 U.S.C. 1814 fee into regulations, this proposed rule would increase transfers to the government. The fee at 8 U.S.C. 1814 is paid by individuals who are not, for purposes of the RFA, within the definition of small entities established by 5 U.S.C. 601(6). While it is possible that some aliens may pay the fee through a representative, ultimately the alien is responsible for the fee, not the representative. Therefore, DHS certifies this proposed rulemaking would not have a significant economic impact on a substantial number of small entities.

C. Small Business Regulatory Enforcement Fairness Act of 1996

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, Public Law 104–121, 110 Stat. 847, 858–59, 5 U.S.C. 601 *et seq.,* requires the Department to comply with small entity requests for information and advice about compliance with statutes and regulations within the Department's jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT** paragraph, above. Persons can obtain further information regarding SBREFA on the Small Business Administration's web page at *https://www.sba.gov/advocacy.*

D. Unfunded Mandates Reform Act of 1995

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 in any one year of $100 million or more in 1995 dollars, updated annually for inflation. That threshold is currently approximately $213 million in 2026 dollars based on the CPI–U.[52] Though

[52] See BLS, ''Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. city average, all items, by month,'' *https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202601.xlsx* (last visited March. 11, 2026). Calculation of inflation: (1) Calculate the average monthly CPI–U for the reference year (1995) and the current year (2026); (2) Subtract reference year CPI–U from current year CPI–U; (3) Divide the difference of the reference year CPI–U and current year CPI–U by the reference year CPI–U; (4) Multiply by 100 = [(Average monthly CPI–U for 2026 − Average monthly CPI–U for 1995) ÷ (Average monthly CPI–U for 1995)] × 100 = [(325.252 − 152.383) ÷ 152.383] = (171.671/

Continued

this proposed rule would not result in monetized costs or benefits, DHS does discuss the effects of this rule in the RIA section of this preamble.

E. Paperwork Reduction Act

All Departments are required to submit to OMB for review and approval any reporting or recordkeeping requirements inherent in a rule under the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, 109 Stat. 163 (codified at 44 U.S.C. 3501 *et seq.*). Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless the agency obtains approval from OMB for the collection and the collection displays a valid OMB control number. *See* 44 U.S.C. 3506, 3507.

This proposed rule does not propose a new ''collection[s] of information'' as that term is defined under the PRA. There would be no changes to the reporting burden for any existing collections of information.

F. Executive Order 13132: Federalism

This proposed rule would not have substantial direct effects on the states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of E.O. 13132, DHS determined that this rule would 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 the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988, *Civil Justice Reform,* to minimize litigation, eliminate ambiguity, and reduce burden.

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

DHS has analyzed this proposed rule under E.O. 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 E.O. 12866 but is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Environmental Policy Act

DHS and its components analyze final actions to determine whether the National Environmental Policy Act of 1969 (''NEPA''), 42 U.S.C. 4321 *et seq.,* applies to them and, if so, what degree of analysis is required. DHS Directive 023–01 Rev. 01 [53] and Instruction Manual 023–01–001–01 Rev. 01 (''Instruction Manual'') [54] establish the policies and procedures that DHS and its components use to comply with NEPA.

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''). An agency is not required to prepare an EA or EIS for a proposed action ''if the proposed agency action is excluded pursuant to one of the agency's categorical exclusions.'' 42 U.S.C. 4336(a)(2). The Instruction Manual, Appendix A, lists the DHS Categorical Exclusions. For an action to be categorically excluded under DHS's Instruction Manual, the action 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.[55]

This NPRM is categorically excluded from DHS's NEPA implementing procedures, because it satisfies all three relevant conditions. First, the Departments have determined that the NPRM fits clearly within categorical exclusions A3(a) of DHS's Instruction Manual, Appendix A, for the promulgation of rules of a ''strictly administrative or procedural nature.'' This NPRM increases a fee that was established and authorized by 8 U.S.C. 1814. The fee increase proposed in this NRPM does not result in a change in the fee's environmental impact. Second, this NPRM is a standalone rule and is not part of any larger action. Third, the Department is not aware of any extraordinary circumstances that would cause a significant environmental impact. Therefore, this NPRM is categorically excluded, and no further NEPA analysis or documentation is required.

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

This proposed rule does not have tribal implications under E.O. 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 the taking of private property or otherwise have taking implications under E.O. 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights.*

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

E.O. 13045, *Protection of Children from Environmental Health Risks and Safety Risks,* requires agencies to consider the impacts of environmental health risks or safety risks that may disproportionately affect children. DHS has reviewed this proposed rule and determined that this rule is not an economically significant rule and 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 E.O.

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 OMB, 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

152.383) = 1.134 × 100=113.443 percent = 113 percent (rounded). Calculation of inflation-adjusted value: $100 million in 1995 dollars × 2.13 = $213 million in 2026 dollars.

[53] DHS, Implementation of the National Environmental Policy Act, Directive 023–01, Revision 01 (Oct. 31, 2014).

[54] DHS, Implementation of the National Environmental Policy Act (NEPA), Instruction Manual 023–01–001–01, Revision 01 (Nov. 6, 2014).

[55] Instruction Manual 023–01–001–01 at V.B(2)(a) through (c) and Appendix A at A–1 and A–2.

developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, DHS 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 103

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

Regulatory Amendments

Accordingly, DHS proposes amending part 103 of chapter I, subchapter B of title 8 of the Code of Federal Regulations as follows:

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

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

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356, 1365b, 1372, 1814; 31 U.S.C. 9701; 48 U.S.C. 1806; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2, Pub. L. 112–54, 125 Stat 550; 31 CFR part 223.

■ 2. Section 103.7 is amended by adding paragraph (d)(17) to read as follows:

§ 103.7 Fees.

* * * * *

(d) * * *

(17) *Fee for aliens ordered removed in absentia.* Any alien who is ordered removed in absentia pursuant to 8 U.S.C. 1229a(b)(5) and is subsequently arrested by U.S. Immigration and Customs Enforcement, is subject to the fee under 8 U.S.C 1814, which is $18,000 as of [EFFECTIVE DATE OF FINAL THE RULE]. This fee will be adjusted for inflation each subsequent fiscal year in accordance with 8 U.S.C. 1814(b)(2) and announced in the **Federal Register**. This fee does not apply if the alien's in absentia removal order was rescinded pursuant to 8 U.S.C. 1229a(b)(5)(C).

Markwayne Mullin,

Secretary of Homeland Security.

[FR Doc. 2026–10082 Filed 5–19–26; 8:45 am]

BILLING CODE 9111–CB–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–4639; Project Identifier MCAI–2025–01360–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A330–841 and Model A330–941 airplanes. This proposed AD was prompted by reports of crack findings on the sloping rib. This proposed AD would require a repetitive inspection of the external surface of each sloping rib and each slat 1 inboard seal, and applicable corrective actions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by July 6, 2026.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–4639; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2026–4639.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Bill Ashforth, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3520; email: *Bill.ashforth@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–4639; Project Identifier MCAI–2025–01360–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI