



DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Parts 1003, 1103, 1208, and 1240

[Docket No. EOIR-26-AB41; Dir. Order No. 06-2026]

RIN 1125-AB41

EOIR Fees

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Interim final rule; request for comments.

SUMMARY: In this interim final rule (“IFR”), the Department of Justice (“Department”) is updating its fee regulations for filings with the Executive Office for Immigration Review (“EOIR”) to comply with a recent statutory enactment.

DATES: *Effective date:* This IFR is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Comments: Electronic comments must be submitted and written comments must be postmarked or otherwise indicate a shipping date on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: If you wish to provide comments regarding this rulemaking, you must submit your comments, identified by the agency name and reference RIN 1125-AB41 or EOIR Docket No. EOIR-26-AB41, via the Federal eRulemaking Portal at <https://www.regulations.gov>. The electronic Federal Docket Management System (“FDMS”) at <https://www.regulations.gov> will accept electronic comments until 11:59 p.m. Eastern Time [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Follow the website instructions for submitting comments. Comments must be submitted in English, or an English translation must be provided. Comments that will provide the most assistance to the Departments in

implementing these changes will reference a specific portion of the rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. Comments submitted in a manner other than via <https://www.regulations.gov>, including emails or letters sent to EOIR officials, will not be considered comments on the IFR and may not receive a response from EOIR. Please note that EOIR does not accept any comments that are hand-delivered or couriered. In addition, EOIR does not accept comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. EOIR is also not accepting mailed comments at this time. If you cannot submit your comment by using <https://www.regulations.gov>, please contact Jamee E. Comans, Assistant Director for Policy, Office of Policy, Executive Office for Immigration Review, by telephone at (703) 305-0289 (not a toll-free call) for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Jamee E. Comans, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2500, Falls Church, VA 22041, telephone (703) 305-0289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this IFR via one of the methods and by the deadline stated above. All comments must be submitted in English or accompanied by an English translation. The Department also invites comments that relate to the economic, environmental, or federalism effects that might result from this IFR. Comments that will provide the most assistance to the Department will reference a specific portion of the IFR; explain the reason for any recommended change; and include data, information, or authority that support such recommended change.

Please note that all comments received are considered part of the public record

and made available for public inspection at <https://www.regulations.gov>. Such information includes personally identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personally identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase “PERSONALLY IDENTIFYING INFORMATION” in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online, you must include the phrase “CONFIDENTIAL BUSINESS INFORMATION” in the first paragraph of your comment. You also must prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on <https://www.regulations.gov>.

Personally identifying information located as set forth above will be placed in the agency’s public docket file but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. The Department may withhold from public viewing information provided in comments that they determine may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>. To inspect the agency’s public docket file in person, you must make an appointment with the agency. Please see the “For Further Information Contact” paragraph above for agency contact information.

II. Background

On July 4, 2025, a Congressional budget reconciliation bill (H.R. 1), commonly

referred to as the One Big Beautiful Bill Act (“OBBBA”), was signed into law.¹ Pub. L. 119-21, 139 Stat. 72 (2025). As relevant to EOIR, OBBBA introduced or increased numerous immigration-related fees. *See* OBBBA, Title X, Subtitle A, Part I, secs. 100002, 100009, 100013; 8 U.S.C. 1802, 1808, 1812. Specifically, these fee changes relate to: applications for relief and protection from removal; appeals before the Board of Immigration Appeals (“Board”); and motions to reopen or reconsider before the Immigration Courts and the Board. In addition, OBBBA foreclosed aliens from seeking fee waivers for certain application fees, as well as limited the fee exceptions for motions to reopen and reconsider. *See, e.g., id.*, secs. 100002(e), 100013(g)(3); 8 U.S.C. 1802(e), 1812(g)(3). And, importantly, OBBBA fees apply in addition to any other fees authorized by law. *See, e.g., id.*, secs. 100002(a), 100013(a)–(j); 8 U.S.C. 1802(a), 1812(a)–(j) (all noting that the OBBBA fees are “[i]n addition to any other fees authorized by law”).

To better facilitate payment of the OBBBA fees, on September 23, 2025, EOIR announced the expanded capabilities of the EOIR Payment Portal to enable electronic payment of relevant fees for appeals, motions, and applications to EOIR. *See* EOIR, *Notice: Updates to the EOIR Payment Portal* (Sept. 23, 2025), <https://www.justice.gov/eoir/media/1414551/dl?inline> [<https://perma.cc/2UBL-8M4Q>].

OBBBA also requires that all EOIR-collected OBBBA fees be adjusted annually for inflation. *See, e.g.,* OBBBA secs. 100002, 100009; 8 U.S.C. 1802, 1808. Thus, in compliance with those mandates, EOIR published a Federal Register Notice that provided notice to the public of the inflationary fee adjustments that would apply to EOIR-collected OBBBA fees beginning February 1, 2026, for the remainder of Fiscal Year (“FY”) 2026. *See* Inflation Adjustment for EOIR OBBBA Fees; Fiscal Year 2026, 91 FR

¹ The official name of the measure is: “An Act To provide for reconciliation pursuant to title II of H. Con. Res. 14.”

2561 (Jan. 21, 2026).

The statutory language of OBBBA necessarily supersedes any conflicting language in EOIR’s existing regulations. *See, e.g., Nat’l Family Planning and Reproductive Health Ass’n, Inc. v. Gonzales*, 468 F.3d 826, 829 (D.C. Cir. 2006) (noting that “of course a valid statute always prevails over a conflicting regulation”). As a result, EOIR is issuing this rule to update the relevant EOIR regulations to ensure consistency with OBBBA’s provisions and to account for EOIR’s expanded fee collection capabilities.

III. Explanation of Changes

A. Updated Fee Amounts

This rule amends EOIR fees listed in 8 CFR 1103.7 to reflect the minimum fee amounts required by OBBBA. *Compare* 8 CFR 1103.7 (2025), *with* OBBBA, sec. 100013, 8 U.S.C. 1812.

OBBBA established that, beginning in FY 2025, in addition to assessing any other fees authorized by law, agencies must assess new OBBBA fees, in either the minimum amount set out in OBBBA or in a greater amount set by regulation by the Secretary of Homeland Security or the Attorney General, as applicable. *See, e.g.,* OBBBA, sec. 100013(i)(2)(A), 8 U.S.C. 1812(i)(2)(A). Then, beginning in FY 2026, OBBBA also requires EOIR to annually adjust all EOIR-collected OBBBA fees for inflation using the appropriate formula set forth in OBBBA. *See, e.g., id.*, sec. 100013(i)(2)(B), 8 U.S.C. 1812(i)(2)(B); *see also* U.S. House of Reps., *Glossary of Terms*, <https://www.house.gov/the-house-explained/open-government/statement-of-disbursements/glossary-of-terms> (defining “Fiscal Year” as “The federal government’s fiscal year beginning on October 1 and ending on September 30 of the following year.”).

Importantly, as explicitly provided in OBBBA, these OBBBA fees are “[i]n addition to any other fee[s] authorized by law,” which includes fees set by EOIR pursuant

to its separate statutory authority. *See, e.g.*, OBBBA, sec. 100013(a)(1); 8 U.S.C. 1812(a)(1). For example, separate from its OBBBA-provided fee collection authority, EOIR has statutory fee collection authority pursuant to section 286(m) of the Immigration and Nationality Act (“INA”), 8 U.S.C. 1356(m), which authorizes the Attorney General to charge fees for adjudication and naturalization services at a rate that would ensure recovery of both the full costs of providing all such services, including the costs of similar services that may be provided without charge to certain categories of aliens, and any additional administrative costs associated with the fees collected.² This section 286(m) statutory authority served as the basis for EOIR’s fees before OBBBA was enacted. As such, the fees imposed by OBBBA do not replace EOIR’s section 286(m) fees; rather, OBBBA fees are required to be charged “in addition” to these existing fees. Therefore, this rulemaking updates EOIR’s fee regulations to add the statutorily required OBBBA fees to EOIR’s preexisting, legally authorized section 286(m) fees, such that the fee amount listed in EOIR’s regulations includes both fees.³ *See* 8 CFR 1103.7(b).

EOIR will update OBBBA fee amounts annually for inflation as required—generally at the beginning of each FY—including on its website and electronic payment portal and through notice published in the Federal Register.⁴ *See, e.g.*, EOIR, *Types of Appeals, Motions, and Required Fees* (Feb. 1, 2026), <https://www.justice.gov/eoir/types-appeals-motions-and-required-fees> [<https://perma.cc/V8AD-VJDT>]; EOIR, *EOIR Forms*

² EOIR also has general fee authority authorized by title V of the Independent Offices Appropriations Act of 1952 (“IOAA”), Pub. L. 82-137, 65 Stat. 268, 290 (1951) (codified at 31 U.S.C. 9701). The IOAA provides government-wide authority to charge fees to individuals who receive special services from an agency. 31 U.S.C. 9701(a)–(b). Under the IOAA, fees must be “fair” and based on government costs, value provided to the recipient, the public policy or interest served, and other relevant factors.

³ This rule lists the currently operative section 286(m) fees in 8 CFR 1103.7. EOIR previously increased its section 286(m) fees in a 2020 rulemaking, but some of those fee increases were vacated in litigation. *See CLINIC v. EOIR et al.*, No. 20-CV-03812 (APM), 2026 WL 861067 (D.D.C. Mar. 30, 2026). Listing the currently operative fees here is not meant to imply the Department is taking any particular position in ongoing litigation.

⁴ EOIR has already made the required OBBBA inflation adjustments for FY 2026 through a Federal Register Notice. *See* 91 FR 2561. Relatedly, the fee amount for each type of application, appeal, motion, or other form is reflected on the EOIR Payment Portal, which includes options to pay based on which fee amount was operative at the time of filing. *See id.*

(Feb. 1, 2026), <https://www.justice.gov/eoir/eoir-forms> [<https://perma.cc/2VX5-KCUE>]; EOIR, *EOIR Payment Portal*, <https://epay.eoir.justice.gov/index>; 91 FR 2561. Notably, this rule itself does not substantively change any section 286(m) fee amounts but simply updates the EOIR fee amounts to reflect the sum of existing section 286(m) fee amounts and statutorily required OBBBA fees.⁵

B. Motions to Reopen and Reconsider

Next, this IFR amends provisions related to motions to reopen or reconsider at 8 CFR 1003.8(a)(2)⁶ and 1003.24(b)(2) to ensure consistency with OBBBA's fee requirements for such motions. *See* OBBBA, secs. 100013(g)(1)–(3), 8 U.S.C. 1812(g)(1)–(3). OBBBA mandates a fee for motions to reopen or reconsider a decision of an Immigration Judge or the Board filed by an alien, subject to two limited exceptions. *Id.* First, the OBBBA fee does not apply to a motion to reopen a removal order entered in absentia if such motion is filed in accordance with section 240(b)(5)(C)(ii) of the INA, 8 U.S.C. 1229a(b)(5)(C)(ii).⁷ *Id.*, sec. 100013(g)(3)(A), 8 U.S.C. 1812(g)(3)(A). Second, the OBBBA fee is not required for a motion to reopen an in absentia deportation order if the motion is filed in accordance with former section 242B(c)(3)(B) of the INA, 8 U.S.C. 1252b(c)(3)(B) (1994), as it existed prior to April 1, 1997. *Id.*, sec. 100013(g)(3)(B), 8 U.S.C. 1812(g)(3)(B).

Accordingly, the Department is removing two inconsistent regulatory fee exceptions that previously allowed an alien to file a motion to reopen or reconsider

⁵ Pursuant to Federal law, 31 U.S.C. 902(a)(8), the Department will also “review, on a biennial basis, the fees . . . imposed by [EOIR] for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value.” *See also, e.g.*, OBBBA, Title X, Subtitle A, Part I, Sec. 100013(a)(2)(A)(ii)–(j)(2)(A)(ii), 8 U.S.C. 1812(a)(2)(A)(ii)–(j)(2)(A)(ii) (authorizing the Attorney General, as applicable, to set a fee amount by regulation greater than the one imposed by OBBBA). Therefore, in the future, if the Department decides to substantively revise EOIR's fee amounts beyond the annual adjustments for inflation, the Department will publish such changes in the *Federal Register*.

⁶ This rule also makes a minor non-substantive edit to the introductory heading in 8 CFR 1003.24(b) to clarify that the paragraph applies to all motions, similar to existing 8 CFR 1003.8(a). *See* 8 CFR 1003.8(a) (“Appeals and motions before the Board”).

⁷ Notably, a motion to reopen an in absentia order claiming exceptional circumstances filed pursuant to section 240(b)(5)(C)(i) of the INA, 8 U.S.C. 1229a(b)(5)(C)(i), requires a filing fee under OBBBA.

without paying a filing fee in circumstances other than those identified in the two OBBBA exceptions.⁸ *See* 8 CFR 1003.8(a)(2)(ii)–(iii), 1003.24(b)(2)(i)–(ii) (2025) (removing exceptions for motions to reopen or reconsider based exclusively on current or prior applications for relief that do not—or did not—require a fee).

In doing so, however, the Department notes that removing these two exceptions only ensures that aliens are paying the required OBBBA fee and does not create any new 286(m) fee obligations. To make this clear, this rule adds language to the chart in 8 CFR 1103.7(b)(2) stating that no 286(m) fees are required when a motion to reopen or reconsider is based exclusively on current or prior applications for relief that do not—or did not—require a fee.

C. Asylum Fees

Third, the Department is adding language reflecting OBBBA’s new asylum-related fees by revising 8 CFR 1003.24(d), 1103.7(b), and 1208.3(a)(1) to reference the initial application fee required for all asylum applications, *see* OBBBA, sec. 100002, 8 U.S.C. 1802, as well as an annual asylum fee (“AAF”)⁹ required “for each calendar year that an alien’s application for asylum remains pending,” *see* OBBBA, sec. 100009, 8 U.S.C. 1808. It is also deleting conflicting language in various regulations reflecting that no fee is required for an asylum application.

D. Paying Filing Fees Directly to EOIR

⁸ The Department is retaining, but renumbering, the existing regulatory exceptions stating that a filing fee is not required for: (1) a motion filed while proceedings are pending before the Immigration Court or an appeal, a motion to reopen, or a motion to reconsider is already pending before the Board; (2) a motion requesting only a stay of removal, deportation, or exclusion; (3) any motion filed by DHS; (4) a motion that is agreed upon by all parties and is jointly filed; (5) a motion filed under a law, regulation, or directive that specifically does not require a filing fee; and (6) a motion to reopen a deportation or removal order entered in absentia if the motion is filed pursuant to section 242B(c)(3)(B) of the INA, 8 U.S.C. 1252b(c)(3)(B), as it existed prior to April 1, 1997, or section 240(b)(5)(C)(ii) of the INA, 8 U.S.C. 1229a(b)(5)(C)(ii), as amended. *See* 8 CFR 1003.8(a)(2)(ii)–(vi); 1003.24(b)(2)(i)–(vi); *see also* OBBBA, sec. 100013(g)(1), 8 U.S.C. 1812(g)(1) (applying motion to reopen or reconsider fees only to alien-filed motions).

⁹ This rule includes statutory language from OBBBA explicitly prohibiting EOIR from waiving or reducing the AAF. *See* 8 CFR 1103.7(b)(4)(iii). However, the Department notes that, due to litigation regarding the AAF, EOIR declined to collect the FY 2025 AAF for a brief period (July 5, 2025, to September 30, 2025). *See Asylum Seeker Advocacy Project v. USCIS, et al.*, No. CV SAG-25- 03299, 2025 WL 3029552 (D. Md. Oct. 30, 2025).

Fourth, the Department is amending various regulatory sections to reflect that filing fees are now paid directly to EOIR. *See* 8 CFR 1003.3(a)(3), 1003.8(a)(4)(i), 1003.23(b)(1)(ii), 1003.24(a) and (c)(1)–(2), 1003.31(g), 1103.7(a)(1) and (3).

Previously, EOIR did not have the ability to collect filing fees, except for certain appeals and motions before the Board. All other payments for filing fees related to EOIR proceedings—most notably Immigration Court fees—were paid to and accepted by the Department of Homeland Security (“DHS”). However, the functionality of the EOIR Payment Portal has been expanded to allow payment of the required filing fees for appeals, motions, applications, and other forms filed with the Immigration Courts and the Board directly to EOIR.¹⁰

As such, the regulatory sections listed above have been amended to remove any language requiring or referencing making payments to DHS and to instead state that fees are paid to EOIR in a manner and form authorized by EOIR, and that filings must be accompanied by proof of payment of such fees. Additionally, the Department is adding language to clarify that the only accepted form of fee payment is payment through the EOIR Payment Portal, and that such fees are generally non-refundable.¹¹ *See* 8 CFR 1103.7(a)(1). While these regulatory changes merely reflect the expanded EOIR Payment Portal, the Department anticipates this payment change will create significant efficiencies for aliens and their representatives, who are now able to pay their fees online and directly to the agency where they are submitting their relevant filings.¹²

¹⁰ *See* EOIR, *Notice: Updates to the EOIR Payment Portal*. Instructions for how to make a payment using the EOIR Payment Portal, how to obtain a fee receipt, and other Frequently Asked Questions (“FAQs”) related to the EOIR Payment Portal are available at EOIR, *Payment Portal Frequently Asked Questions (FAQ)* (Feb. 18, 2026), <https://www.justice.gov/eoir/eoir-payment-portal-frequently-asked-questions-faq> [<https://perma.cc/8AWE-L5GR>].

¹¹ Executive Order 14247, *Modernizing Payments To and From America’s Bank Account*, requires agencies to transition to electronic methods of receiving payments to promote efficiency and reduce the risk of fraud. 90 FR 14001 (Mar. 25, 2025).

¹² EOIR has successfully collected filing fees directly for certain appeals and motions before the Board through its EOIR Payment Portal for several years, and the expansion of the EOIR Payment Portal to other types of fees reflects that success.

E. Multiple Applications

Fifth, the Department is amending 8 CFR 1240.11(f) and 1240.49(e) to remove language stating that aliens filing multiple relevant applications must only pay the filing fee for the application with the highest cost. Pursuant to OBBBA, Congress explicitly requires the payment of fees for all listed applications and has spoken directly when providing a fee waiver or exception. *See, e.g.*, OBBBA, sec. 100002(e), 8 U.S.C. 1802(e) (no asylum fee waiver); sec. 100013(g)(3), 8 U.S.C. 1812(g)(3) (providing motion to reopen exceptions). In light of this clear statutory language, EOIR is removing these conflicting regulatory provisions that would otherwise act as de facto fee waivers for the lower cost application(s).

F. Technical Changes

Lastly, the Department is making minor technical changes to fix the capitalization of Immigration Judge and Immigration Court and to replace “Service” with “DHS” in the relevant sections discussed herein. The Department is also updating a cross-reference in 8 CFR 1240.63(a) to properly reference the correct fee paragraph in 8 CFR 1103.7 relating to suspension of deportation applications.

IV. Regulatory Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act (“APA”), agencies generally must provide “notice of proposed rule making” in the Federal Register and, after such notice, “give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments.” 5 U.S.C. 553(b)–(c). The APA further provides that the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except in certain circumstances. *Id.* at 553(d). However, this rule qualifies for certain exceptions to these requirements, as discussed below. Although prior notice and comment is not required because such exceptions

apply, the Department nonetheless invites public comment on this IFR and will consider any public comments submitted in conformity with the requirements set forth in Section I of this preamble before issuing a final rule.

1. Procedural Rule

The Department may forgo notice and comment and a delayed effective date because this rule is a rule of “agency organization, procedure, or practice.” 5 U.S.C. 553(b)(A); 5 U.S.C. 553(d) (delayed effective date requirement only applies to “substantive” rules). The procedural rule exception “covers agency actions that do not themselves alter the rights or interests of parties, although it may alter the manner in which the parties present themselves or their viewpoints to the agency.” *JEM Broad. Co., Inc. v. FCC*, 22 F.3d 320, 326 (D.C. Cir. 1994) (quoting *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980)); see also *Mendoza v. Perez*, 754 F.3d 1002, 1023–24 (D.C. Cir. 2014).

In determining whether a rule is substantive or procedural, courts “must look at [the rule’s] effect on those interests ultimately at stake in the agency proceeding.” *Neighborhood TV Co., Inc. v. FCC*, 742 F.2d 629, 637 (D.C. Cir. 1984). But “an otherwise-procedural rule does not become a substantive one, for notice-and-comment purposes, simply because it imposes a burden on regulated parties.” *James V. Hurson Assocs., Inc. v. Glickman*, 229 F.3d 277, 281 (D.C. Cir. 2000). In fact, a rule is not necessarily a substantive rule for APA notice-and-comment purposes even if it has “a ‘substantial impact’ upon the persons subject to it.” *Elec. Priv. Info. Ctr. v. DHS*, 653 F.3d 1, 5 (D.C. Cir. 2011).

The Department has determined that this rule is procedural and therefore exempt from the APA’s notice-and-comment and delayed-effective-date requirements because it merely updates EOIR’s regulations to conform with OBBBA’s statutory provisions, which are already in effect. Importantly, this rule does not itself substantively raise any

section 286(m) EOIR fees.

Moreover, changes directing that payments for all filings with EOIR be made to EOIR, and requiring that those payments be made electronically, affect only the “manner in which parties present themselves” to the agency. *JEM Broad Co., Inc.*, 22 F.3d at 326 (quoting *Batterton*, 648 F.2d at 707). These changes do not affect an alien’s underlying legal claim, only the process the alien must follow to gain access to the agency proceeding in which they will present their legal claim. *See Neighborhood TV Co., Inc.*, 742 F.2d at 637.

2. Good Cause

Additionally, pursuant to the APA, a rule is excepted from notice-and-comment procedures when an agency for good cause finds that such procedures are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). A rule is also excepted from the delayed-effective-date requirement when good cause is found by the agency to forgo this requirement and is published with the rule. *Id.* at 553(d)(3); *Riverbend Farms, Inc. v. Madigan*, 958 F.2d 1479, 1485 (9th Cir. 1992) (differentiating the APA’s two “good cause” exceptions: 5 U.S.C. 553(b)(B), which applies to the notice and comment process; and 5 U.S.C. 553(d)(3), which applies to the delayed effective date). Consistent with the APA and for the reasons explained below, this IFR is excepted from the APA’s notice-and-comment and delayed-effective-date requirements because the Department has found good cause to proceed with an immediately effective IFR. 5 U.S.C. 553(b)(B), (d)(3).

OBBA was signed into law on July 4, 2025, and its changes to immigration-related fee provisions went into effect upon enactment, including explicitly amending EOIR fees for FY 2025, which ran from October 1, 2024, through September 30, 2025. *See* U.S. House of Reps., *Glossary of Terms*, <https://www.house.gov/the-house-explained/open-government/statement-of-disbursements/glossary-of-terms> (last visited

Apr. 22, 2026) (“Fiscal Year” definition).

Consequently, upon OBBBA’s enactment, the fee provisions contained in EOIR’s regulations prior to this IFR became inconsistent with OBBBA’s statutorily mandated fee changes. *Compare* 8 CFR 1103.7 (2025), *with* OBBBA, sec. 100013, 8 U.S.C. 1812. Importantly, as this IFR only amends EOIR’s regulations to be consistent with the applicable law, the notice-and-comment and delayed-effective-date requirements are unnecessary, impracticable, and contrary to the public interest as the Department was bound to comply with OBBBA’s new immigration-related fee provisions from the moment OBBBA was signed into law. Moreover, to the extent that the fee provisions contained in EOIR’s regulations prior to this IFR were inconsistent with OBBBA, those regulations were no longer valid and new statutorily compliant regulations are necessary. *See, e.g., Norman v. United States*, 942 F.3d 1111, 1117 (Fed. Cir. 2019) (finding that a regulation setting forth a maximum penalty was no longer valid, because it was inconsistent with the maximum penalty mandated by statute).

Similarly, Executive Order 14247, *Modernizing Payments To and From America’s Bank Account*, “mandat[es] the transition to electronic payments for all Federal . . . receipts by digitizing to the extent permissible under applicable law” 90 FR 14001. Specifically, this Executive Order mandates that “[a]ll executive departments and agencies” must transition to digital payment options and that “all payments made to the Federal Government shall be processed electronically,” with limited exceptions, as soon as practicable. *Id.*

Moreover, the Department considered whether Executive Order 14247’s exception for “individuals who do not have access to banking services or electronic payment systems” applies here. *See* 90 FR 14001, sec. 4(i). However, the Department determined that EOIR’s electronic payment system (the EOIR Payment Portal) is available to all aliens, and that general online access has become so widespread that

EOIR anticipates all aliens—or their families or representatives on their behalf—will be able to make electronic payments as needed. The Department further weighed this concern against the important interests served by Executive Order 14247, which explains that “checks and money orders . . . impose[] unnecessary costs; delays; and risks of fraud, lost payments, theft, and inefficiencies.” *See* 90 FR 14001.

This IFR therefore updates EOIR’s regulations to require electronic payment through the EOIR Payment Portal, in implementation of Executive Order 14247’s mandate. Further, practically, to ensure that all EOIR fees are collected only through electronic means, the Department must collect all EOIR fees itself, rather than continuing to allow some payments of EOIR fees to be made to DHS. As this IFR only amends EOIR’s regulations to be consistent with the applicable law, the notice-and-comment and delayed-effective-date requirements are unnecessary, impracticable, and contrary to the public interest as the Department is bound to comply with Executive Order 14247.

B. Regulatory Flexibility Act

This rule does not trigger the requirements of the Regulatory Flexibility Act because the agency was not required “to publish a general notice of proposed rulemaking” prior to issuing this IFR. *See* 5 U.S.C. 604(a).

C. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Sept. 30, 1993), and Executive Order 13563, Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 18, 2011), each direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 further emphasizes the importance of quantifying both costs and benefits, reducing costs,

harmonizing rules, and promoting flexibility.

The Department has determined that this rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and, therefore, it has not been reviewed by the Office of Management and Budget. Nevertheless, the Department certifies that this regulation has been drafted in accordance with the principles of Executive Orders 12866 and 13563.

The primary changes made by this rule to EOIR’s fee regulations do not impose a cost on the public beyond the terms of OBBBA, as these changes are merely reflecting statutorily mandated fee requirements. These regulatory changes also provide important clarity regarding the current fee amounts and the availability of exceptions or waivers. They also streamline where to pay relevant fees, which the Department expects to benefit fee submitters, as they will no longer have to determine whether to send their fee to EOIR or DHS or navigate a correction if they paid the wrong entity. The Department further anticipates that paying fees through the EOIR Payment Portal will create significant efficiencies for aliens and their representatives by allowing them to pay their fees online and directly to the agency where they are submitting their relevant filings. Moreover, the Department considered whether requiring online fee payment would create any additional costs, including for pro se aliens and other populations such as detained aliens, but ultimately determined that online payments have become so ubiquitous due to the widespread availability of general online access, for both the aliens and their families or representatives, that any such costs would be de minimis.

Thus, overall, the changes made by this rule provide important benefits and, conversely, do not impact the public in a way that would render it in tension with the principles of Executive Orders 12866 or 13563.

D. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

This rule is not a regulatory action under Executive Order 14192 because it is

being issued with respect to an immigration-related function of the United States.

E. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (inflation adjusted) in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

F. Executive Order 13132 (Federalism)

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department has determined that this 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 rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

H. Paperwork Reduction Act

This rule does not propose new “collection[s] of information,” or revisions to existing ones, as that term is defined under the Paperwork Reduction Act of 1995, Pub. Law 104–13, 109 Stat. 163, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320. However, the Department notes that EOIR is separately making de minimis changes to EOIR forms to address the incorrect fee amounts on the forms in light of OBBBA.

I. Congressional Review Act

This rule is not a major rule as defined by section 804 of the Congressional

Review Act. *See* 5 U.S.C. 804(3)(C) (defining the term “rule” to exclude “any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties”). Further, this is a rule of agency procedure that does not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Accordingly, it is not a “rule” as defined in 5 U.S.C. 804(3), and reporting to Congress and the GAO is not required.

List of Subjects

8 CFR Part 1003

Administrative practice and procedure, Aliens, Immigration, Legal services, Organization and functions (Government agencies).

8 CFR Part 1103

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Reporting and recordkeeping requirements.

8 CFR Part 1208

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

8 CFR Part 1240

Administrative practice and procedure, Aliens.

Accordingly, for the reasons set forth in the preamble, and by the authority vested in the Director, Executive Office for Immigration Review, by the Attorney General Order Number 6260-2025, the Department amends parts 1003, 1103, 1208, and 1240 of title 8 of the CFR as follows:

PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for part 1003 is revised to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362, 1801, 1802, 1808, 1812; 28 U.S.C. 509, 510, 1746; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR, 1949-1953 Comp., p. 1002.

2. Amend § 1003.3 by revising the first sentence of paragraph (a)(3) to read as follows:

§ 1003.3 Notice of appeal.

(a) * * *

(3) * * * The appeal must be accompanied by proof of payment of the filing fee in a manner and form authorized by EOIR or a fee waiver request in satisfaction of the fee requirements of § 1003.8. * * *

* * * * *

3. Amend § 1003.8 by:

- a. Revising paragraphs (a)(2), (a)(4) introductory text, and (a)(4)(i); and
- b. Removing the first sentence of paragraph (b).

The revisions read as follows:

§ 1003.8 Fees before the Board.

(a) * * *

(2) *When a fee is not required.* A filing fee is not required in the following instances:

- (i) A custody bond appeal filed pursuant to § 1003.1(b)(7);
- (ii) A motion filed while an appeal, a motion to reopen, or a motion to reconsider is already pending before the Board;
- (iii) A motion requesting only a stay of removal, deportation, or exclusion;
- (iv) Any appeal or motion filed by the Department of Homeland Security;
- (v) A motion that is agreed upon by all parties and is jointly filed; or
- (vi) Any appeal or motion filed under a law, regulation, or directive that specifically does not require a filing fee.

* * * * *

(4) *Method of payment.* When a fee is required, the appeal or motion shall be

accompanied by proof of payment of the filing fee.

(i) *In general.* Except as provided in paragraph (a)(4)(ii) of this section, the fee for filing an appeal or motion with the Board, as set forth in 8 CFR 1103.7(b), shall be paid in a manner and form authorized by EOIR.

* * * * *

4. Amend § 1003.23 by revising the fifth sentence in paragraph (b)(1)(ii) to read as follows:

§ 1003.23 Reopening or reconsideration before the immigration court.

* * * * *

(b) * * *

(1) * * *

(ii) * * * For any motion requiring a fee, that motion must be accompanied by proof of payment of the required filing fee in a manner and form authorized by EOIR or a fee waiver request pursuant to 8 CFR 1103.7(c). * * *

* * * * *

5. Amend § 1003.24 by:

a. Revising the section heading and paragraphs (a), (b) heading, (b)(2), and (c);
and

b. Revising and republishing paragraph (d).

The revisions read as follows:

§ 1003.24 Fees pertaining to matters within the jurisdiction of an Immigration Judge.

(a) *Generally.* All fees for the filing of motions and applications in connection with proceedings before the Immigration Judges shall be paid in a manner and form authorized by EOIR.

(b) *Motions*— * * *

(2) *When a fee is not required.* A filing fee is not required in the following instances:

(i) A motion filed while proceedings are already pending before the Immigration Court;

(ii) A motion requesting only a stay of removal, deportation, or exclusion;

(iii) A motion to reopen a deportation or removal order entered in absentia if the motion is filed pursuant to section 242B(c)(3)(B) of the Act (8 U.S.C. 1252b(c)(3)(B)), as it existed prior to April 1, 1997, or section 240(b)(5)(C)(ii) of the Act (8 U.S.C. 1229a(b)(5)(C)(ii)), as amended;

(iv) Any motion filed by the Department of Homeland Security;

(v) A motion that is agreed upon by all parties and is jointly filed; or

(vi) Any motion filed under a law, regulation, or directive that specifically does not require a filing fee.

(c) *Applications for relief—(1) When filed during proceedings.* When an application for relief is filed during the course of proceedings, the fee for that application must be paid in a manner and form authorized by EOIR. Fee amounts are listed in 8 CFR 1103.7. Applications for relief filed with the Immigration Court will not be accepted unless accompanied by proof of payment of any required fees.

(2) *When submitted with a motion to reopen.* When a motion to reopen is based upon an application for relief, the fee for the motion shall be paid in a manner and form authorized by EOIR, and proof of such payment must accompany the motion. As described in 8 CFR 1240.11(f), payment of the fee for the application for relief shall not accompany the motion. If the motion is granted and proceedings are reopened, the fee for the application shall be paid in a manner and form authorized by EOIR within the time specified by the Immigration Judge.

(d) *Fee waivers.* The Immigration Judge has the discretion to waive a fee for a

motion or application for relief upon a showing that the filing party is unable to pay the fee, except as provided in 8 CFR 1103.7(b)(4)(iii) and 1208.3(a). The request for a fee waiver must be accompanied by a properly executed affidavit or unsworn declaration made pursuant to 28 U.S.C. 1746 substantiating the filing party's inability to pay the fee. If the request for a fee waiver is denied, the application or motion will not be deemed properly filed, provided the Immigration Judge grants 15 days to re-file the rejected document with the filing fee or new fee waiver request and tolls any applicable filing deadline during the 15-day cure period.

6. Amend § 1003.31 by revising paragraph (g) to read as follows:

§ 1003.31 Filing documents and applications.

* * * * *

(g) *Fees.* All documents or applications filed with the Immigration Courts requiring the payment of a fee must be accompanied by proof of payment of the filing fee in a manner and form authorized by EOIR, or if applicable, a fee waiver request pursuant to 8 CFR 1103.7(c).

* * * * *

PART 1103—APPEALS, RECORDS, AND FEES

7. The authority citation for part 1103 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1304, 1356, 1801, 1802, 1808, 1812; 31 U.S.C. 9701; 28 U.S.C. 509, 510.

8. Amend § 1103.7 by:

- a. Revising paragraphs (a)(1) and (3), (b)(1) and (2), and (b)(4)(i); and
- b. Adding paragraph (b)(4)(iii).

The revisions and addition read as follows:

§ 1103.7 Fees.

(a) * * *

(1) *In general.* Fees shall be submitted in connection with any formal appeal,

motion, or application prescribed in this chapter in the amount prescribed by law or regulation. The only accepted form of fee payment is payment through the EOIR Payment Portal: <https://epay.eoir.justice.gov/index>. Payment of any fee under this section does not constitute filing of the appeal, motion, or application with the Board of Immigration Appeals or with the Immigration Court. Filing fees generally are non-refundable regardless of the outcome of the benefit request, or how much time the adjudication requires, and any decision to refund a fee is at the discretion of EOIR.

* * * * *

(3) *All other fees payable in connection with immigration proceedings.* Required fees in connection with EOIR proceedings shall be paid in a manner and form authorized by EOIR. Applications or motions will not be accepted unless they are accompanied by proof of payment of any required fees.

(b) * * *

(1) *Appeals.* For filing an appeal to the Board of Immigration Appeals, when a fee is required pursuant to 8 CFR 1003.8, as follows:

Table 1 to Paragraph (b)(1)

Immigration fee type	Current EOIR (section 286(m) of the Immigration and Nationality Act) fee	Current One Big Beautiful Bill Act (OBBBA) fee	Current EOIR total fees except any biometrics fees
Form EOIR-26, Notice of Appeal from a Decision of an Immigration Judge	\$110	\$920	\$1,030
Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer	\$110	\$920	\$1,030
Form EOIR-45, Notice of Appeal from a Decision of an Adjudicating Official in a	\$675	\$1,355	\$2,030

Practitioner Disciplinary Case			
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(2) *Motions*. For filing a motion to reopen or a motion to reconsider, when a fee is required pursuant to 8 CFR 1003.8 or 1003.24, as follows:

Table 2 to Paragraph (b)(2)

Immigration fee type	Current EOIR (286(m)) fee	Current OBBBA fee	Current EOIR total fees except any biometrics fees
Motion to reopen or reconsider a decision of an <i>Immigration Judge</i>	\$145	\$920	\$1,065
Motion to reopen or reconsider a decision of the <i>Board of Immigration Appeals</i>	\$110	\$920	\$1,030
Motion to reopen a decision of an <i>Immigration Judge or the Board of Immigration Appeals</i> that is based exclusively on an application for relief that does not require a fee	\$0	\$920	\$920
Motion to reconsider a decision of an <i>Immigration Judge or the Board of Immigration Appeals</i> that is based exclusively on a prior application for relief that did not require a fee	\$0	\$920	\$920

* * * * *

(4) * * *

(i) *Forms published by the Executive Office for Immigration Review*. Fees for applications for relief shall be paid in accordance with 8 CFR 1003.8(b) and 1003.24(c) as follows:

Table 3 to Paragraph (b)(4)(i)

Immigration fee type	Current EOIR (286(m)) fee	Current OBBBA fee	Current EOIR total fees except any biometrics fees
Form EOIR-40, Application for Suspension of Deportation	\$100	\$610	\$710

Form EOIR-42A, Application for Cancellation of Removal for Certain Permanent Residents	\$100	\$610	\$710
Form EOIR-42B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents	\$100	\$1,540	\$1,640

* * * * *

(iii) *Annual asylum fee.* Aliens are required to pay an annual fee for each calendar year that an alien's asylum application remains pending administrative review. This fee cannot be waived or reduced.

* * * * *

PART 1208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

9. The authority citation for part 1208 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1158, 1225, 1226, 1252, 1282, 1801, 1802, 1808, 1812; 48 U.S.C. 1806.

10. Amend § 1208.3 by revising and republishing paragraph (a)(1) to read as follows:

§ 1208.3 Form of application.

(a)(1) An asylum applicant must file Form I-589, Application for Asylum and for Withholding of Removal, together with any additional supporting evidence and proof of payment of the required application fee in accordance with the instructions on the form. The application fee cannot be waived or reduced. The applicant's spouse and children shall be listed on the application and may be included in the request for asylum if they are in the United States. One additional copy of the principal applicant's Form I-589 must be submitted for each dependent included in the principal's application.

* * * * *

**PART 1240—PROCEEDINGS TO DETERMINE REMOVABILITY OF ALIENS
IN THE UNITED STATES**

11. The authority citation for part 1240 is revised to read as follows:

Authority: 8 U.S.C. 1101 note, 1103, 1158, 1182, 1186a, 1186b, 1225, 1226, 1227, 1228, 1229a, 1229b, 1229c, 1252 note, 1255 note, 1361, 1362, 1801, 1802, 1808, 1812.

§ 1240.11 [Amended]

12. Amend § 1240.11 by removing the first sentence of paragraph (f).

§ 1240.49 [Amended]

13. Amend § 1240.49 by removing the fourth sentence of paragraph (e).

§ 1240.63 [Amended]

14. Amend § 1240.63 by removing the text “1103.7(b)(1)” and adding in its place the text “1103.7(b)(4)” in paragraph (a).

Daren K. Margolin,

Director,

Executive Office for Immigration Review,

Department of Justice.

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