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DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 106 and 216

[CIS No. 2846-26; DHS Docket No. USCIS-2025-0139]

RIN 1615-AC93

U.S. Citizenship and Immigration Services Employment-Based Immigrant Visa, Fifth Preference (EB-5) Fee Rule

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Final rule.

SUMMARY: This final rule adjusts the Employment-Based Immigration, Fifth Preference (EB-5) immigration benefit request fees charged by U.S. Citizenship and Immigration Services (USCIS). It also codifies provisions of the EB-5 Reform and Integrity Act of 2022, implements new statutory requirements, and addresses public comments received on the proposed fee rule published on October 23, 2025.

DATES: This final rule is effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Any application, petition, or request postmarked on or after this date must be accompanied by the fees established by this final rule.

FOR FURTHER INFORMATION CONTACT: Office of the Chief Financial Officer, U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone (240) 721-3000. Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 711.

SUPPLEMENTARY INFORMATION:

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Table of Abbreviations

ABC	Activity-Based Costing
AIIA	American Immigrant Investor Alliance
AILA	American Immigration Lawyers Association
APA	Administrative Procedure Act
BLS	Bureau of Labor Statistics
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CPI-U	Consumer Price Index for All Urban Consumers
CRA	Congressional Review Act
DHS	Department of Homeland Security
DOL	Department of Labor

EB-5	Employment-Based Immigration, Fifth Preference
E.O.	Executive Order
FDNS	Fraud Detection and National Security Directorate
FR	Federal Register
FY	Fiscal Year
IEFA	Immigration Examinations Fee Account
IPO	Immigrant Investor Program Office
JCE	Job Creating Entity
NCE	New Commercial Enterprise
NEPA	National Environmental Policy Act
NPRM	Notice of Proposed Rulemaking
PRA	Paperwork Reduction Act
RFA	Regulatory Flexibility Act
RIA	Regulatory Impact Analysis
SBREFA	Small Business Regulatory Enforcement Fairness Act of 1996
TEA	Targeted Employment Area
VPC	Volume Projection Committee
UMRA	Unfunded Mandates Reform Act
USCIS	U.S. Citizenship and Immigration Services

I. Executive Summary

A. Purpose of the Regulatory Action

DHS is adjusting EB-5 immigration benefit request fees and implementing related provisions of the EB-5 Reform and Integrity Act of 2022, div. BB of the Consolidated Appropriations Act, 2022, Public Law 117-103 (EB-5 Reform Act), to ensure adequate funding for program administration, enhance integrity measures, and comply with statutory requirements. This rule establishes an updated fee schedule, introduces a technology fee, codifies Integrity Fund fees and penalties, and clarifies procedures for certain EB-5 filings.

B. Legal Authority

DHS is publishing this rule under the authority of the EB-5 Reform Act. The EB-5 Reform Act repealed prior statutory provisions for the Regional Center Program (Public Law 102-395, 106 Stat. 1828, sec. 610) and amended the Immigration and Nationality

Act (INA) to reform the regional center program of the EB-5 category, effective May 14, 2022, through September 30, 2027.[1]

The EB-5 Reform Act authorizes DHS to conduct a fee study and set fees for EB-5 program-related immigration benefit requests.[2] Under section 106 of the EB-5 Reform Act, DHS is establishing the fees in this rule to recover the full costs of administering the EB-5 program and seek to attain statutory processing time goals. *See* Public Law 117-103, div. BB, sec. 106(b).

The EB-5 Reform Act also authorizes DHS to include costs for reduced or no-fee applications and up to one percent of the petition fee for technology improvements. *See* Public Law 117-103, div. BB, sec. 106(c).

The EB-5 Reform Act further requires DHS to collect EB-5 Integrity Fund fees (INA sec. 203(b)(5)(J), 8 U.S.C. 1153(b)(5)(J)), including annual fees from regional centers and penalties for late or nonpayment.

C. Changes from the Proposed Rule

As explained more fully in section III and later in this preamble, DHS is making several changes in this final rule based on comments received on the proposed rule or in exercising its authority to establish fees while balancing policy objectives as supported by data. The main changes are as follows:

1. Change in Current Fees

On November 12, 2025, the United States District Court for the District of Colorado issued a decision in *Moody v. Noem*, 2025 WL 3157554 (D. Colo.), staying

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[1] This rule and its supporting analysis assume that the program will be extended and will not sunset on this date, as Congress has a history of reauthorizing the program when it is set to end. *See, e.g.*, Pub. L. 112-176, 126 Stat. 1325.

[2] Although the deadline provided in section 106(b) for promulgation of the regulations has passed, the Supreme Court has repeatedly held that "if a statute does not specify a consequence for noncompliance with statutory timing provisions"—which the EB-5 Reform Act does not—the agency is not deprived of its power to act. *Barnhart v. Peabody Coal Co.*, 537 U.S. 149, 159 (2003) (quoting *United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 63 (1993)).

certain EB-5 related fees that were codified by DHS and became effective April 1, 2024.[3] The court determined that the EB-5 Reform Act precluded DHS from adjusting EB-5 program fees in the FY 2022/2023 fee rule. *Moody* at 10. DHS and USCIS believe the Court's decision is incorrect but have implemented it. On November 12, 2025, USCIS reverted to accepting the EB-5 fees that were in effect until March 31, 2024. As such, the current fees shown in this preamble are the fees which were in effect before the FY 2022/2023 fee rule instead of the current fees listed in the proposed rule and those codified at 8 CFR 106.2(a).[4]

2. Revised Fees

DHS proposed a range of Immigration Examinations Fee Account (IEFA) fees from $55 to $29,935 in the proposed rule. In this final rule, DHS sets revised fees to respond to comments and incorporate current data. Table 1 later in this preamble compares current, proposed, and final fees. As explained later in this preamble, the revised fees are mainly the result of changes to budget and workload assumptions. We revised budget and workload estimates to use more recent planning information in response to comments.

3. Revisions to the EB-5 Fee Study

In this final rule, DHS updates the EB-5 fee study to incorporate FY 2026/2027 projections and to reflect public comments, replacing the FY 2024/2025 assumptions used in the proposed rule. *See* 90 FR 48516, 48522-48526. A more detailed discussion of the changes highlighted below is provided in section III.C of this preamble.

- Receipt forecasts for EB-5 filings have been revised using FY 2026/2027 estimates from the Volume Projection Committee (VPC), increasing projected

[3] *See U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements*, 89 FR 6194, 6169, 6209 (Jan. 31, 2024) (FY 2022/2023 fee rule).
[4] *See U.S. Citizenship and Immigration Services Employment-Based Immigrant Visa, Fifth Preference (EB-5) Fee Rule*, 90 FR 48516, 48517 (Oct. 23, 2025).

average annual EB-5 receipts from 11,262 to 16,604. Completion rate estimates have also been updated using more recent Immigrant Investor Program Office (IPO) data, while remaining aligned with the processing time goals in the EB-5 Reform Act.

- Regarding costs, the prior IEFA non-premium annual average cost projection of $5.316 billion for FY 2024/2025 is replaced with an updated FY 2026/2027 cost projection of approximately $6.960 billion. In the proposed rule, EB-5 program-specific costs were approximately $86 million. In this final rule, the revised EB-5 program-specific costs are about $105 million.
- Using current EB-5 fees and the updated assumptions, projected EB-5 revenue is approximately $56.6 million, resulting in a cost-revenue gap of roughly $48.4 million. The final EB-5 fee schedule, consistent with the proposed rule, is designed to close this gap and align revenue with projected costs, consistent with INA sec. 286(m), 8 U.S.C. 1356(m), and the EB-5 Reform Act.
- The estimated cost of regional center terminations and reaffirmations is also updated, and, in response to public comments, those costs are now allocated only to initial Form I-956, Application for Regional Center Designation, and Form I-956F, Application for Approval of an Investment in a Commercial Enterprise, rather than to Form I-956 amendments.

4. Change to Inflation Adjustment to EB-5 Integrity Fund Fees

DHS proposed to increase EB-5 Integrity Fund fees by the rate of inflation using the Consumer Price Index for All Urban Consumers (CPI-U) from the first half of 2022 to the first half of 2024 and noted that the time period may change to reflect the current inflation at the time the final rule is issued. *See* 90 FR 48516, 48531-48532. In this final rule, DHS maintains an adjustment for inflation, as authorized by statute, but changes the time period to reflect the CPI data from 2022 to 2025. As such, the resulting increase in this final rule is 10 percent. DHS thus increases the I-526E Integrity Fund fee from $1,000 to $1,100; the Regional Center fee from $10,000 to $11,000; and for certain Regional Center the fee goes from $20,000 to $22,000.[5] These adjustments help ensure sufficient funding for program integrity activities.

D. Summary of Final Fees

Table 1 below summarizes the EB-5 program fees established by this rule pursuant to the EB-5 Reform Act (Public Law 117-103, div. BB). The Current Fee(s) column reflects the fees that DHS currently collects as explained earlier in this executive summary and later in this preamble.[6] The Final Fee(s) column shows the new fees set by this rule, with the last two columns displaying the dollar and percentage differences. In some cases, the final fee includes an additional technology fee, as authorized under section 106(c) of the EB-5 Reform Act, to support improvements to USCIS information technology systems. Other fees include the cost of regional center terminations and reaffirmations, as explained later in this preamble. All adjusted fees are incorporated into the revised Form G-1055, Fee Schedule, included in the rulemaking docket.

Table 1: EB-5 Fee Comparison

Immigration Benefit Request	Current Fee (Reinstated on Nov. 13, 2025)	Proposed Fee(s)	Final Fee(s)	$ Difference from Current Fee	% Difference from Current Fee
I-526 Immigrant Petition by Standalone Investor (with EB-5 Technology Fee)	$3,675	$9,625	$7,615	$3,940	107%
I-526E Immigrant Petition by Regional Center Investor - Initial (with EB-5 Technology Fee)	$3,675	$9,625	$7,850	$4,175	114%

[5] *See* section III.E. of this preamble for additional information. *See also* 8 U.S.C. 1153(b)(5)(J)(ii).
[6] Please note that 8 CFR 106.2 reflects the EB-5 fees set in the FY 2022/2023 fee rule. As such, the EB-5 fees in 8 CFR 106.2 do not reflect the current fees USCIS collects, as explained earlier in this executive summary and section III.A of this preamble.

Immigration Benefit Request	Current Fee (Reinstated on Nov. 13, 2025)	Proposed Fee(s)	Final Fee(s)	$ Difference from Current Fee	% Difference from Current Fee
I-526E Immigrant Petition by Regional Center Investor - Amendment	$3,675	$9,530	$7,775	$4,100	112%
I-527 Amendment to Legacy Form I-526	$0	$8,000	$10,330	$10,330	N/A
I-829 Petition by Investor to Remove Conditions on Permanent Resident Status	$3,750	$7,860	$5,000	$1,250	33%
I-956 Application for Regional Center Designation - Initial (with Regional Center Termination cost)	$17,795	$28,895	$44,115	$26,320	148%
I-956 Application for Regional Center Designation - Amendment	$17,795	$18,480	$9,835	($7,960)	-45%
I-956F Application for Approval of Investment in a Commercial Enterprise (with Regional Center Termination cost)	$17,795	$29,935	$42,675	$24,880	140%
I-956G Regional Center Annual Statement - Initial, amendment, or supplement	$3,035	$2,740	$2,165	($870)	-29%
I-956H Bona Fides of Persons Involved with Regional Center Program	$0	$55	$65	$65	N/A
I-956K Registration for Direct and Third-Party Promoters	$0	$2,740	$2,165	$2,165	N/A
I-526E EB-5 Integrity Fund Fee	$1,000	$1,085	$1,100	$100	10%
Regional Center Integrity Fund Fee (20 or fewer total investors)	$10,000	$10,825	$11,000	$1,000	10%
Regional Center Integrity Fund Fee	$20,000	$21,650	$22,000	$2,000	10%

E. Summary of Costs and Benefits

The fee schedule DHS finalizes will impact about 16,600 EB-5 program form filings annually and increase form fees by about 70.7 percent, or by about $2,945.90 (based on a weighted average) to individual investors, regional centers, and other persons or businesses involved in promoting program investments. DHS estimates that the 10-year and annualized monetized costs will be about $8.06 million and $0.81 million, in order, in undiscounted terms. At 3 and 7 percent discount rates, in order, the ten-year (FY 2026 through FY 2035) figures will be $6.88 million and $5.66 million. Impacts associated with filing the new Form I-527, as well as a few expected Form I-829 filings from dependents separate from the principal filers, are categorized as costs, as are changes in forms' time burdens. The final fee changes (for EB-5 program forms that currently exist) will constitute transfer payments from requestors to DHS, which are estimated at $416.74 million and $343.14 million, over a 10-year period at 3 and 7 percent discount rates, in order. Penalties and fees are also classified as costs but are not estimated and quantified.

Based on limited data and information, DHS determined that most regional centers and almost all New Commercial Enterprises (NCEs) and Job-Creating Entities (JCEs) involved in program investment activity will be small entities under the Regulatory Flexibility Act of 1980 (RFA).

II. Background

A. The EB-5 Program

Congress established the EB-5 program in 1990 to promote U.S. economic growth through job creation and capital investment by immigrant investors. Public Law 101-649, 104 Stat. 4978 (Nov. 29, 1990). The regional center program was added in 1992 (Public Law 102-395, sect. 610, 106 Stat. 1828) and repealed in 2022. As amended by the

EB-5 Reform Act, the program allocates approximately 10,000 visas annually to qualified immigrants and dependents who invest at least $1,050,000, or $800,000 in a targeted employment area (TEA) or infrastructure project, in a U.S. business that creates at least 10 full-time jobs. *See* INA sec. 203(b)(5)(A)-(C), 8 U.S.C. 1153(b)(5)(A)-(C). Up to 90 percent of job creation may be satisfied through indirect jobs in a new commercial enterprise associated with a designated regional center. INA sec. 203(b)(5)(E)(iv), 8 U.S.C. 1153(b)(5)(E)(iv).

USCIS administers the EB-5 program and maintains program integrity, including through the IPO established in FY 2013. The EB-5 Reform Act requires enhanced fraud, national security, and public safety measures, such as site visits, background checks, and compliance audits. *See* INA sec. 203(b)(5)(F)(iv), (H)(iii), (N)-(O), (R), 8 U.S.C. 1153(b)(5)(F)(iv), (H)(iii), (N)-(O), (R); INA sec. 103(a)(3), 8 U.S.C. 1103(a)(3); 8 CFR 103.2(b)(1). USCIS conducts investigations, site visits, and audits to verify eligibility and supporting evidence. Adverse findings may result in denial, revocation, or termination of status.

The EB-5 Reform Act authorizes DHS to set fees to recover costs for adjudication, program management, audits, and compliance activities. *See* Public Law 117-103, div. BB, sec. 106(b), 106(c). These costs are detailed in subsequent sections of this rule.

B. USCIS Fees

USCIS is primarily funded by fees charged to applicants, petitioners, and requesters for immigration and naturalization benefit requests. USCIS manages the following four fee accounts:

- The IEFA, which includes premium processing revenues (INA secs. 286(m), (n), (t), and (u); 8 U.S.C. 1356(m), (n), (t), and (u));

- The Fraud Prevention and Detection Account (INA secs. 214(c)(12) and (13), 286(v); 8 U.S.C. 1184(c)(12) and (13), 1356(v));
- The H-1B Nonimmigrant Petitioner Account (INA secs. 214(c)(9) and (11), 286(s);8 U.S.C. 1184(c)(9) and (11), 1356(s)); and
- The EB-5 Integrity Fund (INA sec. 203(b)(5)(J),8 U.S.C. 1153(b)(5)(J)).

When USCIS provides adjudication and naturalization services, it is authorized to set IEFA fees at a level that will ensure recovery of the full costs of providing all such services. *See* INA sec. 286(m), 8 U.S.C. 1356(m). The fees that are collected from individuals and entities filing immigration benefit requests are deposited into the IEFA. *Id.* These fees fund the cost of adjudicating immigration benefit requests, including those provided without charge to refugee, asylum, and certain other applicants or petitioners. The IEFA accounted for approximately 95 percent of total funding for USCIS in the FY 2025 full-year budget.[7] The EB-5 Integrity Fund represented less than 1 percent of FY 2025 funding. The remaining USCIS funding came from appropriations (approximately 4 percent) or other fee accounts (approximately 1 percent) in FY 2025. While premium processing funds are also IEFA fees, this rule does not make premium processing fee changes or consider premium processing costs or revenue as part of the EB-5 fee setting approach described in the proposed rule. *See* 90 FR 48516, 48522-48530.

[7] *See* DHS, USCIS Budget Overview: FY 2026 Congressional Justification, https://www.dhs.gov/sites/default/files/2025-06/25_0613_uscis_fy26-congressional-budget-justificatin.pdf.

The Fraud Prevention and Detection Account[8] and H-1B Nonimmigrant Petitioner Account[9] are both funded by fees for which the dollar amount is set by statute. DHS has no authority to adjust the fees for these accounts. The EB-5 Integrity Fund, a new account established in FY 2023, is discussed later in this preamble and in a separate section of the proposed rule. *See* section III.C and IV.F of this preamble; *see also* 90 FR 48516, 48530-48535l.

Since its inception, the EB-5 program has been funded by fees set by DHS under the IEFA authority. Historically, fees charged for USCIS services are deposited into the IEFA are generally described as "IEFA fees." *See, e.g.,* 89 FR 6194. The costs to provide such services, which are generally used as the basis to develop the IEFA fees, are described as "IEFA costs." *Id*. A court ruling in 2025 reverted the EB-5 fees to those set in 2016, as explained below.[10]

C. Status of Previous EB-5 Fee Regulations

In the FY 2022/2023 fee rule, DHS adjusted the USCIS fee schedule, including EB-5 program fees, using a full cost recovery model based on Activity-Based Costing

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[8] The Fraud Prevention and Detection fees charged to certain employers petitioning for nonimmigrant workers in the H-1B, H-2B, and L-1 visa classifications are set by statute. Revenue is used for activities related to preventing and detecting fraud in immigration benefit requests. *See* 8 U.S.C. 1356(v)(2)(B) ("One-third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of Homeland Security until expended for programs and activities to prevent and detect immigration benefit fraud, including fraud with respect to petitions filed under paragraph (1) or (2)(A) of section 1184(c) of this title to grant an alien nonimmigrant status described in subparagraph (H) or (L) of section 1101(a)(15) of this title."). Revenue is shared equally among USCIS, the U.S. Department of State, and the U.S. Department of Labor (DOL). Effective July 25, 2018, USCIS also collects and retains the $50 Commonwealth of the Northern Mariana Islands fraud fee. *See* 48 U.S.C. 1806(a)(6)(A)(iv). DHS interprets Fraud Prevention and Detection Account authority as providing supplemental funding to cover activities related to fraud prevention and detection and not prescribing that only those funds may be used for that purpose. The Fraud Detection and National Security Directorate (FDNS) is funded out of both the IEFA and the Fraud Prevention and Detection Account. The fees deposited in the Fraud Prevention and Detection Account are fixed by statute and are insufficient to cover the full costs of FDNS. Therefore, USCIS uses both Fraud Prevention and Detection Account and IEFA funds for FDNS costs.

[9] Certain H-1B fees are required by other laws. Revenue is shared among USCIS, DOL, and the National Science Foundation. USCIS receives 5 percent of these funds. USCIS uses the H-1B Nonimmigrant Petitioner Account as supplemental funding for the limited H-1B petition and petition for immigrant worker adjudication activities authorized by statute. *See* 8 U.S.C. 1356(s)(5). The H-1B Nonimmigrant Petitioner Account does not fully fund the H-1B program at USCIS. As such, USCIS also uses IEFA fees to administer the program. IEFA fees are not required for those limited purposes authorized or required by sec. 1356(s)(5).

[10] For more information on the 2016 fee rule, see USCIS Fee Schedule, 81 FR 73292 (Oct. 24, 2016).

(ABC) under INA section 286(m), 8 U.S.C. 1356(m), consistent with OMB Circular A-25. *See* 89 FR 6194 (Jan. 31, 2024); 88 FR 402, 418 (Jan. 4, 2023). That rule allocated IEFA costs across benefit types and generally did not cap EB-5 fees below the amounts indicated by the full cost recovery model. Because the EB-5-specific fee study required by the EB-5 Reform Act had not yet been completed, those EB-5 fees were not set using the statute's processing time goals and narrower program-specific parameters. By contrast, the EB-5 fees in this final rule are based on the EB-5 Reform Act framework, its anticipated processing times, and a revised fee study.

On November 12, 2025, the United States District Court for the District of Colorado issued a decision in *Moody v. Noem*, 2025 WL 3157554 (D. Colo.), staying certain EB-5-related fees established in the FY 2022/2023 fee rule, which became effective April 1, 2024. *See* 89 FR 6194. The court concluded that the EB-5 Reform Act precluded DHS from adjusting EB-5 program fees in that rule. *Moody,* at *10-11. As of November 12, 2025, USCIS reverted to accepting the EB-5 fees that were in effect until March 31, 2024.[11]

D. Related Rulemakings and Policies

DHS is engaged in multiple immigration-related rulemakings that are at various stages of development. DHS recognizes that policy and regulatory changes can affect USCIS staffing needs, costs, fee revenue, and processing times, including those for EB-5 workloads. Consistent with prior practice, DHS has considered other relevant rules for peripheral, overlapping, or interrelated effects on this EB-5 fee rule and has analyzed, to the extent possible, the potential effects of rules that may impact or substantively overlap with this action.

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[11] *See* USCIS Newsroom, Court Order on Partial Stay of DHS 2024 USCIS Fee Rule, https://www.uscis.gov/newsroom/alerts/court-order-on-partial-stay-of-dhs-2024-uscis-fee-rule (Last Reviewed/Updated: 11/18/2025).

DHS has also considered, to the extent practicable, the effects on this rule of intervening or anticipated legislation and policy changes of which USCIS is aware. Immigration policy changes frequently, and some initiatives may not be fully reflected in this rule due to the time required for rule development and finalization. DHS therefore cannot represent that it has accounted for every future policy change at all levels of the U.S. Government that may directly or indirectly affect the EB-5 program.

However, DHS believes it has examined and considered all relevant aspects of the issues addressed by this rulemaking, responded to all substantive public comments, and provided a reasoned explanation for the EB-5 fee changes and related provisions consistent with applicable statutory authorities, including the EB-5 Reform Act. Where other DHS rules or major policy changes have a direct and material effect on EB-5 fees, operations, or integrity measures, those interactions are discussed in the relevant sections of this preamble.

1. EB-5 Reform and Integrity Act of 2022; Ensuring the Integrity of the EB-5 Program; Automatic Revocation of Petitions for Immigrant Classification

Separate from this EB-5 fee rule, on July 2, 2026, DHS proposed a rule titled *EB-5 Reform and Integrity Act of 2022; Ensuring the Integrity of the EB-5 Program; Automatic Revocation of Petitions for Immigrant Classification*. *See* 91 FR 40676. This proposed rule would implement the statutory reforms that the EB-5 Reform Act made to the EB-5 visa category and the Regional Center Program. In general, under the EB-5 program, aliens are eligible to apply for lawful permanent resident status if they make the required investment in a new commercial enterprise in the United States and create 10 permanent full-time jobs for qualified U.S. workers. That separate rulemaking proposes changes to improve the integrity of the program and clarify eligibility requirements, whereas this rulemaking is limited to establishing and adjusting EB-5-related fees and associated funding mechanisms.

2. Collection and Use of Biometrics by U.S. Citizenship and Immigration Services

On November 3, 2025, DHS proposed a separate rule to amend regulations governing the collection and use of biometrics. *See* 90 FR 49062. That biometrics rule would, among other things, require submission of biometrics by any individual, regardless of age, who files or is associated with an immigration benefit request or other covered request (unless exempted); expand biometrics collection authority upon alien arrest; define “biometrics;” codify reuse requirements; codify and expand DNA testing, use, and storage; establish an “extraordinary circumstances” standard to excuse failure to appear for a biometrics appointment; modify how certain applicants demonstrate good moral character; and clarify the purposes for which biometrics may be collected and used.

This biometrics rulemaking is distinct from, but operationally related to, this EB-5 fee rule. To the extent biometrics policies affect USCIS costs or processes, the effects of current biometrics requirements are reflected in the underlying cost and workload assumptions used in this fee rule, but the changes proposed in the November 3, 2025, proposed rule are not considered, and biometrics requirements themselves are not established or revised by this EB-5 fee rule.

E. Severability

DHS believes that the provisions in this rule are severable and can operate independently, consistent with the treatment of other USCIS fees under current regulations. *See* 89 FR 6194, 6237-6238 (Jan. 31, 2024); *see also* 8 CFR 106.6. For example, the EB-5 Integrity Fund penalty fees could be enjoined or stayed without affecting the validity or operation of the EB-5 form fees or the technology fee. If DHS were prohibited from collecting any particular fee established by this rule, DHS believes that any stay, injunction, or vacatur could be narrowly tailored to that specific fee or set of fees. In such circumstances, USCIS could continue EB-5 operations—potentially at a reduced level or with resource adjustments—while DHS undertakes additional rulemaking to address the specific deficiency identified by a court. DHS further believes that allowing the remaining fees to remain in effect would avoid unnecessary disruption to the EB-5 program and would better support Congress' objective of timely processing EB-5 petitions.

III. Changes from the Proposed Rule

This final rule adopts, with appropriate changes, the regulatory text in the proposed rule published in the *Federal Register* on October 23, 2025.[12] DHS is making several changes in this final rule based on comments received on the proposed rule or as required by the effects of those changes. For example, based on public comments, DHS updated data and cost estimates to use more recent information which resulted in different final fees than in the proposed rule.[13] As explained throughout this preamble, DHS exercises its discretionary authority to establish fees. This final rule also relies on the justifications articulated in the proposed rule, except as modified and explained throughout this rule in response to public comments, intervening developments, and new information. A description of each change is as follows:

A. Change in Current Fees

DHS is making changes to the proposed fees in this final rule. The current fees shown in this preamble are different from the fees listed in the proposed rule. *See*, *e.g.*, 90 FR 48516, 48517. The current fees are those from before the FY 2022/23 Fee Rule, as required by the decision in *Moody v. Noem*, 2025 WL 3157554, (D. Colo.), that stayed certain EB-5 related fees that were codified by DHS. *See* 89 FR 6194 (Jan. 31, 2024). On

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[12] *See U.S. Citizenship and Immigration Services Employment-Based Immigrant Visa, Fifth Preference (EB-5) Fee Rule; Proposed rule*, 90 FR 48516 (Oct. 23, 2025) (proposed rule).
[13] *See* section III.C of this preamble for more information.

November 12, 2025, USCIS reverted to accepting the EB-5 fees that were in effect until March 31, 2024.[14] USCIS informed the public that they would accept the previous fee for items postmarked before November 26, 2025.[15]

Table 2: Comparison of Reinstated EB-5 Fees and FY 2022/2023 Fee Rule Fees

Immigration Benefit Request	**Current Fee (Reinstated on Nov. 13, 2025)**	**Previous Fee (FY 2022/2023 Fee Rule)**
Form I-526, Immigrant Petition by Standalone Investor	$3,675	$11,160
Form I-526E, Immigrant Petition by Regional Center Investor	$3,675	$11,160
Form I-829, Petition by Investor to Remove Conditions on Permanent Resident Status	$3,750	$9,525
Form I-956, Application for Regional Center Designation	$17,795	$47,695
Form I-956F, Application for Approval of an Investment in a Commercial Enterprise	$17,795	$47,695
Form I-956G, Regional Center Annual Statement	$3,035	$4,470

B. Revised IEFA Fees

DHS proposed a range of IEFA fees from $55 to $29,935 in the proposed rule. *See, e.g.,* 90 FR 48516, 48517. In this final rule, DHS sets revised fees in response to public comments, revisions to the EB-5 Fee Study, and updated data. *See* Table 1 earlier in section I.D. of this preamble for a comparison of the current, proposed, and final fees. The revised fees are mainly the result of changes to budget and workload assumptions. We revised budget and workload estimates to use more recent planning information in response to comments. Consistent with the proposed rule, these fees will only recover the cost of the EB-5 program and will not recover costs for other programs, which USCIS fee rules typically refer to as cost reallocation. *See, e.g.,* 90 FR 48516**,** 48525-48526.

[14] *See* USCIS, Court Order on Partial Stay of DHS 2024 USCIS Fee Rule, https://www.uscis.gov/newsroom/alerts/court-order-on-partial-stay-of-dhs-2024-uscis-fee-rule (last reviewed/updated Nov. 18, 2025).

[15] *Id*.

C. Revisions to the EB-5 Fee Study

In the proposed rule, DHS relied on the results of an FY 2024/2025 fee review and the results of the EB-5 fee study to calculate the proposed fees. In this final rule, DHS revises the EB-5 fee study and its results to use more recent estimates from a FY 2026/2027 fee review. Both versions of the EB-5 fee study use the same methodology, but the revised EB-5 fee study uses newer data, as requested by commenters.

1. Changes to Volume and Completion Rate Estimates

In the proposed rule, DHS explained the volumes and completion rates that it used and how those affected the EB-5 fee study.[16] For example, USCIS estimates annual workload for using historical and recent volume trends, statistical forecasts, and subject-matter expertise from various USCIS offices. Completion rates reflect what is termed "touch time," or the time an employee with adjudicative responsibilities handles the case.[17] The workload and completion rate estimates allow USCIS to determine staffing allocations, which affect the USCIS budget and fees.

In response to comments, DHS revises the volume and completion rate estimates to use FY 2026 and FY 2027 forecasts. Like the volumes in the proposed rule, the volume estimates in this final rule were agreed upon by the USCIS Volume Projection Committee (VPC). The mission of the VPC is to facilitate workload and fee projection data, and coordination of decisions about projected workload. This intra-agency group provides a forum for decisions about projected workload with input from subject matter experts from within USCIS and, in some cases, data from other government agencies. The VPC predicts USCIS annual workload volumes using historical and recent volume trends, statistical forecasts, and subject-matter expertise from various USCIS directorates and program offices, including the IPO, USCIS service centers, the National Benefits

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[16] *See* 90 FR 48516, 48523-48526.

[17] This rate does not reflect "queue time," or time spent waiting, for example, for additional evidence or supervisory approval.

Center, and regional, district, and field offices. USCIS produced most of the estimates in this final rule during the meetings in June 2025 to estimate the FY 2026 and beyond. These meetings were the final time that the VPC produced comprehensive volume estimates for FY 2026. USCIS uses VPC estimates to determine staffing levels, budget for upcoming years, and estimate future revenue. While the VPC did not forecast Form I-527 workload, USCIS relied on SME estimates for the Form I-527 forecast required for this rule.

Workload volume is a key element used to determine the USCIS resources needed to process EB-5 benefit requests on average within the processing time goals established in the EB-5 Reform Act. EB-5 program workload volume is the primary cost driver for assigning activity costs to EB-5 immigration benefit requests. Table 3 displays the projected average annual receipts for EB-5 immigration benefit requests in this final rule:

Table 3: Projected Annual Receipts for Revised EB-5 Fee Study

Immigration Benefit Request	FY 2026	FY 2027	FY 2026/2027 Average
I-526 Immigrant Petition by Standalone Investor	312	312	312
I-526E Immigrant Petition by Regional Center Investor	8,500	8,500	8,500
I-527 Amendment to Legacy Form I-526	20	20	20
I-829 Petition by Investor to Remove Conditions on Permanent Resident Status	5,532	3,771	4,652
I-956 Application for Regional Center Designation - Amendment	39	39	39
I-956 Application for Regional Center Designation - Initial	13	13	13
I-956F Application for Approval of an Investment in a Commercial Enterprise	240	240	240
I-956G Regional Center Annual Statement	528	528	528
I-956H Bona Fides of Persons Involved with Regional Center Program	2,000	2,000	2,000
I-956K Registration for Direct and Third-Party Promoters	300	300	300
EB-5 Total	**17,484**	**15,723**	**16,604**

The total EB-5 workload in this final rule is higher than in the proposed rule, but some forecasts are lower than in the proposed rule. For example, USCIS anticipates fewer Form I-956 receipts in the forecasts for this final rule than in the proposed rule. Generally, the differences are because the final rule forecasts use more recent information.[18] *See* Table 4 below for the average annual receipt forecasts in the final rule compared to the proposed rule forecasts.

Table 4: Comparison of Proposed Rule to the Final Rule Receipt Forecasts

Immigration Benefit Request	**FY 2024/2025 Average (NPRM)**	**FY 2026/2027 Average (Final Rule)**	**Change**	**% Change**
I-526 Immigrant Petition by Standalone Investor	225	312	87	39%
I-526E Immigrant Petition by Regional Center Investor	3,500	8,500	5,000	143%
I-527 Amendment to Legacy Form I-526	457	20	-437	-96%
I-829 Petition by Investor to Remove Conditions on Permanent Resident Status	3,430	4,652	1,222	36%
I-956 Application for Regional Center Designation	200	52	-148	-74%
I-956 Application for Regional Center Designation - Amendment	150	39	-111	-74%
I-956 Application for Regional Center Designation - Initial	50	13	-37	-74%
I-956F Application for Approval of an Investment in a Commercial Enterprise	450	240	-210	-47%
I-956G Regional Center Annual Statement	500	528	28	6%
I-956H Bona Fides of Persons Involved with Regional Center Program	2,100	2,000	-100	-5%
I-956K Registration for Direct and Third-Party Promoters	400	300	-100	-25%
EB-5 Total	**11,262**	**16,604**	**5,194**	**46%**

[18] *See* the Workload Volume Projections section and Appendix 3 of the revised EB-5 fee study for additional information.

As explained in the proposed rule, USCIS completion rates identify the adjudicative time required to complete (render a decision on) specific immigration benefit requests.[19] The completion rate for each benefit type represents an average and complex requests may require more time, and others less. Completion rates reflect what is termed "touch time," or the time an employee with adjudicative responsibilities handles the case. This rate does not reflect "queue time," or time spent waiting, for example, for additional evidence or supervisory approval. Completion rates do not reflect the total processing time applicants, petitioners, and requestors can expect to wait for a decision on their case after USCIS accepts it.

The completion rates for this EB-5 fee study are estimates developed by USCIS' Office of Performance and Quality (OPQ), using historical data and subject matter expert input from IPO. Most completion rates in this final rule use information from the IPO staffing allocation model for FY 2026. Most completion rates in the proposed rule used older information. Some completion rate estimates did not change in this final rule because they still represent the best estimate for the workload. Some workloads do not use completion rates to calculate the fees, as explained in the proposed rule.[20] *See* Table 5 for a comparison of the completion rates used in the proposed and final rules.

Table 5: EB-5 Completion Rates per Benefit Request (in hours)

Immigration Benefit Request	Proposed Rule	Final Rule	Change	% Change
I-526 Immigrant Petition by Standalone Investor	16.30	8.76	-7.54	-46%
I-526E Immigrant Petition by Regional Center Investor	16.30	9.14	-7.16	-44%
I-527 Amendment to Legacy Form I-526	13.30	13.30	0.00	0%
I-829 Petition by Investor to Remove Conditions on Permanent Resident Status	12.13	4.07	-8.06	-66%

[19] *See* 90 FR 48516, 48524-48525.
[20] *See* 90 FR 48516, 48525 (*e.g.* "For Forms I-956G, Regional Center Annual Statement; I-956H, Bona Fides of Persons Involved with Regional Center Program; and I-956K, Registration for Direct and Third-Party Promoters, USCIS did not use completion rates in the analysis of those immigration benefit request fees which results in proposed fees that are lower than they would be if a completion rate was used.")

Immigration Benefit Request	Proposed Rule	Final Rule	Change	% Change
I-956 Application for Regional Center Designation - Amendment	12.50	12.50	0.00	0%
I-956 Application for Regional Center Designation - Initial	37.50	37.50	0.00	0%
I-956F Application for Approval of an Investment in a Commercial Enterprise	40.00	35.16	-4.84	-12%
I-956G Regional Center Annual Statement	N/A	N/A	N/A	N/A
I-956H Bona Fides of Persons Involved with Regional Center Program	N/A	N/A	N/A	N/A
I-956K Registration for Direct and Third-Party Promoters	N/A	N/A	N/A	N/A

2. Changes to Cost Projections

In the proposed rule, DHS explained that the EB-5 fee study cost projection was developed using overall IEFA non-premium costs in addition to EB-5 program-specific costs, and that it accounted for payroll and non-payroll for on-board and new staff, inflation, resource adjustments, and the removal of temporary program costs, starting from the FY 2024 Operating Plan. *See* 90 FR 48516, 48522-48524; Table 6 (summarizing the FY 2024/2025 annual average IEFA non-premium cost projection of approximately $5,315.9 million), and 88 FR 402, 484-485 (Jan. 4, 2023); 89 FR 6194, 6277-6278 (Jan. 31, 2024) (biometric services cost treatment). It used volume forecasts for FY 2024 and FY 2025. *See* 90 FR 48516, 48523-48524.

In this final rule, USCIS updates the IEFA non-premium costs, program cost and workload projections to use the FY 2026/2027 biennial period to respond to public comments and plan for future fiscal years. These updated projections replace the proposed rule's FY 2024/2025 cost estimates for purposes of the final EB-5 fee calculations and are reflected in the economic analysis in this preamble. USCIS relied on information from the recently completed FY 2026/2027 fee review and made additional changes to account for new workloads, like Form I-527, which were not part of the FY 2026/2027 fee review. Meaning, USCIS copied the FY 2026/2027 fee review and made some changes to it, such as adding data for Form I-527, to use in the Revised EB-5 Fee

Study. The revised IEFA nonpremium annual average cost projection for FY 2026/2027 is approximately $6,960.0 million, and the EB-5 program-specific cost projection used in the fee model is approximately $105 million. To arrive at this updated cost projection, USCIS started with its general FY 2025 Operating Plan, which was slightly adjusted for some return to workplace costs estimated for the remainder of the fiscal year. USCIS then made the following adjustments in this review:

- Added staffing based on the FY 2026 and FY 2027 Staffing Allocation Model (SAM) enhancements and a non-SAM enhancement request for the Fraud Detection and National Security Directorate (FDNS), for a total of 6,045 new positions across most USCIS offices by the end of FY 2027. The SAM enhancements incorporate the effect of recent Executive Orders, as well as the most recent agency completion rate estimates. The FDNS non-SAM enhancement of 167 positions in FY 2025 was approved to start ramping up hiring in response to Executive Orders 14157 and 14161[21] with the overall goal to enhance USCIS' vetting and screening capabilities and an average cost of $35.4 million per year. The FDNS SAM includes 574 positions with an average cost of $93.8 million per year over the biennial period to continue the implementation of those Executive Orders;
- Accounted for pay inflation and promotions/within-grade increases, which includes annual Federal employee pay and cost of living adjustments. The assumed inflation rate was 3 percent for FY 2026 and FY 2027; and
- Considered net additional costs, such as the costs of additional budget items. For example, USCIS added the cost of fully taking over lockbox operations during the biennial period ($231.1 million), the cost associated with building and rent of new facilities to accommodate additional staff ($278.1 million),

[21] 90 FR 8439 (Jan. 29, 2025); 90 FR 8451 (Jan. 30, 2025).

the building of the new National Records Center ($114.7 million), and the new Voter Verification System ($75.3 million).

Table 6 is a summary from the starting point of the FY 2025 IEFA non-premium annual operating plan to the FY 2026/2027 annual average cost projection. The FY 2026/2027 annual average cost projection is estimated to be $6,960 million.

Table 6: FY 2026/2027 EB-5 Fee Study Cost Projection (in Millions)	
Total Adjusted FY 2025 Annual Operating Plan	***$5,037.8***
Plus: IPO Staffing Costs	$74.9
Plus: Additional Non-IPO EB-5 Costs	$1,879.4
Total Adjusted FY 2026 EB-5 Cost Projection	**$6,992.1**
Plus: Additional IPO Staffing Costs	$6.4
Minus: Net FY 2026 Non-IPO EB-5 Costs	-$70.6
Total Adjusted FY 2027 EB-5 Cost Projection	**$6,927.9**
FY 2026/2027 Average EB-5 Cost Projection	**$6,960.0**

3. Changes to Revenue Projections

In the proposed rule, DHS explained that EB-5 revenue projections were based on internal receipt forecasts developed and approved by the VPC, which uses statistical modeling, historical receipt data, and subject-matter input from relevant directorates to project form-level volumes. *See* 90 FR 48516, 48524-48526. For EB-5 forms, USCIS assumed a 100-percent fee-paying rate because IEFA EB-5 fees are not subject to fee waivers or exemptions, and estimated that current IEFA fees (as set in the FY 2022/2023 fee rule) would generate an average of approximately $4,192.3 million in annual IEFA non-premium revenue during FY 2024/2025, including about $107.5 million from EB-5 forms. *See* Table 7 of the proposed rule.

For this final rule, USCIS has updated the EB-5 revenue projections in response to public comments, more recent planning data, and the availability of updated receipt information. The revised projections incorporate this new data, adjusted volume forecasts for FY 2026/2027, and the final fee levels adopted in this rule. Using those estimates and current fees, the estimated average annual EB-5 revenue is approximately $56.6 million and total IEFA non-premium revenue of approximately $5,561.1 million for FY 2026/2027. These revised revenue estimates with current fees replace the proposed rule's FY 2024/2025 projections for purposes of the final fee analysis and are used, together with the updated cost projections, to assess whether the final EB-5 fee schedule is sufficient to recover projected program costs.

4. Changes to the Cost and Revenue Differential

In the proposed rule, DHS explained that the EB-5 fee study compared projected EB-5 program costs to projected revenue under the current fee schedule, assuming no fee changes, to determine whether existing fees were sufficient to recover the full cost of providing EB-5 adjudication services. If projected revenue was less than projected costs, DHS would generally propose new or increased fees to address the shortfall; if projected revenue exceeded costs, DHS could instead reduce certain costs or services or draw down reserves. The proposed rule summarized this relationship in Table 8 as the EB-5 cost-revenue differential.

For this final rule, USCIS has revised both the cost and revenue projections for the EB-5 program for FY 2026/2027, as described in the preceding subsections. Using these updated projections, the EB-5 fee study identifies an anticipated cost of $105.0 million and projected revenue of $56.6 million under current fees, resulting in a cost-revenue gap of $48.4 million. The final EB-5 fee schedule in this rule is designed to close that gap and align EB-5 revenues with projected program costs, consistent with INA section 286(m), 8 U.S.C. 1356(m), and as required by the EB-5 Reform Act. The revised cost-revenue differential is summarized in Table 7 of this preamble.

Table 7: Revenue with Current IEFA Fees Compared to Total Costs in Revised EB-5 Fee Study

Immigration Benefit Request	Revenue with Current Fees (FY 2016/2017)	Total Cost from ABC Model (FY 2026/2027)	Difference	% Difference
I-526 Immigrant Petition by Standalone Investor	$1,146,600	$2,352,606	$1,206,006	105%
I-526E Immigrant Petition by Regional Center Investor	$31,237,500	$66,099,908	$34,862,408	112%
I-527 Amendment to Legacy Form I-526	$0	$206,566	$206,566	N/A
I-829 Petition by Investor to Remove Conditions on Permanent Resident Status	$17,445,000	$23,262,599	$5,817,599	33%
I-956 Application for Regional Center Designation - Amendment	$694,005	$383,651	-$310,354	-45%
I-956 Application for Regional Center Designation - Initial	$231,335	$327,397	$96,062	42%
I-956F Application for Approval of an Investment in a Commercial Enterprise	$4,270,800	$5,699,333	$1,428,533	33%
I-956G Regional Center Annual Statement	$1,602,480	$1,142,386	-$460,094	-29%
I-956H Bona Fides of Persons Involved with Regional Center Program	$0	$125,024	$125,024	N/A
I-956K Registration for Direct and Third-Party Promoters	$0	$649,083	$649,083	N/A
Regional Center Terminations and Reaffirmations	$0	$4,788,904	$4,788,904	N/A
EB-5 Total	**$56,627,720**	**$105,037,457**	**$48,409,737**	**85%**

5. Revisions to Regional Center Termination Costs

In the proposed rule, DHS explained that INA section 203(b)(5)(J), 8 U.S.C. 1153(b)(5)(J), requires DHS to terminate a regional center that does not pay the EB-5

Integrity Fund fee, and that DHS may also terminate a regional center for other forms of noncompliance. *See,* e.g., INA 203(b)(5)(E)(vii)(III), 8 U.S.C. 1153(b)(5)(E)(vii)(III). Terminations are an integral component of maintaining EB-5 program integrity. USCIS incurs costs to conduct these terminations and historically has funded those costs through EB-5 request fees (formerly a Form I-924, and more recently Forms I-956 and I-956F).

In the proposed rule, USCIS estimated regional center termination costs separately in the EB-5 fee study, using the same ABC methodology applied to other IPO workloads. USCIS estimated a completion rate of 108 hours per termination and an average annual total cost of approximately $6.8 million. *See* 88 FR 402, 509 (Jan. 4, 2023). The proposed rule further explained that it would not be practical to charge a separate fee at the point of termination, particularly where the basis for termination may be failure to pay required fees, including the Integrity Fund fee. *See* INA 203(b)(5)(J)(iv)(II), 8 U.S.C. 1153(b)(5)(J)(iv)(II). DHS, therefore, proposed to continue recovering termination costs through the fees for Forms I-956 and I-956F.

In this final rule, USCIS updates the projected cost of regional center terminations and clarifies the assumptions for it. In this final rule, DHS explains that the workload called Regional Center Terminations includes more than just terminations. It also includes reaffirmations for regional centers that resolve issues before their termination. For example, it includes the estimated cost of a regional center that received a Notice of Intent to Terminate and responds sufficiently to resolve the issues, which led to the notice. USCIS revises the number of regional center terminations and reaffirmations based on more recent program data and experience since publication of the proposed rule. USCIS still estimates the completion rate as 108 hours each. Using the same ABC methodology and updated termination volume assumptions, USCIS now estimates an average annual cost of approximately $4.8 million for regional center terminations. These revised cost estimates are incorporated into the final fee calculations.

In response to public comments, DHS has refined how these costs are allocated. Specifically, DHS no longer applies the cost of regional center terminations to Form I-956 amendments but continues to apply the cost to initial Form I-956 filings and Form I-956F. Commenters expressed concern that Form I-956 amendments—particularly those reflecting ministerial or administrative changes—should not bear the cost of termination activities. DHS agrees that allocating termination costs solely to initial Form I-956 applications more appropriately align those costs with the underlying program risk and avoids overburdening Form I-956 amendment filings.

As discussed in the proposed rule, the EB-5 Integrity Fund, established at INA section 203(b)(5)(J)(iii), 8 U.S.C. 1153(b)(5)(J)(iii), is expressly designated for compliance, fraud investigation, audits, and site visits, and does not explicitly provide a separate revenue stream for typical adjudicative activities, such as terminations. DHS, therefore, continues its longstanding practice of funding regional center termination costs through EB-5 request fees, and this final rule reflects updated cost, volume, and allocation assumptions for those activities.

D. Revised EB-5 Technology Fee

The EB-5 Reform Act authorized USCIS to charge a technology fee not greater than one percent of some fees. *See* Pub. L. 117-103, div. BB, sec. 106(c). DHS may use the revenue from this fee to make improvements to the information technology systems which process, adjudicate, and archive applications and petitions. *Id.* In the proposed rule, DHS included a $95 EB-5 technology fee for Forms I-526 and I-526E. *See* 90 FR 48516, 48530. The proposed fee was 1 percent of the fee before including the EB-5 technology fee, rounded down to the nearest $5 increment. *Id.*

In this final rule, DHS recalculates the EB-5 technology fee based on the results of the revised EB-5 fee study using estimates for FY 2026 and 2027. Using the same methodology as the proposed rule, the EB-5 technology fee is $75. The fees in Table 1 earlier in the preamble include the $75 when it applies. In the proposed rule, DHS did not clarify when the EB-5 technology fee did not apply but listed a reduced fee for Form I-526E amendments in the preamble. *See* 90 FR 48516, 48517; *see also* proposed 8 CFR 106.2(d)(2). In this final rule, DHS clarifies when the EB-5 technology fee applies in the regulations for EB-5 fees. *See new* 8 CFR 106.2(d)(2)(iii).

E. Change to Inflation Adjustment to EB-5 Integrity Fund Fees

DHS proposed to increase EB-5 Integrity Fund fees by the rate of inflation since enactment of the EB-5 Reform Act on March 15, 2022. *See* 90 FR 48516, 48531-48532. The EB-5 Reform Act authorized DHS to adjust the Integrity Fund fees as necessary to ensure that amounts in the Fund are sufficient to carry out the permissible uses of the fund. *See* INA sec. 203(b)(5)(J)(ii)(III), 8 U.S.C. 1153(b)(5)(J)(ii)(III); *see also* 8 U.S.C. 1153(b)(5)(J)(iii). At the time, DHS used the CPI-U from the first half of 2022 to the first half of 2024. *See* 90 FR 48516, 48531-48532. However, DHS indicated that it may revise the amounts based on more recent information in the final rule. *Id*. Adjusting the EB-5 Integrity Fund fees to account for more recent inflation information will allow USCIS to recover more of its operating costs associated with maintaining the integrity of the EB-5 program and help sustain USCIS efforts in future years. Using annual averages also removes seasonality from the inflation adjustment.

In this final rule, DHS sets the EB-5 Integrity Fund Fees using CPI-U information from 2022 to 2025. The annual average inflation for 2022 was 292.655.[22] The annual average for 2025 was 321.943. *Id.* Therefore, the CPI-U increased by 10.01 percent from 2022 to 2025.[23] Applying this to the current fees, the Form I-526E EB-5 Integrity Fund Fee of $1,000 will increase to $1,100; the $10,000 Regional Center Integrity Fund Fee

[22] The latest CPI-U data is available at https://data.bls.gov/timeseries/CUUR0000SA0 (last visited 1/26/2026). To see annual averages, select the More Formatting Options link, check the box for Annual Average, and then click the Retrieve Data button.
[23] DHS calculated this by subtracting the annual 2022 CPI-U (292.655) from the annual 2025 CPI-U (321.943), then dividing the result (29.29) by the annual 2022 CPI-U (292.655). Calculation: (321.943 − 292.655) / 292.655 = .1001 × 100 = 10.01 percent.

will increase to $11,000; and the $20,000 Regional Center Integrity Fund Fee will increase to $22,000.[24]

DHS considered different date ranges and the resulting percentage change in CPI-U before determining the inflation adjustment for this final rule. For example, DHS considered finalizing the proposed inflation adjustment of 8.25 percent.[25] However, this approach would omit over a year of inflation that has occurred since the calculation of the proposed inflation adjusted. While the proposed rule was published in October 2025, the inflation adjustment only used data from first half of 2022 to the first half of 2024. Meaning, the latest inflation data was as of June 2024. Yet another alternative approach would be to continue using a starting point of the first half of 2022 and only update the endpoint to the first half of 2025. However, such an approach would result in an 11 percent increase in final fees.[26] As such, the 10 percent increase used in this final rule may be considered a midrange inflation adjustment because it is less than the inflation semiannual periods in 2022 and 2025, but it is more than proposed inflation adjustment using semiannual data from 2022 to 2024.

Integrity Fund revenue has varied from year to year, which affects USCIS planning for EB-5 integrity activities. *See* 90 FR 48516. For the FY 2026/2027 period, USCIS estimates that Integrity Fund collections under the current fee levels will total approximately $13.9 million annually. Increasing the Integrity Fund fees by 10 percent in this rule is projected to increase annual revenue to approximately $15.3 million and help maintain the purchasing power of USCIS investments in staffing and information technology that support EB-5 program integrity.

IV. Response to Public Comments on the Proposed Rule

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[24] DHS rounds all these fees to the nearest $5 increment.
[25] 90 FR 48516, 48532
[26] The CPI-U index for the first half of 2022 was 288.347. In the first half of 2025, it was 320.229. The difference between the two is 31.882 or approximately 11.1%. Calculation: (320.229 - 288.347) / 288.347 = .1106 × 100 = 11.06 percent.

A. Summary of Comments on the Proposed Rule

DHS provided a 60-day comment period following publication of the proposed rule. DHS received 28 public comment submissions in docket USCIS-2025-0139 in response to the proposed rule. Of the 28 submissions, 22 were unique submissions and the remainder of the comments were form letter copies, not germane to the rule, or contained comments and requests that were entirely outside of the scope of the rule. Several submissions were anonymous, while the remaining were from individuals, advocacy groups, lawyers or law firms, and businesses. Some commenters expressed support for the proposed rule or supported one or more specific provisions of the proposed rule without recommending changes. Some commenters opposed the rule and expressed opposition to one or more provisions without recommending changes. Many commenters provided mixed comments of both support for and opposition to various provisions of the proposed rule, provided general support with suggested revisions, provided general opposition with suggested revisions, or were unclear on whether the comment supported or opposed the proposed rule. DHS reviewed all the public comments received in response to the proposed rule and addressed relevant comments in this final rule, grouped by subject area. DHS also received several comments on subjects unrelated to the proposed fees that are outside of the proposed rule's scope. DHS has not individually responded to these comments but has summarized out of scope comments and provided a general response in Section IV.H of this preamble.

B. General Feedback on the Rule

1. Support for the Rule

Comment: Several commenters expressed general support for the proposed rule. Some commenters expressed support for the rule reasoning that the fee adjustments would do the following:

- Incentivize participation in the program by immigrants seeking to invest in the U.S.
- Allow the source of money to be legitimized, due to thorough background checks.
- Show that immigrant investors are partners in building America's future.

Response: DHS appreciates the commenters' support for the proposed rule and acknowledges the perspectives provided regarding the positive impacts of the fee adjustments. DHS agrees that appropriately calibrated fees are an important element in ensuring the continued viability and accessibility of the EB-5 program for a diverse range of investors, including small enterprises. DHS recognizes that a balanced fee structure can help prevent smaller entities from being excluded from participation, thereby supporting broader economic development objectives that foster job creation and investment.

DHS also notes that incentivizing participation by immigrant investors aligns with Congressional intent to stimulate job creation and capital investment in the United States. The EB-5 program is designed to attract individuals who are committed to contributing to the U.S. economy,[27] and the fee adjustments are intended to provide USCIS with the resources necessary to efficiently and effectively administer the program, including robust vetting and background checks. These measures help ensure the legitimacy of investment sources and maintain the integrity of the program.

Furthermore, DHS acknowledges that investment immigration contributes to economic growth and job creation in the United States. DHS remains focused on administering the EB-5 program in accordance with statutory requirements and maintaining program integrity through clear and effective regulatory processes.

[27] *See* USCIS, DHS, EB-5 Questions and Answers. https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/about-the-eb-5-visa-classification (Last Updated: Nov. 18, 2025).

After careful consideration of these supportive comments, DHS did not make changes to the final rule based on these remarks, as the comments affirm the direction and objectives of the rule as proposed.

2. Opposition to the rule

Many commenters stated their general opposition to the proposed fees, the magnitude of the fee adjustments, or specific policy changes in the proposed rule. DHS summarizes and responds to these public comments in the following sections:

a. Negative impacts on applicants

Comment: Some commenters stated the new fees would disproportionately affect smaller investors and USCIS should consider a scaled or transitional fee structure to avoid unintended barriers to program participation. A commenter stated the proposed fees may prevent smaller investors from being able to afford the fees and reduce the motivation of larger investors.

Response: This fee rule is not intended to reduce or limit small or large investors. These fee adjustments reflect DHS's best effort to balance access, affordability, equity, and benefits to the national interest while providing USCIS with the funding necessary to maintain adequate services. USCIS receives no Congressional appropriation for the EB-5 program, and filing fees are necessary to provide the resources required to perform the work associated with such filings. When fees do not fully recover costs, USCIS cannot maintain sufficient capacity to process requests within the processing times referenced in the EB-5 Reform Act.

DHS acknowledges commenters' concerns regarding the potential impact of increased fees on smaller investors and the suggestion to implement a scaled or transitional fee structure. DHS carefully considered the balance between program accessibility and the need to recover the full costs of administering the EB-5 program, as required by statute. The fee adjustments in this rule are based on a comprehensive fee study and are designed to ensure that USCIS has sufficient resources to maintain timely and effective processing of EB-5 benefit requests, support program integrity, and fulfill statutory mandates.

While DHS recognizes that higher fees may present challenges for some applicants, particularly smaller investors, the Department must ensure that fees reflect the actual costs of adjudication, fraud prevention, and compliance activities. Setting fees below cost recovery levels could compromise USCIS' ability to provide adequate services and maintain program integrity. DHS considered alternatives, including tiered or transitional fee structures, but determined that a uniform fee schedule is necessary to equitably distribute costs and avoid administrative complexity.

b. Negative impacts on U.S. economy, employers, or workers

Comment: Other commenters stated the new fees would:

- Create detrimental impacts to the job opportunities created through EB-5.
- Jeopardize investor immigration status, disrupt multi-million-dollar projects, and damage local economies.

Response: DHS acknowledges that the fees being finalized may generate a larger impact to small entities but does not have evidence that the changes will significantly impact job opportunities, investments, or projects, or damage local economies. Further, the commenters did not provide any studies or empirical data to support their assertion that the fees would have such impacts. The pace and focus of EB-5 investments rely on numerous economic, financial, and international business factors, and are not primarily driven by form related fees. The fees being finalized are very small relative to most investment amounts and while DHS recognizes that some investors and projects may be impacted, the Department does not believe the scale of any such effects would warrant not finalizing the regulatory action, which is required by law.

DHS remains committed to monitoring the impact of fee changes on program participation and will continue to evaluate whether future adjustments or alternative approaches may be warranted. Currently, the fee schedule reflects DHS's best effort to balance access, affordability, and operational needs, consistent with statutory requirements.

c. Negative impact on agency operation

Comment: One commenter stated that there are no legal or policy justifications for reducing fees for this population. The commenter stated that the proposed rule did not discuss the impact that these fees would have on USCIS' overall fiscal picture. The commenter stated that there was no discussion on why EB-5 fees do not recover a portion of the work that USCIS does for free, such as humanitarian adjudications.

Response: DHS acknowledges the commenter's concern that lower EB-5 fees could negatively affect USCIS funding and that the proposed rule did not sufficiently address USCIS' overall fiscal outlook. However, DHS disagrees that the rule did not discuss the legal justification for proposed EB-5 fees and why they did not recover the cost of a portion of the work that USCIS does for free.

DHS sets fees under INA section 286(m), 8 U.S.C. 1356(m), and applicable fee guidance (including OMB Circular A-25) to recover, to the extent practicable, the full costs of providing adjudication and naturalization services. The EB-5 fees in this rule are based on a program-specific fee study that incorporates projected EB-5 workloads, direct and indirect costs, and the statutory framework of the EB-5 Reform Act. *See* Public Law 117-103, div. BB, sec. 106; 90 FR 48516, 48522-48530. As discussed in the proposed rule, the EB-5 Reform Act authorizes DHS to add an amount to EB-5 program fees. *See* 90 FR 48516, 48525-48526. However, the EB-5 Reform Act provision that authorized adding an amount to EB-5 fees to cover free services is inconsistent with how DHS has historically set USCIS fees. *See id*. Therefore, DHS chose to propose fees that do not recover those costs out of an abundance of caution, to reduce litigation risk, and because the costs not transferred are being funded adequately by other fees.

Although some EB-5 fees are lower than those in the FY 2022/2023 fee rule, DHS is not reducing fees arbitrarily. The adjustments reflect updated cost and volume data, the specific EB-5 statutory requirements, and the litigation discussed in this preamble. The fees set in this rule demonstrate that USCIS can continue to support EB-5 operations and integrity activities. Revenue from other workloads beyond the scope of this rulemaking will supply the remaining funding necessary for the IEFA account.

DHS also notes that the EB-5 Integrity Fund, authorized at INA section 203(b)(5)(J), 8 U.S.C. 1153(b)(5)(J), provides a dedicated source of funding for certain fraud detection and compliance activities, which mitigates pressure on IEFA revenues. Accordingly, DHS disagrees that there is no legal or policy basis for these fee adjustments or that they jeopardize USCIS' overall fiscal position. As discussed in the proposed rule, other revenue sources, such as new fees for asylum applications, may offset some of the cost of work, which USCIS has not traditionally charged a fee. *See* 90 FR 48516, 48526. USCIS may offset the difference between IEFA cost and IEFA revenue for other programs or workloads by pursuing separate rulemakings, shifting costs to different fee accounts, or reducing the IEFA non-premium budget. For example, USCIS could shift costs to the premium processing account, as discussed in the FY 2022/2023 fee rule.[28] DHS recently increased the premium processing fees by inflation, as authorized by statute.[29]

[28] *See, e.g.,* 89 FR 6195.
[29] *See* DHS, Adjustment to Premium Processing Fees, 91 FR 1059 (Jan. 12, 2026).

C. Background and Legal Authority

Comment: Several commenters mentioned codifying processing time goals in regulation. They stated that it would clearly articulate the agency's commitment to timely processing, and to specific and measurable time goals drawn from the authorizing statute.

Response: DHS acknowledges the comment regarding the codification of processing time goals in regulation. The EB-5 Reform Act mandates that DHS set fees with the objective of achieving specific average processing times for EB-5 benefit requests. This final rule incorporates those statutory processing time goals as part of the fee-setting methodology and explains them in the preamble.

DHS is committed to transparency and accountability in adjudication timelines and will continue to monitor performance against these statutory goals. While DHS regulations contain some non-binding provisions, the better practice is to limit codification to requirements and not promulgate goals, targets or objectives in the Code of Federal Regulations. Therefore, referencing the statutory timeframes in the rule and supporting regulatory analysis is the most appropriate approach, rather than in regulatory text. Thus, DHS makes no changes in this final rule based on these comments. DHS will continue to evaluate program performance and consider further regulatory or operational changes as needed to support timely adjudication.

Comment: DHS received a comment requesting that USCIS provide comprehensive regulations implementing the EB-5 Reform Act including clarification of the sustainment period, investor protections, and other aspects of the EB-5 Reform Act requiring regulations.

Response: As noted earlier, DHS is working on a related rulemaking, which would propose amendments to EB-5 program regulations, that, if finalized, would fully implement the statutory reforms made by the EB-5 Reform Act. *See* section II.D.1 of this preamble. That rule is still in development. As such, DHS makes no changes to this rule based on this comment because DHS may address the commenter's concerns in another rulemaking. In future rulemaking, DHS may reconsider EB-5 fees based on statutory and regulatory requirements.

D. Fee Setting Approach

1. Processing Time Goals

Comment: DHS received many comments related to processing times, which can be summarized as follows:

- The average processing time goals need to be improved.
- The processing time goals should be the driving force behind the new fees.
- Regional Centers and investors would be supportive of fee increases if they were accompanied by shorter processing times.
- In the final rule, USCIS should establish adjudication processing goals to promote predictability and accountability in processing. Adopting adjudication timeframes for EB-5-related filings would reduce uncertainty for stakeholders and enhance program integrity.
- Emphasis on the importance of benchmarking the EB-5 adjudication timeframes as statutorily required under EB-5 Reform Act section 106.

Response: DHS appreciates commenters' feedback regarding processing times and the relationship between fees and adjudication speed. The EB-5 Reform Act requires DHS to set fees with the goal of achieving specific average processing times for EB-5 benefit requests. In developing this rule, DHS considered these statutory timeframes and incorporated them into the fee-setting methodology to ensure USCIS has the resources necessary to meet processing goals.

DHS recognizes that timely adjudication is important to program stakeholders and will continue to monitor and report on processing times. While fee adjustments are intended to support improved service levels, actual processing times may be affected by factors, such as application volume, staffing, and case complexity. DHS remains committed to ongoing evaluation of operational performance and will consider further adjustments or process improvements as needed to enhance adjudication speed and program efficiency.

DHS acknowledges commenters' recommendations to establish and benchmark adjudication processing goals for EB-5-related filings. The EB-5 Reform Act section 106 sets forth statutory processing timeframes that DHS has incorporated into the fee-setting methodology for this rule. DHS agrees that clear processing goals promote predictability, accountability, and program integrity. USCIS will continue to monitor performance against these statutory benchmarks. DHS remains committed to ongoing evaluation of operational efficiency and transparency in EB-5 adjudications and will consider further measures to enhance stakeholder confidence and reduce uncertainty where feasible. However, no changes are made to the final rule regulatory text to address processing time goals.

2. EB-5 Fee Study

Comment: Multiple commenters requested greater transparency in the fee-setting methodology. They suggested providing clearer explanations on how the fees allocate specific costs, like fraud detection, site visits or regional center monitoring. Another commenter requested that USCIS release form-specific completion-time and cost data when finalizing the rule. Another stated that USCIS should align any EB-5 fee changes with OMB Circular A-25 (Revised) and INA § 286(m), including transparent cost accounting and consideration of fee alternatives (phased implementation, small-entity reductions, caps, or installment options).

Response: DHS appreciates the commenters' concern for transparency in the fee-setting approach. We published detailed information on the estimated EB-5 costs in the docket for the proposed rule.[30] We updated the fee study to include various changes in this final rule and that study is consistent with OMB Circular A-25 and previous USCIS fee rules. *See* the Revised EB-5 Fee Study for the final rule in the docket. In some sections, we elaborate further on how we derived the cost estimates. The document also provides form-specific completion rates and cost data. As such, DHS responds to this comment by making changes to the revised EB-5 fee study.

Comment: Commenters had concerns with the data used in the EB-5 fee study. A commenter thought that the workload assumptions in the EB-5 fee study were unrealistic. They cited USCIS actual data for FY 2025, which showed higher receipts than the forecasts for FY 2024 and FY 2025 that were part of the EB-5 fee study. They stated that establishing new fees based on only FY 2024 and incomplete FY 2025 data would be flawed. They stated it was short sighted to only examine FY 2024 and FY 2025 workload because without anticipating changes in FY 2026 and FY 2027 the EB-5 backlog will grow. One commenter requested that USCIS use data (like workloads, processing times, completion rates, etc.) it has collected since the enactment of the EB-5 Reform Act to advance the fee study in an effort aimed at reaching the processing goals as outlined by Congress.

Response: DHS appreciates the commenters' concern with the data in the EB-5 fee study. DHS agrees that robust data analysis is essential to accurately assess resource needs and set fees that support statutory processing goals. In developing this rule, DHS considered available data and incorporated relevant metrics to inform the fee-setting methodology. To clarify, the proposed fees were not based on actuals from FY 2024 and part of FY 2025. The proposed fees relied on workload forecasts for FY 2024 and 2025, as explained in the preamble and the EB-5 Fee Study. *See, e.g.,* 90 FR 48516, 48523-48524.

[30] *See* USCIS, EB-5 Fee Study, available at https://www.regulations.gov/document/USCIS-2025-0139-0008.

See also Appendix 3 of the Revised EB-5 Fee Study included in the docket for this rulemaking. Since drafting the proposed rule and EB-5 fee study USCIS collected additional information, which it includes in this final rule. For example, DHS revises the fees in this final rule based on new forecast data for FY 2026 and FY 2027, as explained earlier in this preamble.[31] These actual receipts in FY 2024 and FY 2025 informed the workload forecasts that DHS used to propose and set EB-5 fees. For example, the docket for this rule includes a Revised EB-5 Fee Study document that uses FY 2026 and 2027 receipt forecasts, which were developed in FY 2025. As such, some of the FY 2025 actual receipts informed the FY 2026 and FY 2027 forecasts. DHS responds to this comment by using more recent budget and operational forecasts data to calculate the final fees. DHS will continue to collect and analyze program data and will use these insights to guide future fee reviews and operational improvements, consistent with statutory requirements.

Comment: A commenter requested that USCIS explain how it derived the completion rates for Forms I-526 and I-526E. They requested further details on why a Form I-526E may have operational efficiencies compared to a Form I-526. They noted that Forms I-526 and I-526E used the same completion rate in the EB-5 Fee Study in the proposed rule docket. They compared the completion rates for Forms I-526, I-526E, and I-829 in the proposed rule to the rates for the same forms in the FY 2022/2023 fee rule. They noted that the completion rate for a Form I-829 was the same in both rulemakings but the completion rate for Forms I-526 and I-526E increased from 5.01 hours to 16.3 hours. They questioned the rationale for using the same completion rate for both Forms I-526 and I-526E when there should be adjudicative efficiencies for a Form I-526E when information was already provided with a Form I-956F. They also stated that online

[31] *See* section III.C. of this preamble.

adjudication of a Form I-526E should be more efficient than an older paper-based approach to adjudication.

Response: DHS appreciates the commenters' concern for the completion rates in the EB-5 fee study. We note that the EB-5 fee study and the FY 2022/2023 fee rule used different authorities and assumptions. The EB-5 Reform Act was out of scope for the FY 2022/2023 final rule. *See*, *e.g.*, 89 FR 48516, 6239 and 6285-6288 (Oct. 23, 2025). As such, the FY 2022/2023 final rule did not include changes to completion rates that resulted from the EB-5 Reform Act. The EB-5 fee study in the proposed rule includes the effects of the EB-5 Reform Act on its completion rates, including time needed to review documentation required at INA sec. 203(b)(5)(L)(ii), 8 U.S.C 1153(b)(5)(L)(ii), to demonstrate that the capital and any funds used for the alien's investment were obtained from a lawful source and through lawful means. As explained in the proposed rule, USCIS estimated completion rates of EB-5 forms by extrapolating staff hours spent on EB-5 adjudications and estimates from subject matter experts on EB-5 request processing. *See, e.g.,* 90 FR 48516, 48524-48525.

In this final rule, DHS sets fees based on more recent forecasts and completion rates for FY 2026 and 2027, which includes different completion rates for Forms I-526 and I-526E (8.76 and 9.14 hours respectively). These rates show a slightly higher completion rate for Form I-526E than Form I-526. USCIS notes that while the commenter is correct that Form I-526E does not include the project information that would have been adjudicated in Form I-956F and is not processed in a paper-based format like Form I-526, USCIS has found that those slight adjudicative efficiencies have generally been exceeded by the additional adjudicative work to review INA sec. 203(b)(5)(L)(ii), 8 U.S.C 1153(b)(5)(L)(ii), required documentation for Form I-526E filings. *See* section III.C.1 of this preamble and the Revised EB-5 Fee Study document in the docket for more information, including how USCIS derived the completion rates. In summary, USCIS used the most recent staffing allocation models for FY 2026 for the completion rates in this final rule. Older staffing allocation models provided some of the completion rates used in the FY 2022/2023 fee rule and the proposed fees, which used forecasts for FY 2024/2025. DHS believes that incorporating the new information in this final rule responds to the commenter's concerns.

3. Fee Refunds

Comment: One commenter stated that investors who filed petitions after the fee increases in 2024 should receive a refund. They stated that fees in the proposed rule were lower than in the FY 2022/2023 fee rule.[32] They noted that investors overpaid fees after *Moody v. Noem*, No. 24-cv-00762-CNS (D. Colo.), stayed certain EB-5 related fees in the FY 2022/2023 fee rule.[33]

Response: DHS and USCIS believe the Court's decision in *Moody v. Noem* is incorrect but we have implemented it. Notably, *Moody* did not provide a monetary award and stated that it did not require any reimbursement of funds. *Moody*, at 6. On Nov. 12, 2025, USCIS reverted to accepting the EB-5 fees that were in effect until March 31, 2024. USCIS informed the public that they would accept the previous fee for items postmarked before Nov. 26, 2025.[34] As a result, the current fees shown in this preamble are different from current fees listed in the proposed rule. *See*, *e.g.*, 90 FR 48516, 48517; *see also* 8 CFR 106.2. USCIS is not required to issue a fee refund to investors who paid the fees that were effective April 1, 2024, thus, DHS takes no action in response to this comment.

E. Proposed Form or Fee Changes

DHS received comments on the proposed form/fee changes for specific forms, which we address in the following subsections.

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[32] *See* 89 FR 6194 (Jan. 31, 2024).

[33] *See* USCIS, Court Order on Partial Stay of DHS 2024 USCIS Fee Rule, https://www.uscis.gov/newsroom/alerts/court-order-on-partial-stay-of-dhs-2024-uscis-fee-rule (last reviewed/updated Nov. 18, 2025).

[34] Id.

1. New Form I-527, Amendment to Legacy Form I-526

Comment: Several commenters stated that DHS should reconsider the proposed $8,000 fee for a Form I-527. Some commenters felt the proposed $8,000 fee was punitive and too expensive for investors who may face other legal fees and administrative costs. They suggested a nominal fee that only covered the administrative costs of processing the form or offering fee waivers. Some commenters said the proposed $8,000 fee was disproportionate to the narrow purpose of this form. They suggested recalculating the fee to reflect the narrow scope. One commenter suggested a reduced-fee pathway where the investor's need to amend arises from agency termination or debarment actions that do not implicate the investor's own conduct. Similarly, a commenter suggested a reduced fee or EB-5 Integrity Fee offset. Another commenter suggested that DHS lower the fee for investors who do not have to invest new capital in their amendment and suggested that fewer hours will be involved in adjudicating those petitions.

Response: DHS recognizes commenters' concerns regarding the affordability of a Form I-527. However, while DHS recognizes the challenges an investor may face, DHS does not believe that these factors justify fee-waiver eligibility nor a reduced fee for a Form I-527. USCIS can only allow a limited number of forms to be eligible for fee waivers, or else it would require even further increases in fees to cover the costs of processing fee-waived requests. In previous fee rules, DHS chose to prioritize fee waivers for humanitarian and protection-related immigration forms where the beneficiary may not have a reliable income or their safety or health is an issue. *See, e.g.,* 89 FR 6256. USCIS does not typically offer fee waivers for employment-based benefit requests.

The EB-5 Integrity Fund is a relatively new revenue source for USCIS. The intended uses of the fund are somewhat narrow.[35] At this time, DHS will not reduce any IEFA filing fee, including the Form I-527 fee, because of offsetting revenue from the EB-

[35] *See* sections II.B. and III.E. of this preamble. *See also* 90 FR 48516, 48530- 48534.

5 Integrity Fund. Rather, DHS calculates IEFA fees after considering the totality of resources available to USCIS, including revenue from the EB-5 Integrity Fund, other statutory fees, and appropriations.[36]

In this final rule, USCIS reevaluated the volumes, completion rates, and budget that it used to calculate the proposed fees based on public comments.[37] Currently, relatively few investors have opted to amend their petition to demonstrate eligibility under INA 203(b)(5)(M)(ii). Specifically, USCIS sent out the first set of notices to provide investors with a notification of the options to retain their eligibility under INA 203(b)(5)(M). As of July 20, 2026, which is after the 180-day response period, approximately 10 percent of the investors who responded indicated their interest in choosing to amend their petition. USCIS is unsure if this trend will continue across pre-EB-5 Reform Act populations impacted by future terminations and debarments, and USCIS does not have multi-year data to inform projections. However, based on the low percentage of this first set of notice responses, and because it is the only data source available at this time, USCIS lowered the original projections in the proposed rule. The completion rate in this final rule remains the same as in the proposed rule. Based on the limited experience with this adjudication to date, USCIS subject matter experts continue to believe it represents the best available estimate for the adjudication hours per completion. Part of the reason that the Form I-527 fee in this final rule is higher than in the proposed rule is because the overall budget for USCIS and IPO budget are higher in this final rule than in the proposed rule. Therefore, DHS determined that the final Form I-527 fee of $10,330 set in this final rule is necessary for full cost recovery. DHS declines to make changes based on this comment, except for budget and operational changes described elsewhere in this final rule, which may affect the final fee. In future

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[36] *See* section II.B. of this preamble.
[37] *See* section III.C. of this preamble for more information.

rulemakings, DHS will reconsider the fee for Form I-527 when it has more data or newer estimates.

Comment: A commenter stated that investors should have reasonable-cause flexibility where court oversight, receiverships, escrow constraints, or similar legal processes delay the ability to receive, recover, or redeploy misappropriated capital before filing (or completing) a Form I-527 amendment.

Response: DHS acknowledges that legal processes may cause delays. However, DHS will adhere to statutory deadlines as outlined under INA sec. 203(b)(5)(M), 8 U.S.C. 1153(b)(5)(M), regarding length of time to file a Form I-527 amendment after notifying investors of termination or debarment. Depending on the circumstances, DHS may extend applicable deadlines under INA sec. 203(b)(5)(M)(v)(II), 8 U.S.C. 1153(b)(5)(M)(v)(II).

Comment: A commenter stated that USCIS should clarify that an investor before the EB-5 Reform Act does not need to file a Form I-527 if the investor continues to be eligible with respect to the investment and job creation requirements notwithstanding regional center termination, including where termination is based on administrative noncompliance that does not directly implicate the underlying investment or job creation.

Response: USCIS policy provides that, in general, pre-EB-5 Reform Act investors may remain eligible if their project is complete or will be completed in accordance with the comprehensive business plan, with sufficient job creation for all investors, and the investor's capital has been and will be sustained through the requisite 2-year sustainment period of their conditional residency.[38] In such cases, officers may plausibly determine that a pre-EB-5 Reform Act investor associated with the terminated regional center is still eligible for classification as an immigrant investor, even without the need to reassociate

[38] *See* USCIS, EB-5 Questions and Answers, https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-questions-and-answers (last Feb. 25, 2026).

with another approved regional center or make a qualifying investment in another NCE. Also, USCIS generally does not consider such termination a material change that affects continued eligibility.[39]

Comment: A commentor stated that USCIS should provide clear guidance on whether there are any circumstances under which a pre- EB-5 Reform Act investor should file a Form I-527 solely to reaffiliate with a new regional center in case where the investor otherwise remains eligible and does not require an amendment to preserve classification.[40]

Response: If an investor otherwise remains eligible notwithstanding termination of their regional center and is, therefore, not required to file an amendment to preserve classification, they would not need to file a Form I-527 solely to reaffiliate with a new Regional Center.

Comment: The draft Form I-527 language ("made a qualifying investment in or otherwise associated with another NCE") should clarify how partial job creation satisfaction affects the amount of additional capital that must be invested and whether "otherwise associated" options depend on whether the investor is responding to regional center termination versus NCE/JCE debarment.

Response: Form I-527 implements the collection of information to amend a pre-EB-5 Reform Act Form I-526 for the purposes of establishing continuing eligibility in compliance with INA sec. 203(b)(5)(M), 8 U.S.C. 1153(b)(5)(M). Form I-527 is not intended to provide guidance on establishing continued eligibility in various circumstances. USCIS acknowledges the commenter's request for additional guidance regarding the statutory requirements related to Form I-527 amendments and will consider providing sub-regulatory guidance as needed in the future.

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[39] *Id*.

[40] *Id*.

Comment: One commenter stated that USCIS should revise termination and debarment notices sent to investors to disclose, at a minimum, the general basis for the agency action so that investors can understand the context and respond effectively. This commenter also stated that because approval of a Form I-527 amendment depends partly on a determination that the investor was not a knowing participant in the conduct that led to termination or debarment, the final rule and form instructions should expressly provide a mechanism for the investor to submit that attestation, along with supporting evidence as appropriate.

Response: Rulemaking is unnecessary to address revisions to termination and debarment notices as such notices can be revised separate and apart from the rulemaking process. DHS will consider this request and take sub-regulatory action as needed. Furthermore, DHS acknowledges the request that a Form I-527 should expressly provide a mechanism for the investor to submit an attestation that they were not a knowing participant in the conduct that led to termination or debarment, though DHS believes that this change is not necessary because investors are not precluded from submitting such an affidavit with Form I-527.

Comment: A commenter recommended a centralized, NCE-level filing mechanism to reduce duplicative adjudications and lower per-investor costs and provided a detailed framework for this recommendation. Another commenter recommended that USCIS should ensure electronic linkage of the Form I-527 filing to the underlying legacy Form I-526 record (and associated project/regional center records where applicable) and provide clear instructions to prevent duplicative document requests. This commenter also recommended that USCIS should implement case-management safeguards to prevent adverse status consequences while a Form I-527 is pending, including appropriate tolling/hold-in-abeyance mechanisms where the investor is in a pending lawful status posture.

Response: Rulemaking is unnecessary to address electronic linkages between the Form I-527 and the pre-EB-5 Reform Act Form I-526 it amends for the purposes of establishing continuing eligibility in compliance with INA sec. 203(b)(5)(M), 8 U.S.C. 1153(b)(5)(M). USCIS systems capabilities and functionality related to a Form I-527 can be addressed separate and apart from the rulemaking process. DHS will consider this request and take sub-regulatory action as needed. DHS remains committed to providing clear guidance, fair procedures, and efficient processing for all EB-5 stakeholders.

Comment: Commenters requested that USCIS clarify whether it will accept investments made for purposes of subsection (M) protections[41] into an NCE whose offering materials and supporting evidence are structured according to post- EB-5 Reform Act requirements, including post- EB-5 Reform Act TEA definitions and post- EB-5 Reform Act TEA evidence. Another commenter requested that USCIS should clarify whether investors before the EB-5 Reform Act must invest in a TEA project to qualify for the relief under Paragraph M and, if so, provide the TEA definition.

Response: As noted earlier, DHS is working on a related rulemaking which would propose amendments to EB-5 program regulations that, if finalized, would fully implement the statutory reforms made by the EB-5 Reform Act. *See* section II.D.1 of this preamble. That rule is still in development. As such, DHS makes no changes to this rule based on this comment because DHS may address the commenter's concerns in another rulemaking.

Comment: A commenter stated that a Form I-527 should not be treated as the filing of a new immigrant petition for purposes of priority date retention, should not restart adjudication timelines from "day zero" in a manner that prejudices the investor, and should not create a de facto penalty for invoking subsection (M) protections. USCIS review of a Form I-527 should be expressly limited to the incremental subsection (M)

[41] *See* INA sec. 203(b)(5)(M), 8 U.S.C. 1153(b)(5)(M)

issues (including good faith / “knowing participant” considerations and the new association/investment structure) and should not require re-adjudication of lawful source of funds or job creation requirements that were previously reviewed and found sufficient, absent articulable fraud, willful misrepresentation, or material error concerns. Another commenter stated the final rule should specify protections regarding petition processing and maintaining eligibility consistent with the statute.

Response: DHS appreciates the detailed feedback regarding the proposed Form I-527. DHS recognizes the importance of clear guidance and fair procedures for pre-EB-5 Reform Act investors seeking relief under section 203(b)(5)(M) of the INA. USCIS will not treat Form I-527 filings as new immigration petitions and will, therefore, retain the original priority date. There are no penalties for seeking relief under 203(b)(5)(M). Regarding the review of source of funds and job creation, each adjudication will be assessed on a case-by-case basis, taking into account the totality of the circumstances under which the investor is seeking relief and asserting eligibility.

2. Form I-829, Petition by Investor to Remove Conditions on Permanent Resident Status

Comment: Commenters stated that certain EB-5 investors need clarity about how they may benefit from subsection (M) of the EB-5 Reform Act.[42] The commenters believe Congress sought to protect a number of investors in the EB-5 Reform Act, which allows investors to preserve eligibility after termination or debarment through no fault of the investor. Examples of such investors include individuals with Conditional Permanent Resident status who have not filed a Form I-829, those with pending Forms I-829, those with denied Forms I-829 or with a motion to reopen pending with USCIS or who are currently in removal proceedings are among those investors that Congress sought to protect. The commenters stated that DHS should allow immigrant investors an

[42] *See* INA sec. 203(b)(5)(M), 8 U.S.C. 1153(b)(5)(M)

opportunity to take advantage of such protections notwithstanding the pendency of removal proceedings or other enforcement actions. The commenters said that such a filing will not be deemed a motion to reopen or request termination of proceedings but may be considered by DHS counsel or the Executive Office for Immigration Review (EOIR) in adjudicating any related motions. Moreover, the commenters urged DHS to coordinate with EOIR and ICE to ensure that these amendments or subsequent filings are recognized as material to an investor's eligibility for relief, consistent with the interagency collaboration already required under the EB-5 Reform and Integrity Act's integrity provisions. The commenters believed that absent such guidance, similarly situated investors will face inconsistent outcomes contrary to the protective intent of INA section 203(b)(5)(M), 8 U.S.C. 1153(b)(5)(M).

Response: DHS disagrees with commenters who suggest that the protections of the EB-5 Reform Act apply to groups other than those specifically cited in the statute. The statute in question, INA section 203(b)(5)(M), 8 U.S.C. 1153(b)(5)(M), applies only to those investors who have an otherwise qualified petition filed under INA section 204(a)(1)(H), 8 U.S.C. 1154(a)(1)(H), and investors who have conditional permanent resident status under INA section 216A, 8 U.S.C. 1186b. Investors whose conditional permanent resident status under INA section 216A has been terminated, for example, because their Form I-829 has been denied and their status terminated under INA section 216A(c)(3)(C), 8 U.S.C. 1186b(c)(3)(C), are not included within the scope of protections provided under INA section 203(b)(5)(M), 8 U.S.C. 1153(b)(5)(M). In general, investors whose conditional permanent resident status has been terminated may seek relief in removal proceedings, such as review of the denial of the Form I-829 under INA section 216A(c)(3)(D), 8 U.S.C. 1186b(c)(3)(D). DHS declines to extend to scope of INA section 203(b)(5)(M), 8 U.S.C. 1153(b)(5)(M), to investors whose conditional permanent resident status has been terminated upon denial of Forms I-829, including those who may have a pending motion or who are in removal proceedings.

Comment: DHS received several comments requesting that the filing deadline for Form I-829 dependent be separated from the principal investor's expiration of conditional permanent residence status. Commenters provided various reasons why this should be changed, including the principal's death, divorce, or unwillingness to cooperate. Several commenters specifically recommended that the dependents' expiration date be based on their own conditional permanent residence status, not the expiration date of the principal investor.

Response: USCIS follows the statutory requirements under INA sec. 216A(d)(2), 8 U.S.C. 1186b(d)(2), specifying when a Form I-829 must be filed for derivatives to file Form I-829 separate from the principal investor. In general, investors must file the Form I-829 within the 90-day period immediately preceding the second anniversary of obtaining their conditional permanent resident status (subject to certain exceptions), and derivatives are tied to the time-period of the investor. *Id*. A petition filed after such date may be considered only if the investor establishes to the satisfaction of USCIS that the investor's failure to file within that 90-day period was for good cause and extenuating circumstances. *Id.*

Comment: A commenter requested examples and scenario-based guidance for dependents filing separately from the principal investor. Other commentors requested to allow Form I-829 dependents to file together to increase processing efficiencies and requested clarification on dependents filing without the investor.

Response: DHS acknowledges and appreciates the comments regarding potential processing efficiencies by permitting derivatives to file Forms I-829 together. DHS declines at this time to permit such a practice because there are unique considerations related to the processing of derivative Forms I-829 filed separately from a principal investor, including the tracking of such petitions, evaluation for eligibility, post-approval processing and other related considerations. Consequently, DHS believes that requiring Form I-829 derivatives to file independently best accounts for these considerations and will continue requiring that derivatives file separate Forms I-829 when not included on the principal investor's Form I-829 or when the principal investor is deceased. With respect to scenario-based and other guidance, DHS will continue to evaluate the need for such guidance and may provide guidance separate from this rulemaking and form instructions.

3. Regional Center Forms

a. Forms I-956, Application for Regional Center Designation, and I-956F, Application for Approval of an Investment in a Commercial Enterprise

Comment: DHS received several comments regarding amendment fee costs for Forms I-956 and I-956F including the following:

- Commenters suggested that there should be fair fees for Forms I-956 and I-956F when the filing involves simple changes, like amending Form I-956, changing the name of a regional center, or adding a person involved with a regional center.
- A number of commenters recommended that USCIS adopt a tiered approach for EB-5 project-related fees, particularly Forms I-956 and I-956F, to preserve viable pathways for smaller EB-5 projects and to ensure investors retain meaningful options across a broader range of project types.
- Several commenters requested different fees for Form I-956 initial filings and amendments, with the fees for amendments such as changes to the regional center's name, ownership, organizational structure, or administration being lower than initial filings.
- A commenter stated that regional centers do generate revenue through EB-5 investments and redeployment-related structures, and larger regional centers

operating multiple projects and serving hundreds of investors generally have greater operational scale to absorb compliance and filing costs. They stated that regional centers and project sponsors operating at larger scale should bear a proportionally greater share of EB-5 fee burdens, particularly where fee design choices may otherwise shape the EB-5 marketplace and reduce investor choice. The commenter also recommended a tiered I-956F filing fee based on total project cost (capital stack) as a workable, administrable proxy for adjudicative complexity and workload. A commenter suggested USCIS could implement tiering in a revenue-neutral manner by setting the tier rates so that, based on expected filing volumes, the weighted-average revenue aligns with USCIS's cost recovery needs.

Response: Regarding the fee structure for Forms I-956 and I-956F, DHS considered alternative approaches, including a tiered fee structure or nominal fees for amendments involving administrative or non-substantive changes. However, DHS determined it would not adopt a tiered fee structure because the lack of data on the processing costs for amendments creates uncertainty on how many applications would fall into the various categories that the commenters suggested. In addition, many amendments require similar work to adjudicate as initial filings. DHS may reconsider additional fee levels for these forms in future fee rules when it has more information on which to base variable fees. Regarding a different fee for Form I-956 for initial filings and amendments, with lower fees for amendments, DHS recognizes that amendments may, in some cases, require less extensive review than initial applications, particularly when changes are limited in scope or do not affect the substantive eligibility criteria of the investment or project. Therefore, in the final rule, DHS has revised the proposed fees for Form I-956 seeking an amendment to be different for a Form I-956 seeking initial designation and a Form I-956 for an amendment.

However, DHS determined that a uniform fee for Form I-956 amendments is necessary to ensure administrative efficiency and to recover the costs associated with the review and processing of all amendment types. Even amendments that appear ministerial may require verification of compliance with statutory and regulatory requirements, background checks, and updates to program records, all of which involve staff time and resources.

DHS recognizes that a tiered fee structure could potentially reduce costs for certain amendments but would also introduce additional complexity into the fee schedule and adjudication process, potentially increasing administrative burdens and the risk of inconsistent application. DHS will continue to monitor the impact of the current fee structure and may consider further refinements in future rulemakings if warranted by operational data and stakeholder feedback.

DHS remains committed to maintaining a fair and transparent fee schedule that supports program integrity and efficient processing of EB-5 benefit requests.

Comment: A commenter requested that USCIS allow TEA amendments by e-mail or abbreviated amendments with commensurate reduced filing fees. Separately, they also requested that USCIS permit regional centers to make filings online through the USCIS Online Portal, in a manner like investors' ability to interfile and file responses online.

Response: DHS determined that a uniform fee for Form I-956F amendments is necessary to ensure administrative efficiency and to recover the costs associated with the review and processing of all amendment types. Even amendments that appear ministerial may require verification of compliance with statutory and regulatory requirements, background checks, and updates to program records, all of which involve staff time and resources. USCIS acknowledges the commenter’s request to permit high unemployment area renewal requests through alternative means outside of a Form I-956F amendment and will consider providing sub-regulatory guidance as needed in the future.

Additionally, DHS is committed to technology initiatives to improve the efficacy of adjudications in line with maintaining data security standards and ensuring complex filings are able to be captured in their entirety. DHS will continue to communicate progress, milestones, and performance benchmarks as these improvements are developed and implemented.

b. Form I-956H, Bona Fides of Persons Involved with Regional Center Program

Comment: A commenter suggested that USCIS clarify whether an approved regional center or NCE can add a person involved by filing Form I-956H without having to file amended Forms I-956 or I-956F.

Response: The statute at INA sec. 203(b)(5)(E)(vi), 8 U.S.C. 1153(b)(5)(E)(vi), requires a regional center to file an amendment to notify USCIS, no later than 120 days before the implementation of significant proposed changes to its organizational structure, ownership, or administration, including the sale of such center, or other arrangements which would result in individuals not previously subject to the requirements under INA sec. 203(b)(5)(H), 8 U.S.C. 1153(b)(5)(H), becoming involved with the regional center. Therefore, if a new person becomes involved with the regional center, the regional center must notify USCIS of such via an I-956 amendment and that new person must also file a I-956H to attest to their compliance with INA sec. 203(b)(5)(H), 8 U.S.C. 1153(b)(5)(H).

c. Form I-956K, Registration for Direct and Third-Party Promoters

Comment: A commenter stated that Form I-956K, which is for promoters to register with USCIS, should not have a higher filing fee than Form I-956H, which is for individuals involved with a regional center, new commercial enterprise, or affiliated job-creating entity. They stated that Form I-956H should require more scrutiny to ensure that the background of the people involved with managing regional centers, NCEs and JCEs have been properly screened. The same commenter stated that the proposed rule does not sufficiently explain the registration approval process for Form I-956K enough to substantiate or justify a proposed fee of $2,740.

Response: DHS disagrees that the fee for Form I-956K should not be higher than the fee for Form I-956H. As explained in the proposed rule, the proposed fees for Forms I-956K and I-956H were based on the results of the ABC model that USCIS created for the EB-5 Fee Study. *See, e.g.,* 90 FR 48516, 48525-48529. The proposed fees for Forms I-956G, I-956H, and I-956K include fewer activities, and thus lower costs, than other EB-5 workloads. *See* 90 FR 48516, 48525. USCIS revised the EB-5 fee study based on feedback from other comments, but the final fees for Forms I-956G, I-956H, and I-956K still include fewer activities, and thus lower costs, than other EB-5 workloads. *See* the Revised EB-5 Fee Study included in the docket. The proposed and final fees for Form I-956H are lower than Form I-956K because the fee for Form I-956H is only meant to recover the cost of form intake and biometric services. In contrast, the fee for Form I-956K includes additional activities for fraud investigations, records management, and operational support. DHS believes that this remains the best approach to setting these fees. In addition, a person may need to submit Form I-956H if they are involved with multiple regional centers. As such, to reduce the financial burden on these individuals, DHS is keeping the Form I-956H fee low when compared to other EB-5 fees.

Comment: A commenter stated that USCIS could tap the EB-5 Integrity Fund to offset the revenue reductions from implementing lower fees for Form I-956K initial applications and amendments.

Response: As explained earlier in this preamble, DHS will not reduce any IEFA filing fee, including the Form I-956K fee, because of offsetting revenue from the EB-5 Integrity Fee. Rather, DHS calculates IEFA fees after considering the totality of resources available to USCIS, including revenue from the EB-5 Integrity Fund, other statutory fees, and appropriations.[43] DHS chooses not to offset EB-5 Integrity Fund because it is a relatively new revenue source for USCIS and the intended uses of the fund are narrow.[44] In future rulemakings, DHS may reevaluate this decision based on when it has more data or newer estimates for the EB-5 Integrity Fund and Form I-956K. However, DHS declines to make changes based on this comment.

Comment: A commenter stated that the adjudicative process for Form I-956K is largely unknown to the EB-5 industry. They noted that DHS has authority to use not less than one third of the EB-5 Integrity Fund balance for foreign investigations. They questioned whether any foreign investigations occurred and encouraged USCIS to begin investigating third-party promoters abroad. They stated this will ensure greater program compliance and accountability while not increasing the fee for Form I-956K.

Response: Rulemaking is unnecessary to address procedures for foreign investigations, but DHS will consider this recommendation and take sub-regulatory action as needed.

4. New EB-5 Technology Fee

Comment: One commenter stated that before beginning to charge this new technology fee, it is critical that USCIS provide the public with its roadmap for the technology improvements that will transition the agency to a modern electronic process. They listed several information technology modernization projects which the revenue could fund. The commenter stated there should be clear milestones, such as system implementation dates and performance benchmarks, so that the agency can be held accountable by Congress and other stakeholders.

Response: DHS appreciates the comment regarding the need for transparency and accountability in the implementation of technology improvements funded by the new technology fee. The technology fee is authorized by statute to support enhancements to

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[43] *See* section II.B of this preamble.

[44] *See* sections II.B and III.E. of this preamble. *See also* 90 FR 48516, 48530- 48534.

USCIS information systems, including the transition to electronic processing. DHS is committed to providing updates on major technology initiatives and will continue to communicate progress, milestones, and performance benchmarks as these improvements are developed and implemented. DHS will also ensure that Congress and stakeholders are informed about the use of technology fee revenue and the resulting benefits to applicants and program administration.

However, DHS wishes to set realistic expectations for EB-5 Technology Fee revenue. For example, using the volume forecasts for this final rule, USCIS expects that it will collect less than a million dollars a year in EB-5 Technology fee revenue.[45] Less than a million dollars each year may not be sufficient funding for the projects listed by the commenter. As such, USCIS will necessarily need to continue using other IEFA funding to cover most of its information technology costs, including those for the EB-5 program.

F. EB-5 Integrity Fund Fees and Penalties

1. Comments on the integrity fund and codification of nonpayment penalties (e.g., monetary penalties for late payment, termination for failure to pay within 90 days of due date)

Comment: One commenter recommended that DHS provide exceptions to the timeframes for levying penalty fees for late payment of the Integrity Fund fee, such as for public exigencies. Other commenters mentioned concerns about the penalties for non-compliance, such as late integrity fee payments and termination of regional centers after 90 days. Commenters stated these could impact immigration status of investors, disrupt multi-million dollar projects, and hurt local economies. Commenters also stated concerns of additional regulatory burden from more audits, site visits, and compliance checks.

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[45] The EB-5 Technology Fee applies to some, but not all filings of Forms I-526 and I-526E. *See* section III.D. of this preamble for more information. If all Forms I-526 and I-526E filings paid the EB-5 Technology Fee, then the average annual revenue for FY 2026/2027 would be $660,900. *See* section III.C.1. for the volume forecasts in this final rule. Calculation: (312+8,500) *$75 = $660,900.

Response: The penalties, and the timeframes for imposing those penalties, are set by statute. The statute does not provide for waivers, exceptions or exemptions. The statute states that each regional center must pay the Integrity Fund fee every year on October 1. INA sec. 203(b)(5)(J)(iv), 8 U.S.C. 1153(b)(5)(J)(iv), enumerates the following:

> (iv) FAILURE TO PAY FEE.—The Secretary of Homeland Security shall—
> (I) impose a reasonable penalty, which shall be deposited into the Fund, if any regional center does not pay the fee required under clause (ii) within 30 days after the date on which such fee is due; and
> (II) terminate the designation of any regional center that does not pay the fee required under clause (ii) within 90 days after the date on which such fee is due.

Comment: One commenter requested confirmation, for investors whose regional center was terminated for failure to pay the EB-5 Integrity Fund fee, that re-affiliation with a new regional center is not required if the project has already created the required number of jobs.

Response: Whether an investor must reaffiliate with another regional center to retain eligibility under INA sec. 203(b)(5)(M), 8 U.S.C. 1153(b)(5)(M), will depend on the facts and circumstances specific to their particular case. As explained in current USCIS policy, in general, pre-EB-5 Reform Act investors may remain eligible if their project is complete or will be completed in accordance with the comprehensive business plan, with sufficient job creation for all investors, and the investor's capital has been and will be sustained through the requisite two-year sustainment period of their conditional residency. In such cases, officers may plausibly determine that a pre-EB-5 Reform Act investor associated with the terminated regional center is still eligible for classification as an immigrant investor, even without the need to reassociate with another approved regional center or make a qualifying investment in another new commercial enterprise. Also, USCIS generally will not consider such termination a material change that affects continued eligibility.

In general, post-EB-5 Reform Act investors may continue to be eligible if their capital remained invested for at least 2 years after being placed at risk under applicable requirements and satisfied the job creation requirement before termination or debarment. In such cases, officers may plausibly determine that such post-EB-5 Reform Act investors are still eligible for classification as an immigrant investor, even though the regional center was terminated and without the need to reassociate with another approved regional center or make a qualifying investment in another NCE.[46]

Comment: A commenter stated that USCIS should allow regional centers to self-report the number of investors to calculate the amount due for Integrity Fund fees. They stated the proposed method to calculate investors does not account for withdrawn Form I-526E applications.

Response: DHS considered the suggestion to allow Regional Centers to self-report investor numbers for Integrity Fund fee calculations, but notes that accurate reporting of investor numbers is essential for program integrity and compliance. The annual fee, as established in the RIA, is $20,000 for each such Regional Center, except for those with 20 or fewer total investors in its new commercial enterprises in the preceding fiscal year from October 1-September 30, in which case the annual fee is $10,000.

For application of the different fee amounts, USCIS interprets the phrase “20 or fewer total investors in the preceding fiscal year in its new commercial enterprises” to mean the total number of EB-5 investors who have invested, or are actively in the process of investing, in a Regional Center’s NCE in any given fiscal year beginning at the point of an investor filing a petition for classification as an EB-5 investor up until the point of an investor filing a petition for removal of conditions.

USCIS officers retain discretion to evaluate the Integrity Fund fee due and the number of investors on a case-by-case basis, accounting for any other facts or evidence in the record in the totality of the circumstances, including any evidence provided by a

[46] USCIS, EB-5 Questions and Answers, https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-questions-and-answers (last reviewed/updated Feb. 25, 2026).

regional center that believes it has greater or fewer total investors. DHS makes no changes to the final rule in response to this comment.

G. Statutory and Regulatory Requirements

1. Administrative Procedure Act (APA) (e.g., notice/adequacy of the 60-day comment period, requests to extend, reliance interests, rulemaking process, "arbitrary and capricious")

Comment: Commenters provided the following comments regarding the APA:

- Stay the rule's effective date and open a minimum 60-day notice-and-comment period.
- The proposal fails to adequately consider reliance interests and downstream economic harms, rendering it arbitrary and capricious.
- This rule invokes or effectively relies on the APA's "good cause" exception to notice-and-comment and/or to the 30-day delayed effective date without a narrowly tailored, record-supported justification.

Response: DHS disagrees with the commenters' concerns regarding the rule's compliance with the APA. The notice-and-comment period, consideration of reliance interests, direct economic impacts on small entities, and the justification for the effective date of the rule all comply with the APA and relevant case law. DHS provided the public with notice of the proposed fees and allowed for a comment period, complying with the requirements of the APA. Further, the 60-day comment period was sufficient time for interested parties and stakeholders to submit feedback on all aspects of the proposed rule, including the potential economic impacts and reliance interests. The commenter did not provide details of what actions they have taken or costs they have incurred as a result of their reliance on USCIS not implementing a new fee schedule as required by the 2022 RIA. DHS believes that passage of the statute, partial implementation of the law through the EB-5 Integrity Fund Fee, and the proposed rule, have provided sufficient notice for affected parties to not be surprised by the new fees and time to adjust their businesses practices accordingly.

2. Comments on the Regulatory Impact Analysis (RIA) (E.O.s 12866 and 13563)

Comment: One commenter stated that the economic analysis is inadequate because DHS/USCIS says the $47 million loss due to decreased fees will be offset by finding savings elsewhere, without detailing where that will be. There is no discussion in the rule about the impact on the current fee structure, and the assumptions (and commitments) made in the most recent fee rule. There is also no discussion of the impact the decrease in fees here would have on a future fee study or rule. The commenter also notes that some of the figures in the analysis are several years old, and there is no discussion of the impact of this rule on USCIS' overall fiscal picture. Another commenter requested that USCIS publish the rule's Executive Order 12866 significance determination and underlying economic analysis and confirm OIRA review.

Response: DHS disagrees that the economic analysis is inadequate. Earlier in this preamble DHS addressed the commenter's concerns regarding potential negative effects to USCIS by lowering certain fees. *See* section IV.B.2.c. While DHS estimates the net impact to a particular fee change directly, it does not generally suggest or determine how the overall financial situation of the agency will be impacted. USCIS policies and workloads are constantly evolving, requiring resource shifts, and operational changes, and the time required to engage in rulemaking makes it impossible to issue a fee rule that is totally current on all aspects that could impact fees and costs. However, DHS performs fee studies generally, as it did for this rule, using the best and most reliable data available, to implement new fees in a manner that improves or maintains its overall level of USCIS service. Regarding data age, DHS updated the data where possible, relying on a consistent analytical approach. Also, the Office of Management and Budget (OMB) reviewed the rule (concluding on Sep. 25, 2025) and determined that this rule is a "significant regulatory action" under section 3(f) of Executive Order 12866, although it does not meet the criteria for economic significance under section 3(f)(1).

3. Regulatory Flexibility Act (e.g., Initial Regulatory Flexibility Analysis, small entities)

Comment: One commenter stated that the rule omits, or provides only a conclusory, Regulatory Flexibility Act analysis despite direct impacts on hundreds of small entities (RCs, NCEs, and related small businesses) and fails to consider less burdensome alternatives as required by 5 U.S.C. 603-604. Another commenter suggested that USCIS prepare and publish an Initial Regulatory Flexibility Analysis (IRFA) or, if invoking 5 U.S.C. 605(b), provide a detailed factual basis supporting any certification, and consider significant alternatives to minimize small-entity impacts.

Response: DHS conducted and published an initial regulatory flexibility analyses (IRFA)[47] and determined that most businesses involved with the EB-5 program would be small and sustains that determination in this final rule. While DHS recognizes that higher fees may present challenges for some applicants, particularly smaller investors, the fees being finalized reflect the actual costs of adjudication, fraud prevention, compliance activities, and administration of the program. Setting fees outside cost-recovery levels could compromise USCIS' ability to provide adequate services and maintain program integrity. DHS considered alternatives, including tiered or transitional fee structures, but determined that a uniform fee schedule presents the most effective way to distribute costs and avoid administrative complexity.

DHS remains committed to monitoring the impact of fee changes on program participation and will continue to evaluate whether future adjustments or alternative approaches may be warranted. Currently, the fee schedule reflects DHS's best effort to

[47] *See* 90 FR 48516, 48541-48548.

balance access, affordability, and operational needs, consistent with statutory requirements.

4. Paperwork Reduction Act (PRA) (e.g., new form I-527, revised form I-829)

Comment: One commenter stated that this rule potentially introduces or revises information collection requirements without clear Paperwork Reduction Act (PRA) compliance (OMB control numbers, burden estimates, and the required 60/30-day public notices). They asked that USCIS identify and, if needed, seek OMB approval for any new or revised information collections under the PRA, with full burden estimates and public notice.

Response: DHS confirms that it has complied with all requirements of the PRA in connection with the creation of new information collections or revisions to existing information collections. This rule includes a revision to Form I-829 and the creation of a new information collection Form I-527. USCIS previously consolidated all information related to form fees, fee exemptions, and how to submit fee payments into Form G-1055, Fee Schedule, and removed them from the specific form instructions. *See* 88 FR 402 (Jan. 4, 2023); 89 FR 6194 (Jan. 31, 2024). See USCIS Form G-1055, Fee Schedule, for the fees associated with I-526, I-526E, I-527, I-829, I-956, I-956F, I-956G, I-956H, and I-956K. The notice of proposed rulemaking publication included the affected information collections, Form I-829 and associated instructions, Form I-527 and associated instructions, and Form G-1055, USCIS Fee Schedule, found on the Federal eRulemaking Portal at https://www.regulations.gov. *See* 90 FR 48516 (Oct. 23, 2025). The OMB Control Numbers and total average burden per response for the new or revised information collections can be found in the information collection instrument with instructions on the Federal eRulemaking Portal. In accordance with 5 CFR 1320.8, the agency need not separately seek public comment for any proposed collection of information contained in a proposed rule to be reviewed under 5 CFR 1320.11, if the agency provides notice and comment through the notice of proposed rulemaking for the proposed rule. In accordance with 5 CFR 1320.11, the revised and new information collections contained in proposed rule published for public comment in the Federal Register were submitted to OMB for review. In accordance with 5 CFR 1320.12, the revised and new information collections contained in the final rule will be submitted to OMB for review and approval. Therefore, no changes are made in response to these comments.

Comment: USCIS should undertake a separate Notice and Comment rulemaking when publishing Form I-527 to allow for public comment on the form before it is final.

Response: DHS will not publish a separate public notice specific to the new Form I-527; please see prior response for additional information on compliance with the PRA requirements. However, the rulemaking process includes public input on the form, and DHS will consider additional opportunities for stakeholder engagement as the form is finalized.

H. Out of Scope Comments

Comment: Commenters submitted several comments that are not related to fees or relevant to any changes proposed in the proposed rule. Thus, they are outside the scope of the rulemaking. The commenters stated or shared:

- Displeasure in the number of immigrant visas being granted.
- Each person that enters the United States should pay $10 million.
- DHS should raise all fees by 2000% to deter immigrants.
- A copy of an employment authorization document with no additional context.
- A customer service inquiry related to Temporary Protected Status.
- Requests to amend or file petitions while providing authorization for DHS to enact regulations.

Response: DHS fully considered the comments responsive to the rule and whether those suggestions could be adopted. The comments above are beyond the scope of provisions considered in the published proposed rule. Because these comments are not relevant to the fee adjustments or regulatory changes that were proposed, DHS is not responding to them in this final rule.

V. Statutory and Regulatory Requirements

A. Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14192 (Unleashing Prosperity Through Deregulation)

E.O.s 12866 and 13563 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. E. O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. E. O. 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” under section 3(f) of E. O. 12866, although not economically significant under section 3(f)(1).

Accordingly, the rule has been reviewed by the Office of Management and Budget. This rule is not an E. O. 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 101(a)(17), 8 U.S.C. 1101(a)(17)) or any other function performed by the U.S. Federal Government with respect to aliens. See OMB Memorandum M-25-20, "Guidance Implementing Section 3 of Executive Order 14192, titled 'Unleashing Prosperity Through Deregulation'" (Mar. 26, 2025).

1. Summary

The Department is finalizing immigration benefit request fees charged by USCIS for the Employment-based Immigration, Fifth Preference (EB-5). The fees are set at a level that USCIS has determined would enable it to recover the costs of administering the EB-5 program, allow it to attain the processing time goals outlined in the law and to ensure there are internal procedures and controls in place to try to maximize the likelihood that the statutory goals are met. It will also make improvements to the information technology systems used by DHS to administer the EB-5 program. This rule also codifies elements of the EB-5 Reform Act in regulations, including the establishment of Form I-527. The fee schedule DHS is finalizing will impact approximately 16,600 EB-5 program filings annually across nine existing forms and one new form. For the existing forms the collective fees will increase by about 70.7 percent, or by about $2,945.90 per form.[48] DHS estimates that the 10-year (FY 2026 through FY 2035) and annualized monetized total impacts will be about $496.6 million and $49.7 million, in order, in undiscounted terms. At a 3 percent discount rate, the figures would be about $423.6 million and $49.7 million, in order, and at a 7 percent discount rate, the figures would be about $348.8 million and $49.7 million. The impacts are summarized in Table 10, in which population figures reflect annualized averages over the 10-year period of analysis and the monetized figures reflect the average annualized equivalence discounted at 7 percent.

Table 10. Summary of the Impacts of the Final Rule.

Summary of Final Change	Potential impact
• Fee changes for current EB-5 program forms.	• Population: 16,584 filings. • Impact type: Transfers from requestors to DHS.[49]

[48] *See* V.A.2.b – Monetized Impact Estimates, Table 12.

	• Estimate: $48.9 million.
• Creation of Form I-527, Amendment to Legacy Form I-526.	• Population: 20 individual filers. • Impact type: Costs applicable to the filing fee and time burden. • Estimate: $209,302.70.
• Penalties for late filing of the Integrity Fund fee.	• Population: Maximum of 640 annual regional centers plus 8,500 regional center-affiliated investors. • Impact type: Costs. • Impact estimate: Unquantified; unknown how many regional centers or affiliated investors would incur penalties, as the penalties are intended to act as an incentive for compliance.
• Projected changes (increases) in forms' time burdens.	• Population: 16,584 (across current forms). • Impact type: Costs. • Impact estimate: $540,004.70.
• Dependents filing Form I-829 separate from principal investor applicant	• Population: Less than 20 annually based on past volumes. • Impact type: Costs applicable to the filing fee and time burden. • Impact estimate: $57,130.70.
Source: USCIS analysis (Mar. 6, 2026).	

In addition to the impacts summarized in Table 10, and as required by OMB Circular A-4, DHS presents the accounting statement showing the anticipated costs and benefits associated with this final regulation.[50]

Table 11. OMB Circular A-4 Accounting Statement (Millions, $2024; Period of Analysis: FY 2026 through FY 2035).

Category		Primary Estimate	Minimum Estimate	Maximum Estimate	Notes	Source/ Citations
Benefits		N/A	N/A	N/A	Not estimated	NA
Annualized monetized benefits	**3%**	N/A	N/A	N/A	Not estimated	NA
	7%	N/A	N/A	N/A		
Unquantified benefits		The fees being finalized will recover the costs of administering the EB-5 program including the costs to hire staff and put internal procedures				RIA

		and controls in place within the program office with the intent of maximizing the likelihood that the statutory goals are met. It will make improvements to the information technology systems used by DHS to administer the EB-5 program.				
			N/A	N/A	Applicable to filing costs and time burdens associated with the new Form I-527 and a small number of dependents who file their Form I-829 separately from the principal (investor); also incurs increase in existing forms' time burdens.	RIA
Costs						
Annualized monetized costs	**3%**	$0.81	N/A	N/A	N/A	RIA
	7%	$0.81	N/A	N/A		
Unquantified costs					Penalties and fines applicable to late Integrity Fund payments are not estimated; Rule familiarization costs.	RIA
Transfers		N/A	N/A	N/A	Applicable to final fee changes for the EB-5 program forms.	RIA
	3%	$48.85	N/A	N/A		RIA

Annualized monetized transfers (2%)	**7%**	$48.85	N/A	N/A	Transfers from DHS to requestors	
Effects on State, local, and tribal governments		No significant impacts to national labor force or to the labor force of individual States is expected; DHS does not expect impacts to tribal governments.				RIA
Effects on small businesses		Based on limited data and information, most regional centers and almost all NCEs and JCEs directly involved in EB-5 investment activity would be small entities according to Small Business Administration (SBA) size standards.[51] However, DHS cannot determine how the impacts found in this analysis (comprising costs and transfers) would affect small entities, or how they might respond to such impacts. As such, DHS cannot determine how the impacts could possibly affect downstream effects to investment activity or job creation. An important caveat is that the number and proportion of the entities that are truly small is likely to be lower than that found in the determination.				RFA
Effects on wages		None	None	None	None	NA
Effects on growth		None	None	None	None	NA
Source: DHS, USCIS analysis (Mar. 6, 2026).						

2. Economic Impacts

a. Summary of Changes from the NPRM

There are two substantive changes that DHS is making in this final rule pertinent to the benefit-cost analysis as it applied to the NPRM. First, the fee impacts being finalized are based on a change from the EB-5 fees that became effective with the United States District Court for the District of Colorado decision in *Moody*, which is discussed in this preamble. Second, there have been recent revisions to the form volume projections, and those updates are included, under FY 2026 and FY 2027 projections. DHS is making two additional adjustments in this final rule. First, in the NPRM, DHS accounted for an amendment Form I-526E under a small annual volume projection of 105 filings per year.

DHS has received only a few such filings and expects a very small future volume, potentially close to zero. As such, DHS does not include a separate line item in the cost table for the I-562E amendment and initial form. Second, for purposes of this rulemaking the time burden applicable to the form I-829 is not set to change.

b. Monetized Impact Estimates

In introducing the analysis, DHS presents in Table 12 information captured from the preamble (Tables 1-3) to show the current and projected fees for the EB-5 program forms. As shown, we calculate weighting factor based on the volume for each form relative to the annualized total to generate a weighted average change in fees (which are accounted for as transfers), exclusive of Form I-527, which this rule is introducing. The volumes shown represent the average annual forecasts based on the USCIS Volume Projections Committee (VPC). The VPC facilitates workload and fee projection data, stakeholder collaboration, communication, and coordination of critical business decisions about projected workload. This intra-agency group provides a forum for making enterprise-wide decisions about projected workload supported by input from knowledgeable subject matter experts from within USCIS and, in some cases, data from other governmental agencies.

The VPC predicts USCIS annual workload volumes using historical and recent volume trends, statistical forecasts, and subject-matter expertise from various USCIS directorates and program offices, including the IPO, USCIS service centers, the National Benefits Center, and regional, district, and field offices. USCIS produced most of the estimates in this final rule during the meetings in June 2025 to estimate the FY 2026 and beyond. USCIS uses VPC estimates to determine staffing levels, budget for upcoming years, and estimate future revenue. If the VPC did not forecast a workload required for this rule, like Form I-527, then USCIS relied on SME estimates.

Table 12. EB-5 Program Forms with Final Fee Changes.

form number	Annual volume	Weight % of volume	Current filing fees	Final filing fees	% diff.	Fee change	weight % of fee change	$ amount
I-526	312	1.9%	$3,675.0	$7,615.0	107.2%	$3,940.0	2.0%	$74.1
I-526E	8,500	51.3%	$3,675.0	$7,850.0	113.6%	$4,175.0	58.2%	$2,139.9
I-829	4,652	28.1%	$3,750.0	$5,000.0	33.3%	$1,250.0	9.4%	$350.6
I-956(i)	13	0.1%	$17,795.0	$44,115.0	147.9%	$26,320.0	0.1%	$20.6
I-956(a)	39	0.2%	$17,795.0	$9,835.0	-44.7%	-$7,960.0	-0.1%	-$18.7
I-956F	240	1.4%	$17,795.0	$42,675.0	139.8%	$24,880.0	2.0%	$360.1
I-956G	528	3.2%	$3,035.0	$2,165.0	-28.7%	-$870.0	-0.9%	-$27.7
I-956H	2,000	12.1%	$0.0	$65.0	0.0%	$65.0	0.0%	$7.8
I-956K	300	1.8%	$0.0	$2,165.0	0.0%	$2,165.0	0.0%	$39.2
							70.7%	**$2,945.9**
Source: USCIS analysis (Mar. 6, 2026).								

As shown in the final columns of Table 12, based on the projected volumes in Table 3, and finalized fees, the fees increase by $2,945.9 or by 70.7 percent.

Table 13 builds the economic impacts applicable to the final fee changes for existing forms. The final columns report the annual total across all impacted forms, while the final rows report the 10-year average annual figures for each form, in order. While there is a single Form I-956, we have included two columns to account for initial filings ("i") and amendments ("a"). The reason for parsing them out is that while their current fee is the same ($17,795) their final fees will be different ($44,115 and $9,835, in order). It is noted that the new Form I-527, Amendment to Legacy Form I-526, with a small projected annual volume of 20, is not included in Table 13. This form will incur a different accounting protocol from the other forms and is treated in a separate module. Specifically, the fee impacts associated with this form will be accounted for as a cost while the others will constitute transfers. Table 13 presents the projected annual volumes as well as the filing fees at the current and final levels. Table 13 is set up this way because the volumes are projected to be the same each FY, and for brevity each actual year is therefore not shown. The table also presents the impact as the difference between current and future filing fees, and the final column shows the 10-year totals per form.

Table 13. EB-5 Program Projected Filing Cost Impacts (Millions, FY 2026 through FY 2035).					
Form number	**Annual volume**	**Current filing fees**	**Final filing fees**	**Impact (difference)**	**Ten year-total**
I-526	312	1.15	$2.38	$1.23	$12.29
I-526E	8,500	31.24	$66.73	$35.49	$354.88
I-829	4,652	17.45	$23.26	$5.82	$58.15
I-956(i)	13	0.23	$0.57	$0.34	$3.42
I-956(a)	39	0.69	$0.38	-$0.31	-$3.10
I-956F	240	4.27	$10.24	$5.97	$59.71
I-956G	528	1.60	$1.14	-$0.46	-$4.59
I-956H	2,000	0.00	$0.13	$0.13	$1.30
I-956K	300	0.00	$0.65	$0.65	$6.50
Annual	-----	**$56.63**	$105.48	$48.85	-----
Ten-year total	------	**$556.28**	**$1,054.83**	**$488.55**	-----
Annual average	**16,584**	**$56.63**	**$105.48**	**$48.85**	------
Source: USCIS Analysis (Mar. 6, 2026).					

As Table 13 reports, based on the volume projections, at current fee rates the costs associated with filing forms for the EB-5 program would be $566.28 million over 10 years or $56.63 million annually in undiscounted terms. Based on the final fees, the filing costs will be $1,054.83 million over 10 years or $105.48 million annually in undiscounted terms. The impact (difference) would constitute an increase of $488.55 million over 10 years or an increase of $48.85 million on an annual basis (Table 13). The impacts attributable to the final fee changes will represent a net increase in transfers from requestors to DHS.

c. Costs of the Final Rule

In addition to transfer-impacts pertinent to form related fees, several impacts are accounted for as costs. DHS determines that there will be minor time burden changes applicable to the existing EB-5 Program forms due to this rule. To estimate the opportunity cost of time impacts, we need to rely on an hourly wage bound. This is difficult because EB-5 entities can involve complex business activities. DHS does not have salient information on the jobs the individual filers are involved in, but we assess that most individuals involved in the program investments are primarily involved (for regional centers, NCEs, and JCEs) in the business of arranging loans and financing and managing these efforts applicable to business plans. Therefore, DHS selected 20 occupations from the Bureau of Labor Statistics (BLS) Standard Occupational Codes (SOC) that we think reasonably capture the individuals involved in these activities. These SOC titles and associated terms mean hourly wage for the detailed industries are reported in Table 14.

Table 14. Occupation Titles and Hourly Wages for EB-5 Program Form Filers.

BLS SOC Title	Wage ($)
General and Operations Managers	$64.00
Advertising and Promotions Managers	$71.76
Marketing Managers	$82.46
Sales Managers	$77.37
Public Relations Managers	$78.61
Fundraising Managers	$66.01
Administrative Services Managers	$60.59
Financial Managers	$86.76
Managers, All Other	$72.06
Project Management Specialists	$51.97
Management Analysts	$55.15
Market Research & Marketing Specialists	$41.58
Business Operations Specialists, all other	$44.41
Accountants and Auditors	$44.96
Financial and Investment Analysts	$56.01
Financial Risk Specialists	$57.66
Financial Examiners	$49.83
Financial Specialists, All Other	$45.14

Lawyers	$87.86
Real Estate Brokers	$44.07
Midpoint wage	**$64.72**
Source: U.S. Department of Labor (DOL), BLS, Occupational Employment and Wage Statistics, National Occupational Employment and Wage Estimates: *https://www.bls.gov/news.release/archives/ocwage_04022025.htm*. (May 2024 data; analysis updated July 1, 2025).	

The minimum, mid-point, and maximum of the above range are $41.58, $64.72,[52] and $87.86, in order. However, working recursively, the resulting monetized impacts are only very slightly affected by the wage range and thus, for brevity we will rely on the midpoint to base our estimates. DHS accounts for employee benefits by calculating a benefits-burden applicable to the most recent BLS report detailing the average employer costs for employee compensation for all civilian workers in major occupational groups and industries. The burden to compensation from benefits is 45 percent.[53] DHS will rely on this burden to estimate the full costs incurred by new employees, including employee wages and salaries and the full cost of benefits such as paid leave, insurance, retirement, and other benefits. With a benefits-burden multiple of 1.45, hourly compensation is $93.84.[54]

The current, projected, and change in the time burdens (in hours) are provided in Table 15.

Table 15. EB-5 Program Form Time Burden Impacts.

Form	Annual volume	Current burden hours	Projected Burden hours	Burden hour Difference	Impact / Opportunity Cost (annual)	Impact / Opportunity Cost (ten-year)	Weight factor

[52] This midpoint obtained by adding the minimum and maximum value and dividing by two; it is proximate to the true mean of $61.90. The wage data obtained from BLS, BLS, Occupational Employment Statistics, “May 2024 Occupational Employment and Wage Estimates, United States,” *https://*www.bls.gov/news.release/archives/ocwage_04022025.htm (last visited July 1, 2025).
[53] *See* BLS, Economic News Release, “Employer Costs for Employee Compensation by Ownership– June 2024,” Table 1. Employer costs for employer compensation by ownership: https://www.bls.gov/news.release/archives/ecec_09102024.htm (last visited Nov. 4, 2025). The benefits-to-wage multiplier is calculated as follows: (Total Employee Compensation per hour)/ (Wages and Salaries per hour) =$46.21/$31.80.
[54] Calculation: Midpoint hourly wage of $64.72 × multiplier of 1.45=$93.84.

Heading	A	B	C	D	E	F	G
I-526	312	1.650	2.400	0.750	$21,959.5	$219,594.96	0.014
I-526E	8,500	1.650	2.270	0.620	$494,557.9	$4,945,578.80	0.318
I-829	4,652	3.620	3.620	0	$0.0	$0.00	0.000
I-956(i)	13	22.820	23.290	0.470	$573.4	$5,733.87	0.000
I-956(a)	39	22.820	23.290	0.470	$1,720.2	$17,201.61	0.001
I-956F	240	24.820	25.000	0.180	$4,054.1	$40,540.61	0.003
I-956G	528	15.850	16.180	0.330	$16,351.4	$163,513.79	0.011
I-956H	2,000	1.470	1.470	0.000	$0.0	$0.00	0.000
I-956K	300	2.042	2.070	0.028	$788.3	$7,882.90	0.001
Total	----	----	----	----	$540,004.7	$5,400,046.52	0.347
Source: PRA and USCIS Analysis (Jul. 1, 2025, updated Mar. 6, 2026). Column G value is product of the form-volume weight (Table 12, third column, "weight") and the "Burden hour Difference" in the current table (column D).							

To obtain the impact (opportunity cost) reported in Column E, the volume is multiplied by the change in the burden and by the mid-point compensation ($93.84). Columns F report the annual and 10-year impacts per form, while the bottom rows provide the totals across forms. Based on the information provided, the annual total cost will be $540,004.7 and about $5.4 million over ten years. In addition to the totals, a weight factor is provided in the final column (G), which reflects the weight factor per-form (see Table 12) multiplied by the projected burden change (column D table 15). The weight factors sum to 0.347 hours, which equates to about 20.8 minutes.

The new Form I-527 impacts would accrue to the direct cost of filing plus the opportunity costs associated with the time burden of filing. The final fee is $10,330 and the time burden is estimated at 1.44 hours, which, based on the burdened mid-point compensation (discussed above of $93.84) yields a time-related impact of $135.14 per submission. Adding the two components amounts to $10,465.14 per filing, which, at the projected annual volume of 20, generates an impact of $209,000 annually and $2.09

million over 10 years. For the few cases in which an immigrant investor's spouse and children file separate Form I-829 petitions when they are not included in the Form I-829 filed by the immigrant investor, as stipulated in the preamble, the final revisions to the existing regulations would not impose any additional biometric, travel, or associated opportunity costs. The only costs expected from the rule would be the separate filing fee and associated opportunity cost. The final fee for Form I-829 is $5,000 and the time burden is 3.62 hours. For the dependents we would use a lower wage than was utilized for investors. Without salient information concerning the wages these applicable filers would earn, we will assume they are working at various levels and will rely on the current average wage across all occupations, which is currently $32.66, and is $47.36 when burdened for benefits.[55] Each filer would face a time burden cost of $171.44, which when added to the filing fee would be $5,171.44. Based on 11 annualized filings' average over 9 years (FY 2015 through FY 2023), the monetized impact that will accrue to the individual Form I-829 filers would be $56,885.88 annually, or about $.57 million over 10 years.

d. Total Monetized Impacts

We can now compile the monetized impacts of the rule based on the impacts for which we can reasonably develop a quantified estimate. The impacts associated with the existing forms' fee changes are categorized as transfers from requestors to DHS. They are accounted for as transfers because a filing fee currently exists (including the two forms in which it is currently $0) and the requestor expects to recoup a direct benefit from filing. The impacts associated with the new Form I-527 are classified as costs, as are the changes in the forms' burdens and filings applicable to the Form I-829, as discussed

[55] U.S. DOL, BLS, Occupational Employment and Wage Statistics, National Occupational Employment and Wage Estimates, All Occupations, May 2024, available at: https://www.bls.gov/news.release/archives/ocwage_04022025.htm. (Jul. 8, 2024). Calculation: $32.66 × multiplier of 1.45 = $47.36.

earlier. In Table 16 the transfers and costs are listed individually since they are categorized differently under the OMB Circular A-4 framework. The transfers, payments made by EB-5 requestors when filing forms to DHS (IEFA), reflect the fee changes finalized. The costs column comprises the annual impacts, mainly to EB-5 requesters, accruing to the new Form I-527 and the small number of separate I-829 dependent filers, as well as the forms' burdens. The monetized impacts are presented in Table 16 in order of terms undiscounted, then discounted at 3 and 7 percent, in order.[56] In Table 16 each FY is shown, since the discounted terms for each year are not the same.

Table 16. Monetized Impacts of the Final rule (millions).		
16a. Undiscounted.		
FY	**Transfers**	**Costs**
2026	$48.85	$0.81
2027	$48.85	$0.81
2028	$48.85	$0.81
2029	$48.85	$0.81
2030	$48.85	$0.81
2031	$48.85	$0.81
2032	$48.85	$0.81
2033	$48.85	$0.81
2034	$48.85	$0.81
2035	$48.85	$0.81
10-year Total	**$488.55**	**$8.06**
10-year Annual Average	**$48.85**	**$0.81**
16b. 3% discount rate.		

[56]*See* OMB, Circular A-4, "Regulatory Analysis," *https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf.*

FY	Transfers	Costs
2026	$47.43	$0.78
2027	$46.05	$0.76
2028	$44.71	$0.74
2029	$43.41	$0.72
2030	$42.14	$0.70
2031	$40.92	$0.68
2032	$39.72	$0.66
2033	$38.57	$0.64
2034	$37.44	$0.62
2035	$36.35	$0.60
10-year Total	**$416.74**	**$6.88**
10-year Annual Average	**$48.85**	**$0.81**
16c. 7% discount rate.		
FY	**Transfers**	**Costs**
2026	$0.75	$0.75

2027	$0.70	$0.70
2028	$0.66	$0.66
2029	$0.62	$0.62
2030	$0.57	$0.57
2031	$0.54	$0.54
2032	$0.50	$0.50
2033	$0.47	$0.47
2034	$0.44	$0.44
2035	$0.41	$0.41
10-year Total	**$5.66**	**$5.66**
10-year Annual Average	**$0.81**	**$0.81**
USCIS Analysis (Mar. 6, 2026).		

e. Unquantified Impacts

There are some other impacts that DHS has evaluated applicable to the rule, and while these cannot be monetized, DHS offers a qualitative discussion concerning them. Foremost, there are likely to be familiarization costs associated with reading and understanding the rule. The costs of familiarization would accrue to the opportunity costs of the time embodied, which would constitute the number of hours spent on familiarization multiplied by the hourly compensation of the reviewer(s). DHS does not know who (in terms of what occupation) would review the rule but will attribute the costs to lawyers trained in reading and interpreting the rule's changes. The average hourly compensation would be $87.86, which, at a benefits-burden multiple of 1.45, is $127.40 per hour.[57] This reflects the cost of an in-house attorney. For outsourced attorneys, we utilize a multiplier of 2.5, which yields an hourly rate of $219.65.[58] By relying on the earnings of lawyers, which are substantially higher than that of most occupations, DHS is being liberal in its estimates. DHS does not know how much time would be expended on such familiarization.

The EB-5 Reform Act authorizes graduated sanctions for regional centers that fail to submit an annual statement or that commit certain violations. Considering this authorization, DHS will impose the following penalties for paying the Integrity Fund fee late:

- Ten percent of the required integrity fee (e.g. 10 percent of $10,000 or $20,000, subject to adjusting such required amounts for inflation)[59] for a regional center that pays its fees on day 31 through and including day 60 after the due date.
- Twenty percent of the required integrity fee for a regional center if their fee is paid on day 61 through and including day 90 after it is due.
- Terminate a regional center designation if it fails to pay the fee within 90 days of the date on which such fee is due.

[57] Calculation: The average hourly wage for Lawyers of $87.86×the benefits burden multiplier of 1.45=$127.407. The wage reflects the May 2024 data published by the BLS, cited in Table 14.
[58] Calculation: The average hourly wage for Lawyers of $87.86×the benefits burden multiplier of 2.5=$219.65. *See* ICE, Final Small Entity Impact Analysis, "Safe-Harbor Procedures for Employers Who Receive a No-Match Letter" for the basis of the multiplier of 2.5 to convert in-house attorney wages to the cost of outsourced attorney based on information received in public comment to that rule: *https://www.regulations.gov/document/ICEB-2006-0004-0922*, p. G-4.
[59] DHS is not accounting for the integrity fund payments for regional centers and regional center investors because they were enacted in the FY 2022 EB-5 Reform Act and also a *Federal Register* notice (88 FR 13141 (Mar. 2, 2023)).

In determining the final penalties, as discussed in the preamble, DHS believed that 10 percent was a reasonable starting point in setting a penalty. DHS also considered whether the dollar amount itself was reasonable. In this case, the 10 percent would amount to $1,000 or $2,000 depending on the regional center, which DHS believes is a reasonable late charge for failing to pay the fee after 30 days. The 20 percent would amount to $2,000 or $4,000 depending on the regional center (based on the number of investors), which DHS believes is a reasonable late charge for failing to pay the fee after 60 days.

The goal of the penalties is to effectively deter noncompliance. DHS believes that the penalties would be sufficient to encourage payment and ensure timely collection of the Integrity Fund fees, while not being so large as to be punitive or financially damaging. DHS cannot make an estimate of how many entities would pay penalties or how much they would pay.

This final rule will generate benefits to the public. The set fees will support the level that would enable DHS to recover the costs of administering the EB-5 program; allow the program to promote U.S. economic growth through job creation and capital investment by immigrant investors as it was originally intended; enable USCIS to attain the statutory processing time goals; and ensure there would be internal procedures/controls in place within the program office to maximize the likelihood that the statutory goals will be met. It will make improvements to the information technology systems used by DHS to administer the EB-5 program.

B. Regulatory Flexibility Act (RFA)

1. Final Regulatory Flexibility Analysis (FRFA)

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 and 602, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, tit. II, 110 Stat. 847 (5 U.S.C. 601 note)), requires Federal agencies to consider the potential impact of regulations on small businesses, small governmental jurisdictions, and small organizations during the development of their rules. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.[60]

DHS reviewed the proposed rule and this final rule as required by the RFA. The fee schedule DHS is finalizing will impact approximately 16,600 EB-5 program filings annually across nine current forms and one new form. For the nine current forms the collective fees will increase from their current level by about 70.7 percent, or by about $2,945.90 per form.[61] In addition there are costs associated with certain filings and form burdens to requestors. While the forms related to immigration benefits mainly apply to individuals, the Technology Fee and the Integrity Fund Fees and Penalties directly impact entities. There are four types of entities that were evaluated in terms of the RFA as it pertains to the EB-5 program and the rule: (1) regional centers; (2) NCEs; (3) JCEs; and (4) investors. DHS has determined that the investors in the program are individuals who willingly choose to invest their capital in the program and are not considered small entities for purposes of the RFA. An “individual” is not defined by the RFA as a small entity and costs to an individual from a rule are not considered for RFA purposes.[62] As a result of this determination, individuals are not covered in this Final Regulatory Flexibility Analysis (FRFA), and DHS focuses this analysis on the business components pertinent to the EB-5 program directly involved in its investments.

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

[61] See V.A.2.b – Monetized Impact Estimates, Table 12.

[62] An investor who wishes to immigrate to the United States through the EB-5 program must file an Immigrant Petition by Alien Investor (Form I-526). Individuals who file Form I-526 petitions apply for immigration benefits on their own behalf and thus do not meet the definition of a small entity.

a. A statement of the need for, and objectives of, the rule.

As is required by EB-5 Reform Act, DHS conducted an EB-5-specific fee study. The determination from the study is that the fees being finalized as applicable to the EB-5 program will be set at a level that the Department has determined would enable it to: recover the costs of administering the EB-5 program; allow the Agency to attain the processing times goals; and ensure there are internal procedures/controls in place within the program office to maximize the likelihood that the statutory goals are met. It is intended, further, to make improvements to the information technology systems used by DHS to administer the EB-5 program. The objective of this final rule is for DHS to adjust EB-5 benefit request fees to meet the requirements provided in the EB-5 Reform Act and adequately fund the cost of administering the EB-5 program. DHS intends to meet this objective by: (i) setting fees according to the schedule presented in the preamble; (ii) establishing the USCIS EB-5 Technology Fee; and (iii) codifying EB-5 Integrity Fund Fees and Penalties.

In accordance with the EB-5 Reform Act, DHS is finalizing the fees to sufficiently recover the costs of providing such services, and attaining the goal of completing adjudications, on average, not later than:

(1) 180 days after receiving a regional center application or application for investment in a new commercial enterprise (NCE);[63]

(2) 90 days after receiving an application for investment in an NCE that is located in a TEA[64];

[63] A "new commercial enterprise" is "any for-profit organization formed in the United States for the ongoing conduct of lawful business . . . that receives, or is established to receive, capital investment from [employment-based immigrant] investors." INA sec. 203(b)(5)(D)(vi).

[64] A targeted employment area (TEA) is a rural area, or an area designated by the Secretary of Homeland Security under INA sec. 203(b)(5)(B)(ii), 8 U.S.C. 1153(b)(5)(B)(ii) as a high unemployment area. Pub. L. 117-103, Division BB, sec. 102(a)(4), 136 Stat. 1070, 1074 (2022).

(3) 240 days after receiving an immigrant investor petition for classification under section 203(b)(5)(E) of the Act or a petition to remove conditions under section 216A of the Act; and

(4) 120 days after receiving an immigrant investor petition for classification under section 203(b)(5)(E) of the Act with respect to an investment in a TEA.

DHS finalizes this rule under the authority of the EB-5 Reform Act. Among other things, the EB-5 Reform Act immediately repealed the former authorizing statutory provisions for the Regional Center Program under the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 1993, Pub. L. 102-395, 106 Stat. 1828, sec. 610, and added new authorizing provisions to the INA, substantially reforming the Regional Center Program effective May 14, 2022. The reformed Regional Center Program is authorized through September 30, 2027. This rule is also consistent with non-statutory guidance on fees, the budget process, and Federal accounting principles.[65] DHS uses OMB Circular A-25 as guidance for determining user fees for immigration benefit requests. DHS also follows the annual guidance in OMB Circular A-11 if it requests appropriations to offset a portion of IEFA costs. DHS used the ABC methodology supported in OMB Circulars A-25 and A-11 to develop the final EB-5 program fee schedule.

[65] *See* OMB, Circular A-25, "User Charges," 58 FR 38142 (July 15, 1993) (revising Federal policy guidance regarding fees assessed by Federal agencies for Government services). *See also* Federal Accounting Standards Advisory Board Handbook, Version 23, "Statement of Federal Financial Accounting Standards 4: Managerial Cost Accounting Standards and Concepts," SFFAS 4 (Sept. 2024), *http://files.fasab.gov/pdffiles/handbook_sffas_4.pdf* (generally describing cost accounting concepts and standards, and defining "full cost" to mean the sum of direct and indirect costs that contribute to the output, including the costs of supporting services provided by other segments and entities.); *Id.* at 49-66 (July 31, 1995). *See also* OMB, Circular A-11, "Preparation, Submission, and Execution of the Budget," sec. 20.7(d), (g) (June 29, 2018), *https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf* (providing guidance on the FY 2020 budget and instructions on budget execution, offsetting collections, and user fees).

b. A statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made in the rule as a result of such comments.

A commenter stated that the rule omits, or provides only a conclusory, Regulatory Flexibility Act analysis despite direct impacts on hundreds of small entities (RCs, NCEs, and related small businesses) and fails to consider less burdensome alternatives as required by 5 U.S.C. 603-604. Another commenter suggested that USCIS prepare and publish an Initial Regulatory Flexibility Analysis (IRFA) or, if invoking 5 U.S.C. 605(b), provide a detailed factual basis supporting any certification, and consider significant alternatives to minimize small-entity impacts.

DHS conducted and published an initial regulatory flexibility analyses (IRFA)[66] and determined that most businesses involved with the EB-5 program would be small and sustains that determination in this final rule. While DHS recognizes that higher fees may present challenges for some applicants, particularly smaller investors, the fees being finalized reflect the actual costs of adjudication, fraud prevention, compliance activities, and administration of the program. Setting fees outside cost-recovery levels could compromise USCIS' ability to provide adequate services and maintain program integrity. DHS considered alternatives, including tiered or transitional fee structures, but determined that a uniform fee schedule presents the most effective way to distribute costs and avoid administrative complexity.

DHS will closely monitor the effects of fee changes on program participation and will assess the need for future adjustments or alternative approaches as warranted by changes in demand and eligibility. The current fee schedule is designed to address operational needs and statutory requirements, with recognition of the uncertainty inherent in forecasting participation and revenue.

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[66] *See* 90 FR 48516, pages 48541-48548.

c. The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments.

Chief Counsel for Advocacy of the Small Business Administration did not submit a comment relevant to this rulemaking.

d. A description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available.

A person wishing to immigrate to the United States under the EB-5 program is required to file an Immigrant Petition by Standalone Investor (Form I-526) or Immigrant Petition by Regional Center Investor (Form I-526E), containing information about their investment. The investment must be made into either an NCE within a designated regional center in accordance with the regional center program or a standalone NCE outside of the regional center program. A regional center is a business entity in the United States designated by DHS based on a proposal for the promotion of economic growth, including prospective job creation and increased domestic capital investment. Regional centers pool the capital of multiple investors together and arrange them typically as investments in NCEs under their purview. The NCE may create jobs directly (required for non-regional center investments) or serve as a source of funding for separate JCEs (allowable for regional center investments).

DHS cannot provide a precise assessment of the number of small entities that could be impacted by the changes being finalized, nor can the Department determine what such impacts might be to small entities involved in the program or how they might respond to them.[67] EB-5 investment and business structures tend to be complex and

[67] See U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 89 FR 6194 (Jan. 31, 2024), See Section V.B. Final Regulatory Flexibility

involve multiple layers of business and financial activity. The Department has limited information and data to support a small entity analysis. However, based on available data, DHS can provide some criteria for an initial assessment. As noted earlier, investors are not considered under the purview of the RFA. Further, neither the amount of a typical individual investment itself - which is the reduced minimum investment amount of $800,000 - nor the pool of total investment capital, is appropriate to consider as income for this assessment.[68] Therefore, with these two caveats regional centers are assessed first, followed by other EB-5 businesses associated with the program.

i. Regional Centers

Based on the Department's thirty years of experience administering the regional center program, it determined that regional centers earn income through three primary mechanisms. In the next three paragraphs DHS describes these three mechanisms.

First, regional centers charge investors an administrative fee earmarked to expenses for marketing and operations pertinent to the investment offering. The fee may also cover expenses related to document preparation, legal oversight, and the economic analysis utilized to model and estimate impacts and job creation. This administrative fee is typically 10 percent of the individual investment amount; hence DHS will rely on the typical percentage applied to most expected investments of $800,000 to estimate an

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Analysis, pages 6374-6376 explains the difficulty of assessing regional centers and on how they are structured in a variety of different ways, and can involve multiple business and financial activities, some of which may play a direct or indirect role in linking investor funds to new commercial enterprise (NCEs), and job-creating projects or entities. Regional centers also pose a challenge for analysis as the structure is often complex and can involve many related business and financial activities not directly involved with EB-5 activities. Regional centers can be made up of several complex layers of business and financial activities that focus on matching foreign investor funds to development projects to capture above market return differentials. DHS did consider the information provided by regional center applicants as part of the Forms I-956; however, it does not include adequate data to allow DHS to reliably identify the small entity status of individual applicants. Although regional center applicants typically report the NAICS codes associated with the sectors they plan to direct investor funds toward, these codes do not necessarily apply to the regional centers themselves. In addition, information provided to DHS concerning regional centers generally does not include regional center revenues or employment.

[68] See Section C.I. – Regional Centers investments made in FY 2021 and at the reduced amount, of $800,000.

amount of $80,000 per investor as a baseline.[69] This reliance is justified on grounds that almost all EB-5 activity has accrued to investments at the reduced threshold—which qualify for the current reduced investment requirement of $800,000 as opposed to the standard amount of $1,050,000.[70] For the period FY 2016 through FY 2025, there were 50,766 investments made under regional centers, of which almost all, 50,703, were made at the reduced amount.[71]

Second, regional centers can also collect marketing, sales fees and other charges and income owed to arrangements with their affiliated NCEs and JCEs. Some regional centers provide information concerning these activities in their business plans or amendments submitted to DHS, but it is not required, and DHS does not have sufficient official data on this source of income to support an analysis. Third, regional centers can earn residual income. They may capture income from the differential on the terms of the loans they bundle and what is returned to investors. There may also be return on investment in the forms of profit from the end-state economic activity being conducted by the JCE. Some of this return on investment may be split with other business entities involved, but DHS does not have an adequate amount of data involving interest or profit accruing to regional centers to assess this type of income.[72] To conduct the IRFA

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[69] The administrative fee is provided by regional centers in information provided to DHS. Almost all charge 10 percent though there are a few instances in which the fee is different. Information on the fees are captured in several DHS datasets, including INFACT.

[70] TEAs that qualify for the reduced amount apply to either rural areas or to areas with unemployment rates at least 150 percent of the national average. DHS makes the determination that an investment qualifies for the reduced amount when the Investor files the I-526 form. Investor petitions therefore need to contain sufficient evidence that the location of the actual job creation project meets the standards for the reduced investment threshold. Additional information can be found at: *https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/about-the-eb-5-visa-classification*. As a result of the 2022 Reform Act, the reduced investment threshold also applies to infrastructure investments.

[71] USCIS Office of Performance and Quality, C3, Electronic Immigration System (ELIS), Infact Databases (initial data Aug. 2, 2023, updated Dec. 31, 2025, PAER19897). While there is no guarantee that the same percentage will apply to the future, at this time the Department does not have evidence to suggest it would be substantially smaller. Some projects might not qualify for the high unemployment threshold, but this does not necessarily mean that they would not qualify for the reduced amount, as they could potentially substitute into a rural or infrastructure project.

[72] Another reason that it is difficult to assess income to regional centers from downstream projects, is that the affiliated NCE could be set up as limited partnership, and the regional center loan income accrues to a

analysis, DHS utilized the 640 approved regional centers that were in approval status at date the analysis was conducted (November 14, 2023).[73] to run their respective regional center names in subscription-based, open-source business data providers to obtain income information on the regional centers. The search yielded 339 viable record matches that included an income figure and a North American Industry Classification System (NAICS) code. The income data point provided is deemed "sales revenue" and it is our assessment that the income reported in these data is most likely revenue attributed to sales, marketing, and other related charges involved, and neither the administrative fees charged to investors nor profits on loans or investment. While the sample size of 339 is more than sufficient to satisfy a 95-percent level of confidence level and a 5-percent confidence interval based on the population size (640), the data pose a constraint. The NAICS codes are provided at the 6-digit detailed industry level, but half the entities (173, or 51.0 percent) reported code 999990, which benchmarks "Non-Classifiable Establishments." There is thus no SBA size standard to weigh against for small entity status.[74] As a result, there would only be 166 entities to support an analysis. To attempt to mitigate this shortcoming, DHS extended the search query for regional centers approved from FY 2016 through FY 2022. From the matches, DHS culled the results to remove duplicates from the initial search result (339 of the of the 640 current regional centers), plus records that did not include both or either of a NAICS code (including non-classifiable) or a sales figure. This cleansing process yielded 32 additional entities, which when added to the 166 initial valid matches, resulted in 198 entities. This figure is still below the optimal sample size of 241, but the charge to precision is not overly

general partner that may not be the regional center itself. Stated differently, there can be a degree of separation in linking the regional center and its residual income.

[73] USCIS, "Approved EB-5 Immigrant Investor Regional Centers," *https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-immigrant-investor-regional-centers/approved-eb-5-immigrant-investor-regional-centers* (last updated Feb. 13, 2025).

[74] In addition to the NAICS code and concomitant industry, the data providers also can provide a "business description" based on their assessment of the business. For the non-classifiable entities, there was no additional information provided that could be useful in making an industry inference.

debilitating, as the margin of error is 5.8 percent instead of the desired 5.0 percent. As DHS will discuss, out of necessity of the constraints faced, the assessment is conducted along several different and unconventional paths. Hence, Table 17 presents metrics (in terms of the income alone from the web-based data) for both the "full" sample group (339 currently approved regional centers that are both classifiable and non-classifiable plus the 32 records obtained in the ancillary search) as well as the "restricted" (classifiable-only) group.

Table 17. Metrics for Revenue Data for RCs (FY 2016 through FY 2022).

Group	Full	Restricted
Entities (RCs)	371	198
Median	$129,275	$89,380
Mean	$447,811	$276,695
Minimum	$12,980	$12,980
Maximum	$12,370,000	$12,370,000

USCIS analysis (Nov. 14, 2023).

The large differences captured as the medians being below the means are indicative of non-normal, positively skewed data structures in which a small number of large values exert disproportionate weight on the means, as further indicated by the extreme ranges. As seen in Table 18, there are also differences between the means and the medians across the two sample-groups.

Having valid data on regional center sales revenue, DHS turns to the next income source, administrative fees charged to investors. To conduct this module of the assessment, DHS queried internal EB-5 data repositories to obtain a figure for the number of investors for the regional centers acquired in the above module. A proxy for the number of investors is developed as the number of Form I-526 filings submitted under the purview of the regional center.[75] Key statistics applicable to investors are provided in Table 18.

Table 18. Statistics for Investors per-RC,		
Group	**Full**	**Restricted**
Entities (RCs)	371	198
Median	13	17
Mean	122	181
Minimum	1	1
Maximum	4, 430	4,430
USCIS analysis (Nov. 14, 2023).		

As was the case with regional center sales revenue, the substantial differences between the means and medians, as well as the extreme range, demonstrate that the number of investors per regional center is also a non-normal distribution that is positively skewed.

DHS multiplied the number of investors by the reduced $80,000 fee to capture an estimate of total administrative fees by regional center.[76] DHS next added this figure to sales revenue found in the subscription-based data. In addition, it cannot be ruled out that regional centers pass the Integrity Fund fees onto the investors as well. For regional centers with 20 or fewer total investors, DHS included the $10,000 fee and for those with more than 20 total investors, a $20,000 fee was added. By combining these components,

[75] There is a caveat to relying on the number of Form I-526 approvals as a proxy for regional center investors. Some individual investors may file more than one Form I-526, which could arise when an initial investment filing is denied for some reason or is not undertaken and a new investment under the regional center is promulgated. DHS does not know if the regional center would collect an additional administrative fee under this scenario, so it is possible that the basing such fee revenue on the number of investor petitions under their purview may overstate this revenue.

[76] DHS notes that a small portion (1.36 percent) of RC investments were made at the standard investment amount of $1.05 million. Therefore, based on a standard 10 percent administrative fee, $10.8 million can be thought of as the maximum amount by which our ensuing estimates of RC income are understated. This discrepancy alone would not likely change the ensuing small entity determination. This maximum amount would be allocated along some type of distribution to all RCs that actively invested between FY 2016 through FY 2021 and then extrapolated to our small pool of RCs. If Some RCs had multiple investments in non-TEA areas (which is generally very rare) then it is possible that some individual RCs may have their total income understated.

DHS was able to make a revenue estimate for the sample of regional centers. Of the full sample, it is determined that 48.5 percent pay the $10,000 fee and that 51.5 percent pay $20,000, which based on the annual population of 640 (at the time the analysis was conducted), would be 310 and 330 regional centers, in order. The breakdown could be slightly different, as the number of investors is based on the Form I-526 submissions under the purview of the regional center, as DHS did not calculate the total based on the adjustment applicable to Form I-829 filings associated with the regional center discussed in the preamble. Given the data constraints discussed thus far, for robustness we will assess the entities' small entity status along three different methodological approaches. While DHS has the listed NAICS codes for the 198 classifiable entities, DHS extensively reviewed various NAICS codes and determined that the 6-digit, detailed industry NAICS code 522310, Mortgage and Nonmortgage Loan Brokers, defined as an "industry [that] comprises establishments primarily engaged in arranging loans by bringing borrowers and lenders together on a commission or fee basis," is an appropriate NAICS code under which regional centers operate.[77]

By this DHS means that while the NAICS code provided in the data often applies to the types of downstream projects that the regional centers gear loans toward, the regional center is usually not involved directly in those activities and is rather involved in bundling the investors' funds into loans. The year 2022 SBA size standard for the NAICS category chosen is based on revenue of $15.0 million.[78] Of the actual NAICS codes provided for classifiable industries, half accrued to several 6-digit codes under the 3-digit subsector 523, "Securities, Commodity Contracts, and Other Financial Investments and

[77] Where NAICs codes for regional centers were provided in the data, some were different than 522310, but we believe that this singular code is appropriate. While the regional center loans apply to different types of projects under different industries, as a general matter the regional center itself is not involved in those activities and is responsible for arranging and structuring the loans for the parties involved. The description can be found at: *https://www.census.gov/naics/*.

[78] SBA size standards effective: March 17, 2023, located at SBA, "Table of size standards," *https://www.sba.gov/document/support-table-size-standards* (last updated Dec. 26, 2024).

Related Activities." The data providers describe these entities as "investment services" in the "business description" tab and all the individual industries in NAICS subsector 523 ensconce a size standard of $47.0 million. The difference between the size standards ($15.0 million and $47.0 million) is large, and therefore for robustness we will evaluate the full sample of entities under each of the respective amounts. DHS also evaluates the restricted sample based on the actual NAICS code listed in the data. The results are presented in Table 19.

Table 19. Metrics for Regional Center Income.

Group		Full	Full	Restricted
RCs		371	371	198
Business Activity		Mortgage & Nonmortgage Loan Brokers	Investment Services	Actual NAICS code provided
Size standard		$15.0 M	$47.0 M	Varies
Median		$1,302,810	$1,302,810	$1,725,660
Mean		$10,028,770	$10,028,770	$14,973,215
Minimum		$107,495	$107,495	$107,495
Maximum		$359,685,572	$359,685,572	$359,685,572
Small Entities	Number	**323**	**356**	**173**
	Percent	**87.1**	**96.0**	**87.4**

USCIS analysis (Nov. 14, 2023).

As can be seen from Table 19 the median and means for the restricted sample-group are smaller than that for the full sample-group. As would be expected, the percentage of regional centers that are small is larger at the higher size standard of $47 million under general investment services. However, still the large majority is small at the lower size standard. Based on these data, DHS can determine that a majority—at a minimum, 87.1 percent—of EB-5 regional centers are small entities in the context of the RFA.[79]

There are two important caveats to the determination made above; however, which taken together could have a net effect of reducing or increasing the number and percentage of regional centers that are small entities. As was noted earlier, this determination did not consider income accruing to interest income on loans or end-user derived profit that regional centers could collect, as DHS does not have sufficient data to support an analysis concerning such income. Such loan differential or profit income could be substantial and could reduce the true small entity share. But a limitation of this analysis that could have a countervailing effect owes to the timing of investments and administrative fees. In practice the administrative fees need not be collected in one year, as investments and fees could be collected over multiple years. However, DHS abridged all the regional center income to one year. It would be extremely difficult given the data structures we queried for this analysis to attempt to incorporate a time dimension to the income stream as it pertains to administrative fees. DHS is unable to conduct a distributional analysis of the potential impacts to small entities of regional centers. Specifically, for the set of 173-found small entities with matched revenue data, it is conceptually possible to divide into the income for each entity the impacts from the rule, to derive a percentage of income the impact could embody. DHS estimates that a seven percent rate of discount, the impacts that could accrue to EB-5 entities (i.e., filing fees and increases in form time burdens) could be about $3 million annually.

[79] In the 2022/2023 fee rule, USCIS could not determine at the time if RCs were large or small. The different determination in this IRFA (based on the data and analysis and considering the caveat noted above) is driven by two factors. First and foremost, when the FY 2022/2023 fee rule analysis was conducted, very few regional centers were found in the databases utilized to assess income (which was also the case going back to the FY 2020 EB-5 Modernization rule, at 84 FR 35750 (July 24, 2019)). In the current databases there are many more regional centers listed and there is more data on the ones that are listed. Second, USCIS economists reviewed an internal USCIS-IPO database that captures more data on regional centers and affiliated businesses/activities. This database provided more data and information to analyze for impacts, enabled better searches and matching, and allowed us to root out both false positives and false negatives. The resulting analysis is thus more robust.

In practice, the costs would be higher, but DHS cannot estimate costs. However, we have no way of distributing the quantified costs across regional centers and therefore cannot determine how they will be impacted. As it relates to regional centers, the fee changes applicable to the Form I-956 (initial and amendment) could be divided against entity income—although this would rest on the tenuous assumption that the initial and amendment filing were in the same year. However, this would constitute only a partial impact because DHS does not know how activity related to the other forms applicable to regional center activity would impact the business entity. The other forms would be filed by individuals, and we do not know if some of the impacts would be borne by the regional center, transferred to them, or passed through to other entities. As a result, DHS cannot determine what the impact to small entity regional centers would be.

ii. Other EB-5 Businesses

For nonregional center businesses involved in investment activity, DHS employed out of necessity an unconventional, multi-step approach to the small entity analysis. First, DHS was able to obtain about 5,000 unique NCE names and about 3,000 JCE names that were approved between FY 2018 through FY 2022 from the internal EB-5 program data and tracking databases. These entities were pooled and randomly scrambled to source and to run searches in the subscription-based, open-source business information providers on 400 of them, to attempt to satisfy a 95-percent level of confidence.[80] The searches yielded only 111 results that could reasonably be validated as matches. One of the challenges is that it can be difficult to match syntax in the entity names between DHS records and that in the other sources. The data providers relied upon match queries to results with close-fitting precision, but because there can be minor syntax differences in the names of the

[80] The annual average for NCEs was 5,672 (Table 3). NCEs do not map one-to-one to JCEs, but since there are at least as many of the latter as the former, we consider the population to be 11,344, for which the sample size required to satisfy a confidence level of 95 percent is 372.

businesses in these providers and DHS record systems, there is a strong likelihood a match would not result.[81]

In addition to the low match-rate, two additional challenges were encountered. First, DHS faced the same issue as we did for regional centers; over one-third of the entities (42, or 37.8 percent) were non-classifiable and therefore incompatible to evaluate against an SBA size standard for status. Second, of the classifiable businesses, almost one-fifth (13, or 18.8 percent) were missing either or both of a NAICS code or a revenue figure. These constraints rendered the sample size down to a mere 56 entities.

Given the challenges elucidated above, DHS employed an unconventional second-step approach. DHS ran queries against "variations" of the term "EB5" separately, which yielded 885 returns. We engaged a filtering process that first removed records with missing data (either or both of sales revenue or NAICS codes) and removed non-classifiable establishments. DHS then backed out likely regional centers first by culling any results that contained the conjoined terms "regional" and "center." DHS next bolstered this filtering process by further eliminating any regional center names either captured in our sample of regional centers, from that above module of this RFA, or that were otherwise approved in the past but are not currently active. Finally, DHS manually appraised each remaining entity and removed those that reasonably appeared to be businesses not directly involved with program investment activity. These ancillary activities would primarily ensconce law firms, business advisories, or analytical consultancies that provide services to program businesses, but are themselves assumed to not be directly involved in the investment activity of the program. The filtering schema is summarized in Table 20, which shows the stepwise method. By adding the two subtotals

[81] Of course, the converse—false positives—can occur as well, such as in a case where the provider matches a named entity to a DHS-recorded entity when in fact the true name is slightly different.

shown, we obtain a viable sample of 489, which is more than sufficient to satisfy a confidence level of 95 percent.

Table 20. Methodology Applicable to NCEs/JCEs		
	Step 1: Search 400 random pooled NCE/JCE names (FY 2018 through FY 2022)	**+111**
less	a) Entities missing sales revenue or NAICS code	- 42
	b) Non-classifiable establishments	-13
	Step 1 Subtotal	**56**
	Step 2: Boolean search of program terms[82]	**+885**
Less	a) Entities missing sales revenue or NAICS code	-28
	b) Non-classifiable establishments	-316
	c) Entities with conjoined terms “regional” and “center”	-62
	d) Other explicit regional center names (from DHS records)	-27
	e) Ancillary EB-5 service providers	-19
	Step 2 Subtotal	**433**
	Grand total for IRFA analysis (sum of subtotals)	**489**
USCIS analysis (Nov. 14, 2023).		

As was mentioned above, the JCEs and NCEs were pooled in the first-step query, and for the 433 additional entities resulting from the second-step query, we assume that most or all of them are JCEs and NCEs, though DHS cannot distinguish which are specifically NCEs and which are JCEs. It is ultimately unimportant to distinguish them, because, unlike the approach to regional centers in which we relied on several evaluation methods—including imputing a NAICS codes based (twice) on the single industry description we believe best fits—for the non-regional center businesses we based the NAICS codes solely on a single trial benchmarked to the reported NAICS code. The results of the analysis are captured in Table 21.

[82] The searches included the variations: “EB5,” “EB-5,” and “EB 5.”

Table 21. Small Entity Statistics for non-regional Center EB-5 businesses		
Median		$95,550
Mean		$1,505,046
Minimum		$944
Maximum		$660,424,990
Small Entities	**Number**	**488**
	Percent	**≈100**
USCIS analysis (Nov. 14, 2023).		

While there is an extreme range for the income, only 1 entity (the maximum) exceeded the applicable SBA size standard, which essentially means that 100 percent are small. However, as was the case with regional centers, we do not know if the income applicable to these businesses is limited to the reported sales revenue. If they receive some income from lending activity, or some other form of return in profits, the results could be quite different as potentially not all would be small entities.

DHS is unable to conduct a distributional analysis of the potential impacts to small entities. Specifically, for the set of 488 small entities with matched revenue data, it is conceptual to divide into the income for each. These gross impacts constitute transfers and costs. As it relates to the businesses, the fee changes applicable to the forms would accrue to individuals filing the petitions. DHS cannot say if and how these impacts would impact the related businesses involved and hence cannot determine what the impact to small entities would be.

iii. Concluding Remarks

The IRFA that DHS certified to support the proposed rule, and the FRFA that DHS prepared for this final action, suggests that the majority—at least 87 percent of regional centers and essentially all other directly involved business entities (which to the best of our assessment would comprise NCEs and JCEs) involved in EB-5 program investment activity—could be small entities. However, it is emphasized that this determination is made on incomplete information, as sufficient data are not available on certain types of income that could accrue to such entities. To provide some context to this caveat, DHS evaluated 1,402 EB-5 projects in which an investment was conducted through a JCE between FY 2018 through FY 2022, for which viable data could be extracted on the amount of capital invested. The median, average, and maximum amount of program-specific capital was $7.0 million, $67.2 million, and $11,070.0 million, in order. A little less than a quarter (22.2 percent) blended nonprogram capital. For the blended capital projects, the figures, in order again, were $52.2 million, $327.5 million, and $12,585.7 million. From the size of these figures alone, it is reasonable to conjecture that if even a small portion of the loan amount or invested capital is renumerated as residual income, the number and share of entities that are small would be lower than that found in our analysis. For example, the large financial services and advisory company, Deloitte, found that the general average rate of return on investments in 2021 was about 6.1 percent.[83] Applied to the average and maximum blended capital investments above, the return could be between $6.5 million and $767 million. If some, or all, of this potential return were captured by regional centers or other businesses, the share that would be small would almost certainly stand to be lower.

A second caveat to the determinations made in this FRFA is that DHS relied on alternative methodologies. As such, the findings are based on samples that are only partially random. The reason, it is recalled, is that the randomized procedures did not yield sufficient sample sizes, and while there is no reason to assume that there is any reporting or selection bias in the nonrandom-sampled portions, it cannot be completely

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[83] *See* Deloitte, "2021 Study of Economic Assumptions," pp. 8-9 (2021), https://www2.deloitte.com/content/dam/Deloitte/us/Documents/human-capital/us-2021-study-of-economic-assumptions.pdf.

ruled out either. As described in the associated economic analysis, the impacts of the fee changes would accrue to transfers from requestors to DHS. The potential penalties associated with the Integrity Fund fees, which are not estimated, would be accounted for as costs due to the EB-5 Reform Act. As was noted in Section VI.B.2.C.i of this small entity analysis, we treated Integrity Fund fees as income to regional centers, even though it is a cost to them, on grounds that they may attempt to pass some of those costs through to investors or other businesses. It is noted here that from a double-entry accounting perspective, an income flow earmarked to a cost could be considered a net zero-value transaction. But under the RFA purview, the flow would still be considered an income credit against the applicable SBA size standard (this is the case with the administrative fees—the regional center pays for the services embodied but then passes all or some of it to investors, and it is therefore income).

Therefore, any such costs and transfers that regional centers or other businesses would incur from the changes that are transferred or passed through to other entities could also affect the small entity determinations for EB-5 businesses. For example, we have no evidence to suggest, but cannot rule out, that for some entities the applicable fee changes might be large enough that they might be passed to investors or other entities.

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

DHS does not believe that this final rule will impose additional reporting, recordkeeping, and other compliance requirements on individuals and businesses participating in the EB-5 program. While there may be impacts to small entities, these are not likely to involve reporting that requires professional skills.

f. A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

The fees were determined via a specific fee study. Their level would: enable DHS to recover the costs of administering the EB-5 program; meet the EB-5 processing time goals as provided in the EB-5 Reform Act, and; make improvements to the information technology systems used by DHS to administer the EB-5 program.

Because the fee structure is derived directly from the cost-study, which is mandated by the EB-5 Reform Act, DHS considered, but did not adopt, reduced fees for small businesses, because USCIS is almost entirely dependent on user fees. Moreover, charging less in fees (including different fees for businesses based on size) could potentially impact processing times, which could stand in contrast to process time goals outlined in the EB-5 Reform Act. Additionally, given the challenges in this RFA described above, applicable to the sampling procedures, data and information completeness, and unclassifiable entities, it would be very difficult and probably subjective for DHS to come up with an easily administrable definition of “small business” for the purpose of charging lower fees for small businesses vs. larger businesses. As a result, it would be challenging and subjective to attempt to present alternatives that could achieve the objectives of the EB-5 Reform Act, continue to adequately fund the cost of administering the EB-5 program, and reduce burdens on small entities such as: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) The use of performance rather than design standards; and (4) An exemption from coverage of the rule, or any part thereof, for such small entities. DHS solicited suggestions from the public on alternatives or ways in which small entities' burdens could be reduced and considered a wide range of percentages for the late Integrity Fund fee penalties from zero to a higher amount.

C. Unfunded Mandates Reform Act of 1995 (UMRA)

The Unfunded Mandates Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded federal mandates on State, local, and Tribal governments.[84] Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed rule, or final rule for which USCIS published a proposed rule, which includes any Federal mandate that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. *See* 2 U.S.C. 1532(a).

This rule does not exceed the $100 million expenditure in any one year when adjusted for inflation ($211 million in 2025 based on the Consumer Price Index for All Urban Consumers (CPI-U)[85]), and this rulemaking does not contain such a federal mandate as the term is defined under UMRA. The requirements of title II of UMRA therefore do not apply, thus DHS has not prepared a statement under UMRA.

[84] The term "Federal mandate" means a Federal intergovernmental mandate or a Federal private sector mandate. *See* 2 U.S.C. 1502(1) and 658(5) and (6).

[85] *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-202512.xlsx* (last visited Sept. 2, 2026). Calculation of inflation: (1) calculate the average monthly CPI-U for the reference year (1995) and the current year (2025); (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 2025–average monthly CPI-U for 1995)÷(average monthly CPI-U for 1995)]×100=[(321.943 –152.383) ÷152.383]=(169.560/152.383)= 1.113×100=111.3 percent=111 percent (rounded). Calculation of inflation-adjusted value: $100 million in 1995 dollars×2.11=$211 million in 2025 dollars.

D. Congressional Review Act (CRA)

The Congressional Review Act (CRA) was included as Subsection E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104-121, 110 Stat. 847, 868, *et seq*. Based on DHS's assessment, the Office of Information and Regulatory Affairs has determined that this final rule is not a major rule as defined under the CRA in 5 U.S.C. 804(2). This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or an ability of the United States-based companies to compete with foreign-based companies in domestic and export markets. *See* 5 U.S.C. 804(2). Therefore, DHS may forgo the CRA's 60-day delayed effective date requirement. However, DHS for implementation purposes has provided for a 60-day delayed effective date with this final rule. DHS has complied with the CRA's reporting requirements and has sent this rule to Congress and to the Comptroller General as required by 5 U.S.C. 801(a)(1).

E. Executive Order 13132 (Federalism)

This final 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, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988 (Civil Justice Reform)

This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Family Assessment

DHS has assessed this final action in accordance with section 654 of the Treasury General Appropriations Act, 1999, Public Law 105-277, Div. A. Accordingly, DHS has assessed this action in accordance with the criteria specified by section 654(c)(1).

DHS has no data that indicate that this final rule will have any impacts on disposable income or the poverty of certain families and children, including U.S. citizen children. DHS acknowledges that this rule will increase the fees that some EB-5 program investors' (and thus their families) must submit and thus it may affect the disposable income for certain families. However, the final rule will provide USCIS with funds that will be used to administer the EB-5 investor program, meet the statutory processing times, and fund free and reduced fee services USCIS provides to abused children and spouses, refugees, victims of criminal activity or human trafficking, and other populations. DHS is required to administer the EB-5 program, is authorized to set and collect fees, and receives no funding to do so aside from the revenue generated by charging fees. While those fees could have a financial impact on a family that chooses to become an investor in an EB-5 program project, DHS has no alternatives other than this rulemaking. DHS also determined that this final rule will not have any impact on the autonomy or integrity of the family as an institution.

H. Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments)

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

I. National Environmental Policy Act (NEPA)

DHS and its components analyze final actions to determine whether the National Environmental Policy Act (NEPA), Pub. L. 91-190, 83 Stat. 852 (1970) (codified at 42 U.S.C. 4321-4347), applies to them and, if so, what degree of analysis is required. DHS "Implementation of the National Environmental Policy Act", Directive 023-01, Revision 01 (Directive 023-01)[86] and "Instruction Manual 023-01-001-01 Revision 01, Implementation of the National Environmental Policy Act" (Instruction Manual)[87] established the procedures that DHS and its components use to comply with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, 40 CFR parts 1500 through 1508.

The CEQ regulations allow Federal agencies to establish, with CEQ review and concurrence, categories of actions ("categorical exclusions") which 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). 40 CFR 1501.4, 1507.3(e)(2)(ii), 1508.1(d).

The Instruction Manual, Appendix A, Table 1 lists Categorical Exclusions that DHS has found to have no such effect. Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.[88]

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[86] *See* DHS *Implementation of the National Environmental Policy Act*, Directive 023-01, Revision 01 (Oct. 31, 2014), available at: https://www.dhs.gov/sites/default/files/publications/DHS_Directive%20023-01%20Rev%2001_508compliantversion.pdf

[87] *See* DHS *Instruction Manual* 023-01-001-01, Revision 01, Implementation of the National Environmental Policy Act (NEPA) (Nov. 6, 2014) available at: https://www.dhs.gov/sites/default/files/publications/DHS_Instruction%20Manual%20023-01-001-01%20Rev%2001_508%20Admin%20Rev.pdf

[88] *Instruction Manual 023-01* at V.B(2)(a)–(c).

This final rule is limited to amending DHS regulations governing the EB-5 program and its fees. As such, DHS has reviewed this final rule and finds that no significant impact on the environment, or any change in environmental effect will result from the amendments being promulgated in this rule.

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

J. Paperwork Reduction Act (PRA)

Under the PRA, 44 U.S.C. 3501-3512, DHS must submit to OMB, for review and approval, any reporting requirements inherent in a rule unless they are exempt. DHS published a notice of proposed rulemaking at 90 FR 48516 on October 23, 2025, in which comments on the impacted information collections associated with this rulemaking were requested. DHS responded to those comments in Section IV. of this final rule. **Table 21** below lists the summary of information collections that are part of this final rule.

Table 21: Information Collections

OMB Number	Form Number	Form Name	Type of PRA Action
1615-NEW	I-527	Amendment to Legacy Form I-526	New Collection
1615-0045	I-829	Petition by Investor to Remove Conditions on Permanent Resident Status	Revision of a Currently Approved Collection

List of Subjects

8 CFR Part 106

Citizenship and naturalization, Fees, Immigration.

8 CFR Part 216

Administrative practice and procedure, Aliens.

Accordingly, DHS amends chapter I of title 8 of the Code of Federal Regulations as follows:

PART 106—USCIS FEE SCHEDULE

1. Revise the authority citation for part 106 to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1153, 1254a, 1254b, 1304, 1356, 1801—1815; 48 U.S.C. 1806; Pub. L. 107-609, 115 Stat. 1012; Pub. L. 107-296, 116 Stat. 2135 (6 U.S.C. 101 note); Pub. L. 114-113, 129 Stat. 2242 (49 U.S.C. 40101 note); Pub. L. 115-123, 132 Stat. 64.

2. Amend § 106.2 by:

a. Revising paragraphs (a)(25), (53), and (66) through (70);

b. Redesignating paragraph (d) as paragraph (e); and

c. Adding a new paragraph (d).

The revisions and addition read as follows:

§ 106.2 Fees.

(a) ***

(25) *Immigrant Petition by Standalone or Regional Center Investor, Forms I-526 and I-526E*. To petition USCIS for status as an immigrant to the United States under section 203(b)(5) of the Act. The fee for this request is provided in paragraph (d) of this section.

* * * * *

(53) *Petition by Investor to Remove Conditions on Permanent Resident Status*, *Form I-829*. For a conditional permanent resident who obtained status through qualified investment to remove the conditions on their residence. The fee for this request is provided in paragraph (d) of this section.

* * * * *

(66) *Application for Regional Center Designation, Form I-956*. To request designation as a regional center or to request an amendment to an approved regional center. The fee for this request is provided in paragraph (d) of this section.

(67) *Application for Approval of Investment in a Commercial Enterprise, Form I-956F*. To request approval of each particular investment offering through an associated new commercial enterprise. The fee for this request is provided in paragraph (d) of this section.

(68) *Regional Center Annual Statement, Form I-956G*. To provide updated information and certify that a regional center under the Immigrant Investor Program has maintained its eligibility. The fee for this request is provided in paragraph (d) of this section.

(69) *Bona Fides of Persons Involved with Regional Center Program, Form I-956H*. For each person involved with a regional center to attest to their compliance with section 203(b)(5)(H) of the Act. The fee for this request is provided in paragraph (d) of this section.

(70) *Registration for Direct and Third-Party Promoters, Form I-956K*. For each person acting as a direct or third-party promoter (including migration agents) of a regional center, any new commercial enterprises, an affiliated job-creating entity, or an issuer of securities intended to be offered to immigrant investors in connection with a particular capital investment project. The fee for this request is provided in paragraph (d) of this section.

* * * * *

(d) *EB-5 fees*--(1) *Petition Fee*. Individuals filing a petition for classification under INA section 203(b)(5)(E) must submit $1,100 in addition to any other fees associated with such petition.

(2) *Immigrant Petition by Standalone or Regional Center Investor, Forms I-526 and I-526E*. To petition USCIS for status as an immigrant to the United States under section 203(b)(5) of the Act.

(i) Immigrant Petition by Standalone Investor, Form I-526: $7,615.

(ii) Immigrant Petition by Regional Center Investor, Form I-526E initial filing: $7,850.

(iii) Immigrant Petition by Regional Center Investor, Form I-526E amendments: $7,775.

(iv) Each Form I-526 and initial filing of Form I-526E requires an additional USCIS EB-5 Technology Fee of $75, which is included in the fees provided in paragraphs (d)(2)(i) and (ii) of this section.

(3) *Amendment to Legacy Form I-526, Form I-527*. For investors who filed their petitions before the EB-5 Reform Act was enacted to amend their petition to retain their eligibility after their regional center is terminated or their new commercial enterprise or job-creating entity is debarred. $10,330.

(4) *Immigrant Petition by Investor to Remove Conditions on Permanent Resident Status, Form I-829*. For a conditional permanent resident who obtained status through qualified investment to remove the conditions on their residence. $5,000.

(5) *Application for Regional Center Designation*, *Form I-956*. To request designation as a regional center or to request an amendment to an approved regional center.

(i) For initial filing: $44,115.

(ii) For filing amendment: $9,835.

(6) *Application for Approval of Investment in a Commercial Enterprise, Form I-956F*. To request approval or an amendment to each particular investment offering through an associated new commercial enterprise. $42,675.

(7) *Regional Center Annual Statement*, *Form I-956G*. To provide updated information and certify that a Regional Center under the Immigrant Investor Program has maintained its eligibility, amend or supplement a prior filing. $2,165.

(8) *Bona Fides of Persons Involved with Regional Center Program, Form I-956H*. For each person involved with a regional center to attest to their compliance with section 203(b)(5)(H) of the Act. $65.

(9) *Registration for Direct and Third-Party Promoters, Form I-956K*. For each person acting as a direct or third-party promoter (including migration agents) of a regional center, any new commercial enterprises, an affiliated job-creating entity, or an issuer of securities intended to be offered to immigrant investors in connection with a particular capital investment project. $2,165.

(10) *EB-5 Integrity Fund Fees and Penalties*--(i) *Regional Center Annual Fee*. On October 1 of each year, designated regional centers must submit:

(A) $22,000; or

(B) $11,000 if the regional center has 20 or fewer total investors in its new commercial enterprises as of the last day of the preceding fiscal year.

(C) For the purposes of this section, total investors:

(*1*) Means the number of individuals who have invested or are actively in the process of investing in a regional center's new commercial enterprises that have been classified or are seeking classification under section 203(b)(5) of the Act minus the number of such individuals who have filed a petition to remove conditions based on such investment under section 216A of the Act.

(*2*) Does not include any individual whose petition for classification was denied, withdrawn, or revoked or whose conditional lawful permanent resident status was otherwise terminated before filing a petition for removal of conditions.

(D) This fee must be paid online at *Pay.gov* following the instructions at that website for the Annual Fee for Regional Center payment, or as may be provided by USCIS under § 106.1(b).

(ii) *Penalties for Failure to Submit Regional Center Integrity Fee*. (A) If a regional center does not pay the fee on or before October 31 of each year and instead pays the fee from November 1 until the end of the day on November 30, a monetary penalty equal to 10 percent of the required fee will be imposed on the regional center.

(B) If a regional center does not pay the fee on or before November 30 and instead pays the fee from December 1 until the end of the day on December 30, a monetary penalty equal to 20 percent of the required fee will be imposed on the regional center.

(C) If a regional center does not pay the fee plus any applicable penalty on or before December 30, USCIS will terminate the designation of such regional center.

(*1*) Prior to termination, USCIS will send a notice of intent to terminate and provide the opportunity for a regional center to prove that the fee and applicable late fees were paid in the proper amount on or before December 30.

(*2*) Termination of a regional center under paragraph (d)(10)(ii)(C) of this section may be appealed as provided by 8 CFR 103.3.

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PART 216—CONDITIONAL BASIS OF LAWFUL PERMANENT RESIDENCE STATUS

3. The authority citation for part 216 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1154, 1184, 1186a, 1186b, and 8 CFR part 2.

4. Amend § 216.6 by revising paragraph (a)(1)(ii) to read as follows:

(a) * * *

(1) * * *

(ii) An investor may include their spouse and children on a petition to remove conditions if the spouse and children obtained conditional permanent resident status based on their relationship to the investor. If the investor's spouse and children are not included on the investor's petition to remove conditions, the spouse and each child must each file their own petition to remove the conditions on their permanent resident status, unless the investor is deceased. Any spouse or child not included on the investor's petition to remove conditions may file a petition to remove the conditions on their residence at any time during the period when the investor is required to file a petition to remove conditions.

(A) If the investor is deceased, the spouse and children may file separate petitions or may be included in one petition. In either case, the spouse and child must file the petition(s) at any time during the period when the investor would have been required to file a petition to remove conditions and establish eligibility to remove conditions.

(B) An investor may include any child who turned 21 years of age or married during the period of conditional permanent resident status on their petition to remove conditions. If the investor does not include the child on their petition to remove conditions, the child must file their own petition to remove conditions.

(C) An investor may include a former spouse who was divorced from the investor during the period of conditional permanent resident status on their petition to remove conditions. If the investor does not include the former spouse on their petition to remove conditions, the former spouse must file their own petition to remove conditions.

(D) If an investor does not file a petition to remove conditions, any spouse, former spouse, or child that obtained conditional permanent resident status based on their relationship to the investor may remove the conditions on their status if they can establish eligibility to remove conditions. The spouse, former spouse, or child must file the petition(s) at any time during the period when the investor would have been required to file a petition to remove conditions.

* * * * *

Markwayne Mullin,
Secretary,
U.S. Department of
Homeland Security.

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