

U.S. Department of Homeland Security

# Retrospective Review of Existing Regulations – Progress Report

February 2015



# U.S. Department of Homeland Security (DHS)

## Retrospective Review Plan Report

### February 2015

Agency	Sub-agency	Title Of Initiative/Rule or ICR	RIN/OMB Control Number	Summary of Initiative	Status of Initiative -- New to this update, Ongoing, or Completed	Target Completion Date (if completed, please add the publication date and cite in Federal Register for example)	Does the Initiative include pilot projects, safe harbor exemptions, sunset provisions, trigger provisions, streamlined requirements, state flexibilities, or other similar strategies?	Does this initiative employ any type of experimental design y/n?	If so, please briefly describe	What methods will you engage in to Identify Improvements (public comment, analyses, third party assessments, etc). Please identify all that apply	If Available, anticipated or realized savings in costs &/or burdens and anticipated or realized changes in benefits
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**DHS Initiative – ITDS.** In addition, pursuant to the November 19, 2014 PMC Memorandum, each agency has to identify one of its two new regulations/initiatives in this Retrospective Review Update. Accordingly, for one of DHS’s two initiatives, DHS would like to highlight the **International Trade Data System (ITDS) initiative.** DHS, in coordination with the Department of the Treasury is leading a whole-of-government effort to develop the ITDS, a national “Single Window” through which businesses will submit the data required for international trade transactions. This information communication technology platform will allow businesses to provide a single, simplified set of electronic data to fulfill regulatory and administrative requirements of multiple government agencies. This effort will result in substantial burden reduction by significantly decreasing paperwork obligations. CBP is undertaking many efforts to support ITDS, including conducting pilots and possibly ultimately issuing a regulation to transition certain filings from paper to electronic. See the entry for the CBP initiative titled *Changes to CBP Outbound Manifest Procedures to Allow for Electronic Filing*.

#### NEW

DHS	Federal Emergency Management Agency (FEMA)	<a href="#">Removal of Environmental Considerations Regulations</a>	No RIN Available	FEMA is proposing to remove its environmental considerations regulations because DHS instituted procedures for environmental considerations that apply Department-wide (including FEMA) in a new Directive and Instruction. FEMA will issue a new directive and manual simultaneously with removal of the regulations.	New	Publication of the Notice of Proposed Rulemaking (NPRM) expected in Fall 2015.	No	No	N/A	<ul style="list-style-type: none"> <li>Public comment</li> </ul>	<ul style="list-style-type: none"> <li>This would result in no cost as the removal of FEMA's regulations are conforming to DHS's Department-wide Directive and Instruction.</li> <li>This would reduce confusion for the public by removing outdated regulations.</li> </ul>
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#### ONGOING

DHS	U.S. Customs & Border Protection (CBP)	<a href="#">Changes to CBP Outbound Manifest Procedures to Allow for Electronic Filing</a>	No RIN Available	This initiative will provide for the electronic filing of outbound manifest information. The current regulations require paper filing. This initiative is being developed pursuant to Executive Order 13659 (Streamlining the Export/Import Process for America's Businesses).	Ongoing	Completion date for air transportation pilot is Fall 2015.	Pilot programs	Yes	CBP plans to conduct pilot programs for various modes of transportation where the regulations, in some instances, do not currently afford the option of filing manifest information electronically.	<ul style="list-style-type: none"> <li>Analysis of pilot study</li> <li>Public comment</li> </ul>	<ul style="list-style-type: none"> <li>Provide filers with more flexibility by allowing the outbound manifest information to be filed electronically or by paper.</li> </ul>
DHS	CBP	<a href="#">Technical Amendments to Clarify U.S. Customs and Border Protection Regulations on Advance Electronic Information for Cargo Exported from the United States</a>	No RIN Available	This rule would amend CBP regulations to clarify requirements for mandatory filing of advance export cargo information through an electronic system. This regulation is being developed pursuant to Executive Order 13659 (Streamlining the Export/Import Process for America's Businesses).	Ongoing	Publication of the rule expected in Fall 2015.	No	No	N/A	<ul style="list-style-type: none"> <li>Public comment</li> </ul>	<ul style="list-style-type: none"> <li>Reduce confusion (and potentially saves time and effort for the public) by putting updated regulations in place</li> <li>Would result in no costs, as these are conforming regulations.</li> </ul>

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DHS	U.S. Citizenship & Immigration Services (USCIS)	<u>Immigration Benefits Business Transformation: Nonimmigrants: Students and Exchange Visitor Program</u>	1615-AB95	This rulemaking primarily focuses on 8 CFR Part 214, which covers the nonimmigrant classes, including the requirements for admission, extension, maintenance of status, and the Student and Exchange Visitor Information System (SEVIS).	Ongoing	Publication of the Final Rule expected in Spring 2015.	No	No	N/A	<ul style="list-style-type: none"> <li>Public comment</li> </ul>	<ul style="list-style-type: none"> <li>Provide the public with a more user-friendly organization of regulatory requirements.</li> <li>Reduce public confusion.</li> </ul>
DHS	USCIS	<u>Professional Conduct for Practitioners: Rules, Procedures, Representation and Appearances</u>	1615-AA58	On February 2, 2010, DHS published an interim rule with request for comments, implementing amendments to its regulations to conform the grounds of discipline and procedures regulations with those promulgated by the Department of Justice (DOJ); clarify who is authorized to represent applicants and petitioners in cases before DHS; remove duplicative rules, procedures, and authority; improve the clarity and uniformity of existing regulations; make technical and procedural changes; and conform terminology. The final rule will finalize the interim rule and will made additional changes to terminology and clarifications for those attorneys that are engaged in limited legal services.	Ongoing	Publication of the Final Rule expected in Summer 2015.	Streamlined requirements	No	N/A	<ul style="list-style-type: none"> <li>Public comment</li> </ul>	<ul style="list-style-type: none"> <li>Not expected to result in any costs to applicants or practitioners.</li> <li>Expected to provide qualitative benefits in that the amendments provide clarification and consistency with DOJ regulations.</li> <li>Expected to reduce the information collection burden for practitioners that are engaged in limited legal services.</li> </ul>
DHS	USCIS	<u>Enhancing Opportunities for H-1B1, CW-1, and E-3 Nonimmigrants, and EB-1 Immigrants</u>	1615-AC00	DHS is considering changes that would harmonize the regulations for E-3, H-1B1, and CW-1 nonimmigrant classifications with existing regulations for other similarly situated nonimmigrant classifications. In addition, DHS is considering amending the regulations affecting the immigration classification for employment-based first preference (EB-1) outstanding professors and researchers by expanding the types of evidence that can support these petitions.	Ongoing	NPRM published May 12, 2014. 79 FR 26870  Publication of the Final Rule expected in Spring 2015.	No	No	N/A	<ul style="list-style-type: none"> <li>Public comment</li> </ul>	<ul style="list-style-type: none"> <li>Harmonize continued employment provisions for E-3, H-1B1, and CW-1 nonimmigrant classifications with other similarly situated nonimmigrants.</li> <li>Avoid potential interruptions in employment, thereby avoiding lost wages for nonimmigrant employees and lost productivity for employers, while the extension of stay petition is pending.</li> <li>Harmonize the evidentiary requirement for outstanding professors and researchers with other comparable employment-based immigrant classifications.</li> </ul>
DHS	U.S. Coast Guard (USCG or Coast Guard)	<u>Vessel Documentation Renewal Fees</u>	1625-AB56	Coast Guard will publish a Request for Comments on the possibility of a multi-year renewal program for fees charged at the time of renewal. The document will request comments from the public about the impacts and implementation of an increased period of validity (i.e., multi-year renewals) for Vessel Certificates of Documentation..	Ongoing	Request for Comments published March 3, 2015. 80 FR 11361	No	No	N/A	<ul style="list-style-type: none"> <li>Public comment</li> </ul>	<ul style="list-style-type: none"> <li>Provide efficiencies in Coast Guard operations (fewer applications for renewal annually) and less burden on the public (decreased reporting requirements).</li> </ul>

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DHS	USCG	<u>Elimination of the Transportation Worker Identification Credential (TWIC) for Certain Mariner Populations (Implementation of Section 809 of the 2010 Coast Guard Authorization Act)</u>	1625-AB80	Section 809 of the Coast Guard Authorization Act of 2010 eliminated the requirement that certain mariners must obtain TWICs. This rule would implement section 809. As a related matter, the Coast Guard is also considering regulatory changes that would provide an exemption from paying certain fees for a subset of the above mariner population.	Ongoing	Publication of the NPRM expected in Summer 2015.	No	No	N/A	<ul style="list-style-type: none"> <li>Public comment</li> </ul>	<ul style="list-style-type: none"> <li>Eliminate TWIC requirements for approximately 18,000 mariners annually.</li> <li>Eliminate trips to TWIC Enrollment Centers for approximately 18,000 mariners annually.</li> </ul>
DHS	USCG	<u>Update to Maritime Security Regulations</u>	1625-AB38	Coast Guard regulations implementing the Maritime Transportation Security Act of 2002 (MTSA) provide security measures for vessel and port facility operations in U.S. ports. Among other things, these regulations require owners or operators of vessels and port facilities to develop security plans. Since promulgation of the MTSA regulations, the Coast Guard has granted exemptions from MTSA provisions on an ad hoc, individual basis. Through this rule, the Coast Guard would formalize several categories of exemptions, which, in turn, will reduce the burden associated with the current ad hoc waiver process.	Ongoing	Publication of the NPRM expected in Winter 2015.	Streamlined requirements	No	N/A	<ul style="list-style-type: none"> <li>Marine Safety Office listening sessions</li> <li>Public hotline</li> </ul>	<ul style="list-style-type: none"> <li>Clarify MTSA requirements in response to requests for interpretation and guidance.</li> <li>Formalize exemptions from certain MTSA provisions, which would provide an annual savings of \$125,000 to society.</li> </ul>
DHS	CBP	<u>Definition of Form I-94 to Include Electronic Format</u>	1651-AA96	Currently, CBP generally issues the Form I-94 to aliens at the time they lawfully enter the United States. CBP is transitioning to an automated process whereby it will create a Form I-94 in an electronic format based on passenger, passport, and visa information currently obtained electronically from air and sea carriers and the Department of State as well as through the inspection process. This rule will amend the regulations accordingly.	Ongoing	IFR published on March 27, 2013. 78 FR 18457.  Publication of the Final Rule expected in Summer 2015.	No	No	N/A	<ul style="list-style-type: none"> <li>Public comment</li> </ul>	<ul style="list-style-type: none"> <li>Is expected to reduce the burden to the public by 1,276,800 hours, once CBP rolls out the system.</li> </ul>
DHS	CBP	<u>Passenger List/Crew List I-418</u>	No RIN Available	This form collects information for the identification of arriving passengers and crew and serves as a "traveling manifest" from the time a ship arrives in the United States until the time it departs. CBP is testing the use of electronic Notice of Arrival/Departure (eNOA/D) Coast Guard data in lieu of the I-418 Form. CBP wants to eliminate this form; however, a rulemaking is needed to remove these requirements from federal regulations.	Ongoing	Publication of the NPRM expected in Fall 2015.	No	No	N/A	<ul style="list-style-type: none"> <li>Public comment</li> </ul>	<ul style="list-style-type: none"> <li>Is expected to result in approximately \$600,000 in cost savings to the Federal government from not reviewing these forms.</li> </ul>

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DHS	CBP	<a href="#">Freedom of Information Act (FOIA) Procedures</a>	No RIN Available	This rule would amend the CBP FOIA regulations. The CBP FOIA regulations have been superseded by DHS FOIA regulations due to the transfer of CBP from the Department of the Treasury to DHS and the subsequent promulgation of DHS FOIA regulations, which provide that the DHS FOIA regulations generally apply to all DHS components except to the extent that a DHS component adopts separate guidance.	Ongoing	Publication of the rule expected in Fall 2015.	No	No	N/A	<ul style="list-style-type: none"> <li>• Departmental consultation</li> </ul>	<ul style="list-style-type: none"> <li>• Will reduce confusion by removing outdated regulations.</li> </ul>
DHS	FEMA	<a href="#">Increased Federal Cost Share and Reimbursement for Force Account Labor for Public Assistance Debris Removal</a>	No RIN Available	Currently, FEMA regulations do not allow for reimbursement of force account labor for debris removal activities and do not allow for increased cost share when an applicant has a debris management plan.	Ongoing	Undetermined	Pilot program	No	N/A	<ul style="list-style-type: none"> <li>• Public comment</li> </ul>	<ul style="list-style-type: none"> <li>• Will likely result in cost savings due to the greater efficiency in managing debris operations.</li> <li>• Provides public assistance applicants with additional flexibility to use a combination of contracting and force labor.</li> <li>• Provides benefits, including reduced or eliminated delays in performing debris removal after a disaster.</li> </ul>
DHS	ICE	<a href="#">Adjustments to Limitations on Designated School Official Assignment and Study by F-2 and M-2 Nonimmigrants</a>	1653-AA63	The proposed rule would grant school officials more flexibility in determining the number of designated school officials to nominate for the oversight of campuses. The rule also would permit accompanying spouses and children of academic and vocational nonimmigrant students with F-1 or M-1 nonimmigrant status to enroll in study at a Student and Exchange Visitor Program (SEVP) certified school so long as any study remains less than a full course of study.	Ongoing	NPRM published Nov. 21, 2013. 78 FR 69778  Publication of the Final Rule expected in Spring 2015.	Provides flexibilities for schools and F-2 and M-2 nonimmigrants	No	N/A	<ul style="list-style-type: none"> <li>• Analyzed public comments received from the NPRM</li> <li>• Ongoing stakeholder engagement through the DHS Office of Academic Engagement</li> </ul>	<ul style="list-style-type: none"> <li>• Provide additional flexibility to SEVP-certified schools by eliminating the regulatory cap of ten (10) designated school officials (DSOs) at each campus at any one time. This would enable school offices to better manage their programs.</li> <li>• Permit up to 45,000 F-2 spouses and 578 M-2 spouses, based on June 2012 SEVIS records, to engage in less than a full course of study at SEVP-certified schools. This new benefit is intended to provide greater incentive for international students to study in the United States.</li> </ul>
DHS	Transportation Security Administration (TSA)	<a href="#">Revisions to the Alien Flight Student Program (AFSP) regulations within the Standardized Vetting, Adjudication and Redress Services rulemaking</a>	1652-AA61	The Alien Flight Student Program (AFSP) rulemaking, among other things, requires a prospective alien flight student to undergo a background check called a "security threat assessment" (STA) before each training event. TSA charges each alien flight student a fee intended to cover the costs of the vetting.	Ongoing	Publication of the NPRM expected in Fall 2015.	Streamlined requirements	No	N/A	<ul style="list-style-type: none"> <li>• Public comment</li> </ul>	<ul style="list-style-type: none"> <li>• Improve the accuracy of vetting fees and equity among fee payers.</li> <li>• Enable the implementation of new technologies to support vetting.</li> <li>• This would streamline the STA process for alien flight students by making it part of a standardized, agency-wide STA process.</li> <li>• The proposal would remove the requirement for an STA before each training event, implementing a five-year expiration date with certain recurrent vetting.</li> </ul>

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<b>COMPLETED</b>											
DHS	USCIS	<u>Employment Authorization for Certain H-4 Spouses</u>	1615-AB92	This rule would extend the availability of employment authorization to H-4 dependent spouses of principal H-1B nonimmigrants who have begun the process of seeking lawful permanent resident status through employment.	Completed	NPRM published May 12, 2014. 79 FR 26886  Publication of the Final Rule February 25, 2015. 80 FR 10284	No	No	N/A	• Public comment	• Would increase incentives of H-1B nonimmigrant workers to continue to contribute to the U.S. economy as they complete the process to adjust status to that of a lawful permanent resident by providing parallel employment incentives to the H-4 spouse.
DHS	FEMA	<u>Disaster Assistance, Fire Management Assistance Grant (FMAG) Program- Administrative Corrections</u>	1660-AA78	This Final Rule revised FEMA's regulations by lengthening the potential extension for a grantee's submission of its grant application to FEMA from up to 3 months to up to 6 months, lengthening the potential extension for a subgrantee to submit a project worksheet from up to 3 months to up to 6 months, and finalized additional minor administrative changes.	Completed	Final Rule published October 24, 2014. 79 FR 63540	Flexibilities for grantees and subgrantees	No	N/A	• Public comment	• Provides additional flexibility with longer extension periods for both the grantee and subgrantee.

**DHS Paperwork and Reporting Burden Reduction Initiatives  
Implementation of Executive Order 13610 & OIRA's June 22, 2012 Memorandum**

Agency	Sub-Agency	Title & OMB Control Number	Paperwork and Reporting Burden Reduction Initiatives	Hours of paperwork/reporting eliminated	Estimated effective date of the change	Notes
DHS	FEMA	Web-Based (e-Grants) Application and Reporting (1660-0072)	FEMA is continuing to move toward implementation of an integrated agency-wide e-Grants online application that will be available to the public via internet. The system will simplify submission of grant program applications across the agency by creating fillable online forms. By fully integrating and automating these systems, FEMA will obtain increased efficiency and effective operations to better serve the needs of internal and external stakeholders.	572,000	12/2016	There are no cost savings to the Federal Government.
DHS	FEMA	Standard Flood Hazard Determination Form (1660-0040)	This form collects information from prospective mortgagors necessary to assess the flood risk associated with a property. FEMA is investigating the possibility of offering more drop down menus to save time when describing the property to be used as collateral.	2,322,824	5/2015	FEMA indicates that drop down menus carry a risk of inexact information leading to costly underinsurance or overinsurance.
DHS	CBP	Passenger List/Crew List I-418	This form collects information for the identification of arriving passengers and crew and serves as a "traveling manifest" from the time a ships arrives in the United States until the time a ship departs. CBP is testing the use of eNOA/D Coast Guard data in lieu of the Form I-418. CBP would like to eliminate this form; a rulemaking will be needed to remove these requirements from federal regulations.	95,000	Summer 2016	Cost savings of over \$600,000 to the Federal Government from not reviewing these forms. CBP would incur small costs from re-using Coast Guard data.