

U.S. Department of Homeland Security

Retrospective Review of Existing Regulations – Progress Report

January 14, 2013



U.S. Department of Homeland Security

Retrospective Review Plan Report

January 2013

Component	RIN/ OMB Control Number	Rule/ICR	Brief Description	Actual or Target Completion Date	Anticipated Savings in Costs and/or Information Collection Burdens, together with any Anticipated Changes in Benefits (please quantify, to the extent feasible, & also specify baseline, time horizon, & affected groups)	Progress Updates & Anticipated Accomplishments	Notes
USCIS	1615-AB95	<u>Immigration Benefits Business Transformation: Nonimmigrants: Students and Exchange Visitor Program</u>	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).	Publication of an NPRM expected in Summer 2013.	<ul style="list-style-type: none"> • Provide the public with a more user-friendly organization of regulatory requirements. • Reduce public confusion. 	USCIS is developing a Notice of Proposed Rulemaking (NPRM). There are no previous rulemakings.	This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.
USCIS	1615-AB99	<u>Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives</u>	This rule will propose to change the current process for filing and adjudication of certain applications for waivers of inadmissibility filed in connection with an immediate relative immigrant visa application. Specifically, USCIS will propose to allow certain immediate relatives of U.S. citizens to request provisional waivers under section 212(a)(9)(B)(v) of the Immigration and Nationality Act of 1952, as amended, prior to departing the United States for consular processing of their immigrant visa applications.	NPRM published on 4/2/2012. Final Rule published on 1/3/2013.	<ul style="list-style-type: none"> • Allow certain immediate relatives of U.S. citizens who are physically present in the United States to request provisional unlawful presence waivers prior to departing from the United States for consular processing of their immigrant visa applications. • Significantly reduce the length of time U.S. citizens are separated from their immediate relatives who are required to remain outside of the United States for immigrant visa processing and during adjudication of a waiver of inadmissibility for the unlawful presence. • Create efficiencies for both the U.S. Government and most applicants by reducing the degree of interchange between the Department of State and USCIS. 	USCIS published the Final Rule on 1/3/2013. USCIS retained most of the provisions of the NPRM. In response to public comments, in the Final Rule USCIS expanded eligibility for the provisional unlawful presence waiver to those in removal proceedings whose cases have been administratively closed and not recalendared at the time of Form I-601A filing, and also removed the one-per-lifetime provisional unlawful presence waiver filing limitation.	The rule requires that an applicant requesting a provisional unlawful presence waiver complete an Application for Provisional Waiver of Unlawful Presence, Form I-601A. This form is considered a new information collection and is covered under the Paperwork Reduction Act (PRA). USCIS is currently seeking approval of this newly created instrument from OMB.
USCIS	1615-AB92	<u>Employment Authorization for Certain H-4 Spouses</u>	This rule will propose to 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 and have extended their authorized period of admission or "stay" in the United States under the American Competitiveness in the Twenty-First Century Act of 2000 (AC21).	Publication of the NPRM expected in Spring 2013.	<ul style="list-style-type: none"> • Would increase incentives of H-1B nonimmigrant workers who are allowed to extend their period of stay under AC21 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. 	On 12/6/12, DHS submitted the NPRM to OMB for review under Executive Order 12866.	

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USCG	1625-AA16	<u>Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) and Changes to Domestic Endorsements</u>	The STCW sets forth minimum training and demonstrations of proficiency requirements for merchant mariners. It provides a consistent set of training and competencies for merchant mariners operating in U.S. and international waters. The Coast Guard has codified these Convention standards in the U.S. CFR. The Coast Guard develops these standards with other international parties at the International Maritime Organization of the United Nations. The Coast Guard also develops similar standards of training and proficiency requirements for mariners that work only in U.S. waters.	Publication of the Final Rule expected in Spring 2013	<ul style="list-style-type: none"> Update requirements to address gaps in minimum training requirements for seafarers. Provide a societal benefit by clarifying STCW requirements in response to requests for interpretation and guidance. Provide additional flexibility for sea service and training requirements. 	Coast Guard published a Supplemental Notice of Proposed Rulemaking (SNPRM) on 8/1/11. Coast Guard received public comments that make suggestions for minimizing economic impacts on the industry (e.g., incorporating on-the-job training, an additional phase-in period for implementation) and is considering them for inclusion in the rule.	
USCG	1625-AB80	<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>	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. Related to this, 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.	Publication of the rule expected in Spring 2013	<ul style="list-style-type: none"> Eliminate TWIC requirements for approximately 18,000 mariners annually. Eliminate trips to TWIC Enrollment Centers for approximately 18,000 mariners annually. 	Coast Guard issued a Letter of Policy in December 2011, which implements an interim process to provide burden relief to mariners until Coast Guard publishes the rule.	
USCG	1625-AB38	<u>Update to Maritime Security Regulations</u>	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.	Publication of the NPRM expected in Summer 2013	<ul style="list-style-type: none"> Clarify MTSA requirements in response to requests for interpretation and guidance. Formalize exemptions from certain MTSA provisions, which would provide an annual savings of \$125,000 to society. 	Coast Guard is in the process of reviewing industry practice related to MTSA regulations and is compiling data with regard to the effect that clarifications (beyond the elimination of requests for interpretation and guidance) would have on current industry practice.	

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USCG	1625-AB95	<u>Inland Waterways Navigation Regulations: Sacramento CA</u>	Coast Guard regulations in 33 CFR Part 162 establish waterway-specific speed limits, restricted areas, and communications rules for geographically limited inland waterways. This rulemaking would remove the Decker Island restricted anchorage area in Sacramento River. The United States Army relinquished control of the Island in 1975, and the restriction is no longer necessary.	Final Rule published on 1/23/2013.	<ul style="list-style-type: none"> Remove an outdated restricted anchorage regulation found in 33 CFR 162.205(c). Reduce confusion for boaters travelling around Decker Island. 	The Final Rule published.	
USCG	No RIN Available	<u>Inland Waterways Navigation Regulations</u>	Coast Guard regulations in 33 CFR Part 162 establish waterway-specific speed limits, restricted areas, and communications rules for geographically limited inland waterways. Coast Guard identified the potential for a regulatory action to revise 33 CFR Part 162 to ensure these restricted navigation areas are accurate and up-to-date when it began developing RIN 1625-AB95 (listed above).	Undetermined	<ul style="list-style-type: none"> Remove unnecessary or unused regulations in 33 CFR part 162. 	Coast Guard is in working with their field operators to review 33 CFR part 162 to determine if there are any additional requirements or restrictions that Coast Guard needs to update or remove.	
CBP	1651-AA94	<u>Internet Publication of Administrative Seizure/Forfeiture Notices</u>	Current regulations provide for publication of notices of seizure and intent to forfeit seized merchandise in local newspapers for seized merchandise appraised at more than \$5,000, and by posting the notice at the local customhouse for seized merchandise appraised at \$5,000 or less. This regulation would allow for online posting of such information.	NPRM published on 2/8/2012. Publication of the Final Rule expected in Spring 2013.	<ul style="list-style-type: none"> Provide an estimated annual savings of \$700,000 to CBP, when compared to current advertising expenses. 	Comment period closed on 4/9/2012. CBP is developing the Final Rule.	
CBP	1651-AA93	<u>Closing of White Tail Crossing</u>	CBP has proposed to close the port of entry in Whitetail, Montana. Whitetail is one of the least trafficked ports, and the facility does not have the infrastructure to meet modern operational, safety, and technological demands for ports of entry.	Publication of the Final Rule on 12/26/2012.	<ul style="list-style-type: none"> This rule will provide budget savings to CBP and yields a net benefit (estimated budget savings less increased travel costs) of approximately \$8.2 million the first year and \$396,000 each year thereafter when compared to the baseline condition. If the crossing were to remain open, it would need significant renovation to meet current safety and security standards. CBP therefore includes an \$8 million renovation in the baseline condition. 	CBP published the NPRM on 8/24/11. CBP published the Final Rule on 12/26/12.	

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CBP	1651-AA96	<u>Definition of Form I-94 to Include Electronic Format</u>	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.	Publication of an Interim Final Rule (IFR) expected in early Spring 2013.	<ul style="list-style-type: none"> Is expected to reduce the burden to the public by 1,276,800 hours, once CBP rolls out the system. 	On 11/8/12, DHS submitted the IFR to OMB for review under Executive Order 12866.	The modifications made to the I-94 pull data elements from existing CBP data collection and create an electronic version of the Form. Once automated in the air and sea, CBP no longer has to provide a paper Form I-94 to the traveler.
CBP	No RIN Available	<u>Passenger List/Crew List I-418</u>	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 it departs. CBP is testing the use of eNOA/D Coast Guard data in lieu of the I-418. CBP wants to eliminate this form; however, a rulemaking is needed to remove these requirements from federal regulations.	Publication of an NPRM expected in Spring 2014.	<ul style="list-style-type: none"> Is expected to result in approximately \$600,000 in cost savings to the Federal government from not reviewing these forms. 	CBP is beginning development of the NPRM.	
FEMA	1660-AA75	<u>Increased Federal Cost Share and Reimbursement for Force Account Labor for Public Assistance Debris Removal</u>	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.	Publication of an NPRM expected in Winter 2013.	<ul style="list-style-type: none"> Will likely result in cost savings due to the greater efficiency in managing debris operations. Provides public assistance applicants with additional flexibility to use a combination of contracting and force labor. Provides benefits, including reduced or eliminated delays in performing debris removal after a disaster. 	FEMA is developing the NPRM.	In the DHS Final Plan for the Retrospective Review of Existing Regulations, which DHS issued on August 22, 2011, DHS included this FEMA regulation in "Appendix C: Long-Term Retrospective Review Candidates." DHS has now moved this regulation to its list of ongoing retrospective review projects. The IFR "Debris Removal: Eligibility of Force Account Labor Straight-Time Costs Under the Public Assistance Program for Hurricane Sandy" was published by FEMA on Nov. 9, 2012. This IFR allows for the reimbursement of the straight- or regular time salaries and benefits of the employees of Public Assistance applicants who perform disaster-related debris and wreckage removal work for any major disaster or emergency declared by the President on or after Oct 27, 2012, in response to Hurricane Sandy.
FEMA	1660-AA77	<u>State Standard and Enhanced Mitigation Plan</u>	Currently, FEMA regulations require applicants for hazard mitigation assistance to update the Standard and the Enhanced State Mitigation Plans every 3 years.	Publication of an NPRM expected in Spring 2013.	<ul style="list-style-type: none"> Will allow States to update their plans every 5 years instead of every 3 years, thereby matching the updated cycle for local and tribal governments. Cost savings are expected due to the fact that fewer updates will be required over time. 	FEMA is developing the NPRM.	In the DHS Final Plan for the Retrospective Review of Existing Regulations, which DHS issued on August 22, 2011, DHS included this FEMA regulation in "Appendix C: Long-Term Retrospective Review Candidates." DHS has now moved this regulation to its list of current retrospective review projects.

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ICE	1653-AA44	<u>Amendment to Accommodate Process Changes with the Student and Exchange Visitor Information System (SEVIS) II Implementation</u>	SEVIS is an electronic filing and adjudication system for schools that seek to enroll foreign nonimmigrant students. The SEVIS NPRM improves data collection and reporting, enhances customer service, facilitates compliance with regulations, and helps ICE better monitor school and exchange programs. ICE is working with the Department of State to implement the deployment of SEVIS II, the next generation of the system.	Publication of an NPRM expected in Fall 2013.	<ul style="list-style-type: none"> • Provide an estimated total annual burden reduction of approximately 11,000 hours. • Incorporate language supporting a major reprogramming of SEVIS, known as SEVIS II, including setup and use of DHS accounts for F/M/J nonimmigrants, DSOs and ROs; requirements for DSO training, electronic signatures, limited new reporting responsibilities, and a variety of miscellaneous system-related clarifications of regulation. • Provide an estimated total annual savings of approximately \$220,110. 	ICE is developing the rule. In addition, ICE is consulting with the Department of State regarding the draft rule.	
TSA	1652-AA61	<u>Revisions to the Alien Flight Student Program (AFSP) regulations within the Standardized Vetting, Adjudication, and Redress Services rulemaking</u>	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" before each training event. TSA charges each alien flight student a fee intended to cover the costs of the vetting.	Publication of the NPRM expected in Winter 2013.	<ul style="list-style-type: none"> • Improve the accuracy of vetting fees and equity among fee payers. • Provide an estimated total savings for alien flight students, over a five-year period, of approximately \$18 million at a seven percent discount rate to society. • Increase efficiency by enabling existing threat assessment processes to be leveraged. • Enable the implementation of new technologies to support vetting. 	TSA is accomplishing the review and improvement of AFSP regulations through its rulemaking on Standardized Vetting, Adjudication, and Redress (SVAR).	
TSA	1652-AA43	<u>Modification of the Aviation Security Infrastructure Fee (ASIF)</u>	The Aviation Security Infrastructure Fee (ASIF) rule provides that each air carrier pays fees based on what that carrier spent on certain security measures in the calendar year 2000. Under the statute, after fiscal year 2005, TSA may re-evaluate how much each carrier pays, including using market share or other appropriate measure.	Publication of the NPRM expected in Winter 2013.	<ul style="list-style-type: none"> • Update the fee distribution among air carriers as a result of market share changes since 2000; this will result in a benefit to society. 	TSA is finalizing details related to the proposed methodology for determining reallocation of ASIF fees based on market share.	

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

Agency	Sub-Agency	Title	Paperwork and Reporting Burden Reduction Initiatives	Hours of paperwork/reporting eliminated	Estimated effective date of the change	Notes
DHS	CBP	Arrival and Departure Record (I-94)	Customs and Border Protection has modified its operating systems to collect I-94 information electronically upon arrival of non-immigrant aliens in the air and sea environment. The modifications will pull I-94 data elements from existing Customs and Border Protection data collection and create an electronic version of the Form. Once automated in the air and sea, Customs and Border Protection plans to no longer provide a paper Form I-94 to the traveler. Customs and Border Protection plans to have a website that would allow travelers access to their arrival information electronically if the traveler wishes to print out the information.	1,276,800	DHS/CBP is currently developing a rulemaking and has indicated that they are ready to implement automation within a few weeks of the rule becoming effective.	DHS anticipates there will be some minimal IT development costs for the Federal Government. The Department of Homeland Security has not yet indicated exactly how many forms will be eliminated but anticipates this initiative will result in the elimination of millions of paper forms needing to be completed, and a reduction in overall costs due to automation of the process.
DHS	FEMA	Web-Based (e-Grants) Application and Reporting	Federal Emergency Management Agency 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, Federal Emergency Management Agency 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	This form collects information from prospective mortgagors necessary to assess the flood risk associated with a property. Federal Emergency Management Agency 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	Federal Emergency Management Agency 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 ship arrives in the United States until it departs. Customs and Border Protection is testing the use of eNOA/D Coast Guard data in lieu of the I-418. Customs and Border Protection would like to eliminate this form; however, a rulemaking is needed to remove these requirements from federal regulations.	95,000	12/2013	Cost savings of over \$600,000 to the Federal government from not reviewing these forms. Customs and Border Protection would incur small costs from re-using Coast Guard data.
DHS	USCG	Application for Merchant Mariner Credential (1625-0040)	These forms are used by mariners to apply for a merchant mariner credential. Coast Guard collects information about a merchant mariner's medical fitness, physical fitness, sea service, and drug testing to determine eligibility for a merchant mariner credential. The Coast Guard is in the process of converting this form to be web fillable and fileable.	2,825	12/2014	There are no cost savings to the Federal Government.
DHS	CBP	Application for Exemption from Special Landing Requirements (Overflight)	This collection will be discontinued due to the re-use of information already collected by Customs and Border Protection. (1651-0088).	1,478	11/2012	There were no application fees or filing costs associated with this form.
DHS	USCG	Shipping Articles CG-705A (1625-0006)	This form collects information from shipping companies for each voyage. 46 U.S.C. § 10302 and 10502 requires applicable mariners to be bound by an official agreement before entering the service of a shipping company. Shipping Articles executes this contract and provides verification, identification, location and employment record of U. S. merchant mariners. It also provides information for the Coast Guard's management and enforcement of vessel manning laws and regulations, and it provides a written contract and record for mariner's protection and relief. The Coast Guard is in the process of converting this form to be web fillable.	600	12/2014	There are no cost savings to the Federal Government.