

U.S. Department of Homeland Security

Retrospective Review of Existing Regulations – Progress Report

January 2016



U.S. Department of Homeland Security

Retrospective Review Plan Report

January 2016

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?	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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Electronic Filing of Form N-400. DHS is highlighting this initiative in our January 2016 Update. Immigrants who wish to become naturalized citizens file Form N-400, Application for Naturalization. USCIS plans to allow those individuals to file the Form N-400 electronically in addition to its current paper format. By offering this form electronically, USCIS anticipates that the time burden for completing the form will decrease. USCIS anticipates that it will begin testing the Form N-400 in the electronic immigration benefits system, known as USCIS ELIS, in late February 2016. After the testing period, USCIS anticipates that it will begin providing the electronic filing of Form N-400; electronic filing is likely to begin in Spring 2016. Initially, USCIS expects approximately 10% of Form N-400 filers to complete the form electronically rather than by paper. This will likely result in significant burden reduction for those filers, as USCIS estimates that there will be an initial annual savings of 439,215 burden hours (i.e., from 710,336 burden hours for the paper form to 271,121 burden hours for the electronic form). USCIS believes there is the potential for an even greater reduction in burden hours as more filers convert to using the electronic form. USCIS will continue to monitor the conversion rate from paper to electronic, and will update the burden reduction estimate accordingly.

International Trade Data System. DHS first highlighted the International Trade Data System (ITDS) initiative in our February 2015 Update. 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 nearly fifty 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 considering issuing a regulation that would transition certain filings from paper to electronic. On October 13, 2015, CBP published an interim final rule (IFR) through the Department of the Treasury (RIN 1515-AE03) establishing the Automated Commercial Environment (ACE) as an official electronic data interchange (EDI) system for CBP and allowing for CBP forms to be submitted electronically. (80 FR 61278).

Mobile Passport Control. DHS first highlighted the Mobile Passport Control (MPC) program in our July 2015 Update. CBP is committed to eliminating the use of the paper customs declaration form (CBP Form 6059). Toward that goal, CBP has developed criteria which enables air carriers and international airports to participate in the Mobile Passport Control (MPC) program. The program provides a mobile application that allows a traveler to submit data and responses to questions that assist with the CBP inspection. In August 2014, CBP launched a MPC pilot in Atlanta to test the functionality of the application and to glean lessons learned. CBP has since launched the MPC pilot in additional cities: Miami (February 2015), Seattle (March 2015), Chicago (April 2015), and San Francisco (July 2015). CBP anticipates having the test program operational at the top 20 airports (with regards to international arrivals) by the end of 2016. CBP made the MPC business requirements available to airlines and airports in December 2015. Expansion of MPC to additional locations will begin in January 2016 and continue throughout the year. Since implementation, there has been over 300,000 downloads of the MPC application and usage has grown steadily. Currently, approximately 700-800 travelers per day use MPC at the airports where MPC is operational. In the month of December 2015, overall usage rose to slightly under 24,000 passengers.

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ONGOING									
Department of Homeland Security (DHS)	Customs and Border Patrol (CBP)	<u>Changes to CBP Outbound Manifest Procedures to Allow for Electronic Filing</u>	No RIN	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	Federal Register Notice (FRN) for the Air Cargo Export Manifest pilot published in the Federal Register on July 10, 2015 (80 FR 39790). FRN for the Rail Cargo Export Manifest pilot published in the Federal Register on August 20, 2015 (80 FR 50644; Correction 80 FR 63575). All pilots will run until Fall 2017.	Pilot Programs	<ul style="list-style-type: none"> Analysis of pilot study 	<ul style="list-style-type: none"> Provide filers with more flexibility by allowing the outbound manifest information to be filed electronically or by paper.
DHS	CBP	<u>Technical Amendments to Clarify U.S. Customs and Border Protection Regulations on Advance Electronic Information for Cargo Exported from the United States</u>	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 2016.	No	<ul style="list-style-type: none"> Public comment 	<ul style="list-style-type: none"> Reduce confusion (and potentially saves time and effort for the public) by putting updated regulations in place Would result in no costs, as these are conforming regulations.
DHS	U.S. Citizenship & Immigration Services (USCIS)	<u>Immigration Benefits Business Transformation Increment II: Nonimmigrant Classes</u>	1615-AB95	This rule would amend 8 CFR part 214 to facilitate the move toward electronic filing and adjudication. This rule is intended to provide the public with simpler, better organized requirements for each nonimmigrant classification and to remove regulatory and procedural hurdles to the USCIS business transformation initiative. In addition, this rule finalizes four interim final rules and addresses public comments. The four interim final rules being finalized include rules affecting the H-1B (RIN 1615-AB68), H-1C (RIN 1615-AA35), K (RIN 1615-AA56), and V (RIN 1615-AA53) nonimmigrant classes.	Ongoing	Publication of the Final Rule expected in Fall 2016.	No	<ul style="list-style-type: none"> Public comment 	<ul style="list-style-type: none"> Provide the public with a more user-friendly organization of regulatory requirements. Reduce public confusion.

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DHS	USCIS	Professional Conduct for Practitioners, Rules, Procedures, Representation and Appearances	1601-AA58	On February 2, 2010, DHS published an interim rule with request for comments (75 FR 5225), 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 make additional changes to terminology and clarifications for those attorneys that are engaged in limited legal services. On January 31, 2011, DHS published an extension to the comment period (76 FR 5267). The comment period ended on March 2, 2011.	Ongoing	Publication of the Final Rule (FR) expected in Spring 2016.	Streamlined Requirements	<ul style="list-style-type: none"> Public comment 	<ul style="list-style-type: none"> Not expected to result in any costs to applicants or practitioners. Expected to provide qualitative benefits in that the amendments provide clarification and consistency with DOJ regulations. Expected to reduce the information collection burden for practitioners that are engaged in limited legal services.
DHS	U.S. Coast Guard (USCG or Coast Guard)	Seafarers' Access to Maritime Facilities	1625-AC15	This rule would require each owner or operator of a facility regulated by the Coast Guard to implement a system that provides seafarers and other individuals with access between vessels moored at the facility and the facility gate, in a timely manner and at no cost to the seafarer or other individual. Generally, transiting through a facility is the only way that a seafarer or other individual can egress to shore beyond the facility to access basic shore-side businesses and services, and meet with family members and others. This rule would help to ensure that no facility owner or operator denies or makes it impractical for seafarers or other individuals to transit through the facility, and would require them to document their access procedures in their Facility Security Plans.	Ongoing	Notice of Proposed Rulemaking (NPRM) published December 29, 2014. 79 FR 77981 Publication of the Final Rule expected in Spring 2016.	No	<ul style="list-style-type: none"> Public comment 	<ul style="list-style-type: none"> This rule would provide access through facilities for an average of 907 seafarers and other covered individuals who were otherwise denied access annually.
DHS	USCG	Vessel Documentation Renewal Fees	1625-AC26	Coast Guard will propose a Notice of Intent (NOI) with Request for Comment on the possibility of a multi-year renewal program for fees charged at the time of renewal. The NOI will solicit 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	<ul style="list-style-type: none"> Public comment 	<ul style="list-style-type: none"> Provide efficiencies in Coast Guard operations (fewer applications for renewal annually) and less burden on the public (decreased reporting requirements).
DHS	USCG	Elimination of the Transportation Worker Identification Credential (TWIC) for Certain Mariner Populations (Implementation of Section 809 of the 2010 Coast Guard Authorization Act)	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 Interim Final Rule (IFR) expected in Summer 2016.	No	<ul style="list-style-type: none"> Public comment 	<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.

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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 Summer 2016.	Streamlined Requirements	<ul style="list-style-type: none"> Marine Safety Office listening sessions Public hotline 	<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.
DHS	CBP	<u>Definition of Form I-94 to Include Electronic Format</u>	1651-AA96	Currently, CBP generally issues 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, from the Department of State, and through the inspection process. This rule will amend the regulations accordingly.	Ongoing	Interim Final Rule (IFR) published on March 27, 2013. 78 FR 18457. Publication of the Final Rule expected in Spring 2016.	No	<ul style="list-style-type: none"> Public comment 	<ul style="list-style-type: none"> Is expected to reduce the burden to the public by 1,276,800 hours.
DHS	CBP	<u>Passenger List/Crew List I-418</u>	No RIN	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 Form I-418. CBP is considering eliminating this form; however, a rulemaking would be needed to remove these requirements from federal regulations.	Ongoing	Publication of the NPRM expected in Fall 2016.	No	<ul style="list-style-type: none"> Public comment 	<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. Will eliminate duplicative information collections from the public.
DHS	Federal Emergency Management Agency (FEMA)	<u>Removal of Environmental Considerations Regulations</u>	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 the removal of the regulations.	Ongoing	Publication of the NPRM expected in Summer 2016.	No	<ul style="list-style-type: none"> Public comment 	<ul style="list-style-type: none"> This would result in no cost as the removal of FEMA's regulations are conforming to DHS's Department-wide Directive and Instruction. This would reduce confusion for the public by removing outdated regulations.

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DHS	Transportation Security Administration (TSA)	<u>Test of Electronic Submissions of Significant Security Concerns</u>	No RIN	The pilot program will test the use of a different method for industry stakeholders (railroads) to submit "significant security concerns" to the government -- electronic submission rather than telephonic submission. The pilot program will test whether this method provides a less burdensome and more accurate means of conveying the required information to the government. TSA conducted a test of reporting process in October 2015, and the test was successful. TSA plans to begin a formal 120-day pilot in early January 2016 with a test group of nine railroads.	Ongoing	Pilot completion in May 2016.	Pilot Project	<ul style="list-style-type: none"> • Stakeholder engagements 	<ul style="list-style-type: none"> • The pilot will test whether this method provides a less burdensome and more accurate means of conveying the required information to the government.

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COMPLETED									
DHS	CBP	<u>Freedom of Information Act (FOIA) Procedures</u>	1651-AB05	This rule amends 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. The DHS FOIA regulations provide that the DHS FOIA regulations generally apply to all DHS components except to the extent that a DHS component adopts separate guidance.	Completed	Final Rule published November 17, 2015. 80 FR 71690	No	<ul style="list-style-type: none"> • Departmental consultation 	<ul style="list-style-type: none"> • Will reduce confusion by removing outdated regulations.

**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	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	5/2018	FEMA believes that "drop down menus", electronic signatures and other forms of information collection modernization should continue to be explored. This kind of available technology can facilitate the collection of clear information and ensure the use of the correct risk-related terminologies to refine the data collected.
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.