



441 G St. N.W.
Washington, DC 20548

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November 7, 2016

The Honorable Chuck Grassley
Chairman
The Honorable Patrick Leahy
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Bob Goodlatte
Chairman
The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
House of Representatives

Subject: *Department of Homeland Security: U.S. Citizenship and Immigration Services
Fee Schedule*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Homeland Security (DHS) entitled “U.S. Citizenship and Immigration Services Fee Schedule” (RIN: 1615-AC09). We received the rule on October 24, 2016. It was published in the *Federal Register* as a final rule on October 24, 2016, with an effective date of December 23, 2016. 81 Fed. Reg. 73,292.

The final rule adjusts the fee schedule for immigration and naturalization benefit requests processed by the U.S. Citizenship and Immigration Services (USCIS). The fee schedule was last adjusted on November 23, 2010. USCIS conducted a comprehensive fee review for the fiscal year (FY) 2016/2017 biennial period and determined that adjusting the fee schedule was necessary to fully recover costs and maintain adequate service.

Enclosed is our assessment of DHS’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that DHS complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Jerry Rigdon
Deputy Chief, Regulatory Coordination Division
Department of Homeland Security

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HOMELAND SECURITY
ENTITLED
“U.S. CITIZENSHIP AND IMMIGRATION SERVICES FEE SCHEDULE”
(RIN: 1615-AC09)

(i) Cost-benefit analysis

This final rule is estimated to provide the Department of Homeland Security (DHS) with an average of \$546 million in annual fee revenue above the FY 2010/FY 2011 levels, based on a projected annual fee-paying volume of 4.9 million immigrant benefit requests and 2.6 million requests for biometric services. DHS will use this increase in revenue to fund the full costs of processing immigration benefit requests and associated support benefits; the full cost of providing similar benefits to asylum and refugee applicants at no charge; and the full cost of providing similar benefits to others at no charge.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

DHS does not believe that the increase in fees in this final rule will have a significant economic impact on a substantial number of small entities that are filing Form I-129, Form I-140, or Form I-910. DHS stated that they did not have sufficient data on the revenue collected through administrative fees by regional centers to definitively determine the economic impact on small entities that may file Form I-924. DHS also stated that they did not have sufficient data on the requestors that file genealogy forms to determine whether such filings were made by entities or individuals, and therefore was unable to determine if the fee increase for genealogy searches is likely to have a significant economic impact on a substantial number of small entities. However, DHS provided a final regulatory flexibility analysis in the final rule to provide more information about the impact of this rule on small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

DHS determined that while the final rule may result in expenditure of more than \$100 million by the private sector annually, it is not a mandate for purposes of the Act because associated costs arise from participation in a voluntary federal program, applying for immigration status in the United States. Therefore, no actions were necessary under the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On May 4, 2016, DHS published a proposed rule. 81 Fed. Reg. 26,904. DHS received 475 comments, but 38 were not posted online and one was withdrawn. DHS responded to comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

This final rule requires changes to Office of Management and Budget (OMB) control numbers 1615-0052, 1651-0061, 1615-NEW, and Forms N-400, I-924A, I-924, and I-942. OMB reviewed the request filed in connection with the Notice of Proposed Rulemaking and also filed comments in accordance with 5 CFR 1320.11(c). DHS summarized the comments received from the public and responded to them in the final rule.

Statutory authorization for the rule

DHS promulgated this rule under 8 U.S.C. § 1356m and 31 U.S.C. §§ 901-903.

Executive Order No. 12,866 (Regulatory Planning and Review)

DHS determined that this final rule is economically significant. This rule was reviewed by OMB.

Executive Order No. 13,132 (Federalism)

DHS determined that this rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels.