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DHS/USCIS

RIN: 1615-AC15

Publication ID: Fall 2017

Title: •Removing H-4 Dependent Spouses from the Class of Aliens Eligible for Employment Authorization

Abstract:

On February 25, 2015, DHS published a final rule extending eligibility for employment authorization to certain H-4 dependent spouses of H-1B nonimmigrants who are seeking employment-based lawful permanent resident (LPR) status. DHS is publishing this notice of proposed rulemaking to amend that 2015 final rule. DHS is proposing to remove from its regulations certain H-4 spouses of H-1B nonimmigrants as a class of aliens eligible for employment authorization.

Agency: Department of Homeland Security(DHS)

Priority: Economically Significant

RIN Status: First time published in the Unified Agenda

Agenda Stage of Rulemaking: Proposed Rule Stage

Major: Yes

Unfunded Mandates: Undetermined

EO 13771 Designation: Other

CFR Citation: [8 CFR 214](#) 8 CFR 274a (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

Legal Authority: [6 U.S.C. 112](#) [8 U.S.C. 1103\(a\)](#) [8 U.S.C. 1184\(a\)\(1\)](#) [8 U.S.C. 1324a\(H\)\(3\)\(B\)](#)

Legal Deadline: None

Statement of Need:

DHS is reviewing the 2015 final rule in light of issuance of Executive Order 13788, Buy American and Hire American.

Summary of the Legal Basis:

The Secretary of Homeland Security (Secretary) has the authority to amend this regulation under section 102 of the Homeland Security Act of 2002, [Public Law 107-296](#), 116 Stat. 2135, [6 U.S.C. 112](#), and section 103(a) of the Immigration and Nationality Act (INA), [8 U.S.C. 1103\(a\)](#), which authorize the Secretary to administer and enforce the immigration and nationality laws. In addition, section 214(a)(1) of the INA, [8 U.S.C. 1184\(a\)\(1\)](#), provides the Secretary with authority to prescribe the time and conditions of nonimmigrants' admissions to the United States. Also, section 274A(h)(3)(B) of the INA, [8 U.S.C. 1324a\(h\)\(3\)\(B\)](#), recognizes the Secretary's discretionary authority to extend employment authorization.

Alternatives:

Anticipated Costs and Benefits:

DHS anticipates that there would be two primary impacts that DHS can estimate: the cost-savings accruing to forgone future filings by H-4 spouses, and labor turnover costs that employers of H-4 workers could incur.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	02/00/2018	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Small Entities Affected: Businesses

Federalism: No

Included in the Regulatory Plan: Yes

RIN Information URL: www.regulations.gov

Public Comment URL: www.regulations.gov

RIN Data Printed in the FR: Yes

Related RINs: Related to 1615-AB92

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