



U.S. Citizenship
and Immigration
Services

Memorandum

TO: Dominic Mancini
Deputy Administrator,
Office of Information and Regulatory Affairs,
Office of Management and Budget

THROUGH: Kyle Schutt
Acting Chief Information Officer,
U.S. Department of Homeland Security

FROM: Samantha Deshommes
Chief Regulatory Officer,
USCIS Office of Policy and Strategy

SUBJECT: Request for Emergency OMB Paperwork Reduction Act (PRA) Clearance – USCIS Form I-485, Application to Register Permanent Residence or Adjust Status and USCIS Form G-325R, Biographic Information (Registration)

Purpose: U.S. Citizenship and Immigration Services (USCIS) is requesting emergency approval of a revision of the USCIS Form I-485, Application to Register Permanent Residence or Adjust Status (OMB Control Number 1615-0023) and Form G-325R, Biographic Information (Registration) (OMB Control Number 1615-0166). USCIS is seeking approval for the revised collection of information under 5 CFR 1320.13.

Background: Section 103(a)(1) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1103(a)(1), gives the Secretary of Homeland Security general authority to enforce and administer the immigration laws. Section 103(a)(3) of the INA, 8 U.S.C. § 1103(a)(3), authorizes issuance of forms, instructions, and guidance necessary to carry out the authority provided in section 103(a)(1) of the INA, 8 U.S.C. § 1103(a)(1).

DHS is updating its regulations to provide a way for additional children who are born in the United States, but are not U.S. citizens, to register as lawful permanent residents. This is consistent with Executive Order (E.O.) 14418, *Continuing to Protect the Meaning and Value of American Citizenship*.¹ E.O 14418 directs the Secretary of Homeland Security to take appropriate action to prevent the issuance

¹ See 91 FR 51991 (August 6, 2026).

of documents recognizing U.S. citizenship to certain individuals born in the United States where neither parent of that person is a U.S. citizen and at least one noncitizen parent meets certain conditions.

The Fourteenth Amendment grants United States citizenship to “all persons born...in the United States, and subject to the jurisdiction thereof.” The Supreme Court has interpreted the words “subject to the jurisdiction thereof” to create certain exceptions to birthright citizenship, notably “children of members of the Indian tribes...children born of alien enemies in hostile occupation, and children of diplomatic representatives of a foreign state” with rights of extraterritoriality.² Since at least the 1940s, the former Immigration and Naturalization Service (INS), and more recently USCIS, have treated children born in the U.S. to foreign diplomatic officers who do not acquire citizenship at birth as eligible to register for lawful permanent residence of the U.S.³ In 1982, the former INS published regulations, including 8 C.F.R. 101.3 and 264.2, to create a formal procedure for creation of records of lawful permanent residence for individuals born in the United States to foreign diplomatic officers accredited to the United States.⁴ These regulations, still in force today, state that a child of a foreign diplomatic officer accredited to the United States is not a U.S. Citizen under the Fourteenth Amendment but may voluntarily register as a lawful permanent resident of the United States. To register, the applicant must file Form I-485 and establish that he or she has not abandoned his or her residence in the United States. If the application is granted, the applicant is considered a lawful permanent resident as of his or her date of birth. DHS is updating its regulations to expand the application from “children born to foreign diplomats” to “children born to foreign government employees.”

Discussion:

An Interim Final Rule, *Registration of Lawful Permanent Residence for Children Born to Foreign Government Employees in the United States*, is being issued with respect to an immigration-related function to the United States to provide a way for additional children who are born in the United States, but are not U.S. citizens, to register as lawful permanent residents. Specifically, the rule impacts children born in the United States where neither parent is a U.S. citizen and at least one parent is a foreign government employee. The changes in this rule expand the existing regulations at 8 CFR 101.3 and 264.2 from a narrow focus on children of foreign diplomats to a broader category of children born to foreign government employees. The IFR will apply to children born on or after the publication date of the IFR.

This rule will clarify that certain aliens who are not subject to jurisdiction of the United States may register their permanent resident status. As a result of the rule, DHS is revising USCIS Form I-485 and Form G-325R. DHS is revising Form I-485 to broaden language referring to children “born under diplomatic status” and instead refer to children “born to foreign government employees” and add instructional language concerning which children of foreign government employees may file Form I-485 to register as lawful permanent residents. DHS is also revising Form G-325R, Biographic Information (Registration)⁵ to account for children born in the United States who do not acquire U.S. citizenship at

² See *U.S. v. Wong Kim Ark*, 169 U.S. 649, 682 (1898); see also *Trump v. Barbara*, 609 U.S. ---, 146 S.Ct. 2438, 2456 (2026) (“[A] person is ‘subject to the jurisdiction’ of the government of the country in which he is physically present...unless he falls under one of the familiar exceptions, such as for ambassadors.”).

³ See *Matter of Huang*, 11 I&N Dec. 190 (BIA 1965) (tracing this practice back to “an opinion dated December 10, 1946, by the General Counsel of the Service”); *Matter of Chu*, 14 I&N Dec. 241 (BIA 1972).

⁴ See Presumption of Lawful Admission; Registration and Fingerprinting of Aliens in the United States; Creation of Records of Lawful Permanent Resident Status for Aliens Eligible for Presumption of Lawful Admission for Permanent Residence and for Individuals Born Under Diplomatic Status in the United States, 47 FR 940-01 (Jan. 8, 1982); see also *Nikoi v. Atty. Gen. of U.S.*, 939 F.2d 1065, 1067 (D.C. Cir. 1991) (describing the regulatory history).

⁵ See G-325R, Biographic Information (Registration) <https://www.uscis.gov/forms/all-forms/g-325r> (last visited Aug. 27, 2026) and if required attend a biometrics services appointment according to the Alien Registration Form and Evidence of Registration Final Rule (91 FR 39248).

birth and who are subject to section 262 of the INA, 8 U.S.C. 1302, but do not register as lawful permanent residents under the amended regulation at 8 CFR 101.3.

In support of the rule, USCIS is adding clarifying language to USCIS Form I-485 and USCIS Form G-325R, to ensure that the affected public clearly understands the available methods of complying with section 262 of the Act, by filing USCIS Form I-485, registering as a lawful permanent resident, or filing USCIS Form G-325R, registering as an alien.

USCIS seeks emergency processing of the USCIS Form I-485 and Form G-325R in accordance with 5 C.F.R. § 1320.13. DHS has determined the IFR is exempt from notice and comment and the delayed effective date because the IFR's subject matter pertains to the foreign affairs function of the United States. DHS has further determined it has good cause to forego notice and comment because doing so is "impracticable" and "contrary to the public interest," which impacts the opportunity for notice and comment referenced under other subsections of the PRA. USCIS certifies that the requirements of 5 C.F.R. § 1320.13(a) are met and that:

- The collection of information is needed prior to the normal PRA public process timelines;
- It is essential to the mission of the agency; and
- The use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information because an imminently effective IFR is defining a new population of respondents that may either submit USCIS Form I-485 or may instead choose to register using USCIS Form G-325R.

If DHS were to follow the normal information collection clearance procedures, the newly affected alien population may not understand the pathways they have available to them, to file Form I-485, registering as a lawful permanent resident, or file Form G-325R, registering as an alien. Making these revised forms available on an emergency basis provides this clarifying information as quickly as possible and ensures the voluntary established pathways are available to eligible individuals subject to the requirements of the rule. If use of these revised forms could not proceed before completion of the normal PRA public procedures, individuals subject to the IFR may not have available to them the proper government forms needed to comply with the rule.

USCIS requests OMB OIRA approval or disapproval of the collection of information under 5 C.F.R. § 1320.13(b) as soon as possible.

Recommendation: DHS recommends the emergency approval of this collection of information under 5 C.F.R. § 1320.13.