

Department of Justice Retrospective Review Report - July 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?	Does this initiative employ any type of experimental design y/n?	If so, please briefly describe	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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**Regulations under Retrospective Review**

*New Rule Not Previously Reported*

DOJ	CRT	Update of DOJ section 504 Federally Assisted Regulation	1190-AA60	Revisions to DOJ Federally assisted regulation to reflect statutory changes and judicial decisions, adopt updated accessibility standards, and update regulatory provisions for clarity and to make the regulation more user-friendly.	New	Final rule 2017	Safe harbor, streamlined requirements to provide clarity for entities subject to similar requirements under both the ADA and section 504.	No	N/A	Public comment	Provides clarity by updating regulatory text to incorporate existing statutory changes and judicial interpretation since rule first published. Also lowers costs for recipients subject to both section 504 and the ADA due to use of same accessibility standard.
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*Previously Reported Items*

DOJ	CRT	Coordination Regulation	1190-AA70	The Department coordinates the government-wide enforcement of title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., which prohibits discrimination on the basis of race, color, or national origin in Federally assisted programs or activities, in part through its regulation at 28 CFR part 42, subpart F (title VI coordination regulation). The Department proposes to amend the title VI coordination regulation by incorporating current law, including the scope of coverage of title VI, meaningful access for individuals who are limited English proficient, and applicable procedures for processing complaints of employment discrimination under title VI. This phase of the rulemaking is not meant to comprehensively address all possible updates to the Department's coordination of Federal agency title VI enforcement.	Ongoing	Dec. 2016 (NPRM)	No	No	N/A	Because the rule governs Federal agency procedures, federal agencies will be involved in identifying improvements. We also will utilize public comment.	
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DOJ	CRT	Revision of Standards and Procedures for the Enforcement of Section 274B of the Immigration and Nationality Act	1190-AA71	The Department of Justice proposes to revise regulations implementing section 274B of the Immigration and Nationality Act and to reflect the new name of the office within the Department charged with enforcing this statute. The proposed revisions conform the regulations to the statutory text as amended, simplify and add definitions of statutory terms, update and clarify the procedures for filing and processing charges of discrimination, ensure effective investigations of unfair immigration-related employment practices, and update outdated references.	Ongoing	NPRM to be published in July 2016	No	No	N/A	Review of public comments.	
DOJ	DEA	Transporting to Dispense Controlled Substances on an As-Needed and Random Basis	1117-AB37	The DEA proposes to amend its regulations to clearly delineate how to transport, dispense, and store controlled substances away from registered locations when such activities are for the purpose of dispensing controlled substances on an as-needed and random basis. These proposed amendments include changes necessary to implement the Veterinary Medicine Mobility Act of 2014 and to clarify controlled substance handling requirements for emergency response operations.	Ongoing	FY 2017	No	No	N/A	Public comments	TBD
DOJ	DEA	Revision of Import and Export Requirements for Tableting and Encapsulating Machines, Controlled Substances, and Listed Chemicals, Including Changes to Implement the International Trade Data System	1117-AB41	The Drug Enforcement Administration (DEA) is proposing to update its regulations for the import and export of tableting and encapsulating machines, controlled substances, and listed chemicals. The amendments clarify certain policies and reflect current procedures and technological advancements. They also allow for the implementation, as applicable to tableting and encapsulating machines, controlled substances, and listed chemicals, of the President's Executive Order on streamlining the export/import process and requiring the government-wide utilization of the International Trade Data System (ITDS). The goal of DEA is to make the entire import/export process electronic/online, which will require changes to applications, notices, and all other filings for import/export transactions involving controlled substances, listed chemicals, tableting and encapsulating machines, transshipments of controlled substances and listed chemicals, and international transactions of controlled substances and listed chemicals.	Ongoing	Final rule to be published by Dec. 2016	A small, limited, pilot project will be conducted prior to the final rule to test the electronic transmission of data between importers/exporters and DEA; and between DEA and CBP	No	N/A	Public comments,	The DEA estimates this rule will result in a net annual savings of \$546,960 and a combined annual economic effect of \$560,740.

DOJ	EOIR	List of Pro Bono Legal Service Providers for Aliens in Immigration Proceedings	1125-AA62	This rule amends 8 CFR part 1003 by changing the name of the "List of Free Legal Services Providers" to the "List of Pro Bono Legal Service Providers." The rule would also enhance the eligibility requirements for organizations, private attorneys, and referral services to be included on the List of Pro Bono Legal Service Providers. The proposed rule published on 09/17/14, at 79 FR 55662. The final rule published on 10/01/15, at 80 FR 59503. EOIR also created a new voluntary information collection instrument (Form EOIR-56) to assist applicants seeking to be included on the List and applicants renewing their requests to remain on the List.	Completed	Final Rule published 80 FR 59503 (10-1-15)	Streamlined requirements	No	N/A	Public comments	This rule will enhance the eligibility requirements for organizations, private attorneys, and referral services to be included on the List of Pro Bono Legal Service Providers (List). The List is central to EOIR's efforts to improve the amount and quality of representation before its adjudicators, and it is an essential tool to inform aliens in proceedings before EOIR of available pro bono legal services.
DOJ	EOIR	Retrospective Regulatory Review Under E.O. 13563 of 8 CFR Parts 1003, 1103, 1211, 1212, 1215, 1216, 1235	1125-AA71	Rulemaking concerning appeals of DHS decisions (8 C.F.R. part 1103), documentary requirements for aliens (8 C.F.R. parts 1211 and 1212), control of aliens departing from the United States (8 C.F.R. part 1215), procedures governing conditional permanent resident status (8 C.F.R. part 1216), and inspection of individuals applying for admission to the United States (8 C.F.R. part 1235). The ANPRM was published on 9/28/2012. The comment period closed on 11/27/2012. EOIR is currently in the process of reviewing the comments received and drafting two follow-up NPRMs.	Ongoing	NPRM FY 2017		No	N/A	Public comments.	TBD

DOJ	EOIR	Recognition of Organizations and Accreditations of Non-Attorney Representatives	1125-AA72	This rule proposes to amend the regulations governing the requirements and procedures for authorizing representatives of non-profit religious, charitable, social service, or similar organizations to represent persons in proceedings before the Executive Office for Immigration Review (EOIR) and the Department of Homeland Security (DHS). The proposed rule published on 10/01/15, at 80 FR 59514.	Ongoing	NPRM published 10/01/15 Final rule FY 2017	Streamlined requirements	No	N/A	Public comments	This proposed rule promotes the effective and efficient administration of justice before DHS and EOIR by increasing the availability of competent non-lawyer representation for underserved immigrant populations. It seeks to accomplish this goal by increasing the availability of qualified representation for primarily low-income and indigent persons while protecting the public from fraud and abuse by unscrupulous organizations and individuals.
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DOJ	EOIR	Separate Representation for Custody and Bond Proceedings	1125- AA78	This rule amends the Executive Office for Immigration Review (EOIR) regulations relating to the representation of aliens in custody and bond proceedings by allowing a representative to enter an appearance in custody and bond proceedings before EOIR without committing to appear on behalf of the alien for all proceedings before the Immigration Court. The proposed rule was published on 09/17/14, at 79 FR 55659. The final rule published on 10/01/15, at 80 FR59449. EOIR also created a new voluntary information collection instrument (Form EOIR-56) to assist applicants seeking to be included on the List and applicants renewing their requests to remain on the List.	Completed	Final Rule published 10/01/15		No	N/A	Public comments.	This rule enhances representation of detained aliens by making it easier for aliens who may not be able to afford to hire an attorney for all of their proceedings before the Immigration Court to at least be able to be represented during their custody and bond proceedings. The Department anticipates that this rule will also have a positive economic effect because increasing the number of aliens who are represented in their custody and bond proceedings will enable immigration judges to adjudicate proceedings in a more effective and timely manner.
DOJ	OJP	Victims of Crime Act (VOCA) Crime Victim Assistance Program Regulations	1121-AA69	This rule is a priority to OJP and the Office for Victims of Crime (OVC) because certain key provisions of the existing Guidelines have been superseded by statutory changes, and by advances in technology and practices in the victim services field. Crime victim service organizations nationwide have requested for many years that OVC update the Guidelines. It is even more critical in FY15 that the Guidelines be updated, given the dramatic increase in funding for VOCA Assistance, and the additional flexibility the rule would afford to States to use VOCA funding in innovative, victim-serving ways, and to more effectively monitor the increased funding.	Completed	Final rule published 81 FR 44515 (7-8-16)	No	No	N/A	Public Comment	TBD

DOJ	OJP	Office of Juvenile Justice and Delinquency Prevention Formula Grant Program Regulations	1121-AA83	This rule is a priority because the current regulations are outdated as a result of subsequent amendments to the Juvenile Justice and Delinquency Prevention Act (JJDP). The OJDP formula program distributes millions of dollars of funding to States for juvenile justice initiatives, and the receipt of this funding is contingent upon State compliance with the JJDP, as implemented by the regulations. Bringing the regulations into conformity with the JJDP is critical to ensure that the standards for compliance are clear, so that States can effectively and efficiently achieve full compliance with federal law for the benefit of children served by the formula funding, and so that OJDP can effectively monitor and enforce compliance. OJP anticipates that there may be significant pressure to advance this rule in 2016 from Congress and stakeholders in the juvenile justice field.	Ongoing	NPRM to be published in Summer 2016	No	No	N/A	Public Comment	TBD
DOJ	OJP	Public Safety Officers' Benefits (PSOB) Program – Project I	1121-AA85	This rule and the following one are a priority because certain key provisions of the PSOB rule have been superseded by statutory change, a need exists to improve the overall efficiency of the program, and the last significant update to the rules was in 2008. The first rule would be relatively short and would update the existing regulation to address issues related to injuries and deaths of public safety officers asserted to have been caused by 9/11 services, and offset issues with the 9/11 Victim Compensation Fund.	Ongoing	OIRA concluded review on 6/20/16. NPRM to be published in July 2016.	No	No	N/A	Public comments	TBD
DOJ	OJP	Public Safety Officers' Benefits (PSOB) Program – Project II	1121-AA86	The second rule would be a more comprehensive update of the PSOB regulation. These revisions are necessary as a result of significant changes to the Program following the enactment of the Dale Long Public Safety Officers' Benefits Improvements Act of 2012 (signed into law in January 2013), as well as recommendations from an OIG Audit finalized in July 2015, and other internal reviews that identified the need to streamline the claims review process to reduce delays and increase transparency.	Ongoing	Pending OIRA review; NPRM to be published by Sept. 2016	No	No	N/A	Public comments	TBD

**Reducing Reporting and Paperwork Burdens**

*Previously Reported Items*

DOJ	CRT	Proposed eCollection; Electronic Submission of Americans with Disabilities Act Discrimination Complaint Form	1190-0009	Under title II of the Americans with Disabilities Act, an individual who believes that he or she has been subjected to discrimination on the basis of disability by a public entity may, by himself or herself or by an authorized representative, file a complaint. This information collection form has been developed to simplify this process for complainants.	Completed	OMB approved on 07/09/2015. The expiration date is 07/31/2018.	No	No	N/A		Estimated 2275 hours eliminated in paperwork/reporting with change to electronic form. The projected savings to the government is not yet known. Individuals submitting ADA complaints using the electronic form will no longer need to mail paper copies of the form to the Department. It is estimated that 9,100 complaint forms will be completed each year and that it will take 0.50 hours to complete the form for a total of 4,550 hours. This represents a reduction of 0.25 hours per form over the time estimated in 2011 for the paper form.
DOJ	EOIR	Electronic Submission of Application for Cancellation of Removal: Form EOIR-42A (Application for Cancellation of Removal for Certain Permanent Residents) and Form EOIR-42B (Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents)	1125-0001	This information collection is necessary to determine the statutory eligibility of individual aliens who have been determined to be removable from the United States for cancellation of their removal, as well as to provide information relevant to a favorable exercise of discretion.	Ongoing	FY 2017					29,881 hours of paperwork/reporting will be eliminated. The projected savings to the government is not yet known. There are 25,627 annual submissions of this form; as this form requires submission of documentary evidence, EOIR estimates that the majority of respondents file this form in person at the immigration court. EOIR conservatively estimates that 20% of these annual respondents, or 5,125.4, would file this form electronically, resulting in aggregate cost savings to the public of \$2,306.43 savings in postage and \$6,663.02 savings in

DOJ	EOIR	Electronic Submission of Notice of Appeal from a Decision of an Immigration Judge (Form EOIR-26)	1125-0002	A party affected by a decision of an Immigration Judge may appeal that decision to the Board, provided the Board has jurisdiction pursuant to 8 C.F.R. 1003.1(b). An appeal from an Immigration Judge's decision is taken by completing the Form EOIR-26 and submitting it to the Board	Ongoing	FY 2017						1,920 hours of paperwork/reporting will be eliminated. The projected savings to the government is not yet known. There are 19,201 annual submissions of this form; as this form is a notice of appeal that must be filed with the Board of Immigration Appeals, located in Falls Church, VA, EOIR estimates that the majority of respondents file this form using the postal service. EOIR conservatively estimates that 90% of these annual respondents, or 17,280.9, would file this form electronically, resulting in aggregate cost savings to the public of \$7,776.41 savings in postage and \$10,368.54
DOJ	EOIR	Electronic Submission of Fee Waiver Request Form (Form EOIR-26A)	1125-0003	The information on the fee waiver request form is used by the Board of Immigration Appeals to determine whether the requisite fee for a motion or appeal will be waived due to an individual's financial situation.	Ongoing	FY 2017						1,194 hours of paperwork/reporting will be eliminated. The projected savings to the government is not yet known. There are 5,970 annual submissions of this form; as this form is a notice of appeal that must be filed with the Board of Immigration Appeals, located in Falls Church, VA, EOIR estimates that the majority of respondents file this form using the postal service. EOIR conservatively estimates that 90% of these annual respondents, or 5,373, would file this form electronically, resulting in aggregate cost savings to the public of \$2,417.85 savings in postage and \$537.30 savings in printing

DOJ	EOIR	Electronic Submission of Request for Recognition of a Non-profit Religious, Charitable, Social Service, or Similar Organization (Form EOIR-31)	1125-0012	This information collection is necessary to determine whether the organization meets the regulatory and relevant case law requirements for recognition by the Board as a legal service provider, which then would allow its designated representative or representatives to seek full or partial accreditation to practice before EOIR and/or the Department of Homeland Security.	Ongoing	FY 2017						44 hours of paperwork/reporting will be eliminated. The projected savings to the government is not yet known. There are 105 annual submissions of this form; as this form is a request for recognition that must be filed with the Board of Immigration Appeals, located in Falls Church, VA, EOIR estimates that the majority of respondents file this form using the postal service. EOIR conservatively estimates that 90% of these annual respondents, or 94.5, would file this form electronically, resulting in aggregate cost savings to the public of \$42.53 savings in postage and \$28.35
DOJ	EOIR	Request by Organization for Accreditation of Non-Attorney Representative (Form EOIR-31A)	1125-0013	EOIR recently developed a new voluntary information collection (Form EOIR-31A) to assist Nonprofit Religious, Charitable, Social Service, or Similar Organizations recognized to provide representation to individuals appearing before EOIR and the Department of Homeland Security (DHS).	Ongoing	FY 2017						This form was developed in order to assist recognized organizations in applying for the accreditation of their representatives to appear before EOIR and DHS. The new voluntary Form EOIR-31A makes it easier for an organization to submit a complete application for accreditation and for the Board to review an individual's credentials for eligibility and fitness to participate in the R&A program. As this is a new collection, the projected savings to the government and the public is not yet known.



DOJ	EOIR	List of Pro Bono Legal Service Providers for Aliens in Immigration Proceedings	1125-0015	EOIR recently developed a new voluntary information collection (Form EOIR-56) pursuant to an ICR included in the final rule amending the regulations related to the List of Pro Bono Legal Service Providers (1125-AA62). The form is intended to assist applicants seeking to be included on the List and applicants renewing their requests to remain on the List. The agency is actively working on developing a system that will allow electronic filing of this form by FY2017.	Ongoing	FY 2017						This form was developed in order to assist recognized applicants seeking to be included on the List and applicants renewing their requests to remain on the List. The new voluntary Form EOIR- 56 makes it easier for an applicant to submit a request to be included on the List and for the agency to review an applicant's credentials for eligibility to be included on the list. As this is a new collection, the projected savings to the government and the public is not yet known.
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Executive Order 13659, "Streamlining the Export/Import Process for America's Businesses," provided new directives for agencies to improve the technologies, policies, and other controls governing the movement of goods across our national borders. This includes additional steps to implement the International Trade Data System as an electronic information exchange capability, or "single window," through which businesses will transmit data required by participating agencies for the importation or exportation of cargo.

At the Department of Justice, stakeholders must obtain pre-import and pre-export authorizations from the Drug Enforcement Administration (DEA) (relating to controlled substances and listed chemicals), or from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) (relating to firearms, ammunition, and explosives). The ITDS "single window" will work in conjunction with these pre-import and pre-export authorizations.

The pre-import/export requests for both agencies occur before the goods are at the border or port of entry, thus allowing adequate time for the respective agency to review the request and pertinent data relating to the request and contact interested parties and/or foreign counterparts on the stakeholder's request. Stakeholders seeking to import or export commodities regulated by these agencies will continue to utilize the established application process at each agency. DEA has electronic filing systems for most import and export authorizations, and ATF allows optional electronic filing for import and export authorizations. DEA and ATF systems then supply, by batch, license and permit information to CBP to facilitate validation of licenses and permits for imported or exported goods at the border.