

DEPARTMENT OF JUSTICE (DOJ)**Statement of Regulatory Priorities**

The Department of Justice is not a major regulatory agency, and it carries out its vital investigative, prosecutorial, and other law enforcement activities principally through means other than the regulatory process. Even so, the Department does have significant responsibilities for implementing the Americans with Disabilities Act (ADA) as well as the immigration laws, including the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990. The Department's key regulatory goals and initiatives are set forth in detail below.

The Department has worked actively to implement the general regulatory principles of Executive Order 12866. Relatively few of the Department's rules are significant regulatory actions requiring review by the Office of Management and Budget (OMB) under the Executive Order. Accordingly, the orientation of the OMB review process to focus on significant rules has required the Department to increase its own efforts to ensure that all of its regulations are carefully reviewed for consistency with the Administration's regulatory principles, including the large majority of rules that are not reviewed directly by OMB as significant regulatory actions.

Pursuant to section 4(c) of Executive Order 12866, the Department of Justice provides the following statement of regulatory priorities, focusing in particular on three regulatory initiatives in the areas of civil rights and immigration.

In addition to the specific initiatives set forth below, several other components of the Department carry out important responsibilities through the regulatory process. Although their regulatory efforts are not singled out for specific attention in this Regulatory Plan, those components carry out key roles in implementing the Department's law enforcement priorities. In particular, the Drug Enforcement Administration (DEA) is responsible for controlling abuse of narcotics and dangerous drugs by restricting the aggregate supply of those drugs. DEA accomplishes its objectives through coordination with State, local, and other Federal officials in drug enforcement activities; development and maintenance of drug intelligence systems; regulation of legitimate controlled substances; and enforcement coordination and intelligence-gathering activities with foreign government

agencies. DEA has various regulatory actions under development relating to the drug control requirements and to streamlining initiatives undertaken pursuant to the Administration's Regulatory Reinvention initiative.

Also, the Federal Bureau of Investigation will be promulgating regulations under the Communications Assistance to Law Enforcement Act of 1994 (CALEA). Congress enacted CALEA to address the recent and continuing advances in telecommunications technology which have impaired and, in some instances precluded, law enforcement agencies from fully conducting various types of court-authorized electronic surveillance. The Attorney General is authorized to reimburse carriers for all of the reasonable costs directly associated with the modifications they perform on equipment, facilities, and services deployed on or before January 1, 1995. These regulations will provide the cost accounting standards for reimbursements.

Civil Rights

The Department and its Civil Rights Division are deeply committed to a rigorous and revitalized approach to the enforcement of this Nation's civil rights laws. In keeping with that commitment, the Division will be reviewing, updating, and improving its civil rights regulations, which are the Division's basic enforcement tools. As a priority for the coming year, the Division is completing the initial ADA rulemaking cycle by amending its regulations under the ADA to incorporate revised standards applicable to new buildings and facilities used by State and local governments. The Department's Regulatory Plan has one civil rights initiative.

The Department is planning to make revisions in its regulations implementing title II of ADA (and conforming changes to title III) in order to incorporate the revised accessibility design guidelines developed by the Architectural and Transportation Barriers Compliance Board (the Access Board). Subtitle A of title II of the ADA protects qualified individuals with disabilities from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. Title III of the ADA protects qualified individuals with disabilities from discrimination on the basis of disability by public accommodations and in commercial facilities. The Access Board's new guidelines for State and local buildings

and facilities are the subject of a related, pending rulemaking proceeding, and have been subject to considerable scrutiny through the Board's regulatory process. The Department of Justice, which is required by statute to promulgate regulations that do not go below the Access Board's minimum guidelines, will incorporate them into the Department's title II rule.

These amendments to the ADA regulations are an important step forward in fulfilling the promise of the ADA in ushering in a new era of opportunity and dignity for the many millions of Americans with disabilities. These regulations, which will apply to new construction and to alterations of State and local buildings and facilities, will open doors that have shut out people with disabilities in the past.

Immigration

The Immigration and Naturalization Service (INS) is responsible for facilitating the entry of persons legally admissible as visitors or as immigrants to the United States, for preventing unlawful entry or receipt of immigration benefits by those who are not entitled to receive them, and for apprehending or removing those aliens who enter or remain illegally in the United States. Though many of the Administration's goals for more effective immigration process require either new statutory authority or increased resources, the regulatory process is a vital aspect of carrying out the goals of the immigration laws.

Certainly, one of the regulatory challenges facing the Department of Justice is to improve the effectiveness of those regulatory efforts. Commissioner Meissner established three fundamental goals at the time of her confirmation: to increase the professionalism of the Service, to provide immigration control with compassion, and to build the Service's role in immigration policy leadership and communication. The regulatory priorities for the Service follow those priorities, though other desired improvements may require legislative action. Two INS initiatives are included in this regulatory plan.

The principal policy and program delivery regulations which will be presented this year address areas of vulnerability in the immigration system. They are also structured to facilitate the proper use of the system by deserving persons. The principal regulation will provide reforms which are geared to streamlining the naturalization process.

The Service has launched a major initiative, "Citizenship USA," designed

to increase access to citizenship. Through this project, INS will streamline the naturalization process to assure that eligible applicants are approved and sworn in as citizens within 6 months of filing their applications. A team of INS headquarters and field staff, with the assistance of outside experts, has reviewed the current process and will propose to the Commissioner a number of modifications to procedures and policies. One of the first of these changes is the designation of qualified organizations to provide assistance to individuals applying for naturalization, on a fee-for-service basis.

The second major program area to be addressed in this regulatory plan is the Service's ongoing effort to facilitate the U.S. business community's ability to comply with the Employer Sanctions provisions of the Immigration Control and Reform Act. Over the past year the Service has published a supplemental proposed rule which not only further reduced the number of acceptable documents for verifying employment eligibility, but also proposed the addition, based on public comments, of an employee attestation provision.

The Service has also been involved in discussions with various private- and public-sector organizations concerning the feasibility of an electronic Form I-9, Employment Eligibility Verification Form. Efforts are currently underway to allow a pilot demonstration program to test various phases of electronically handling and/or processing the Form I-9. The demonstration project is scheduled to be a 2-year project, after which the Service hopes to be in a position to present findings and recommendations for possible regulatory and/or legislative modifications.

Additionally, the Service will be promulgating regulations which will propose to eliminate references to several types of employment authorization documents (EADs) and to phase in replacement of these documents by a new, more secure, EAD.

DOJ—Civil Rights Division (CRT)

FINAL RULE STAGE

62. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS

Priority:

Other Significant

Legal Authority:

42 USC 12134; 42 USC 12186; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation:

28 CFR 35; 28 CFR 36; 28 CFR 37; 28 CFR 38

Legal Deadline:

None

Abstract:

On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of public accommodation and commercial facilities (title III). Those regulations included accessibility guidelines required for facilities covered by title III--the ADA Accessibility Guidelines for Buildings and Facilities (ADAAG)--but did not specifically include guidelines for facilities covered by title II, such as courthouses or prisons. Title II entities now have the option of using ADAAG (without certain exceptions applicable only to title III facilities) or another existing standard, the Uniform Federal Accessibility Standards.

The final rule will amend titles II and III to adopt a revised version of ADAAG, which incorporates new guidelines for facilities typically covered by title II. The new guidelines were issued as an interim rule by the Access Board and were published on the same day as the Department's proposed rule. The Department's final rule will also amend the compliance procedures set forth in subpart F of the title II regulation.

Statement of Need:

Section 504 of the ADA requires the Access Board to issue supplemental minimum guidelines and requirements for accessible design of buildings and

facilities subject to the ADA, including titles II and III. Sections 204(c) and 306(c) of the ADA provide that the Attorney General shall promulgate regulations implementing titles II and III that are consistent with the Access Board's ADA guidelines. Because the Department of Justice is required by statute to promulgate regulations that do not go below the Access Board's minimum guidelines, and because this rule will adopt guidelines issued by the Access Board, as also required by statute, this rule is required by statute.

Summary of the Legal Basis:

The summary of the legal basis of authority for this regulation is set forth above in the Legal Authority and in Statement of Need.

Alternatives:

The Department is required by the ADA to issue this regulation as described in the Statement of Need above. All comments (including those that suggest alternatives to the current proposed guidelines) received by the Department on the proposed rule and by the Access Board on its current interim rule and its guidelines published December 21, 1992, have been and will continue to be thoroughly analyzed and considered by the Department prior to the adoption of any final rule.

Anticipated Costs and Benefits:

The Clinton Administration is deeply committed to ensuring that the goals of the ADA are met. Promulgating this amendment to the Department's ADA regulations will ensure that entities subject to the ADA will have one comprehensive regulation to follow. Currently, entities subject to title II of the ADA (State and local governments) have a choice between following the Department's ADA standards for title III, which were adopted for places of public accommodation and commercial facilities and which do not contain standards for common State and local government buildings (such as courthouses and prisons), or the Uniform Federal Accessibility Standards (UFAS). By developing one comprehensive standard, the Department will eliminate the confusion that arises when governments try to mesh two different standards. As a result, the overarching goal of improving access to the built environment to persons with disabilities will be better served.

The Access Board has analyzed the impact of applying its proposed amendments to ADAAG to entities covered by titles II and III of the ADA

and has determined that they are a significant regulatory action for purposes of Executive Order 12866. The Access Board has prepared a Regulatory Assessment, which includes a cost impact analysis for certain accessibility elements and a discussion of the regulatory alternatives considered.

The Access Board has determined that this proposed rule will have a significant economic impact on a substantial number of small entities and, therefore, has included the flexibility analysis required by the Regulatory Flexibility Act in its regulatory assessment. The Access Board has made every effort to lessen the economic impacts of its proposed rule on small entities, but recognizes that such impacts are the necessary result of the mandate of the ADA itself. The Access Board's analysis also applies to the Department's proposed adoption of the revised ADAAG. The Department's proposed procedural amendments will not have a significant economic impact on small entities.

The Access Board has made every effort to lessen the impact of its proposed guidelines on State and local governments, but recognizes that the guidelines will have some federalism impacts. These impacts are discussed in the Access Board's Regulatory Assessment, which also applies to the Department's proposed rule.

Risks:

Without this amendment to the Department's ADA regulations, regulated entities will be subject to confusion and delay as they attempt to sort out the requirements of conflicting design standards. This amendment should eliminate the costs and risks associated with that process.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31808
NPRM Comment Period End	08/19/94	59 FR 31808
Final Action	09/00/96	

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Local

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DOJ—Immigration and Naturalization Service (INS)

PROPOSED RULE STAGE

63. • STREAMLINING NATURALIZATION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

8 USC 1103; 8 USC 1252b; 8 USC 1362; 8 USC 1421; 8 USC 1443; 8 USC 1447; 8 USC 1448

CFR Citation:

8 CFR 103; 8 CFR 292

Legal Deadline:

None

Abstract:

This regulatory change is part of the Immigration and Naturalization (INS) "Citizenship USA" Project to make the naturalization process more accessible to eligible immigrants. The change is intended to increase the availability of high-quality, low-cost assistance to applicants for naturalization and other immigration benefits. It will reduce the burden of current regulations and will clarify some regulatory provisions which have been confusing to affected parties. It will also expand the partnership between INS and organizations in local communities.

Statement of Need:

INS now receives far more applications for naturalization than in previous years. Many of these applications are filed with some of the required information missing, or improperly filled out. Processing these applications

and returning them for additional information wastes time of INS employees, and adds delay to an applicant's waiting time.

Many voluntary organizations working in immigrant communities help individuals prepare their applications. INS has learned that these are more likely to be complete and legible, expediting processing. Further, these organizations provide information regarding INS requirements and procedures, which helps individuals decide whether and when to file applications for naturalization and other immigration benefits. INS believes that increasing the availability of such assistance will increase the efficiency and effectiveness of its naturalization efforts, reduce the waiting time for applicants, and increase satisfaction among its applicants.

INS will amend existing regulations to establish procedures to designate qualifying organizations and their individual employees on a provisional basis to assist applicants for various naturalization benefits, on a fee-for-service basis. These procedures will be coordinated with those regarding representation by organizations recognized by the Board of Immigration Appeals (BIA).

Summary of the Legal Basis:

The legal basis of authority for these regulatory modifications is set forth above in Legal Authority. No aspect of these actions is required by statute or court order.

Alternatives:

Some attorneys provide these services to their clients; however, the demand exceeds the supply. The BIA recognizes qualified organizations to provide representation, which may include application assistance; again, the need for assistance exceeds the total capacity of these organizations, which are restricted to charging no more than a nominal fee for services. By establishing its own procedures for designation, INS can expand the availability of high-quality, low-cost services. As such designated organizations will be able to charge fees to support these services, they should be able to expand to meet the need.

Anticipated Costs and Benefits:

There will be a relatively small cost for staff time necessary to determine the qualifications of organizations and their individual employees seeking designation, as well as a small cost for

monitoring the ongoing quality of such services and the designees' continued compliance with the requirements. The benefits include: shortened average processing time for applications due to improved accuracy; reduced demand for INS staff to answer routine application questions or provide forms; better understanding of requirements and procedures by potential applicants; fewer filings by clearly ineligible persons, saving them and INS time and money; and the potential for enhanced relationships between INS and the public in local communities. The INS anticipates that these benefits will substantially exceed the costs.

Risks:

These regulatory initiatives do not involve risk reduction efforts involving health, public safety, or environmental concerns.

Timetable:

Action	Date	FR Cite
NPRM (INS 1735) Comment Period End 2/96	12/00/95	

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

Federal

Additional Information:

Craig S. Howie, Sr., Adjudications Officer is also an agency contact.

INS No. 1735, Contact Yolanda Sanchez-K, Pearl Chang.

INS No. 1275, Related Naturalization effort.

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DOJ—INS

FINAL RULE STAGE

64. CONTROL OF EMPLOYMENT OF ALIENS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

8 USC 1101; 8 USC 1103; 8 USC 1255a; 8 USC 1255a note; 8 USC 1324a; 8 USC 1160; 8 CFR 2

CFR Citation:

8 CFR 210; 8 CFR 245a; 8 CFR 274a

Legal Deadline:

None

Abstract:

The document reduction rule (INS No. 1399-93) reduces the number of Immigration and Naturalization Service (INS)-issued documents that are acceptable for purposes of completing the Employment Eligibility Verification Form (Form I-9). This rule proposes to further simplify compliance with the employment eligibility verification requirements and address the concerns of employers who allege confusion created by the multiplicity of acceptable documents on the Form I-9.

A supplemental proposed rule published on June 22, 1995, at 60 FR 32472 proposed creating a requirement on the part of the employee to sign an attestation in section 3 of Form I-9, during the reverification process indicating that they are still authorized to work in the United States (INS No. 1399S-94). The supplemental rule also proposed the elimination of Federal identification cards as acceptable List B identity documents.

Statement of Need:

In a March 1990 report, the General Accounting Office (GAO) noted that the multiplicity of acceptable work eligibility documents can give rise to confusion and uncertainty in the minds of employers seeking to determine whether individuals are eligible to work. (Immigration Reform: Employer Sanctions and the Question of Discrimination 62 (GAO/GGD-90-62, Mar. 1990)). A reduction in the number of acceptable documents should reduce confusion and uncertainty on the part of employers, and thereby reduce potential employment discrimination based upon misapplication of the employment eligibility verification requirements.

Summary of the Legal Basis:

The legal basis of authority for this regulation is set forth above in Legal Authority. No aspect of this regulatory action is required by statute or court order.

Alternatives:

One often repeated criticism of employer sanctions is the number of documents that are acceptable for completing the Form I-9. The Service has taken steps to address this criticism. In July 1988, the Service committed to the establishment of procedures for a uniform employment authorization policy. First, the Service limited the number and types of paper documents on which employment could be authorized. Second, the Service introduced the standardized Employment Authorization Document (Form I-688B). The Service has determined that further steps can be taken to streamline the employment eligibility verification system by reducing the number of documents acceptable for Form I-9 purposes. During the next few months the Service will issue a proposed regulation which introduces a new, more secure employment authorization document (EAD) which will eventually replace existing EADs.

Anticipated Costs and Benefits:

Employment is often the magnet that attracts individuals to come to or stay in the United States illegally. The employer sanctions provisions help reduce the strength of this magnet by requiring employers to hire only those individuals who may legally work in the United States. This rule, by reducing the number of documents that are acceptable for employment eligibility verification purposes, will reduce confusion and uncertainty on the part of employers in the application of the employment eligibility verification requirements. This, in turn, will increase employer compliance and thereby result in more jobs being available for those who are authorized to work in the United States. In addition, by reducing confusion and uncertainty on the part of employers, this rule will reduce potential employment discrimination based upon misapplication of the employment eligibility verification requirement.

Risks:

An employment eligibility verification system that relies on a multiplicity of documents, and is difficult to understand, may result in employment discrimination based upon

misapplication of the employment eligibility verification requirements. In addition, a complicated employment eligibility verification system may encourage fraud and result in individuals who are authorized to work in the United States being displaced by unauthorized individuals.

Timetable:

Action	Date	FR Cite
NPRM (INS 1399); Comment period end 12/23/93	11/23/93	58 FR 61846
Supplemental NPRM (INS 1339S) Comment period end 7/24/95	06/22/95	60 FR 32472

Action	Date	FR Cite
Public Notice (INS 1713) Pilot Demonstration Program	10/00/95	
Final Rule (INS 1399)	12/00/95	

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

Additional Information:

INS No. 1399-92

INS No. 1399S-94, Control of Employment of Aliens Supplemental Rule.

INS No. 1713-95, Demonstration Project for Electronic I-9s, contact Robert Atwater, 202-514-2998.

Cross Reference INS No. 1707-95, RIN 1115-AE06, contact Sharen Nichols, 202-514-3156.

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