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DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Parts 1001, 1003, 1208, and 1240

[Dir. Order No. 02-2025]

RIN 1125-AA77

Designation of Temporary Immigration Judges

AGENCY: Executive Office of Immigration Review ("EOIR"), Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule aligns the regulatory requirements for candidates for Temporary Immigration Judge ("TIJ") appointments to mirror the regulatory requirements for permanent Immigration Judge ("IJ") appointments, thus allowing the Attorney General and Director of EOIR to select TIJs from a larger pool of well-qualified candidates. Additionally, the Department of Justice ("the Department" or "DOJ") is making various technical and non-substantive changes to its regulations.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

I. Legal Authority

The Department issues this rule pursuant to section 103(g) of the Immigration and Nationality Act ("INA" or "the Act"), 8 U.S.C. 1103(g), as amended by the Homeland Security Act of 2002 ("HSA"), Pub. L. 107–296, 116 Stat. 2135 (as amended). The HSA provides that EOIR exists within the Department and that it shall be "subject to the direction and regulation of

the Attorney General" under section 103(g) of the INA, 8 U.S.C. 1103(g). Further, under the HSA, the Attorney General retains authority to "establish such regulations, . . . issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out" the Attorney General's authorities under the INA. HSA 1102(g)(2), 116 Stat. at 2274; INA 103(g)(2), 8 U.S.C. 1103(g)(2). Those authorities include conducting removal proceedings under section 240 of the INA, 8 U.S.C. 1229a ("section 240 removal proceedings"). Furthermore, in Attorney General Order Number 6260-2025, the Attorney General has exercised her authority under 28 U.S.C. 509 and 510 to delegate her authority to issue regulations related to immigration matters within the jurisdiction of EOIR to EOIR's Director.

II. Background

EOIR administers the Nation's immigration court system. Cases generally commence before an IJ after the Department of Homeland Security ("DHS") files a charging document with the immigration court. *See* 8 CFR 1003.14(a). EOIR primarily decides whether aliens who are charged by DHS with violating immigration law pursuant to the INA should be ordered removed from the United States or should be granted relief or protection from removal and be permitted to remain in the United States. EOIR's Office of the Chief Immigration Judge administers these adjudications in immigration courts nationwide.

Until 2025, the immigration court system faced an ever-growing backlog of pending cases. A November 2024 report by the Congressional Research Service found that this backlog "has grown each year since [fiscal year ("FY")] 2006 and has ballooned in recent years," reaching "1 million [pending cases] for the first time in FY2019" and "nearly 2.5 million at the end of FY2023." Holly Straut-Eppsteiner, Cong. Rsch. Serv., IN12463, *Immigration Courts: Decline in New Cases at the End of FY2024* 1 (2024). This backlog peaked at approximately 4.1 million cases in January 2025. *See* EOIR, *Pending Cases, New Cases, and Total Completions-Last 12 Months* (Aug. 4, 2025), *https://www.justice.gov/eoir/media/1344796/dl?inline*

[*https://perma.cc/2XYE-EG8R*].

Effective November 1, 2028, EOIR will be authorized to employ "not more than 800 immigration judges, along with the necessary support staff." *See* One Big Beautiful Bill Act, Pub. L. 119–21, sec. 100054(1)(B), 139 Stat. 72 (2025).

To assist with the immigration courts' substantial caseload, the EOIR Director ("Director"), with the approval of the Attorney General, may designate or select TIJs, which have the authority of an IJ to adjudicate assigned cases and administer immigration court matters. 8 CFR 1003.10(e). Prior to this final rule, individuals eligible to be designated as TIJs were limited to former IJs and Appellate Immigration Judges, EOIR administrative law judges ("ALJs")[1] or ALJs retired from EOIR, ALJs from other Executive Branch agencies with the consent of their agencies, and Department attorneys with at least 10 years of legal experience in the field of immigration law. *Id*. The regulatory provision authorizing TIJs, 8 CFR 1003.10(e), was added through an interim final rule ("IFR") with a request for comments in 2014. *See* Designation of Temporary Immigration Judges, 79 FR 39953 (July 11, 2014) ("2014 TIJ IFR"). The Department received 17 public comments on that IFR.

On May 29, 2024, the Department finalized a proposed rule that added a new regulatory definition of the term "noncitizen" to be used in place of the statutory term "alien" and added a new regulatory definition of the term "unaccompanied child" to be used in place of the statutory term "unaccompanied alien child," as defined at 6 U.S.C. 279(g)(2). *See* Efficient Case and Docket Management in Immigration Proceedings, 89 FR 46742 (May 29, 2024) ("ECDM Final Rule").

III. Public Comments and Responses on the 2014 TIJ IFR

Comments received on the 2014 TIJ IFR are organized by topic below. Most

[1] EOIR's Office of the Chief Administrative Hearing Officer currently employs four ALJs to hear cases arising under sections 274A, 274B, and 274C of the INA, 8 U.S.C. 1324a, 1324b, 1324c. *See* EOIR, *Meet the Administrative Law Judges* (Oct. 10, 2023), *https://www.justice.gov/eoir/meet-administrative-law-judges* [*https://perma.cc/V4NU-H6LQ*].

commenters were supportive of the IFR, stating, for example, that appointing TIJs will greatly assist with managing the border and lower the case loads of permanent IJs. In contrast, commenters opposing the rule primarily raised concerns about the ability of certain Department attorneys to be impartial or opposed spending additional taxpayer money to hire more IJs. Commenters generally provided proposals for types of attorneys that should or should not be allowed to serve as TIJs and policies EOIR should adopt with respect to training and compensation as well as the regulations governing the use of other agencies' ALJs. The Department addresses these comments below.

A. General Support

Comments: Many commenters generally supported the Department's decision to allow for the appointment of TIJs, stating, for example, that the appointment of TIJs "will be of great help" given that the immigration courts have "more cases before them than ever before." Commenters also asserted that appointing TIJs is not a substitute for hiring more permanent IJs.

Response: The Department agrees with the goal of the 2014 TIJ IFR but, as stated below in Section IV of this preamble, its requirements for TIJs limited the IFR's effectiveness. The Department does not view its authority to appoint TIJs as a substitute for hiring to fill permanent IJ positions and continues to recruit candidates to fill permanent IJ positions.

B. Proposed Regulatory Changes

Comments: Many commenters proposed changes to the regulation's limitations on who may be appointed as a TIJ. Most such commenters asserted that the requirements were too narrow and may restrict the Department's ability to fill the TIJ positions with qualified applicants. Commenters proposed various amendments to the provisions setting forth the TIJ requirements, such as expanding the candidate pool to non-DOJ attorneys with 7 years of immigration law experience, to all former government employees with 10 years of immigration law experience, to all Federal administrative judges regardless of years of experience, or to all Department attorneys with 7, or even 5, years of immigration law experience. Other commenters

proposed narrowing the pool, such as to former EOIR adjudicators, out of concern that those without prior experience would drain training resources or by excluding Department attorneys from specific offices the commenter viewed as hostile to aliens.

Response: As explained in Section IV of this preamble, the Department agrees with commenters that the 2014 TIJ IFR's requirements for TIJs were too narrow and impeded the Department's ability to use the TIJ authority to the extent needed. Rather than adopt different benchmarks by regulation, the Department has decided to adopt the same approach that it has long taken for permanent IJs—that is, require by regulation that they be attorneys but leave the specific criteria to internal policy.[2] *See* 8 CFR 1003.10(a). This will allow the Department flexibility in TIJ hiring choices similar to those the Department has for hiring permanent IJs. To the extent commenters cast doubt on the ability of Department attorneys to serve as neutral arbiters and thus question whether they should be allowed to serve as TIJs, the Department disagrees with such unsupported accusations. Regardless, as explained in Section IV of this preamble, the Department will consider each candidate on a case-by-case basis to determine their fitness to serve as TIJs.

Comments: Commenters recommended changes to the IFR with respect to its duration and scope. Commenters proposed placing a limit on the total length of a TIJ's service, such as, for example, one year. Other commenters proposed that the rule should sunset once the need for TIJs abates. Commenters also proposed that the rule place a cap on the number of allowable TIJs.

Response: The Department declines to adopt any limitations on the number of extensions of the six-month periods or otherwise cap the length of a temporary appointment. Other statutes and regulations govern the duration of certain types of appointments as will home agency

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[2] Importantly, that approach mirrors the INA, which requires only that IJs be "attorney[s] whom the Attorney General appoints as [] administrative judge[s] within [EOIR], qualified to conduct specified classes of proceedings, including" section 240 removal proceedings and who "shall be subject to such supervision and shall perform such duties as the Attorney General shall prescribe, but shall not be employed by the Immigration and Naturalization Service." INA 101(b)(4), 8 U.S.C. 1101(b)(4).

preferences. Given the statutory and regulatory frameworks within which the Department operates, the Department does not expect TIJs to serve for extended periods necessitating any specific limitation. Similarly, the Department declines to limit the number of TIJs in the regulation or have the regulation sunset. Not only does the Department believe it unwise to place a cap or adopt an expiration date that could impede its ability to respond to unforeseen circumstances requiring the use of TIJs, but EOIR's ability to appoint TIJs will be limited by other forces, such as appropriations and other pre-employment processing requirements. Accordingly, the Department does not believe it prudent to arbitrarily limit by regulation its ability to use TIJs.

Comments: Commenters recommended that the regulations state the training required for TIJs and proposed that such training be in person and that all TIJs be provided mentor judges. Commenters also stated that TIJs should be required to have all the training required to be a permanent IJ.

Response: The Department declines to adopt regulatory changes in response to these comments. The training for permanent IJs is not currently set by regulation. Like the experience requirements for TIJ candidates, the Department prefers not to codify a specific training program to ensure continued flexibility. Regardless, EOIR maintains a dynamic training program for IJs that includes extensive classroom-based training and on-the-job training. *See* EOIR, *Fact Sheet: Executive Office for Immigration Review Immigration Judge Training* (June 2022), *https://www.justice.gov/eoir/page/file/1513996/dl?inline* [*https://perma.cc/6GZS-EDRY*]. Moreover, TIJs will receive the same "comprehensive, continuing training and support" by EOIR. 8 CFR 1003.0(b)(1)(vii); *see also* 8 CFR 1003.10(e)(3) ("The Chief Immigration Judge shall ensure that each [TIJ] has received a suitable level of training to enable the [TIJ] to carry out the duties assigned.").

C. Other Comments

Comments: Many commenters discussed the use of ALJs from other agencies.

Commenters recommended that EOIR ensure that other-agency ALJs retain their decisional independence upon return to their home agencies, pay relocation costs and per diems, and assure that home agencies do not prevent ALJs from serving as TIJs once selected. Commenters recommended working with the Office of Personnel Management in accordance with specific statutes and regulations when seeking the assistance of other-agency ALJs. Commenters also recommended that the Department clarify a statement in the preamble of the 2014 TIJ IFR that "[t]he Assistant Chief Immigration Judge will be available as an additional source of assistance and guidance, and will be responsible for conducting periodic reviews of the temporary immigration judge's performance and reporting his or her findings to the Chief Immigration Judge." 79 FR 39955. Specifically, commenters recommended that the Department remove that statement from the preamble or otherwise ensure consistency with 5 CFR 930.206(a), which states that "[a]n agency may not rate the job performance of an administrative law judge." Commenters also recommended that ALJs be allowed to take on TIJ duties on a part-time basis while continuing to adjudicate cases for their home agency, reasoning that such an arrangement may make home agencies more amenable to their ALJs' participation.

Response: The Department is amending 8 CFR 1003.10(e)(1) to add that appointment as a TIJ will be "subject to all applicable statutory and regulatory limitations on the temporary service." The Department has followed all applicable statutes and regulations regarding the use of various types of attorneys as TIJs but nevertheless amends the regulation to make such compliance explicit. Given the various ways that candidates may be appointed to serve as TIJs—*e.g.*, on detail from within the Department, on detail from other Departments, as special government employees under 18 U.S.C. 202(a)—and the various statutes and regulations that may apply depending on a specific TIJ's circumstances—such as the specific provisions governing ALJs discussed by commenters—it is not practicable for the Department to set forth in this rule every potentially applicable statute and regulation governing all potential future situations. However, the Department will ensure that all statutory and regulatory requirements

applicable to a given attorney are followed. Similarly, the Department will evaluate requests for part-time appointments on a case-by-case basis to ensure compatibility with applicable statutes and regulations and that such an arrangement would be in the best interests of EOIR.

Comments: Commenters stated that the working conditions for permanent IJs should not be negatively impacted by the hiring of TIJs and provided as examples that the agency should consider the term of an IJ when making location assignments, giving permanent IJs their desired work location when possible. Commenters also proposed that the Department study how support staff and technology resources may be taxed by the hiring of TIJs and consider hiring additional staff, detailing support staff from other components, or purchasing additional technology to accommodate TIJs.

Response: The Department is committed to ensuring sufficient resources for permanent IJs and TIJs to fulfill their duty of adjudicating cases expeditiously and impartially, consistent with the law. *See* EOIR, *About the Office: EOIR Mission* (May 29, 2025), *https://www.justice.gov/eoir/about-office* [*https://perma.cc/9XQ7-65DC*] ("The primary mission of . . . EOIR[] is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws."); EOIR Policy Manual, pt. I, ch. 1.2(a), *https://www.justice.gov/eoir/reference-materials/ic/chapter-1/2* [*https://perma.cc/P9BG-R3UT*] (last visited Aug. 26, 2025) ("Immigration Judges are tasked with resolving cases in a manner that is timely, impartial, and consistent with the Immigration and Nationality Act, federal regulations, and precedent decisions of the Board of Immigration Appeals and federal appellate courts."). EOIR's process for determining available location assignments for permanent IJs and TIJs is outside the scope of this rulemaking.

Comments: Commenters proposed that TIJs be rated more frequently than every two years due to their presumed lack of experience and the temporary nature of their positions.

Response: TIJs must be evaluated prior to any term extension. Because a TIJ's term, whether initial or extended, may not exceed six months, every TIJ will be evaluated at least

every six months.

Comments: Commenters recommended that EOIR allow for public analysis of the effectiveness of the rule and that EOIR should study whether the net effect of choosing certain TIJs for re-appointment increases the odds that an immigration court rules against aliens and post the results of that study.

Response: EOIR has studied the effect of the 2014 TIJ IFR over the past 10 years and has concluded that the IFR's restrictions on the candidate pool prevented EOIR from using TIJs in the manner contemplated. EOIR has used fewer than a dozen TIJs despite a mushrooming backlog of cases, causing the Department to conclude that the 2014 TIJ IFR was unnecessarily restrictive, reduced the potential pool of TIJs too severely, and ultimately undermined the very purpose of the IFR. *See* 79 FR 39954 ("The Department believes that the designation of [TIJs] will provide an appropriate means of responding to the increasing pending caseload in the immigration courts."). The Department will continue to evaluate the results of the TIJ appointment process, as required by 8 CFR 1003.10(e)(3). Furthermore, interested members of the public may analyze the effectiveness of the rule; EOIR does not place any restrictions on the public's ability to do so.

Comments: Commenters proposed that the Department compensate TIJs generously.

Response: TIJs are compensated in accordance with applicable statutes and regulations.

IV. Amendments to Regulatory Requirements for TIJs

Having considered the comments received on the 2014 TIJ IFR and EOIR's experience attempting to use TIJs under that IFR's provisions, the Department has determined that amendments are necessary. Although EOIR has begun to reduce the backlog of cases at the immigration court level and will continue to hire permanent IJs up to its statutory cap of 800, it recognizes that the sheer size of the backlog means that it cannot be expeditiously resolved solely through new hiring. Rather, EOIR must mobilize all available resources to ensure that cases are adjudicated timely and impartially consistent with its statutory and regulatory

directives. *See* 8 CFR 1003.10(b) ("In all cases, immigration judges shall seek to resolve the questions before them in a timely and impartial manner consistent with the Act and regulations."). To that end, EOIR believes TIJs are an untapped resource whose presence would assist in resolving more cases in a timely and impartial manner, but whose availability is needlessly limited by regulatory restrictions that are both somewhat inconsistent and unnecessarily siloed in terms of relevant experience.

For example, under the current language of 8 CFR 1003.10(e), an ALJ who works at a Federal agency unrelated to immigration law and who may have fewer than 10 years of legal experience is eligible to serve as a TIJ, while a military or veterans appeals judge with a distinguished career, decades of legal experience, and a prior background in immigration law is not. Similarly, attorneys at agencies other than DOJ with many years of experience in immigration law are ineligible to serve as a TIJ unless they are currently ALJs. Non-Federal employees are categorically ineligible to serve as a TIJ, regardless of their credentials and even if they may be otherwise temporarily hired as special government employees under 18 U.S.C. 202(a). Given the continued need for qualified IJs and EOIR's experience hiring successful permanent IJs from a diverse array of backgrounds, the Department has determined that the regulatory restrictions on selecting TIJs in 8 CFR 1003.10(e) do not serve the interests of the agency and needlessly restrict its ability to retain superior temporary assistance in adjudicating cases.[3]

Consequently, to help further address its caseload and expand the pool of potential candidates to be TIJs, the Department is amending the applicable TIJ regulation to remove

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[3] Although the Department spelled out the specific regulatory restrictions in the 2014 TIJ IFR, it did not explain the basis for choosing those restrictions. *See* 79 FR 39954. Moreover, despite noting that EOIR "will generally employ the same selection criteria [for TIJs] . . . it applies with respect to the hiring of permanent immigration judges," *id*., the IFR did not acknowledge that the TIJ requirements—*i.e*. either being a current or retired particular type of adjudicator or a Department attorney with 10 years of experience in immigration law—were significantly stricter than those for permanent IJs, for whom prior adjudicatory experience or knowledge of immigration law are not absolute requirements. Consequently, upon further consideration and with the benefit of over 10 years of experience in which EOIR utilized fewer than a dozen TIJs despite an increasing backlog of cases, the Department has determined that the requirements imposed by the 2014 TIJ IFR constrained the pool of potential TIJs too much to the point of undermining the goal of the IFR. *See id*. ("The Department believes that the designation of [TIJs] will provide an appropriate means of responding to the increasing pending caseload in the immigration courts.").

regulatory constraints that go beyond the regulatory constraints on permanent IJ hiring. This rule will enable the Director, with the approval of the Attorney General, to staff the immigration courts with a sufficient number of well-trained and highly qualified judges to further reduce and ultimately eliminate the backlog of pending cases.

Specifically, the Department is amending the TIJ provisions at 8 C.F.R. 1003.10(e)(1) to permit the Director, with the approval of the Attorney General, to designate or select any attorney to serve as a TIJ for a renewable term not to exceed six months, subject to all statutory and regulatory limits on temporary service. This language matches the only regulatory requirement the Department places on the hiring of permanent IJs. *See* 8 CFR 1003.10(a) ("The immigration judges are attorneys whom the Attorney General appoints as administrative judges within the Office of the Chief Immigration Judge to conduct specified classes of proceedings, including hearings under section 240 of the Act."); INA 101(b)(4), 8 U.S.C. 1101(b)(4). As with permanent IJ hiring, such language will provide the Department flexibility in setting the requirements for TIJ candidates.

The Department believes that the removal of categorical regulatory prohibitions is prudent to ensure that the Director and Attorney General may consider highly qualified candidates for TIJ appointments. For current Federal employees, the amendment removes restrictions limiting the availability of TIJ appointments to only certain types of Federal administrative judges.[4] The Department is no longer persuaded that allowing ALJs to serve as TIJs, but not military judges or other types of administrative judges who are not ALJs, is an appropriate restriction, particularly when many administrative judges perform similar functions—*e.g.*, presiding over hearings, receiving evidence, and making or recommending findings of fact and legal conclusions—regardless of their particular label.

[4] EOIR's experience with its retired adjudicators, only a handful of whom have indicated a willingness to return as either TIJs or rehired annuitants with limited workloads since the 2014 TIJ IFR was promulgated, indicates that pool is insufficient to address its TIJ needs. Consequently, although retired EOIR adjudicators remain eligible to serve as TIJs, the Department has removed the specific identification of those individuals as potential TIJs in the IFR.

Similarly, the Department no longer believes the restriction of TIJs to current Department employees with a threshold level of immigration law experience serves EOIR's interests. Immigration law experience is not always a strong predictor of success as an IJ, and EOIR has hired individuals from other Federal agencies and Department components without prior immigration experience who have become successful and exemplary IJs. Further, there is no clear reason to prohibit individuals at other Federal agencies with stellar credentials—*e.g.*, Supreme Court clerkships or significant experience in high-salience, complex litigation—who are otherwise well-qualified from serving as TIJs solely because they lack a certain level of immigration experience or are not currently serving in the Department, neither of which is even a prerequisite to serve as a permanent IJ. Additionally, both TIJs and permanent IJs receive the same "comprehensive, continuing training and support" by EOIR. 8 CFR 1003.0(b)(1)(vii); *see also* 8 CFR 1003.10(e)(3) ("The Chief Immigration Judge shall ensure that each [TIJ] has received a suitable level of training to enable the [TIJ] to carry out the duties assigned."), making the distinction in selection criteria between the two groups unnecessary.

In selecting TIJs, the Department will continue to look for the most qualified individuals overall with primary weight given to an applicant's education and employment history. Further factors may carry additional weight, such as prior judicial or quasi-judicial service of any kind, service in State or Federal government, including trial or litigation experience, and immigration law experience. However, the Director and Attorney General retain discretion to consider any other factors deemed relevant and to make selections.

In short, the need for assistance in fairly and efficiently adjudicating immigration cases has only increased since EOIR first adopted a plan to utilize TIJs in 2014. However, that original plan has proven largely ineffectual, requiring the agency to update it in order to ensure a more robust applicant pool to provide the assistance EOIR needs. The changes described above will provide the greatest degree of flexibility to ensure EOIR will be able to utilize highly qualified individuals as TIJs to meet its needs.

V. Other Amendments

This rule also rescinds certain non-substantive nomenclature changes implemented by the ECDM Final Rule. Specifically, this rule removes the defined terms "noncitizen" and "unaccompanied child" that were added by the ECDM Final Rule at § 1001.1(gg) and (hh), respectively. The ECDM Final Rule defined the term "noncitizen" to be synonymous with and to hold the same definition as the statutory term "alien" as defined at section 101(a)(3) of the INA, 8 U.S.C. 1101(a)(3). 89 FR 46778. Additionally, the ECDM Final Rule defined the term "unaccompanied child" to be synonymous with and hold the same definition as the statutory term "unaccompanied alien child" as defined at 6 U.S.C 279(g)(2). *Id.* at 46787.

The Department is now removing these definitions and the use of these terms from its regulations to avoid the confusion generated by introducing superfluous regulatory terms when there are statutory terms with the same meaning. The notice of proposed rulemaking preceding the ECDM Final Rule asserted that adding these terms would be "more consistent with current terminology usage." Appellate Procedures and Decisional Finality in Immigration Proceedings; Administrative Closure, 88 FR 62242, 62273 (Sept. 8, 2023). To the contrary, the terms "noncitizen" and "unaccompanied child" are inconsistent with the current terminology usage embraced by Congress, as evidenced by the statutory terms defined in the INA and uniformly used throughout title 8 of the United States Code. *See generally* INA, 8 U.S.C. (using the term "alien" throughout and no examples of the term "noncitizen"). Congress reinforced this in January 2025, when Congress passed a bipartisan bill, signed into law by the President, which amends the INA to address the detention of "criminal aliens." *See* Laken Riley Act, Pub. L. 119–1, 139 Stat. 3 (2025); INA 236(c)(1)(E), 8 U.S.C. 1226(c)(1)(E).

Furthermore, the terms are also inconsistent with other Department-sanctioned terminology and recent EOIR guidance. *See* EOIR PM 25-07, *Cancellation of Policy Memorandum 21-27* (Jan. 29, 2025), *https://www.justice.gov/eoir/media/1387446/dl?inline* [*https://perma.cc/HU2H-V2TF*]. For example, the Criminal Division and the U.S. Attorneys'

Offices continue to use template materials that use the word "alien" in indictments and complaints. *Id.* Additionally, the Department's Justice Manual, the principal policy manual for the Department, broadly continues to use the term "alien" instead of "noncitizen" and has not provided a standard definition for the latter term.[5] Moreover, using the terms "noncitizen" and "unaccompanied child" adds inconsistency even within EOIR's regulations, as chapter V of the 8 CFR now sometimes refers to aliens as "noncitizens" and other times as "aliens." The terms "noncitizen" and "unaccompanied child" are also inconsistent with DHS regulations, which continue to use the term "alien." *See generally* 8 CFR Ch. I.

Further exacerbating the risk of confusion, the term "noncitizen" is not a precise synonym for the term "alien." The INA defines the term "alien" to mean a person who is neither a citizen nor a national of the United States. INA 101(a)(3), 8 U.S.C. 1101(a)(3). The term "noncitizen" does not recognize the full scope of people who are "aliens" because the term "noncitizen" includes "national[s] of the United States," which are those "who, though not [] citizen[s] of the United States, owe[] permanent allegiance to the United States." INA 101(a)(22), 8 U.S.C. 1101(a)(22). Thus, a plain language understanding of the term "noncitizen" is incongruous with its given definition in the ECDM Final Rule. Similarly, the term "unaccompanied alien child" has a specific statutory definition, *see* 6 U.S.C. 279(g)(2), that is not fully captured by the term "unaccompanied child." Indeed, caselaw shows that these imprecise terms do not in fact have a well-settled meaning, and their use risks creating confusion through imprecision,[6] in addition to improperly suggesting that longstanding and well-defined statutory terms are imbued with pejorative meaning. *Avilez v. Garland*, 69 F.4th 525, 544 (9th Cir. 2023) (Bea, J., concurring) ("Alien is a statutory word defining a specific class of individuals. And when used in its statutory context, it admits of its statutory definition[.]");

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[5] *See, e.g.*, DOJ, Just. Manual § 9-21.410 (2025) ("Illegal Aliens"), *https://www.justice.gov/jm/jm-9-21000-witness-security#9-21.410* [*https://perma.cc/WX8N-S4LV*].

[6] *See* EOIR PM 25-07, *Cancellation of Policy Memorandum 21-27* (Jan. 29, 2025), *https://www.justice.gov/eoir/media/1387446/dl?inline* [*https://perma.cc/HU2H-V2TF*].

Khan v. Garland, 69 F.4th 265, 272 (5th Cir. 2023) (Ho, J., concurring) ("[I]n the context of immigration law, we use 'alien,' not to disparage one's character—or to denote one's planetary origin—but to describe one's legal status.").

By contrast, the term "alien" has a long-established usage and settled understanding. *Khan*, 69 F.4th at 272 (Ho, J., concurring) (describing the term "alien" as "a centuries-old legal term found in countless judicial decisions" dating back to the 1800s). The legal status of alienage is fundamental to EOIR's authority to exercise jurisdiction over an individual and is at the core of all proceedings, including findings of removability and orders of removal, as well as forms of eligibility for relief and protection from removal. The Department now determines that it is the most appropriate term to ensure that EOIR's regulations are clear, consistent, and legally precise.[7]

Lastly, the Department is replacing the term "Chairman" with "Chief Appellate Immigration Judge" and the term "Vice Chairman" with "Deputy Chief Appellate Immigration Judge" in 8 CFR 1003.1. This change is consistent with 8 CFR 1003.1(a)(2) and aligns more closely with the current terminology used by the Board of Immigration Appeals.[8]

VI. Regulatory Requirements

A. Administrative Procedure Act

This final rule is exempt from the requirements of prior notice and comment and a 30-day delay in effective date because it is a rule of agency organization, procedure, or practice and relates to agency management and personnel. *See* 5 U.S.C. 553(a)(2), (b)(A); 79 FR 39955 (stating that the 2014 TIJ IFR was exempt from 5 U.S.C. 553's notice-and-comment and

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[7] This view has similarly been recognized by an EOIR Policy Memorandum. *See* EOIR PM 25-07, *Cancellation of Policy Memorandum 21-27* (Jan. 29, 2025), *https://www.justice.gov/eoir/media/1387446/dl?inline* [*https://perma.cc/HU2H-V2TF*].

[8] EOIR, *Meet the Board of Immigration Appeals* (July 8, 2025), *https://www.justice.gov/eoir/board-of-immigration-appeals#board* [*https://perma.cc/LHB8-PVDU*] (using the terms "Chief Appellate Immigration Judge" and "Deputy Chief Appellate Immigration Judge").

delayed-effective-date provisions).[9] More specifically, the rule directly addresses a key personnel matter, the qualifications for appointment as a TIJ, as well as the agency's practices and management regarding appropriate language to use in conducting its day-to-day work. Additionally, there is good cause to forgo both notice and comment and a delayed effective date as to the terminology changes. Both are unnecessary because the rule merely brings EOIR's regulations back into alignment with statutorily defined terms.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act ("RFA"), a regulatory flexibility analysis is not required when a rule is exempt from notice-and-comment rulemaking under 5 U.S.C. 553(b) or other law. *See* 5 U.S.C. 603(a), 604(a). Because, for the reasons discussed in Section VI.A of this preamble, this rule is exempt from notice-and-comment rulemaking, no RFA analysis is required.

C. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted for inflation), and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, codified at 2 U.S.C. 1501 *et seq.*

D. Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14192 (Unleashing Prosperity Through Deregulation)

This rule is limited to agency organization, management, or personnel matters and is therefore not subject to review by the Office of Management and Budget pursuant to section 3(d)(3) of Executive Order 12866 and section 5(b) of Executive Order 14192.

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[9] Although it was also exempt from pre-promulgation notice-and-comment requirements, EOIR nevertheless requested post-promulgation comments in the 2014 TIJ IFR "before the Department issues a final rule on these matters." 79 FR 39955. And although this final rule is similarly exempt from those notice-and-comment requirements, this final rule responds to the post-promulgation comments received on the 2014 TIJ IFR. *See* Section III of this preamble.

E. Executive Order 14294 (Overcriminalization of Federal Regulations)

Executive Order 14294 requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This rule does not promulgate a regulation potentially subject to criminal enforcement and is thus exempt from Executive Order 14924's requirements.

F. Executive Order 13132 (Federalism)

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 of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

H. Paperwork Reduction Act

The Paperwork Reduction Act of 1995, Pub. L. 104–13, does not apply to this rule because it does not impose new or revised recordkeeping or reporting requirements.

I. Congressional Review Act

This is not a major rule as defined by 5 U.S.C. 804(2). This action pertains to agency organization, management, and personnel and, accordingly, is not a ''rule'' as that term is used in 5 U.S.C. 804(3). Therefore, the reports to Congress and the Government Accountability Office specified by 5 U.S.C. 801 are not required.

List of Subjects

8 CFR Parts 1001 and 1003

Administrative practice and procedure, Immigration.

8 CFR Part 1208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 1240

Administrative practice and procedure, Aliens.

Accordingly, for the reasons set forth in the preamble, and by the authority vested in the Director, Executive Office for Immigration Review, by the Attorney General Order Number 6260-2025, the Department amends 8 CFR parts 1001, 1003, 1208, and 1240 as follows:

PART 1001—DEFINITIONS

1. The authority citation for part 1001 continues to read as follows:

Authority: 5 U.S.C. 301; 8 U.S.C. 1101, 1103; Pub. L. 107-296, 116 Stat. 2135; Title VII of Pub. L. 110-229.

§ 1001.1 [Amended]

2. Amend § 1001.1 by removing paragraphs (gg) and (hh).

PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

3. The authority citation for part 1003 continues to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949-1953 Comp., p. 1002; section 203 of Pub. L. 105-100, 111 Stat. 2196-200; sections 1506 and 1510 of Pub. L. 106-386, 114 Stat. 1527-29, 1531-32; section 1505 of Pub. L. 106-554, 114 Stat. 2763A-326 to -328.

§ 1003.1 [Amended]

4. Amend § 1003.1 by:

a. As shown in the following table, removing the words in the left column and adding in their place the words in the right column wherever they appear:

a noncitizen	an alien
The noncitizen	The alien
the noncitizen	the alien
a noncitizen's	an alien's
the noncitizen's	the alien's

b. As shown in the following table, removing the words in the left column and adding in their place the words in the right column wherever they appear in paragraphs (a)(3), (e), and (h):

Chairman	Chief Appellate Immigration Judge
Vice Chairman	Deputy Chief Appellate Immigration Judge

§ 1003.2 [Amended]

5. Amend § 1003.2 by, as shown in the following table, removing the words in the left column and adding in their place the words in the right column wherever they appear:

a noncitizen	an alien
the noncitizen	the alien
noncitizen's	alien's

§ 1003.3 [Amended]

6. Amend § 1003.3 by, as shown in the following table, removing the words in the left column and adding in their place the words in the right column wherever they appear:

a noncitizen	an alien
the noncitizen	the alien
noncitizens	aliens

§ 1003.7 [Amended]

7. Amend § 1003.7 by removing the word "noncitizen" and adding in its place the word "alien".

8. Amend § 1003.10 by:

a. In paragraph (b), removing the word “noncitizens” and adding in its place the word “aliens”; and

b. Revising paragraph (e)(1).

The revision reads as follows:

§ 1003.10 Immigration judges.

* * * * *

(e) * * *

(1) *Designation.* The Director, subject to the approval of the Attorney General, is authorized to designate or select temporary immigration judges as provided in this paragraph (e). The Director may designate or select, with the approval of the Attorney General, any attorney to serve as a temporary immigration judge for renewable terms not to exceed six months, subject to all applicable statutory and regulatory limitations on the temporary service.

* * * * *

§ 1003.23 [Amended]

9. Amend § 1003.23 by, as shown in the following table, removing the words in the left column and adding in their place the words in the right column wherever they appear:

A noncitizen	An alien
the noncitizen	the alien
the noncitizen’s	the alien’s

§ 1003.42 [Amended]

10. Amend § 1003.42 by, as shown in the following table, removing the words in the left column and adding in their place the words in the right column wherever they appear:

same noncitizen	same alien
a noncitizen	an alien

the noncitizen	the alien
Noncitizens	Aliens
The noncitizen	The alien
the noncitizen's	the alien's

PART 1208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

11. The authority citation for part 1208 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282; Title VII of Pub. L. 110-229; Pub. L. 115-218.

§ 1208.13 [Amended]

12. Amend § 1208.13(g) by removing the words "a noncitizen" and adding in their place the words "an alien".

§ 1208.31 [Amended]

13. Amend § 1208.31 by, as shown in the following table, removing the words in the left column and adding in their place the words in the right column wherever they appear:

any noncitizen	any alien
a noncitizen	an alien
the noncitizen	the alien
noncitizens	aliens
the noncitizen's	the alien's

§ 1208.33 [Amended]

14. Amend § 1208.33 by, as shown in the following table, removing the words in the left column and adding in their place the words in the right column wherever they appear:

a noncitizen	an alien
the noncitizen	the alien

the noncitizen's	the alien's
The noncitizen	The alien
A noncitizen	An alien
unaccompanied child as defined in 8 CFR 1001.1(hh)	unaccompanied alien child as defined in 6 U.S.C. 279(g)(2)

§ 1208.35 [Amended]

15. Amend § 1208.35 by, as shown in the following table, removing the words in the left column and adding in their place the words in the right column wherever they appear:

A noncitizen	An alien
a noncitizen	an alien
the noncitizen	the alien
the noncitizen's	the alien's

PART 1240—PROCEEDINGS TO DETERMINE REMOVABILITY OF ALIENS IN THE UNITED STATES

16. The authority citation for part 1240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1158, 1182, 1186a, 1186b, 1225, 1226, 1227, 1228, 1229a, 1229b, 1229c, 1252 note, 1361, 1362; secs. 202 and 203, Pub. L. 105-100 (111 Stat. 2160, 2193); sec. 902, Pub. L. 105-277 (112 Stat. 2681).

17. The heading for part 1240 is revised to read as set forth above.

§ 1240.26 [Amended]

18. Amend § 1240.26 by, as shown in the following table, removing the words in the left column and adding in their place the words in the right column wherever they appear:

A noncitizen	An alien
a noncitizen	an alien
the noncitizen	the alien

noncitizen's	alien's

Sirce E. Owen,
Acting Director,
Executive Office for Immigration Review,
Department of Justice.

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