

## SUPPORTING STATEMENT

### Notice of Appeal from a Decision of an Immigration Judge Form EOIR- 26

#### Revision of a Currently Approved Collection OMB No. 1125-0002

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##### Part A. Justification

1. Necessity of Information Collection - A party (either the U.S. Immigration and Customs Enforcement of the Department of Homeland Security or the respondent/applicant) affected by a decision of an Immigration Judge may appeal that decision to the Board of Immigration Appeals (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. The form requests information, such as name, alien identification (or AA@) number, mailing addresses for respondent/applicant and attorney or representative, and basis of appeal, necessary for the Board to process the appeal of the decision of the Immigration Judge. The form has been corrected to clarify certain advisories, and to correct a misprint from 2005 when this form was last amended.

2. Needs and Uses - The form is filed and considered in the context of an immigration proceeding. Accordingly, information contained in the form is considered only to the extent necessary to process the appeal. The form is inserted into the official file for the respondent/applicant and certain information on the form is entered into EOIR=s internal-use only database. The form is reviewed by the Board in order to determine the

sufficiency and merit of a party=s appeal.

3. Use of Technology - The use of this form provides the most efficient means for collecting and processing the required data. The Form EOIR-26 is available on EOIR=s website for printing. Information can be typed into the online form which is then printed out for submission to the agency, or the individual has the option of printing the form in its entirety to complete by typing or printing legibly. Currently, EOIR does not have the automated capability in place to accept electronic submission of forms. However, EOIR continues to explore the implementation of a number of electronic document initiatives, including electronic submission of EOIR forms.

4. Efforts to Identify Duplication - The only method for appealing an Immigration Judge=s decision to the Board is to file a Form EOIR-26. A review of EOIR=s existing forms revealed no duplication of effort, and there is no similar information currently available which can be used for this purpose.

5. Impact on Small Businesses - This collection does not have an impact on small businesses or other small entities.

6. Consequences of Less Frequent Collection - Failure to collect and present the information regarding a party=s reasons for appeal would deprive the party of a mechanism through which to preserve and exercise the regulatory right to appeal from a

decision of an Immigration Judge to the Board.

7. Special Circumstances Influencing Collection - A party affected by an Immigration Judge=s decision who wishes to appeal the decision must file the Form EOIR-26 within 30 calendar days of the Immigration Judge=s oral decision or the mailing of the Immigration Judge=s written decision. 8 C.F.R. ' 1003.38(b). None of the other eight special circumstances identified in OMB instruction number 7 apply to this collection.

8. Federal Register Publication and Consultation- A 60-day notice covering this collection was published in the Federal Register, Volume 73, Number 179, Page 53281 on September 15, 2008. A 30-day notice covering this collection was published in the Federal Register, Volume 73, number 225, page 70370 on November 20, 2008. One comment was received. Copies of the comment and notices are attached.

9. Payment or Gift to Claimants - EOIR does not provide any payment or gifts to parties in immigration proceedings.

10. Assurance of Confidentiality - The original Notice of Appeal from a Decision of an Immigration Judge is maintained by EOIR in the official court record of proceeding (ROP) and is accessed by those EOIR employees processing the ROP. The confidentiality of the contents of a party=s Notice of Appeal from a Decision of an Immigration Judge is protected by EOIR, as are all the documents in the ROP, to the

extent permitted by the law, including the Privacy Act and the Freedom of Information Act.

11. Justification for Sensitive Questions - There are no questions of a sensitive nature in the Form EOIR-26.

12. Estimate of Hour Burden

a. Number of Respondents	23,417
b. Number of Responses per Respondent	1
c. Total Annual responses	23,417
d. Hours per response	.5
e. Total annual hourly reporting burden	11,708.5

The total annual reporting burden is derived by multiplying the number of respondents (23,417) by the frequency of response (1) by the number of hours per response (.5):  
23,417 respondents x 1 response per respondent x .5 hour per respondent = 11,708.5 burden hours.

13. Estimate of Cost Burden

There are no capital or start-up costs associated with this information collection. The estimated public cost is \$3,161,295. This estimate is derived by multiplying the burden hours of 11,708.5 by the estimated practitioner cost of \$50/hr., plus a filing fee of \$110 per respondent.

11,708.5 burden hours x \$50/hr. (estimated practitioner cost) = \$585,425

\$110 filing fee x 23,417 respondents = \$2,575,870

\$585,425 + 2,575,870 = \$3,161,295

The EOIR recognizes that a certain portion of the respondents may not retain a practitioner to assist them in filling out the form.

14. Estimated Cost to Federal Government - It is estimated that the annual government cost for printing, distributing, stocking, processing and maintaining the Form EOIR-26 is \$14,050.20 (derived by multiplying the 6 pages of the form by an estimated \$.10 per copy by the estimated 23,417 respondents per year).

15. Reason for Change in Burden - There are no adjustments or program changes at this time. There is no difference in burden hours.

16. Plans for Publication - The EOIR does not intend to employ the use of statistics or the publication thereof for this collection of information.

17. Approval to Not Display the Expiration Date - EOIR is seeking approval to not

display the expiration date for OMB approval of this collection instrument. The display of the expiration date would require EOIR to pull and destroy current forms in its inventory (e.g., headquarters, field offices), which could still be used by the public except

for outdated expiration dates. It will also be very costly to destroy useable forms and then reprint them. Therefore, EOIR requests that the display of the expiration date be waived.

18. Exceptions to Certification Statement - The EOIR does not request an exception to the certification of this information collection.

**Section B. Collection of Information Employing Statistical Methods**

Not applicable.

**PAPERWORK CERTIFICATION**

In submitting this request for OMB approval, I certify that the requirements of the Privacy Act and OMB directives have been complied with, including paperwork regulations, any applicable statistical standards or directives, and any other information policy directives promulgated under 5 C.F.R. ' 1320.

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John N. Blum

Acting General Counsel  
Executive Office for Immigration Review

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Date