

SUPPORTING STATEMENT

1125-0006 Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court(Form EOIR-28)

Part A. Justification

1. Necessity of Information - Aliens in immigration proceedings have the right to legal representation at no expense to the government. See 8 C.F.R. " 1240.3, 1240.10(a)(1). If an alien desires to be represented before the Immigration Court by an attorney or qualified representative, the attorney or qualified representative must inform the Immigration Court that he or she is entering an appearance on behalf of that alien. An attorney or qualified representative must file a Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28) to notify the Immigration Court of the representation. See 8 C.F.R. " 1003.17(a). The Form EOIR-28 is also served on the U.S. Immigration and Customs Enforcement of the Department of Homeland Security (DHS) to inform them of the representation.

The Form EOIR-28 collects basic information about the alien and the attorney or qualified representative. The alien=s name, address, and identifying alien number must be provided. In addition, the Form EOIR-28 collects the attorney=s contact information, as well as information about bar membership and standing in the bar. For instance, the Form EOIR-28 requires the attorney to indicate whether he or she is subject to any order of any court or administrative agency disbarring, suspending, enjoining, restraining, or otherwise restricting him or her in the practice of law. Non-attorneys who seek to enter an appearance on behalf of an alien must indicate the grounds that allow him or her to act

as a representative. See 8 C.F.R. " 1001.1(j), 1292.1(a) (defining who qualifies as a Representative).

EOIR modified the EOIR-28 first page to change Alien number(s) to Alien number(s) and name(s), since the attorney is required to list all names as well as Alien numbers. EOIR also changed page 2 to add a set of boxes to indicate the capacity in which the attorney is signing the EOIR-28: (1) primary attorney (notice attorney); (2) non-primary attorney; (3) appearing on behalf of; or EOIR Pro Bono Program.

Also, Page 2 is changed for clarification in the first section Appearances, to delete the words "See Matter of Velasquez, 19 I & N Dec 377, 384 (BIA 1986)", and substitute instead the words: "unless specifically allowed by the Immigration Judge".

2. Needs and Uses - The Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28) allows attorneys and representatives to notify the Immigration Court that he or she is representing an alien in immigration proceedings before the Immigration Court. Upon receipt of a form that establishes an individual is an attorney in good standing or is otherwise able to represent an alien before the Immigration Court, the Immigration Court begins to treat the individual as the alien's legal representative during the proceedings before the Immigration Court. The Form EOIR-28 also allows the Immigration Court to ensure that only individuals authorized by regulation are entering appearances on behalf of aliens facing removal from the United States.

3. Use of Technology - The use of this form provides the most efficient means for collecting and processing the required data. The Form EOIR-28 is available on EOIR=s website for printing. Information can be typed into the online form which is then printed out for submission to EOIR. In addition, an applicant may print 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 an individual to enter his or her appearance on behalf of an alien in proceedings before the Immigration Court is to complete and file the Form EOIR-28. A review of EOIR=s forms revealed no duplication of effort, and there is no other similar information currently available which can be used for this purpose.

5. Impact on Small Businesses - This collection has a minor impact on small businesses or other small entities to the extent they employ attorneys or qualifies representatives who represent aliens in immigration proceedings before the Immigration Court. However, this collection does not impose undue burden on the small businesses or other entities. The form is brief to complete and requires no filing fee. In addition, the requested information is needed to ensure that only attorneys in good standing or other qualified individuals are entering appearances and representing aliens facing removal from the United States.

6. Consequences of Less Frequent Collection - Failure to collect this information would frustrate attempts of individuals to enter an appearance on behalf of aliens in proceedings before the Immigration Court.

7. Special Circumstances Influencing Collection - None of the eight special circumstances identified in OMB instruction number 7 apply to this collection.

8. Federal Register Publication and Consultation - The 60-day and 30-day notices covering this collection were published in the Federal Register to solicit comments from the public. No public comments were received.

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

10. Assurance of Confidentiality - The Immigration Court retains the original form and places the form in the record of proceedings, along with all other documents filed in the alien=s proceeding. EOIR staff members and Immigration Judges who process, review, and adjudicate the case may access the Form EOIR-28. To the extent law permits, EOIR protects the confidentiality of the contents of the Form EOIR-28. EOIR would release information in accordance with the Privacy Act and the Freedom of Information Act.

11. Justification for Sensitive Questions - To the extent that the Form EOIR-28 asks

sensitive questions of an attorney when it asks whether the attorney is in good standing in the bar or subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting him or her in the practice of law, such questions are necessary for EOIR to determine whether counsel is duly authorized to represent aliens before the Immigration Court. The information is used only to the extent necessary in order to make that determination.

12. Estimate of Hour Burden

a. Number of Respondents	100870
b. Number of Responses per Respondent	1
c. Total Annual responses	100870
d. Hours per response	6 minutes or 0.1 hour
e. Total annual hourly reporting burden	10087

100870 attorneys or representatives x 1 response per respondent x 0.1 hour per response = 10087 burden hours. It is estimated that the total time to read and complete the form and gather all materials is no more than 6 minutes.

13. Estimate of Cost Burden

There are no capital or start-up costs associated with this information collection. There are also no fees associated with filing this information collection, the Form EOIR-28.

The estimated public cost is \$504,350.00. This estimate is derived by multiplying the burden hours of 10087 by the estimated practitioner cost of \$50/hr.

10087 burden hours x \$50/hr. (estimated practitioner cost) = \$504,350.00 total cost
burden

14. Estimated Cost to the Federal Government - The estimated annual cost for printing, distributing, stocking, processing, and maintaining the Form EOIR-28 is \$20,174.00 (derived by multiplying the 2 pages of the form by an estimated \$0.10 per copy by the estimated 100,870 applicants per year).

15. Reasons for Change in Burden - The difference in burden is due to an agency adjustment, specifically an increase in the number of respondents. Previously, EOIR estimated 91,700 respondents annually. At present, there are approximately 100,870 respondents annually. As the number of hours per response remained the same (6 minutes), the total burden hours increased from 9,170 to 10,087 burden hours, for a difference of 917 burden hours. Because of the higher number of respondents, the cost burden similarly increased to reflect the adjustment for the number of applicants.

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. Expiration Date Approval - The presently approved information collection has OMB approval to not display the expiration date. EOIR is seeking continued OMB approval to not display the expiration date for this collection instrument. The display of the expiration date would require EOIR in the future to pull and destroy otherwise current forms in its inventory (e.g., headquarters, field offices), which could still be used by the public except for outdated expiration dates. EOIR forms are in wide distribution. Parties in proceedings before EOIR, attorneys and practitioners, organizations who assist individuals in proceedings before EOIR, and other government agencies all would be similarly required to replace forms otherwise acceptable except for the outdated expiration date. It also will be very costly to destroy useable forms and then reprint them. Therefore, EOIR requests a waiver of the requirement to display of the expiration date. EOIR has in place a forms calendar to ensure that all forms remain active and future applications for OMB approval are planned.

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

Section B. Collection of Information Employing Statistical Methods

This collection does not employ statistical methods.

PAPERWORK CERTIFICATION

In submitting this request for Office of Management and Budget (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.

Kevin Chapman

Deputy General Counsel
Executive Office for Immigration Review

Date