

## SUPPORTING STATEMENT

OMB No. \_\_\_\_\_

### **Notice of Motion to Reconsider / Reopen a Decision by the Board of Immigration Appeals from an Initial Decision of a DHS Officer Form EOIR-29A**

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#### **Part A. Justification**

1. Necessity of Information Collection - A party affected by a decision of a Department of Homeland Security (DHS) Officer 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 a DHS officer's decision is taken by completing the Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer, and filing it with DHS directly. DHS then forwards the appeal to the Board.

Once the Board has issued a decision, a party may file a motion to reopen, a motion to reconsider, or a motion to reopen and reconsider the Board's decision. *See* 8 C.F.R. §§ 1003.2(b), 1003.2(c)(1). These motions are filed with DHS directly and then forwarded to the Board. Parties generally have completed a Form EOIR-29 when filing a motion to reopen and/or reconsider the Board's decision. To facilitate the tracking, processing, and adjudication of these motions, EOIR is submitting a new Form EOIR-29A, Notice of Motion to Reconsider / Reopen a Decision by the Board of Immigration Appeals from an Initial Decision of a DHS Officer, for Office of Management and Budget (OMB) review and approval. EOIR developed the new Form EOIR-29A in coordination with the DHS team that will be responsible for the intake of this form.

The form collects the following information: name of the beneficiary, petitioner, applicant, carrier, or individual; alien registration number (A-number) of the beneficiary or applicant; Form I-130 or I-360 receipt number and Form EOIR-29 receipt number of the petitioner; and fine number of the carrier or individual. The form also requires the respondent to identify the date of the Board decision subject to reconsideration or reopening and the type of motion being filed (motion to reopen, motion to reconsider, or motion to reopen and reconsider). Respondents must attach to the form any written motion and supporting documents. Finally, form respondents must sign and date the form, and provide their mailing address or safe mailing address.

2. Needs and Uses - The form is filed and considered in the context of an administrative appeal. Accordingly, information contained in the form is considered only to the extent necessary to process the appeal or motion. The form is inserted into EOIR's official file for the respondent and certain information on the form is entered into EOIR's internal database. The form is reviewed by the Board in order to determine the sufficiency and merit of a party's appeal or motion.

3. Use of Technology - The use of this form provides the most efficient means for collecting and processing the required data. The Form EOIR-29A will be available on EOIR's website for printing. The information can be typed into the online form, which is then printed out for submission to DHS, or the form can be printed in its entirety and then completed by typing or printing legibly.

4. Efforts to Identify Duplication - The only method for filing a motion to reconsider and/or reopen the Board's decision in a matter originally adjudicated by a DHS Officer will be to file a Form EOIR-29A. Parties generally have completed a Form EOIR-29 when filing a motion to reopen and/or reconsider the Board's decision; however, this form was not intended to be used for this purpose. When parties file the Form EOIR-29 together with these motions, the BIA and DHS are not able to track the number of motions to reconsider and/or reopen filed, as opposed to the number of appeals taken from DHS Officer decision. In consultation with DHS, EOIR developed the new Form EOIR-29A to facilitate the tracking, processing, and adjudication of motions to reopen and/or reconsider filed by parties in immigration proceedings.

The new form is no more burdensome for members of the public than the Form EOIR-29. Both forms have the same estimated completion time of 30 minutes. In addition, the new Form EOIR-29A will contain specific instructions for members of the public who wish to file a motion to reopen and/or reconsider the Board's decision. By contrast, the Form EOIR-29 only contains instructions for filing an appeal from the decision of a DHS Officer, which may be confusing to an individual seeking to file a motion to reopen and/or reconsider. A review of EOIR's existing forms therefore revealed no duplication of effort, and there is no similar information collection 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 file a motion to reopen and/or reconsider the Board's decision.

7. Special Circumstances Influencing Collection - A party affected by a DHS Officer's decision who wishes to file a motion to reconsider the Board's decision must file the Form EOIR-29A within 30 days of the service of the decision being appealed. 8 C.F.R. § 1003.2(b)(2). 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 on July 23, 2024. *See* 89 FR 59773. A 30-day notice covering this collection will be published in the Federal Register. No comments were received during the 60-day comment period. If comments are received during the 30-day comment period, they will be considered and incorporated where appropriate.

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 Motion to Reconsider / Reopen a Decision by the Board of Immigration Appeals from an Initial Decision of a DHS Officer 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 Form EOIR-29A will be 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-29A.

12. Estimate of Hour Burden

a. Number of Respondents	764
b. Number of Responses per Respondent	1
c. Total Annual responses	764
d. Hours per response	30 minutes
e. Total annual hourly reporting burden	382

The total annual reporting burden is derived by multiplying the number of respondents (764) by the frequency of response (1) by the number of hours per response (30 minutes or .50 hour): 764 respondents x 1 response per respondent x .50 hour per respondent = 382 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 zero.

For informational purposes only, there may be additional costs to respondents. Respondents may incur a cost if they hire a private practitioner to assist them with completing the Form EOIR-29A. The Bureau of Labor Statistics reports that the median hourly wage for lawyers is \$65.26. For those respondents who proceed without a practitioner, there is an estimated cost of \$22.26 per hour for completing the form (the individuals' time and supplies) in lieu of the practitioner cost. Respondents will also incur a cost of \$110, which is the amount of the filing fee for this form; however, the Board has discretion to waive this fee upon a showing that the filing party is unable to pay the fee. 8 C.F.R. § 1003.8(a)(3). Fee waivers may be requested by filing the Form EOIR-26A, Fee Waiver Request. *Id.*

14. Estimated Cost to Federal Government - It is estimated that the annual government cost for printing, distributing, stocking, processing and maintaining the Form EOIR-29A is \$5,831.56 for EOIR. EOIR acknowledges that DHS will also incur costs for printing distributing, stocking, processing, and maintaining the Form EOIR-29A, as respondents must file the Form EOIR-29A with DHS. EOIR estimates that the cost to DHS is \$13,118.90. When the costs to both federal agencies are combined, the total annual government costs are \$18,950.48.

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

16. Exceptions to 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 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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Office of the General Counsel  
Executive Office for Immigration Review

11/7/2024  
Date