

SUPPORTING STATEMENT

OMB No. 1125-0010

Notice of Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer Form EOIR- 29

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 and filing it with DHS directly. DHS then forwards the appeal to the Board. The Form EOIR-29 requests the appellant's name, mailing address, basic information about the case being appealed, including any name and alien registration number ("A-number") of the beneficiary of a visa petition; all of this information is necessary to identify and process the appeal.

EOIR has made substantive and non-substantive changes to the current Form EOIR-29. First, respondents may now provide a safe address if they are seeking or are a recipient of relief under the Violence Against Women Act (VAWA), or as a Special Immigrant Juvenile, human trafficking victim (T nonimmigrant), or a victim of qualifying criminal activity (U nonimmigrant). Second, respondents who seek to appeal a visa petition decision must provide a petition receipt number, rather than a petition form number. Third, respondents are now instructed to include their name, A-number, or fine number on all additional pages used to specify the reasons for their appeal. Fourth, the Form notes that the case will be reviewed by a three-member panel if the case presents

the need to resolve a complex, novel, unusual, or reoccurring issue of law or fact, in light of revisions to 8 C.F.R § 1003.1(e)(5). Fifth, the position title “Appellate Immigration Judge” (AIJ) was substituted for “Board Member” in several places due to recent regulatory changes stating that Board Members shall also be known as Appellate Immigration Judges. *See* 8 C.F.R. § 1003.1(a)(1). Sixth, the formatting of the Form was adjusted for consistency and so that the Form can fit on four pages. Lastly, the revision date of the form has been updated.

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-29 is available on EOIR’s website for printing. The information can be typed into the online form, which is then printed out for submission to the agency, 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 appealing a DHS Officer’s decision to the Board is to file a Form EOIR-29. The only method for filing a motion to

reconsider or reopen a DHS Officer's decision to the Board will be to file a Form EOIR-29. 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 a DHS Officer to the Board or 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 appeal the decision to the Board must file the Form EOIR-29 within 30 days of the service of the decision being appealed. 8 C.F.R. § 1003.3(a)(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 September 18, 2024. *See* 89 FR 76510. A 30-day notice covering this collection was published in the Federal Register on November 29, 2024 (89 FR 94,764). Copies of these notices are attached. No comments

were received during the 60-day comment period. EOIR received one comment during the 30-day period.

Comment: The commenter asserted that the filing fee for appeals should be increased or alternatively that noncitizens should not be allowed to appeal the decision of a DHS Officer at all.

Response: Pursuant to 8 C.F.R. § 1003.1(b), an appeal may be taken from certain DHS decisions. The fee amount for filing an appeal with EOIR is governed by regulation. *See e.g.*, 8 C.F.R. § 1103.7 (setting the fee amount payable to the BIA). Therefore, the Department has assessed an appropriate filing fee for the processing of the Form EOIR-29 and has determined that it is necessary to require the information collected in the Form EOIR-29 to ensure that appeals are taken in compliance with the regulatory requirements.

If any additional comments are received, 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 Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer is maintained by EOIR in the official 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-29 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-29.

12. Estimate of Hour Burden

a. Number of Respondents	3,056
b. Number of Responses per Respondent	1
c. Total Annual responses	3,056
d. Hours per response	30 minutes
e. Total annual hourly reporting burden	1,528

The total annual reporting burden is derived by multiplying the number of respondents (3,056) by the frequency of response (1) by the number of hours per response (30 minutes or .50 hour): 3,056 respondents x 1 response per respondent x .50 hour per respondent = 1,528 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-29. The Bureau of Labor Statistics reports that the median

hourly wage for lawyers is \$65.26. The estimated public cost is a maximum of \$99,717.28. This amount is reached by multiplying 1,528 burden hours by \$65.26 (the current median hourly wage for attorneys. For those respondents who proceed without a practitioner, there is an estimated cost of \$10 per hour for completing the form (the individuals' time and supplies) in lieu of the practitioner cost. Respondents may also incur a cost of \$110, which is the amount of the filing fee for this 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-29 is \$23,326.24 for EOIR. EOIR acknowledges that DHS will also incur costs for printing distributing, stocking, processing and maintaining the Form EOIR-29, as respondents must file the Form EOIR-29 with DHS. EOIR estimates that the cost to DHS is \$52,475.69. When the costs to both federal agencies are combined, the total annual government costs are \$75,801.94.

15. Reason for Change in Burden - There is a decrease in the burden because EOIR has received fewer such appeals over the last three fiscal years.

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

17. 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.

Alexander Y. Hartman
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Office of the General Counsel
Executive Office for Immigration Review

Date