



Billing Code 9111-97

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0095]

**Agency Information Collection Activities; Revision of a Currently Approved Collection:
Notice of Appeal or Motion.**

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments will be accepted until **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via e-mail at dhsdeskofficer@omb.eop.gov. All submissions received must include the agency name and the OMB Control Number 1615-0095 in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529-2140, telephone number (202) 272-8377. This is not a toll-free number; comments are not accepted via telephone message. Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <http://www.uscis.gov>, or call the USCIS Contact Center at (800) 375-5283; TTY (800) 767-1833.

SUPPLEMENTARY INFORMATION:

I. Proposed Changes to the Form Instructions for Form I-290B

On December 6, 2019, USCIS published a notice in the Federal Register requesting public comments for 60-days on its proposed update to the Form I-290B, Notice of Appeal or Motion, and its form instructions. 84 FR 66924 (Dec. 6, 2019) (60-day notice). In the 60-day notice, USCIS explained that it was proposing to clarify the AAO's procedural requirements as provided in the Form I-290B in a number of ways. USCIS received six comments and we have responded to the comments in the addendum attached to the supporting statement that has been submitted to OMB with the request for approval of this information collection. A summary of the changes that were proposed and the outcome of each proposal in the final form and instructions submitted to OMB for review and clearance in accordance with the Paperwork Reduction Act are as follows:

(1) **Appeals Must Address All Grounds of Ineligibility Identified in the Unfavorable Decision**

For the reasons provided in the 60-day notice and in the responses to the public comments, this change is maintained in the update to the Form I-290B Instructions.

(2) Affected Parties May Waive the “Initial Field Review” Process

After considering public comments, USCIS has removed this change from the form and instructions.

(3) Clarify the “Initial Field Review” Process When Evidence Is Not Submitted Concurrently with the Appeal

This change is maintained in the update to the Form I-290B Instructions.

(4) Treatment of Newly Submitted Evidence on Appeal

After considering public comments, USCIS has removed this proposed change.

(5) Abuse of Discretion Standard of Review for Discretionary Decisions

USCIS has removed this proposed change from the revised form instructions submitted to OMB for review.

(6) Clarify That the AAO Does Not Have Appellate Jurisdiction Over “No Risk”

Determinations Under the Adam Walsh Act

The proposed Form I-290B Instructions clarify that the AAO does not have jurisdiction over appeals of “no risk” determinations under the Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 120 Stat. 587 (AWA). Section 402(a)(2) of the AWA bars approval of family-based visa petitions filed by U.S. citizens who have been convicted of a “specified offense against a minor” unless the DHS Secretary, in his or her “sole and unreviewable discretion,” determines that the U.S. citizen poses “no risk” to the beneficiary of the petition. For the reasons provided in the 60-day notice and in the responses to the public comments, this change is maintained in the update to the Form I-290B Instructions.

(7) Define the term “New Facts” for Motions to Reopen

After considering public comments, USCIS has removed this change from the form instructions.

(8) Certain Beneficiaries of Employment-Based Immigrant Petitions Are Considered Affected Parties for Revocation Proceedings.

This change is maintained in the update to the Form I-290B Instructions.

(9) Define the Term “Record of Proceeding”

This change is maintained in the update to the Form I-290B Instructions.

(10) Administrative Appellate Review of a Dismissed Motion is Limited to Whether the Motion was Properly Dismissed

This change is maintained in the update to the Form I-290B Instructions.

(11) Safe Address

In response to public comments and stakeholder input, USCIS added a space to collect the safe address from affected parties who are subject to 8 U.S.C. 1367. This change is maintained in the update to the Form I-290B and instructions.

(12) Space on the Form to State the Basis of the Appeal or Motion

This change is maintained in the update to the Form I-290B and instructions.

Comments:

The information collection notice was previously published in the Federal Register on December 6, 2019, at 84 FR 66924, allowing for a 60-day public comment period. USCIS did receive six comment(s) in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and

enter USCIS-2008-0027 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection:

- (1) Type of Information Collection Request: Revision of a Currently Approved Collection.
- (2) Title of the Form/Collection: Notice of Appeal or Motion.
- (3) Agency form number, if any, and the applicable component of the DHS sponsoring the collection: I-290B; USCIS.
- (4) Affected public who will be asked or required to respond, as well as a brief abstract:
Primary: Individuals or households. Form I-290B standardizes requests for appeals and motions and ensures that the basic information required to adjudicate appeals and motions is provided by applicants and petitioners, or their attorneys or representatives. USCIS uses the data collected on Form I-290B to determine whether an applicant or petitioner is eligible to file an appeal or motion, whether the requirements of an appeal

or motion have been met, and whether the applicant or petitioner is eligible for the requested immigration benefit. Form I-290B can also be filed with ICE by schools appealing decisions on Form I-17 filings for certification to ICE's Student and Exchange Visitor Program (SEVP).

- (5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The estimated total number of respondents for the information collection I-290B is 28,000 and the estimated hour burden per response is 1.5 hours.
- (6) An estimate of the total public burden (in hours) associated with the collection: The total estimated annual hour burden associated with this collection is 42,000 hours.
- (7) An estimate of the total public burden (in cost) associated with the collection: The estimated total annual cost burden associated with this collection of information is \$8,652,000.

Dated: March 11, 2020.

Samantha L Deshombres,

Chief,

Regulatory Coordination Division,

Office of Policy and Strategy,

U.S. Citizenship and Immigration Services,

Department of Homeland Security.

BILLING CODE 9111-97

[FR Doc. 2020-05384 Filed: 3/16/2020 8:45 am; Publication Date: 3/17/2020]