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May 21, 2013

Department of Homeland Security
USCIS, Office of Policy and Strategy
Chief, Regulatory Coordination Division
20 Massachusetts Avenue, NW
Washington, DC 20529-2140

Submitted via: www.regulations.gov
e-Docket ID Number: USCIS-2008-0027

**Re: 60-Day Notice of Information Collection: Revision of a
Currently Approved Collection—Form I-290B, Notice of
Appeal or Motion, OMB Control No. 1615-0095
78 Fed. Reg. 17701 (Mar. 22, 2013)**

Dear Regulatory Coordination Division Chief:

The American Immigration Lawyers Association (AILA) submits the following comments in response to the notice of information collection, “Notice of Appeal or Motion, Form I-290B; Revision of a Currently Approved Collection” USCIS 1615-0095.

AILA is a voluntary bar association of more than 12,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. AILA appreciates the opportunity to comment on this notice of information collection and believes that our members' collective expertise provides experience that makes us particularly well-qualified to offer views that will benefit the public and the government.

We begin by offering our sincere appreciation for the work that USCIS has put into the revised form and instructions. Combining motions and appeals on a wide variety of case types, each with their own particular issues, is a formidable task. The new documents help resolve many of the questions that commonly arise and also do an excellent job of incorporating newer filing types such as the I-821D, Consideration of Deferred Action for Childhood Arrivals.

Form I-290B, Notice of Appeal or Motion

Part 1. Information About Petitioner/Applicant

Item 3: Alien Registration Number (if applicable). This field appears only on page 1 of the proposed Form I-290B. The current Form I-290B includes a field for the Alien Registration Number on both pages. We recommend preserving the field requesting the Alien Registration Number on both pages of the new Form I-290B, which will be helpful should the pages become separated.

Part 2. Information About Person/Organization Filing Appeal or Motion on Behalf of The Petitioner/Applicant.

Heading: To be consistent with the Part 1 heading, “Information About Petitioner/Applicant,” the word “The” that precedes the words “Petitioner/Applicant” should be deleted from the heading on both pages 1 and 2.

Item 1: Includes a box to be checked by an attorney or BIA accredited representative followed by the language: “If you check this box, you **must** attach a **new** Form G-28, Notice of Entry of Appearance as Attorney or Representative.” We suggest adding the following language at the end of this sentence, as indicated in red:

*I am an attorney or representative accredited by the BIA. If you check this box, you **must** attach a **new** Form G-28, Notice of Entry of Appearance as Attorney or Representative, **signed by the attorney or representative named on Form G-28.***

This additional language will help avoid having another attorney or accredited representative in a firm or organization sign on behalf of the person named on the G-28, which is a basis for dismissing the appeal or motion.

Part 3. Information about the Appeal or Motion

Item 1: Appeal. We applaud USCIS for stating **in bold** on the proposed Form I-290B in the second sentence under Part 3, that “**If more than one box is selected, your filing will be rejected.**” However, confusion among petitioners and applicants about the appeals process occasionally results in the petitioner or applicant checking one box under the “appeal” section and one box under the “motion” section. In order to help prevent this, we recommend clarifying on the form that regardless of whether box a, b, or c, is checked under the “appeal” section, the I-290B will first be reviewed by the USCIS office that denied the case.

Item 4: Specific Status Requested (e.g., H1-B, R-1, O-1, EB1, EB2, etc., if applicable). We recommend changing the word “Status” to “Classification,” and revising “H1-B” to “**H-1B**” and “EB1, EB2” to “**EB-1, EB-2, EB-3,**” which would be consistent with the language in the proposed instructions on page 5.

Part 4. Basis for the Appeal or Motion

Language under Heading: The Petitioner/Applicant is instructed as follows: “On a separate sheet of paper, you must provide a statement regarding the basis for the appeal or motion. You must include your name and the A-Number or ELIS Number on the top of each sheet.” Further, under “**Appeal**,” the Petitioner/Applicant is instructed to “Provide a statement clearly explaining any erroneous conclusion of law or fact in the decision being appealed.”

In order to clarify the need for a supporting statement, we recommend that USCIS include a box for the statement as a visual cue, as is provided in the current Form I-290B. Additionally, we suggest that USCIS revise the language under “**Appeal**” to read:

*Provide a statement that **specifically identifies** any erroneous conclusion of law or fact in the decision being appealed.*

Form I-290B Instructions

Page 1: When Should I Use Form I-290B?

AILA respectfully recommends that the words “fax or e-mail” be added to the following paragraph, as well as a reference to the applicable regulation:

*For most appeals and motions, Form I-290B must be filed within 30 calendar days after personal service, **fax, or e-mail** of the decision, 33 calendar days if the decision was mailed. An appeal relating to a revocation of an immigrant petition must be filed within 15 calendar days after personal service, **fax, or e-mail** of the decision, 18 calendar days if the decision was mailed. The date of service is normally the date of the decision. **See 8 CFR 103.5(a).***

We also suggest that the following clarification be added to the second paragraph under this heading:

*Late filed appeals that do not meet the requirements for a motion to reopen or reconsider will be rejected. Late filed motions may be **accepted at the discretion of USCIS if the delay was reasonable and beyond the control of petitioner/applicant.***

Under the heading “**Form I-290B may be used in the following circumstances,**” the following language should be added to the end of Item 3:

When a decision on a petition is appealed or a request for a motion is made, the petitioner, an authorized official of a petitioning employer, or the petitioner's attorney or representative must sign Form I-290B. (In the case of self-petitioners and applicants for certain waivers, the self-petitioner or waiver applicant must sign the form.)

Finally, we suggest that the following two references be added at the end of this section

See USCIS Motion / Eligibility Chart for Using I-290B.¹ For further information regarding appeals, see 8 CFR 103.3.

Page 2: General Instructions

We recommend that the words “the initial petition or application” be added at the end of section (a) under the “**Evidence / Motion**” heading:

*If you file a motion to reopen, the motion must be accompanied by new facts and/or documentary evidence that establish eligibility at the time of filing **the initial petition or application**.*

We also suggest that USCIS clarify under section 1 of the “**Evidence / Appeals**” heading that if a brief in support of an appeal is to be sent to the AAO within 30 days of filing the appeal, even if the underlying decision has not yet been transferred to the AAO, the petitioner/applicant should file the brief directly with the AAO.

Page 3: How to Fill Out Form I-290B

We suggest adding the words “if electronically filed” immediately following “(ELIS Number)”.

Page 4: Part 3. Information About the Appeal or Motion

Item 1 and 2: Appeal or Motion Request (*Select only one box*). We recommend adding references to 8 CFR 103.3 and 205.2 at the end of the second paragraph under this section, as well as a clarification of the “reviewing office” as follows:

If you file an appeal, the reviewing office will either take favorable action or forward the appeal to the AAO. See 8 CFR 103.3 and 8 CFR 205.2 for additional information. The reviewing office is the USCIS office that denied the petition or application.

Page 5: Part 3. Information About the Appeal or Motion

Item 4: Specific Status Requested. We recommend substituting the word “Classification” for “Status” in Item 4 in the heading and in the description that follows.

¹ <http://www.uscis.gov/USCIS/Forms/M-Forms%20Native%20Documents/I-290B%20Motions%20Appeals%20Information%20Chart%20Customer%20Use.pdf>

Page 5: Part 4. Basis for the Appeal or Motion

We are concerned that with the elimination of the box on the proposed Form I-290B regarding the basis for the appeal or motion, the inclusion of a statement providing such may be easily overlooked. As noted above, we suggest including a field—at a minimum, a box to be checked—indicating that the statement setting forth the basis for the appeal or motion is attached separately. Another option would be to include a new page 3, which would serve as the separate sheet for providing the statement, similar in concept to page 7 of USCIS Form I-129.

Page 5: Part 5. Signature of Person Filing the Appeal/Motion or His or Her Representative

We recommend substituting the current Form I-290B instructions under this heading, which read:

You or your legal representative must sign and submit Form I-290B. Form G-28, Notice of Entry of Appearance as Attorney or Representative, must be attached if signed by a legal representative.

Page 6: Address Changes

Finally, we recommend identifying Form AR-11 by name in this section. For example:

*For information on filing a change of address **on Form AR-11**, go to the USCIS website at www.uscis.gov/addresschange or contact the USCIS National Customer Service Center at **1-800-375-5283**.*

Conclusion

We appreciate the opportunity to comment on this notice of information collection, and we look forward to a continuing dialogue with USCIS on issues concerning this important matter.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION



Notice of Appeal or Motion
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-290B
 OMB No. 1615-0095
 Expires 11/30/2014

For USCIS Use Only	Returned	Reloc Sent	Receipt	Remarks
	Date ___/___/___	Date ___/___/___		
	Date ___/___/___	Date ___/___/___		
	Resubmitted	Reloc Rec'd		
	Date ___/___/___	Date ___/___/___		
	Date ___/___/___	Date ___/___/___		

Please see the USCIS Web site at www.uscis.gov to view appeal and/or motion eligibility by form type.

► **START HERE - Type or print in black ink.**

Part 1. Information About Petitioner/Applicant

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

2. Complete Name of Business/Organization, (if applicable)

3. Alien Registration Number (A-Number, if applicable)

4. R

5. U System Account Identifier

Mail APO/FPO Address, if applicable

Prior Form I-290B included the A-Number on both pages 1 & 2, which could be helpful in the event the pages were to become separated.

Part 1. (continued)

Contact Information

7. Daytime Telephone Number (Area/Country Code) Extension
 () -

8. Mobile Telephone Number (if any)
 () -

9. E-mail Address (if any)

10. Fax Number (if any)
 () -

Delete "The"

Part 2. Information About Person/Organization Filing Appeal or Motion on Behalf of the Petitioner/Applicant

(Attorney or Board of Immigration Appeals (BIA) Accredited Representative filing appeal or motion on behalf of the petitioner/applicant)

If you are the petitioner or applicant filing an appeal or motion without an attorney or representative accredited by the BIA, skip this part, and proceed to **Part 3**.

1. I am an attorney or representative accredited by the BIA. If you check this box, you **must** attach a **new** Form G-28, Notice of Entry of Appearance as Attorney or Representative.

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

3. Complete Name of Business/Organization, (if applicable)

Add at end, "signed by the Attorney or Representative named on Form G-28."

Part 2. Information About Person/Organization Filing Appeal or Motion on Behalf of The Petitioner/Applicant

4. Daytime Telephone Number () - Extension

5. Mobile Telephone Number (if any) () -

6. E-mail Address (if any)

7. Fax Number (if any) () -

Part 3. Information About the Appeal or Motion

You must check only one box indicating that you are filing an appeal or a motion, not both. **If more than one box is selected, your filing will be rejected.**

(DO NOT use this form if you are filing an appeal of a denial or a revocation of an approved I-130 (Petition for Alien Relative), or a Petition for Widow(er) filed on an I-360. Those appeals must be filed with the Board of Immigration Appeals (BIA) using Form EOIR-29.

1. Appeal

a. I am filing an appeal to the AAO. No supplemental brief and/or additional evidence will be submitted.

b. I am filing an appeal to the AAO. My brief and/or additional evidence is attached to the appeal.

c. I am filing an appeal to the AAO. My brief and/or additional evidence is attached to the appeal.

2. Motion

d. I am filing a **motion to reopen** a decision. My brief and/or additional evidence is attached.

e. I am filing a **motion to reconsider** a decision. My brief is attached.

f. I am filing a **motion to reopen and a motion to reconsider a decision**. My brief and/or additional evidence is attached.

3. USCIS Form for Which You Are Filing an Appeal or Motion to Reopen/Reconsider (e.g., I-140, I-360, I-129, I-485, I-601, etc., if applicable.)

← Add note that when checking a box under this section, the appeal will first be reviewed by the USCIS office that denied the case.

Part 3. Information About the Appeal or Motion (continued)

4. Specific Status Requested (e.g., H1-B, R-1, O-1, EB1, EB2, etc., if applicable)

5. Date of Adverse Action

6. USCIS Office Where Last Decision Made

Replace "Status" with "Classification"

Change "H1-B" to "H-1B"; "EB1" to "EB-1"; "EB2" to "EB-2"; add "EB-3"

Part 4. Basis for the Appeal or Motion

On a separate sheet of paper, you must provide a statement regarding the basis for the appeal or motion on your name and A-Number or ELIS number on a separate sheet.

Appeal: Provide a statement clearly stating the basis for your conclusion of law or fact in the decision being appealed.

Motion to Reopen: The motion must be supported by affidavits and/or documents that establish eligibility at the time the application that was filed.

Motion to Reconsider: The motion must be supported by citations to appropriate statutes, regulations, or precedent decisions and must establish that the decision was based on an incorrect application of law or policy, and that the decision was incorrect based on the evidence of record at the time of decision.

Restate as: Provide a statement that specifically identifies any erroneous conclusion of law or fact in the decision being appealed; it would also be helpful if there were a box for the statement as in prior Form I-290B to help avoid omitting to include a statement.

Part 5. Signature of Person Filing the Appeal or Motion or His or Her Authorized Representative

By signing below, I certify under penalty of perjury under the laws of the United States of America that the information provided on this form, and the documents submitted in support are true and correct.

1.a. Signature

1.b. Family Name (Last Name)

1.c. Given Name (First Name)

1.d. Date of Signature (mm/dd/yyyy)

NOTE: Make sure your appeal or motion is complete before filing.



Instructions for Notice of Appeal or Motion

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-290B
OMB No. 1615-0095
Expires 11/30/2014

What Is the Purpose of Form I-290B?

Form I-290B, Notice of Appeal or Motion, is used to file an appeal or motion to reopen or reconsider certain decisions under the immigration laws.

When Should I Use Form I-290B?

Insert: ", fax or e-mail"

Please visit the USCIS Web site at www.uscis.gov to view appeal and motion eligibility by form type.

For most appeals and motions, Form I-290B must be filed within 30 calendar days after personal service of the decision, 33 calendar days if the decision was mailed. An appeal relating to a revocation of an immigrant petition must be filed within 15 calendar days after personal service of the decision, 18 calendar days if the decision was mailed. The date of service is normally the date of the decision.

Insert: ", fax or e-mail"

Late filed appeals that do not meet the requirements for a motion to reopen or reconsider will be rejected. Late filed motions may be ~~dismissed~~.

Add: "accepted in the discretion of the USCIS if the delay was reasonable and beyond the control of petitioner/applicant."

Form I-290B may be used in

1. To file an appeal with the Administrative Appeals Office (AAO); or
2. To file a motion to reconsider a decision
3. To file a motion to reopen a decision (i.e., Northwest Immigrant Rights Project (NIJ) Settlement Agreement (POSA).

Add additional language from current instructions: "When a decision on a petition is appealed or a request for motion is made, the petitioner, an authorized official of a petitioning employer, or the petitioner's attorney or representative must sign Form I-290B. (In the case of self-petitioners and applicants for certain waivers, the self-petitioner or waiver applicant must sign the form.)"

Who May Not File Form I-290B?

1. Per DHS regulations, the **beneficiary** of a visa petition that is denied or revoked by USCIS **MAY NOT** file an appeal or a motion of that visa petition. Only a petitioner or applicant may file an appeal or motion. Similarly, an attorney or BIA **MAY NOT** file an appeal or motion on behalf of the beneficiary.
2. A beneficiary whose visa petition was denied or whose appeal or motion was denied by the AAO or BIA **MAY NOT** file an appeal or motion (BIA) **unless** the beneficiary was denied an appeal or motion by the AAO or BIA **and** the beneficiary files Form I-290B in accordance with the instructions included in the denial or notice of revocation.

Add: "See USCIS Motion / Eligibility Chart for Using Form I-290B at <http://www.uscis.gov/USCIS/Forms/M-Forms%20Native%20Documents/I-290B%20Motions%20Appeals%20Information%20Chart%20Customer%20Use.pdf>" and "For further information regarding Appeals of Denials, see 8 CFR 103.3."

For filing instructions of Form EOIR-29, visit the USCIS Web site at www.uscis.gov/eoir-29 or the Department of Justice Web site at www.justice.gov/eoir/eoirforms/eoir29.pdf.

3. Do not use this form to file an appeal or motion for a Form I-601A (Provisional Unlawful Presence Waiver) or Form I-821D (Consideration of Deferred Action for Childhood Arrivals) denial. There are no appeal or motion rights for Form I-601A or Form I-821D.
4. Do not use this form to appeal a Department of State overseas consular officer's denial of your visa application (i.e., DS-156, DS-156E, DS-156K, DS-117, DS-157, DS-230, or DS-260). For information about visa application denials, please reference the Department of State Web site.
5. Do not use this form to file an appeal on a Special Agricultural Worker (SAW) or Legalization Application. Appeals on these case types must be filed on Form I-694, Notice of Appeal of Decision under Sections 245A or 210 of the Immigration and Nationality Act.

General Instructions

Each appeal or motion form must be properly signed, filed and accompanied by the appropriate filing fee. An appeal or motion is not considered properly filed until it is accepted by USCIS.

Evidence

Motion:

- (a) If you file a motion to reopen, the motion must be supported by new evidence that establish eligibility at the time of filing. **Add "the initial petition or application."**
- (b) If you file a motion to reconsider, you must provide the citations to the statute, regulation, or precedent decisions that serve(s) as the basis for your motion to reconsider. The motion must establish that the decision was based on an incorrect application of law or policy, and that the decision was incorrect based on the evidence of record at the time of the decision.
- (c) No additional time will be permitted to submit supplementary arguments or evidence in support of a motion to reopen or reconsider after the Form I-290B has been filed.

Appeals:

1. Brief

You do not need to submit a brief in support of your appeal, but you may submit one to the AAO if you so choose within 30 calendar days of filing the appeal. You may also submit additional evidence.

Any brief and additional evidence must specifically reference the appeal for which it is being submitted. If an affected party has filed multiple appeals with the AAO, separate copies of the brief and evidence must be provided for each individual appeal. Failure to do so may result in the return of the brief or evidence to the individual or entity that submitted it and preclude such material from consideration.

A brief and/or additional evidence may be submitted with Form I-290B. After filing Form I-290B, you must send any brief and/or additional evidence within 30 days to:

**USCIS Administrative Appeals
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, N.W., MS2090
Washington, DC 20529-2090**

Add: "to the address below even if the underlying decision being appealed has not yet been transferred to the AAO."

If you need more than 30 calendar days, you must explain why in a separate letter attached to Form I-290B. The AAO may grant more time only for good cause.

2. Oral Argument

You may request an oral argument before the AAO in Washington, D.C. in a letter attached to Form I-290B. The letter must explain specifically why an oral argument is necessary (i.e., why your argument cannot be adequately addressed in writing). If your request is granted, the AAO will contact you about setting the date and time. The U.S. Government does not furnish interpreters for oral arguments.

Copies. Unless specifically required that an original document be filed with an appeal or motion, a legible photocopy may be submitted. Original documents submitted when not required may remain a part of the record, and will not be automatically returned to you.

Translation. Any document containing foreign language submitted to USCIS must be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

How to Fill Out Form I-290B

Add "--if electronically filed"

1. Type or print legibly in black ink.
2. If extra space is needed to complete any item, attach a continuation sheet, indicate the name and Alien Registration Number (A-Number) of the petitioner/applicant, USCIS Electronic Immigration System Account Identifier Number (ELIS Number), the Receipt Number of the underlying petition or application, the item number, and date and sign each sheet.
3. Answer all questions fully and accurately. If an item is not applicable, leave it blank.
4. Do not make any changes or amendments to the form. Failure to properly fill out and sign the form will result in a rejection.

Specific Instructions

Form I-290B is divided into **Parts 1** through **5**. The following information should help you fill out the form.

Part 1. Information About Petitioner/Applicant

Provide information about the individual/organization upon whose behalf the appeal or motion is being filed.

1.a. - 1.c. Full Name

Provide the full legal name of the petitioner/applicant. If the petitioner/applicant has two last names, include both and use a hyphen (-) between the names, if appropriate.

2. Business/Organization Name

Provide the complete name of the business or organization, without abbreviations, if applicable.

3. Alien Registration Number (A-Number)

This is the USCIS (or Immigration and Naturalization Service (INS)) file number. It begins with an "A" and can be found on a Permanent Resident Card or on correspondence that has been received from the Department of Homeland Security (DHS) or USCIS. If the person does not have an A-Number, leave this blank.

4. Receipt Number

Provide the form receipt number for the petition or application that was denied by USCIS (e.g., EAC, SRC, NSC, NBC (MSC), WAC XXXXXXXXXXX).

5. USCIS Electronic Immigration System Account Identifier Number (ELIS Number)

This is the USCIS electronic account identifier number. If you do not have an ELIS account, leave this blank.

6.a. - 6.i. Mailing Address

Provide the petitioner/applicant's complete mailing address (including military APO/FPO address if applicable).

7. Daytime Telephone Number

Provide a telephone number with area code and extension (if any) where you can be reached during the day.

8. Mobile Telephone Number, if any

Provide a mobile telephone number with area code.

9. E-mail Address, if any

Provide the petitioner/applicant's E-mail address.

10. Fax Number, if any

Provide a fax number with area code.

Part 2. Information About Person/Organization Filing Appeal or Motion on Behalf of the Petitioner/Applicant

If you are the petitioner or applicant filing an appeal or motion without an attorney or representative accredited by the BIA, skip this part, and proceed to **Part 3**.

If you are an attorney or a BIA-accredited representative, you must check the box in **Item Number 1** and attach a **new** Form G-28 even if you submitted a Form G-28 with the underlying petition/application.

NOTE: The Form G-28 must be properly completed with new dates and be properly signed by the petitioner or applicant and attorney or BIA-accredited representative. If the petitioner or applicant wishes, he or she may be represented at no expense to the U.S. Government by an attorney or BIA-accredited representative. If the appeal or motion is filed by an attorney or a BIA-accredited representative without a properly executed Form G-28, it may be rejected or dismissed.

Provide information about the individual or the organization filing the appeal or motion on behalf of the petitioner or applicant.

2.a. - 2.c. Full Name

Provide your full legal name. If you have two last names, include both and use a hyphen (-) between the names, if appropriate.

3. Complete Name of Business/Organization, if applicable

Provide the complete name of your business or organization, without abbreviations, if applicable.

4. Daytime Telephone Number

Provide a telephone number with area code and extension (if any) where you can be reached during the day.

5. Mobile Telephone Number, if any

Provide your mobile telephone number with area code.

6. E-mail Address, if any

Provide your E-mail address.

7. Fax Number, if any

Provide a fax number with area code.

Part 3. Information About the Appeal or Motion

Provide the following information:

1 and 2. Appeal or Motion Request (Select only one box)

Check a single item from boxes "a. - f." Do not check more than one box or make any changes to the form.

You must clearly indicate if you are filing an appeal or a motion. The adverse decision will indicate whether you may file an appeal or a motion. Although the adverse decision may indicate that you can file an appeal and a motion, you can only file one or the other using a single Form I-290B. The requirements for motions to reopen and motions to reconsider are located at 8 CFR Section 103.5. If you file an appeal, the reviewing office will either take favorable action or forward the appeal to the AAO.

NOTE: An adverse decision from the AAO may motion to reopen and/or reconsider an AAO deci

Add "See 8 CFR 103.3 and 8 CFR 205.2 for additional information. The reviewing office is the USCIS office that denied the petition or applicaiton."

may file a

3. Form for Which You Are Filing an Appeal, or

Provide the form number for the denied petition or application (e.g., Form I-140, Form I-360, Form I-129, Form I-485, Form I-601, etc.). If you use the dropdown menu and the form number is not listed, select "other" in the dropdown menu.

Replace "Status" with "Classification"

Replace "status" with "classification"

4. Specific Status Requested

Provide the specific status requested (e.g., H-1B, R-1, O-1, EB-1, EB-2, EB-3, etc., if applicable.) If you use the dropdown menu and the status is not listed, select "other" in the dropdown menu.

5. Date of Adverse Decision

Provide the date of the decision that is the basis for your appeal or motion.

6. USCIS Office Where Last Decision Was Issued

Provide the name of the office that denied or revoked the petition or application. If you are filing a motion on an adverse AAO decision, the correct office is "Administrative Appeals Office (AAO)". If you are using the dropdown menu and the office name is not listed, select "other" in the drop down menu.

Part 4. Basis for the Appeal or Motion

Write the basis for the appeal or motion on a separate sheet of paper. Your appeal or motion will be dismissed if you do not provide this information.

Appeal: Provide a statement clearly explaining any erroneous conclusion of law or fact in the decision being appealed.

Motion to Reopen: The motion must state new facts and must be supported by affidavits and/or documentary evidence demonstrating eligibility at the time the underlying petition or application was filed.

Motion to Reconsider: The motion must be supported by citations to appropriate statutes, regulations, or precedent decisions when filed and must establish that the decision was based on an incorrect application of law or policy, and that the decision was incorrect based on the evidence of record at the time of decision.

Part 5. Signature of Person Filing the Appeal/Motion or His or Her Authorized Representative

The petitioner/applicant filing this appeal or motion, or an attorney/BIA-accredited representative, must sign and date Form I-290B.

Substitute language from current Instructions, which seem more clear: "You or your legal representative must sign and submit Form I-290B. Form G-28, Notice of Entry of Appearance as Attorney or Representative, must be attached if signed by a legal representative."

What Is the Filing Fee?

The filing fee for Form I-290B is \$100.

Use the following guidelines when you prepare your check or money order for the Form I-290B fee:

1. The check or money order must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; and
2. Make the check or money order payable to U.S. Department of Homeland Security.

NOTE: Spell out U.S. Department of Homeland Security; do not use the initials "USDHS" or "DHS."

3. If you live outside the United States, contact the nearest U.S. consulate or embassy for instructions on the method of payment.

Notice to Those Making Payment by Check

If you send us a check, it will be converted into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually take 24 hours, and will be shown on your regular account statement.

You will not receive your original check back. We will destroy your original check, but we will keep a copy of it. If the EFT cannot be processed for technical reasons, you authorize us to process the copy in place of your original check. If the EFT cannot be completed because of insufficient funds, we may try to make the transfer up to 2 times.

How to Check If the Fees Are Correct

The Form I-290B fee is current as of the edition date appearing in the lower left corner of this page. However, because USCIS fees change periodically, you can verify if the fees are correct by following one of the steps below:

1. Visit the USCIS Web site at www.uscis.gov, select "FORMS" and check the appropriate fee; or
2. Telephone the USCIS National Customer Service Center at **1-800-375-5283** and ask for fee information. For TDD (hearing impaired) call **1-800-767-1833**.

NOTE: The fee will be the same when either an appeal or motion is filed from the denial of a petition or application with one or multiple beneficiaries, provided that they are all covered by the same petition, and therefore, the same decision.

For additional information on fees, fee waivers, and refunds visit the USCIS Web site at www.uscis.gov.

Fee Waiver

The fee for Form I-290B may be waived under 8 CFR Section 103.7(c) if the applicant can show an inability to pay and:

1. The appeal or motion is from a denial of an immigration benefit request where the applicant or petitioner was not required to pay a fee; or
2. The fee for the underlying application or petition could have been waived.

If you believe you are eligible for a fee waiver, complete Form I-912, Request for Fee Waiver, (or a written request that complies with 8 CFR Section 103.7(c)), and submit it and required evidence of your inability to pay the form fee with this form. You can review the fee waiver guidance at www.uscis.gov.

No fee is required when Form I-290B is filed to appeal a denial of a petition for a special immigrant visa by a Special Immigrant Iraqi or Afghan national who worked for or on behalf of the U.S. Government in Iraq or Afghanistan.

Where to File?

File the appeal or motion as indicated on the USCIS Web page Direct Filing Addresses for Form I-290B, Notice of Appeal or Motion at www.uscis.gov/i-290b-addresses

Form I-290B is not considered received by USCIS unless filed at the proper location.

If you are filing a motion to reopen/ reconsider an AAO decision, file the motion with the address as indicated on the chart located at www.uscis.gov/i-290b-addresses.

DO NOT FILE FORM I-290B DIRECTLY WITH THE AAO. Your form will be rejected if you improperly file.

See the USCIS Web site at www.uscis.gov/I-290B or call the USCIS National Customer Service Center at **1-800-375-5283** for the most current information about where to file this benefit request. For TDD (hearing impaired) call **1-800-767-1833**.

Add: "on Form AR-11"

Address Changes

You must inform USCIS of any change of address within 10 days of such a move. For information on filing a change of address go to the USCIS Web site at www.uscis.gov/addresschange or contact the USCIS National Customer Service Center at **1-800-375-5283**. For TDD (hearing impaired) call **1-800-767-1833**.

NOTE: Do not submit a change of address request to the **USCIS Lockbox** facilities because the **USCIS Lockbox** facilities do not process change of address requests.

If you change your address while your **appeal** is pending, you should also send a written notice of your change of address to the AAO to ensure that you receive the decision. Include the type of case that was denied and any available tracking number (receipt number and/or A-Number).

Mail the notice to:

**USCIS Administrative Appeals Office
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, N.W., MS2090
Washington, DC 20529-2090**

If you change your address after you file a **motion**, the address where you should send your notice depends on where your motion is pending. If your motion has been forwarded to the AAO, send a written notice of your change of address to the address above. If your motion has remained with the office where you submitted it, send the notice to that office. Include the type of case that was denied and any available tracking number (receipt number and/or A-Number).

To find out where your case is currently located, call the USCIS National Customer Service Center number at **1-800-375-5283**. For TDD (hearing impaired) call **1-800-767-1833**.

To find out the status of your case, visit the USCIS Web site at <https://egov.uscis.gov/cris/Dashboard/CaseStatus.do>.

Processing Information

An appeal or motion that is not signed or is not accompanied by the proper fee **will be dismissed or rejected** with a notice that the appeal or motion is deficient. If time permits, you may correct the deficiency and resubmit the appeal or motion.

Once the appeal or motion is accepted, it will be reviewed. If you do not have any standing to file the appeal or motion, or if the decision is not appealable, the appeal or motion will be dismissed or rejected without further review. Further, late filed appeals that do not meet the requirements of a motion to reopen or reconsider will be rejected. Late filed motions may be dismissed.

Decision. You will be notified in writing of any action taken on your appeal or motion.

USCIS Forms and Information

To ensure you are using the latest version of this form, visit the USCIS Web site at www.uscis.gov where you can obtain the latest USCIS forms and immigration-related information. If you do not have internet access, you may order USCIS forms by calling our toll-free number at **1-800-870-3676**. You may also obtain forms and information by calling our USCIS National customer Service Center at **1-800-375-5283**. For TDD (hearing impaired) call **1-800-767-1833**.

As an alternative to waiting in line for assistance at your local USCIS office, you can now schedule an appointment through USCIS' Internet-based system, **InfoPass**. To access the system, visit the USCIS Web site. Use the **InfoPass** appointment scheduler and follow the screen prompts to set up your appointment. **InfoPass** generates an electronic appointment notice that appears on the screen.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-290B, we will deny your Form I-290B, and may deny any other immigration benefit.

In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

USCIS Privacy Act Statement

AUTHORITIES: 8 C.F.R. section 103.3 and 103.5 authorize USCIS to collect the information and the associated evidence on this benefit application.

PURPOSE: USCIS will use the information you provide on this form to adjudicate appeals or motions on decisions under immigration laws, except for appeals of Form I-130, Petition for Alien Relative and Form I-360, Petition for Amerasian, Widow(er), or special Immigrant, (widow(er) only) denials in which the Board of Immigration Appeals (BIA) has appellate jurisdiction. The information you provide will be used to make a determination on an appeal or a request for a motion.

DISCLOSURE: The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision or result in denial of your appeal or motion.

ROUTINE USES: The information you provide on this benefit application may be shared with other Federal, State, local, and foreign government agencies and authorized organizations in accordance with approved routine uses, as described in the associated published system of records notices **[DHS-USCIS-007 - Benefits Information System and DHS-USCIS-001 - Alien File, Index, and National File Tracking System of Records]**, which can be found at www.dhs.gov/privacy. The information may also be made available, as appropriate for law enforcement purposes or in the interest of national security.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 90 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave., N.W., Washington, DC 20529-2140; OMB No 1615-0095. **Do not mail your completed Form I-290B to this address.**