

Practitioner Workstation in the public area of the Board's clerk's office or the immigration court on which he or she may register and receive a UserID.

The practitioner will enter all information he or she has available and will be permitted to choose a UserID. The registration system will accept the full or initial registration data, and send the practitioner an e-mail message containing a password.

If an unregistered practitioner mails an Entry of Appearance to the Board clerk's office or immigration court, with or without other documents (pleadings, etc.), the clerk's office or court staff may reject the Entry of Appearance and return it for completion of the registration process. The clerk's office staff will process any accompanying documents as if they had been filed by the unregistered practitioner's client acting on his or her own behalf.

Failure To Register or Failure To Complete the Registration Process

Practitioners who fail to register will not be allowed to represent clients before the immigration judges or the Board.

Practitioners who only complete an initial registration will be notified by e-mail (or United States mail, if appropriate) of the two-week deadline for completing registration. If registration is not completed by that deadline, a second notice setting an additional two-week deadline will be sent to the same practitioner address(es), warning of administrative suspension from practice before EOIR if registration is not completed timely. A third notice will inform the practitioner that his or her right to practice before immigration judges and the Board has been suspended administratively until registration is completed. Copies of this notice will be sent to all identifiable clients with matters before EOIR. Additionally, the practitioner's UserID and password that EOIR provided during initial registration will be deactivated.

Extraordinary Circumstances

After the effective date of the final regulation, and under extraordinary and rare circumstances, an immigration judge may permit an unregistered practitioner to appear at a single hearing by registering before the immigration judge. For example, an unregistered practitioner unfamiliar with immigration practice before immigration judges and the Board, or an unregistered practitioner hired immediately before a hearing commences, may be permitted to appear before an immigration judge. However, the immigration judge must

secure the required practitioner's registration information on the record proceedings, in addition to the practitioner's Notice of Appearance on Form EOIR-28. The immigration judge will also instruct the practitioner to register on-line immediately after the hearing. At the time the Form EOIR-28 information that is received during the hearing is entered into the case management information system, the EOIR staff will inquire of the system whether the practitioner has completed registration pursuant to the immigration judge's instructions. If not, EOIR staff will enter into the database the practitioner's information previously secured by the immigration judge. The system will then create a permanent UserID for the practitioner, using an algorithm based on last name and first name, and assign a password. An e-mail message will notify the practitioner of the UserID and password. As previously noted, a practitioner without an e-mail address will be notified at the practitioner's physical address using the United States Post Office's e-mail postal addressing capabilities. Thereafter, the practitioner will be able to modify the password but not the UserID.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

As described more fully below in the Executive Order 12866 certification, the Department estimates that approximately 26,000 attorneys and representatives will electronically register. It is not known how many of these attorneys and representatives are "small entities" as defined by the Regulatory Flexibility Act. There is no fee to register. Consequently, the Department believes the costs to practitioners to electronically register with EOIR will be nominal.

Practitioners will greatly benefit under this registration process by paving the way to future access to an electronic EOIR case access and filing system. Moreover, the future ability to electronically file a Notice of Appearance will reduce the practitioner's costs.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not

significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

The proposed rule is considered by the Department of Justice to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, the regulation has been submitted to the Office of Management and Budget for review.

The rule establishes procedures for attorneys and representatives to enroll formally with EOIR as a condition of representing aliens before immigration judges and the Board. Requiring practitioners to register electronically with EOIR is a necessary precursor to implementing an electronic case access and filing system.

Under the registration process, EOIR will be able to determine whether a practitioner is authorized to represent aliens before immigration judges or the Board. EOIR will also distribute to each authorized registrant a unique EOIR UserID and password that will permit future access to an electronic filing system for submission and retrieval of information and documents pertaining to administrative immigration proceedings.

An on-line registration process will be required for practitioner registration. For practitioners without access to the Internet, a dedicated Practitioner Workstation will be made available at each public facility of EOIR.

For the initial registration, practitioners must complete an electronic registration in which they must provide the following information: full name, date of birth, last four digits of social security number, mailing addresses, and e-mail address. Registrants will also be required to submit limited background data, such as bar admissions (for attorneys) and the