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DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 1003

[Docket No. EOIR 20–0010; AG Order No. 4663–2020]

RIN 1125–AB00

Expanding the Size of the Board of Immigration Appeals

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Department of Justice regulations relating to the organization of the Board of Immigration Appeals (''Board'') by adding two Board member positions, thereby expanding the Board to 23 members.

DATES:

Effective date: April 1, 2020.

Comment date: Written comments must be submitted on or before May 1, 2020. Comments postmarked on or before that date will be considered timely. The electronic Federal Docket Management System will accept comments until midnight Eastern Time on that date.

FOR FURTHER INFORMATION CONTACT: Lauren Alder Reid, Assistant Director, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2616, Falls Church, Virginia 22041, telephone (703) 305–0289.

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this rule. The Department also invites comments that relate to the economic, environmental, or federalism effects that might result from this rule. Comments that will provide the most assistance to the Department in developing these procedures will reference a specific portion of the rule, explain the reason for any recommended change, and include data, information, or authority that supports such recommended change.

Each submitted comment should include the agency name and reference RIN 1125–AB00 or EOIR Docket No. 20–0010 for this rulemaking. Please note that all properly received comments are considered part of the public record and made available for public inspection at *www.regulations.gov.* Such information includes personally identifying information (such as name, address, etc.) voluntarily submitted by the commenter. The Department may withhold from public viewing information provided in comments that they determine may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

If you want to submit personally identifying information (such as your name, address, etc.) as part of your comment but do not want it to be posted online, you must include the phrase ''PERSONALLY IDENTIFYING INFORMATION'' in the first paragraph of your comment and identify what information you want redacted. The redacted personally identifying information will be placed in the agency's public docket file but not posted online.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You also must prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on *www.regulations.gov.* The redacted confidential business information will not be placed in the public docket file.

To inspect the agency's public docket file in person, you must make an appointment with agency counsel. Please see the **FOR FURTHER INFORMATION CONTACT** section above for the agency counsel's contact information by topic in Section III, *infra.*

II. Background

The Executive Office for Immigration Review (''EOIR'') administers the Nation's immigration court system. Generally, cases commence before an immigration judge when the Department of Homeland Security (''DHS'') files a charging document against an alien with the immigration court. *See* 8 CFR 1003.14(a). EOIR primarily decides whether foreign-born individuals who are charged by DHS with violating immigration law pursuant to the Immigration and Nationality Act (''INA'') should be ordered removed from the United States, or should be granted relief or protection from removal and be permitted to remain in the United States. EOIR's Office of the Chief Immigration Judge administers these adjudications in immigration courts nationwide.

Decisions of the immigration judges are subject to review by EOIR's appellate body, the Board of Immigration Appeals, which currently comprises 21 permanent Board members. The Board is the highest administrative tribunal for interpreting and applying U.S. immigration law. The Board's decisions can be reviewed by the Attorney General, as provided in 8 CFR 1003.1(g) and (h). Decisions of the Board and the Attorney General are subject to judicial review.

III. Expansion of Number of Board Members

EOIR's mission is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws. This includes the initial adjudication of aliens' cases in immigration courts nationwide, as well as appellate review by the Board when appeals are timely filed. In order to more efficiently accomplish EOIR's commitment to promptly decide a large volume of cases, as well as review a large quantity of appeals of those cases, this rule amends the Department's regulations relating to the organization of the Board by adding two Board member positions, thereby expanding the Board from 21 to

23 members.[1] This rule revises the third sentence of 8 CFR 1003.1(a)(1), leaving the remainder of paragraph (a)(1) unchanged.

Expanding the number of Board members is necessary at this time for two primary reasons. First, EOIR is currently managing the largest caseload both the immigration court system and the Board have ever seen. At the end of FY 2019, there were 1,047,803 cases pending at the immigration courts, marking an increase of 251,725 cases pending above those at the end of FY 2018. *See* Pending Cases, available at *https://www.justice.gov/eoir/file/1242166/download.* Similarly, the pending caseload at the Board essentially doubled between FY 2018 and FY 2019, from 35,503 to 70,183. *See* All Appeals Filed, Completed, and Pending, available at *https://www.justice.gov/eoir/page/file/1199201/download.* Furthermore, DHS filed 504,848 new cases with EOIR in FY 2019, an increase of nearly 200,000 new cases filed over FY 2018. *See* New Cases and Total Completions-Historical, available at *https://www.justice.gov/eoir/page/file/1238746/download.* Each of the three previous fiscal years has set a new record for new case filings by DHS, *see id.,* leading to an increase in the backlog of pending cases and an increased need for EOIR adjudicators to handle the new influx of cases, including at the Board. The efficient and timely adjudication of cases is the highest priority for EOIR, and EOIR requires additional resources to handle the increased caseload. Moreover, as the caseload in the immigration courts increases, the Department anticipates that the corresponding caseload at the Board will also expand, as it did significantly in FY 2019.

Second, the Department has made concerted efforts in recent years to hire more immigration judges, resulting in a net increase of its immigration judge corps of 153 between the end of FY 2016 and the end of FY 2019. *See* Immigration Judge Hiring, available at *https://www.justice.gov/eoir/file/1242156/download.* Moreover, the Department continues to advertise for and select a new class of immigration judges almost every quarter of the fiscal year. The Department expects that, as these new immigration judges enter on duty, the number of decisions rendered nationwide by immigration judges will increase and, in turn, the number of appeals filed with the Board will also increase.

The current caseload at the Board is burdensome and may become overwhelming in the future for a Board of 21 members. At the same time, if the Board becomes too large, it may have difficulty fulfilling its responsibility of providing coherent direction with respect to the immigration laws. In particular, because the Board currently issues precedent decisions only with the approval of a majority of permanent Board members, a substantial increase in the number of Board members may make the process of issuing such decisions more difficult.

Keeping in mind the goal of maintaining cohesion and the ability to reach consensus, but recognizing the challenges the Board faces in light of its current and anticipated increased caseload, the Department has determined that two positions should be added to the Board at this time. These changes are necessary to maintain an efficient system of appellate adjudication in light of the increasing caseload.

IV. Public Comments

This rule is exempt from the usual requirements of prior notice and comment and a 30-day delay in effective date because, as an internal delegation of authority, it relates to a matter of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b). The Department nonetheless has chosen to promulgate this rule as an interim rule, providing the public with opportunity for post-promulgation comment before the Department issues a final rule on these matters.

V. Regulatory Requirements

A. Administrative Procedure Act

Prior notice and comment is unnecessary because this is a rule of management or personnel as well as a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(a)(2), (b)(A). For the same reasons, this rule is not subject to a 30-day delay in effective date. *See* 5 U.S.C. 553(a)(2), (d).

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), ''[w]henever an agency is required by section 553 of [the Administrative Procedure Act], or any other law, to publish general notice of proposed rulemaking for any proposed rule . . . the agency shall prepare and make available for public comment an initial regulatory flexibility analysis.'' 5 U.S.C. 603(a); *see* 5 U.S.C. 604(a). Such analysis is not required when a rule is exempt from notice-and-comment rulemaking under 5 U.S.C. 553(b) or other law. Because this is a rule of internal agency organization and therefore is exempt from notice-and-comment rulemaking, no RFA analysis under 5 U.S.C. 603 or 604 is required.

C. 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.

D. Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 13771 (Reducing Regulation and Controlling Regulatory Costs)

This rule is limited to agency organization, management, or personnel matters and is therefore not subject to review by the Office of Management and Budget pursuant to section 3(d)(3) of Executive Order 12866, Regulatory Planning and Review. Nevertheless, the Department certifies that this regulation has been drafted in accordance with the principles of Executive Order 12866, section 1(b), and Executive Order 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits, including consideration of potential economic, environmental, public health, and safety effects; distributive impacts; and equity. The benefits of this rule include providing the Department with an appropriate means of responding to the increased number of appeals to the Board. The public will benefit from the expansion of the number of Board members because such expansion will help EOIR better accomplish its mission of adjudicating cases in an efficient and timely manner. Overall, the benefits provided by the Board's expansion outweigh the costs of employing additional federal employees. Finally, because this rule is one of internal organization, management, or personnel, it is not subject to the requirements of Executive Order 13771.

[1] The Department expanded the number of Board members from 15 to 17 on June 3, 2015, when it published in the **Federal Register** an interim rule amending 8 CFR 1003.1. *See* 80 FR 31461 (June 3, 2015). On February 27, 2018, the Department published a final rule further expanding the Board from 17 to 21 members. *See* 83 FR 8321 (Feb. 27, 2018).

E. Executive Order 13132—Federalism

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988—Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

H. Congressional Review Act

This is not a major rule as defined by 5 U.S.C. 804(2). This action pertains to agency organization, management, and personnel and, accordingly, is not a ''rule'' as that term is used in 5 U.S.C. 804(3). Therefore, the reports to Congress and the Government Accountability Office specified by 5 U.S.C. 801 are not required.

List of Subjects in 8 CFR Part 1003

Administrative practice and procedure, Aliens, Immigration, Legal services, Organization and functions (Government agencies).

Accordingly, for the reasons stated in the preamble, part 1003 of title 8 of the Code of Federal Regulations is amended as follows:

PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

■ 1. The authority citation for part 1003 continues to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

■ 2. In § 1003.1, revise the third sentence of paragraph (a)(1) to read as follows:

§ 1003.1 Organization, jurisdiction, and powers of the Board of Immigration Appeals.

(a)(1) * * * The Board shall consist of 23 members. * * *

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Dated: March 25, 2020.

William P. Barr,

Attorney General.

[FR Doc. 2020–06846 Filed 3–31–20; 8:45 am]

BILLING CODE 4410–30–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Express Bridge Loan Pilot Program; Modification of Eligibility and Loan Approval Deadline and Extension of Pilot Program

AGENCY: U.S. Small Business Administration.

ACTION: Notification of change to Express Bridge Loan Pilot Program and extension of pilot program.

SUMMARY: On October 16, 2017, the U.S. Small Business Administration (SBA) published a document announcing the Express Bridge Loan Pilot Program (Express Bridge Pilot). In that document, SBA provided an overview of the Express Bridge Pilot and modified an Agency regulation relating to loan underwriting for loans made under the Express Bridge Pilot. On May 7, 2018, SBA published a document to revise certain program requirements. SBA continues to refine and improve the design of the Express Bridge Pilot and is issuing this document to expand program eligibility to include small businesses nationwide adversely impacted under the Coronavirus Disease (COVID–19) Emergency Declaration (COVID–19 Emergency Declaration) issued by President Trump on March 13, 2020. Further, SBA is revising program requirements to allow Express Bridge Pilot loans made under the COVID–19 Emergency Declaration to be approved through March 13, 2021. The modification of eligibility criteria and program requirements will allow small businesses adversely impacted by the COVID–19 emergency to qualify for loans through the Express Bridge Pilot. Finally, SBA is extending the term of the Express Bridge Pilot from September 30, 2020 to March 13, 2021, to assist small businesses that may experience delayed effects resulting from the COVID–19 emergency to benefit from the Express Bridge Pilot and to allow SBA to continue its evaluation of the program.

DATES: The revised program requirements described in this document apply to all Express Bridge Pilot loans approved on or after April 1, 2020, and the Express Bridge Pilot will remain available through March 13, 2021.

FOR FURTHER INFORMATION CONTACT: Dianna Seaborn, Director, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416; Telephone (202) 205–3645; email address: *dianna.seaborn@sba.gov.*

SUPPLEMENTARY INFORMATION: On October 16, 2017, SBA published a document announcing the Express Bridge Pilot. (82 FR 47958) The Express Bridge Pilot is designed to supplement the Agency's disaster response capabilities and authorizes the Agency's 7(a) Lenders with SBA Express lending authority to deliver expedited SBA-guaranteed financing on an emergency basis for disaster-related purposes to small businesses located in communities impacted by a Presidentially-declared disaster, while the businesses apply for and await long-term financing (including through SBA's direct disaster loan program, if eligible). On May 7, 2018, SBA published a document to revise certain Express Bridge Pilot requirements. (83 FR 19921) The Express Bridge Pilot applies the policies and procedures in place for the Agency's SBA Express program, except as outlined in the **Federal Register** documents published on October 16, 2017, and May 7, 2018.

SBA continues to refine and improve the design of the Express Bridge Pilot and, therefore, is issuing this document to expand program eligibility to include small businesses nationwide adversely impacted under the Coronavirus Disease (COVID–19) Emergency Declaration issued by President Trump on March 13, 2020. Because the COVID–19 Emergency Declaration covers all states, territories, and the District of Columbia, eligible small businesses under the Express Bridge Pilot will now include small businesses located in any state, territory and the District of Columbia that have been adversely impacted by the COVID–19 emergency. (Previously, those small businesses would not be eligible for Express Bridge Pilot loans because the program has been limited to eligible small businesses located in Primary Counties that have been Presidentially-declared as major disaster areas, plus any Contiguous Counties.)

Further, SBA is revising program requirements to allow Express Bridge Pilot loans made under the COVID–19 Emergency Declaration to be approved