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DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 103, 212, 213, 214, 245 and 248

[CIS No. 2637-19; DHS Docket No. USCIS-2010-0012]

RIN 1615-AA22

Inadmissibility on Public Charge Grounds; Correction

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Final rule; correction.

SUMMARY: The Department of Homeland Security (DHS) is making corrections to a final rule that appeared in the *Federal Register* on August 14, 2019. That final rule will amend DHS regulations by prescribing how DHS will determine whether an alien applying for admission or adjustment of status is inadmissible to the United States under the Immigration and Nationality Act (INA or the Act) because he or she is likely at any time to become a public charge.

DATES: This correction is effective at 12 a.m. Eastern Time on October 15, 2019.

FOR FURTHER INFORMATION CONTACT: Mark Phillips, Residence and Naturalization Division Chief, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts NW, Washington, DC 20529-2140; telephone 202-272-8377.

SUPPLEMENTARY INFORMATION:

I. Background

On August 14, 2019, DHS published a final rule, Inadmissibility on Public Charge Grounds (FR Doc. 19-17142).¹ The final rule amends DHS regulations by prescribing how DHS will

¹ 84 FR 41292 (Aug. 14, 2019).

determine whether an alien applying for admission or adjustment of status is inadmissible to the United States under section 212(a)(4) of the Immigration and Nationality Act (INA or the Act), 8 U.S.C. 1182(a)(4), because he or she is likely at any time to become a public charge.

In the final rule, there were a number of technical and typographical errors that are identified and corrected by the Correction of Errors section of this correcting document. The provisions in this correcting document are effective as if they had been included in the final rule document that appeared in the August 14, 2019 *Federal Register*. Accordingly, the corrections are effective on October 15, 2019, at 12:00 a.m. Eastern Time. This document, and the corrections included in this document, do not change how DHS will apply the final rule; i.e., DHS will apply the corrected final rule only to applications and petitions postmarked (or, if applicable, submitted electronically) on or after October 15, 2019. Applications and petitions already pending with USCIS on October 15, 2019, (i.e., postmarked before October 15, 2019) will not be subject to the final rule.

II. Summary and Explanation of Corrections

A. SUMMARY

On page 41292 in the SUMMARY section, in the last sentence of the first partial paragraph at the top of the second column, DHS erroneously referred to “exemptions” when referring to special rules applying to the receipt of public benefits by certain populations. DHS is making corrections to that sentence through the Correction of Errors section of this document by replacing the word “exemptions” with the word “exclusions,” when referencing receipt of public benefits that will not be considered for the purposes of this rule. An exemption refers to individuals who are not subject to this rule, as set forth in 8 CFR 212.23, while an exclusion, the

correct terminology for purposes of the subject rulemaking, refers to benefits receipt that will not be considered by DHS.

B. Preamble of the August 14, 2019 Final Rule

On page 41296 in the *Summary of the Proposed Rule*, in the third column, in the last paragraph, in the first line of the last full sentence, DHS erroneously used the word “exempt” instead of the word “exclude” when indicating that receipt of Medicaid benefits received by certain children of U.S. citizens would not be considered for purposes of a public charge inadmissibility determination. DHS is correcting this reference and replacing the word “exempt” with the word “exclude” in the Correction of Errors section of this document.

On page 41297, in the third line at the top of the first column, DHS erroneously referred to the word “exempting” when discussing a change in the final rule that expands the exclusion from consideration of receipt of Medicaid to Medicaid received by aliens under the age of 21 and pregnant women (including women for 60 days after the last day of pregnancy). In the Correction of Errors section of this document, DHS is correcting this error by revising this sentence.

On page 41302 in Table 1-Summary of Major Provisions and Economic Impacts of the Final Rule, fourth row, third column, DHS erroneously stated that the “total annual direct costs of the final rule will range from about \$45.5 to \$131.2 million.” The statement was inadvertently left in Table 1 even after costs of the rule were updated elsewhere in the final rule and the Regulatory Impact Analysis to reflect that DHS will not be requesting Form I-944 from applicants for extension of stay and change of status. DHS is removing the incorrect cost range statement through the Correction of Errors section of this document.

On page 41314, DHS inadvertently added footnote 83 the end of the last sentence of the second paragraph in the third column. For editorial consistency, DHS is deleting this footnote through the Correction of Errors section of this document.

On page 41328, in the second column, DHS inadvertently omitted the word “it” from the first sentence in the third paragraph. DHS is adding that word through the Correction of Errors section of this document.

On page 41334 at the top of the second column, first line, the word “the” was inadvertently excluded. DHS is therefore correcting this omission by adding the word “the.”

On page 41334 in the last sentence of the first partial paragraph in the second column in the comment response, DHS inadvertently left in a word “may” in addition to the word “will” when describing the impact of the public charge rule on certain dependents who are certified to receive or are receiving public benefits under the authorization of another person. This word is superfluous and makes the sentence grammatically incorrect. DHS is correcting this error by deleting the word “may.”

On page 41336 in the first column, in the third sentence, DHS inadvertently omitted words “time the” after “valid T nonimmigrant status at the,” making the sentence incomplete. DHS is therefore correcting this omission by adding the words “time the.”

On pages 41336 through 41341, in the heading for the third column that appears at the top of Table 2 on each page, DHS is correcting the title of the heading to accurately reflect the form numbers used to request change of status. DHS inadvertently referred to Form I-539 as “I-Form 539” in the heading and is correcting that reference to read “Form I-539.”

On page 41336, in the first row and third column of Table 2, DHS inadvertently omitted the word “Form” before “I-539.” DHS is correcting this omission by adding the word “Form.”

On page 41337, in the twelfth row and second and third columns of Table 2, DHS inadvertently omitted the word “Form” before “I-539.” DHS is correcting this omission by adding the word “Form.”

On page 41338, in the eleventh row and third column of Table 2, DHS inadvertently omitted the word “Form” before “I-539.” DHS is correcting this omission by adding the word “Form.”

On page 41338, in the fifteenth row and second column of Table 2, DHS inadvertently omitted the word “Form” before “I-539” and a comma after “I-539”. DHS is correcting these omissions by adding the word “Form” before “I-539” and “,” after “I-539”.

On page 41340, in the tenth row and third column of Table 2, DHS inadvertently added the word “Files” twice.

On page 41340, in the eleventh row and third column of Table 2, DHS inadvertently added the word “Files” twice.

On page 41341, at the bottom of Table 2 after the “*”, DHS made several typographical errors. DHS is correcting those errors and the sentence after the “*” will read: “Includes questions on Form I-129 and Form I-539 about receipt of public benefits since the nonimmigrant status was approved. Whether the alien must file a Form I-129 or a Form I-539 depends on the status the alien is applying to change or to extend. If more than one person is applying using the Form I-539, the Form I-539A, Supplemental Information for Application to Extend/Change Status, is submitted to provide all of the requested information for each additional applicant listed.”

On page 41342 at the bottom of Table 3 after the “*”, DHS made several typographical errors by referring to the proposed rule rather than the final rule and by not including all the

conditions set forth in the final rule upon which a public charge bond may be cancelled. DHS is correcting these errors and the sentence after the “*” will read: “If an alien is found inadmissible based on the public charge ground, USCIS, at its discretion, may permit the alien to post a public charge bond (Form I-945). 8 CFR 213.1, as amended in the final rule, describes the circumstances under which a public charge bond may be cancelled (Form I-356).”. DHS is making the same corrections to similar errors on page 41343 at the bottom of Table 4 after the “*”, on page 41344 at the bottom of Table 5 after the “*”, on page 41345 at the bottom of Table 6 after the “*”, and on page 41346 at the bottom of Table 7 after the “*”.

On page 41345 in Table 7 Applicability of INA 212(a)(4) to Other Applicants Who Must Be Admissible, in the fourth row, first and second columns, DHS is correcting the language regarding the availability of waivers with respect to certain entrants (i.e., certain aged, blind, or disabled individuals), and is reorganizing the order in which the explanation appears in the second column.

On page 41369, in the first paragraph in the third column, DHS inadvertently omitted the words “and non-cash benefits” when generally describing the public benefits included in the rule. DHS is adding these words to correctly characterize that non-cash benefits included in this rule are those being provided for food, nutrition, housing, and healthcare. This correction is made for consistency with a similar reference on p. 41349 of the final rule.² On pages 41380-41381, in the first sentence starting in the last paragraph on p. 41380, DHS inadvertently omitted the words “and non-cash benefits” when generally describing the public benefits included in the rule. DHS is adding these words to correctly characterize that non-cash benefits included in this rule are

² See e.g., p. 84 FR 41292, 41349 “Because of the nature of the benefits that would be considered under this rule—i.e., cash benefits for income maintenance and non-cash benefits for basic living needs such as food and nutrition, housing, and healthcare, that account for significant public expenditures on non-cash benefits—DHS believes that receipt of such benefits for more than 12 months within any 36-month period is sufficient to render a person a public charge.”

those being provided for food, nutrition, housing, and healthcare. This correction is made for consistency with a similar reference on p. 41349 of the final rule.

On pages 41486 – 41488, DHS included typographical errors in the Table numbers. The Table that begins on page 41486 and printed through page 41488 should read “Table 7” instead of “Table 2.” On page 41486, third column, last full sentence prior to the table, DHS needs to make corresponding corrections to the text so that it references “Table 7” instead of “Table 2.” On page 41487, in Table 2 – Summary of Major Changes and Economic Impacts of the Final Rule, third row, third column, DHS erroneously stated that the total annual direct cost of the final rule will range from about \$45.5 to \$131.2 million. The statement was inadvertently left in Table 2 even after costs of the rule were updated elsewhere in the rule and the Regulatory Impact Analysis to reflect that DHS will not be requesting Form I-944 from applicants for extension of stay and change of status. DHS is removing the incorrect cost range statement through the Correction of Errors section in this correction notice.

On page 41488, DHS is correcting and renumbering “Table 8 – OMB A-4 Accounting Statement” to read “Table 9 – OMB A-4 Accounting Statement.” DHS is also making corresponding changes to the reference to “Table 8” on page 41488 in the second column, last full sentence so that the sentence refers the reader to what will now be “Table 9.”

On pages 41493, in the third column, in the last full sentence, DHS is renumbering the tables to correct a typographical error earlier in the final rule. As such, the last full sentence on page 41493 should refer the reader to “Table 10” instead of “Table 9.”

On pages 41494 – 41497, “Table 9 – Summary of Forms” is being corrected to read “Table 10 – Summary of Forms.”

C. Regulatory Text of the August 14, 2019 Final Rule

On page 41501, in paragraph (b)(7) of section 8 CFR 212.21, in the provisions excluding public benefits receipt from consideration, rather than referring to spouses and children of individuals serving in the U.S. Armed Forces, DHS inadvertently referred to spouses and children of aliens serving in the U.S. Armed Forces. DHS thereby inadvertently afforded the exclusion only to spouses and children of aliens serving in the U.S. Armed Forces but not to spouses and children of all individuals serving in the U.S. Armed Forces, including aliens, U.S. citizens, and U.S. nationals serving in the U.S. Armed Forces. DHS correctly discussed the exclusion in broader terms, referring to spouses and children of “servicemembers” generally in the preamble of the final rule, and to spouses and children of “individuals” in the Form I-944, Declaration of Self Sufficiency.³ Therefore, DHS has revised and restructured paragraph (b)(7) to correctly reflect the scope of the exclusion and refer to spouses and children of “individuals” enlisted in, or serving in active duty or the Ready Reserve component of, the U.S. Armed Forces in this correction document. DHS also made edits to explicitly address the timing aspect of the exclusion when a public benefit is received by spouses and children of servicemembers. Namely, the benefit receipt would be excluded from consideration if the individual whose spouse or child received the benefit was enlisted in, or served in active duty or the Ready Reserve at the time of receipt of the public benefit by his or her spouse or child, or at the time of filing or adjudication of the spouse’s or child’s application for admission or adjustment of status, or application or request for extension of stay or change of status. *See* 84 FR at 41297, 41372.

³ *See, e.g.*, 84 FR 41292, 41372 (“As noted in the NPRM, following consultation with DOD, DHS has concluded that such an outcome (i.e., considering public benefits received by servicemembers in the public charge determination) may give rise to concerns about servicemembers’ immigration status or the immigration status of servicemembers’ spouses and children as defined in section 101(b) of the Act, 8 U.S.C. 1101(b), which would reduce troop readiness and interfere significantly with U.S. Armed Forces recruitment efforts. This exclusion is consistent with DHS’s longstanding policy of ensuring support for our military personnel who serve and sacrifice for our nation, and their families, as well as supporting military readiness and recruitment. Accordingly, DHS has excluded the consideration of the receipt of all benefits listed in 8 CFR 212.21(b) from the public charge inadmissibility determination, when received by active duty servicemembers, including those in the Ready Reserve, and their spouses and children.”).

On page 41502, in the first column, in line 2 of paragraph (d)(1)(iii), DHS inadvertently omitted the word “section” after “as defined in.” On the same page, in the first column, DHS inadvertently used the word “children’s” in paragraph (d)(1)(iv), between the words “percent of” and “financial support”, and omitted a comma between the phrase “as evidenced by a child support order or agreement” and before the phrase “a custody order or agreement.” Finally, on the same page, in the second column, line 1 of paragraph (d)(2)(vii), DHS inadvertently used the word “individual(s)” instead of the word “individuals,” and “such individual’s financial support or who is listed” instead of “each individual’s financial support, or who is listed”. DHS is correcting these errors.

On page 41502, in the second column, in paragraph (a) of section 8 CFR 212.22, DHS inadvertently omitted the phrase explaining the aggregation of public benefits for purposes of the duration threshold. This parenthetical was included throughout the preamble, e.g., page 41295, 41300, 41329, 41331, 41397, 41454, and 41455. DHS is therefore correcting this omission by including the parenthetical language “(such that, for instance, receipt of two benefits in one month counts as two months)” at the end of the first sentence.

On page 41503, DHS inadvertently made several typographical errors. In the second column, at the end of paragraph (b)(4)(i)(D), DHS inadvertently added the word “whether” after the word “and.” In the second column, at the end of paragraph (b)(4)(ii)(A)(2), DHS inadvertently added a “.” DHS is replacing it with a “;”. Finally, in the third column, at the end of paragraph (b)(4)(ii)(F), DHS inadvertently added a “.”. DHS is replacing it with a “;”.

On page 41504, in the first column, paragraph (b)(5)(ii)(C), in the third line, DHS inadvertently added the word “and” after the word “licenses;”. In the first column, paragraph (b)(5)(ii)(D), at the end of the third line of (D), DHS inadvertently placed a “.” instead of an “;”.

and”. In the first column, in line 5 of paragraph (b)(6)(i), DHS inadvertently added the word “for” before the word “himself”. In the first column in paragraph (b)(7), DHS inadvertently designated paragraphs (ii)(A) through (C) as paragraphs (i)(A) through (C). DHS is correcting these errors.

On page 41504, in the second column, in paragraph (c)(1)(ii) of 8 CFR 212.22, DHS inadvertently omitted the phrase explaining the aggregation of public benefits for purposes of the duration threshold. Therefore, DHS is correcting this omission by including the parenthetical language “(such that, for instance, receipt of two benefits in one month counts as two months)” after the word “period” in paragraph 212.22(c)(1)(ii).

On page 41505, in the second column, at the end of paragraph (a)(19)(ii), DHS inadvertently placed a “.” instead of a “;”. DHS is correcting this error.

On page 41506, in the first column, in line 7 of paragraph (b), DHS omitted a reference to paragraph “(c)(1)” after “212.22”. In the first column, in line 14 of paragraph (c), DHS inadvertently added a “,” between the words “equivalent” and “is”. Finally, in the first column, in paragraph (d) of 8 CFR 213.1, DHS inadvertently included the phrase “within any 364month period” instead of “within any 36-month period” after the clause “for more than 12 months in the aggregate”, and included a “,” instead of a “)” after the words “two months”. DHS is correcting these errors.

On page 41507, in the first column, in section 8 CFR 213.1(h)(2)(i), rather than referring to spouses and children of individuals serving in the U.S. Armed Forces in the provisions pertaining to the public benefits receipt exclusion, DHS inadvertently referred to spouses and children of aliens serving in the U.S. Armed Forces. As noted above with respect to corrections on page 41501, this inadvertently rendered the public benefits receipt exclusion applicable only

to spouses and children of aliens serving in the U.S. Armed Forces, but not to spouses and children of all individuals serving in the U.S. Armed Forces, including aliens, U.S. citizens, and U.S. nationals serving in the U.S. Armed Forces.⁴ In this correction document, consistent with the aforementioned correction, DHS is replacing the phrase “such an individual’s spouse or child as defined in section 101(b) of the Act” in the last sentence of 8 CFR 213.1(h)(2)(i) with the phrase “a spouse or child, as defined in section 101(b) of the Act, of an individual enlisted in the U.S. Armed Forces under the authority of 10 U.S.C. 504(b)(1)(B) or 10 U.S.C. 504(b)(2), or of an individual serving in active duty or in the Ready Reserve component of the U.S. Armed Forces.” DHS also made other edits in paragraph (h)(2)(i) to more appropriately address the timing aspect of this exclusion and added an additional sentence to clearly state that benefits received *after* the alien, or individual (in the case of a spouse or child) who previously enlisted and/or served in the U.S. Armed Forces, separated from service would be considered for purposes of a public charge breach determination.

On page 41508, in columns two and three, in paragraphs (a) and (c)(4) of 8 CFR 248.1, DHS inadvertently omitted a reference to “or that section has been waived,” and “or where the public charge inadmissibility ground has been waived” when describing when the public benefit condition would not apply in the context of change of status petitions or applications. In contrast, these references to the waiver were included in section 8 CFR 214.1 when addressing extensions of stay petitions or applications.⁵ DHS never intended to treat extensions of stay and changes of status differently in this regard, and had described in both the notice of proposed

⁴ In the bond breach provisions in the NPRM and the Final Rule, DHS consistently excluded from consideration for bond breach purposes those public benefits that DHS proposed to exclude from the public charge inadmissibility determination, as outlined in 8 CFR 212.21(b). *See, e.g.*, 84 FR 41292, 41455 (“In particular, public benefits that are exempt from being considered, as outlined in 8 CFR 212.21(b), including while present in a status exempt from public charge, do not count towards the breach determination as explained in the NPRM.”); *see also, e.g.*, 83 FR 51114, 51225 (Oct. 10, 2018).

⁵ *See* proposed 8 CFR 214.1(a)(3)(iv) at 83 FR 51114, 51295, and *see* final 8 CFR 214.1(a)(3)(iv) at 84 FR 41292, 41507.

rulemaking and the final rule that the public benefits condition applies unless the alien is exempt from section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4), or that section has been waived.

Therefore, DHS is adding this reference to the waiver to both paragraph (a) and paragraph (c)(4) of 8 CFR 248.1. DHS is also correcting 8 CFR 248.1(c)(4) to state, consistent with the preamble, that the condition does not apply to change of status of applications if either the current or the future nonimmigrant classification is exempt from public charge. The final rule text was unclear whether it applies to current or future classification or both, although the preamble did indicate it applied to both.⁶

In addition to these corrections, DHS is making a number of minor technical and typographical corrections to the regulatory text as listed in the Correction of Errors section of this document.

III. Explanation of New Technical Amendment

When DHS amended section 8 CFR 248.1 by redesignating paragraphs (b) through (e) as paragraphs (c) through (f), and adding a new paragraph (b), DHS did not make conforming technical changes to paragraph (h)(20) of section 8 CFR 214.2, which cross references paragraph (b) of section 8 CFR 248.1. DHS is adding a technical amendment through new amendatory language to correct the cross reference in paragraph (h)(20) of section 8 CFR 214.2 and refer to 8 CFR 248.1(c) rather than 248.1(b).

IV. Administrative Procedure Act

Section 553(b) of the Administrative Procedure Act (APA) generally requires agencies to publish a notice of proposed rulemaking in the *Federal Register* to provide a period for public

⁶ See 84 FR 41292, 411329 (“If the nonimmigrant status the individual seeks to extend or to which the applicant seeks to change is statutorily exempt from the public charge ground of inadmissibility, then the public benefits condition will not apply.”).

comment before the provisions of a rule take effect. 5 U.S.C. 553(b). In addition, section 553(d) of the APA requires agencies to delay the effective date of final rules by a minimum of 30 days after the date of their publication in the *Federal Register*. 5 U.S.C. 553(d). Both of these requirements can be waived if an agency finds, for good cause, that the notice and comment process and/or delayed effective date is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice. 5 U.S.C. 553(b)(B), (d)(3).

DHS believes there is good cause for publishing this correction document without prior notice and opportunity for public comment and with an effective date of less than 30 days because DHS finds that such procedures are unnecessary. This document corrects technical and typographic errors in the preamble (including tables) and regulatory text, but does not make substantive changes to the policies that were adopted in the final rule. This document merely conforms erroneous portions of the final rule to the agency's clearly expressed contemporaneous intent. As a result, this correcting document's sole function is to ensure that the information in the August 14, 2019 final rule accurately reflects the policies adopted in that final rule, prior to which DHS issued a notice of proposed rulemaking and received public comment. Therefore, DHS believes that it has good cause to waive the notice and comment and effective date requirements of section 553 of the APA.

V. CORRECTION OF ERRORS AND TECHNICAL AMENDMENT:

Accordingly, the final rule at 84 FR 41292 (FR Doc. 19-17142) is corrected as follows:

A. Correction of Error in the SUMMARY

1. On page 41292 in the SUMMARY section, in first partial paragraph at the top of the second column, revise the last sentence to read: "Aliens who might qualify for these exclusions

from consideration of receipt of public benefits should study the rule carefully to understand how the exclusions work.”

B. Correction of Errors in the Preamble

DHS is making the following corrections in the Supplementary Information section of the August 14, 2019 final rule.

1. On page 41296 in the third column, in the last full paragraph, in the first line, replace the word “exempt” with the word “exclude” to read: “Lastly, DHS proposed to exclude . . .”
2. On page 41297, in the third line at the top of the first column, replace the word “exempting” with the word “excluding” to read: “* * * excluding Medicaid receipt by aliens under the age of 21 and pregnant women (including women for 60 days after the last day of pregnancy).”
3. On page 41302, Table 1 - Summary of Major Provisions and Economic Impacts of the Final Rule, the fourth row is corrected to read as follows:

<p>Amending 8 CFR 245. Adjustment of status to that of person admitted for lawful permanent residence.</p>	<p>To outline requirements that aliens submit a declaration of self-sufficiency on the form designated by DHS and any other evidence requested by DHS in the public charge inadmissibility determination.</p>	<p>Quantitative: <u>Costs</u></p> <ul style="list-style-type: none"> • \$25.8 million to applicants who must file Form I-944; • \$0.69 million to applicants applying to adjust status using Form I-485 with an increased time burden; • \$0.34 million to public charge bond obligors for filing Form I-945; and • \$823.50 to filers for filing Form I-356. • Total costs over a 10-year period will range from: <ul style="list-style-type: none"> • \$352.0 million for undiscounted costs; • \$300.1 million at a 3 percent discount rate; and • \$247.2 million at a 7 percent discount rate.
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4. On page 41314, delete footnote 83 at the end of the last sentence of the second paragraph in the third column, and renumber footnotes 84 through 867, as footnotes 83 through 866.
5. On page 41328 in the second column, add the word “it” between the words “that” and “does” and move “,” from after the word “so” to after the word “rule” to read: “DHS notes that it does have the authority to define public charge as it has in this rule, and in doing so decide which public benefits are considered for the purposes of this rule.”
6. On page 41334, at the top of the second column, adding the word “the” to correct the first line to read: “be subject to the public charge ground of inadmissibility and which are exempt.”
7. On page 41334, in the second column, in the last sentence of the first partial paragraph in the second column that continues the comment response, correct the sentence to read: “DHS acknowledges that those dependents who are certified for or receiving public benefits under the authorization of another, such as the head of the household or the guardian, may be unaware of the receipt of public benefits but will, once the rulemaking is effective, be impacted by such receipt of public benefits, if they are subject to the public charge ground of inadmissibility.”
8. On page 41336 in the first column, correct the third sentence only (footnote 228 remains unchanged), to read: “For the reasons stated above, DHS is amending proposed 8 CFR 212.23(a)(17) in this final rule to clarify that T nonimmigrants seeking any immigration benefit subject to section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4)—except those described in section 212(a)(4)(D) of the Act, 8 U.S.C. 1182(a)(4)(D), who must file an affidavit of support—are exempt from the public charge ground of inadmissibility, provided that the T nonimmigrant

seeking the immigration benefit is in valid T nonimmigrant status at the time the benefit request is properly filed with USCIS, and at the time the benefit request is adjudicated.”

9. On pages 41336 through 41341, in the heading for the third column that appears at the top of Table 2 on each page, correct the title of the heading to read: “Eligible to apply for change of status (*i.e.*, may file Form I-129 or Form I-539)*”.

10. On page 41336, in the first row and third column of Table 2, correct the omission of the word “Form” before “I-539” by adding the word “Form” for the entry to read: “Yes. Files Form I-539, 8 CFR 248.1(a).”

11. On page 41337, in the twelfth row and second and third columns of Table 2, correct the omission of the word “Form” before “I-539” by adding the word “Form” for the entry to read: “Yes. Files Form I-539, 8 CFR 248.1(a).”

12. On page 41338, in the eleventh row and third column of Table 2, correct the omission of the word “Form” before “I-539” by adding the word “Form” for the entry to read: “Yes, subject to receiving a waiver of the foreign residence requirement, if necessary, Files Form I-539.”

13. On page 41338, in the fifteenth row and second column of Table 2, correct the omission of the word “Form” before “I-539” by adding the word “Form” and a “,” after “I-539”, for the entry to read: “Yes. Files I-539, 8 CFR 214.1(c)(1) and (2).”

14. On page 41340, in the tenth row and third column of Table 2, correct a typographical error to delete the second “Files”, to read: “Yes. Files Form I-539.”

15. On page 41340, in the eleventh row and third column of Table 2, correct a typographical error to delete the second “Files”, to read: “Yes. Files Form I-539.”

16. On page 41341, at the bottom of Table 2 after the “*”, correct the sentence to read: “Includes questions on Form I-129 and Form I-539 about receipt of public benefits since the nonimmigrant

status was approved. Whether the alien must file a Form I-129 or a Form I-539 depends on the status the alien is applying to change or to extend. If more than one person is applying using the Form I-539, the Form I-539A, Supplemental Information for Application to Extend/Change Status, is submitted to provide all of the requested information for each additional applicant listed.”

17. On page 41342 at the bottom of Table 3 after the “*”, correct the two sentences that follow to read: “If an alien is found inadmissible based on the public charge ground, USCIS, at its discretion, may permit the alien to post a public charge bond (Form I-945). 8 CFR 213.1, as amended in the final rule, describes the circumstances under which a public charge bond may be cancelled (Form I-356).”

18. On page 41343 at the bottom of Table 4 after the “*”, correct the two sentences that follow to read: “If an alien is found inadmissible based on the public charge ground, USCIS, at its discretion, may permit the alien to post a public charge bond (Form I-945). 8 CFR 213.1, as amended in the final rule, describes the circumstances under which a public charge bond may be cancelled (Form I-356).”

19. On page 41344 at the bottom of Table 5 after the “*”, correct the two sentences that follow to read: “If an alien is found inadmissible based on the public charge ground, USCIS, at its discretion, may permit the alien to post a public charge bond (Form I-945). 8 CFR 213.1, as amended in the final rule, describes the circumstances under which a public charge bond may be cancelled (Form I-356).”

20. On page 41345 at the bottom of Table 6 after the “*”, correct the two sentences that follow to read: “If an alien is found inadmissible based on the public charge ground, USCIS, at its discretion, may permit the alien to post a public charge bond (Form I-945). 8 CFR 213.1, as

amended in the final rule, describes the circumstances under which a public charge bond may be cancelled (Form I-356).”

21. On page 41345, Table 7 Applicability of INA 212(a)(4) to Other Applicants Who Must Be Admissible, correct the fourth row to read:

<p>W-16 Entered without inspection before 1/1/82 W-26 Entered as nonimmigrant and overstayed visa before 1/1/82. Certain Entrants before January 1, 1982.</p>	<p>Yes. INA 212(a)(4), INA 245A(b)(1)(C)(i) and (a)(4)(a). Special Rule for determination of public charge - See INA 245A(d)(2)(B)(iii). Certain aged, blind or disabled individuals as defined in 1614(a)(1) of the Social Security Act, 42 U.S.C. 1382c(a)(1), may apply for a waiver of inadmissibility due to public charge. INA 245A(d)(2)(B)(ii).</p>	<p>Exempt, by statute as they are not listed in INA 212(a)(4) as a category that requires an Form I-864</p>
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22. On page 41346 at the bottom of Table 7 after the “*”, correct the two sentences that follow to read: “If an alien is found inadmissible based on the public charge ground, USCIS, at its discretion, may permit the alien to post a public charge bond (Form I-945). 8 CFR 213.1, as amended in the final, rule describes the circumstances under which a public charge bond may be cancelled (Form I-356).”

23. On page 41369 in the third column, correct the third sentence of the first paragraph to read: “Because of the nature of the public benefits that would be considered under this rule—which are generally means-tested and provide cash for income maintenance, and non-cash benefits for basic living needs such as food, nutrition, housing, and healthcare—DHS believes that receipt of such benefits may render a person with limited means to provide for his or her own basic living needs, and who receives public benefits, not self-sufficient because of his or her reliance on such public benefits.”

24. On pages 41380-41381, starting in the last paragraph on p. 41380, correct the last sentence to read: “Because of the nature of the public benefits that would be considered under this rule—which are generally means-tested and provide cash for income maintenance, and non-cash benefits for basic living needs such as food, nutrition, housing, and healthcare—DHS believes that receipt of such benefits is an important factor to consider, in the totality of the circumstances, when making a public charge determination.”

25. On page 41486, third column, correct the last full sentence so that it references “Table 7” instead of “Table 2” so that the sentence reads “Table 7 provides a more detailed summary of the final provisions and their impacts.”

26. On pages 41486 – 41488, correct a typographical error so that the Table title that currently reads “Table 2 – Summary of Major Changes and Economic Impacts of the Final Rule” so that the Table reads “Table 7 – Summary of Major Provisions and Economic Impacts of the Final Rule.”

27. On page 41487, correct the third row of the table to read:

<p>Amending 8 CFR 245. Adjustment of status to that of person admitted for lawful permanent residence.</p>	<p>To outline requirements that aliens submit a declaration of self-sufficiency on the form designated by DHS and any other evidence requested by DHS in the public charge inadmissibility determination.</p>	<p>Quantitative: <u>Costs</u></p> <ul style="list-style-type: none"> • \$25.8 million to applicants who must file Form I-944; • \$0.69 million to applicants applying to adjust status using Form I-485 with an increased time burden; • \$0.34 million to public charge bond obligors for filing Form I-945; and • \$823.50 to filers for filing Form I-356. • Total costs over a 10-year period will range from: <ul style="list-style-type: none"> • \$352.0 million for undiscounted costs; • \$300.1 million at a 3 percent
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		discount rate; and • \$247.2 million at a 7 percent discount rate.
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28. On page 41488 in the second column, last partial sentence before the footnote reference, change the Table number so that the sentence reads: “In addition to the impacts summarized above and as required by OMB Circular A-4, Table 9 presents the prepared accounting statement showing the costs associated with this final regulation.”

29. On page 41488, DHS is correcting and renumbering “Table 8 – OMB A-4 Accounting Statement” to read “Table 9 – OMB A-4 Accounting Statement.”

30. On page 41493, third column, last full sentence, correct the Table number referenced in the sentence to read: “Table 10 below is a listing of all forms impacted by this rule.”

31. On pages 41494 – 41497, “Table 9 – Summary of Forms” is being corrected to read “Table 10 – Summary of Forms.”

C. Correction of Errors in the Regulatory Text

DHS is making the following corrections in the List of Subjects and Regulatory Amendments section of the August 14, 2019, final rule.

§ 212.21 [Corrected]

1. On page 41501 -
 - a. In the second column, at the end of paragraph (b)(4), remove the word “and” after the semicolon;
 - b. In the second column, at the end of paragraph (b)(5)(iii), add the word “and” after the semicolon;

- c. In the second column, at the end of paragraph (b)(5)(iv), remove the period and add in its place a semicolon;
- d. In the second and third column, correct paragraph (b)(7) to read:

“(7) Public benefits, as defined in paragraphs (b)(1) through (b)(6) of this section, do not include any public benefits received by—

 - (i) An alien who at the time of receipt of the public benefit, or at the time of filing or adjudication of the application for admission or adjustment of status, or application or request for extension of stay or change of status is—
 - (A) Enlisted in the U.S. Armed Forces under the authority of 10 U.S.C. 504(b)(1)(B) or 10 U.S.C. 504(b)(2), or
 - (B) Serving in active duty or in the Ready Reserve component of the U.S. Armed Forces, or
 - (ii) The spouse or child, as defined in section 101(b) of the Act, of an individual who at the time of receipt of the public benefit by such spouse or child, or at the time of filing or adjudication of the spouse’s or child’s application for admission or adjustment of status, or application or request for extension of stay or change of status, had been:
 - (A) Enlisted in the U.S. Armed Forces under the authority of 10 U.S.C. 504(b)(1)(B) or 10 U.S.C. 504(b)(2), or
 - (B) Serving in active duty or in the Ready Reserve component of the U.S. Armed Forces.”
- e. In the third column, in lines 4-5 of paragraph (b)(8), add the words “paragraph (b) of” after “as defined in”;

- f. In the third column, in lines 1-2 of paragraph (b)(9) introductory text, add the words “paragraph (b) of” after “as defined in”;
2. On page 41502 –
 - a. In the first column, in line 2 of paragraph (d)(1)(iii) – add the word “section” after “as defined in”;
 - b. In the first column, correct paragraph (d)(1)(iv) to read as follows:

“(iv) The alien’s other children, as defined in section 101(b)(1) of the Act, not physically residing with the alien, for whom the alien provides or is required to provide at least 50 percent of financial support, as evidenced by a child support order or agreement, a custody order or agreement, or any other order or agreement specifying the amount of financial support to be provided by the alien;”
 - c. In the second column, in line 1 of paragraph (d)(2)(vii), remove the word “individual(s)” and add in its place the word “individuals”;
 - d. In the second column, in line 1 of paragraph (d)(2)(vii), remove “such individual’s financial support or who is listed” with “each individual’s financial support, or who is listed”.

§ 212.22 [Corrected]

3. On page 41502 -
 - a. In the second column, at the end of the first sentence in paragraph (a), add the phrase “(such that, for instance, receipt of two benefits in one month counts as two months)” after the phrase “for more than 12 months in the aggregate within any 36-month period”.
4. On page 41503 –

- a. In the second column, at the end of paragraph (b)(4)(i)(D), remove the word “whether”;
 - b. In the second column, at the end of paragraph (b)(4)(ii)(A)(2), remove the semicolon and add a period in its place;
 - c. In the third column, at the end of paragraph (b)(4)(ii)(F)), remove the semicolon and add a period in its place.
5. On page 41504 –
- a. In the first column, at the end of paragraph (b)(5)(ii)(C), remove the word “and”;
 - b. In the first column, at the end of paragraph (b)(5)(ii)(D), remove the period and add “; and” in its place;
 - c. In the first column, in line 5 of paragraph (b)(6)(i), remove the word “for” before the word “himself”;
 - d. In the first column, redesignate paragraphs (b)(7)(A)(1) through (3) as paragraphs (b)(7)(ii)(A) through (ii)(C);
 - e. In the second column, in line 6 of paragraph (c)(1)(ii), add the phrase “(such that, for instance, receipt of two benefits in one month counts as two months)” after the phrase “for more than 12 months in the aggregate within any 36-month period”.

§ 212.23 [Corrected]

6. On page 41505, in the second column, at the end of paragraph (a)(19)(ii), remove the period and add a semicolon in its place.

§ 213.1 [Corrected]

7. On page 41506 –

- a. In the first column, in line 7 of paragraph (b), add a reference “(c)(1)” after “212.22”;
- b. In the first column, in line 14 of paragraph (c), remove the comma between the words “equivalent” and “is”;
- c. In the first column, in the second sentence of paragraph (d), correct “364month” to read “36-month”; remove the comma after the word “months”; and correct the next to the last sentence in paragraph (d) to read: “An alien on whose behalf a public charge bond has been submitted may not receive any public benefits, as defined in 8 CFR 212.21(b), for more than 12 months in the aggregate within any 36-month period (such that, for instance, receipt of two benefits in one month counts as two months) after the alien’s adjustment of status to that of a lawful permanent resident, until the bond is cancelled in accordance with paragraph (g) of this section.”.

8. On page 41507, in the first column in paragraph (h)(2)(i), “DHS will not consider any public benefits, as defined in 8 CFR 212.21(b) received by a spouse or child, as defined in section 101(b) of the Act, of an individual who, at the time of receipt of the public benefit(s) by his or her spouse or child, or at the time of filing a request to cancel the bond by his or her spouse or child, or the cancellation determination, or the breach determination, is enlisted in the U.S. Armed Forces under the authority of 10 U.S.C. 504(b)(1)(B) or 10 U.S.C. 504(b)(2), serving in active duty or in the Ready Reserve component of the U.S. Armed Forces.” is corrected to read “DHS will not consider any public benefits, as defined in 8 CFR 212.21(b) received by a spouse or child, as defined in section 101(b) of the Act, of an individual who, at the time of receipt of the public benefit(s) by his or her spouse or child, or at the time of filing a request to cancel the

bond by his or her spouse or child, or the cancellation determination, or the breach determination, is enlisted in the U.S. Armed Forces under the authority of 10 U.S.C. 504(b)(1)(B) or 10 U.S.C. 504(b)(2), or of an individual serving in active duty or in the Ready Reserve component of the U.S. Armed Forces.”

9. On page 41507 in the third column before the heading for part 245, add an instruction

11a to read as follows:

§ 214.2 [Amended]

“11a. In § 214.2, amend paragraph (h)(20) by removing “8 CFR 248.1(b)” and adding in its place “8 CFR 248.1(c)” at the end of the paragraph.”

§ 248.1 [Corrected]

10. On page 41508

a. In the second column, in the second sentence of paragraph (a) add the phrase “or that section has been waived” after the words “section 212(a)(4) of the Act”;

b. In the third column, in paragraph (c)(4) revise the last sentence to read:

“This provision does not apply where the nonimmigrant classification from which the alien seeks to change or to which the alien seeks to change is exempt from section 212(a)(4) of the Act, or where that section has been waived.”

Kevin K. McAleenan

Acting Secretary of Homeland Security.

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