



**United States Department of State**

*Washington, D.C. 20520*

February 14, 2020

Paul Ray, Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget

Administrator Ray:

The Department of State requests OMB emergency processing of the DS-5540, Public Charge Questionnaire, pursuant to the process established in 5 CFR 1320.13.

Section 212(a)(4)(A) of the Immigration and Nationality Act (“INA”) provides that “any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of [a Department of Homeland Security (“DHS”) officer] at the time of application for admission or adjustment of status, is likely at any time to become a public charge is inadmissible.” The Department of State (“Department”) published an interim final rule (“IFR”) on October 11, 2019, amending the standards in 22 CFR 40.41 for interpreting and applying the public charge visa ineligibility. The rule is intended to align the Department’s standards with those of DHS, to avoid situations where a consular officer will evaluate an alien’s circumstances and conclude that the alien is not likely to become a public charge, only for DHS to evaluate the same alien when he or she seeks admission to the United States on the visa and find the alien inadmissible on public charge grounds under the same facts.

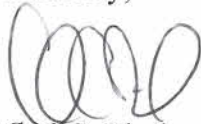
On January 27, 2020, the Supreme Court lifted the nationwide injunction on DHS’s public charge rule. U.S. Customs and Border Protection (“CBP”) will begin implementing the DHS rule on February 24, 2020, except for in Illinois, where the rule remains enjoined.

Pursuant to 5 CFR 1320.13, the Department has determined that this collection is needed prior to the expiration of periods normally associated with a routine submission for review under the provisions of the Paperwork Reduction Act, that this information collection is essential to the mission of the Department, and public harm is reasonably likely to result if normal clearance procedures are followed. The information is needed by the Department to enforce the public charge inadmissibility ground and facilitate legitimate travel to the United States. If the Department were not able to collect this information, it could result in an individual being granted a visa under the Department of State’s public charge standard only to arrive at the port of entry to be found inadmissible on public charge grounds under DHS’s newly implemented public charge standard. By collecting this information in time to implement the new public charge standard at the same time as DHS, this harm will be minimized.

Therefore, the Department requests emergency OMB processing and approval for this collection of information by February 18, 2020, to allow its use by consular officers beginning February 24, 2020. The Department needs the approval three business days in advance of February 24, 2020

in order to finalize and publish its internal guidance so that consular officers can begin asking the standardized questions on the DS-5540 when DHS implements its public charge rule at 12:01 a.m. Eastern Standard Time on February 24, 2020.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a final flourish, representing Carl C. Risch.

Carl C. Risch,  
Assistant Secretary,  
Bureau of Consular Affairs,  
Department of State.