**BACKGROUND:**

The Trump administration has proposed a new federal rule which would bar asylum seekers from obtaining protection, this time based on alleged public health grounds, citing the risk of communicable disease transmission.

The rule will not protect public health, but it will deny refugees the protections they deserve.

You can read the entire rule [here](https://www.federalregister.gov/documents/2020/07/09/2020-14758/security-bars-and-processing), and an explainer by Physicians for Human Rights, Human Rights First, and Amnesty International [here](https://phr.org/wp-content/uploads/2020/07/PublicHealthAsylumBanFactsheet.pdf).

Right now we have a short window of time to submit public comments to oppose this rule. The deadline to submit a comment is **August 10, 2020**.

Every unique and substantive comment slows the Trump administration from implementing this rule. Comments may result in amendments to the rule and can also be used as evidence by litigators to oppose implementation of the rule if the agency disregards these comments.

Below is a template that you can fill in based on your own clinical experiences as an asylum medicine practitioner.

You can either save as a PDF and upload the document online, or you can type or paste your comment into the comment box (max is 5000 characters if you type into the box.)

The comment can be submitted [here](https://www.regulations.gov/document?D=USCIS-2020-0013-0001).

**TEMPLATE:**

*Submitted via* [*www.regulations.gov*](http://www.regulations.gov)

Go to <https://www.regulations.gov/document?D=USCIS-2020-0013-0001> to submit your comment. You will need to submit a pdf or word doc for comments over 5000 characters.

INSTRUCTIONS: Please write in your own words. The government is required to read and review all unique comments it receives. We strongly encourage you to adapt this template comment based on your or your organization’s experience, that of the community you work with, your individual expertise and specific examples from your work. Please skip and/or delete any section of the template that is less relevant to your experience/expertise. Don’t forget to delete the instructions (highlighted) in this template before submitting your comment. We appreciate that your time is valuable – even a brief comment can make a difference.

DATE, 2020

Lauren Alder Reid, Assistant Director

Office of Policy

Executive Office for Immigration Review

Department of Justice

Andrew Davidson, Asylum Division Chief

Refugee, Asylum and International Affairs Directorate

U.S. Citizenship and Immigration Services

Department of Homeland Security

**RE: Public Comment Opposing Proposed Rules on Security Bars and Processing - RIN 1615-AC57 / USCIS Docket No. 2020-0013; RIN 1125-AB08 / A.G. Order No. 4747-2020**

It is important to identify the rule with the above information, but this introduction is merely an example of what you can include in your comment.

As a [mention health specialty] and an asylum medicine practitioner, I urge the Department of Justice (DOJ) and the Department of Homeland Security (DHS) to withdraw these proposed rules in their entirety. I submit this comment to express my strong objection to the administration’s unsubstantiated and spurious public health arguments to deny life-saving asylum and other humanitarian protections to individuals seeking protection in the United States; and to deport them to places where they may be persecuted or tortured.

I am a member of Physicians for Human Rights Asylum Network, which is comprised of more than 1,700 health professionals nationwide who volunteer their time to provide pro bono forensic medical and psychological evaluations for asylum seekers. As a PHR network member, I am trained in conducting forensic evaluations according to the principles in the UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, also known as the “Istanbul Protocol,” the global standard for documenting torture.

[Describe your credentials—you can copy what you generally include as your credentials at the start of an asylum evaluation, including your education, training, years of experience, clinical experience with traumatized populations and torture survivors, clinical experience with immigrant populations, number of asylum evaluations conducted, number of times you testified in immigration court, PHR training, any relevant publications or research, any public health/infectious disease expertise or experience, any organizational/institutional/professional society affiliations. You can also attach your CV.]

Approximately 90% of PHR clients are granted asylum, so I have a deep familiarity with the types of cases and profile of applicants who have historically been recognized as asylees in the U.S. immigration system. [If possible, tell the story of an applicant that you evaluated who received asylum and the benefit that they received from obtaining safety in the US].

Asylum is a lifeline for tens of thousands of vulnerable refugees. The proposed regulations use specious public health claims to justify the violation of U.S. law and treaty obligations to protect refugees. The United States has the ability to both safeguard public health in the midst of the COVID-19 crisis and to continue to protect those fleeing persecution and torture. These rules will not make us safer; they disregard sound public health principles and the recommendations of leading public health experts that would protect the health and safety of the public, while preserving access to asylum.

**I Strongly Object to the Proposed Rule and Urge the Administration to Rescind it in its Entirety.**

Insert your own opinions and comments about why you oppose the proposed rule. Please feel free to write entirely in your own words or to select from the suggested text below and supplement with this with your own observations, expertise, and experience. You may also include data, case examples, and/or citations to scientific/medical/other scholarly journals and studies. On the regulations.gov website you may submit attachments with your comment such as any source material cited in your comment.

SUGGESTED TEXT AND SUPPLEMENTAL INFORMATION **(if you wish, you may select, adapt and add relevant text from below to your comment)**

This proposal would label asylum seekers as a threat to national security on public health grounds, automatically block them from asylum and other humanitarian protections in the United States, and illegally deport them to persecution and torture. While the administration cites the spread of COVID-19 (and potential threats posed by other communicable disease) as justification for the rule:

* **This unprecedented public health asylum ban applies irrespective of whether an individual asylum seeker presents any public health risk.** This new mandatory bar to protection would ban asylum seekers merely for having recently transited through a country where COVID-19 is prevalent, “c[o]m[ing] into contact” with the coronavirus, including in U.S. immigration detention centers, and/or exhibiting “symptoms” possibly linked to COVID-19, like a cough or fever.
* **The rule would also give DHS and DOJ expansive authority to declare a potentially vast array of other diseases as national security threats to deny asylum to refugees even after the coronavirus threat abates.** The list of diseases potentially subject to the ban (such as cholera, diphtheria, gonorrhea, Hansen’s disease (leprosy), plague, small pox, yellow fever, viral hemorrhagic fevers, SARS, syphilis, tuberculosis, and pandemic flu) includes many that are treatable, do not present a threat of widespread transmission to the public, and/or are not subject to quarantine under U.S. laws and health regulations.

Like the March 20, 2020 order from the Centers for Disease Control and Prevention (CDC) that DHS is currently using to block asylum seekers at the border under the pretext of COVID-19, this proposed rule is not based on sound public health principles and is detrimental.

The United States has the ability to both safeguard public health in the midst of the COVID-19 crisis and continue to protect those fleeing persecution and torture. Bans based on immigration status are not effective at preventing outbreaks. The United States has procedures in place to address communicable diseases that do not baselessly target asylum seekers, and experts have recommended other sensible measures that the administration has chosen not to implement that would safeguard the processing of asylum seekers while the coronavirus circulates in the United States and elsewhere.

**The Proposed Regulation Is Not Based on Sound Public Health Principles**

The proposed rule is not based on public health evidence or best practice and is likely to be detrimental to public health and the health of those seeking asylum. Its purported public health objectives could be achieved through less extreme and more targeted means, while preserving the right to asylum.

You may wish to discuss international or regional standards or general best practices relevant to communicable disease control. For instance: The World Health Organization (WHO) [International Health Regulations](https://www.who.int/ihr/publications/9789241580496/en/) (IHRs) provide that “[i]nternational points of entry, whether by land, sea or air, provide an [opportunity](https://www.who.int/ihr/howtheywork/10things/en/) to apply health measures to prevent international spread of disease.” While the WHO acknowledges that some screening for communicable diseases may be needed at certain times, the IHRs stress that countries must treat people with respect and ensure that basic and medical needs are met during any screening or quarantine period. These screenings are intended to apply in a coordinated and proportionate way to significant urgent disease threats and should not apply to treatable health conditions that pose no or negligible risk to the public. Moreover, such measures need to be applied consistently with the principle of non-refoulement, enshrined in international and US law, which impose an absolute prohibition on the return of individuals to places where they may face persecution or torture. Yet, the proposed rule fails to comport with basic WHO recommendations on screening of communicable diseases and the measures created by the rule do not respect the right of refugees to seek asylum.

You might discuss concerns about how this rule politicizes public health and the impact on public health in the United States as a result. For example: *The administration misuses public health as a pretext for denying asylum, setting a precedent for the politicization of public health and undermining the credibility of public health practitioners and science.* The rule would give DHS and DOJ expansive authority to declare diseases, including treatable diseases, to be national security threats and deny asylum as a result. This authority opens the door for further use of public health as a pretext for denying the rights of asylum seekers and sidelines public health authorities, including the CDC and scientifically-sound policies and practices. U.S. public health measures have advanced significantly from the days when individuals with communicable diseases were treated merely as vectors of disease and immigrants were scapegoated for disease outbreaks and barred from the United States. The United States should not repeat past mistakes by adopting discriminatory and ineffective bans purportedly premised on public health.

If you or your organization has experience in making determinations about local, state, national or international public health emergencies, you might note your expertise and discuss whether it is appropriate for decisions of this sort to be made by the Department of Homeland Security and Department of Justice.

You can discuss whether denying entry to asylum seekers who pose no or minimal risk to public health and denying asylum to people already inside the United States serves any public health purpose. For instance: *The rule is sweeping in scope and would apply to people who present no – or minimal – risk to public health.*The rule applies to broad swathes of people who pose no public health risk. It would ban refugees who have never been infected with a disease potentially covered by the rule merely for having “symptoms consistent with” a designated disease, “come into contact with such a disease,” or who were recently in an affected area – including individuals who may have had an infection in the past but been subsequently treated or cured. Perversely, it would apply to individuals who have been present in the United States and who are exposed to or infected by a covered disease such as COVID-19 while awaiting asylum proceedings in the United States, even if this was due to state negligence, maltreatment or conditions of detention. It could even apply to asylum-seeker health workers who are exposed to COVID-19 or another covered disease in the course of their professional duties.

If you or your organization work with asylum-seekers in detention or who are working as essential workers with respect to COVID-19, consider commenting on your experience and how these individuals would be affected by the rule.

If you or your organization were involved in drafting and/or commenting on the 2017 quarantine regulations or in the lifting of the HIV immigration ban, consider discussing that experience and any connection you see to the proposed bans in this regulation. For example: As the CDC and the Department of Health and Human Services (HHS) noted in revising U.S. quarantine procedures in 2017 after a ten-year review process, “in all situations involving quarantine, isolation, or other public health measures, [CDC/HHS] seeks to use the least restrictive means necessary to prevent spread of disease.” (82 FR 6912 (2017)). Just ten years ago, the CDC [lifted](https://www.govinfo.gov/content/pkg/FR-2009-11-02/pdf/E9-26337.pdf) an immigration ban on individuals with HIV – first adopted in the 1980s when there were more known cases of HIV/AIDS in the United States than anywhere else in the world – acknowledging that the restrictions were not an effective or necessary public health measure. These sweeping restrictions are completely inconsistent with the public health principles and would be counter-productive to public health.

You may wish to discuss how the proposed rule targets asylum seekers based on immigration status and whether this has a basis in public health principles. For instance: *The rule discriminates against individuals on the basis of immigration status, countries in which the person has lived or traveled and other attributes, rather than actual disease status.* The rule does not require confirmation that an individual has a disease for that individual to be denied asylum and deported.Further, the rule would not apply to tourists, students, or business travelers from the United States even if they were infected by a disease covered by the regulation.In 2017, CDC/HHS recognized the principle of non-discrimination and explicitly rejected suggestions that quarantine provisions be applied based on immigration status, stating that public health officials should “apply communicable disease control and prevention measures uniformly to all individuals in the United States, regardless of citizenship . . . or country of residency.” (82 FR 6894 (2017)).

Consider commenting on the fact that the rule bars asylum seekers on the pretext of protecting the public from pandemic diseases but does not consider testing, tracing or treatment of those covered by the rule or alternatives that would not summarily block and deport asylum seekers. For example: *The proposed rule disregards the availability of effective, evidence-based public health measures and treatments that can mitigate communicable disease risks while preserving access to asylum.*As previously stated,[leading U.S. public health experts](https://www.publichealth.columbia.edu/sites/default/files/public_health_experts_letter_05.18.2020.pdf) have recommended evidence-based public health measures that can be used to safely process asylum seekers during the COVID-19 pandemic. [UNHCR](https://data2.unhcr.org/en/documents/details/75453) reports that over 20 countries in Europe have explicitly exempted asylum seekers from COVID-19 related entry bans and border closures and several states have adopted enhanced health measures and quarantine requirements while continuing to admit asylum seekers. In addition, the proposed rule disregards the availability of effective treatments for many of the listed diseases, including tuberculosis, gonorrhea, syphilis and Hansen’s disease (leprosy). Communicable diseases of public health importance are often designated as such because they require timely diagnosis, treatment, follow-up and contact tracing to limit their spread. However, the rule does not include provisions for an appropriate public health response (such as testing, treatment, and contact tracing where appropriate) when a communicable disease is suspected, instead using this information solely as justification to deny an asylum claim.

If you have experience or expertise with any of the diseases potentially subject to this regulation, consider discussing whether the proposed regulation would be appropriate from a public health perspective in controlling their spread and in treating the infected.

Consider discussing whether it is appropriate for immigration officers and immigration judges to make medical/public health determinations required under the proposed rule. For example: *The rule authorizes personnel who lack public health or medical expertise to make health determinations with profound implications for access to asylum and humanitarian protections.* Identifying communicable diseases requires careful diagnosis, appropriate investigations and consideration of differential diagnoses. For example, syphilis, which often presents with non-specific symptoms and can resemble many other diseases, is often called “the great pretender”; gonorrhea similarly presents with non-specific symptoms. Immigration judges and DHS officers do not have the public health or medical expertise to make these health assessments, which have life-or-death implications for people fearing persecution and torture.

Consider including a in your comment why the rule would harm public health efforts to identify and trace communicable disease outbreaks. For instance: *The rule would likely be detrimental to individual and public health. Trust and willingness to seek care are cornerstones of public health.*By explicitly linking health concerns to immigration enforcement the proposed regulation is likely to erode trust and undermine public health goals. [UNHCR](https://data2.unhcr.org/en/documents/details/75453) has noted that border closures may also be counter-productive by pushing refugees to cross the border away from official border posts - complicating efforts to control communicable disease outbreaks.

You may wish to discuss public health measures that are effective and would preserve access to humanitarian protections for those fleeing persecution and torture. For example: *The rule fails to consider alternative measures to protect the health of asylum seekers and the public.* [Public health experts](https://www.publichealth.columbia.edu/public-health-now/news/public-health-experts-urge-us-officials-withdraw-order-enabling-mass-expulsion-asylum-seekers) at leading public health schools, medical schools, hospitals, and other institutions across the United States who are working at the forefront of the response to the novel coronavirus have recommended various measures to ensure that the United States meets its obligations to asylum seekers and safeguard public health such as: the use of face coverings, hand hygiene, physical barriers, and social distancing during border processing; alternatives to detention in congregate settings, including case management and paroling asylum seekers with their families; and facilitating self-quarantine at destination locations, but only in accordance with the principle of non-discrimination

**[I/We] Object to the Agencies Only Allowing 30 Days to Respond to Comment on the Proposed Rule**

As discussed above, these sweeping regulations would effectively rewrite and disregard fundamental aspects of U.S. asylum law. They grant DHS and DOJ authority to declare a vast array of communicable diseases as threats to national security and to block and deny asylum and other humanitarian protections to refugees on this basis. Analyzing and understanding the full import of these regulations and developing a considered response requires at least 60 days, given the need to establish a comprehensive list of potential diseases covered by the regulation and to consult with relevant medical, epidemiological, public health and immigration experts and resources. The 30-day comment period is grossly inadequate to respond to a proposed rule of this magnitude and complexity, with profound implications for refugee protection.

The ongoing COVID-19 pandemic magnifies the challenge of responding to the notice of proposed rulemaking in a timely manner. Include any specific COVID-19 related challenges, such as limited access to your office/facility, your involvement in COVID-19 research/care or other difficulties such as a need to care for a sick family member.

[You can also attach any research, statistics and supporting documents, which then become part of the public record through your submission, as well as live links if you mention them in the text as part of your submission.]

[You can provide contact information but since this information is public, do not include home addresses or cell phone numbers.]

Sincerely,

(include all relevant suffixes)

Physicians for Human Rights Asylum Network member

Title

Academic or hospital affiliation if relevant, acceptable to your institution

City, State