



Disciples Refugee & Immigration Ministries
Christian Church (Disciples of Christ) in the U.S. and Canada
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A Ministry of Disciples Home Missions

Submitted via www.regulations.gov

HHS Docket No. CDC-2020-0033

85 FR 16559

Kyle McGowan
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April 23, 2020

Dear Mr. McGowan and Others Concerned:

Disciples Refugee & Immigration Ministries respectfully submits this comment in response to the Department of Health and Human Services' interim final rule, titled "Suspension of Introduction of Persons Into United States From Designated Foreign Countries or Places for Public Health Purposes," DHS Docket No. CDC-2020-0033, in the Federal Register at 85 FR 16559, issued March 20, 2020.

Disciples Refugee & Immigration Ministries is a faith ministry unit of Disciples Home Missions, affiliated with the Christian Church (Disciples of Christ) denomination in the U.S. and Canada. Our ministry has provided leadership support, since the time of World War II, to congregations throughout the U.S. and Canada who are engaged in refugee resettlement, asylum seeker accompaniment and advocacy, farmworker partnerships, and the strengthening of immigrant communities.

Immigrants are critical to the vitality of our denomination and society, including the many who serve in leadership as pastors and layleaders in our congregations around the U.S. and in Canada. Indeed, as a faith community birthed on the American frontier, the Christian Church (Disciples of Christ) was founded by immigrant leadership, and is committed to being "a movement of wholeness for a fragmented world" as expressed through "unity not uniformity." Such wholeness is built through core values that recognize the contributions of each human life, the importance of cooperative work with global partners for shalom, and a passion to answer God's call for justice particularly in the areas of care for the earth, the challenges for women and children, the alleviation of poverty and hunger, and immigration.

Together with our nation's leaders and health experts, our core values align with the importance of protecting health for all throughout society. However, we write today to argue that the CDC interim final Rule as proposed, together with the Order introduced the same day to invoke the CDC's authority to suspend the introduction of persons without documentation who seek to enter the United States via Mexico or Canada, will not accomplish the goal of public health and are out of line with our core faith values for the following reasons:

- 1) Though the Rule and Order invoke public health justifications to end the right for migrants to seek asylum at the border, the Rule and Order are in practice not related to infection or disease.** The Rule re-defines "introduction of persons or goods" in Section 362 from the 1944 Public Health Service Act to apply through the Order's language only to "certain persons" who travel by land from Mexico and Canada. It does not apply to persons based upon their infection with COVID-19, their exposure to the novel coronavirus, or upon testing that documents individuals are a demonstrated health risk. Rather, the Rule's application targets persons based

simply upon their immigration status. In doing so, the Rule and accompanying Order discriminate against specific populations rather than seeking to protect communities in the midst of a pandemic.

Such an approach falls tragically in line with other instances of historical discrimination against immigrants seeking to enter the U.S., when notions of health risks from potential immigrants were perceived as far greater than actual dangers. Indeed, as chronicled in [The Foreignness of Germs: The Persistent Association of Immigrants and Disease in American Society](#), “Anti-immigrant rhetoric and policy have often been framed by an explicitly medical language....(while) the number of ‘diseased’ immigrants has always been infinitesimal when compared with the number of newcomers admitted to this country.”

The impact of the proposed Rule is negligent to public health, and cruel to individuals seeking protections who are barred simply by immigration status and unrelated to their health. Thus, the rule is grossly out of synch with faith values influenced by sacred texts such as Matthew 25, where Jesus teaches that righteousness requires welcoming “the least of these” and never excluding persons by category. Indeed, the text explicitly says excluding a stranger is tantamount to rejection of Jesus himself (“I was a stranger and you did not welcome me”) which results in “eternal punishment.” (Matthew 25:43-46)

- 2) The premise of the Rule is not borne out through U.S. immigration history or through current COVID-19 statistics.** The Rule assumes that entering migrants carry risk of disease to populations inside the U.S. However, while it is the case that conditions of migration—such as dangerous journeys, lack of access to care and human services during travel and while in detention—comprise health risks faced by migrants themselves, research of medical experts as reported in a study from [The Lancet](#) has shown “the risk of transmission from migrating populations to host populations is generally low....Additionally, migrants are, on average, healthier, better educated and employed at higher rates than individuals in destination locations.”

The need to identify individuals, both within and not yet in the U.S., who are at risk of transmission of disease is important for public health. However, we must not be distracted from a rightful focus on important health goals by policies that push us toward xenophobia instead. Dr. Erika Lee, immigration historian with The University of Minnesota, [has recognized](#), “whatever ‘immigrant menace’ was the focus of xenophobes in the past — whether it be Irish Catholics in the 19th century, then later Chinese and other Asians, of course, Italians and Jews and other southern and eastern Europeans and Mexicans — the claim has always been that these groups were not only racially inferior, but that they brought particularly dangerous and contagious diseases that would end up harming the US native population.”

However, multiple studies have proven such claims to be inaccurate. Paul Spiegel, Johns Hopkins University researcher and co-author of one of the most far reaching of these studies--which was published just last year--[concluded](#) that “There is no evidence to show that migrants are spreading disease. That is a false argument that is used to keep migrants out.” In fact, comparatively higher rates of COVID-19 already inside the US point us away from views of migrants at our border as “causers” of disease. Reports this month have confirmed that it is residents *already inside* the U.S. who are faced with [a greater COVID-19 disease burden](#) compared to other countries due to of elevated rates among U.S. adults related to underlying chronic conditions such as diabetes, hypertension, respiratory conditions, and heart disease.

[Research](#) specific to health impacts upon the U.S. due to migrant border crossings, released just yesterday from the US Immigration Policy Center of UC San Diego, further demonstrates how there is no empirical evidence to prove that changes to asylum and immigration policies will affect the spread of COVID-19. There was no relationship that could be shown over the past 10+ years between the total number of persons requesting asylum and the prevalence of the flu (including during both the H1N1 and our current COVID-19 pandemic). There was no statistically significant evidence shown between the total number of persons entering the U.S. through all point of entry along the southern border and the prevalence of the flu (again, including both during H1Ni and current COVID-19 pandemics.) And there was no relationship shown between the monthly total number of credible fear interviews where fear is established and the prevalence of the flu (over time since 2011, and including the current COVID-19 pandemic.)

With so much evidence against it, CDC should rescind its ill-conceived rule which fails to meaningfully address real health concerns while mischaracterizing health dangers posed by migrants upon U.S. populations. Our policies should instead be based upon scientific and health research, documentation, and consistent health testing. A truer commitment to health priorities would far better reflect our faith values which are influenced by God's call to "treat the foreigner living among you as native-born and love them as yourself, for you were foreigners in the land of Egypt." (Lev. 19:34)

- 3) The Rule establishes an expulsion process that ignores long existing and foundational U.S. and international legal protections for asylum seekers.** Decades ago, our nation committed to the U.S. 1980 Refugee Act and to international guidelines established in the 1951 United Nations Convention Relating to the Status of Refugees. The U.S. Refugee Act of 1980 provided a framework for the processing of the related groups of refugee and asylee applicants. The Act provided that asylees must demonstrate a "well-founded fear of persecution" on account of race, religion, nationality, membership in a particular social group, or adherence to a certain political opinion. It was intended to bring U.S. law into compliance with United Nations agreements that previously expressed preferences for those fleeing Communist or Middle Eastern regimes.

In direct opposition to providing persons with the potential of demonstrating their well-founded fear of persecution, [a leaked CBP directive](#) that is meant for officers to carry out the Rule is, in actuality, resulting in processes that deny asylum seekers their rightful opportunity for protection from persecution. For example, the directive states that: "To the maximum extent possible, all processing will be done in the field." It says further that, "Upon initial encounter the (CBP) agent will determine if subject is amendable to expulsion." Though it does have a clause that provides that "Aliens that make an affirmative, spontaneous, and reasonably believable claim that they fear being tortured in the country they are being sent back to...will be taken to the designated station and referred to USCIS," these practices are allowing for no meaningful opportunity for a migrant to register a credible fear, are providing no information about credible fear opportunities, are offering no listing of legal service providers as asylum law requires, and has no opportunity for legal counsel or review by an immigration judge. Rather, the invoking of Section 362 of the 1944 Public Health Services Act—and directives for its implementation—is summarily turning away nearly every migrant, including asylum seekers, who are attempting entrance at the southern border.

As a faith leader, I join with many within my Christian Church (Disciples of Christ) community in being deeply disturbed by CDC's use of this Rule to grant vast powers to expel individuals at the border and from the interior. Under international law, States have the sovereign right to regulate the entry of non-nationals into their territory—but they may not prevent them from seeking asylum according to international law. In multiple human rights declarations, neither are States free to 'return in any manner whatsoever' one seeking protection to an unsafe foreign territory, including rejection at the frontier or non-admission. (See key legal considerations on access to territory for persons in need of international protection, as summarized by UNHCR, [here](#).) Such guarantees of rights are essential to offer because it is legal to provide them.

More so, the guarantee of protections for migrants who are seeking them at our border or in the interior expresses our nation's moral commitments to care for the vulnerable. Protecting migrants aligns with our sacred texts that consistently repeat and urge for believers to "maintain the right of the afflicted and the destitute," (Psalm 82:3), "Open your mouth for the mute, for the rights of all who are destitute," and "Do not oppress...the sojourner, or the poor, and let none of you devise evil against another in your heart." (Zechariah 7:10) Refusing to offer CBP officers ANY guidance regarding protections for asylum seekers will directly "oppress...the sojourner," as it undoubtedly sends back those migrants into the very dangers from which they have undertaken horrific journeys to escape.

Shockingly, too many instances in recent weeks since the implementation of the Rule have shown direct and harmful impacts upon the lives of both individuals and nations of ones who have been deported through the powers it grants into dangerous Mexican border cities or other nations. Faith communities, called in every time and place by scriptures that urge the primacy of love for neighbor and care for the most vulnerable, cannot ignore the ways reckless deportations—with inadequate, inconsistent, and sometimes non-existent COVID-19 testing-- have actually resulted in the ‘export’ of [70+ migrants](#) with positive COVID-19 to Guatemala and at least [3 individuals](#) with COVID-19 to Haiti.

Neither nation has capacity needed to treat outbreaks that may well develop from exposures “sent into” their environments, and indeed, Haiti has only 29 doctors throughout the country capable of treating COVID-19. As communities with deep and long international partnerships through which we seek wholeness together, we urge an immediate halt to such reckless restrictions and practices. In contrast, we may look instead to COVID-19 travel restrictions on [China](#) (Proclamation 9984), [Iran](#) (Proclamation 9992), the [Schengen zone](#) (Proclamation 9993), and the [United Kingdom](#) (Proclamation 9996) which have all included explicit exceptions for those seeking protection in the United States.

- 4) The Rule, in concert with the Order, produces damage to children.** Our faith commitment to children, as Christians and as Disciples of Christ, is rooted in the sacredness of each human life by God through creation (Genesis 1-2), in the view of God’s covenant blessing as being imparted throughout “perpetual generations” of families (Genesis 9:12), and in the blessings and movement of God’s love through the Israelites as a community of individuals and families. In the New Testament, we likewise encounter the great compassion of Jesus for children, as he raised the twelve-year-old daughter of Jairus from the dead (in Mark 5:40-43). Additionally, we view Jesus’ love for and recognition of the great value of children as he reacted in anger when the disciples would not allow them to approach him directly. In response, he corrected them by saying: “Let the little children come to me, and do not hinder them, for the kingdom of God belongs to such as these.” (Mark 10:14)

Such deep care for children as shown throughout scripture has guided our community into engagement over many years to protection of the Trafficking Victims Protection Reauthorization Act (TVPR), to consistent advocacy against family detention of immigrants, and to ensure that unaccompanied migrant children are protected as well as possible. We recognize that ALL migrant children have endured great traumas, and unaccompanied children perhaps the most of all; as many have lost parents due to horrific violence in their homelands, which led to their need for escape. As The International Federation of Red Cross and Red Crescent Societies has recognized in report after [report](#), the world is failing migrant children, whose numbers skyrocketed 5 times in the time period between 2012 and 2017. Children are affected by sexual abuse, violence and exploitation in disproportionately high rates. As their [President states](#), “Few children are as vulnerable as those who are unaccompanied or separated from their families.”

As Senate and House [Judiciary Committee leadership](#) wrote to the Honorable Chad Wolf, Acting Secretary of DHS on March 30, the Rule and Order to remove asylum seekers has resulted in the approximately 10% of migrants who are unaccompanied children no longer being transferred within 72 hours from the border to the Department of Health and Human Services for reunion with their family members or sponsors until their legal claims are decided. Further, unaccompanied migrant children [are to be screened by CBP](#) to be certain that none is a victim of trafficking, that they do not have a possible asylum, and that they can and do choose voluntarily to return.

The multiple neglects of no longer transferring or reuniting children with relatives, refusal to process their asylum claims—and perhaps most alarmingly, returning children back into life threatening danger--places DHS frighteningly out of legal compliance with the TVPR. It leaves us also morally disjointed as a nation from faith and national commitments to provide protections for vulnerable children. It is also appalling that the [guidance](#) issued to CBP to expel migrants under authority provided for in the Rule contains no reference to protections for children as required under the TVPR. As Disciples of Christ Refugee & Immigration Ministries, we stand in

concert with the dozens of other [human rights and faith organizations](#) who urge the U.S. end expulsions of migrant children without concern for their rights, trauma, and potential loss of life that result from these practices.

5) The Rule establishes a process for the Order of a categorical ban on Asylum Seekers which has likely more risks than benefits, and assumes that detention and expulsions are necessary in the pandemic.

Most asylum seekers have families with whom they could safely stay in the U.S. if allowed to do so, and [one such study](#) of over 600 asylum seekers in the “Remain in Mexico” program documented that all but 8% had close family and friend connections they could have lived with in the United States. Further, DHS is not required to hold asylum-seekers in congregate settings, such as in the custody of Customs and Border Protection (CBP) or Immigration and Customs Enforcement (ICE), as DHS has legal [authority](#) (8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5) to expeditiously parole asylum-seekers into the United States to await their asylum proceedings in U.S. immigration courts.

Instead of detention or expulsions, DHS could engage in non-discriminatory screening and self-isolation measures that would respond to public health concerns while preserving the right to seek asylum and protections for unaccompanied children. As faith communities, we have seen our congregations step forward again and again to provide accompaniment with asylum seekers, and with other family and individual migrants who are processing their cases in the United States. In recent months as border policies tightened before the pandemic—and in exacerbated ways since the pandemic—our congregations report consistently that “our arms and shelters are empty of migrants” due to policies such as MPP and HARP.

Our congregations, which have resettled refugees since World War II, seek to continue to provide accompaniment roles that walk with suffering migrants seeking new life beyond trauma. In this time when our nation, and indeed nations around the globe, are facing a time of unprecedented pandemic, we respectfully urge the administration to uphold our U.S. laws and treaties that compel the best instincts of our hearts and faith to protect our collective health while not disregarding the protections for sojourners who are among the most vulnerable among us.

In doing so, we anticipate the chance to discover our mutual connectedness as community. And, we join our petitions with [ecumenical faith partners around the world](#) in this moment of deep and shared crisis who “lift up our prayers for those providing leadership and for governments around the world, urging them to give priority concern to those who live in poverty, as well as to the marginalized and refugees living in our midst. As religious leaders, we raise our collective voices to highlight the necessity for greater attention to the needs of those already suffering.”

Sincerely,



Rev. Dr. Sharon Stanley-Rea, Director,
Disciples Refugee & Immigration Ministries