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11
 12 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF WASHINGTON
 13 **AT SPOKANE**

14 STATE OF WASHINGTON, *et al.*,

15 Plaintiffs,

No. 4:19-cv-5210-RMP

16 v.

DEFENDANTS' ANSWER TO
COMPLAINT

17 UNITED STATES DEPARTMENT OF
18 HOMELAND SECURITY, *et al.*,

19 Defendants

1 Defendants United States Department of Homeland Security (“DHS”);
2 Kevin McAleenan, in his official capacity as Acting Secretary of DHS; United
3 States Citizenship and Immigration Services (“USCIS”); and Kenneth T.
4 Cuccinelli II, in his official capacity as Senior Official Performing the Duties of
5 the Director of USCIS, respectfully submit this Answer to Plaintiffs’ Complaint.

6 1. Defendants admit that DHS promulgated a rule titled Inadmissibility of Public
7 Charge Grounds, set forth in 84 Fed. Reg. 41,292 (Aug. 14, 2019) (hereinafter,
8 “Final Rule”). Defendants deny that the Final Rule “effects a radical overhaul” of
9 federal immigration law. Defendants deny that the Final Rule “expansively
10 redefines” the term “public charge.” The remaining allegations in this paragraph
11 contain legal conclusions to which no response is required.

12 2. Defendants admit the allegations in the first sentence of this paragraph. To the
13 extent that this paragraph characterizes a supposedly pre-existing statutory or
14 otherwise well-established definition of “public charge,” these are legal
15 conclusions to which no response is required. To the extent a response is required,
16 Defendants deny this allegation. Defendants deny the remaining allegations in this
17 paragraph.

18 3. Defendants deny that the Rule departs from any original meaning of “public
19 charge” by redefining a public charge as a noncitizen who receives common forms
20 of federal and state public assistance, even in small amounts and for a short period
21 of time. The last sentence in this paragraph purports to describe the Rule, which
22 speaks for itself. Defendants deny that a “heavily weighted factor” would

1 necessarily trigger a public charge inadmissibility determination. Defendants deny
2 the remaining allegations in this paragraph.

3 4. Defendants deny that under the Final Rule, participation in benefits programs
4 would necessarily block legally present immigrants' path to citizenship under the
5 public charge inadmissibility ground. Defendants lack sufficient knowledge to
6 confirm or deny the remaining allegations in this paragraph.

7 5. The allegations in this paragraph consist of legal conclusions to which no response
8 is required. To the extent a response is required, Defendants deny the Final Rule
9 is contrary to law or arbitrary and capricious.

10 6. The allegations in this paragraph consist of legal conclusions to which no response
11 is required. To the extent a response is required, Defendants deny that the Final
12 Rule's definition of "public charge" is contrary to any "longstanding meaning" of
13 that term. Defendants also deny that the long-standing legal definition of public
14 charge is a person primarily dependent on the government for subsistence.
15 Defendants deny that the Final Rule rejects a long-established, unambiguous
16 definition of the term "public charge." Defendants deny the remaining allegations
17 in this paragraph.

18 7. The first sentence in this paragraph purports to describe a federal statute, which
19 speaks for itself. Defendants deny that the Final Rule eviscerates Congress' intent
20 or imposes a "bait and switch." This paragraph also presents legal conclusions, to
21 which no response is required. To the extent a response is required, Defendants
22 deny that the Final Rule is contrary to the Personal Responsibility and Work

1 Opportunity Reconciliation Act of 1996 or other federal statutes.

2 8. The allegations in this paragraph consist of legal conclusions to which no response
3 is required. To the extent a response is required, Defendants deny that the Rule is
4 arbitrary, capricious, or an abuse of discretion. Defendants deny the remaining
5 allegations in this paragraph.

6 9. Defendants deny that the Rule will cause irreparable harm to working families and
7 children who live in the Plaintiffs States, as well as the States themselves.
8 Defendants lack sufficient knowledge or information to confirm or deny that the
9 Final Rule will necessarily have a “chilling effect” on noncitizens or deter
10 hundreds of thousands of noncitizens from utilizing essential public assistance
11 programs.

12 10. Defendants lack sufficient knowledge or information to confirm or deny the
13 allegations set forth in this paragraph.

14 11. Defendants deny that the Trump Administration has an anti-immigrant agenda.
15 Defendants deny that the public charge test is “punitive.” Defendants lack
16 sufficient knowledge or information to confirm or deny the remaining allegations
17 set forth in this paragraph.

18 12. Defendants lack sufficient knowledge or information to confirm or deny the
19 allegations set forth in this paragraph.

20 13. Defendants lack sufficient knowledge or information to confirm or deny the
21 allegations set forth in this paragraph.

22 14. Defendants lack sufficient knowledge or information to confirm or deny the

1 allegations set forth in this paragraph.

2 15. This paragraph presents legal conclusions, to which no response is required. To
3 the extent a response is required, Defendants admit that the Final Rule’s definition
4 of “public charge” applies to immigrants seeking to adjust to permanent resident
5 status and non-immigrant visitors seeking to extend their visa or change their visa
6 category. Defendants lack sufficient knowledge or information to admit or deny
7 the remaining allegations in this paragraph.

8 16. Defendants deny the allegations contained in the first sentence of this paragraph.
9 Defendants deny that the Plaintiff States and their residents will suffer irreparable
10 harm. The remainder of this paragraph contains legal conclusions that do not
11 require a response. To the extent a response is required, Defendants deny the
12 remaining allegations in this paragraph. Footnote 2 purports to characterize the
13 Amended Complaint and the Final Rule, which speak for themselves.

14 17. This paragraph consists of legal conclusions to which no response is required. To
15 the extent a response is required, Defendants admit the allegations in this
16 paragraph.

17 18. This paragraph consists of legal conclusions to which no response is required. To
18 the extent a response is required, Defendants admit the allegations in this
19 paragraph.

20 19. This paragraph consists of legal conclusions to which no response is required. To
21 the extent a response is required, Defendants admit the allegations in this
22 paragraph.

1 20. Defendants lack sufficient knowledge or information to admit or deny whether the
2 Rule will adversely affect the health and welfare of residents in this district and
3 finances of the State of Washington. The remaining allegations in this paragraph
4 consist of legal conclusions, to which no response is required. To the extent a
5 response is required, Defendants admit the remaining allegations in this paragraph.

6 21. The allegations in this paragraph consist of legal conclusions to which no response
7 is required. To the extent a response is required, Defendants admit the allegations
8 in this paragraph.

9 22. Defendants lack sufficient knowledge or information to admit or deny the
10 allegations in this paragraph.

11 23. Defendants lack sufficient knowledge or information to admit or deny the
12 allegations in this paragraph.

13 24. Defendants lack sufficient knowledge or information to admit or deny the
14 allegations in this paragraph.

15 25. Defendants lack sufficient knowledge or information to admit or deny the
16 allegations in this paragraph.

17 26. Defendants lack sufficient knowledge or information to admit or deny the
18 allegations in this paragraph.

19 27. Defendants lack sufficient knowledge or information to admit or deny the
20 allegations in this paragraph.

21 28. The first sentence of this paragraph consists of a legal conclusion to which no
22 response is required. To the extent that a response is required, Defendants admit

1 that Maryland is a sovereign state of the United States of America. Defendants
2 lack sufficient knowledge or information to admit or deny the remaining
3 allegations in this paragraph.

4 29. Defendants lack sufficient knowledge or information to admit or deny the
5 allegations in this paragraph.

6 30. Defendants lack sufficient knowledge or information to admit or deny the
7 allegations in this paragraph.

8 31. Defendants lack sufficient knowledge or information to admit or deny the
9 allegations in this paragraph.

10 32. Defendants lack sufficient knowledge or information to admit or deny the
11 allegations in this paragraph.

12 33. Defendants lack sufficient knowledge or information to admit or deny the
13 allegations in this paragraph.

14 34. Defendants lack sufficient knowledge or information to admit or deny the
15 allegations in this paragraph.

16 35. Defendants lack sufficient knowledge or information to admit or deny the
17 allegations in this paragraph.

18 36. The allegations in this paragraph consist of legal conclusions to which no response
19 is required. To the extent a response is required, Defendants deny the allegations
20 in this paragraph.

21 37. The first sentence of this paragraph consists of a legal conclusion to which no
22 response is required. Defendants lack sufficient knowledge or information to

1 confirm or deny the allegations set forth in this paragraph.

2 38. The first sentence of this paragraph consists of a legal conclusion to which no
3 response is required. Defendants lack sufficient knowledge or information to
4 confirm or deny the allegations set forth in this paragraph.

5 39. The allegations in this paragraph consist of legal conclusions, to which no response
6 is required. To the extent a response is required, Defendants lack sufficient
7 knowledge or information to confirm or deny the allegations set forth in this
8 paragraph.

9 40. Denied.

10 41. Admitted.

11 42. Defendants admit that when this lawsuit was filed, Kevin K. McAleenan was the
12 Acting Secretary of Homeland Security. The remaining allegation in this
13 paragraph is a legal conclusion to which no response is required.

14 43. Defendants admit that USCIS is a component of DHS. Defendants further admit
15 that USCIS is primarily responsible for adjudicating requests for immigration
16 benefits, including without limitation applications for adjustment of status to that
17 of a lawful permanent resident, and applications and petitions to extent or change
18 nonimmigrant status. Defendants deny that USCIS adjudicates immigrant and
19 nonimmigrant visas.

20 44. Defendants admit that, when the lawsuit was filed, Kenneth T. Cuccinelli was the
21 Acting Director of USCIS. The remaining allegation in this paragraph is a legal
22 conclusion to which no response is required. In response to Footnote 4, Defendants

1 admit that legal challenges have been raised to the propriety of Cuccinelli's
2 appointment to Acting Director of USCIS.

3 45. The allegations in this paragraph consist of legal conclusions, to which no response
4 is required. To the extent a response is required, Defendants deny the allegations
5 in this paragraph.

6 46. This paragraph purports to describe historical statutes, which speak for themselves.
7 Defendants lack sufficient knowledge or information to confirm or deny the
8 remaining allegations in this paragraph.

9 47. Defendants deny that the original public meaning of "public charge" is
10 synonymous with pauper. Defendants lack sufficient knowledge or information
11 to confirm or deny the remaining allegations in this paragraph.

12 48. This paragraph purports to quote from or describe certain historical state statutes,
13 which speak for themselves. To the extent that this paragraph implies that the term
14 "public charge" had an accepted, pre-existing definition, Defendants deny this
15 allegation.

16 49. Defendants admit that Congress enacted the Immigration Act of 1882, which
17 barred admission to "any convict, lunatic, idiot, or any person unable to take care
18 of himself or herself without becoming a public charge." Defendants admit that
19 Congress amended the Immigration Act in 1891 to preclude admission of "idiots,
20 insane persons, paupers or persons likely to become a public charge." To the extent
21 that this paragraph implies that the term "public charge" had an accepted, pre-
22 existing definition, that is a legal conclusion to which no response is required. To

1 the extent a response is required, Defendants deny this allegation.

2 50. The allegations in this paragraph consist of legal conclusions to which no response
3 is required. To the extent a response is required, Defendants deny these
4 allegations.

5 51. This paragraph purports to characterize the Supreme Court’s decision in *Gegiow*
6 *v. Uhl*, which speaks for itself. To the extent a response is required, Defendants
7 deny this paragraph’s characterization of *Gegiow*. This paragraph purports to
8 characterize the Second Circuit’s decision in *Howe v. United States ex rel. Savitsky*,
9 which speaks for itself. To the extent a response is required, Defendants deny this
10 paragraph’s characterization of *Howe*. This paragraph purports to characterize
11 court decisions in *Ex parte Mitchell*, *United States v. Williams*, and *Ex parte*
12 *Tsunetaro Machida*, which speak for themselves. To the extent a response is
13 required, Defendants deny this paragraph’s characterization of *Ex parte Mitchell*,
14 *United States v. Williams*, and *Ex parte Tsunetaro Machida*. The last sentence in
15 this paragraph consists of a legal conclusion to which no response is required. To
16 the extent a response is required, Defendants deny that there was an understanding
17 of the term “public charge” as a person permanently and primarily dependent on
18 government for survival.

19 52. This paragraph purports to characterize the Circuit Court of Ohio’s decision in
20 *Davis v. State ex rel. Boyles*, which speaks for itself. To the extent a response is
21 required, Defendants deny this paragraph’s characterization of *Davis*. This
22 paragraph purports to characterize the North Dakota Supreme Court’s decision in

1 *Yeatman v. King*, which speaks for itself. To the extent a response is required,
2 Defendants deny this paragraph’s characterization of *Yeatman*. To the extent this
3 paragraph implies the existence of an original public understanding of the term
4 public charge, that is a legal conclusion, to which no response is required. To the
5 extent a response is required, that allegation is denied.

6 53. The first sentence in this paragraph consists of a legal conclusion, to which no
7 response is required. To the extent a response is required, Defendants deny that
8 there was a “settled meaning” of the term public charge. This paragraph purports
9 to describe and quote from a historical Bureau of Immigration decision, which
10 speaks for itself.

11 54. To the extent this paragraph implies that the term “public charge” had an accepted,
12 pre-existing definition, that is a legal conclusion, to which no response is required.
13 To the extent a response is required, Defendants deny this allegation. The
14 remainder of this paragraph describes and quotes from certain external sources,
15 which speak for themselves.

16 55. Defendants admit that Congress enacted the Immigration Nationality Act of 1952,
17 which codified the public charge ground of inadmissibility. The remaining
18 allegations in this paragraph consist of legal conclusions, to which no response is
19 required. To the extent a response is required, Defendants deny that these statutes
20 reflected a “settled understanding” of the term public charge or ratified judicial
21 precedents interpreting the term and Defendants deny that there is a “settled
22 meaning” of public charge as a person permanently or primarily dependent on

1 government for survival.

2 56. This paragraph purports to describe and quote from a statutory provision, which
3 speaks for itself.

4 57. This paragraph purports to describe and quote from a statutory provision, which
5 speaks for itself.

6 58. This paragraph purports to quote from and describe decisions of the Board of
7 Immigration Appeals and the Attorney General, which speak for themselves.

8 59. Defendants admit that in 1989, DOJ issued a final rule establishing guidelines for
9 public charge determinations in certain contexts. This paragraph purports to
10 describe and quote from that DOJ rule, which speaks for itself. To the extent that
11 this paragraph implies that the term “public charge” had an accepted, pre-existing
12 definition, that is a legal conclusion to which no response is required. To the extent
13 a response is required, Defendants deny this allegation.

14 60. This paragraph purports to describe and quote from certain legislative history,
15 which speaks for itself.

16 61. This paragraph purports to describe and quote from certain legislative history and
17 historical statutes, which speak for themselves.

18 62. Defendants admit that Congress amended the INA in 1990. This paragraph
19 purports to describe and quote from certain legislative history, which speaks for
20 itself. The remainder of this paragraph consists of legal conclusions, to which no
21 response is required. To the extent a response is required, Defendants deny that
22 these sources reflect Congress’ understanding of the term public charge to mean a

1 person who is helpless and Defendants deny that the term public charge has an
2 “original public meaning.”

3 63. This paragraph purports to describe and quote from certain statutory provisions,
4 which speak for themselves. Defendants admit that USCIS is the agency within
5 DHS that processes applications from foreign nationals in the United States for
6 adjustment of status to lawful permanent residency.

7 64. This paragraph purports to quote from and describe multiple statutory provisions,
8 which speak for themselves. Defendants admit that the public charge
9 inadmissibility ground is administered by U.S. embassies and consulates abroad,
10 which process visa applications by foreign nationals outside the United States.

11 65. This paragraph purports to quote from and describe statutory provisions, which
12 speaks for themselves. This paragraph purports to quote from and describe an
13 external source, which speaks for itself. The remaining allegation in this paragraph
14 is a legal conclusion to which no response is required.

15 66. This paragraph purports to quote from and describe a statutory provision, which
16 speaks for itself. Defendants admit that in some circumstances, noncitizens have
17 been able to overcome a potential public charge inadmissibility determination by
18 filing a sufficient Affidavit of Support under Section 213A of the INA from a
19 qualifying sponsor.

20 67. This paragraph purports to quote from and describe certain legislative history,
21 which speaks for itself.

22 68. This paragraph purports to describe various statutory provisions, which speak for

1 themselves. To the extent that this paragraph implies the existence of a long-settled
2 meaning of the term “public charge,” that is a legal conclusion to which no
3 response is required. To the extent a response is required, Defendants deny that
4 allegation.

5 69. This paragraph purports to quote from and describe statutory provisions, which
6 speak for themselves.

7 70. This paragraph purports to quote from and describe statutory provisions, which
8 speak for themselves.

9 71. This paragraph purports to quote from and describe statutory provisions, which
10 speak for themselves.

11 72. This paragraph purports to quote from external sources, which speak for
12 themselves.

13 73. Defendants admit that in 1999, INS issued Field Guidance on public charge
14 determinations. This paragraph purports to describe the Field Guidance, which
15 speaks for itself. Footnote 77 purports to describe and quote from a DOJ proposed
16 rule, which speaks for itself. To the extent that Footnote 77 implies the existence
17 of an accepted, pre-existing definition of the term “public charge,” that is a legal
18 conclusion to which no response is required. To the extent a response is required,
19 Defendants deny that allegation.

20 74. This paragraph purports to quote from and describe INS Field Guidance, which
21 speaks for itself. The remaining allegations in this paragraph consist of legal
22 conclusions to which no response is required. To the extent a response is required,

1 Defendants deny that there is a traditional, established meaning of the term public
2 charge.

3 75. This paragraph purports to quote from and describe INS Field Guidance, which
4 speaks for itself.

5 76. The allegations in this paragraph consist of legal conclusions, to which no response
6 is required. To the extent a response is required, Defendants deny that there is a
7 traditional understanding of a public charge as a person permanently and primarily
8 dependent on the government for subsistence.

9 77. This paragraph purports to quote from and describe a DOJ Fact Sheet, which
10 speaks for itself.

11 78. This paragraph purports to quote from and describe a DOJ Fact Sheet, which
12 speaks for itself. To the extent that this paragraph implies the existence of an
13 accepted, pre-existing definition of a public charge as someone permanently and
14 primarily dependent on government for survival, that is a legal conclusion to which
15 no response is required. To the extent a response is required, Defendants deny that
16 allegation.

17 79. This paragraph purports to describe and quote from a DOJ Fact Sheet, which
18 speaks for itself.

19 80. Defendants admit that USCIS issued a Public Charge Fact Sheet in 2011. This
20 paragraph purports to describe a USCIS Fact Sheet, which speaks for itself.

21 81. This paragraph purports to describe a USCIS Fact Sheet, which speaks for itself.

22 82. The allegations in this paragraph consist of legal conclusions, to which no response

1 is required. To the extent a response is required, Defendants deny that American
2 law has “uniformly interpreted and applied” the term public charge to mean a
3 pauper or a person permanently and primarily dependent on the government for
4 subsistence. Defendants deny that the Final Rule rejects a consensus, defies the
5 original meaning of the term public charge, or substitutes its own definition and
6 criteria that cannot be reconciled with statutory text, history, or precedent.

7 83. Defendants deny that President Trump ran on a platform to “radically transform”
8 U.S. immigration policy. Defendants admit the remaining allegations in this
9 paragraph.

10 84. Denied.

11 85. This paragraph and the accompanying Footnote 92 purport to quote from or
12 describe a number of external sources, which speak for themselves.

13 86. This paragraph purports to quote from and describe an external source, which
14 speaks for itself. Defendants admit that the document described in this paragraph
15 was not issued as an Executive Order. Defendants lack sufficient knowledge to
16 confirm or deny the remaining allegations in this paragraph.

17 87. This paragraph purports to quote from and describe proposed Congressional
18 legislation, which speaks for itself.

19 88. This paragraph purports to describe and quote from an external source, which
20 speaks for itself. Defendants lack sufficient information or knowledge to confirm
21 or deny the remaining allegations in this paragraph.

22 89. This paragraph purports to quote from and describe an external source, which

1 speaks for itself.

2 90. This paragraph purports to quote from or describe certain segments from oral or
3 written statements, which speak for themselves. This paragraph purports to
4 describe certain proposed state legislation, which speaks for itself.

5 91. Defendants admit that DHS noted its intent to propose regulatory provisions
6 regarding the public charge ground of admissibility in the Fall 2017 Unified
7 Agenda of Federal Regulatory and Deregulatory Actions. This paragraph purports
8 to describe external sources, which speak for themselves. This paragraph purports
9 to describe the State Department’s Foreign Affairs Manual, which speaks for itself.

10 92. This paragraph purports to describe and quote from an external source, which
11 speaks for itself. Defendants lack sufficient knowledge to confirm or deny the
12 remaining allegations in this paragraph.

13 93. This paragraph purports to describe an external source, which speaks for itself.

14 94. Defendants admit that in Spring 2018, DHS informed the Office of Management
15 and Budget that it “will propose regulatory provisions guiding the inadmissibility
16 determination on whether an alien is likely at any time to become a public charge
17 under section 212(a)(4) of the Immigration and Nationality Act (INA), 8 U.S.C.
18 1182(a)(4).” The remainder of this paragraph purports to describe a submission
19 provided to OMB, which speaks for itself.

20 95. This paragraph purports to describe and quote from an external source, which
21 speaks for itself.

22 96. This paragraph purports to quote from and describe an external source, which

1 speaks for itself.

2 97. This paragraph purports to quote from and describe external sources, which speaks
3 for themselves.

4 98. This paragraph purports to quote from and describe an external source, which
5 speaks for itself.

6 99. Defendants admit that DHS published a notice of proposed rulemaking and
7 proposed rule entitled *Inadmissibility of Public Charge Grounds* on October 10,
8 2018 (“Proposed Rule”). The remaining allegations in this paragraph consist of
9 legal conclusions, to which no response is required. To the extent a response is
10 required, Defendants deny that the proposed rule “sought to significantly expand
11 the authority of USCIS” beyond any “long-settled” understanding of the term
12 “public charge.”

13 100. This paragraph purports to describe and quote from the Proposed Rule, which
14 speaks for itself. To the extent this paragraph implies the existence of an accepted,
15 pre-existing definition of the term public charge, that is a legal conclusion to which
16 no response is required. To the extent a response is required, Defendants deny that
17 allegation.

18 101. This paragraph consists of a legal conclusion, to which no response is required. To
19 the extent a response is required, Defendants deny this allegation.

20 102. This paragraph purports to describe and quote from the Proposed Rule, which
21 speaks for itself.

22 103. This paragraph purports to describe and quote from the Proposed Rule, which

- 1 speaks for itself.
- 2 104. This paragraph purports to describe and quote from the Proposed Rule, which
3 speaks for itself.
- 4 105. This paragraph purports to describe and quote from the Proposed Rule, which
5 speaks for itself.
- 6 106. This paragraph purports to describe and quote from the Proposed Rule, which
7 speaks for itself.
- 8 107. Defendants admit the allegation in the first sentence of this paragraph. The
9 remaining allegations in this paragraph describe certain comments submitted in
10 response to the Proposed Rule, which speak for themselves.
- 11 108. This paragraph purports to quote from and describe a comment submitted in
12 response to the Rule's preceding notice of proposed rulemaking, which speaks for
13 itself.
- 14 109. This paragraph purports to quote from and describe a comment submitted in
15 response to the Rule's preceding notice of proposed rulemaking, which speaks for
16 itself.
- 17 110. This paragraph purports to describe a comment submitted in response to the Rule's
18 preceding notice of proposed rulemaking, which speaks for itself.
- 19 111. This paragraph and the accompanying Footnote 138 consist of a legal conclusion
20 to which no response is required.
- 21 112. This paragraph purports to describe or quote from an oral or written statement,
22 which speaks for itself.

1 113. Defendants admit that Secretary of Homeland Security Kirstjen Nielsen and
2 USCIS Director L. Francis Cissna resigned from their positions. The remaining
3 allegations in this paragraph purport to describe or quote from an external source,
4 which speaks for itself.

5 114. Defendants admit the allegations in the first sentence of this paragraph. Defendants
6 lack sufficient knowledge or information to confirm or deny the remaining
7 allegations in this paragraph.

8 115. Defendants admit the allegations in the first sentence of this paragraph. Defendants
9 lack sufficient knowledge or information to confirm or deny the remaining
10 allegations in this paragraph.

11 116. Defendants admit that on August 12, 2019, DHS announced the issuance of the
12 Final Rule and it was posted for public inspection. The remaining allegations in
13 this paragraph purport to quote from or describe certain segments from an oral or
14 written statement, which speak for themselves.

15 117. This paragraph purports to quote from or describe certain segments from an oral
16 or written statement, which speak for themselves.

17 118. Admitted.

18 119. The Public Charge Rule applies to any noncitizen subject to section 212(a)(4) of
19 the INA who, after the October 15, 2019 effective date, applies to the Department
20 for admission to the United States or for adjustment of status to that of lawful
21 permanent resident.¹⁵⁰ The Rule catalogues a list of immigrant groups that are
22 exempted from its provisions, based on preexisting exemptions created by

1 Congress or DHS regulations. These include, for example, refugees and asylees,
2 certain Afghan or Iraqi nationals employed by or on behalf of the U.S. government,
3 and certain Cuban and Haitian entrants. *See* 84 Fed. Reg. at 41,504 (proposed 8
4 C.F.R. § 212.23). This paragraph purports to describe the Final Rule, which speaks
5 for itself.

6 120. This paragraph purports to describe the Final Rule, which speaks for itself. The
7 remaining allegations in this paragraph are legal conclusions to which no response
8 is required.

9 121. This paragraph purports to quote from or describe the Final Rule, which speaks for
10 itself.

11 122. This paragraph purports to quote from or describe the Final Rule, which speaks for
12 itself.

13 123. This paragraph purports to describe the Proposed Rule and the Final Rule, which
14 speak for themselves.

15 124. This paragraph purports to describe the Proposed Rule and the Final Rule, which
16 speak for themselves.

17 125. This paragraph purports to describe the Final Rule, which speaks for itself.

18 126. This paragraph purports to quote from or describe the Final Rule, which speaks for
19 itself.

20 127. This paragraph purports to quote from or describe the Final Rule, which speaks for
21 itself.

22 128. This paragraph purports to quote from or describe the Final Rule, which speaks for

1 itself.

2 129. This paragraph purports to quote from or describe the Final Rule, which speaks for
3 itself.

4 130. This paragraph purports to quote from or describe the Final Rule, which speaks for
5 itself.

6 131. This paragraph purports to quote from or describe the Final Rule, which speaks for
7 itself.

8 132. This paragraph purports to quote from or describe the Final Rule, which speaks for
9 itself.

10 133. This paragraph purports to quote from or describe the Final Rule, which speaks for
11 itself.

12 134. This paragraph purports to quote from or describe the Final Rule, which speaks for
13 itself. The remaining allegations in this paragraph consist of legal conclusions to
14 which no response is required. To the extent a response is required, Defendants
15 deny that the Rule is a major departure from prior agency and precedent.

16 135. This paragraph purports to quote from or describe the Final Rule, which speaks for
17 itself. The remainder of this paragraph consists of legal conclusions to which no
18 response is required.

19 136. This paragraph purports to quote from or describe the Final Rule, which speaks for
20 itself.

21 137. This paragraph purports to quote from or describe the Proposed Rule and the Final
22 Rule, which speak for themselves.

1 138. Defendants admit that DHS received more than 260,000 public comments on the
2 Proposed Rule. This paragraph purports to describe certain comments regarding
3 the Proposed Rule, which speak for themselves. Defendants deny that the
4 Department failed to provide reasoned analysis, examine the relevant data, or
5 adequately address the significant concerns raised in the public comments.

6 139. Defendants deny that the Final Rule redefines the term public charge in a manner
7 inconsistent with the historical understanding of public charge, Congressional
8 intent, and more than a century of judicial and administrative precedent. To the
9 extent that this paragraph suggests there was an accepted, pre-existing definition
10 of the term “public charge,” that is a legal conclusion to which no response is
11 required. To the extent a response is required, Defendants deny that allegation.
12 This paragraph purports to quote from or describe the Final Rule, which speaks for
13 itself. The remainder of this paragraph consists of legal conclusions to which no
14 response is required.

15 140. This paragraph purports to describe the Proposed Rule and certain comments
16 submitted in response to the Rule’s preceding notice of proposed rulemaking,
17 which speak for themselves.

18 141. Defendants deny that the 12-month threshold for monetizable benefits is “flawed.”
19 Defendants deny that the Department did not provide a reasoned explanation to
20 justify the 12-month threshold’s “incongruities.” The remainder of this paragraph
21 purports to describe and quote from the Final Rule, which speaks for itself. The
22 remaining allegations in this paragraph consist of legal conclusions, to which no

1 response is required. To the extent a response is required, Defendants deny the
2 remaining allegations in this paragraph.

3 142. The allegations in this paragraph consist of legal conclusions, to which no response
4 is required. To the extent a response is required, Defendants deny that the
5 Department failed to provide data, evidence, or reasoned analysis to explain why
6 it believes an immigrant's past receipt of public assistance for as little as a few
7 months is at all predictive of whether she will become a public charge in the future.
8 Defendants also deny that the Department's decision to aggregate multiple benefits
9 in the 12-month threshold overlooks its own findings on how beneficiaries utilize
10 temporary public assistance in actual practice. The remainder of this paragraph
11 purports to quote from and describe the Final Rule, which speaks for itself.

12 143. This paragraph purports to quote from or describe the Final Rule and public
13 comments submitted in response to the Rule's preceding notice of proposed
14 rulemaking, all of which speak for themselves. Defendants deny the remaining
15 allegations in this paragraph.

16 144. The first sentence of this paragraph consists of a legal conclusion, to which no
17 response is required. To the extent a response is required, Defendants lack
18 sufficient knowledge or information to confirm or deny that allegation. To the
19 extent this paragraph alleges that the public benefit factor is likely to be outcome-
20 determinative in all cases, Defendants deny that allegation. The remaining
21 allegations in this paragraph purport to quote from or describe the Final Rule and
22 public comments submitted in response to the Rule's preceding notice of proposed

1 rulemaking, all of which speak for themselves. Defendants deny that having an
2 income below 125% of the FPG would be a “heavily weighed negative factor.”
3 Defendants admit that having an income below 125% of the FPG would be a
4 negative factor. Defendants lack sufficient knowledge or information to confirm
5 or deny the remaining allegations in this paragraph.

6 145. The first sentence of this paragraph consists of a legal conclusion, to which no
7 response is required. To the extent a response is required, Defendants lack
8 sufficient knowledge to confirm or deny that allegation. Defendants deny that the
9 medical condition factor is “literally duplicative with the ostensibly separate
10 ‘health’ factor.” Defendants also deny that the Department “stacks the deck to
11 convert the totality of circumstances inquiry into a bright-line test focused
12 myopically on non-statutory considerations.” This paragraph purports to quote
13 from or describe the Final Rule and public comments submitted in response to the
14 Rule’s preceding notice of proposed rulemaking, all of which speak for themselves.
15 Defendants lack sufficient knowledge or information to confirm or deny the
16 remaining allegations in this paragraph. Footnote 178 purports to describe the
17 Final Rule and a statutory provision, which speak for themselves. The remaining
18 allegation in Footnote 178 is a legal conclusion, to which no response is required.
19 To the extent a response is required, Defendants deny the allegation.

20 146. The allegations in this paragraph consist of legal conclusions, to which no response
21 is required. To the extent a response is required, Defendants deny the allegations
22 in this paragraph.

1 147. This paragraph purports to quote from and describe the Final Rule and public
2 comments submitted in response to the Rule’s preceding notice of proposed
3 rulemaking, all of which speak for themselves.

4 148. Defendants deny that the Department entirely disregarded concerns over the
5 Proposed Rule’s consideration of private health insurance as a factor in the public
6 charge test. The remainder of this paragraph purports to describe or quote from
7 the Final Rule, which speaks for itself.

8 149. This paragraph purports to quote from and describe the Final Rule, which speaks
9 for itself. Defendants deny that the Final Rule’s explanation was “ cursory.”
10 Defendants deny that the factor double counts certain evidence to disadvantage
11 immigrants who use medical benefits they are entitled to receive. The remaining
12 allegations in this paragraph consist of legal conclusions to which no response is
13 required. To the extent a response is required, Defendants deny the remaining
14 allegations in this paragraph.

15 150. This paragraph purports to quote from and describe the Final Rule and public
16 comments submitted in response to the Rule’s preceding notice of proposed
17 rulemaking, all of which speak for themselves.

18 151. The first sentence of this paragraph consists of legal conclusions, to which no
19 response is required. To the extent a response is required, Defendants deny that
20 the Department’s denial is implausible. Defendants admit that this new condition
21 of approval appears in the Final Rule. Defendants deny that the Rule expands the
22 core criterion of the public charge test beyond the public charge inadmissibility

1 ground's statutory bounds. The remainder of this paragraph contains legal
2 conclusions to which no response is required.

3 152. This paragraph purports to quote from and describe the Final Rule and public
4 comments submitted in response to the Rule's preceding notice of proposed
5 rulemaking, all of which speak for themselves. The remaining allegations in this
6 paragraph consist of legal conclusions, to which no response is required. To the
7 extent a response is required, Defendants deny that the Department's response fails
8 to give due consideration to a significant concern about how the regulation will
9 affect lawful permanent residents on the path to U.S. citizenship.

10 153. This paragraph purports to quote from and describe the Final Rule and public
11 comments submitted in response to the Rule's preceding notice of proposed
12 rulemaking, all of which speak for themselves.

13 154. This paragraph purports to quote from and describe the Final Rule and public
14 comments submitted in response to the Rule's preceding notice of proposed
15 rulemaking, all of which speak for themselves. The remaining allegations in this
16 paragraph consist of legal conclusions, to which no response is required. To the
17 extent a response is required, Defendants deny that the Department failed to
18 meaningfully address the Rule's allegedly discriminatory effects and to consider
19 alleged disadvantages or injustice of its decision.

20 155. This paragraph purports to quote from and describe the Final Rule and public
21 comments submitted in response to the Rule's preceding notice of proposed
22 rulemaking, all of which speak for themselves.

1 156. This paragraph purports to quote from and describe the Final Rule, which speaks
2 for itself. The remaining allegations in this paragraph are legal conclusions, to
3 which no response is required. To the extent a response is required, Defendants
4 deny that the Department largely disregarded these concerns, that the Department's
5 decision is arbitrary and capricious, and that the Department's decision elevates
6 private credit reports into a realm they were never intended to occupy, arbitrarily
7 introducing error, irrelevant factors, and double counting into the analysis.

8 157. This paragraph purports to quote from and describe the Final Rule and public
9 comments submitted in response to the Rule's preceding notice of proposed
10 rulemaking, all of which speak for themselves.

11 158. This paragraph purports to describe and quote from the Final Rule, which speaks
12 for itself. The remaining allegations in this paragraph are legal conclusions, to
13 which no response is required. To the extent a response is required, Defendants
14 deny the remaining allegations in this paragraph.

15 159. This paragraph purports to quote from and describe the Final Rule and public
16 comments submitted in response to the Rule's preceding notice of proposed
17 rulemaking, all of which speak for themselves. The remaining allegations in this
18 paragraph consist of legal conclusions to which no response is required. To the
19 extent a response is required, Defendants deny the remaining allegations in this
20 paragraph.

21 160. This paragraph purports to quote from and describe the Final Rule and public
22 comments submitted in response to the Rule's preceding notice of proposed

1 rulemaking, all of which speak for themselves. The remaining allegations in this
2 paragraph consist of legal conclusions, to which no response is necessary. To the
3 extent a response is required, Defendants deny the remaining allegations in this
4 paragraph.

5 161. This paragraph purports to quote from and describe the Final Rule, which speaks
6 for itself.

7 162. The first sentence of this paragraph consists of legal conclusions, to which no
8 response is required. To the extent a response is required, Defendants deny that
9 the Department’s analysis of its obligations under Executive Order 13,132 was
10 insufficient. Defendants lack sufficient information or knowledge to admit or deny
11 the remaining allegations in this paragraph.

12 163. This paragraph purports to describe public comments submitted in response to the
13 Rule’s preceding notice of proposed rulemaking, which speak for themselves.
14 Defendants lack sufficient knowledge or information to confirm or deny the
15 remaining allegation in this paragraph.

16 164. Defendants deny that the Department failed to conduct a true or adequate cost-
17 benefit analysis. Defendants deny that the preamble repeatedly diminishes the
18 significant impacts to those people, businesses, and state governments that are not
19 “directly” regulated by the Rule. This paragraph purports to quote from and
20 describe the Final Rule, which speaks for itself. Defendants deny the remaining
21 allegations in this paragraph.

22 165. The allegations in this paragraph consist of legal conclusions, to which no response

1 is required. To the extent a response is required, Defendants deny that the preamble
2 makes broad, unsupported assumptions with respect to chilling effects. Defendants
3 deny that the Final Rule “significantly understates” the impacts of a drastic change
4 in agency position. Defendants deny that the Final Rule is a “drastic change in
5 agency position.” The remainder of this paragraph purports to quote from and
6 describe the Final Rule, which speaks for itself.

7 166. The first sentence of this paragraph consists of a legal conclusion, to which no
8 response is required. To the extent a response is required, Defendants deny that
9 the figure of 2.5% of the estimated number of foreign-born noncitizens
10 participating in any particular program was arbitrary. The remainder of this
11 paragraph purports to quote from and describe the Final Rule, which speaks for
12 itself.

13 167. Defendants deny that DHS downplays the number of impacted individuals by the
14 Rule. This paragraph purports to quote from and/or describe the Final Rule, which
15 speaks for itself. The remainder of this paragraph consists of legal conclusions to
16 which no response is required. To the extent a response is required, Defendants
17 deny the remaining allegations in this paragraph.

18 168. Defendants deny that DHS does not adequately assess the costs to states. The
19 remainder of this paragraph purports to quote from and/or describe the Final Rule,
20 which speaks for itself.

21 169. This paragraph purports to quote from and/or describe the Office of Management
22 and Budget’s Circular A-4, which speaks for itself. The remainder of this

1 paragraph consists of legal conclusions to which no response is required.

2 170. The allegations in this paragraph consist of legal conclusions, to which no response
3 is required. To the extent a response is required, Defendants deny that DHS greatly
4 overstates the benefits of the Rule. Defendants deny that DHS' treatment of the
5 impacts to the Medicaid program provides a clear example of deficiency in
6 analysis. Defendants deny that DHS has overstated the actual benefits of the Rule
7 in its cost-benefit analysis. Defendants lack sufficient knowledge or information
8 to confirm or deny the remaining allegations in this paragraph.

9 171. This paragraph purports to describe or quote from the Rule, which speaks for itself.

10 172. Defendants lack sufficient knowledge or information to confirm or deny the
11 allegations in this paragraph.

12 173. Defendants lack sufficient knowledge or information to confirm or deny the
13 allegations in this paragraph.

14 174. This paragraph purports to describe or quote from the Rule, which speaks for itself.
15 Defendants deny that, in the Department's view, the alleged chilling effects are a
16 virtue. Defendants deny that the manifest intent of the Rule is to exclude
17 immigrants this Administration deems "undesirable" from the United States or to
18 exclude them and their families from the U.S. social safety net, contrary to
19 congressional and state determinations regarding eligibility.

20 175. Defendants lack sufficient knowledge or information to confirm or deny whether
21 the Rule will lead to chilling effects. Defendants deny that implementation of the
22 rule will cause irreparable harm to the Plaintiff States. Defendants lack sufficient

1 knowledge or information to confirm or deny the remaining allegations in this
2 paragraph.

3 176. This paragraph consists of legal conclusions, to which no response is required. To
4 the extent a response is required, Defendants lack sufficient knowledge or
5 information to confirm or deny the allegations in this paragraph.

6 177. Defendants lack sufficient knowledge or information to confirm or deny the
7 allegations in this paragraph.

8 178. Defendants admit that Congress created Medicaid in 1965. This paragraph
9 purports to describe a statutory provision, which speaks for itself.

10 179. This paragraph purports to describe a statutory provision, which speaks for itself.

11 180. This paragraph purports to describe a statutory provision, which speaks for itself.

12 181. This paragraph purports to describe a statutory provision, which speaks for itself.

13 182. This paragraph purports to describe a statutory provision, which speaks for itself.

14 183. This paragraph purports to describe a statutory provision, which speaks for itself.

15 Defendants lack sufficient knowledge or information to confirm or deny the
16 remaining allegations in this paragraph.

17 184. Defendants lack sufficient knowledge or information to confirm or deny the
18 allegations in this paragraph.

19 185. This paragraph purports to describe a statutory provision, which speaks for itself.

20 Defendants admit that state-only funded health benefits, except for
21 institutionalization for long-term care at government expense, do not constitute
22 “public benefits” under the Rule’s public charge test. Defendants lack sufficient

1 knowledge or information to confirm or deny the remaining allegations in this
2 paragraph.

3 186. Defendants lack sufficient knowledge or information to confirm or deny the
4 allegation in this paragraph.

5 187. Defendants lack sufficient knowledge or information to confirm or deny the
6 allegations in this paragraph.

7 188. This paragraph purports to describe or quote from the Rule, which speaks for itself.
8 Defendants lack sufficient knowledge or information to confirm or deny the
9 remaining allegations in this paragraph.

10 189. Denied.

11 190. Defendants lack sufficient knowledge or information to confirm or deny the
12 allegations in this paragraph.

13 191. Defendants lack sufficient knowledge or information to confirm or deny the
14 allegations in this paragraph.

15 192. Defendants lack sufficient knowledge or information to confirm or deny the
16 allegations in this paragraph.

17 193. Defendants lack sufficient knowledge or information to confirm or deny the
18 allegations in this paragraph.

19 194. Defendants lack sufficient knowledge or information to confirm or deny the
20 allegations in this paragraph.

21 195. Defendants lack sufficient knowledge or information to confirm or deny the
22 allegations in this paragraph.

- 1 196. Defendants lack sufficient knowledge or information to confirm or deny the
2 allegations in this paragraph.
- 3 197. Defendants lack sufficient knowledge or information to confirm or deny the
4 allegations in this paragraph.
- 5 198. Defendants lack sufficient knowledge or information to confirm or deny the
6 allegations in this paragraph.
- 7 199. Defendants lack sufficient knowledge or information to confirm or deny the
8 allegations in this paragraph.
- 9 200. Defendants lack sufficient knowledge or information to confirm or deny the
10 allegations in this paragraph.
- 11 201. Defendants lack sufficient knowledge or information to confirm or deny the
12 allegations in this paragraph.
- 13 202. Defendants lack sufficient knowledge or information to confirm or deny the
14 allegations in this paragraph.
- 15 203. Defendants lack sufficient knowledge or information to confirm or deny the
16 allegations in this paragraph.
- 17 204. Defendants lack sufficient knowledge or information to confirm or deny the
18 allegations in this paragraph.
- 19 205. Defendants lack sufficient knowledge or information to confirm or deny the
20 allegations in this paragraph.
- 21 206. Defendants lack sufficient knowledge or information to confirm or deny the
22 allegations in this paragraph.

- 1 207. Defendants lack sufficient knowledge or information to confirm or deny the
2 allegations in this paragraph.
- 3 208. Defendants lack sufficient knowledge or information to confirm or deny the
4 allegations in this paragraph.
- 5 209. Defendants lack sufficient knowledge or information to confirm or deny the
6 allegations in this paragraph.
- 7 210. Defendants lack sufficient knowledge or information to confirm or deny the
8 allegations in this paragraph.
- 9 211. Defendants lack sufficient knowledge or information to confirm or deny the
10 allegations in this paragraph.
- 11 212. Defendants lack sufficient knowledge or information to confirm or deny the
12 allegations in this paragraph.
- 13 213. Defendants deny that the Final Rule will cause irreparable harm to the Plaintiffs
14 States' medical assistance programs. Defendants lack sufficient knowledge or
15 information to confirm or deny the remaining allegations in this paragraph.
- 16 214. Defendants lack sufficient knowledge or information to confirm or deny the
17 allegations in this paragraph.
- 18 215. Defendants lack sufficient knowledge or information to confirm or deny the
19 allegations in this paragraph.
- 20 216. Defendants lack sufficient knowledge or information to confirm or deny the
21 allegations in this paragraph.
- 22 217. This paragraph purports to describe the Final Rule, which speaks for itself.

1 Defendants lack sufficient knowledge or information to confirm or deny the
2 remaining allegations in this paragraph.

3 218. Defendants lack sufficient knowledge or information to confirm or deny the
4 allegations in this paragraph.

5 219. Defendants lack sufficient knowledge or information to confirm or deny the
6 allegations in this paragraph.

7 220. Defendants lack sufficient knowledge or information to confirm or deny the
8 allegations in this paragraph.

9 221. Defendants lack sufficient knowledge or information to confirm or deny the
10 allegations in this paragraph.

11 222. Defendants lack sufficient knowledge or information to confirm or deny the
12 allegations in this paragraph.

13 223. Defendants lack sufficient knowledge or information to confirm or deny the
14 allegations in this paragraph.

15 224. Defendants lack sufficient knowledge or information to confirm or deny the
16 allegations in this paragraph.

17 225. Defendants lack sufficient knowledge or information to confirm or deny the
18 allegations in this paragraph.

19 226. Defendants lack sufficient knowledge or information to confirm or deny the
20 allegations in this paragraph.

21 227. Defendants lack sufficient knowledge or information to confirm or deny the
22 allegations in this paragraph.

- 1 228. Defendants lack sufficient knowledge or information to confirm or deny the
2 allegations in this paragraph.
- 3 229. Defendants lack sufficient knowledge or information to confirm or deny the
4 allegations in this paragraph.
- 5 230. Defendants lack sufficient knowledge or information to confirm or deny the
6 allegations in this paragraph.
- 7 231. Defendants lack sufficient knowledge or information to confirm or deny the
8 allegations in this paragraph.
- 9 232. Defendants lack sufficient knowledge or information to confirm or deny the
10 allegations in this paragraph.
- 11 233. Defendants lack sufficient knowledge or information to confirm or deny the
12 allegations in this paragraph.
- 13 234. Defendants lack sufficient knowledge or information to confirm or deny the
14 allegations in this paragraph.
- 15 235. Defendants lack sufficient knowledge or information to confirm or deny the
16 allegations in this paragraph.
- 17 236. This paragraph purports to describe and quote from a proposed rule, which speaks
18 for itself.
- 19 237. Defendants lack sufficient knowledge or information to confirm or deny the
20 allegations in this paragraph.
- 21 238. Defendants lack sufficient knowledge or information to confirm or deny the
22 allegations in this paragraph.

- 1 239. Defendants lack sufficient knowledge or information to confirm or deny the
2 allegations in this paragraph.
- 3 240. Defendants deny that the Department’s treatment of public benefits is “highly
4 restrictive, complex, and vague.” Defendants lack sufficient knowledge or
5 information to confirm or deny the remaining allegations in this paragraph.
- 6 241. Defendants lack sufficient knowledge or information to confirm or deny the
7 allegations in this paragraph.
- 8 242. Defendants lack sufficient knowledge or information to confirm or deny the
9 allegations in this paragraph.
- 10 243. Defendants lack sufficient knowledge or information to confirm or deny the
11 allegations in this paragraph.
- 12 244. Defendants lack sufficient knowledge or information to confirm or deny the
13 allegations in this paragraph.
- 14 245. Defendants lack sufficient knowledge or information to confirm or deny the
15 allegations in this paragraph.
- 16 246. Defendants lack sufficient knowledge or information to confirm or deny the
17 allegations in this paragraph.
- 18 247. Defendants lack sufficient knowledge or information to confirm or deny the
19 allegations in this paragraph.
- 20 248. Defendants lack sufficient knowledge or information to confirm or deny the
21 allegations in this paragraph. Defendants deny that the Final Rule will irreparably
22 harm the Plaintiff States.

1 249. This paragraph purports to describe a statutory provision, which speaks for itself.

2 250. This paragraph purports to describe a statutory provision, which speaks for itself.

3 251. This paragraph purports to describe a statutory provision, which speaks for itself.

4 252. Defendants lack sufficient knowledge or information to confirm or deny these
5 allegations.

6 253. This paragraph purports to describe a statutory provision, which speaks for itself.
7 Defendants lack sufficient knowledge or information to confirm or deny the
8 remaining allegations in this paragraph.

9 254. This paragraph purports to describe a statutory provision, which speaks for itself.

10 255. This paragraph purports to describe a statutory provision, which speaks for itself.

11 256. Defendants admit that state-only nutrition benefits do not constitute “public
12 benefits” under the Department’s public charge test. Defendants lack sufficient
13 knowledge or information to confirm or deny these allegations.

14 257. Defendants deny that implementing the Final Rule will cause irreparable harm to
15 the Plaintiff States. Defendants lack sufficient knowledge or information to
16 confirm or deny the remaining allegations in this paragraph.

17 258. Defendants lack sufficient knowledge or information to confirm or deny these
18 allegations.

19 259. Defendants lack sufficient knowledge or information to confirm or deny these
20 allegations.

21 260. Defendants deny that implementing the Final Rule will cause irreparable harm to
22 the Plaintiff States. Defendants lack sufficient knowledge or information to

1 confirm or deny the remaining allegations in this paragraph.

2 261. Defendants admit that the Final Rule considers SNAP-related benefits as “public
3 benefits” under the public charge test. Defendants lack sufficient knowledge or
4 information to confirm or deny the remaining allegations in this paragraph.

5 262. Defendants lack sufficient knowledge or information to confirm or deny these
6 allegations.

7 263. Defendants lack sufficient knowledge or information to confirm or deny these
8 allegations.

9 264. Defendants lack sufficient knowledge or information to confirm or deny these
10 allegations.

11 265. Defendants lack sufficient knowledge or information to confirm or deny these
12 allegations.

13 266. Defendants lack sufficient knowledge or information to confirm or deny these
14 allegations.

15 267. Defendants lack sufficient knowledge or information to confirm or deny these
16 allegations.

17 268. Defendants lack sufficient knowledge or information to confirm or deny these
18 allegations.

19 269. Defendants lack sufficient knowledge or information to confirm or deny these
20 allegations.

21 270. Defendants deny that the Plaintiff States’ food assistance programs will necessarily
22 be irreparably harmed by the Rule. Defendants lack sufficient knowledge or

1 information to confirm or deny the remaining allegations in this paragraph.

2 271. Defendants lack sufficient knowledge or information to confirm or deny these
3 allegations.

4 272. Defendants lack sufficient knowledge or information to confirm or deny these
5 allegations.

6 273. Defendants lack sufficient knowledge or information to confirm or deny these
7 allegations.

8 274. Defendants lack sufficient knowledge or information to confirm or deny these
9 allegations.

10 275. Defendants lack sufficient knowledge or information to confirm or deny these
11 allegations.

12 276. Defendants lack sufficient knowledge or information to confirm or deny these
13 allegations.

14 277. Defendants lack sufficient knowledge or information to confirm or deny these
15 allegations.

16 278. Defendants admit that the Special Supplemental Nutrition Program for Women,
17 Infants, and Children is not a “public benefit” under the Rule. Defendants lack
18 sufficient knowledge or information to confirm or deny the remaining allegations
19 in this paragraph.

20 279. Defendants lack sufficient knowledge or information to confirm or deny these
21 allegations.

22 280. Defendants lack sufficient knowledge or information to confirm or deny these

1 allegations.

2 281. Defendants lack sufficient knowledge or information to confirm or deny these
3 allegations.

4 282. Defendants lack sufficient knowledge or information to confirm or deny these
5 allegations.

6 283. Defendants lack sufficient knowledge or information to confirm or deny these
7 allegations.

8 284. Defendants admit that the Final Rule does not expressly consider receipt of free or
9 reduced price school meals as a “public benefit” under the public charge test.
10 Defendants lack sufficient knowledge or information to confirm or deny the
11 remaining allegations in this paragraph.

12 285. Defendants lack sufficient knowledge or information to confirm or deny these
13 allegations.

14 286. Defendants lack sufficient knowledge or information to confirm or deny the
15 allegations in this paragraph. This paragraph purports to quote from or describe
16 the Final Rule, which speaks for itself.

17 287. Defendants deny that the Final Rule will irreparably harm the Plaintiff States.
18 Defendants lack sufficient knowledge or information to confirm or deny the
19 remaining allegations in this paragraph.

20 288. Defendants lack sufficient knowledge or information to confirm or deny the
21 allegations in this paragraph.

22 289. The first sentence in this paragraph purports to describe a statutory provision,

1 which speaks for itself. Defendants lack sufficient knowledge or information to
2 confirm or deny the remaining allegations in this paragraph.

3 290. This paragraph purports to describe a statutory provision, which speaks for itself.

4 291. The first sentence in this paragraph purports to describe a statutory provision,
5 which speaks for itself. Defendants lack sufficient knowledge or information to
6 confirm or deny the remaining allegations in this paragraph.

7 292. Defendants lack sufficient knowledge or information to confirm or deny the
8 allegations in this paragraph.

9 293. This paragraph purports to quote from or describe statutory provisions, which
10 speak for themselves.

11 294. This paragraph purports to describe the Final Rule, which speaks for itself.

12 295. Defendants lack sufficient knowledge or information to confirm or deny the
13 allegations in this paragraph.

14 296. Defendants deny that the Final Rule will necessarily irreparably harm the
15 functioning of the Plaintiff States' programs. Defendants lack sufficient
16 knowledge or information to confirm the remaining allegations in this paragraph.

17 297. Defendants admit that the Department does not consider receipt of state-only
18 housing assistance as a "public benefit." Defendants lack sufficient knowledge or
19 information to confirm or deny the allegations in this paragraph.

20 298. Defendants lack sufficient knowledge or information to confirm or deny the
21 allegations in this paragraph.

22 299. Defendants lack sufficient knowledge or information to confirm or deny the

1 allegations in this paragraph.

2 300. Defendants lack sufficient knowledge or information to confirm or deny the
3 allegations in this paragraph.

4 301. Defendants lack sufficient knowledge or information to confirm or deny the
5 allegations in this paragraph.

6 302. Defendants lack sufficient knowledge or information to confirm or deny the
7 allegations in this paragraph.

8 303. Defendants lack sufficient knowledge or information to confirm or deny the
9 allegations in this paragraph.

10 304. Defendants lack sufficient knowledge or information to confirm or deny the
11 allegations in this paragraph.

12 305. Defendants lack sufficient knowledge or information to confirm or deny the
13 allegations in this paragraph.

14 306. Defendants admit that the Rule does not treat state housing assistance programs as
15 “public benefits.” Defendants lack sufficient knowledge or information to confirm
16 or deny the allegations in this paragraph.

17 307. Defendants deny that the Rule will cause irreparable harm to the Plaintiff States.
18 Defendants lack sufficient information to confirm or deny the remaining
19 allegations in this paragraph.

20 308. Defendants lack sufficient knowledge or information to confirm or deny the
21 allegations in this paragraph.

22 309. Defendants lack sufficient knowledge or information to confirm or deny the

1 allegations in this paragraph.

2 310. The first sentence in this paragraph purports to describe the Final Rule, which
3 speaks for itself. Defendants lack sufficient knowledge or information to confirm
4 or deny the remaining allegations in this paragraph.

5 311. Defendants lack sufficient knowledge or information to confirm or deny the
6 allegations in this paragraph.

7 312. Defendants lack sufficient knowledge or information to confirm or deny the
8 allegations in this paragraph.

9 313. Defendants lack sufficient knowledge or information to confirm or deny the
10 allegations in this paragraph.

11 314. Defendants lack sufficient knowledge or information to confirm or deny the
12 allegations in this paragraph.

13 315. Defendants lack sufficient knowledge or information to confirm or deny the
14 allegations in this paragraph.

15 316. Defendants lack sufficient knowledge or information to confirm or deny the
16 allegations in this paragraph.

17 317. Defendants lack sufficient knowledge or information to confirm or deny the
18 allegations in this paragraph.

19 318. Defendants lack sufficient knowledge or information to confirm or deny the
20 allegations in this paragraph.

21 319. Defendants lack sufficient knowledge or information to confirm or deny the
22 allegations in this paragraph.

- 1 320. Defendants lack sufficient knowledge or information to confirm or deny the
2 allegations in this paragraph.
- 3 321. Defendants lack sufficient knowledge or information to confirm or deny the
4 allegations in this paragraph.
- 5 322. Defendants lack sufficient knowledge or information to confirm or deny the
6 allegations in this paragraph.
- 7 323. Defendants lack sufficient knowledge or information to confirm or deny the
8 allegations in this paragraph.
- 9 324. Defendants lack sufficient knowledge or information to confirm or deny the
10 allegations in this paragraph.
- 11 325. Defendants lack sufficient knowledge or information to confirm or deny the
12 allegations in this paragraph.
- 13 326. Defendants lack sufficient knowledge or information to confirm or deny the
14 allegations in this paragraph.
- 15 327. This paragraph purports to describe a statutory provision, which speaks for itself.
- 16 328. This paragraph purports to describe a statutory provision, which speaks for itself.
- 17 329. This paragraph purports to describe a statutory provision, which speaks for itself.
- 18 330. This paragraph purports to describe a statutory provision, which speaks for itself.
- 19 331. This paragraph purports to describe a statutory provision, which speaks for itself.
- 20 332. This paragraph purports to describe a statutory provision, which speaks for itself.
- 21 333. This paragraph purports to describe a statutory provision, which speaks for itself.
- 22 334. This paragraph purports to describe the Final Rule, which speaks for itself.

- 1 335. This paragraph purports to describe and quote from the Final Rule, which speaks
2 for itself. Defendants lack sufficient knowledge or information to confirm or deny
3 the remaining allegations in this paragraph.
- 4 336. Defendants deny that implementing the Final Rule will cause irreparable harm to
5 Plaintiff States. Defendants lack sufficient knowledge or information to confirm
6 or deny the remaining allegations in this paragraph.
- 7 337. Defendants lack sufficient knowledge or information to confirm or deny the
8 allegations in this paragraph.
- 9 338. This paragraph purports to quote from or describe the Final Rule, which speaks for
10 itself. Defendants lack sufficient knowledge or information to confirm or deny the
11 remaining allegations in this paragraph.
- 12 339. Defendants lack sufficient knowledge or information to confirm or deny the
13 allegations in this paragraph.
- 14 340. Defendants lack sufficient knowledge or information to confirm or deny the
15 allegations in this paragraph.
- 16 341. Defendants lack sufficient knowledge or information to confirm or deny the
17 allegations in this paragraph.
- 18 342. Defendants lack sufficient knowledge or information to confirm or deny the
19 allegations in this paragraph.
- 20 343. Defendants lack sufficient knowledge or information to confirm or deny the
21 allegations in this paragraph.
- 22 344. Defendants lack sufficient knowledge or information to confirm or deny the

1 allegations in this paragraph.

2 345. Defendants lack sufficient knowledge or information to confirm or deny the
3 allegations in this paragraph.

4 346. Defendants lack sufficient knowledge or information to confirm or deny the
5 allegations in this paragraph.

6 347. Defendants lack sufficient knowledge or information to confirm or deny the
7 allegations in this paragraph.

8 348. Defendants lack sufficient knowledge or information to confirm or deny the
9 allegations in this paragraph.

10 349. Defendants lack sufficient knowledge or information to confirm or deny the
11 allegations in this paragraph.

12 350. Defendants lack sufficient knowledge or information to confirm or deny the
13 allegations in this paragraph.

14 351. Defendants lack sufficient knowledge or information to confirm or deny the
15 allegations in this paragraph.

16 352. Defendants lack sufficient knowledge or information to confirm or deny the
17 allegations in this paragraph.

18 353. Defendants lack sufficient knowledge or information to confirm or deny the
19 allegations in this paragraph.

20 354. This paragraph contains legal conclusions, to which no response is necessary. To
21 the extent a response is required, Defendants lack sufficient knowledge or
22 information to confirm or deny the allegations in this paragraph.

- 1 355. Defendants deny that the Final Rule will cause irreparable harm to the Plaintiff
2 States and their cash assistance programs. Defendants lack sufficient knowledge
3 or information to confirm or deny the remaining allegations in this paragraph.
- 4 356. Defendants deny that the Final Rule will cause irreparable harm to the Plaintiff
5 States and their cash assistance programs. Defendants lack sufficient knowledge
6 or information to confirm or deny the remaining allegations in this paragraph.
- 7 357. Defendants lack sufficient knowledge or information to confirm or deny the
8 allegations in this paragraph.
- 9 358. Defendants deny that the Final Rule will cause irreparable harm to the Plaintiff
10 States and their cash assistance programs. Defendants lack sufficient knowledge
11 or information to confirm or deny the remaining allegations in this paragraph.
- 12 359. Defendants lack sufficient knowledge or information to confirm or deny the
13 allegations in this paragraph.
- 14 360. Defendants deny that the Final Rule will cause irreparable harm to the Plaintiff
15 States and their cash assistance programs. Defendants lack sufficient knowledge
16 or information to confirm or deny the remaining allegations in this paragraph.
- 17 361. Defendants lack sufficient knowledge or information to confirm or deny the
18 allegations in this paragraph.
- 19 362. Defendants deny that the Final Rule will cause irreparable harm to the Plaintiff
20 States and their cash assistance programs. Defendants lack sufficient knowledge
21 or information to confirm or deny the remaining allegations in this paragraph.
- 22 363. Defendants lack sufficient knowledge or information to confirm or deny the

1 allegations in this paragraph.

2 364. Defendants lack sufficient knowledge or information to confirm or deny the
3 allegations in this paragraph.

4 365. Defendants lack sufficient knowledge or information to confirm or deny the
5 allegations in this paragraph.

6 366. Defendants lack sufficient knowledge or information to confirm or deny the
7 allegations in this paragraph.

8 367. Defendants lack sufficient knowledge or information to confirm or deny the
9 allegations in this paragraph.

10 368. Defendants lack sufficient knowledge or information to confirm or deny the
11 allegations in this paragraph.

12 369. Defendants lack sufficient knowledge or information to confirm or deny the
13 allegations in this paragraph.

14 370. Defendants lack sufficient knowledge or information to confirm or deny the
15 allegations in this paragraph.

16 371. Defendants lack sufficient knowledge or information to confirm or deny the
17 allegations in this paragraph.

18 372. Defendants lack sufficient knowledge or information to confirm or deny the
19 allegations in this paragraph.

20 373. Defendants lack sufficient knowledge or information to confirm or deny the
21 allegations in this paragraph.

22 374. Defendants lack sufficient knowledge or information to confirm or deny the

1 allegations in this paragraph.

2 375. Defendants lack sufficient knowledge or information to confirm or deny the
3 allegations in this paragraph.

4 376. Defendants lack sufficient knowledge or information to confirm or deny the
5 allegations in this paragraph.

6 377. Defendants lack sufficient knowledge or information to confirm or deny the
7 allegations in this paragraph.

8 378. Defendants lack sufficient knowledge or information to confirm or deny the
9 allegations in this paragraph.

10 379. Defendants lack sufficient knowledge or information to confirm or deny the
11 allegations in this paragraph.

12 380. Defendants lack sufficient knowledge or information to confirm or deny the
13 allegations in this paragraph.

14 381. Defendants lack sufficient knowledge or information to confirm or deny the
15 allegations in this paragraph.

16 382. Defendants lack sufficient knowledge or information to confirm or deny the
17 allegations in this paragraph.

18 383. Defendants lack sufficient knowledge or information to confirm or deny the
19 allegations in this paragraph.

20 384. Defendants lack sufficient knowledge or information to confirm or deny the
21 allegations in this paragraph.

22 385. Defendants lack sufficient knowledge or information to confirm or deny the

1 allegations in this paragraph.

2 386. Defendants lack sufficient knowledge or information to confirm or deny the
3 allegations in this paragraph.

4 387. Defendants lack sufficient knowledge or information to confirm or deny the
5 allegations in this paragraph.

6 388. Defendants lack sufficient knowledge or information to confirm or deny the
7 allegations in this paragraph.

8 389. Defendants lack sufficient knowledge or information to confirm or deny the
9 allegations in this paragraph.

10 390. Defendants lack sufficient knowledge or information to confirm or deny the
11 allegations in this paragraph.

12 391. Defendants lack sufficient knowledge or information to confirm or deny the
13 allegations in this paragraph.

14 392. Defendants lack sufficient knowledge or information to confirm or deny the
15 allegations in this paragraph.

16 393. Defendants lack sufficient knowledge or information to confirm or deny the
17 allegations in this paragraph.

18 394. Defendants lack sufficient knowledge or information to confirm or deny the
19 allegations in this paragraph.

20 395. Defendants lack sufficient knowledge or information to confirm or deny the
21 allegations in this paragraph.

22 396. Defendants lack sufficient knowledge or information to confirm or deny the

1 allegations in this paragraph.

2 397. This paragraph purports to quote from or describe statutory provisions, which
3 speak for themselves.

4 398. The allegations in this paragraph consist of legal conclusions, to which no response
5 is required. To the extent a response is required, Defendants deny that the Final
6 Rule eviscerates Congress's intent in establishing the 125% of FPG threshold for
7 an affidavit of support. Defendants deny that the Department provides no rational
8 reason for allegedly disregarding the statutory 125% FPG threshold and adopting
9 the significantly higher 250% threshold instead. Defendants deny that the
10 Department is attempting to rewrite the INA by regulation. The remaining
11 allegations in this paragraph purport to quote from or describe the Final Rule,
12 which speaks for itself.

13 399. This paragraph purports to describe or quote from a public comment submitted in
14 response to the Rule's preceding notice of proposed rulemaking, which speaks for
15 itself. Defendants lack sufficient knowledge or information to confirm or deny the
16 remaining allegations in this paragraph.

17 400. Defendants lack sufficient knowledge or information to confirm or deny the
18 allegations in this paragraph.

19 401. Defendants lack sufficient knowledge or information to confirm or deny the
20 allegations in this paragraph.

21 402. Defendants lack sufficient knowledge or information to confirm or deny the
22 allegations in this paragraph.

1 403. Defendants lack sufficient knowledge or information to confirm or deny the
2 allegations in this paragraph

3 404. Defendants lack sufficient knowledge or information to confirm or deny the
4 allegations in this paragraph

5 405. Defendants lack sufficient knowledge or information to confirm or deny the
6 allegations in this paragraph

7 406. Defendants deny that the Final Rule selects for wealthy immigrants and punishes
8 the working class. Defendants deny that the Final Rule implements a policy of
9 preferring white immigrants. Defendants lack sufficient knowledge or information
10 to confirm or deny the remaining allegations in this paragraph or accompanying
11 Footnote 246.

12 407. Defendants deny that the 250% FPG income threshold is arbitrarily high. This
13 paragraph purports to quote from and describe public comments submitted in
14 response to the Rule's preceding notice of proposed rulemaking. Defendants lack
15 sufficient knowledge or information to confirm or deny the remaining allegations
16 in this paragraph.

17 408. Defendants lack sufficient knowledge or information to confirm or deny the
18 allegations in this paragraph.

19 409. Defendants lack sufficient knowledge or information to confirm or deny the
20 allegations in this paragraph.

21 410. Defendants lack sufficient knowledge or information to confirm or deny the
22 allegations in this paragraph.

1 411. Denied.

2 412. This paragraph purports to describe a statutory provision, which speaks for itself.

3 413. This paragraph purports to describe the Final Rule, which speaks for itself. To the
4 extent this paragraph implies that the Rule discriminates against individuals with
5 disabilities, Defendants deny that allegation. Defendants lack sufficient
6 knowledge or information to confirm or deny the remaining allegations in this
7 paragraph.

8 414. Defendants lack sufficient knowledge to confirm or deny whether these elements
9 of the Rule will have a disproportionate impact on individuals with disabilities.

10 415. This paragraph repeats and realleges the foregoing allegations. Defendants repeat
11 and incorporate by reference the response to each of the foregoing allegations in
12 this Answer.

13 416. This paragraph quotes from a federal statute, which speaks for itself. This
14 paragraph consists of a legal conclusion, to which no response is required.

15 417. To the extent this paragraph implies that the term “public charge” had an accepted,
16 pre-existing definition, that is a legal conclusion to which no response is required.
17 To the extent a response is required, Defendants deny this allegation. Defendants
18 deny that Congress used the term “public charge” in the INA consistent with any
19 putative original public meaning which includes determining whether an
20 immigrant is likely to become “primarily dependent” on the government for
21 subsistence. Defendants deny that the Final Rule unmoors the term “public
22 charge” from any original public meaning and departs from the unambiguously

1 expressed intent of Congress in numerous statutes. The remaining allegations in
2 this paragraph consist of legal conclusions to which no response is required. To
3 the extent a response is required, Defendants deny that the Final Rule is contrary
4 to the listed statutes.

5 418. This paragraph consists of legal conclusions to which no response is required. To
6 the extent a response is required, Defendants deny that the Final Rule is contrary
7 to the listed statutory provision.

8 419. This paragraph repeats and realleges the foregoing allegations. Defendants repeat
9 and incorporate by reference the response to each of the foregoing allegations in
10 this Answer.

11 420. This paragraph quotes from a federal statute, which speaks for itself. This
12 paragraph consists of a legal conclusion to which no response is required.

13 421. This paragraph purports to quote from and describe the Final Rule, which speaks
14 for itself. Defendants deny that the Final Rule expands the public charge
15 inadmissibility ground to reach applicants to extension of stay and change of status.
16 The remainder of this paragraph consists of legal conclusions to which no response
17 is required.

18 422. This paragraph consists of legal conclusions to which no response is required. To
19 the extent a response is required, Defendants deny that DHS's actions are ultra
20 vires or unlawful.

21 423. This paragraph repeats and realleges the foregoing allegations. Defendants repeat
22 and incorporate by reference the response to each of the foregoing allegations in

1 this Answer.

2 424. This paragraph purports to quote from a statutory provision, which speaks for
3 itself. This paragraph consists of a legal conclusion to which no response is
4 required.

5 425. This paragraph consists of legal conclusions to which no response is required.

6 426. This paragraph consists of legal conclusions to which no response is required.

7 427. To the extent this paragraph implies the existence of an accepted, pre-existing
8 definition of the term “public charge,” that allegation is a legal conclusion, to
9 which no response is required. To the extent a response is required, Defendants
10 deny that allegation. Defendants deny that the selection of 12 months within a 36-
11 month period as the duration of time at which receipt of public benefits constitutes
12 a heavily weighted negative in public charge determinations was arbitrary.
13 Defendants deny that discriminatory animus on the basis of race, ethnicity, or
14 national origin was a motivating factor in the Rule’s adoption. Defendants deny
15 that the explanations given for the Rule were pretextual or that they do not match
16 the evidence as a whole. Defendants deny that the factor-weighting framework is
17 vague or irrational. Defendants deny that the Department failed to consider,
18 account for, or respond to the significant public comments regarding the Rule.
19 Defendants deny that the Department failed to accurately assess or acknowledge
20 the allegedly substantial costs of the Rule. Defendants deny that the Department
21 failed to engage in proper analysis of its obligations under Executive Order 13,132
22 or failed to provide meaningful analysis of the federalism impacts as required by

1 Executive Order 13,132. Defendants deny that the Department overestimated the
2 purported benefits of the Rule. The remainder of the allegations in this paragraph
3 consist of legal conclusions to which no response is required. The extent a
4 response is required, Defendants deny the remaining allegations in this paragraph.

5 428. This paragraph repeats and realleges the foregoing allegations. Defendants repeat
6 and incorporate by reference the response to each of the foregoing allegations in
7 this Answer.

8 429. This paragraph consists of legal conclusions, to which no response is required.

9 430. Denied.

10 431. Defendants deny the allegations in the first sentence of this paragraph. Defendants
11 lack sufficient knowledge or information to confirm or deny the remaining
12 allegations in this paragraph.

13 432. Denied.

14 433. Defendants deny that discrimination on the basis of race, ethnicity, or national
15 origin was a motivating factor in the Rule's adoption. The remainder of this
16 paragraph consists of a legal conclusion to which no response is required.

17 To the extent Defendants have not specifically referenced and addressed any other
18 allegations in the Complaint, including allegations in footnotes, Defendants deny those
19 allegations.

20 The remainder of the Complaint consists of a prayer for relief, to which no response
21 is required. To the extent a response is required, Defendants to deny that Plaintiffs are
22 entitled to the relief requested or any relief at all.

Defenses

- 1. Plaintiffs are not the proper plaintiffs for their claims, since, among other things, they do not fall within the zone-of-interests of the relevant legal provisions and lack standing.
- 2. Plaintiffs have failed to state a claim for which relief can be granted.
- 3. Defendants’ actions or inactions do not contravene the Immigration or Nationality Act, or any other Act of Congress.
- 4. Defendants’ actions or inactions are not ultra vires.
- 5. Defendants’ actions or inactions are not arbitrary and capricious or contrary to law under the Administrative Procedure Act.
- 6. Defendants’ actions or inactions do not violate the equal protection component of the Fifth Amendment’s Due Process Clause.

Defendants respectfully reserve the right to plead any and all other defenses that defendants determine are or may be applicable. Defendants respectfully reserve the right to file an amended answer, if necessary.

Dated: November 27, 2020

Respectfully submitted,

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11 *Attorneys for Defendants*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on November 27, 2020, I electronically filed the foregoing
3 with the Clerk of the Court using the CM/ECF system, which will send notification of
4 such filing to all users receiving ECF notices for this case.

5 /s/ Alexandra R. Saslaw
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11 *Attorney for Defendants*
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