

individual's history of having received special education. In all cases, we determine facts on an individual basis. Therefore, to assign an individual to an education category lower or higher than his or her highest level of formal education, there must be specific evidence supporting the finding in the determination or decision.

When determining the appropriate education category, we will not consider whether an individual attained his or her education in another country or whether the individual lacks English language proficiency. Neither the country in which an individual was educated nor the language an individual speaks informs us about whether the individual's reasoning, arithmetic, and language abilities are commensurate with his or her formal education level.¹²

Generally, when determining the appropriate education category, we will use the information an individual provides. We may request relevant records, such as school or government records, to verify the reported level of formal education and educational abilities.

II. Category of Illiteracy

A. Generally

We consider an individual illiterate if he or she cannot read or write a simple message, such as instructions or inventory lists, even though the individual can sign his or her name.¹³ We will assign an individual to the illiteracy category only if the individual is unable to read or write a simple message in any language.

B. Formal Education and the Ability To Read and Write a Simple Message

Generally, an individual's educational level is a reliable indicator of the individual's ability to read and write a simple message. A strong correlation exists between formal education and literacy, which under our rules means an ability to read and write a simple message. Most individuals learn to read and write at least a simple message by the time they complete fourth grade, regardless of whether the schooling occurred in the United States or in another country.¹⁴ We will therefore use

¹² Specific to language abilities, if there is a question as to whether an individual's actual language abilities are higher or lower than his or her formal education level, we use the language in which the individual most effectively communicates. For most individuals, this language is the language that they use in most situations, including at home, work, school, and in the community.

¹³ See 20 CFR 404.1564(b)(1) and 416.964(b)(1).

¹⁴ Typically, fourth grade is when students transition from a focus on learning to read to a focus

an individual's formal education level as the starting point to determine whether the individual is illiterate.

If evidence suggests an individual may be illiterate, we will determine whether the illiteracy category is appropriate as follows:

i. Individuals Who Completed at Least a Fourth Grade Education

Most individuals who have completed at least fourth grade can read and write a simple message. We will generally find that an individual who completed fourth grade or more is able to read and write a simple message and is therefore not illiterate.

We may still find, however, that an individual with at least a fourth grade education is illiterate if the individual provides evidence showing that despite having completed fourth grade or more, he or she cannot, in fact, read or write a simple message in any language. Examples of relevant evidence may include whether an individual:

- Has received long-term special education related to difficulty learning to read or write at a basic level;
- lacks work history due to an inability to read or write;
- has valid intelligence test results demonstrating an inability to read or write a simple message;
- has valid reading and writing test results demonstrating an inability to read or write a simple message; and
- has any other evidence demonstrating an inability to read or write a simple message.

We will assign an individual who completed fourth grade education or more to the illiteracy category only if the evidence supports the finding that

on reading to learn. See *Reading Achievement of U.S. Fourth-Grade Students in an International Context*, <https://nces.ed.gov/pubs2018/2018017.pdf>, p.1. The rate of literacy (defined as an ability to understand, read, and write a short, simple statement on everyday life) increased from 33.4% with one year of primary schooling to 95.3% with four years of primary schooling. *How Was Life?: Global Well-being since 1820*, OECD Publishing, Juan Luitan van Zanden., et al. (eds.) (2014), p. 91, available at https://read.oecd-ilibrary.org/economics/how-was-life_9789264214262-en#page93. The Common Core reading and writing standards for primary schools demonstrate that an individual who completed fourth grade education should be able to read and write a simple message. http://www.corestandards.org/assets/CCSSL_ELA%20Standards.pdf, pp.10–33. Finally, the Progress in International Reading Literacy Study, an international assessment of student performance in reading at the fourth grade, shows that the majority of countries that participated in the study were able to educate nearly all their students to a basic level of reading achievement. See <http://timssandpirls.bc.edu/pirls2016/international-results/pirls/performance-at-international-benchmarks/> and <https://nces.ed.gov/pubs2018/2018017.pdf>, pp. 4, 9–10.

despite having completed fourth grade education or more, the individual is unable to read or write a simple message in any language. We will not rely on test results alone to determine that illiteracy is the appropriate education category for an individual.

ii. Individuals Who Completed Less Than a Fourth Grade Education

Formal education is not the only way individuals learn to read and write; therefore, we do not make any general finding that illiteracy is the appropriate category for individuals who have not completed a fourth grade education. The mere fact that an individual has little or no formal education does not mean that the individual is unable to read or write. Therefore, we will consider all relevant evidence in the claim to determine whether illiteracy is the appropriate education category. Examples of relevant evidence may include whether an individual:

- Has worked in the past and the responsibilities he or she had when working;
- can read, write, and understand short and simple statements in everyday life, such as shopping lists, short notes, and simple directions;
- can read newspapers or books;
- can read and write simple emails or text messages;
- had any vocational training or certification requiring reading and writing;
- has or ever had a driver's license that required passing a written test; and
- has any other evidence demonstrating an inability to read or write a simple message.

We will assign an individual to the illiteracy category only if the evidence supports a finding that the individual is unable to read or write a simple message in any language. We will not, however, rely on test results alone to determine that illiteracy is the appropriate education category for an individual.

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DEPARTMENT OF STATE

[Public Notice 11064]

Notice of OMB Emergency Approval of Information Collection: Public Charge Questionnaire

ACTION: Notice of OMB emergency approval of information collection.

SUMMARY: The Office of Management and Budget (“OMB”) approved the Department of State’s (“Department”)

submission of an information collection described below, the DS-5540, Public Charge Questionnaire (“DS-5540”), following the Department’s request for emergency processing.

DATES: OMB approved the Department’s request on February 20, 2020. This procedure was conducted in accordance with 5 CFR 1320.1.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice to Taylor Beaumont, Acting Chief, Legislation and Regulations Division, Visa Services, Bureau of Consular Affairs, Department of State, 600 19th St. NW, Washington, DC 20006, (202) 485-8910, PRA_BurdenComments@state.gov.

SUPPLEMENTARY INFORMATION: The Department published a “Notice of Intent to Request Emergency Processing of Information Collection: Public Charge Questionnaire” (“DS-5540”), notifying the public of the Department’s intent to seek emergency processing of the DS-5540 on February 12, 2020. 85 FR 8087. Consistent with the Paperwork Reduction Act of 1995 (“PRA”), and OMB procedures, the Department requested approval after emergency processing of the DS-5540. On October 24, 2019, the Department had published a Notice of Request for Public Comment for the DS-5540, initiating a 60-day period for the public to submit comments on the information collection 84 FR 5712. The 60-day comment period ended on December 23, 2019, and the Department received 92 comments. On February 12, in the Supporting Statement for the Department’s request for OMB emergency processing and approval of the DS-5540, the Department responded to public comments received during the 60-day comment period, as well as comments received pursuant to the emergency notice for the separate DS-5541, Immigrant Health Insurance Coverage (“DS-5541”) (84 FR 58199) that are pertinent to the DS-5540. The health insurance-related questions in the DS-5540 are relevant for making a public charge assessment, so the Department is responding to public comments to the DS-5541 even though the implementation of Presidential Proclamation 9945, whose implementation would have necessitated use of the DS-5541, is currently enjoined by federal court order. The Department plans to complete the ongoing PRA process for three-year approval of the DS-5540 since approval based on emergency processing under the PRA is only

granted for a maximum of 180 days, until August 31, 2020.

- *Title of Information Collection:* Public Charge Questionnaire.
- *OMB Control Number:* 1405-0234.
- *Type of Request:* Emergency Processing.
- *Originating Office:* Bureau of Consular Affairs, Visa Office (CA/VO).
- *Form Number:* DS-5540.
- *Respondents:* Immigrant visa applicants, including diversity visa applicants, with exceptions, and certain nonimmigrant visa applicants.
- *Estimated Number of Respondents:* 397,814.
- *Estimated Number of Responses:* 397,814.
- *Average Time per Response:* 4.5 hours.
- *Total Estimated Burden Time:* 1,790,163 hours.
- *Frequency:* Once per respondent application.
- *Obligation to respond:* Required to Obtain or Retain a Benefit.

1. Abstract of Proposed Collection

Aliens who seek a visa, application for admission, or adjustment of status must establish that they are not likely at any time after admission to become a public charge, unless Congress has expressly exempted them from this ground of ineligibility or if the alien obtained a waiver. Consular officers will use the completed forms to assess whether an alien is more likely than not to become a public charge, and is thus ineligible for a visa under section 212(a)(4)(A) of the Immigration and Nationality Act (“INA”), 8 U.S.C. 1182(a)(4), and 22 CFR 40.41. This collection is consistent with the burden of proof on aliens under section 291 of the INA, 8 U.S.C. 1361, to establish that they are eligible to receive a visa, including that they are not inadmissible under any provision of the INA. This information collection is consistent with the statutory requirement in section 212(a)(4)(B), 8 U.S.C. 1182(a)(4)(B), and regulatory requirement in 22 CFR 40.41, that consular officers must consider an alien’s age; health; family status; assets, resources, and financial status; and education and skills in determining whether a visa applicant is more likely than not to become a public charge.

The DS-5540 collects information relating to the visa applicant’s age; health; family status; assets, resources, and financial status; and education and skills. The DS-5540 will require visa applicants to provide information on whether they have received certain specified public benefits from a U.S. federal, state, territorial, or local government entity.

Sponsors of immigrant visa applicants must currently provide information regarding their ability to financially support the sponsored visa applicant on DHS Form I-864, Affidavit of Support, which consular officers consider in evaluating whether a visa applicant is likely to become a public charge, but which alone is not a sufficient basis to evaluate public charge. The I-864 may have some information about a visa applicant’s assets, although the primary respondent is the sponsor, not the sponsored visa applicant. The DS-5540 will be used to collect information to assess whether the visa applicant is more likely than not to become a public charge, based on the totality of the circumstances, as set forth in 22 CFR 40.41.

Applicants for an immigrant visa, including a diversity visa, will be required to complete the DS-5540, except for those individuals who are exempt from the public charge ground of inadmissibility. The exempted categories of individuals will be specified in the DS-5540 instructions, including but not limited to visa applicants seeking immigrant visas based on qualified service to the U.S. government as an interpreter in Afghanistan or Iraq, visas based on a self-petition under the Violence Against Women Act, and visas for special immigrant juveniles. Additionally, a consular officer may, in his or her discretion, require a nonimmigrant visa applicant to complete some or all of the DS-5540. A nonimmigrant visa applicant will be required to respond to one or more questions from the DS-5540, orally or in writing, if the consular officer is unable to determine from other applicant-provided documentation whether the visa applicant is more likely than not to become a public charge during his or her stay in the United States.

2. Ongoing PRA Process

On October 24, 2019, the Department published a notice in the **Federal Register** to announce that it was seeking OMB approval of the DS-5540, and invited public comment for a 60-day period. The 60-day comment period ended on December 23, 2019, and the Department received 92 comments. The Department’s responses to those comments are in the associated Supporting Statement. Because changed circumstances now require the Department to implement its interim final rule on the public charge ineligibility ground before it can complete the routine process for obtaining approval of an information collection under 5 CFR 1320.10, the

Department was granted emergency OMB approval pursuant to 5 CFR 1320.13 in order for the DS-5540 to be used by consular officers beginning 12:01 a.m. Eastern Standard Time February 24, 2020. It was not possible to complete 30 days of public comment before February 24, 2020. This information collection is intended to align the Department's standards with those of DHS, to avoid situations where a consular officer will evaluate a visa applicant's circumstances and conclude that the visa applicant is not likely at any time to become a public charge, only for a DHS officer to evaluate the same individual when he or she seeks admission to the United States on the visa and finds the individual inadmissible on public charge grounds under the same facts.

3. Methodology

The DS-5540 will be available online in fillable PDF format. Visa applicants will download the completed form and submit the completed DS-5540 to the consular officer, or to the Department with other documentation in advance of the interview.

Carl C. Risch,

Assistant Secretary.

[FR Doc. 2020-04737 Filed 3-6-20; 8:45 am]

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SURFACE TRANSPORTATION BOARD

[Docket No. AB 1296X]; [Docket No. AB 875 (Sub-No. 1X)]

R.J. Corman Railroad Property, LLC—Abandonment Exemption—in Scott, Campbell, and Anderson Counties, Tenn.; R.J. Corman Railroad Company/Bardstown Line—Discontinuance Exemption—in Scott, Campbell, and Anderson Counties, Tenn.

R.J. Corman Railroad Property, LLC (RJC Railroad Property) and R.J. Corman Railroad Company/Bardstown Line (RJCRL) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for RJC Railroad Property to abandon, and for RJCRL to discontinue service over, a railroad line extending from milepost 0.95 at or near Oneida, Tenn., to the end of the line at milepost 42.0 at or near Devonia, Tenn., a distance of approximately 41.05 miles in Scott, Campbell, and Anderson Counties, Tenn. (the Line). The Line traverses U.S. Postal Service Zip Codes 37841, 37755, 37847, 37756, 37714, and 37710.

Applicants have certified that: (1) No local traffic has moved over the Line for at least two years; (2) there is and can be no overhead traffic on the Line that would have to be rerouted over other lines, as the Line is stub-ended; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7 and 1105.8 (environmental and historic report), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment or discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,¹ these exemptions will be effective on April 8, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by March 19, 2020.³ Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 30, 2020, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicants'

representative, David R. Irvin, Irvin Rigsby PLC, 110 N. Main St., Nicholasville, KY 40356.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by March 13, 2020. The EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), RJC Rail Property shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by RJC Rail Property's filing of a notice of consummation by March 9, 2021, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at www.stb.gov.

Decided: March 4, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Kenyatta Clay,
Clearance Clerk.

[FR Doc. 2020-04736 Filed 3-6-20; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in New Hampshire

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other federal agencies.

SUMMARY: This notice announces actions taken by FHWA and other Federal agencies that are final. The actions

¹ Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.*, subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(2)(i).

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemptions' effective date. See *Exemption of Out-of-Serv. Rail Lines*, 5 I.C.C.2d 377 (1989). Any request to stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

³ Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.