Commission, 43 State Street, P.O. Box 1058, Montpelier, Vermont 05601, (802) 229–2028 (fax).

For more information contact the Compact Commission offices.

List of Subjects in 7 CFR Parts 1301, 1304 and 1306

Milk.

Codification in Code of Federal Regulations

For reasons set forth in the preamble, the Northeast Dairy Compact Commission proposes to amend 7 CFR Chapter XIII as follows:

PART 1301—DEFINITIONS

1. The authority citation for part 1301 continues to read as follows:

Authority: 7 U.S.C. 7256.

2. Section 1301.12 is revised to read as follows:

§ 1301.12 Producer milk.

Producer milk means milk that the handler has received from producers and is physically moved to a pool plant in the regulated area or is diverted pursuant to § 1301.23(c) . The quantity of milk received by a handler from producers shall include any milk of a producer that was not received at any plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month. Such milk shall be considered as having been received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month, except that in the case of a cooperative association in its capacity as a handler under § 1301.9(d), the milk shall be considered as having been received at a plant in the zone location of the pool plant, or pool plants within the same zone, to which the greatest aggregate quantity of the milk of the cooperative association in such capacity was moved during the current month or the most recent month.

3. In § 1301.23, paragraph (c) is revised to read as follows:

§ 1301.23 Diverted milk.

* * * * *

(c) Milk moved, as described in paragraphs (a) and (b) of this section, from dairy farmers' farms to partially regulated plants having Class I distribution in the regulated area in excess of 35 percent in the months of September through November and 45 percent in other months, of the total quantity of producer milk received (including diversions) by the handler during the month shall not be diverted milk. Such milk, and any other milk reported as diverted milk that fails to meet the requirements set forth in this section, shall be considered as having been moved directly from the dairy farmers' farms to the plant of physical receipt, and if that plant is a nonpool plant the milk shall be excluded from producer milk. Milk moved, as described in paragraph (a) and (b) of this section, from a dairy farmer's farm to a plant located outside of the regulated area, except a partially regulated plant having Class I disposition in the regulated area, that volume of milk shall be excluded from producer milk.

PART 1304—CLASSIFICATION OF MILK

1. The authority citation of part 1304 continues to read as follows:

Authority: 7 U.S.C. 7256.

2. Section 1304.2 is amended by adding paragraph (c) to read as follows:

§ 1304.2 Classification of transfers and diversions.

* * * * *

(c) Fluid milk products (not including bulk transfers of skimmed milk and condensed milk) transferred or diverted in bulk from a pool plant to a plant located outside of the regulated area, except a partially regulated plant having Class I disposition in the regulated area, that volume shall be excluded from producer milk. The milk excluded pursuant to this paragraph shall be prorated to all sources of milk received at this plant.

PART 1306—COMPACT OVER-ORDER PRODUCER PRICE

1. The authority for part 1306 continues to read as follows:

Authority: 7 U.S.C. 7256.

2. In § 1306.3 redesignate paragraphs (d) through (f) as paragraphs (e) through (g) and add new paragraph (d) to read as follows:

§ 1306.3 Computation of basic over-order producer price

* * * * *

(d) Beginning with the August 1998 pool, subtract from the total value computed pursuant to paragraph (a) of this section, an amount estimated by the Commission for the purpose of retaining a reserve for payment of obligations pursuant to § 1301.13(e) of this chapter. Surplus funds from this reserve shall be returned to the producer-settlement fund.

* * * * *

Dated: June 5, 1998.

Kenneth M. Becker,

Executive Director.

[FR Doc. 98–15547 Filed 6–10–98; 8:45 am]

BILLING CODE 1650–01–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 208

[INS Order No. 1865–97; AG Order No. 2164–98]

RIN 1115–AE93

Executive Office for Immigration Review; New Rules Regarding Procedures for Asylum and Withholding of Removal

AGENCY: Immigration and Naturalization Service; Executive Office for Immigration Review, Department of Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Department regulations that govern asylum and withholding of removal. The amendments focus on portions of the regulations that deal with cases where an applicant has established past persecution or where the applicant may be able to avoid persecution in his or her home country by relocating to another area of that country. In the current regulation, these portions set out restrictive guidelines about how the Attorney General's discretion should be exercised in cases where past persecution is established and about what kind of relevant evidence can be considered in determining whether an applicant has a well-founded fear of future persecution. This rule is intended to establish new guidelines about these issues. The rule continues to provide that, in cases where the applicant has established past persecution, the Attorney General may deny asylum in the exercise of discretion if it is established by a preponderance of the evidence that the applicant does not face a reasonable possibility of future persecution in the applicant's country of nationality or, if stateless, the applicant's country of last habitual residence. In this regard, however, the rule has been changed to make clear that the asylum officer or immigration judge may rely on any evidence relating to the likelihood of future persecution. The rule makes similar changes to regulations regarding withholding of deportation. The rule also identifies new factors that may be considered in the exercise of discretion in asylum cases where the alien has established past persecution but may not have a

well-founded fear of future persecution. The rule further provides that the asylum and withholding standards require a showing that a risk of harm exists throughout the country in question.

DATES: Written comments must be submitted on or before July 13, 1998.

ADDRESSES: Please submit written comments in triplicate to Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, N.W., Room 5307, Washington, D.C. 20536. To ensure proper handling, please reference INS No. 1865–97 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Christine Davidson, Senior Policy Analyst, Asylum Division, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Attn: ULLICO Bldg., 3rd Floor, (202) 305–2663; Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, (703) 305–0470.

SUPPLEMENTARY INFORMATION: Section 208 of the Immigration and Nationality Act (Act) provides that an alien may be granted asylum in the discretion of the Attorney General if the Attorney General determines that such alien is a refugee within the meaning of section 101(a)(42)(A) of the Act. Under this section, a refugee is defined as:

> [A]ny person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion * * *

Although this provision is based on the refugee definition found in the 1951 Convention Relating to the Status of Refugees (as modified by the 1967 Protocol Relating to the Status of Refugees), it differs slightly from the international definition by providing that a person may qualify as a refugee on the basis of past persecution alone, without having a well-founded fear of future persecution. Nevertheless, the fact that a person is a refugee does not automatically entitle the person to asylum. The Attorney General must determine whether the person warrants a grant of asylum in the exercise of discretion. *INS* v. *Cardoza-Fonseca*, 480 U.S. 421, 428 n.5 (1987); 8 CFR 208.14 (a) and (b).

Consistent with the statute, the current regulations provide that an applicant who establishes that he or she has suffered past persecution qualifies as a refugee. 8 CFR 208.13(b)(1). The regulations go on to describe how the Attorney General will exercise discretion with respect to a person who qualifies as a refugee on the basis of past persecution. The regulations first provide that such person shall be presumed to have a well-founded fear of future persecution unless a preponderance of the evidence establishes that, since the time of the persecution, conditions in the applicant's country of origin have changed to such an extent that the applicant no longer has a well-founded fear of persecution. 8 CFR 208.13(b)(1)(i). The regulations further provide that an applicant who has established past persecution, but does not have a well-founded fear of future persecution, will be denied asylum unless the applicant demonstrates compelling reasons for being unwilling to return to his or her country of origin arising out of the severity of the past persecution the applicant has suffered. 8 CFR 208.13(b)(1)(ii).

Since the promulgation of these regulations in 1990, important questions have arisen about the meaning of 8 CFR 208.13(b)(1)(i) and (ii). For example, some have questioned the relevance of paragraph (b)(1)(i) regarding the presumption of a well-founded fear of future persecution to be accorded an applicant who has suffered past persecution if such applicant already qualifies as a refugee. Others have expressed confusion about which party bears the burden of proof in showing whether the presumption identified in paragraph (b)(1)(i) has been overcome. Others have interpreted this paragraph to preclude consideration of evidence other than changes in country conditions in cases where the applicant has established past persecution. Paragraph (b)(1)(ii) also created ambiguity as to whether an applicant who has established past persecution also bears the burden of establishing a well-founded fear of future persecution in order to be granted asylum. Recent decisions by the Board of Immigration Appeals (BIA or Board) and by the Federal courts have interpreted these regulatory provisions and highlighted the need to change them.

This rule leaves intact the important principle that an applicant who has established past persecution on account of one of the five grounds is a refugee. It also continues to provide that a person who has established past persecution on account of race, religion, nationality, membership in a particular social group, or political opinion shall be presumed to have a well-founded fear of future persecution on account of these same grounds. This presumption is relevant to whether the applicant warrants a grant of asylum in the exercise of discretion. The rule then makes clear that, in cases where the applicant has established past persecution, the application shall be referred or denied if it is established by a preponderance of the evidence that there is not a reasonable possibility of future persecution against the applicant on account of one of the five grounds, unless paragraph (b)(1)(iii) applies. This approach is consistent with longstanding principles articulated in case law. *See Matter of Chen*, 20 I&N 16 (BIA 1989).

In cases involving past persecution, we propose to maintain the use of a presumption and, for cases in immigration proceedings, the shifting to the Government of the burden of proof for rebutting the presumption. This burden-shifting fits well within the context of immigration court proceedings, with separate litigants appearing before an independent decisionmaker. Where an applicant establishes past persecution before an asylum officer during a non-adversarial asylum interview, it will be incumbent on the officer to elicit from the applicant or otherwise gather evidence bearing on future persecution and to evaluate whether a preponderance of the evidence indicates that the applicant no longer faces a reasonable possibility of persecution.

This rule also makes clear that, in determining whether there is a reasonable possibility of future persecution, the asylum officer or immigration judge may rely on any evidence relating to the possibility of future persecution against the applicant. This is an important change in light of the recent Board decision in *Matter of C–Y–Z*, Intertim Decision #3319 (BIA 1997), which raises questions about how the existing regulation should be interpreted. In that decision, the Board addressed the case of an applicant who had suffered past persecution and was therefore entitled under the existing regulation to the presumption of a well-founded fear of future persecution. the Board interpreted 8 CFR 208.13(b)(1)(i) to preclude the consideration of any factors other than changed country conditions in determining whether the presumption of a well-founded fear was rebutted. In *Matter of Chen*, however,

which the existing regulatory provisions were intended to codify, the Board stated that, in cases where an applicant establishes past persecution, asylum may be denied as a matter of discretion if there is little likelihood of future persecution. To avoid any uncertainty about whether there is tension among the existing regulation, *Matter of Chen*, and *Matter of C–Y–Z*, we are changing the regulation so that it clearly allows consideration of any evidence, or lack thereof, bearing on future persecution in such cases. Administrative determinations under this rule, of course, remain subject to review by the Board of Immigration Appeals under current regulatory and statutory provisions.

We have also used the phrase ''no reasonable possibility of future persecution'' in lieu of the phrase ''little likelihood of present persecution'' used by the BIA in *Matter of Chen* in defining the standard of proof that the Government must meet to deny asylum in such cases. The ''reasonable possibility'' language is consistent with the Supreme Court's and the Department's regulatory interpretation of the well-founded fear standard. *See INS* v. *Cardoza-Fonseca*, 480 U.S. at 440; 8 CFR § 208.13(b)(2). We believe it is appropriate, therefore, to restate the reasonable possibility standard as the one that the Government must apply to determine whether a favorable exercise of discretion may be unwarranted in cases where applicants have established past persecution.

The rule also amends 8 CFR 208.13(b)(1)(ii) regarding discretionary grants of asylum in circumstances where a victim of past persecution no longer has a well-founded fear of persecution. The existing regulation allows that an applicant who has suffered past persecution, but who has no well-founded fear of future persecution, may be granted asylum in the exercise of discretion only if the applicant demonstrates compelling reasons for being unwilling to return to his or her country ''arising out of the severity of the past persecution'' for such a grant. In *Matter of H-*, Interim Decision #3276 (BIA 1996), the Board specifically addressed the exercise of discretion in cases where an applicant has established past persecution but has no well-founded fear of future persecution. The Board noted earlier decisions indicating that general humanitarian factors, unrelated to the circumstances that led to refugee status, such as age, health, or family ties, should also be considered in the exercise of discretion. One possible interpretation of this portion of the Board's decision is that it authorizes the granting of asylum based on factors other than ''compelling reasons arising out of the severity of the past persecution'' to an applicant who has established past persecution but who has no well-founded fear of future persecution. In order to avoid any possible tension between this reading and the current regulation, which allows a grant of asylum only when there are compelling reasons related to the severity of the past persecution, we are amending the regulation.

The Department recognizes, however, that the existing regulation may represent an overly restrictive approach to the exercise of discretion in cases involving past persecution, but no well-founded fear of future persecution. The Department believes it is appropriate to broaden the standards for the exercise of discretion in such cases. For example, there may be cases where it is appropriate to offer protection to applicants who have suffered persecution in the past and who are at risk of future harm that is not related to a protected ground. Therefore, the rule includes, as a factor relevant to the exercise of discretion, whether the applicant may face a reasonable possibility of ''other serious harm'' upon return to the country of origin or last habitual residence. *See Matter of B-*, Int. Dec. #3251 (BIA 1995) (citing both the current civil strife in Afghanistan and the severity of the past persecution suffered by the applicant as grounds for a discretionary grant of asylum, despite of conclusion that the applicant no longer has a well-founded fear of persecution in that country). As with any other element of an asylum claim, the burden is on the applicant to establish that such grounds exist and warrant a humanitarian grant of asylum based on past persecution alone.

By ''other serious harm,'' we mean harm that may not be inflicted on account of race, religion, nationality, membership in a particular social group, or political opinion, but such harm would have to be so ''serious'' as to equal the severity of persecution. We would not expect, for example, that mere economic disadvantage or the inability to practice one's chosen profession would qualify as ''other serious harm.'' We believe that this emphasis on the applicant's risk of future harm is consistent with the protection function of the 1951 Convention Relating to the Status of Refugees, which governs the international legal obligations implemented through the domestic asylum and withholding laws.

The proposed rule would also amend 8 CFR 208.13(b)(2) to provide that, to meet the well-founded fear standard, the applicant must establish a reasonable possibility of harm *throughout* the applicant's country of nationality or last habitual residence. The Board and the Federal courts have long acknowledged the requirement of countrywide persecution as an integral component of the refugee definition, which cannot be met if the applicant reasonably could be expected to seek protection by relocating to another part of the country in question. *See Matter of Acosta*, 19 I&N Dec. 211,235 (BIA 1985), modified on other grounds, *Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987); *Etugh* v. *INS*, 921 F.2d 36, 39 (3d Cir. 1990); *Quintanilla-Ticas* v. *INS*, 783 F.2d 955,957 (9th Cir. 1986). In the context of a case involving only a fear of future persecution, it is important to note that the requirement of a reasonable possibility of harm throughout the country in question relates to the applicant's eligibility as a refugee, and is not merely a factor to be considered in the exercise of discretion.

This proposed rule emphasizes, however, that an applicant should not be denied asylum based on the fact that he or she could avoid future persecution be relocating within the country in question unless it would be reasonable to expect him or her do so. This approach is consistent with the position taken by the United Nations High Commissioner for Refugees that ''[t]he fear of being persecuted need not always extend to the whole territory of the refugee's country of nationality * * *. [A] person will not be excluded from refugee status merely because he [or she] could have sought refuge in another part of the same country [] if[,] under all the circumstances, it would not have been reasonable to expect him [or her] to do so.'' United Nations High Commissioner for Refugees, *Handbook on Procedures and Criteria for Determining Refugee Status* ¶ 91 (1992).

The proposed rule provides that internal relocation will not be considered reasonable if there is a reasonable possibility that the applicant would face other serious harm in the place of potential relocation. We intend that this ''other serious harm'' standard for determining when internal relocation is not reasonable refers to the same type of ''other serious harm'' that may warrant a humanitarian grant of asylum to an applicant who shows past persecution but who has no well-founded fear of future persecution. In cases where the applicant has established past persecution, the Service would bear the burden of showing that

internal relocation is reasonable. In cases where the applicant has not established past persecution, it would be the applicant's burden to show that he or she is at risk of persecution in the country in question and that internal relocation is not reasonable in order to establish a well-founded fear of persecution. Regardless of who bears the burden of proof on the issue of internal relocation, such burden requires supporting such claims by documentary evidence, if available, including evidence on economic and regional conditions that would provide an objective context for the claim that relocation is, or is not, possible.

As with other aspects of the refugee definition, we expect that the Board and the federal courts, as they interpret this regulation in individual cases, will provide guidance on the question of when internal relocation is reasonable. We would expect, however, that the difficulties associated with an internal relocation option would have to be substantial to render relocation unreasonable. Underlying our approach to this issue is a recognition that the principle of internal relocation is intended to apply to cases where the applicant does not need protection abroad.

This proposed rule would also amend 8 CFR 208.16, governing entitlement to withholding of removal, to be consistent with amendments relating to asylum eligibility. First, the rule would provide that an applicant is eligible for withholding of removal only if the applicant establishes that it is more likely than not that he or she would be persecuted in the country of proposed removal and that internal relocation is not reasonable. Thus, as in the asylum context, the rule requires that the applicant must show that the threat of harm exists countrywide to be eligible for withholding, and further makes clear that a withholding applicant must seek protection through internal relocation only if it is reasonable to expect him or her to do so.

Second, as is currently the case, the rule affords the applicant a presumption of a future threat to life or freedom on account of race, religion, nationality, membership in a particular social group, or political opinion if the applicant establishes that he or she has suffered persecution in the past on account of these same grounds. This rule also provides an opportunity to rebut such a presumption if it can be established that the applicant no longer would face a threat to life or freedom. The rule makes an important change by indicating that evidence other than changed conditions in the country of proposed removal can be taken into consideration in determining whether the applicant continues to face a threat to his or her life or freedom in that country. This is significant because, unlike asylum determinations, where the Attorney General has discretion to grant or deny asylum to a person who qualifies as a refugee, the Attorney General is required to grant withholding of removal to a person who establishes that his or her life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion. The current language in 8 CFR 208.16(b)(2) appears to mandate a grant of withholding of removal where an applicant establishes that he or she has suffered persecution in the past unless there have been ''changes in conditions'' in the proposed country of removal. Significantly, this language appears to preclude consideration of other relevant types of evidence, including whether the applicant might safely relocate to a different part of the same country, and has been so construed by the courts. *See Singh* v. *Ilchert*, 63 F.3d 1501, 1510–11 (9th Cir. 1995). We believe that this result in *Singh* v. *Ilchert*, and in other decisions interpreting this regulatory provision, imposes unwarranted restrictions on the Attorney General's ability to consider relevant evidence. Under both domestic and international law, the requirement of a countrywide risk of persecution is an accepted element of refugee protection standards. Imposition of a regulatory restriction that precludes consideration of internal relocation options is inconsistent with a basic principle of international refugee protection: if an applicant is able to avail himself or herself of protection in any part of his or her country of origin, such applicant should not ordinarily need, or be entitled to, protection from another country. This rule changes the current regulation so that it clearly authorizes consideration of internal relocation options, as well as of any other evidence relevant to the possibility that an applicant would be at risk of future persecution, in determining whether an applicant has shown a likelihood of persecution or whether a presumption of a likelihood of persecution is rebutted.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant impact on a substantial number of small entities for the following reason: this rule clarifies certain legal standards involved in the adjudication of applications for asylum and withholding of removal; this clarification will not affect small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

Executive Order 12612

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements

Accordingly, part 208 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

1. The authority citation for part 208 continues to read as follows:

Authority: 8 U.S.C. 1103, 1158, 1226, 1252, 1282; 8 CFR part 2.

2. In § 208.13, paragraph (b) is revised to read as follows:

§ 208.13 Establishing asylum eligibility.

* * * * *

(b) * * *

(1) *Past persecution.* An applicant shall be found to be a refugee on the basis of past persecution if the applicant can establish that he or she has suffered persecution in the past in the applicant's country of nationality or, if stateless, his or her country of last habitual residence, on account of race, religion, nationality, membership in a particular social group, or political opinion and is unable or unwilling to return to or avail himself or herself of the protection of that country owing to such persecution. An applicant who has been found to have established past persecution shall also be presumed to have a well-founded fear of persecution in the future on account of one of the five grounds mentioned above. This presumption may be rebutted if an asylum officer or immigration judge makes one of the findings described in paragraph (b)(1)(i) of this section.

(i) *Discretionary referral or denial.* Except as provided in (b)(1)(iii) of this section, the asylum application of an alien found to be a refugee on the basis of past persecution shall be, in the exercise of discretion, referred or denied by an asylum officer or denied by an immigration judge if it is found by a preponderance of the evidence that:

(A) the applicant does not face a reasonable possibility of future persecution in the applicant's country of nationality or, if stateless, the applicant's country of last habitual residence on account of race, religion, nationality, membership in a particular social group, or political opinion; or

(B) the applicant could reasonably avoid future persecution by relocating to another part of the applicant's country of nationality or, if stateless, the applicant's country of last habitual residence.

(ii) *Burden of proof.* In cases where an applicant has demonstrated past persecution under paragraph (b)(1) of this section before an immigration judge, the Service shall bear the burden of establishing the requirements of paragraphs (b)(1)(i) (A) or (B) of this section.

(iii) *Discretionary grant.* An applicant who has suffered past persecution and who does not face a reasonable possibility of future persecution or who could reasonably avoid future persecution by relocating within his or her country of nationality or, if stateless, his or her country of last habitual residence, may be granted asylum in the exercise of discretion if:

(A) the applicant has demonstrated compelling reasons for being unwilling or unable to return to that country arising out of the severity of the past persecution; or

(B) the applicant has established that there is a reasonable possibility that he or she may suffer other serious harm upon removal to that country, unless such a grant of asylum is barred under paragraph (c) of this section.

(2) *Well-founded fear of future persecution.*

(i) An applicant has a well-founded fear of persecution if:

(A) the applicant has a fear of persecution in his or her country of nationality or, if stateless, his or her country of last habitual residence, on account of race, religion, nationality, membership in a particular social group, or political opinion;

(B) there is a reasonable possibility of suffering such persecution if he or she were to return to that country; and

(C) he or she is unable or unwilling to return to or avail himself or herself of the protection of that country because of such fear.

(ii) An applicant does not have a well-founded fear of persecution if the applicant could reasonably avoid persecution by relocating to another part of the applicant's country of nationality or, if stateless, the applicant's country of last habitual residence.

(iii) In evaluating whether the applicant has sustained the burden of proving that he or she has a well-founded fear of persecution, the asylum officer or immigration judge shall not require the applicant to provide evidence that there is a reasonable possibility he or she would be singled out individually for persecution if:

(A) The applicant establishes that there is a pattern or practice in his or her country of nationality or, if stateless, his or her country of last habitual residence, of persecution of a group of persons similarly situated to the applicant on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(B) The applicant establishes his or her own inclusion in and identification with such group of persons such that his or her fear of persecution upon return is reasonable.

(3) *Reasonableness of internal relocation.* For purposes of determinations under paragraphs (b)(1)(i) and (ii), and (b)(2) of this section, it would not be reasonable to expect an applicant to relocate within his or her country of nationality or, if stateless, his or her country of last habitual residence, to avoid persecution if the asylum officer or immigration judge finds that there is a reasonable possibility that the applicant would face other serious harm in the place of potential relocation. In cases where the persecutor is a national government, it shall be presumed that internal relocation would not be reasonable, unless the Service establishes that it would be reasonable for the applicant to relocate. In cases where the applicant has established past persecution before an immigration judge, the Service shall bear the burden of establishing that it would be reasonable for the applicant to relocate. In cases where the applicant has not established past persecution, the applicant shall bear the burden of establishing that it would not be reasonable for him or her to relocate.

* * * * *

3. In § 208.16, paragraphs (b)(1), (b)(2), and (b)(3) are revised to read as follows:

§ 208.16 Withholding of removal.

* * * * *

(b) * * *

(1) *Past threat to life or freedom.* (i) If the applicant is determined to have suffered past persecution in the proposed country of removal on account of race, religion, nationality, membership in a particular social group, or political opinion, it shall be presumed that the applicant's life or freedom would be threatened for the same reasons if removed to that country. This presumption may be rebutted if an asylum officer or immigration judge finds by a preponderance of the evidence that:

(A) The applicant's life or freedom would not be threatened on account of any of the five above-mentioned grounds upon the applicant's removal to that country; or

(B) The applicant could reasonably avoid a future threat to his or her life or

freedom by relocating to another part of the proposed country of removal.

(ii) In cases where the applicant has established past persecution before an immigration judge, the Service shall bear the burden of establishing the requirements of paragraphs (b)(1)(i)(A) or (B) of this section.

(2) *Future threat to life or freedom.* An applicant who has not suffered past persecution may demonstrate that his or her life or freedom would be threatened in the future in a country if he or she can establish that it is more likely than not that he or she would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion upon removal to that country. Such an applicant cannot demonstrate that his or her life or freedom would be threatened if the asylum officer or immigration judge finds that the applicant could reasonably avoid a future threat to his or her life or freedom by relocating to another part of the proposed country of removal. In evaluating whether it is more likely than not that the applicant's life or freedom would be threatened in a particular country on account of race, religion, nationality, membership in a particular social group, or political opinion, the asylum officer or immigration judge shall not require the applicant to provide evidence that he or she would be singled out individually for persecution if:

(i) The applicant establishes that in that country there is a pattern or practice of persecution of a group of persons similarly situated to the applicant on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(ii) The applicant establishes his or her own inclusion in and identification with such group of persons such that it is more likely than not that his or her life or freedom would be threatened upon return to that country.

(3) *Reasonableness of internal relocation.* For purposes of determinations under paragraphs (b)(1) and (b)(2) of this section, it would not be reasonable to expect an applicant to relocate within a country to avoid persecution if the asylum officer or immigration judge finds that there is a reasonable possibility that the applicant would face other serious harm in the place of potential relocation. In cases where the persecutor is a national government, it shall be presumed that internal relocation would not be reasonable, unless the Service establishes that it would be reasonable for the applicant to relocate. In cases where the applicant has established past persecution before an immigration judge, the Service shall bear the burden of establishing that it would be reasonable for the applicant to relocate. In cases where the applicant has not established past persecution, the applicant shall bear the burden of establishing that it would not be reasonable for him or her to relocate.

* * * * *

Dated: June 5, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–15590 Filed 6–10–98; 8:45 am]

BILLING CODE 4410–10–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1616

Proposed Technical Changes; Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed technical changes; correction.

SUMMARY: This document corrects a table in a proposed rule published in the **Federal Register** of May 21, 1998, regarding technical changes to the flammability standard for children's sleepwear. The table showing the distance from the shoulder for upper arm measurement for sizes 7 through 14 inadvertently omitted some fractions. This correction provides the complete and correct table. Due to the minor nature of this correction the Commission does not intend to extend the comment period for the proposed rule. However, if a commenter believes that additional time is necessary to comment due to the error, he/she may request an extension.

FOR FURTHER INFORMATION CONTACT: Margaret Neily, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0508, extension 1293.

Correction

In proposed rule FR Doc. 98–13026, beginning on page 27877 in the issue of May 21, 1998, make the following correction. On page 27884, correct the table that follows Diagram 1 to read as follows:

Distance from shoulder (G) to (H) for Upper Arm Measurement for Sizes 7 through 14

7	8	9	10	11	12	13	14
11.4 cm 4½″	11.7 cm 4⅝″	11.9 cm 4¾″	12.5 cm 4⅞″	12.8 cm 5″	13.1cm 5⅛″	13.7cm 5⅜″	14.2cm 5⅝″

Dated: June 4, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 98–15492 Filed 6–10–98; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. FHWA–98–3644]

RIN 2125–AE38

Revision of the Manual on Uniform Traffic Control Devices; Part II—Signs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD); request for comments.

SUMMARY: The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, approved by the Federal Highway Administrator, and recognized as the national standard for traffic control on all public roads. The FHWA announced its intent to rewrite and reformat the MUTCD on January 10, 1992, at 57 FR