Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Parts 1001, 1003 and 1240

[EOIR Docket Nos. 18–0503, 19–0410; AG Order No. 6120–2024]

RINS 1125–AB01, 1125–AB03

Withdrawal of Notices of Proposed Rulemaking

AGENCY: Executive Office for Immigration Review; Department of Justice.

ACTION: Notice of withdrawal of proposed rules.

SUMMARY: The Executive Office for Immigration Review (''EOIR'') is withdrawing two of its Notices of Proposed Rulemaking (''NPRMs''): (1) Motions To Reopen and Reconsider; Effect of Departure; Stay of Removal, and (2) Good Cause for a Continuance in Immigration Proceedings, both published on November 27, 2020, and is providing this notice of withdrawal. EOIR is withdrawing these NPRMs because of ongoing assessments of agency needs, priorities, and objectives. EOIR will not take any further action on these NPRMs.

DATES: As of December 31, 2024, the NPRMs published on November 27, 2020, titled ''Motions To Reopen and Reconsider; Effect of Departure; Stay of Removal,'' 85 FR 75942, and ''Good Cause for a Continuance in Immigration Proceedings,'' 85 FR 75925, are withdrawn.

FOR FURTHER INFORMATION CONTACT: Sarah Flinn, Acting Assistant Director for Policy, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Falls Church, VA 22041; telephone: (703) 305–0289 (not a toll-free call).

SUPPLEMENTARY INFORMATION: On November 27, 2020, the Department of Justice (''Department'') proposed amendments to its regulations through publication of two NPRMs. *See* 85 FR 75925, 75942 (corresponding to Regulation Identifier Numbers (''RINs'') 1125–AB03 and 1125–AB01, respectively). Specifically, the NPRM titled ''Motions To Reopen and Reconsider; Effect of Departure; Stay of Removal'' proposed to amend EOIR's regulations at 8 CFR parts 1001 and 1003 governing the filing and adjudication of motions to reopen and reconsider—including those motions following a noncitizen's departure from the United States, commonly known as the ''departure bar''—and to add regulations governing requests for discretionary stays of removal. *See id.* at 75942, 75945 (RIN 1125–AB01). The NPRM titled ''Good Cause for a Continuance in Immigration Proceedings'' proposed to amend EOIR's regulations at 8 CFR parts 1003 and 1240 to define ''good cause'' in the context of continuances, adjournments, and postponements of immigration proceedings. *See id.* at 75925 (RIN 1125–AB03).

The Department is withdrawing these NPRMs because further rulemaking action with respect to these NPRMs does not align with agency needs, priorities, and objectives. The Department continues to consider the best means of addressing some or all of the issues covered by these NPRMs and the scope of any agency actions the Department concludes may be necessary to address these issues.[1]

Moreover, the comments received on these NPRMs raised a number of issues that warrant further attention and suggest that the Department should further assess the best regulatory approach, if any, for addressing the issues in the NPRMs. Thus, the Department is withdrawing these NPRMs because, even if the Department were to determine in the future that rulemaking on these issues is appropriate, the Department believes that it would benefit from seeking comments on any new proposal that might account for the specific issues raised in the comments received on these NPRMs.

In addition, all agencies participate in the semi-annual Unified Agenda of Regulatory and Deregulatory Actions (''Unified Agenda''), which provides a summary description of the regulatory actions that each agency is considering or reviewing.[2] Agencies' agendas are posted on the public website of the Office of Information and Regulatory Affairs, and portions are published in the **Federal Register** in the spring and fall of each year. The Unified Agenda is often used as a tool to solicit interest and participation from stakeholders. Withdrawal of these NPRMs will allow EOIR to better align its entries on the Department's Unified Agenda with the agency's needs, priorities, and objectives.

Accordingly, for all of these independently sufficient reasons, the Department is withdrawing the NPRMs associated with RINs 1125–AB01 and 1125–AB03. By withdrawing the NPRMs, the Department is indicating that it no longer considers these NPRMs to be pending. The status quo regarding motions and continuances before EOIR will continue unaffected by these rulemakings for the time being. Should the Department decide at a future date to initiate the same or similar rulemakings, the Department will issue new NPRM(s) under new RIN(s).

Dated: December 19, 2024.

Merrick B. Garland,

Attorney General.

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[1] Of note, an earlier entry on EOIR's Unified Agenda under RIN 1125–AA74 was merged with RIN 1125–AB01 in the Spring 2020 Unified Agenda. RIN 1125–AA74 was developed partly as a response to a 2012 petition for rulemaking regarding the departure bar provision. In response to the petition for rulemaking, EOIR agreed to initiate rulemaking to amend the departure bar regulatory provisions at 8 CFR 1003.2(d) and 1003.23(b)(1). EOIR asserted that it was not, however, committing to any particular outcome for that entry. *See* Off. of Immigr. & Regul. Affs., *Immigration Courts and the Board of Immigration Appeals: Motions to Reopen and Reconsider; Effect of Departure or Removal* (Spring 2020), *https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202004&RIN=1125-AA74* (describing RIN 1125–AA74). As described above, EOIR continues to assess issues implicated by RIN 1125–AB01 and, hence, RIN 1125–AA74.

[2] Dates and schedules on the Unified Agenda are subject to change. *See* Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions—Spring 2024, 89 FR 66764, 66765 (Aug. 16, 2024). Agencies may withdraw regulations listed on their Unified Agenda, and they may issue or propose other regulations not included in their agendas. *Id.* Agency actions in the rulemaking process may occur before or after the dates listed in their Unified Agenda. *Id.* The Unified Agenda does not create a legal obligation on agencies to adhere to schedules in their Unified Agenda or to confine their regulatory activities to those regulations that appear on it. *Id.*