individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship Review: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.

Date: September 5, 2024.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Courtney Elaine Watkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–3093, *courtney.watkins2@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–22–233: Time-Sensitive Opportunities for Health Research.

Date: September 6, 2024.

Time: 9:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jacinta Bronte-Tinkew, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3164, MSC 7770, Bethesda, MD 20892, (301) 806–0009, *Jacinta.bronte-tinkew@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 14, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18556 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute on Alcohol Abuse and Alcoholism.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Alcohol Abuse and Alcoholism, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute on Alcohol Abuse and Alcoholism.

Date: September 3–4, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5625 Fishers Lane, Rockville, MD 20852, (Virtual Meeting).

Contact Person: David Lovinger, Ph.D., Scientific Director, Laboratory for Integrative Neuroscience, Section on Synaptic Pharmacology, National Institute of Alcohol Abuse and Alcoholism, 5625 Fishers Lane, Room TS–11, Rockville, MD 20852, (301) 443–2445, *lovindav@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *https://www.niaaa.nih.gov/research/division-intramural-clinical-and-biological-research/office-scientific-director,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: August 14, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18554 Filed 8–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[CIS No. 2779–24; DHS Docket No. USCIS–2024–0010]

RIN 1615–ZC09

Implementation of Keeping Families Together

AGENCY: Department of Homeland Security.

ACTION: Notice of implementation of the Keeping Families Together process.

SUMMARY: This notice announces the U.S. Department of Homeland Security's (DHS) implementation of the Keeping Families Together process for certain noncitizen spouses and stepchildren of U.S. citizens who are present in the United States without admission or parole to request parole in place under existing statutory authority. Granting parole in place, on a case-by-case basis, to eligible noncitizens under this process will achieve the significant public benefit of promoting the unity and stability of families, increasing the economic prosperity of American communities, strengthening diplomatic relationships with partner countries in the region, reducing strain on limited U.S. government resources, and furthering national security, public safety, and border security objectives.

DATES: DHS will begin using the Form I–131F, Application for Parole in Place for Certain Noncitizen Spouses and Stepchildren of U.S. Citizens, for this process on August 19, 2024.

FOR FURTHER INFORMATION CONTACT: Rená Cutlip-Mason, Chief, Humanitarian Affairs Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by mail at 5900 Capital Gateway Drive, Camp Springs, MD 20746, or by phone at 800–375–5283.

SUPPLEMENTARY INFORMATION:

I. Background

Family unity is a bedrock objective of the U.S. immigration system. Nearly 60 years ago, the Immigration and Nationality Act of 1965, a foundation of modern U.S. immigration law, enshrined as a core principle the importance of promoting the ability of U.S. citizens to unify with their relatives—a principle that endures to this day.[1] Yet, amidst growing demands and challenges, including chronic underfunding of our immigration[2] and visa processing backlogs compounded by the COVID–19 pandemic, our

[1] Public Law 89–236 (1965).

[2] For example, in the Fiscal Year (FY) 2024 President's Budget, USCIS requested $865 million in appropriated funding, but Congress only provided $281 million. *See* Department of Homeland Security U.S. Citizenship and Immigration Services Budget Overview, Fiscal Year 2024 Congressional Justification, available at *https://www.dhs.gov/sites//default/files//2023-03/U.S.%20CITIZENSHIP/%20AND%20IMMIGRATION%20SERVICES_Remediated.pdf* (last visited July 16, 2024); Department of Homeland Security Appropriations Act, 2024, Public Law 118–47, div. C (2024); Department of Homeland Security U.S. Citizenship and Immigration Services Budget Overview, Fiscal Year 2025 Congressional Justification, available at *https://www.dhs.gov/sites/default/files/2024-04/2024_0325_us_citizenship_and_immigration_services.pdf* (last visited July 16, 2024). The February 2024 Bipartisan Border Agreement would have provided $20 billion in funding for border management, including $4 billion to USCIS.

immigration system has often been challenged in its ability to fully achieve this core principle. U.S. citizens and their noncitizen family members have in many cases faced lengthy processing backlogs and potential years-long separation to access immigration benefits intended by Congress to promote family unity.

DHS estimates that there are approximately 765,000 noncitizens in the United States who are married to U.S. citizens and lack lawful immigration status.[3] Estimates indicate that the median time these noncitizens have been in the United States is 20 years, and they collectively live with more than 2.5 million U.S. citizen family members, raising and caring for more than 1.6 million U.S. citizen children.[4] While U.S. immigration law provides noncitizens who are beneficiaries of approved immigrant visa petitions [5] filed by their U.S. citizen spouses the opportunity to apply for adjustment of status to that of a lawful permanent resident (LPR) while remaining in the United States, there are certain requirements to adjust status that prevent many noncitizens from availing themselves of this benefit.[6] In particular, to apply for LPR status while in the United States, an applicant generally must have been ''inspected and admitted or paroled'' into the United States.[7]

DHS estimates that more than two-thirds of noncitizens without lawful immigration status who are married to U.S. citizens [8] are present in the United States without admission or parole, and as a result, are generally not eligible for adjustment of status.[9] They must therefore depart the United States and seek an immigrant visa at a U.S. embassy or consulate abroad. However, if they choose to depart the United States, they face uncertainty about whether they will be granted an immigrant visa and be able to return to the United States.[10] The noncitizen also must remain abroad while waiting for their immigrant visa application to be processed at a U.S. embassy or consulate and any necessary waiver applications to be processed by U.S. Citizenship and Immigration Services (USCIS), and as a result, they may be separated from their U.S. citizen family members for months or years.[11] The length and uncertainty of the process, along with the prospect of either separating from their U.S. citizen family members or uprooting them to travel abroad creates a disincentive and makes it difficult for noncitizens to pursue LPR status despite their eligibility to apply.

Recognizing the harms that families and communities face every day as a result of flaws in the U.S. immigration system, President Joseph R. Biden in 2021 directed DHS and other agencies to ''identify barriers that impede access to immigration benefits and fair, efficient adjudications of these benefits and make recommendations on how to remove these barriers, as appropriate and consistent with applicable law.'' [12] In response to the President's directive, DHS and its immigration components, including USCIS, have taken several steps to promote accessibility and increase efficiency in the immigration system.[13]

On June 18, 2024, President Biden announced that DHS would take action to preserve the unity of U.S. citizens and their noncitizen spouses and noncitizen stepchildren who currently cannot access LPR status without first departing the United States.[14] In furtherance of the President's directive, DHS is now establishing a process, through its existing discretionary parole authority under INA section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A),[15] for DHS to consider, on a case-by-case basis, parole in place requests filed by certain noncitizen spouses and stepchildren of U.S. citizens. If granted parole in place, these noncitizens, if otherwise eligible, could apply for adjustment of status to that of an LPR, rather than having to depart the United States to pursue an immigrant visa, as the parole in place would satisfy the ''inspected and admitted or paroled'' requirement.[16]

This process does not change or eliminate the eligibility criteria for adjustment of status to that of an LPR. Noncitizens who are granted parole in place under this process will still have to satisfy all other statutory and regulatory requirements when applying to adjust status to that of an LPR, including that they have an approved immigrant visa petition based on a bona fide relationship to a U.S. citizen, are admissible to the United States, and merit a grant of adjustment of status as

[3] U.S. Dep't of Homeland Security, Office of Homeland Security Statistics (OHSS) analysis of OHSS Estimates of the Unauthorized Immigrant Population Residing in the United States: Jan. 2018–Jan. 2022 (''OHSS Analysis''), tbl. 3.

[4] *Id.* tbls. 4, 5. Estimated data shows that the median amount of time the entire population of noncitizen spouses of U.S. citizens has been in the United States is 20 years; the median time the PIP-eligible population of noncitizen spouses of U.S. citizens (where the noncitizen spouses have been in the United States for at least 10 years) has been in the United States is 23 years.

[5] This is filed on Form I–130, Petition for Alien Relative.

[6] Adjustment of status is the process by which certain noncitizens may seek LPR status while remaining in the United States, as opposed to consular processing, the process by which certain noncitizens seek an immigrant visa at a United States embassy or consulate abroad and then are admitted to the United States as an LPR at a port of entry. *See* INA sec. 245(a), 8 U.S.C. 1255(a); *cf.* INA secs. 221–222, 8 U.S.C. 1201–1202 (immigrant visa applications).

[7] INA sec. 245(a), 8 U.S.C 1255(a).

[8] OHSS Analysis, *supra* note 3, tbl. 3.

[9] INA sec. 245(a), 8 U.S.C. 1255(a).

[10] For most of these noncitizens, their departure to pursue consular processing and seeking admission through the application of an immigrant visa makes them inadmissible, and seeking of admission through the application for an immigrant visa within three years from their departure (if they accrued more than 180 days but less than one year of unlawful presence in the United States during a single stay), or within ten years from their departure or removal (of departure or removal (if they accrued one year or more of unlawful presence in the United States during a single stay)), will make them inadmissible under INA section 212(a)(9)(B)(i), 8 U.S.C. 1182(a)(9)(B)(i). *See, e.g., Matter of Duarte-Gonzalez,* 28 I. & N. Dec. 688, 689–90 (BIA 2023); *Matter of Rodarte-Roman,* 23 I. & N. Dec. 905, 908–10 (BIA 2006) (holding that the 3-year and 10-year unlawful presence bars are not triggered unless and until the noncitizen departs from the United States). This ground of inadmissibility may be waived, but approval of such a waiver is discretionary and requires applicants to ''establish [ ] . . . that the refusal of [the applicant's] admission . . . would result in extreme hardship to the citizen or [LPR] spouse or parent'' of the applicant. INA sec. 212(a)(9)(B)(v), 8 U.S.C. 1182(a)(9)(B)(v).

[11] As discussed in greater detail in this notice, the provisional waiver process through the Form I–601A, Application for Provisional Unlawful Presence Waiver, permits certain noncitizens to apply for a provisional waiver of the unlawful presence grounds of inadmissibility under INA section 212(a)(9)(B)(v), 8 U.S.C. 1182(a)(9)(B)(v), prior to their departure from the United States. While an important mechanism, the Form I–601A provisional waiver process has become significantly backlogged in recent years, still requires the noncitizen to depart and remain separated from their U.S. citizen relatives during consular processing, and does not provide a guarantee that an immigrant visa will ultimately be granted. *See* 8 CFR 212.7(e) (describing the provisional unlawful presence waiver process).

[12] Exec. Order No. 14012, *Restoring Faith in Our Legal Immigration System and Strengthening Integration and Inclusion Efforts for New Americans,* 86 FR 8277 (Feb. 5, 2021).

[13] *See* USCIS, Completing an Unprecedented 10 Million Immigration Cases in Fiscal Year 2023, USCIS Reduced Its Backlog for the First Time in Over a Decade (Feb. 9, 2024), *https://www.uscis.gov/EOY2023;* USCIS Fiscal Year 2022 Progress Report (Dec. 2022), *www.uscis.gov/sites/default/files/document/reports/OPA_ProgressReport.pdf.*

[14] The White House, *FACT SHEET: President Biden Announces New Actions to Keep Families Together,* June 18, 2024, available at *https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/18/fact-sheet-president-biden-announces-new-actions-to-keep-families-together/.*

[15] INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A) (''The [Secretary] may . . . in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States . . .'').

[16] *See* Section II.B. of this notice for additional information on parole in relation to adjustment of status.

a matter of discretion.[17] Eligibility for a family-based immigrant visa petition (Form I–130, Petition for Alien Relative),[18] and application to adjust status to that of an LPR (Form I–485, Application to Register Permanent Residence or Adjust Status), will be determined in a distinct and separate process from the parole in place adjudication.

This process will be available to certain noncitizen spouses of U.S. citizens who are present in the United States without admission or parole; who have been continuously physically present in the United States for a minimum of ten years as of June 17, 2024 (that is, continuously physically present since June 17, 2014 and through the date of filing the request for parole); who have a legally valid marriage to a U.S. citizen as of June 17, 2024; who have no disqualifying criminal history;[19] who do not pose a threat to national security, public safety, or border security; and who merit parole in place as a matter of discretion. Certain noncitizen stepchildren of U.S. citizens may also request parole in place under this process, provided that they have been continuously physically present in the United States without admission or parole since June 17, 2024 through the date of filing, have no disqualifying criminal history and do not pose a threat to national security or public safety, meet the INA's definition and requirements of a stepchild[20] of a U.S. citizen, and merit parole in place as a matter of discretion.

Only noncitizens who are ''applicants for admission'' to the United States may be eligible for parole.[21] Noncitizens who lack lawful status but were inspected and admitted to the United States are not eligible for parole.[22] This parole in place process is available specifically to noncitizens who are present in the United States without admission or parole and who remain applicants for admission. Requests for parole in place under this process will be considered on a case-by-case basis in the exercise of discretion. Positive and negative discretionary factors will be considered when determining whether to grant parole in place to a noncitizen, based on significant public benefit or urgent humanitarian reasons. DHS estimates that 500,000 noncitizen spouses and 50,000 noncitizen stepchildren of U.S. citizens may meet the requirements to request parole in place under this process.[23]

As described elsewhere in this **Federal Register** notice (notice), the authority to parole applicants for admission ''in place''—*i.e.,* while the noncitizen is present within the United States without having been admitted—is consistent with DHS's longstanding interpretation of its authorities, and DHS continues to believe that it reflects the best reading of the statute.[24] The parole authority has been used for over 15 years in the specific context of preserving family unity for military families.[25] In 2010, USCIS provided guidance to its officers on considering parole in place requests submitted by noncitizen family members of U.S. military service members, which enables them to adjust status without leaving the United States,[26] an authority Congress legislatively reaffirmed in 2019.[27] Congress has also expressed support in legislation for the use of DHS's parole authority in certain instances as a discretionary tool where justified for urgent humanitarian reasons or significant public benefit.[28]

As explained more fully in Section IV of this notice, the Secretary of Homeland Security's (''Secretary'') exercise of the parole authority in this manner will provide a significant public benefit to the United States, including to

[17] *See* INA sec. 245(a), (c), 8 U.S.C. 1255(a), (c); 8 CFR part 245.

[18] And in the case of certain widows or widowers, where eligible as described in this notice, Form I–360, Petition for Amerasian, Widow(er), or Special Immigrant.

[19] Noncitizens who have been convicted of serious offenses, such as felonies, will be ineligible for this process. *See* Section V.A. of this notice for additional detail on disqualifying criminal history.

[20] *See* INA sec. 101(b)(1), 8 U.S.C. 1101(b)(1).

[21] *See* INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A); *see also* INA sec. 235(a)(1), 8 U.S.C. 1225(a)(1) (''An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission.'').

[22] Noncitizens who are immediate relatives of a U.S. citizen and were admitted to the United States on a valid nonimmigrant visa but have remained in the United States beyond the period of stay authorized will generally meet the ''inspected and admitted or paroled'' requirement for adjustment of status without the need for parole in place. *See* INA sec. 245(a), 8 U.S.C. 1255(a); INA sec. 245(c)(2), 8 U.S.C. 1255(c)(2). Similarly, noncitizens who were paroled into the United States on or after their last arrival would also meet this requirement.

[23] OHSS Analysis, *supra* note 3, tbl. 3.

[24] *See, e.g.,* Memorandum from Paul W. Virtue, INS General Counsel, to INS officials, *Authority to Parole Applicants for Admission Who Are Not Also Arriving Aliens,* Legal Op. No. 98–10, 1998 WL 1806685 (Aug. 21, 1998), *superseded in part on other grounds by* Memorandum from Gus P. Coldebella, DHS General Counsel, to DHS officials, *Clarification of the Relation Between Release under Section 236 and Parole under Section 212(d)(5) of the Immigration and Nationality Act* (Sept. 28, 2007) (''Coldebella Memo''), available at *https://www.uscis.gov/sites/default/files/document/legal-docs/Coldebella_Memo.pdf; see also, e.g., Ortega-Cervantes* v. *Gonzales,* 501 F.3d 1111, 1118 (9th Cir. 2007) (discussing 1998 INS General Counsel Memo and 1999 INS Cuban parole policy, and stating that ''[w]e see nothing [in the INA] that would preclude the government from paroling . . . into the United States under § 1182(d)(5)(A)'' noncitizens ''who are currently present in the United States but who were not inspected upon arrival at a port of entry'' and that ''[t]he [INS] General Counsel's memorandum is consistent with our conclusion . . . that there is no per se bar on paroling unlawful entrants into the United States pursuant to § 1182(d)(5)(A)'').

[25] *Immigration Needs of America's Fighting Men and Women, Hearing Before the Subcomm. on Immigr., Citizenship, Refugees, Border Sec., & Int'l L. of the Comm. on the Judiciary, H.R.,* 110th Cong. 15 (2008) (testimony of Margaret Stock, Attorney and Lieutenant Colonel, Military Police Corps, United States Army Reserve).

[26] While the USCIS policy memorandum articulating the use of parole in place for military family members was issued in 2013, as a matter of practice, USCIS has been issuing parole in place for members of this population since 2010. Making this process available only to certain spouses and stepchildren of U.S. citizens is consistent with past sparing uses of parole in place. *See id.* DHS continues to view use of parole in place as consistent with the best reading of the statute, as described in section II in this notice. For reasons discussed throughout this notice, making it available to this population also is a better practice than retaining the status quo. *See* USCIS Policy Memorandum, PM–602–0091, *Parole of Spouses, Children and Parents of Active Duty Members of the U.S. Armed Forces, the Selected Reserve of the Ready Reserve, and Former Members of the U.S. Armed Forces or Selected Reserve of the Ready Reserve and the Effect of Parole on Inadmissibility under Immigration and Nationality Act sec. 212(a)(6)(A)(i)* (Nov. 15, 2013) (''USCIS Military Parole in Place Memorandum''), *available at https://www.uscis.gov/sites/default/files/document/memos/2013-1115_Parole_in_Place_Memo_.pdf, superseded in part by* USCIS Policy Memorandum, PM–602–1104, *Discretionary Options for Designated Spouses, Parents, and Sons and Daughters of Certain Military Personnel, Veterans, and Enlistees* (Nov. 23, 2016), *available at https://www.uscis.gov/sites/default/files/document/memos/PIP-DA_Military_Final_112316.pdf.*

[27] *See* National Defense Authorization Act for Fiscal Year 2020, Public Law 116–92, sec. 1758 (2019) (8 U.S.C. 1182 note) (NDAA 2020) (''the importance of the parole in place authority of the Secretary of Homeland Security is reaffirmed'').

[28] *See, e.g.,* Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1990, Public Law 101–167, sec. 599E (8 U.S.C. 1255 note) (authorizing granting permanent residence to parolees from the Soviet Union, Vietnam, Laos, and Cambodia); Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, div. C, sec. 646 (8 U.S.C. 1255 note) (providing for adjustment of status for noncitizens from Poland and Hungary who had been denied refugee status but who had been ''inspected and granted parole into the United States''); NDAA 2020, sec. 1758, *supra* note 27 (expressing congressional support for an ongoing parole program for relatives of U.S. military members and considering in each case-by-case determination whether parole would advance family unity that would constitute a significant public benefit); Extending Government Funding and Delivering Emergency Assistance Act of 2021, Public Law 117–43, sec. 2502 (8 U.S.C. 1101 note) (providing refugee benefits to Afghans paroled under INA section 1182(d)(5) and funds to support those benefits); Ukraine Supplemental Appropriations Act of 2022, Public Law 117–128, sec. 401 (8 U.S.C. 1101 note) (providing benefits to Ukrainians paroled under INA sec. 212(d)(5), 8 U.S.C. 1182(d)(5) and funds to support those benefits).

the impacted U.S. citizens, noncitizens, their families, and their communities at large. *First,* it will promote family unity by enabling U.S. citizen spouses and children to remain with their noncitizen family members while their noncitizen family members apply for adjustment of status to that of an LPR, thus promoting stability and preventing avoidable disruptions to these families. *Second,* it will advance U.S. economic and labor interests by enabling paroled noncitizens to work lawfully in the United States and contribute economically to their families and communities.[29] *Third,* it will further critical U.S. diplomatic interests and U.S. foreign policy objectives of managing migration, increasing economic stability, and fostering security in the United States and in partner countries in the region. *Fourth,* it will preserve limited resources across U.S. government agencies that may otherwise be expended on consular processing and removal proceedings. *Fifth,* it will further national security, public safety, and border security objectives by encouraging noncitizens to provide information for background and security checks.

II. Parole Authority and Existing Family Unity Parole Processes

A. Parole Authority

The Secretary, and those other officials as designated by the Secretary,[30] have the discretionary authority under INA section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A), to parole any applicant for admission ''into the United States temporarily under such conditions as [the Secretary] may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit.''

DHS's parole authority extends to noncitizens inside the United States who have not been ''admitted'' as defined in the INA through a practice known as ''parole in place.'' [31] Parole is available to an ''applicant for admission,'' which the INA defines in relevant part as ''[a]n alien present in the United States who has not been admitted or who arrives in the United States.'' [32] Because the INA creates a distinct meaning for ''admission,'' noncitizens who have entered the United States without having been ''admitted'' are still considered ''applicants for admission,'' even though they are physically inside the United States, and may be paroled in accordance with INA section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A). Longstanding DHS legal opinions have affirmed the availability of parole in place under U.S. immigration law, as discussed elsewhere in this notice.[33]

Parole is neither an admission of the noncitizen to the United States nor a determination of admissibility, and a parolee remains an applicant for admission during the period of parole in the United States.[34] DHS sets the duration of the period of parole based on the purpose for granting the parole request and may also impose conditions on parole.[35] DHS may terminate parole in its discretion at any time.[36] By regulation, parolees may apply for and be granted employment authorization to work lawfully in the United States during their period of parole.[37] While in a period of parole, noncitizens do not accrue unlawful presence for purposes of inadmissibility under INA sections 212(a)(9)(B)(i) and 212(a)(9)(C)(i)(I), 8 U.S.C. 1182(a)(9)(B)(i) and 1182(a)(9)(C)(i)(I).[38]

The parole authority has long been interpreted to allow for designation of specific groups of noncitizens for whom parole should be favorably considered as furthering a significant public benefit or for urgent humanitarian reasons, as long as the parole of each noncitizen within the group furthers such significant public benefit or addresses such urgent humanitarian reasons, as determined on a discretionary, case-by-case basis.[39] Congress has repeatedly expressed support in legislation for the use of DHS's parole authority to benefit individuals falling within particular groups.[40]

B. Parole in Relation to Adjustment of Status Eligibility

To be eligible for adjustment of status, an applicant generally must, among other requirements, have been ''inspected and admitted or paroled into the United States.'' [41] A grant of parole, including parole in place, under INA

[29] *See* Economic Analysis section in this notice.

[30] *See* Delegation to the Bureau of Citizenship and Immigration Services (Delegation No. 0150.1, Sec. II(O)) (June 5, 2003) (vesting parole authority in USCIS through its Director and subordinate officers).

[31] *See* INA sec. 101(a)(13)(A), 8 U.S.C. 1101(a)(13)(A),) (defining the terms ''admission'' and ''admitted'' as ''the lawful entry of the alien into the United States after inspection and authorization by an immigration officer''); INA sec. 212(d)(5), 8 U.S.C. 1182(d)(5); *see also* USCIS Policy Manual, Volume 7, Adjustment of Status, Part B, 245(a) Adjustment, Chapter 2, Eligibility Requirements, Section 3, Parole [7 USCIS PM B.2 (A)(3)] (''Parole in Place: Parole of Certain Noncitizens Present Without Admission or Parole''), available at *https://www.uscis.gov/policy-manual/volume-7-part-b-chapter-2* (last updated July 16, 2024).

[32] *See* INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A); INA sec. 235(a)(1), 8 U.S.C. 1225(a)(1) (''An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of [the INA] an applicant for admission. A noncitizen placed in removal proceedings pursuant to INA sec. 240, 8 U.S.C. 1229a, may also be an applicant for admission, and such an individual could be considered for this parole in place process even if released from custody under INA sec. 236(a), 8 U.S.C. 1226(a), as long as they have not been admitted. *See* INA sec. 240(a)(2), 8 U.S.C. 1229a(a)(2) (''An alien placed in proceedings under this section may be charged with any applicable ground of inadmissibility under section 1182(a) of this title. . .'').

[33] *See supra* note 24 and Section II.C of this notice.

[34] INA sec. 101(a)(13)(B), 8 U.S.C. 1101(a)(13)(B); INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A).

[35] INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A).

[36] 8 CFR 212.5(e) (providing that a noncitizen's parole may terminate automatically or upon written notice). In addition, neither the denial of a parole in place request nor a parole termination determination is subject to judicial review. *See* INA sec. 242(a)(2)(B)(ii), 8 U.S.C. 1252(a)(2)(B)(ii); *Bolante* v. *Keisler,* 506 F.3d 618, 621 (7th Cir. 2007); *Samirah* v. *O'Connell,* 335 F.3d 545, 549 (7th Cir. 2003); *see also Vazquez Romero* v. *Garland,* 999 F.3d 656, 665 (9th Cir. 2021) (''We have previously concluded that the jurisdiction-stripping provision of [8 U.S.C.] 1252(a)(2)(B)(ii) applies to discretionary parole decisions under sec. 1182(d)(5).'' (citing *Hassan* v. *Chertoff,* 593 F.3d 785, 790 (9th Cir. 2010))).

[37] 8 CFR 274a.12(c)(11).

[38] INA sec. 212(a)(9)(B)(ii), 8 U.S.C. 1182(a)(9)(B)(ii) (''[A]n alien is deemed to be unlawfully present in the United States if the alien is present in the United States after the expiration of the period of stay authorized by the Attorney General or is present in the United States without being admitted or paroled.'').

[39] *See infra* notes 65–72 and Section II.D. of this notice for a discussion of Existing Family Unity Parole Policies; *see also, e.g., Reno* v. *Flores,* 507 U.S. 292, 313–14 (1993) (holding that a statute requiring ''individualized determination[s]'' does not prevent immigration authorities from using ''reasonable presumptions and generic rules''); *Fook Hong Mak* v. *INS,* 435 F.2d 728, 730 (2d Cir. 1970) (upholding INS's authority to ''determine[ ] certain conduct to be so inimical to the statutory scheme that all persons who have engaged in it shall be ineligible for favorable consideration'' and observing that there is no legal principle forbidding an agency that is ''vested with discretionary power'' from determining that it will not use that power ''in favor of a particular class on a case-by-case basis''); *cf.* INA sec. 212(d)(5)(B), 8 U.S.C. 1182(d)(5)(B) (providing that DHS may parole a noncitizen determined to be a refugee only if DHS ''determines that compelling reasons in the public interest *with respect to that particular alien* require that the alien be paroled into the United States rather than be admitted as a refugee'' (emphasis added)).

[40] *See supra* note 28.

[41] INA sec. 245(a); 8 U.S.C. 1255(a). To apply for adjustment of status under INA sec. 245(a), the noncitizen must also have an immigrant visa ''immediately available to him'' or her at the time of filing. INA sec. 245(a)(3), 8 U.S.C. 1255(a)(3). Because there is no numerical limit on immigrant visas for spouses of U.S. citizens, *see* INA sec. 201(b)(2)(A)(i), 8 U.S.C. 1151(b)(2)(A)(i), immigrant visas are immediately available to them upon approval of a Form I–130. *See* 8 CFR 245.2(a)(2)(i)(B). Cuban nationals who are paroled also may be eligible for adjustment of status under the Cuban Adjustment Act, Public Law 89–732 (1966) (8 U.S.C. 1255 note), without regard to the availability of an immigrant visa.

section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A), satisfies this threshold requirement.[42]

The noncitizen must also satisfy all other requirements for adjustment of status, including establishing that they are not inadmissible under any applicable grounds,[43] and that they merit a favorable exercise of discretion including not being a threat to public safety or national security.[44]

C. Existing Parole in Place Processes

Parole in place is currently used for certain noncitizens to promote family unity and remove barriers to adjustment of status. As federal courts, including the Supreme Court, have long recognized, ''parole creates something of legal fiction,'' as a paroled noncitizen is allowed to be present in the United States temporarily but remains an ''applicant for admission'' as defined in INA 235(a)(1), 8 U.S.C. 1225(a)(1), pending the granting of relief from removal such as asylum or adjustment of status.[45] Through this well-established legal fiction, the statute has long authorized the parole of applicants for admission ''into the United States''—whether in the form of temporary release from immigration custody or otherwise—even after they have crossed into the United States and are already physically present in the country.[46]

Congress preserved this legal fiction in IIRIRA while expanding the legal concept of an ''applicant for admission.'' Congress provided that any noncitizen who is present in the United States without admission ''shall be deemed . . . an applicant for admission,''[47] and that although the Secretary may parole ''any [noncitizen] applying for admission,'' such parole does not constitute an admission, and the parolee remains an applicant for admission.[48] Thus, ''even noncitizens already physically present in the United States'' after having entered without inspection remain applicants for admission unless and until they are admitted or removed and ''may be eligible for humanitarian or public benefit parole under [section 212(d)(5)(A) of the INA] by virtue of their status as applicants for admission.''[49] Put differently, because noncitizens physically present without authorization are deemed ''applicants for admission,'' they are therefore ''applying for admission to the United States,''[50] and thus eligible under the parole statute for parole ''into the United States.''[51]

DHS, like the former INS, has long understood section 212(d)(5)(A) as allowing for parole of applicants for admission who entered the United States without inspection and admission at a port of entry and were present in the country beyond the border. The INS General Counsel issued an opinion in 1998 adopting that straightforward, reasonable construction of the statute.[52] In 2007, the DHS General Counsel issued an opinion endorsing the 1998 INS General Counsel opinion in relevant part.[53] The Department also, for example, issued a Federal Register notice in 2002 providing that applicants for admission who are encountered in the United States within two years of having entered by sea unlawfully and who are placed in expedited removal proceedings may be ''paroled into the United States'' under INA section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A).[54]

[42] DHS may also release a noncitizen present without admission or parole from custody on ''conditional parole,'' also known as a release on one's own recognizance, under INA sec. 236(a)(2)(B), 8 U.S.C. 1226(a)(2)(B), pending INA sec. 240, 8 U.S.C. 1229a, removal proceedings. Conditional parole under INA sec. 236(a)(2)(B), however, does not equate to parole under INA sec. 212(d)(5), 8 U.S.C. 1182(d)(5), and therefore does not constitute parole for purposes of adjustment of status under INA sec. 245, 8 U.S.C. 1255, or the Cuban Adjustment Act. *See Matter of Cabrera-Fernandez,* 28 I&N Dec. 747, 748–50 (BIA 2023) (reaffirming *Matter of Castillo-Padilla,* 25 I&N Dec. 257 (BIA 2010), *aff'd,* 417 F. App'x 888 (11th Cir. 2011)); Coldebella Memo, *supra* note 24 (clarifying that ''conditional parole'' under section INA 236(a)(2)(B), 8 U.S.C. 1226(a)(2)(B), does not constitute parole under INA section 212(d)(5), 8 U.S.C. 1182(d)(5)). However, such noncitizens may remain eligible to request a grant of parole in place if they have not otherwise been ''admitted'' to the United States and meet the other requirements.

[43] *See* INA sec. 245, 8 U.S.C. 1255 (requirements for adjustment of status); INA sec. 212(a), 8 U.S.C. 1182(a) (grounds of inadmissibility). While noncitizens generally must also have ''maintain[ed] continuously a lawful status since entry into the United States'' to qualify for adjustment of status under INA sec. 245(a), 8 U.S.C. 1255(a), this restriction does not apply to immediate relatives, which includes spouses and children (including stepchildren) of U.S. citizens. *See* INA sec. 245(c), 8 U.S.C. 1255(c) (bars to adjustment of status eligibility); INA sec. 201(b)(2)(A)(i), 8 U.S.C. 1151(b)(2)(A)(i) (defining ''immediate relatives''); INA sec. 101(b)(1), 8 U.S.C. 1151(b)(1) (defining ''child''). *See also* discussion of unlawful presence *supra* note 10.

[44] INA sec. 245(a), 8 U.S.C. 1255(a).

[45] *Duarte* v. *Mayorkas,* 27 F.4th 1044, 1058 (5th Cir. 2022); *see* INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A) (providing that parole shall not be regarded as admission); INA sec. 101(a)(13)(B), 8 U.S.C. 1101(a)(13)(B) (same); *see also, e.g., Sale* v. *Haitian Ctrs. Council, Inc.,* 509 U.S. 155, 175 (1993) (observing that ''[u]nder the INA, both then and now, those seeking 'admission'' and trying to avoid 'exclusion' were already within our territory (or at its border)'' could be paroled under INA section 212(d)(5), 8 U.S.C. 1182(d)(5), ''but the law treat[s] them as though they had never entered the United States at all''); *Leng May Ma* v. *Barber,* 357 U.S. 185, 189 (1958) (noting the legal fiction that a parolee is considered to be constructively remaining at the border applying for admission); *Cruz-Miguel* v. *Holder,* 650 F.3d 189, 197 n.12 (2d Cir. 2011) (''Although [noncitizens] paroled under 8 U.S.C. 1182(d)(5)(A) physically enter the United States temporarily, they are nevertheless deemed to remain constructively detained at the border.'').

[46] The phrase ''parole into the United States'' in INA section 212(d)(5)(A) allows for the temporary release or continued presence of ''any'' applicant for admission—even though already present in the United States—within U.S. territory pending accomplishment of the purpose of the parole. INA sec. 212(d)(5), 8 U.S.C. 1182(d)(5). At the same time, as described in settled case law, the parolee is deemed to be constructively at the border, and courts have consistently understood ''parole into the United States'' as being applicable to applicants for admission who are already present in U.S. territory (*e.g.,* arriving noncitizens who were subject to detention pending exclusion proceedings), even if, under pre-IIRIRA law, they were not considered to have effected an ''entry,'' as that term was formerly defined, *see* 8 U.S.C. 1101(a)(13) (1994), into the United States for immigration purposes). *See, e.g., Sale,* 509 U.S. at 175; *Leng May Ma,* 357 U.S. at 189; *see also Abramski* v. *United States,* 573 U.S. 169, 179 (2014) (''[W]e must (as usual) interpret the relevant words in a statute not in a vacuum, but with reference to the statutory context, structure, history and purpose.'') (quotation marks omitted); *FDA* v. *Brown & Williamson Tobacco Corp.,* 529 U.S. 120, 133 (2000) (underscoring the ''fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme''); *cf. Bruesewitz* v. *Wyeth LLC,* 562 U.S. 223, 243 (2011) (emphasizing the force of ''consistent judicial gloss'' assigned to a statutory ''term or concept'').

[47] INA sec. 235(a)(1), 8 U.S.C. 1225(a)(1).

[48] INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A); *see Cruz-Miguel,* 650 F.3d at 197–98 & n.12.

[49] *Cruz-Miguel,* 650 F.3d at 198; *see also Ortega-Cervantes,* 501 F.3d at 1116 (same).

[50] INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A). For purposes of the parole statute, ''applying for admission'' is synonymous with ''applicant for admission.'' *See id.* (providing that when DHS determines the purposes of parole of the noncitizen ''have been served,'' the noncitizen's ''case shall continue to be dealt with in the same manner as that of *any other applicant for admission* to the United States'') (emphasis added); 8 CFR 212.5 (1959) (referring to parole at ports of entry under INA sec. 212(d)(5) of ''any . . . applicant for admission'' at the INS district director's discretion).

[51] *Id.; see Ortega-Cervantes,* 501 F.3d at 1116.

[52] Memorandum from Paul W. Virtue, INS General Counsel, to INS officials, *Authority to Parole Applicants for Admission Who Are Not Also Arriving Aliens,* Legal Op. No. 98–10, 1998 WL 1806685 (Aug. 21, 1998). Based on that 1998 INS legal opinion, the INS Commissioner issued a policy statement authorizing the parole of certain Cuban nationals who entered the United States without inspection, taking into consideration the fact that parole could allow an application for adjustment of status under the Cuban Adjustment Act of 1966 after one year. *See* Memorandum from Doris Meissner, INS Commissioner, to INS officials, *Eligibility for Permanent Residence Under the Cuban Adjustment Act Despite Having Arrived at a Place Other than a Designated Port-of-Entry* (Apr. 19, 1999), *reprinted in* 76 Interpreter Releases 676, 684, App. 1 (May 3, 1999).

[53] Memorandum from Gus P. Coldebella, DHS General Counsel, to DHS officials, *Clarification of the Relation Between Release under Section 236 and Parole under Section 212(d)(5) of the Immigration and Nationality Act* (Sept. 28, 2007) (''Coldebella Memo''), available at *https://www.uscis.gov/sites/default/files/document/legal-docs/Coldebella_Memo.pdf.*

[54] *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the*

Continued

In 2013, relying on existing statutory authorities, USCIS issued policy guidance on the parole in place process for family members of certain current or former members of the U.S. Armed Forces. Pursuant to that guidance, a grant of parole enables those family members to meet the ''inspected and admitted or paroled'' requirement for adjustment of status.[55] In November 2014, the Secretary directed USCIS to expand on these policies to include family members of U.S. citizens and LPRs who seek to enlist in the U.S. Armed Forces.[56]

In 2019, Congress explicitly recognized that parole in place is a legitimate use of parole authority under INA section 212(d)(5).[57] That legislation ''reaffirmed'' ''the importance of the Secretary's parole in place authority.'' [58] More specifically, this emphasized that the use of ''parole in place reinforces the objective of military family unity,'' and directed DHS to ''consider, on a case-by-case basis, whether granting the [parole in place] request would enable military family unity that would constitute a significant public benefit.'' [59] That same year, Congress provided a new long-term immigration status specifically for certain noncitizens in the Commonwealth of the Northern Mariana Islands who had been paroled in place by USCIS for various reasons, including family unity, and authorized continued parole in place for those noncitizens pending adjudication of their applications for the new status.[60]

In the National Defense Authorization Act for FY 2020, Congress legislatively reaffirmed the use of parole for noncitizens already physically present within the United States, indicating Congress's intent that parole in place of individuals already present in the United States constitutes a parole ''into the United States.[61] Likewise, at least two courts of appeals have endorsed this long-standing understanding of the INA, which DHS continues to believe constitutes the best reading of the statute.[62]

According to USCIS data, since it announced the parole in place process for certain military family members in 2013, approximately 82,000 noncitizens have applied for, and 61,000 noncitizens have received, parole in place as the spouse, child, or parent of a servicemember, reservist, or veteran of the U.S. Armed Forces, as of June 30, 2024.[63]

D. Existing Family Unity Parole Processes

Past Secretaries have similarly exercised the parole authority to promote family unity for noncitizens outside the United States who are waiting for a family-based immigrant visa to become available.[64]

For example, the Cuban Family Reunification Parole (CFRP) Program, established in 2007, allows U.S. citizens and LPRs to request parole for certain eligible family members in Cuba who are the beneficiaries of an approved Form I–130.[65] If parole is authorized, these family members may travel to the United States before their immigrant visa priority dates are current and seek parole at a U.S. port of entry to reunify with their family members while awaiting availability of an immigrant visa. In 2014, USCIS launched the Haitian Family Reunification Parole (HFRP) Program, a similar process for U.S. citizens and LPRs with eligible family members in Haiti.[66] In 2016, USCIS announced a family reunification process to allow certain Filipino World War II veterans in the United States to reunite with their eligible family members who are waiting for their immigrant visas to become available.[67]

More recently, DHS announced the implementation of new Family Reunification Parole (FRP) processes for nationals of Colombia,[68] Ecuador,[69] El Salvador,[70] Guatemala,[71] and Honduras,[72] and their immediate family members, who have approved family-based immigrant visa petitions filed on their behalf by a U.S. citizen or LPR. DHS also announced updates to the existing CFRP and HFRP processes to adopt the same modernized and streamlined processing steps implemented for the newer FRP processes.[73]

III. Parole in Place Process for Certain Noncitizen Spouses and Stepchildren of U.S. Citizens

Under this new process, USCIS will consider requests for parole in place from noncitizen spouses of U.S. citizens who are present in the United States without admission or parole and have been continuously physically present for at least 10 years as of June 17, 2024 (that is, continuously physically present since June 17, 2014), and remain continuously physically present through the date they file their request for parole in place. USCIS will also consider parole in place requests from certain noncitizen stepchildren of U.S. citizens provided that they have been continuously physically present in the United States without admission or parole since June 17, 2024 and through the filing of their request for parole in place, and meet the INA's definition of a stepchild of a U.S. citizen.[74]

Immigration and Nationality Act, 67 FR 68924, 68925 (Nov. 13, 2002). The Department, likewise, for the past two decades, has routinely ''parole[d] into the United States'' under INA section 212(d)(5)(A) certain applicants for admission who are encountered within 14 days and 100 miles of the U.S. land border after having crossed into the country without inspection and being placed in expedited removal proceedings. *See Designating Aliens for Expedited Removal,* 69 FR 48877, 48879 (Aug. 11, 2004).

[55] USCIS Military Parole in Place Memorandum, *supra* note 26.

[56] Memorandum from Jeh Johnson, Secretary, U.S. Dep't of Homeland Security, *Families of U.S. Armed Forces Members and Enlistees* (Nov. 20, 2014) (directing USCIS to issue expanded policies on the use of both parole in place and deferred action for certain spouses, children, and parents of individuals seeking to enlist in the U.S. Armed Forces as well as those currently serving), available at *https://www.dhs.gov/sites/default/files/publications/14_1120_memo_parole_in_place.pdf.*

[57] *See* NDAA 2020 sec. 1758(a) (referring to ''parole in place under section 212(d)(5)''), *supra* note 27.

[58] NDAA 2020, sec. 1758(b)(3), *supra* note 27.

[59] NDAA 2020, sec. 1758(a) and (b), *supra* note 27.

[60] *See* Northern Mariana Islands Long-Term Legal Residents Relief Act, Public Law 116–24, sec. 2 (2019) (48 U.S.C. 1806(e)(6)).

[61] *See* NDAA 2020, sec. 1758(b)(3), *supra* note 27.

[62] *See Cruz-Miguel,* 650 F.3d at 198; *Ortega-Cervantes,* 501 F.3d at 1116.

[63] DHS, USCIS, Office of Performance and Quality (OPQ), Computer-Linked Application Information Management System (CLAIMS) 3 (queried 6/2024).

[64] *See Texas* v. *Biden,* 20 F.4th 928, 947 (5th Cir. 2021) (noting that ''[q]uintessential modern uses of the parole power include . . . paroling aliens who qualify for a visa but are waiting for it to become available'') (citing T. Alexander Aleinikoff et al., Immigration and Citizenship: Process and Policy 299 (9th ed. 2021)), *rev'd on other grounds,* 597 U.S. 785 (2022).

[65] *Cuban Family Reunification Parole Program,* 72 FR 65588 (Nov. 21, 2007).

[66] *Implementation of Haitian Family Reunification Parole Program,* 79 FR 75581 (Dec. 18, 2014).

[67] *Filipino World War II Veterans Parole Policy,* 81 FR 28097 (May 9, 2016).

[68] *Implementation of a Family Reunification Parole Process for Colombians,* 88 FR 43591 (July 10, 2023).

[69] *Implementation of a Family Reunification Parole Process for Ecuadorians,* 88 FR 78762 (Nov. 16, 2023).

[70] *Implementation of a Family Reunification Parole Process for Salvadorans,* 88 FR 43611 (July 10, 2023).

[71] *Implementation of a Family Reunification Parole Process for Guatemalans,* 88 FR 43581 (July 10, 2023).

[72] *Implementation of a Family Reunification Parole Process for Hondurans,* 88 FR 43601 (July 10, 2023).

[73] *Implementation of Changes to the Cuban Family Reunification Parole Process,* 88 FR 54639 (Aug. 11, 2023); *Implementation of Changes to the Haitian Family Reunification Parole Process,* 88 FR 54635 (Aug. 11, 2023).

[74] INA sec. 101(b)(1)(B), 8 U.S.C. 1101(b)(1)(B) (defining ''child'' as an unmarried person under age twenty-one, who is, *inter alia,* ''a stepchild, whether or not born out of wedlock, provided the child had not reached the age of eighteen years at the time the marriage creating the status of stepchild occurred'').

Upon receipt of a properly filed parole in place request,[75] USCIS will determine whether the noncitizen meets the criteria outlined in this notice, whether a grant of parole in place is warranted based on significant public benefit or urgent humanitarian reasons, and whether the requestor merits a favorable exercise of discretion. All parole in place requests will be considered on a case-by-case basis as required under the parole statute.[76]

USCIS will exercise its unfettered discretion in administering this process and prioritizing requests consistent with the statute and any applicable regulations. For example, if it determines that the evidence submitted does not establish eligibility for parole in place, USCIS may, in its discretion, issue a request for evidence, issue a notice of intent to deny, or deny the request without requesting additional information or evidence.[77] In addition, requestors may be required to appear for an interview.[78] There is no right to the adjudication of a parole request, including within any given period. Nor is there a right to an administrative appeal.

USCIS will consider on a case-by-case basis: criminal history; any previous removal proceedings and removal orders; the results of background checks, which include national security and public safety vetting; positive and adverse factors presented by the requestor; and any other relevant information available to or requested by USCIS. Noncitizens who have been convicted of serious offenses will be ineligible for this process, as will those whom USCIS determines, in its discretion, otherwise pose a threat to national security, public safety, or border security.[79] Other criminal convictions, excluding minor traffic offenses, will result in a rebuttable presumption of ineligibility for parole in place. This presumption can be rebutted on a case-by-case basis by weighing the seriousness of the conviction against mitigating factors relating to the conviction as well as other positive factors that suggest that the noncitizen merits a favorable exercise of discretion. Noncitizens with pending criminal charges will be ineligible for parole in place under this process, until those charges are resolved.[80]

Eligible noncitizens who are currently in removal proceedings and do not have a final order of removal may request parole in place. However, if the noncitizen would otherwise constitute a national security, public safety, or border security concern,[81] they will be ineligible to receive parole in place pursuant to this process.[82] USCIS will evaluate, in the exercise of its discretion, the existence and circumstances of the removal proceedings in determining whether the noncitizen may be granted parole in place. Noncitizens with unexecuted final removal orders are presumptively ineligible for this process. In the exercise of its discretion, USCIS will evaluate the facts and circumstances underlying the unexecuted final removal order, including the basis for the removal order, to determine whether the noncitizen may overcome the presumption of ineligibility and be granted parole in place.[83] In so doing, USCIS will coordinate as necessary with the U.S. Immigration and Customs Enforcement (ICE) Office of the Principal Legal Advisor (OPLA).

Parole determinations are reserved to the exclusive discretionary authority of DHS. If parole in place is denied, there is no right to an administrative appeal, and neither immigration judges nor the Board of Immigration Appeals (BIA) have the authority to consider or review parole requests.[84]

Nothing in this notice or the implementation of this parole in place process is intended to limit DHS's authority to take enforcement actions in accordance with the INA and consistent with governing policies and practices. DHS may initiate and pursue enforcement action pursuant to its enforcement priorities[85] under its existing authorities notwithstanding a noncitizen's intent to request parole in place, eligibility to request parole in place, filing of a request for parole in place, or grant of parole in place under this process.

IV. Basis for Parole—Significant Public Benefit

Granting parole in place on a case-by-case basis to noncitizens who meet the criteria outlined in this notice and merit a favorable exercise of discretion will generally provide a significant public benefit to the United States, including to the impacted noncitizens, their families, and their communities at large by: (1) promoting family unity and stability; (2) strengthening the U.S. economy and the economic position of families and U.S. communities; (3) advancing diplomatic relationships and key foreign policy objectives of the United States; (4) reducing strain on limited U.S. government resources; and (5) furthering national security, public safety, and border security objectives. Through a case-by-case assessment, USCIS will consider whether parole for each requestor individually will provide a significant public benefit to further these goals.

Promoting Family Unity and Stability

This process will promote family unity by allowing certain noncitizens who have long lived in the United States to apply for permanent residence, if otherwise eligible, in the United States without separating them from their U.S. citizen spouses and, in many cases, their U.S. citizen children. Courts have long recognized preservation of family unity to be a ''prevailing purpose'' of U.S. immigration law.[86] This use of the Secretary's statutory parole authority addresses a barrier that currently prevents many of these otherwise eligible noncitizens from

[75] *See* Section VI. of this notice for additional information regarding proper filing of a request for parole in place under this process.

[76] *See* INA 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A).

[77] *See* 8 CFR 103.2(b)(8).

[78] *See* 8 CFR 103.2(b)(9).

[79] As discussed further in Section V.A. of this notice, there is an exception for border security concerns for stepchildren who otherwise meet the criteria for parole in place under this process.

[80] *See* Section V.A. of this notice.

[81] *See, e.g.,* Memorandum from Alejandro N. Mayorkas, Secretary, U.S. Dep't of Homeland Security to Tae D. Johnson, Acting Director, U.S. Immigration and Customs Enforcement, et al., *Guidelines for the Enforcement of Civil Immigration Law* (Sept. 30, 2021) (''September 2021 Guidelines''), available at *https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf.*

[82] As noted above and discussed further in Section V.A. of this notice, noncitizens present border security concerns if they were apprehended while attempting to enter the U.S. unlawfully or if they entered unlawfully after November 1, 2020. There is an exception to this for stepchildren who otherwise meet the criteria for parole in place under this process.

[83] A noncitizen with an unexecuted final removal order who overcomes this presumption and is granted parole in place, and who wishes to pursue adjustment of status, may file a motion to reopen or a motion to reopen and terminate removal proceedings with EOIR. Noncitizens may request U.S. Immigration and Customs Enforcement (ICE) Office of the Principal Legal Advisor (OPLA) to join (or not oppose) a motion to reopen and dismiss or terminate submitted to EOIR, depending on the facts and circumstances. Any such motion would be decided on its own merits in a distinct and separate process from the parole in place adjudication.

[84] *See Matter of Castillo-Padilla,* 25 I. & N. Dec. 257, 261 (BIA 2010), *aff'd,* 417 F. App'x 888 (11th Cir. 2011).

[85] *See, e.g.,* September 2021 Guidelines, *supra* note 81.

[86] *Nwozuzu* v. *Holder,* 726 F.3d 323, 332 (2d Cir. 2013) (citing H.R. Rep. No. 82–1365 (1952), *reprinted in* 1952 U.S.C.C.A.N. at 1680); *see also Holder* v. *Martinez Gutierrez,* 566 U.S. 583, 594 (2012) (recognizing that the ''objectives of providing relief to [noncitizens] with strong ties to the United States and promoting family unity . . . underlie or inform many provisions of immigration law,'' even if ''they are not the INA's only goals, and Congress did not pursue them to the *n*th degree'') (quotation marks omitted) (citing *Fiallo* v. *Bell,* 430 U.S. 787, 795 n.6 (1977), and *INS* v. *Errico,* 385 U.S. 214, 220 (1966)).

obtaining LPR status and will also promote the long-term sense of security and stability for these families.

This process will benefit an estimated 500,000 noncitizen spouses and 50,000 noncitizen stepchildren.[87] The noncitizen spouses eligible for this process have lived in the United States for a median time period of 23 years, illustrating the depth of their ties to the country.[88] More than 1.6 million U.S. citizen family members, including 1.1 million U.S. citizen children, are estimated to live with these noncitizen family members.[89] Absent this process, for these noncitizens to apply for permanent residence, their U.S. citizen spouses and children might have to endure prolonged separation from them, which would disrupt their lives, create instability, and result in avoidable economic and emotional hardship. Without this process, hundreds of thousands of noncitizen spouses of U.S. citizens are likely to instead remain in the United States without lawful status, causing these families to live in fear and with uncertainty about their futures.[90]

In justifying the establishment of the parole in place process for military families in partnership with the Department of Defense, USCIS described how in the absence of such a process, service members faced ''stress and anxiety because of the immigration status of their family members in the United States.'' [91] Here, too, access to parole in place will reduce the stress and anxiety of U.S. citizen spouses and children by providing stability for these families in the short and long term.

Strengthening the U.S. Economy and the Economic Position of Families and U.S. Communities

If parole in place is granted, the noncitizen will be immediately eligible to apply for employment authorization for the duration of their parole period, which will benefit both their U.S. citizen family members and the broader U.S. economy. Additionally, this process will provide these noncitizens the ability to work lawfully,[92] which will facilitate greater access to job mobility and improve overall economic productivity; [93] provide stable, consistent support to their U.S. citizen family members; [94] reduce their risk of facing labor exploitation; [95] and allow for these noncitizens to contribute their full talents to the U.S. workforce.[96]

Currently, an estimated 65 percent of noncitizens over the age of 16 who do not have lawful status are already participating in the U.S. workforce, and many are self-employed.[97] The noncitizen spouses of U.S. citizens covered by this process generally lack access to employment authorization and are therefore prevented from contributing as fully to the economy as they otherwise could. Like other U.S. families, U.S. citizen spouses, noncitizen spouses, and their families pay taxes and stimulate the economy by consuming goods and services. These activities contribute to further growth of the economy and create additional jobs and opportunities for U.S. citizens.[98] Providing these noncitizens access to employment authorization could also increase their labor force participation in a tight labor market, where there are more jobs than workers.[99]

U.S. citizen family members will also benefit from the stability offered through this process. Absent this process, applying for LPR status requires noncitizens who are present without admission or parole (PWAP) to depart the United States and remain abroad for an indefinite period, which is disruptive to the family's economic and emotional wellbeing. By contrast, parole and the subsequent ability to apply for LPR status from within the United States will enable these noncitizens to consistently support and provide for their U.S. citizen family members.

Access to employment authorization will also reduce potential labor exploitation, furthering a DHS and government-wide interest.[100] Research demonstrates that noncitizens who lack employment authorization are more likely to experience violations of labor laws, including laws governing workplace conditions and minimum wages.[101] They are also less likely to report those violations to enforcement agencies because of their unauthorized status.[102] This allows unscrupulous

[87] OHSS Analysis, *supra* note 3, tbl. 3.

[88] *Id.* tbl. 5.

[89] *Id.* tbl. 4. While the total number of U.S. citizens living in families with noncitizen spouses who lack lawful status is over 2.5 million, including over 1.6 million children, the subset of U.S. citizens living with noncitizen spouses who lack lawful status, who have lived in the country for 10 or more years, and who entered without inspection is estimated to be 1.65 million, including an estimated 1.1 million U.S. citizen children.

[90] Edward Vargas & Vickie Ybarra, *U.S. Citizen Children of Undocumented Parents: The Link Between State Immigration Policy and the Health of Latino Children,* J. Immigr. Minor Health (Aug. 2017), available at *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5236009.* The impact of this instability is particularly profound for children in these families. *See* ''Preventing violence through the development of safe, stable, and nurturing relationships between children and their parents and caregivers,'' World Health Organization and Centre for Public Health (2009), *https://iris.who.int/bitstream/handle/10665/44088/9789241597821_eng.pdf;* Vincent J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study,* Am. J. Preventive Medicine 14 no. 4, 245–258 (1998), *https://www.ajpmonline.org/article/S0749-3797(98)00017-8/fulltext;* A. Martinez, L. Ruelas, and D. Granger, *Household fear of deportation in Mexican-origin families: Relation to body mass index percentiles and salivary uric acid,* Am. J. Hum. Biol. 2017, *https://pubmed.ncbi.nlm.nih.gov/28726338/*; L. Rojas-Flores, M. Clements, J. Hwang Koo, and J. London, *Trauma and psychological distress in Latino citizen children following parental detention and deportation,* Psychol. Trauma 2017, *https://pubmed.ncbi.nlm.nih.gov/27504961/.*

[91] USCIS Military Parole in Place Memorandum, *supra* note 26.

[92] *See* 8 CFR 274a.12(c)(11). Noncitizens who apply for adjustment of status to that of an LPR under INA sec. 245 may also apply for and obtain employment authorization while their adjustment application remains pending. *See* 8 CFR 274a.12(c)(9).

[93] Cecilia Rouse, Lisa Barrow, Kevin Rinz, and Evan Soltas, White House Council of Economic Advisers, *Economic Benefits of Extending Permanent Legal Status to Unauthorized Immigrants* (Sept. 17, 2021), *https://www.whitehouse.gov/cea/written-materials/2021/09/17/the-economic-benefits-of-extending-permanent-legalstatus-to-unauthorized-immigrants/.*

[94] *Id.*

[95] Felipe González Morales, United Nations Special Rapporteur on the Human Rights of Migrants, *How to Expand and Diversify Regularization Mechanisms and Programmes to Enhance the Protection of the Human Rights of Migrants,* at 3, U.N. Doc. A/HRC.52/26 (Apr. 20, 2023).

[96] *See supra* note 93.

[97] *See* Migration Policy Institute, ''Profile of the Unauthorized Population: United States,'' available at *https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US* (last visited June 16, 2024).

[98] Cecilia Rouse, Lisa Barrow, Kevin Rinz, and Evan Soltas, White House Council of Economic Advisers, *Economic Benefits of Extending Permanent Legal Status to Unauthorized Immigrants* (Sept. 17, 2021) (describing the ways in which the presence of immigrants helps stimulate the economy), available at *https://www.whitehouse.gov/cea/written-materials/2021/09/17/the-economic-benefits-of-extending-permanent-legal-status-to-unauthorized-immigrants/.*

[99] *Id.; see also* U.S. Bureau of Labor Statistics, *Number of unemployed persons per job opening, seasonally adjusted, available at https://www.bls.gov/charts/job-openings-and-labor-turnover/unemp-per-job-opening.htm#.*

[100] Memorandum from Alejandro Mayorkas, Secretary, U.S. Dep't of Homeland Security, *Worksite Enforcement: The Strategy to Protect the American Labor Market, the Conditions of the American Worksite, and the Dignity of the Individual* (Oct. 12, 2021), available at *https://www.dhs.gov/publication/memorandum-worksite-enforcement.*

[101] *See, e.g.,* Annette Bernhardt, Ruth Milkman, and Nik Theodor, National Employment Law Project, *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities* 25, 42–45 (Sept. 21, 2009), available at *https://www.nelp.org/insights-research/broken-laws-unprotected-workers-violations-of-employment-and-labor-laws-in-americas-cities/.*

[102] *See, e.g.,* Tsedeye Gebreselassie, Nayantara Mehta, and Irene Tung, National Employment Law Project, *How California Can Lead on Retaliation Reforms to Dismantle Workplace Inequality* 8 (Nov. 2, 2022), available at *https://www.nelp.org/insights-research/how-california-can-lead-on-retaliation-*

employers to unfairly compete with those who hire U.S. workers.[103]

In addition, although undocumented noncitizens contribute billions in Federal, State, and local taxes each year, regularizing the status of this population has the potential to increase these tax revenues.[104] Noncitizens who lack employment authorization may file taxes using an Individual Taxpayer Identification Number (ITIN). Past estimates suggest that noncitizens filing with ITINs pay billions in withheld payroll taxes annually.[105] While a precise estimate of the tax compliance rate among the undocumented population is unknown, government agencies and nongovernmental organizations have previously inferred that it may be between 50 to 75 percent. Providing access to employment authorization for this population would increase tax revenues by decreasing barriers to compliance with the tax code and increasing the earning potential of these noncitizens.[106]

The benefits of facilitating access to employment authorization for this particular population far outweigh the potential costs to American workers or to the U.S. economy. First, a review of economic studies concludes that providing legal status to unauthorized noncitizens does not harm U.S.-born and other workers in the longer term, as the impact of immigration on wages overall is both limited and very small.[107] Second, the impact on public benefits at both the State and Federal level is expected to be minimal, at least initially, as these noncitizens would be ineligible to access most means-tested benefits for five years after being granted parole in place, as discussed in detail in Section VII.C. of this notice.[108] See additional discussion of benefits related to the economy and labor market in Section VIII.A. of this notice.

Advancing Diplomatic Relationships and Key Foreign Policy Objectives of the United States

This process responds to the requests and interests of key foreign partners and aligns with the U.S. government's broader foreign policy objectives to collaboratively manage migration and promote economic stability in countries throughout the Western Hemisphere.

The significant majority of noncitizens who stand to benefit from this process are nationals of Western Hemisphere countries that serve as key migration management partners of the United States. An estimated 64 percent of the noncitizens who are likely to access this process are Mexican nationals, while 20 percent are from Guatemala, Honduras, and El Salvador.[109] An additional 13 percent are nationals of other Western Hemisphere countries.[110]

The United States continues to engage with partner countries in the Western Hemisphere to manage extraordinary levels of migration. These efforts include addressing the root causes of migration, expanding access to lawful pathways, and disrupting human smuggling, trafficking, and criminal networks that prey on the most vulnerable individuals. As part of the strategy to reduce irregular migration and ensure migrants have access to protection, services and employment, the United States has worked with its partners to ensure migrants in other countries have access to regularization programs.

For example, as part of a multilateral process involving 21 countries, in May 2024, Ecuador announced a new regularization program under which certain migrants are able to obtain a temporary resident permit, while others are able to apply for a temporary visa.[111] Colombia has given 10-year temporary protected status to approximately 2.5 million Venezuelans,[112] and announced a plan for parents and legal guardians of children with such status to obtain special permits. Colombia also announced a new special permanent visa for Latin American and Caribbean migrants without regular status in the country. Similarly, Costa Rica committed to expand its Special Temporary Category regularization pathway and reduce barriers to access with continued assistance from the international community.[113]

This parole in place process demonstrates U.S. partnership and commitment to the shared goals of addressing migration through the Western Hemisphere. Partner countries have requested regularization of their respective nationals who have lived in the United States for long periods of time without lawful status.[114] For

reforms-to-dismantle-workplace-inequality/ (noting that only 10 percent of respondents who experienced labor violations reported those violations to a government agency).

[103] U.S. Dep't of Homeland Security, DHS Announces Process Enhancements for Supporting Labor Enforcement Investigations (Jan. 13, 2023) (describing how deferred action protects undocumented workers who may then come forward to participate in enforcement agency investigations of potential violations of labor laws), available at *https://www.dhs.gov/news/2023/01/13/dhs-announces-process-enhancements-supporting-labor-enforcement-investigations.*

[104] *See, e.g.,* Carl Davis, Marco Guzman, and Emma Sifre, Institute on Taxation and Economic Policy, *Tax Payments by Undocumented Immigrants* (July 30, 2024), available at *https://itep.org/undocumented-immigrants-taxes-2024.*

[105] *See, e.g.,* Nat'l Taxpayer Advocate, Annual Report to Congress, Vol. 1, 199 (2015) (''In 2015, 4.4 million ITIN filers paid over $5.5 billion in payroll and Medicare taxes and $23.6 billion in total taxes''), available at *https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/08/ARC15_Volume1.pdf;* Stephen Goss et al., Social Security Administration, Office of the Chief Actuary, Actuarial Note No. 151, *Effects of Unauthorized Immigration on the Actuarial Status of the Social Security Trust Funds* (Apr. 2013) (''For the year 2010, we estimate that the excess of tax revenue paid to the [Social Security] Trust Funds over benefits paid from these funds based on earnings of unauthorized workers is about $12 billion.''), available at *https://www.ssa.gov/oact/NOTES/pdf_notes/note151.pdf.*

[106] Rouse et al., *supra* note 93 (citing Elizabeth U. Cascio & Ethan G. Lewis, *Distributing the Green (Cards): Permanent Residency and Personal Income Taxes after the Immigration Reform and Control Act of 1986,* 172 J. Pub. Econ. 135 (2019)); Davis et al., *supra* note 104.

[107] *See, e.g.,* National Academies, *The Economic and Fiscal Consequences of Immigration* (2017), available at *https://www.nationalacademies.org/our-work/economic-and-fiscal-impact-of-immigration.*

[108] USCIS, Appendix: Eligibility for Public Benefits (describing limitations on when ''qualified aliens,'' including parolees and LPRs, can access public benefits, typically after five years), available at *https://www.uscis.gov/sites/default/files/document/policy-manual-resources/Appendix-EligibilityforPublicBenefits.pdf; see also* 8 U.S.C. 1641(b) (defining ''qualified alien''). Cuban and Haitian nationals who are granted parole, however, are generally eligible for ''Cuban-Haitian Entrant Program'' (CHEP) benefits. *See* Refugee Education Assistance Act of 1980, Public Law 96–422, sec. 501 (8 U.S.C. 1522 note); 8 CFR 212.5(h); *see also* U.S. Dep't of Health and Human Services, Office of Refugee Resettlement, Benefits for Cuban/Haitian Entrants (Fact Sheet), available at *https://www.acf.hhs.gov/orr/fact-sheet/benefits-cuban/haitian-entrants.* Eventually, with LPR status, these parolees could potentially become eligible for other public benefits, but their uptake of these public benefits would likely be curtailed by their access to lawful employment and offset by the increased taxes they would pay as formal contributors to the economy. Rouse et al., *supra* note 93. However, as discussed elsewhere in this section, DHS estimates that only 13 percent of noncitizens likely to access this parole in place process are nationals of Western Hemisphere countries other than Mexico, Guatemala, Honduras, or El Salvador.

[109] OHSS Analysis, *supra* note 3, tbl. 3.

[110] *Id.*

[111] The White House, *Fact Sheet: Third Ministerial Meeting on the Los Angeles Declaration on Migration and Protection in Guatemala* (May 7, 2024) (''White House Fact Sheet''), available at *https://www.whitehouse.gov/briefing-room/statements-releases/2024/05/07/fact-sheet-third-ministerial-meeting-on-the-los-angeles-declarationon-migration-and-protection-in-guatemala/.*

[112] *See* U.S. Dep't of State, Secretary Antony J. Blinken and Secretary of Homeland Security Alejandro Mayorkas at a Joint Press Availability (Apr. 27, 2023), available at *https://www.state.gov/secretary-antony-j-blinken-and-secretary-of-homeland-security-alejandro-mayorkas-at-a-joint-press-availability.*

[113] White House Fact Sheet, *supra* note 111.

[114] The White House, *Mexico-U.S. Joint Communique: Mexico and the United States Reaffirm Their Shared Commitments on an Orderly, Humane and Regular Migration* (Dec. 28, 2023), available at *https://www.whitehouse.gov/briefing-room/statements-releases/2023/12/28/mexico-u-s-*

Continued

example, the Government of Mexico has urged the United States to regularize Mexican nationals who are long-term residents of the United States.[115] Further, the Government of Colombia has requested that the United States regularize certain Colombian nationals living in the United States. Both Mexico and Colombia have partnered closely with the United States to address irregular migration.[116] This parole in place process will therefore strengthen the United States' ability to cooperate and engage with these and other key partners in the region. This cooperation and engagement extends to matters of national and border security as well.

This process will also further the key foreign policy objectives of increasing economic stability in countries that are major sources of migration to the United States. By providing certain noncitizen long-term residents of the United States the ability to access employment authorization and adjustment of status, this process will enhance their ability to send remittances to family members in their countries of origin, promoting stability and reducing incentives for those family members or others to irregularly migrate to the United States.[117] Remittances play a pivotal role in origin countries' economies in the Western Hemisphere. In 2023, remittances received by the countries of Latin America and the Caribbean reached $154 billion.[118] Remittances are crucial to low- and middle-income countries, as they can improve a country's ability to repay debt and national banks can use future inflows as collateral to lower the costs of international borrowing.[119]

Reducing Strain on Limited U.S. Government Resources

The process will also provide the significant public benefit of preserving and more effectively using limited U.S. government resources for DHS (including USCIS and ICE), DOS, and DOJ (EOIR). USCIS anticipates that this process will ultimately reduce pressure on the overlapping, lengthier, and more complex Form I–601A, Application for Provisional Unlawful Presence Waiver, workload.[120]

As of the third quarter of FY 2024, nearly 124,000 Forms I–601A were pending adjudication, and the median processing time to adjudicate a Form I–601A was 41.7 months. Of these pending applications, approximately 44,000, or 35 percent, were filed by noncitizens who have been in the United States for 10 years or more and are married to a U.S. citizen. While increased resources have allowed USCIS to complete more Form I–601A adjudications in FY 2024 year-to-date than in all of FY 2023, the backlog has only been reduced by 5,000 since the start of FY 2024. Although USCIS will carefully consider parole in place requests under this process on a case-by-case basis, USCIS expects that these adjudications will require fewer resources than those required to adjudicate the Form I–601A, given the nature of the adjudication. For example, requestors for this parole in place process will be required to file online, allowing for a more efficient adjudication, while the Form I–601A can only be filed on paper through the mail. USCIS has leveraged many of the efficiencies[121] developed for the online Form I–131 in the development of Form I–131F, which will be both filed and adjudicated electronically. Furthermore, as described elsewhere in this notice, the Form I–601A is a more complex adjudication involving the determination of various factors, including whether the noncitizen has met their burden to show they would be inadmissible only under INA section 212(a)(9)(B)(i) at the time of their consular interview, and whether they have demonstrated extreme hardship to a qualifying relative as required under INA section 212(a)(9)(B)(v), issues that are inherently more difficult to assess in comparison to a discretionary parole request.

USCIS also anticipates that a significant number of noncitizens who may have otherwise filed Form I–601A as a step towards obtaining lawful permanent residence will instead pursue a parole in place request under this process. If future I–601A workloads are reduced, USCIS will be better able to focus on reducing the I–601A backlog, while assuming fewer new I–601A filings.

Although USCIS created a new Form I–131F to support this process, and USCIS will assume a new workload by accepting these parole in place requests, it will offset this new workload by charging a filing fee of $580 as it generally does for parole requests filed online.[122] Thus, USCIS anticipates it will recover the costs associated with this new workload through the fees collected.

Because this process may result in fewer noncitizens filing Forms I–601A and pursuing immigrant visa applications at U.S. embassies or consulates, the parole in place process is also expected to reduce strain on DOS. Consular processing of an immigrant visa application after USCIS approves a Form I–601A involves significant DOS resources. The provisional unlawful presence waiver does not take effect until the applicant departs the United States, appears for an immigrant visa interview at a U.S. embassy or consulate, and is determined by a consular officer to be otherwise eligible for an immigrant visa in light of the approved provisional waiver.[123] If the consular officer finds that the noncitizen is inadmissible based on a ground other than INA section 212(a)(9)(B)(i), 8 U.S.C. 1182(a)(9)(B)(i), the provisional unlawful presence waiver is automatically revoked, and the noncitizen must seek a waiver of inadmissibility for all waivable grounds of inadmissibility through filing a Form I–601, Application for Waiver of

joint-communique-mexico-and-the-united-states-reaffirm-their-shared-commitments-on-an-orderly-humane-and-regular-migration/.

[115] *See, e.g.,* Government of Mexico, *En diálogo con su homólogo estadounidense, presidente López Obrador ratifica propuesta en materia migratoria (In Dialogue with His American Counterpart, President López Obrador Ratifies Proposal on Immigration Matters)* (Feb. 3, 2024), available at *https://www.gob.mx/presidencia/prensa/en-dialogo-con-su-homologo-estadounidense-presidente-lopez-obrador-ratifica-propuesta-en-materia-migratoria.*

[116] *See, e.g.,* Department of State, *U.S.-Colombia Joint Commitment to Address the Hemispheric Challenge of Irregular Migration* (June 4, 2023), available at *https://www.state.gov/u-s-colombia-joint-commitment-to-address-the-hemispheric-challenge-of-irregular-migration/; see also* Department of State, *U.S. Relations with Mexico* (Sept. 13, 2023), available at *https://www.state.gov/u-s-relations-with-mexico/.*

[117] *See, e.g.,* Jose Ivan Rodriguez-Sanchez, *An Economic Lifeline? How Remittances from the U.S. Impact Mexico's Economy,* Baker Institute of Rice University (Nov. 13, 2023), available at *https://www.bakerinstitute.org/research/economic-lifeline-how-remittances-us-impact-mexicos-economy.*

[118] Jeremy Harris and René Maldonado, *Migrant wages and remittances to Latin America and the Caribbean in 2023,* Migration Unpacked, Inter-American Development Bank (May 15, 2024), available at *https://blogs.iadb.org/migracion/en/migrant-wages-and-remittances-to-latin-america-and-the-caribbean-in-2023/.*

[119] *See id.*

[120] Certain immigrant visa applicants may use Form I–601A to request a provisional waiver of the unlawful presence grounds of inadmissibility under INA section 212 (a)(9)(B) before departing the United States to appear at a U.S. Embassy or Consulate for an immigrant visa interview. 8 CFR 212.7(e)(3).

[121] Every submission completed online rather than through paper provides cost savings and operational efficiencies to both USCIS and its customers. USCIS scans some applications, petitions, and requests received on paper so that they can be processed electronically. USCIS offers recommendations to avoid delays when filing paper; if more documents were filed electronically, it would reduce the time spent on scanning paper documents and free up more time for adjudication rather than administrative tasks. *See* U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 89 FR 6194 (Jan. 31, 2024).

[122] *See* 8 CFR 106.2(a)(7); 106.1(g).

[123] 8 CFR 212.7(e)(12)(i).

Grounds of Inadmissibility.[124] In such cases, the noncitizen must await USCIS adjudication of the Form I–601, which has a median processing time of 20.5 months. This revocation followed by a new adjudication adds to the DOS workload and reduces interview availability for other visa applicants. The parole in place process may thus help decrease future wait times for other noncitizens who have a visa number and are waiting for a visa interview at a U.S. embassy or consulate. Despite considerable efforts, some U.S. consular sections are still working to reduce backlogs caused by the COVID–19 pandemic.[125] As of June 2024, DOS's National Visa Center (NVC) had 394,836 individuals awaiting an immigrant visa interview; on average, the NVC can schedule 48,898 applicants for interviews each month.[126] If, as anticipated, more noncitizens pursue adjustment of status instead of consular processing, DOS could save consular interview appointments for other immigrant and nonimmigrant visa categories. While this would result in an increase in USCIS' adjustment of status workload, those filings will be accompanied by the required fee; USCIS believes that on net, implementation of the parole in place process will result in saving government resources compared to the status quo.

The parole in place process also may save resources for ICE and the Department of Justice (DOJ) Executive Office for Immigration Review (EOIR) if, as a result of being granted parole in place and pursuing adjustment of status, fewer members of this population are placed in or remain in removal proceedings. Additionally, noncitizens who meet the criteria and are not priorities for enforcement may request to be considered for parole in place under this process, despite currently being in removal proceedings. If granted parole in place, they may seek to have their removal proceedings terminated or dismissed [127] and apply to adjust their status.[128] In the currently overburdened immigration court system, cases that are terminated or dismissed free up court time and permit immigration judges and ICE OPLA attorneys to focus on priority cases.

Furthering National Security, Public Safety, and Border Security Objectives

This process will promote national security, public safety, and border security by requiring noncitizens who choose to request parole in place under this process to submit biometric and biographic information to DHS and undergo background and security checks. The information collected through this process will be used to thoroughly vet every requestor and may identify and disqualify individuals who pose a national security, public safety, or border security threat.[129] DHS has also determined that the criteria outlined in this notice—such as the requirements that the requestor have 10 years of continuous physical presence in the United States and that the marriage to a U.S. citizen must have occurred on or before June 17, 2024—promote process integrity, prevent potential fraud, and provide greater certainty about the scope of the potential population.

Further, noncitizens granted parole may be more willing to report crimes because they will be less fearful that interacting with law enforcement will result in an immigration enforcement action.[130] One study found that 59 percent of Deferred Action for Childhood Arrivals (DACA) recipients would report a crime that they would not have reported before receiving DACA.[131] In that same study, two-thirds of respondents said they were less afraid of law enforcement after receiving DACA.[132] Additionally, studies have shown that when vulnerable communities feel safer reporting crimes, law enforcement can create more comprehensive strategies to effectively target perpetrators.[133]

V. Eligibility

A. Criteria

To be considered for a discretionary grant of parole in place under this process, a requestor who is the noncitizen spouse of a U.S. citizen must meet the following criteria:

- Be present in the United States without admission or parole;
- Have been continuously physically present in the United States since at least June 17, 2014 through the date of filing the parole in place request;
- Have a legally valid marriage to a U.S. citizen on or before June 17, 2024;
- Have no disqualifying criminal history; and
- Submit biometrics, undergo required background checks and national security, public safety, and border security vetting, and be found not to pose a threat to national security or public safety.

To be considered for a discretionary grant of parole in place under this process, a requestor who is the stepchild of a U.S. citizen must meet the following criteria:

- Be present in the United States without admission or parole;
- Have a parent who entered into a legally valid marriage with a U.S. citizen on or before June 17, 2024 and before the child's 18th birthday;
- Have been continuously physically present in the United States since at least June 17, 2024 through the date of filing;
- Have no disqualifying criminal history; and
- Submit biometrics, undergo required background checks and national security and public safety vetting, and be found not to pose a threat to national security or public safety.

The burden is on the requestor to demonstrate by a preponderance of the evidence that they meet the criteria outlined in this notice, and that parole

[124] 8 CFR 212.7(e)(14).

[125] U.S. Dep't of State, Immigrant Visa Interview-Ready Backlog Report (July 2024), available at *https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/visas-backlog.html.*

[126] *Id.*

[127] A grant of parole in place pursuant to this process does not automatically result in removal proceedings before DOJ EOIR being terminated or dismissed. Generally, a party to the removal proceedings (either the noncitizen or ICE) must move for termination or dismissal of removal proceedings. DOJ EOIR (either an immigration judge or the Board of Immigration Appeals) will evaluate and issue a decision on the motion for termination or dismissal under applicable standards. *See, e.g.,* 8 CFR 1003.1(m), 1239.2(b); 8 CFR 1003.18(d).

[128] If removal proceedings are not terminated or dismissed, the immigration judge generally retains exclusive jurisdiction to adjudicate any application for adjustment of status. 8 CFR 1245.2(a)(1) (providing that in ''the case of any [noncitizen] who has been placed in . . . removal proceedings (other than as an arriving alien), the immigration judge . . . has exclusive jurisdiction to adjudicate any application for adjustment of status''); *see also* 8 CFR 1245.2(a)(1)(ii) (describing exceptions for certain ''arriving aliens''); 8 CFR 245.2(a)(1) (providing that USCIS ''has jurisdiction to adjudicate an application for adjustment of status filed by any [noncitizen], unless the immigration judge has jurisdiction to adjudicate the application'').

[129] As discussed further in Section V.A. of this notice, there is an exception for border security concerns for stepchildren who otherwise meet the criteria for parole in place under this process.

[130] *See, e.g.,* Stefano Comino *et al., Silence of the Innocents: Undocumented Immigrants' Underreporting of Crime and their Victimization,* 39 J. of Pol'y Analysis, 1214, 1215 (2020) (''Undocumented victims' reporting rate is less than half the size of documented ones.'').

[131] *See* Roberto G. Gonzales, *Here's How DACA Changed the Lives of Young Immigrants, According to Research,* Vox (Feb. 16, 2018), available at *https://www.vox.com/2017/9/2/16244380/daca-benefits-trump-undocumented-immigrants-jobs.* Similar to deferred action, however, parole may be revoked at any time and does not constitute a right against enforcement action.

[132] *Id.*

[133] *See, e.g.,* Stacey Ivie & Natalie Nanasi, *The U Visa: An Effective Resource for Law Enforcement,* 78 FBI Law Enforcement Bulletin 10, 10–16 (Oct. 2009).

is warranted as a matter of discretion for urgent humanitarian reasons or significant public benefit. Meeting the requirements for parole in place under this process does not establish eligibility for other immigration benefits, including LPR status.

Present in the United States Without Admission or Parole

A requestor must be present in the United States without admission or parole. Noncitizens who were last admitted with a valid nonimmigrant visa but have remained in the United States beyond the period of stay authorized are not eligible for parole in place.[134]

Continuous Physical Presence Since June 17, 2014

Noncitizen spouses of U.S. citizens requesting parole in place under this process must have been continuously physically present in the United States since at least June 17, 2014, through the date of filing the parole in place request. Requestors should provide documentation to account for as much of the period as reasonably possible, but there is no requirement that every day or month of that period be specifically accounted for through direct evidence.[135] USCIS will evaluate the totality of the evidence to determine whether the requestor has established by a preponderance of the evidence continuous physical presence for the required period of time.

Marriage to a U.S. Citizen

To be eligible for parole in place as the noncitizen spouse of a U.S. citizen, the requestor must have entered into a valid marriage to a U.S. citizen on or before June 17, 2024, and be married on the date of filing the parole in place request (with an exception for widows and widowers as discussed below). USCIS will generally recognize a marriage as valid for purposes of this parole in place process if it is legally valid in the place where the marriage was celebrated.[136] This includes termination of any prior marriage. Although States and foreign countries may have specific laws governing jurisdiction, the place of celebration is generally where the ceremony took place or where the officiant of the ceremony was located and where the marriage certificate was issued.[137] Even if a marriage is valid in the place of celebration, there are circumstances where USCIS may not recognize a marriage as valid for purposes of this process, consistent with existing case law and policies for family-based immigrant visa petitions and other benefits.[138]

Consistent with the INA and case law, examples of the types of marital relationships that USCIS generally will not recognize for purposes of this process include, but are not limited to:

- Civil unions, domestic partnerships, or other relationships that do not confer the same legal rights and responsibilities to the parties as in a marriage recognized by a civil authority;
- Marriages that are contrary to public policy in the United States; [139] and
- Marriages where one or both parties to the marriage are not legally free to marry or have not given consent to the marriage.[140]

A noncitizen may be eligible for parole in place if their U.S. citizen spouse is deceased, as long as a legally valid marriage was entered into on or before June 17, 2024. However, there are additional requirements separate from the parole in place process that the noncitizen must meet to be eligible for adjustment of status. A noncitizen widow(er) must have a pending or approved Form I–130 filed on their behalf at the time of the U.S. citizen spouse's death or must file a Form I–360, Petition for Amerasian, Widow(er), or Special Immigrant, within two years from the date of the U.S. citizen spouse's death. The noncitizen must not have been legally separated from the U.S. citizen spouse at the time of the U.S. citizen spouse's death and must not have since remarried.[141]

Noncitizen Stepchildren of U.S. Citizens

Noncitizen children of a noncitizen married to a U.S. citizen may be considered for parole in place under this process. For a child to qualify as the stepchild of a U.S. citizen, the child must have been under age 18 at the time of the marriage that created the stepparent-stepchild relationship and must have been unmarried and under the age of 21 [142] as of June 17, 2024.[143]

The stepchild does not need to demonstrate continuous physical presence since June 17, 2014. However, they must have been continuously physically present in the United States since at least June 17, 2024, through the date of filing.[144] In addition, the stepchild's noncitizen parent must have entered into a legally valid marriage with a U.S. citizen on or before June 17, 2024.

If the marriage between the noncitizen parent and U.S. citizen spouse is terminated, either through divorce or death of one or both parents, the stepchild may still be eligible for parole in place if a valid marriage was entered into on or before June 17, 2024, and the stepchild meets the above criteria.[145] An

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[134] Noncitizens who are immediate relatives of a U.S. citizen and had a valid nonimmigrant visa but have remained in the United States beyond the period of stay authorized were admitted and paroled may be eligible to apply for adjustment of status without seeking parole in place. *See* INA sec. 245(a), 8 U.S.C. 1255(a).

[135] *See* section VI.B. of this notice for a list of documents that may be provided to establish continuous physical presence.

[136] *See Matter of Hosseinian,* 19 I. & N. Dec. 453, 455 (BIA 1987) (''the validity of a marriage for immigration purposes is generally governed by the law of the place of celebration of the marriage''); *Matter of Rodriguez-Cruz,* 18 I. & N. Dec. 72, 73 (BIA 1981) (citing *Matter of P-,* 4 I. & N. Dec. 610, 613–14 (A.G. 1952) (observing that in the absence of a legislative definition of marriage for immigration purposes, ''the generally accepted rule is that the validity of a marriage is governed by the law of the place of celebration'')).

[137] *See* 8 CFR 204.2(a)(2) (requiring certificate of marriage issued by civil authorities).

[138] *See* Adjudicator's Field Manual, Chapter 21, Family-based Petitions and Applications available at *https://www.uscis.gov/sites/default/files/document/policy-manual-afm/afm21-external.pdf; see also* USCIS Policy Manual Volume 12, Part G, Spouses of U.S. Citizens, Chapter 2, Marriage and Marital Union for Naturalization, Section A, Validity of Marriage [12 USCIS–PM G.2(A)], available at *https://www.uscis.gov/policy-manual/volume-12-part-g-chapter-2* (last updated June 28, 2024).

[139] This includes polygamous marriages and marriages involving minors, or marriages involving close relatives. *See Matter of Manjoukis,* 13 I. & N. Dec. 705 (BIA 1971) (14 year old not able to enter into legally valid marriage as it would be void under state law); *Matter of H-,* 9 I. & N. Dec. 640 (BIA 1962) (a polygamous marriage, though valid where contracted, is not recognized for immigration purposes); *see also* INA sec. 101(a)(35), 8 U.S.C. 1101(a)(35); *Matter of Lovo-Lara,* 23 I. & N. Dec. 746, 752 n.3 (BIA 2005); *Matter of B-,* 5 I. & N. Dec. 698 (BIA 1954).

[140] USCIS does not recognize marriages that violate strong Federal public policy, *see Matter of H-,* 9 I. & N. Dec. 640 (BIA 1962), and there is a strong Federal policy against marriages to which one or both parties do not consent. The Violence Against Women Act Reauthorization Act of 2022 added a definition of forced marriage (''a marriage to which 1 or both parties do not or cannot consent, and in which 1 or more elements of force, fraud, or coercion is present''), and provided for grants for victims' services and legal assistance for victims of forced marriage. *See* 34 U.S.C. 12291(a)(16).

[141] *See* INA sec. 201(b)(2)(A)(i), 8 U.S.C. 1151(b)(2)(A)(i).

[142] An immediate relative child's age is frozen at the time their Form I–130 or Form I–360 is filed in order to protect them from aging out before being able to adjust status. *See* INA sec. 201(f), 8 U.S.C. 1151(f).

[143] *See* INA sec. 101(b)(1)(B), 8 U.S.C. 1101(b)(1)(B).

[144] *See* Section VI.B. of this notice for a list of documents that may be provided to establish continuous physical presence.

[145] For the stepchild to be eligible for an immigrant visa petition or adjustment of status, additional requirements must be met, including that a bona fide relationship exists between the stepchild and U.S. citizen stepparent and, if applicable, eligibility for certain surviving relative benefits. *See Matter of Pagnerre,* 13 I. & N. Dec. 173 (BIA 1971) (when marriage is terminated by death but there was a continuing relationship thereafter

eligible stepchild may file on their own with their birth certificate and evidence of their parents' valid marriage without the participation of either parent.

Lack of Criminal History, National Security Concerns, Public Safety Concerns, or Border Security Concerns

Requestors must not have a disqualifying criminal history or otherwise constitute a threat to national security, public safety, or border security.[146] All pending criminal charges are disqualifying, regardless of the nature of the charges. A noncitizen may apply for parole in place once those charges are resolved.

All felony convictions, including felony driving under the influence (DUI) offenses, are disqualifying. Additionally, disqualifying criminal history includes convictions for the following offenses, regardless of whether the offense is classified as a felony.[147]

- Murder, torture, rape, or sexual abuse;
- Offenses involving firearms, explosive materials, or destructive devices;
- Offenses relating to peonage, slavery, involuntary servitude, and trafficking in persons;
- Aggravated assault;
- Offenses relating to child pornography, sexual abuse or exploitation of minors, or solicitation of minors;
- Domestic violence, stalking, child abuse, child neglect, or child abandonment; and
- Controlled substance offenses (other than simple possession of 30 grams or less of marijuana).[148]

All other criminal convictions,[149] excluding minor traffic offenses, will result in a rebuttable presumption of ineligibility for parole in place. This presumption can be rebutted on a case-by-case basis by weighing the seriousness of the conviction against mitigating factors relating to the conviction as well as other positive factors that suggest that the noncitizen merits a favorable exercise of discretion. The weight of the rebuttable presumption will be guided by the seriousness of the conviction.[150] A less serious conviction, or a conviction that does not raise public safety concerns, will result in a presumption that carries less weight and can be more easily rebutted. In adjudicating parole in place requests on an individualized, case-by-case basis, the nature and seriousness of the conviction will determine the evidence needed to overcome it. Factors that can be considered in overcoming the presumption may include, for example:

- Age of the conviction(s) (remoteness in time);
- Requestor's age at the time of the offense and conviction, including whether the requestor was a juvenile at the time of the offense;
- Sentence or penalty imposed;
- Evidence of subsequent rehabilitation;
- Nature of the conviction, including whether the conduct at issue was non-violent;
- Whether the conviction was an isolated offense when considered against the rest of the requestor's history (including consideration of whether multiple criminal convictions were on the same date and may have arisen out of the same act);
- Existence of a mental or physical condition that may have contributed to the criminal conduct;
- Requestor's particular vulnerability, including any physical or mental condition requiring treatment or care in the United States;
- Requestor's status as a victim of or witness to criminal activity, including domestic violence, or civil rights violation or labor rights violation under investigation by a labor agency, particularly if related to the criminal conduct at issue;
- Requestor's status, or that of their U.S. citizen spouse, as a current or former member of the U.S. military;
- Requestor's status as the primary caregiver for a U.S. citizen child or elderly parent or in-law;
- Evidence of requestor's good character, such as property ties, business ties, or value and service to the community;
- Length of requestor's presence in the United States;
- Requestor's status as a caregiver for an individual with disabilities, including U.S. citizen in-laws or siblings;
- Impact on other family members, including family members who are U.S. citizens and LPRs or
- Other factors USCIS considers relevant in its exercise of discretion.

B. Requestors with Unexecuted Final Removal Orders or Currently in Section 240 Proceedings

Requestors With Unexecuted Final Removal Orders

Noncitizens with unexecuted final removal orders [151] will be presumptively ineligible for parole in place under this process. However, DHS will evaluate, in the exercise of its discretion on a case-by-case basis, the facts and circumstances underlying the unexecuted final removal order in determining whether the noncitizen may overcome the presumption of ineligibility and be granted parole. Examples of information that may be relevant to DHS in its determination of whether the requestor has overcome the presumption of ineligibility include, but are not limited to:[152]

between petitioner and beneficiary, petitioner is regarded as the stepparent of beneficiary for immigration purposes and petition); *Matter of Mowrer,* 17 I. & N. Dec. 613 (BIA 1981) (where the parents have legally separated or where the marriage has been terminated by divorce or death, the appropriate inquiry is whether a family relationship has continued to exist as a matter of fact between the stepparent and stepchild); *see also* INA secs. 201(b)(2)(A)(i) and 204(*l*), 8 U.S.C. 1151(b)(2)(A)(i), 1154(*l*) (describing additional requirements with respect to benefits for certain surviving relatives); 8 CFR 204.2(b) (same).

[146] Indicators of national security concerns include, but are not limited to, participation in activities that threaten the United States or gang membership. Indicators of public safety concerns include, but are not limited to, serious criminal conduct or criminal history. Indicators of border security concerns include recent apprehension while attempting to enter the U.S. unlawfully or apprehension following unlawful entry after November 1, 2020; however, there is an exception for border security concerns for stepchildren who otherwise meet the criteria for parole in place under this process.

[147] These categories of convictions also generally overlap with inadmissibility grounds for purposes of adjustment of status. *See* INA sec. 212(a), 8 U.S.C. 1182(a). DHS reserves its discretion to determine that other offenses are disqualifying, even if not listed.

[148] Noncitizens who were under the age of 18 but convicted of a felony or a disqualifying misdemeanor are considered to have disqualifying criminal history and are not eligible for this process.

[149] Although not generally considered convictions for immigration purposes, USCIS will nonetheless consider juvenile delinquency adjudications as resulting in a presumption of ineligibility. However, the presumption may be overcome by factors such as the nature of the underlying offense, requestor's age at the time of the commission of the underlying offense, the length of time that has passed since the adjudication, the sentence or penalty imposed, evidence of rehabilitation, and any other relevant information.

[150] Arrests or criminal charges that do not result in a conviction, such as where a requestor had been arrested but no charges were lodged, or a requestor had been arrested with charges lodged that were later dismissed, does not result in a presumption of ineligibility.

[151] Presumptive ineligibility applies to any removal order issued under INA 240, 8 U.S.C. 1229a, INA 235(b)(1), 8 U.S.C. 1225(b)(1), or any other provision of law. A final removal order under INA 240, 8 U.S.C. 1229a, is defined at INA 101(a)(47), 8 U.S.C. 1101(a)(47), and 8 CFR 1241.1.

[152] These examples solely concern DHS's determination regarding whether the presumption of ineligibility for parole in place has been overcome; they are distinct from any standards considered by DOJ EOIR in the context of a motion to reopen.

- Lack of proper notice;
- Age of the noncitizen at the time the removal order was issued;
- Ineffective assistance of counsel or being a victim of fraud in connection with immigration representation; or
- Other extenuating factors or considerations such as:
  - Inability to understand proceedings because of language barriers;
  - Status as a victim of domestic violence;
  - Other extenuating personal factors, such as requestor's limited resources (*e.g.,* lack of housing that would have impacted ability to appear);
- A physical or mental condition requiring care or treatment during immigration proceedings.[153]

Requestors in Section 240 Removal Proceedings

Eligible noncitizens who are currently in removal proceedings under INA section 240, including those who have been released under INA section 236(a) on bond or their own recognizance, and those without a final removal order, may submit a request to be considered for parole in place on a case-by-case basis, taking into account the totality of the circumstances, under this process.[154] Note, however, that a noncitizen who constitutes a national security, public safety, or border security concern is ineligible for parole under this process.[155] Further, this process does not preclude DHS from, in its discretionary authority, taking enforcement actions as deemed appropriate.

C. Factors Considered

As discussed in this notice, DHS's decision whether to grant parole in place to a requestor is a discretionary, case-by-case determination. Even if a requestor establishes that they have met all of the criteria for eligibility, USCIS will examine the totality of the circumstances in the individual case to determine whether the requestor merits a grant of parole in place as a matter of discretion for significant public benefit or urgent humanitarian reasons. In doing so, USCIS will weigh the positive factors against the negative factors that are present in the record. Requestors may provide evidence of positive factors to establish that they merit a favorable exercise of discretion, which may relate to, but are not limited to:

- Community ties;
- Advanced or young age;
- Length of presence in the United States;
- Status as a parent or caregiver of a U.S. citizen child or elderly parent or in-law;
- Status as a caregiver for an individual with disabilities, including U.S. citizen in-laws or siblings;
- Physical or mental condition requiring care or treatment in the United States;
- Status as a victim of or witness to a crime or civil rights violation, or labor rights violation under investigation by a labor agency;
- Impact on other family members, including family members who are U.S. citizens and LPRs;
- Status, or that of their U.S. citizen spouse, as a current or former member of the U.S. military; or
- Other positive factors about which the requestor wishes to provide information.

This is a non-exhaustive list of factors; USCIS may consider any relevant fact in the discretionary analysis.

VI. Filing Requirements and Processing Steps

A. Form

Requestors seeking parole in place as the spouse or stepchild of a U.S. citizen must submit Form I–131F, Application for Parole in Place for Certain Noncitizen Spouses and Stepchildren of U.S. Citizens, online with the appropriate fee. To submit Form I–131F, requestors must both complete the required form fields and submit the required evidence establishing eligibility.

B. Documentation

Requestors must submit the required evidence establishing eligibility, in compliance with Form I–131F instructions. Required documentation for noncitizen spouse requestors includes the following:

- Proof of identity, which may include:
  - Valid State or country driver's license or identification;
  - Birth certificate with photo identification;
  - Valid passport; or
  - Any government issued document bearing the requestor's name, date of birth, and photo.[156]
- Evidence establishing their continuous physical presence since at least June 17, 2014, which may include, but is not limited to:
  - Internal Revenue Service (IRS) tax transcripts listing tax information;
  - Rent receipts or utility bills;
  - Deeds, mortgage statements, or rental contracts;
  - Bank, credit card, or loan statements showing regular transactions;
  - Insurance policies;
  - Automobile license receipts, title, or registration;
  - Hospital or medical records;
  - School records (letters, report cards, etc.);
  - Attestations to the requestor's physical presence by religious entities, unions, or other civic or community organizations;
  - Official records from a religious entity confirming the requestor's participation in a religious ceremony;
  - Birth certificates for children born in the United States;
  - Money order receipts for money sent into or out of the United States; or
  - Any other document that shows that the requestor maintained continuous physical presence in the United States for the requisite time period.
- Evidence establishing a valid marriage between the noncitizen spouse and U.S. citizen:
  - Current marriage certificate showing a legally valid marriage took place on or before June 17, 2024;
  - Any divorce decree, annulment decree, or death certificate showing that the noncitizen spouse's and their U.S. citizen spouse's prior marriages were terminated (if applicable); and
  - Death certificate of U.S. citizen spouse (if applicable).
- Proof of the U.S. citizenship status of the spouse/stepparent, which must include one of the following:

[153] A decision by USCIS to grant parole in place to a requestor with an unexecuted removal order does not rescind, cancel, vacate, or otherwise remove the existence of the unexecuted removal order. DOJ EOIR has sole jurisdiction over the decision to reopen removal proceedings under INA section 240, 8 U.S.C. 1229a, *see* INA sec. 240(c)(7), 8 U.S.C. 1229a(c)(7); such reopening vacates any final removal order issued under INA section 240, 8 U.S.C. 1229a, *see Nken* v. *Holder,* 556 U.S. 418, 429 n.1 (2009). An unexecuted removal order issued by DOJ EOIR under INA section 240, 8 U.S.C. 1229a, remains in existence, notwithstanding a grant of parole in place, unless and until the INA section 240 proceedings are reopened by an immigration judge or the BIA. Unexecuted removal orders issued by DHS (such as an order of expedited removal under INA section 235(b)(1), 8 U.S.C. 1225(b)(1), or an administrative order of removal under INA section 238(b), 8 U.S.C. 1228(b)), likewise remain in existence unless and until they are vacated, canceled, or rescinded by the relevant issuing authority within DHS in that agency's sole discretion.

[154] This includes those with a pending appeal to the BIA, as their removal order would not be administratively final pending resolution of the appeal.

[155] *See, e.g.,* September 2021 Guidelines, *supra* note 81. As noted in the September 2021 Guidelines, noncitizens present border security concerns if they were apprehended while attempting to enter the U.S. unlawfully or if they entered unlawfully after November 1, 2020. There is an exception to this for stepchildren who otherwise meet the criteria for parole in place under this process.

[156] Expired documents may be provided in conjunction with other documents.

○ The spouse's/stepparent's U.S. birth certificate (if the spouse has held U.S. citizenship since birth);
○ The spouse's/stepparent's Certificate of Naturalization;
○ The spouse's/stepparent's Certificate of Citizenship;
○ The spouse's/stepparent's Form FS–240, Consular Report of Birth Abroad; or
○ The biographical page of the spouse's/stepparent's current U.S. passport.

- Arrest records and court dispositions of any arrests, charges, and convictions (if applicable).

Required documentation for noncitizen stepchild requestors includes the following:

- The birth certificate of the stepchild listing the name of the noncitizen parent as a natural parent;
- Proof of identity (as listed above);
- Evidence establishing their continuous physical presence since June 17, 2024 (as listed above);
- Evidence establishing a legally valid marriage between the noncitizen stepchild's noncitizen parent and the noncitizen stepchild's U.S. citizen stepparent took place on or before June 17, 2024 (as listed above);
- Proof of the U.S. citizenship status of the spouse/stepparent (as listed above);
- Arrest records and court dispositions of any arrests, charges, and convictions (if applicable).

C. Processing Steps

This parole in place process will be implemented in accordance with the lessons learned from similar processes, while building on technological advances and efficiencies in USCIS processing.

Filing Procedure

Each requestor must submit Form I–131F with the applicable filing fee, as listed on Form G–1055, Fee Schedule (currently $580). Fee waivers are not available, and requests must be submitted online. For information on creating a USCIS online account, visit *www.uscis.gov/file-online/how-to-create-a-uscis-online-account.* Each requestor, including noncitizen stepchild requestors, must file a separate Form I–131F and pay the fee individually.

Biometrics Submission

After the requestor files Form I–131F, they will be required to provide biometrics to USCIS, including fingerprints, photographs, and a signature. The requestor's biometric information will be used to conduct background checks, including checks for criminal history records, verify identity, determine eligibility for requested benefits, create immigration documents (*e.g.,* Employment Authorization Documents), or for any other purpose authorized by the INA.[157] After the requestor files the Form I–131F online, USCIS will notify the noncitizen in writing of the time and location for a biometric services appointment. Failure to appear for biometrics submission may result in a denial of the parole in place request.

Case-by-Case Consideration for Parole

Noncitizens who meet the criteria listed in this notice may be considered for a discretionary grant of parole on a case-by-case basis. USCIS may grant parole in place to the requestor if USCIS determines that there is a significant public benefit or urgent humanitarian reason for parole and that the requestor merits a favorable exercise of discretion in the totality of the circumstances.

USCIS may prioritize the adjudication of Form I–131F for noncitizens who previously filed a Form I–601A. In establishing this parole in place process, DHS considered that certain noncitizens eligible for the parole in place process will have already prepared, filed, and paid a filing fee for a Form I–601A. USCIS has determined that prioritizing the adjudication of Forms I–131F filed by these noncitizens is justified in recognition that they availed themselves of existing processes to pursue an immigrant visa but may nonetheless wish to pursue parole in place to avoid the costs and potential separation or disruption to their family that consular processing entails. Additionally, prioritizing this population may have the downstream effect of reducing the adjudicatory resources needed for pending Forms I–601A as noncitizens who are granted parole in place through this process may subsequently apply, and be approved, for adjustment of status to that of an LPR.

Upon a grant of parole in place, the noncitizen will receive a Form I–797, Notice of Action, and a Form I–94, Arrival/Departure Record.

Parole Period

If granted parole in place on a case-by-case basis in the exercise of discretion, parole will generally be granted for a period of up to three years. Parole may be terminated at any time upon notice at DHS's discretion pursuant to 8 CFR 212.5(e)(2)(i). DHS does not contemplate a re-parole process at this time.

In addition, USCIS, in its sole discretion, may impose conditions on a grant of parole with respect to any noncitizen under this process, and it may request verification of the noncitizen's compliance with any such condition at any time.[158] Violation of any condition of parole may lead to termination of the parole in accordance with 8 CFR 212.5(e).

Employment Authorization

If parole in place is granted, the parolee will be eligible to request an Employment Authorization Document (EAD) pursuant to 8 CFR 274a.12(c)(11), as recipients of parole under INA section 212(d)(5), 8 U.S.C. 1182(d)(5). An individual seeking employment authorization as a parolee (category (c)(11)) may request a waiver of the Form I–765, Application for Employment Authorization, fee by submitting Form I–912, Request for Fee Waiver along with the Form I–765.

Subsequent Form I–130 or Form I–485

A grant of parole in place does not establish eligibility for an immigrant visa petition or a presumption that the marriage is bona fide for purposes of an immigrant visa petition or other immigration benefits. Following a grant of parole to a noncitizen, the U.S. citizen spouse or stepparent of the noncitizen is encouraged to file a Form I–130, or, in the case of certain widow(er)s, the noncitizen may file Form I–360, concurrently with the Form I–485 if they have not filed a standalone Form I–130 or Form I–360 already. For purposes of Form I–130 based on marriage, a petitioner must demonstrate that they entered into a bona fide marriage with the beneficiary, and for a Form I–130 for a stepchild, the petitioner must demonstrate they entered into a bona fide marriage to the beneficiary's noncitizen parent. There are additional requirements for Form I–360 for certain widow(er)s and their children, including filing deadlines, residence requirements, and marital status requirements.[159] A stepchild may remain eligible for an immigrant visa despite their parent's marriage to a U.S. citizen being terminated through death of either parent or divorce, so long as a bona fide stepparent-stepchild relationship continued to exist following the death or divorce.

[157] As authorized by the INA, biometric information collected in this process may be used by other DHS components. *See also* 8 CFR 103.16. *See also* discussion on information use and disclosure in this notice.

[158] *See* INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A).

[159] *See* INA secs. 201(b)(2)(A)(i), 204(l), 8 U.S.C. 1151(b)(2)(A)(i), 8 U.S.C. 1154(l).

Further, a discretionary grant of parole does not in itself establish eligibility for adjustment of status to that of an LPR under INA section 245(a), 8 U.S.C. 1255(a). As discussed elsewhere in this notice, a grant of parole would satisfy the requirement under INA section 245(a), 8 U.S.C. 1255(a), that the applicant has been inspected and admitted or paroled by an immigration officer. The noncitizen, however, must satisfy all other requirements for adjustment of status, including establishing that they are not inadmissible under any applicable grounds.[160] As noted, if the noncitizen is granted parole in place, the noncitizen and their spouse or stepparent would need to file Form I–130 (if not previously filed) and Form I–485.[161]

Information Use and Disclosure

DHS generally will not use information contained in a request for parole in place under this process for the purpose of initiating immigration enforcement action against the requestor unless DHS determines, in its discretion, the requestor poses a threat to national security, public safety, or border security.[162] This process does not preclude DHS from, in its discretionary authority, taking enforcement actions as deemed appropriate, in accordance with the INA and consistent with governing policies and practices, against noncitizens who may be eligible or who have pending applications for parole under this process. Information provided under this process may be otherwise disclosed consistent with statutory authorities, obligations, and restrictions, as well as governing privacy and information-sharing policies.

D. Termination and No Private Rights

As provided under INA section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A), parole decisions are made by the Secretary ''in his discretion.'' This process is being implemented as a matter of the Secretary's discretion, and the Secretary retains the sole discretion to terminate parole in place under this process at any point. It is not intended to, shall not be construed to, may not be relied upon to, and does not create any rights, privileges, benefits, substantive or procedural, enforceable by any party in any matter, civil or criminal, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

VII. Considerations in the Establishment of This Parole in Place Process

In establishing this process, DHS considered various alternatives, as well as the impacts on resources and processing and the broader impacts on both the Federal government and State and local governments.

A. Alternatives to This Process

In exercising the Secretary's discretionary parole authority to establish a parole in place process, DHS considered various alternatives to the process.

First, DHS considered whether it could instead dedicate additional resources to the processing of pending Forms I–601A. As discussed elsewhere in this notice, the provisional unlawful presence waiver process allows certain noncitizens, including spouses of U.S. citizens, to obtain a provisional unlawful presence waiver prior to their departure from the United States to pursue an immigrant visa at a U.S. embassy or consulate abroad. It is intended to reduce the time noncitizens must spend apart from their U.S. citizen family members while increasing certainty that they will be granted a waiver of the inadmissibility ground that is triggered once they depart.[163] However, the provisional unlawful presence waiver process still entails some period of families being separated because it requires consular processing abroad after approval of the Form I–601A, often at great financial cost. It also involves some level of uncertainty and risk. The grant of a provisional waiver is not a guarantee that the waiver of inadmissibility or the immigrant visa, will ultimately be granted.[164] Likewise, a grant of parole in place does not guarantee that an application for adjustment of status will be approved, but because the application process takes place while the applicant is in the United States, noncitizens may be more likely to pursue this option. For some families, even a short-term separation from a family member, whose income or other household contributions are needed, may be untenable.

Moreover, even if, as an alternative to this process, USCIS dedicated additional resources to provisional waiver processing, doing so would not provide the previously noted significant public benefit of this process. As described in Section IV of this notice, this process furthers diplomatic relationships and foreign policy objectives. It also sets out a streamlined and less resource intensive adjudication, as compared to the more complex and resource intensive provisional waiver process which involves determining if the applicant has met their burden of proving they would be inadmissible only for unlawful presence upon departure, and that they have demonstrated extreme hardship to a qualifying relative.[165] Although USCIS has significantly increased resources devoted to the Form I–601A backlog relative to previous years, the backlog of pending applications will still take at least three years to be meaningfully reduced. Accordingly, although USCIS considered dedicating even more resources to Form I–601A processing, it concluded that doing so would not effectively address the backlog in the near term or support timely adjudications of other workloads as compared to the processing efficiencies gained through implementation of this parole in place process.

USCIS anticipates that its adjudication of parole requests under this process will be less resource-intensive than the adjudication of Form I–601A applications, given process efficiencies that USCIS has identified in adjudicating parole requests in other parole processes, and considering the complexity and resources required for the I–601A adjudication. And unlike the provisional waiver process, parole in place will not entail a period of separation from U.S. citizen family members or, alternatively, require U.S. citizen family members to depart the United States with the noncitizen. Additionally, it will obviate the need for consular processing, thereby diverting noncitizens with parole in place from DOS backlogs and reducing wait times for other noncitizens seeking visas at U.S. consulates.

While the Form I–601A process will remain critical for other categories of immigrant visa applicants who are not eligible for this process, parole in place offers a less onerous path for a subset of the I–601A-eligible population who have lived in the United States for at least 10 years, are married to U.S. citizens or are the noncitizen

[160] Furthermore, by avoiding the need to depart the United States to seek an immigrant visa at a U.S. embassy or consulate, the noncitizen would not trigger the inadmissibility grounds at INA sec. 212(a)(9)(B), 8 U.S.C. 1182(a)(9)(B), by seeking admission after such departure.

[161] Additionally, there may be instances where the noncitizen would also have to file the Form I–601, Application for Waiver of Grounds of Inadmissibility.

[162] *See, e.g.,* September 2021 Guidelines, *supra* note 81.

[163] *See* 78 FR 536 (Jan. 6, 2013).

[164] *See* 8 CFR 212.7(e)(12)(i) (noting the conditions that must be satisfied for the provisional unlawful presence waiver to take effect).

[165] 8 CFR 212.7(e).

stepchildren of U.S. citizens, have no disqualifying factors, and merit a favorable exercise of discretion.

DHS acknowledges that there will be an increase in filings of Form I–765, as well as an increase in Form I–130 and Form I–485 filings but notes that these forms have associated filing fees that cover the cost of adjudication, and USCIS has implemented streamlined processing for certain categories of employment authorization documents, and other immigration benefit requests, including those filed by parolees. In considering all the factors, DHS determined that the benefits of implementing this process, as discussed in Section IV of this notice, outweigh any additional workload assumed by USCIS.

Second, DHS has considered alternative approaches in designing this process. Specifically, in proposing parameters for this process, DHS considered the following alternatives:

• *Length of requisite physical presence:* DHS considered the time period by which a requestor would likely have established deep ties to their communities in the United States in determining the period of continuous physical presence required to access this process. In making this determination, DHS considered whether a longer period (such as 15 years) or a shorter period (such as five or eight years) was more appropriate and considered estimates of the potential population for each of these time periods. Because Congress has articulated a 10-year length of continuous presence as a prerequisite for certain non-LPR noncitizens to seek lawful permanent residence through a separate process known as cancellation of removal,[166] DHS concluded that 10 years would be an appropriate length of time to require noncitizens to have been present in the United States to access this process.

DHS also considered whether the noncitizen could continue to accrue the required 10 years of continuous physical presence until the time a parole request is filed, or whether the noncitizen must have accrued the 10 years by the time the process was announced. DHS determined that requiring continuous physical presence to have accrued by a certain date provides greater predictability and certainty about the scope of the potential population, which in turn will assist DHS in determining the appropriate resources to dedicate to this process. Requiring 10 years of continuous physical presence by June 17, 2024 for noncitizen spouses of U.S. citizens also provides clarity to the public and avoids unintentionally incentivizing any irregular migration by noncitizens who might otherwise seek to enter the United States to access this process.

• *Marriage to a U.S. citizen:* In requiring noncitizen spouses of U.S. citizens to have a legally valid marriage on or before June 17, 2024, DHS considered whether marriages that took place after this date could nevertheless be qualifying. DHS determined that requiring marriages to have taken place by June 17, 2024 would better promote process integrity, prevent potential fraud, and provide greater certainty about the scope of the potential population.

DHS also considered whether marriage to an LPR could be a qualifying factor and determined against it because a primary goal of establishing this proposed process is to remove a barrier to an immigration benefit that may otherwise be immediately available to the noncitizen. When a noncitizen marries a U.S. citizen, they qualify as an ''immediate relative'' under the INA and are able to immediately apply for LPR status (*i.e.,* without needing to wait for an immigrant visa to become available).[167] Noncitizen spouses of LPRs who lack lawful status do not qualify as ''immediate relatives'' and therefore do not have an immediate path to adjustment of status (even if granted parole) because they must wait for an immigrant visa to become available before they can apply for LPR status. They also are subject to other ineligibility provisions barring adjustment of status that are not applicable to spouses of U.S. citizens.[168]

DHS considered whether the marriage must be of a specified duration (*e.g.,* two years) at the time of the parole in place request, particularly to address potential concerns about marriage fraud and integrity of this process. The fixed date by which the marriage must have taken place (June 17, 2024), eliminates any concern that individuals may marry solely to take advantage of this process. Moreover, USCIS will further assess the validity of the marriage for immigration purposes, including a thorough review of the bona fides of the marriage, during its consideration of the Form I–130 and Form I–485. In its consideration of these forms, USCIS will employ its standard, rigorous procedures to detect potential marriage fraud, further ensuring that fraudulent marriages will not serve as the basis for a grant of adjustment of status following access to this parole in place process. Finally, USCIS can grant adjustment of status to conditional lawful permanent residents on the basis of marriage to a U.S. citizen when the marriage is less than two years in length. Therefore, DHS determined that this process will not require that the marriage be of a specified length, though DHS requires that the marriage be legally valid in the place of celebration as of June 17, 2024.

DHS also decided to include widow(er)s who entered into a legally valid marriage with a U.S. citizen prior to June 17, 2024. DHS believes that including this population furthers the goals of the process because widow(er)s of U.S. citizens may continue to be eligible for immigrant visa petition approval and to apply to adjust status if certain requirements are met. DHS also notes that including this population is consistent with the process for family members of military service members, in which the widow(er) of a deceased U.S. citizen service member is eligible for parole in place. To be eligible for immigrant visa petition approval and be eligible to apply to adjust status, the widow(er) must have a Form I–130 filed on their behalf at the time of the U.S. citizen's death or file a Form I–360 within two years of the U.S. citizen's death. The widow(er) must also be unmarried when their immigrant visa petition is adjudicated. A widow(er)'s children may also be eligible for immigrant visa petition approval and to adjust status as the derivative child of the widow(er). For these reasons, DHS determined that, based on continued eligibility to apply for an immigration benefit and adjustment of status, spouses and stepchildren of deceased U.S. citizens could qualify for this parole process if they demonstrate the additional qualifying criteria at the time of filing an immigrant visa petition.

• *Stepchildren of a U.S. citizen:* Noncitizens who are granted parole under this process may have children in the United States who lack lawful status and who are unable to adjust their status without facing the same barriers that their noncitizen parents would encounter in the absence of a parole in place grant under this process.

DHS determined that providing these noncitizen stepchildren access to this process is necessary to fully meet its objective of promoting the unity and stability of families in which a U.S. citizen is married to a noncitizen who lacks lawful status. DHS estimates that 50,000 noncitizen children of

[166] *See* INA sec. 240A(b)(1)(A), 8 U.S.C. 1229b(b)(1)(A).

[167] *See* INA sec. 201(b)(2)(A)(i), 8 U.S.C. 1151(b)(2)(A)(i); 8 CFR 204.1(a)(1).

[168] *See, e.g.,* INA sec. 245(c)(2), 8 U.S.C. 1255(c)(2).

noncitizen spouses who are married to U.S. citizens may be eligible to request consideration under this process. However, DHS is requiring that the noncitizen stepchild have been continuously physically present in the United States without admission or parole since at least June 17, 2024, and through the date of filing, since children may be under the age of 10 or otherwise unable to meet the 10 years required for noncitizen spouses of U.S. citizens. Additionally, as with the physical presence requirement for spouses, requiring physical presence in the United States as of a date prior to announcing this process avoids unintentionally incentivizing any irregular migration by noncitizens who might otherwise seek to enter the United States to access this process.

DHS also considered limiting this parole in place process to children whose noncitizen parent was also requesting parole. DHS determined that noncitizen stepchildren of a U.S. citizen may apply for an immigrant visa petition separately even if the noncitizen parent does not have an immigrant visa or status, and therefore should not be excluded from this process. A qualifying noncitizen stepchild of a U.S. citizen may be eligible as a beneficiary of Form I–130 based on their relationship with the U.S. citizen stepparent. This is the case even if the parents divorced or the noncitizen parent died. As such, DHS determined that noncitizen stepchildren who would otherwise be eligible as a beneficiary of Form I–130 based on a stepparent-stepchild relationship, notwithstanding divorce of the parents or death of the noncitizen parent, should also be eligible to request parole in place under this process.

• *Criminal history and threats to national security, public safety or border security:* DHS determined that noncitizens with serious criminal convictions will be ineligible for parole under this process.[169] DHS also determined that other criminal convictions (other than minor traffic offenses) will result in a presumption of ineligibility for parole. This presumption can be rebutted on a case-by-case basis by weighing the seriousness of the conviction against positive factors that overcome the presumption.[170] Additionally, all requestors will undergo rigorous national security and public safety vetting as part of this process. Those individuals who pose a threat to national security, public safety or border security[171] will be disqualified from this process and, where appropriate, will be referred to law enforcement. In making these determinations, DHS considered that certain criminal convictions were likely to render a noncitizen statutorily ineligible for adjustment of status, and decided that those criminal convictions that are disqualifying for this process would generally overlap with the statutory inadmissibility grounds. In addition, DHS determined that noncitizens with pending criminal charges will be ineligible for parole in place under this process until those charges are resolved.

• *Parole period length:* DHS determined that a three-year grant of parole was most appropriate for this process, though it considered both shorter and longer periods of time. Other processes, such as the family reunification parole processes, provide for up to a three-year grant of parole.

After being granted parole in place, the noncitizen will generally be eligible to apply to adjust their status if they have an approved Form I–130 or their Form I–485 is accompanied by a Form I–130. The benefits of parole (including lawful presence and employment authorization) will remain in effect for the period of parole. Currently, the median processing time for an immediate relative Form I–130, when filed separately from a Form I–485, is 11.4 months, for Form I–360 (all categories) is 3.2 months, and the median processing time for a family-based Form I–485, when filed separately from a Form I–130, is 9.4 months.[172] Concurrent filing of these two forms is permitted for noncitizen spouses of U.S. citizens. Assuming that noncitizens would need time to compile evidence for these applications, save the necessary funds to pay fees, and file these applications, a three-year grant of parole will provide an appropriate amount of time to obtain adjustment of status following the grant of parole in place based on median USCIS processing times. A shorter timeframe would likely be insufficient to cover the time needed to prepare and file the adjustment application, while a longer timeframe would risk disincentivizing parolees from timely applying for adjustment of status.

In making this determination, DHS considered that parole in place is granted for certain military family members for a one-year period, which currently is subject to subsequent periods of parole in one-year increments, and is also fee exempt. Additionally, military parole in place is available for a broader category of relatives: spouses, widow(er)s, parents, and sons and daughters of U.S. citizen or LPR military members and veterans, whereas this process is open only to certain noncitizen spouses and stepchildren of U.S. citizens who may have an immediate path to adjustment of status. However, in more recent parole processes, DHS has found that a longer parole period is more efficient for the public and the agency as it reduces the need for recipients to seek re-parole.[173] A three-year parole period was therefore determined to be appropriate for certain noncitizen spouses and stepchildren of U.S. citizens to ensure that they have sufficient time to obtain adjustment of status during their parole period, especially given that re-parole for requestors granted parole under this process is not contemplated at this time.

• *Removal proceedings:* DHS considered whether and how a parole in place process should be available to noncitizens in pending removal proceedings under INA section 240, 8 U.S.C. 1229a. Given that some noncitizens in removal proceedings may be eligible to adjust status if granted parole, USCIS will consider requests for otherwise eligible noncitizens in pending removal proceedings who do not have a final order of removal. This includes those who have been released on bond or their own recognizance under INA section 236(a), 8 U.S.C. 1226(a), provided they remain applicants for admission. USCIS will coordinate with ICE OPLA as it deems appropriate. A noncitizen who is considered a national security, public safety or border security concern will be generally disqualified from receiving

[169] *See* Section V.A. of this notice for the full list of disqualifying criminal convictions.

[170] *See id.* for a list of factors USCIS may consider in determining whether the requestor has overcome the presumption.

[171] There is an exception for border security concerns for stepchildren who otherwise meet the criteria for parole in place under this process.

[172] *See* Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms by Fiscal Year, available at *https://egov.uscis.gov/processing-times/historic-pt.*

[173] *See, e.g., Implementation of a Family Reunification Parole Process for Colombians,* 88 FR 43591 (July 10, 2023); *Implementation of a Family Reunification Parole Process for Ecuadorians,* 88 FR 78762 (Nov. 16, 2023); *Implementation of a Family Reunification Parole Process for Salvadorans,* 88 FR 43611 (July 10, 2023); *Implementation of a Family Reunification Parole Process for Guatemalans,* 88 FR 43581 (July 10, 2023); *Implementation of a Family Reunification Parole Process for Hondurans,* 88 FR 43601 (July 10, 2023); *Implementation of Changes to the Cuban Family Reunification Parole Process,* 88 FR 54639 (Aug. 11, 2023); *Implementation of Changes to the Haitian Family Reunification Parole Process,* 88 FR 54635 (Aug. 11, 2023).

parole in place pursuant to this process. However, given the overall objective to preserve family unity, there is an exception for border security concerns for stepchildren who were placed into proceedings after November 1, 2020, who otherwise meet the criteria for parole in place under this process. In such cases, USCIS will consider any extenuating or mitigating factors, including family unity, age at the time of placement in proceedings, or other factors that USCIS considers relevant in the exercise of discretion. The exception for border security for certain noncitizen stepchildren of a U.S. citizen is consistent with the eligibility requirement for this process as stated in section V.A. of this preamble (explaining that noncitizen stepchildren may request parole in place under this process), the requirement for continuous physical presence in the United States only covers June 17, 2024 through the date of filing.

- *Prior removal orders:* DHS considered whether noncitizens with unexecuted final removal orders should be eligible for this process. DHS determined that noncitizens with unexecuted final removal orders will be presumptively ineligible for parole under this process. DHS recognizes that a noncitizen may have grounds to request that an immigration judge or the BIA reopen their immigration proceedings when they are otherwise eligible for adjustment of status, and thus determined that categorical ineligibility for this parole process would be inappropriate. As a result, DHS will evaluate, in the exercise of its discretion on a case-by-case basis, the facts and circumstances underlying the unexecuted final removal order and all other mitigating factors presented in determining whether the noncitizen may overcome the rebuttable presumption of ineligibility and be granted parole in place.[174]

DHS acknowledges that granting parole in place to requestors with unexecuted removal orders could increase the volume of motions to reopen removal proceedings that EOIR will receive, and which ICE OPLA will review and respond to, as appropriate. DHS believes that a rebuttable presumption of ineligibility, and consideration of the factors listed in Section V.B. of this notice strike an appropriate balance to providing access to parole in place under this process to noncitizens who may have grounds to support the granting of parole in place. If granted parole in place, noncitizens who are prima facie eligible for adjustment of status may independently pursue reopening and dismissal of their case before EOIR to permit the filing of an adjustment of status application before USCIS.

- *Form I–130:* DHS considered whether the noncitizen should be required to have an approved Form I–130 prior to being granted parole in place under this process, given that it is a prerequisite for access to the FRP processes. However, DHS anticipates that many noncitizens who will benefit from this process may not yet have filed a Form I–130 because they are currently ineligible to adjust status and may not wish to pursue consular processing given the prospect of prolonged separation from their U.S. citizen family members. Requiring a previously approved Form I–130 could disqualify a significant portion of this population from this process and would be less effective in achieving the significant public benefits described in this notice, including of stabilizing and unifying families and enabling these noncitizens to contribute more fully to the U.S. economy. Moreover, immediate relatives who have been paroled are eligible to file their Form I–130 concurrently with their Form I–485. Requiring that a noncitizen file a Form I–130—either alone, or concurrently with a Form I–485—to request parole in place under this process would create significant inefficiencies and run counter to DHS' goal of reducing strain on limited government resources.
- *Form I–134:* DHS considered whether the noncitizen should be required to file Form I–134, Declaration of Financial Support, which USCIS uses in certain circumstances to determine whether applicants or beneficiaries of certain immigration benefit requests have sufficient financial resources or financial support to pay for expenses during their temporary stay in the United States.[175] However, DHS declined to include a requirement for submission of Form I–134 for this parole in place process. USCIS has not generally required Form I–134 for parole in place requests. For the existing military parole in place process, noncitizen family members of U.S. military service members who are granted parole in place are required to file Form I–864, Affidavit of Support Under INA Section 213A when they file for adjustment of status. Form I–864A is executed by a sponsor as evidence that the noncitizen has adequate means of financial support and are not likely at any time to become a public charge under INA section 212(a)(4)(A), 8 U.S.C 1182(a)(4)(A). Similarly, following a grant of parole in place through this process, noncitizen spouses and noncitizen stepchildren are expected to apply to adjust status, at which time they too will be required to submit a Form I–864. Once adjustment of status is granted, the sponsorship obligations associated with the Form I–864 remain in effect until, for example, the noncitizen naturalizes or is credited with 40 quarters of work.[176]

DHS has, therefore, determined that requiring a noncitizen to submit a Form I–134 as part of their parole in place request when shortly thereafter, they will be required to submit a Form I–864 with their adjustment of status application, is unnecessarily duplicative and adds an extra burden on requestors. Moreover, requiring USCIS officers to adjudicate similar but unrelated evidence related to financial support would create inefficiencies that run counter to DHS's goals of reducing strain on limited government resources and facilitating access to adjustment of status through this process.

- *Inadmissibility:* DHS additionally considered requiring the requestor to demonstrate that they are not inadmissible under any ground set forth in INA section 212(a), 8 U.S.C. 1182(a), to be granted parole under this process. This parole in place process is meant for those requestors who are otherwise eligible to adjust status. As noted elsewhere in this notice, serious criminal convictions, including certain convictions that would render the requestor inadmissible and therefore ineligible for adjustment of status, will be disqualifying for this process; other criminal convictions, as well as prior, unexecuted removal orders, will trigger a rebuttable presumption of ineligibility for this process. However, detailed consideration of grounds of inadmissibility—including whether applicable grounds can be waived—is a complex analysis undertaken during the Form I–485 adjustment of status adjudication. Requiring parole in place adjudicators to conduct the inadmissibility analysis that is normally conducted at the adjustment of status stage would be an inefficient, duplicative, and costly use of USCIS resources. Therefore, when assessing eligibility for parole in place, while DHS will consider the requestor's criminal and immigration history and any other

[174] *See* Section V.A. of this notice for a list of examples of information that may be relevant to DHS in its determination as to whether the requestor has overcome the presumption of ineligibility.

[175] DOS also requests applicants or beneficiaries of certain immigration benefit requests submit Form I–134 in certain circumstances.

[176] *See* 8 CFR 213a.3(e)(2)(i).

adverse factors that could bear upon admissibility, it will not import the admissibility analysis conducted at the Form I–485 stage into the parole adjudication.

As discussed elsewhere in this notice, a grant of parole in place would satisfy the requirement under INA section 245(a), 8 U.S.C. 1255(a), that the adjustment applicant has been ''inspected and admitted or paroled'' by an immigration officer. This process is meant for requestors who are otherwise eligible for adjustment of status and who merit a favorable exercise of discretion; the noncitizen, however, when applying to adjust status, must satisfy all other requirements for adjustment of status, including establishing that the requestor is not inadmissible under any applicable grounds.

B. Resource Considerations and Impacts on USCIS Processing

DHS has considered the potential impact of this process on noncitizens applying for other immigration benefits. While there could be an impact initially on wait times for other USCIS-administered immigration programs and processes, over time, this process will assist USCIS in creating efficiencies in other workloads. For example, USCIS will be able to reduce processing times more quickly for the Form I–601A because some noncitizens who would have filed a Form I–601A and pursued consular processing would instead request parole in place and adjustment of status. DHS also considered the potential impact of this process on USCIS operations. This process will result in an increased number of individuals visiting USCIS Application Support Centers (ASC) to have their biometrics collected and will require USCIS to divert some resources to develop the technical solutions to administer this process and complete the adjudications. However, because USCIS will require all parole in place requestors to pay a fee, it is anticipated that the agency will recover fully the costs associated with this workload.

USCIS also anticipates that this process will lead to increased filings of Forms I–485 because some noncitizens who would otherwise seek lawful permanent residence via consular processing, or would have remained without status, will now seek adjustment of status. However, USCIS expects that the costs to the agency of adjudicating increased volumes of Forms I–485 will be in large part recovered by the Form I–485 fees. DHS has also determined that any additional adjudicatory costs are warranted by the significant public benefits described throughout this notice.

Finally, the process will provide needed relief to U.S. embassies and consulates, some of which have significant backlogs of noncitizens awaiting interviews for immigrant visa applications.

C. Potential Impact on Federal Government and Access to Federal Benefits

DHS has considered the impact of the proposed process on eligibility for Federal public benefits. Only noncitizens who are considered ''qualified aliens'' may access certain Federal public benefits programs.[177] ''Qualified aliens'' include noncitizens paroled under INA section 212(d)(5), 8 U.S.C. 1182(d)(5), for a period of at least one year, as well as lawful permanent residents and several other categories.

However, nearly all of these benefits programs are available only to noncitizens who have been in ''qualified'' status for at least five years. For example, the Supplemental Nutrition Assistance Program (SNAP) generally requires noncitizens to have been in ''qualified'' status for five years before they may potentially receive benefits. Medicaid, Temporary Assistance for Needy Families (TANF), and the Children's Health Insurance Program (CHIP) similarly generally require five years in ''qualified'' status for noncitizens who entered after August 22, 1996.[178] Given that noncitizens eligible for this process are estimated on average to have lived in the United States for 23 years,[179] DHS anticipates that the majority of those who may be considered for parole in place will have entered after this date. Accordingly, most noncitizens who receive parole pursuant to this process will not be eligible to access public Federal benefits for at least five years. And, although the provision of parole in place will start the five-year waiting period prior to adjustment of status, DHS anticipates that the uptake of these public benefits would likely be curtailed by the noncitizen's access to lawful employment. Upon receipt of employment authorization and gainful employment, spouses and stepchildren of U.S. citizens may no longer need or qualify for public benefits. Additionally, noncitizens' eventual potential ability to access benefits after being granted parole through this process may well be offset by increased tax revenue and other economic benefits created by their ability to obtain lawful employment.

Unlike the analysis that most noncitizens who receive parole pursuant to this process will not be eligible to access public benefits for at least five years, Cuban and Haitian nationals who are granted parole are eligible for special ''Cuban-Haitian Entrant Program'' (CHEP) benefits.[180]

D. Potential Impact on States

DHS considered the potential impact of the proposed process on State budgets, including noncitizens' access to means tested benefits, driver's licenses, and public education. As discussed elsewhere in this notice, DHS also considered the potential economic benefit to State and local governments through the provision of employment authorization to eligible parolees, and increased tax revenue to States that will result from this process. A comprehensive quantified accounting of local and State fiscal impacts specifically due to this parole in place process is not possible, in part due to the case-by-case nature of the determinations. DHS cannot predict with the available information the impact these noncitizens might have on State and local programs or the degree they will contribute to State and local budgets.

Access to means-tested benefits for eligible noncitizens varies at the State level. States can accept Federal funds to assist them with providing such benefits and have the authority to determine the eligibility of qualified noncitizens for certain designated Federal programs including TANF, Medicaid, and CHIP. Several States–including Indiana, Mississippi, Ohio, South Carolina, and Texas–deny some qualified noncitizens access to TANF even after the five-year waiting period has elapsed. While means-tested benefit costs at both the Federal and State levels could increase because of potential earlier access to qualified noncitizen status for the purpose of benefits eligibility than would otherwise be the case absent this parole in place process, for most States, any increase in benefit-based spending for these parolees will be delayed by the five-year waiting period. Upon receipt of employment authorization and gainful employment, spouses and stepchildren of U.S. citizens may no

[177] *See* Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193, title IV, 110 Stat. 2105, 2260–77 (Aug 22, 1996).

[178] 8 U.S.C. 1613.

[179] OHSS Analysis, *supra* note 3, tbl. 5.

[180] *See* Refugee Education Assistance Act of 1980, Public Law 96–422, sec. 501 (8 U.S.C. 1522 note); 8 CFR 212.5(h); *see also* U.S. Dep't of Health and Human Services, Office of Refugee Resettlement, Benefits for Cuban/Haitian Entrants (Fact Sheet), available at *https://www.acf.hhs.gov/orr/fact-sheet/benefits-cuban/haitian-entrants.*

longer need or qualify for public benefits. Additionally, noncitizens' eventual potential ability to access benefits after being granted parole through this process may well be offset by increased tax revenue and other economic benefits created by their ability to obtain lawful employment.

The extent to which this process will impact States in the short term because of noncitizens granted parole gaining access to driver's licenses will depend on State policy. Although 19 States, the District of Columbia, and Puerto Rico already provide noncitizens access to driver's licenses regardless of immigration status, other States make access to driver's licenses contingent on lawful immigration status. However, the REAL ID Act of 2005 [181] and its implementing regulations exclude parolees from the list of categories of individuals eligible for REAL ID-compliant licenses. Therefore, whether noncitizens who are granted parole under this process can receive driver's licenses will depend upon States' willingness to continue to issue non-REAL ID compliant licenses to this population, either because they issue driver's licenses to noncitizens regardless of their immigration status or because they contemplate issuing licenses to noncitizens in immigration statuses beyond those included in the REAL ID Act. DHS acknowledges that the provision of parole in place may enable noncitizens to pursue adjustment of status sooner than they otherwise would, and in States where a noncitizen would not have access to a driver's license before becoming an LPR, this process would render them eligible to apply for a driver's license sooner. However, many States may also charge fees for driver's licenses, and therefore the cost to States caused by additional noncitizens becoming eligible for driver's licenses following a grant of parole in place under this process may be mitigated.

DHS also considered the impact of this process on State education costs. DHS recognizes that undocumented noncitizen students receive K–12 education that is publicly funded. Although the provision of parole to some of these undocumented noncitizen students may result in some indirect fiscal effects on State and local governments, the direction of the effect is dependent on multiple factors. Given the criteria requiring stepchildren of U.S. citizens to be continuously physically present in the United States since at least June 17, 2024, these noncitizens would already be present in the United States and likely attending public school even in the absence of this process.

While some States may allow noncitizens with parole to qualify for in-state tuition rates at public universities, which may not be available to similarly situated noncitizens without parole, the costs to the States will depend on choices they make and will be location-specific. The fiscal impact is therefore difficult to quantify, let alone predict. However, any cost associated with additional access to in-state tuition rates at public universities may be offset by the further pursuit of education and the resultant economic benefits. The provision of parole and employment authorization may motivate recipients to continue their education, pursue post-secondary and advanced degrees, and seek additional vocational training, which ultimately provides greater opportunities, financial stability, and disposable income for themselves and their families.[182] This in turn benefits their communities at large and increases the potential economic benefit to State and local governments.

As described throughout this notice, this process will provide multiple significant benefits to the U.S. public. DHS has identified and considered the interests of the parties affected by establishment of this process and has, to the extent possible, determined that the significant public benefits of the case-by-case parole of noncitizens under this process to the United States outweigh the anticipated costs to Federal and State governments alike. Additionally, given that the population eligible to request parole in place under this process is limited to those who have been continuously physically present in the United States since June 17, 2014, or in the case of stepchildren of U.S. citizens, since at least June 17, 2024, DHS does not believe this process will meaningfully affect or create incentives for noncitizens to enter the United States.

VIII. Regulatory Requirements

A. Analysis of Benefits, Costs, and Governmental Transfers

Estimated Population

According to DHS analysis from the Office of Homeland Security Statistics, this process could benefit an estimated 500,000 unauthorized noncitizen spouses of U.S. citizens as well as an estimated 50,000 unauthorized noncitizen stepchildren of U.S. citizens. The estimated 500,000 unauthorized noncitizen spouses is the average of the estimated interval of 300,000 to 700,000 potential noncitizen spouses of U.S. citizens. To provide a more informed analysis when estimating costs, benefits, and transfers of this process, DHS assumes two scenarios: one designates ''*scenario 350K*'' as a low population estimate scenario that includes 300,000 spouses and 50,000 stepchildren, and the other designates ''*scenario 750K*'' as a high population estimate that includes 700,000 spouses and 50,000 stepchildren.[183] For the final estimated numbers DHS takes the point estimate, that is the average between the low estimate and high estimate scenarios.

Using data on the estimated unauthorized immigrant population living in the United States,[184] DHS first estimates the broader unauthorized population present in the United States for at least 10 years. DHS then separates the unauthorized populations into two categories, making assumptions on the population that is PWAP (previously known as entered without inspection or EWI) and the population that overstayed their period of admission. The PWAP population is the population of interest under this process. Once the PWAP population in the United States is estimated, DHS filters this population by the proportion of the unauthorized population married to a U.S. citizen,[185] which yields the estimated 500,000 unauthorized noncitizen spouses present in the United States for at least 10 years. To arrive at the estimated number of 50,000 stepchildren, DHS uses fertility data to assume a rate of children per marriage as well as assumptions on the average household composition of U.S. citizen children and unauthorized stepchildren.[186]

[181] *See* Public Law 109–13, div. B, secs. 201–207 (codified at 49 U.S.C. 30301 note); *see also* 6 CFR pt. 37.

[182] *See, e.g.,* Zachary Liscow and William Woolson, *Does Legal Status Matter for Educational Choices? Evidence from Immigrant Teenagers,* American Law and Economics Review (Dec. 11, 2017), available at *https://dx.doi.org/10.2139/ssrn.3083026.*

[183] DHS cannot accurately predict the behavior of the affected population and hence cannot accurately forecast how many individuals would choose to pursue this policy. The two population scenarios can therefore better inform stakeholders of possible impacts, showing estimated impacts if less (more) individuals than the point estimate of 550,000 choose to pursue this policy.

[184] Bryan Baker and Robert Warren, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2018–January 2022,* available at *https://ohss.dhs.gov/topics/immigration/unauthorized-immigrants/estimates-unauthorized-immigrants* (last visited June 17, 2024).

[185] This rate is on average 12%. Source: Migration Policy Institute, *Profile of the Unauthorized Population: United States,* available at *https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US* (last visited June 17, 2024).

Wages

DHS estimates that this process would result in increased earnings for the population that gains work authorization by removing the ''wage penalty'' that affects undocumented individuals in the United States. Determining the magnitude of this increase in earnings requires identifying the percentage of the population that applies for parole that is in the labor force, the size of the wage penalty, and the wages of this population in the baseline.

First, DHS assumes the labor participation rate of this population is similar to that of foreign-born workers. Therefore, DHS estimates that approximately 67 percent of this population are currently in the informal labor force,[187] or 234,500 individuals for scenario 350K, and 502,500 individuals for scenario 750K. DHS assumes these estimates remain constant with this process, *i.e.,* the same percentage in this population would transition to or chose to participate in the formal labor market once authorized under this process.

DHS recognizes that providing employment authorization could induce additional entry into the labor force. For example, Pope (2016) found DACA increased the likelihood of a sample of noncitizens in DACA-eligible age groups working by 3.7–4.8 percentage points and their number of hours worked per week by 0.9–1.7 hours, stemming from an increase in labor force participation and a decrease in unemployment.[188] Pope also notes that because the non-citizen sample analyzed was comprised of nearly 40% *authorized* immigrants, the true effect would be approximately 1.6 times larger (5.9–7.7 percentage points). Additional research from Pan (2012) [189]—studying the effects of the Immigration Reform and Control Act of 1986—and Orrenius and Zavodny (2015) [190]—studying the effects of Temporary Protected Status—provides more granular detail that, following receipt of lawful status, wage increases (discussed below) may be clustered among men and higher employment rates may be clustered among women. However, DHS assumes no increase in employment resulting from this process. As a result, the assumption of a static employment rate could result in an underestimate of the total impact.

Second, there is an extensive literature showing that documented immigrants tend to earn higher wages than those who are undocumented. This difference is known as the wage penalty,[191] which Borjas and Cassidy (2019) define as the wage difference between observationally-equivalent documented and undocumented immigrants.[192] In order to quantify the marginal impact of providing employment authorization on earnings for undocumented spouses, DHS consulted several studies. Table 1 shows the studies and the various wage penalty percentages from their findings.

TABLE 1—STUDIES ON UNDOCUMENTED WORKER WAGE PENALTIES

Wage penalty	Author	Title and descriptor
4% to 6%	Borjas & Cassidy (2019).	*The wage penalty to undocumented immigration.* Wage earned as a documented noncitizen could be, on average, 4 to 6 percent higher than the wage of an individual working as an undocumented noncitizen.
5%	Ortega & Hsin (2022)	*Occupational barriers and the productivity penalty from lack of legal status.* The wage gap between documented and undocumented workers in the period 2010–2012 is 12 percent in occupations with entry barriers (30.1% of undocumented workers) and 2 percent in occupations without entry barriers (69.9% of undocumented workers) when accounting for observable characteristics (similar education and skills) other than occupation.
8%	Albert (2021)	*The Labor Market Impact of Immigration: Job Creation versus Job Competition.* Using data from 1994–2016, the wage gap—conditional on observable characteristics—between undocumented and document immigrants is 8 percent.
14% to 24%	Kossoudji & Cobb-Clark (1998).	*Coming Out of the Shadows: Learning about Legal Status and Wages From the Legalized Population.* The Immigration Reform and Control Act of 1986 (IRCA) authorized the granting of lawful status to approximately 1.7 million long-term unauthorized workers in an effort to bring them ''out of the shadows'' and improve their labor market opportunities. An analysis of wages using panel data for a sample of men granted lawful status provides evidence that wage determinants are structurally different after legal status was available for them but not for the comparison group as measured during the same time periods. The wage penalty for being unauthorized is estimated to range from 14% to 24%.

Borjas and Cassidy (2019) examine the wage differential between informal and formal work for immigrant populations finding that the wage earned as a documented noncitizen could be, on average, 4 to 6 percent higher than the wage of an individual working as an undocumented noncitizen.[193]

Ortega and Hsin (2022) find that the wage penalty between documented and undocumented workers in the period 2010–2012 is 12 percent in occupations with entry barriers (30.1% of undocumented workers) and 2 percent in occupations without entry barriers (69.9% of undocumented workers) when accounting for observable

[187] In 2023, the labor force participation rate of the foreign born increased to approximately 67 percent (rounded value). *See* BLS Foreign-Born Workers: Labor Force Characteristics—2023 (May 21, 2024) *https://www.bls.gov/news.release/archives/forbrn_05212024.pdf.*

Calculation: 350,000 * 67 percent = 234.500, and 750,000 * 67 percent = 502,500.

[188] Nolan G. Pope, The Effects of DACAmentation: The Impact of Deferred Action for Childhood Arrivals on Unauthorized Immigrants, Journal of Public Economics, vol. 143, 2016: 98–114.

[189] Pan, Y. The Impact of Legal Status on Immigrants' Earnings and Human Capital: Evidence from the IRCA 1986. J. Labor Res. 33, 119–142 (2012).

[190] Orrenius, Pia M., and Madeline Zavodny. 2015. ''The Impact of Temporary Protected Status on Immigrants' Labor Market Outcomes.'' *American Economic Review,* 105(5): 576–80.

[191] Despite being labeled as a ''wage penalty,'' such estimates are generally reported as a percentage of earnings before work authorization, rather than after.

[192] *See* George J. Borjas and Hugh Cassidy, *The wage penalty to undocumented immigration,* Lab. Econ. 61, art. 101757 (2019) (hereinafter Borjas and Cassidy (2019)), *https://scholar.harvard.edu/files/gborjas/files/labourecon2020.pdf.*

[193] *Id.*

characteristics (similar education and skills) other than occupation.[194] In aggregate, the wage penalty is 5%.

Albert (2021) uses data from 1994–2016 to estimate that the wage gap—conditional on observable characteristics—between undocumented and document immigrants is 8 percent.[195]

Kossoudji & Cobb-Clark (1998) used the change in policy caused by the Immigration Reform and Control Act of 1986 (IRCA)—which authorized the granting of lawful status to approximately 1.7 million long-term unauthorized workers—to analyze the question of whether and how legal status influences wages.[196] The policy effectively brought unauthorized immigrants out of the informal labor market and improved their labor market opportunities. Their analysis of wages used panel data for a sample of Mexican and Central American legalized men which provided evidence that wage determinants are structurally different after legal status was extended to this group. The analysis suggests that upon arrival in the U.S. labor market, unauthorized men's wages would have been 14 percent higher if they had been authorized workers; if they had been authorized for all their U.S. working lives, wages in 1992 would be 24 percent higher than actual wages.[197]

Third, estimating baseline wages cannot be done through use of traditional sources for wages, such as the Department of Labor Bureau of Labor Statistics' (BLS) data, as they do not provide wage estimates for undocumented workers. Consequently, DHS considered several studies to get a range of estimates for earnings of undocumented workers.

A 2022 report by the Center for Migration Studies states that ''mean and median annual wages of Hispanic undocumented immigrants who are employed (ages 16 and above) are $28,252 and $25,000, respectively.'' [198] Given that two-thirds of the estimated undocumented immigrant population is Hispanic,[199] DHS considers the mean wage of $28,252, which we adjust up using the Employment Cost Index (wages and salaries for private industry workers) to $33,302 (2023 dollars), a reasonable lower estimate for this population's earnings.[200]

In other regulations, USCIS has used the 10th percentile wage as a proxy for low-paying or entry-level jobs weighted to include benefits for full compensation.[201] The 10th percentile wage is not specific to undocumented workers; however, it is an example of a lower wage that we have used in other rules. DHS presents wage data from BLS National Occupational Employment and Wage Estimates for an unweighted, 10th percentile wage estimate for all occupations to provide another point of comparison.[202] DHS takes the hourly wage of $13.97 and adjusts it by 1.45 to account for worker benefits to get the average total rate of compensation as $20.26 per hour.[203] This wage estimate adjusted by 1.45 is appropriate, even if workers are in the informal labor market and do not receive similar benefits. It is appropriate in this analysis because the 10th percentile of full compensation is being estimated based on the 10th percentile wage estimate in order to serve as a plausible benchmark for this population's average earnings.

Assuming approximately 1,784 hours worked per year (34.3 average weekly hours worked as of 2023, multiplied by 52 weeks in a year),[204] someone earning compensation of $20.26 per hour would earn approximately $36,136 annually. DHS does not rule out the possibility that this population might earn higher wages than shown in this analysis on average, but we believe that these earnings represent a reasonable estimate of the range of incomes that undocumented spouses may be able to earn.

In Table 2, we apply the various wage penalty estimates from Table 1 to the wage estimates for unauthorized workers discussed above to estimate a range of increase in potential income—from 4 percent to 24 percent—as a result of obtaining parole. We also include a simple arithmetic mean of the central estimate of the three articles used to generate these estimates, 9%, to illustrate a potential central estimate of the wage penalty.[205] The result is a range of estimates for the increased marginal earnings due to work authorization. DHS estimates that receiving employment authorization can increase an immigrant's earnings by about $1,332 to $8,672 per year.

[194] Francesc Ortega and Amy Hsin, *Occupational barriers and the productivity penalty from lack of legal status, https://docs.iza.org/dp11680.pdf* Labour Economics 76 (2022): 102181, *https://www.sciencedirect.com/science/article/abs/pii/S0927537122000720.*

[195] Albert, Cristoph *The Labor Market Impact of Immigration: Job Creation versus Job Competition,* American Economic Journal: Macroeconomics 13(1) 2021, *https://pubs.aeaweb.org/doi/pdfplus/10.1257/mac.20190042.*

[196] Kossoudji & Cobb-Clark *Coming Out of the Shadows: Learning About Legal Status and Wages from the Legalized Population,* Lab. Econ. 20(3) 2002, *https://www.journals.uchicago.edu/doi/epdf/10.1086/339611.*

[197] *Id.*

[198] Evin Millet and Jacquelyn Pavilon, *Demographic Profile of Undocumented Hispanic Immigrants in the United States* (Oct. 14, 2022), at *https://cmsny.org/publications/hispanic-undocumented-immigrants-millet-pavilon-101722/.* This report also provides that, in comparison, the mean and median wages for Hispanic documented immigrants are $40,032 and $30,000, respectively. Accordingly, the 2022 Center for Migration Studies (CMS) data indicate a wage gap of 40 percent for mean earnings and 20 percent for median earnings. However, DHS excludes the 20 percent to 40 percent wage gap identified in the report from this analysis because the CMS report compares only the average wages between documented and undocumented workers. The CMS report did not state it made any adjustments for other factors that may affect the differences in wages between the two populations, such as age, education, or skills. Without these adjustments, the wage gap between the two populations may not necessarily equate to the wage penalty for being undocumented.

Note: This study uses 2019 Census ACS data. Earnings to be adjusted to 2023 dollars.

[199] Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2018–January 2022, DHS, Office of Homeland Security Statistics (May 6, 2024), at *https://www.dhs.gov/sites/default/files/2024-05/2024_0418_ohss_estimates-of-the-unauthorized-immigrant-population-residing-in-the-united-states-january-2018%E2%80%93january-2022.pdf,* Table 2 Unauthorized Immigrant Population Estimates by Top 10 Countries of Birth: 2018–2020 and 2022.

[200] Source: *https://fred.stlouisfed.org/series/ECIWAG.* Calculation: Earnings CY 2019 *(Average CY 2023 ECIWAG/Average CY 2019 ECIWAG) = $28,252 * 1.17874 = $33,302 (rounded).

[201] *See Temporary Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Employment Authorization Document Renewal Applicants,* 89 FR 24628 (Apr. 8, 2024) (final rule), *https://www.govinfo.gov/content/pkg/FR-2024-04-08/pdf/2024-07345.pdf; Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for ''T'' Nonimmigrant Status,* 89 FR 34864 (Apr. 30, 2024) (final rule), *https://www.govinfo.gov/content/pkg/FR-2024-04-30/pdf/2024-09022.pdf.*

[202] See Occupational Employment Statistics program, All Occupations, available at *https://www.bls.gov/oes/2023/may/oes_nat.htm#00-0000.* 10th percentile hourly wages used here are available in the ''national_M2023_dl'' excel file at *https://www.bls.gov/oes/special.requests/oesm23nat.zip* (last visited July 11, 2024).

[203] The benefits-to-wage multiplier is calculated as follows: (total employee compensation per hour)/(wages and salaries per hour) = $42.48/$29.32 = 1.45 (rounded). *See* Bureau of Labor Stat., U.S. Dep't of Labor, ''Employer Costs for Employee Compensation—December 2023,'' *https://www.bls.gov/news.release/archives/ecec_03172023.pdf* (last visited July 11, 2024).

[204] Bureau of Labor Stat., U.S. Dep't of Labor, *https://www.bls.gov/news.release/archives/empsit_01052024.htm* (last visited July 10, 2024).

[205] Calculation: ((4% + 6%)/2 + 5% + 8% + (14% + 24%)/2)/4 = 9% (rounding).

TABLE 2—ESTIMATED INCREASED MARGINAL EARNINGS PER WORKER AND PER YEAR

[2023 Dollars]

Wage penalty (%)	Scenarios for earnings without work authorization	
	$33,302 [1]	$36,135 [2]
4	$1,332	$1,445
5	1,665	1,807
6	1,998	2,168
8	2,664	2,891
9	2,997	3,252
14	4,662	5,059
24	7,992	8,672

Notes:
Estimated marginal earning per worker calculated for each scenario by multiplying the wage penalty by the earnings without work authorization, for example: $33,302 × 4% = $1,332.
[1] CMS: *https://cmsny.org/publications/hispanic-undocumented-immigrants-millet-pavilon-101722.*
Adjusted 2019 estimate using Employment Cost Index to 2023 dollars.
[2] 10% Percentile: *https://www.bls.gov/oes/current/oes_research_estimates.htm.*
Adjusted to include benefits as reported by BLS, *https://www.bls.gov/news.release/archives/ecec_03132024.htm.*

DHS assumes that the estimated 234,500 in scenario 350K and 502,500 individuals in scenario 750K are currently in the informal labor force and would receive parole as well as employment authorization—increasing their earnings—as a result of this process. Consistent with standard practice in regulatory impact analyses, as well as current evidence in the labor market,[206] DHS assumes full employment (that is, that all workers looking for work can find employment in the labor market); accordingly, there is no need to consider the extent to which the labor of affected individuals substitutes for the labor of workers already employed in the economy. For further discussion of the literature on labor substitution and immigration, see ''Labor Market Impacts'' below.

The increased gross annual earnings from the process are estimated by multiplying the marginal increased earnings per worker due to employment authorization (Table 2) by the estimated labor force participation population numbers under scenario 350K (234,500) and 750K (502,500), respectively. Table 3 presents these estimates.

TABLE 3—TOTAL GROSS ANNUAL MARGINAL EARNINGS GAINED

[2023 Dollars]

Wage penalty (%)	Earnings $33,302		Earnings $36,135	
	Scenario 350k	Scenario 750k	Scenario 350k	Scenario 750k
4	$312,372,760	$669,370,200	$338,946,300	$726,313,500
5	390,465,950	836,712,750	423,682,875	907,891,875
6	468,559,140	1,004,055,300	508,419,450	1,089,470,250
8	624,745,520	1,338,740,400	677,892,600	1,452,627,000
9	702,838,710	1,506,082,950	762,629,175	1,634,205,375
14	1,093,304,660	2,342,795,700	1,186,312,050	2,542,097,250
24	1,874,236,560	4,016,221,200	2,033,677,800	4,357,881,000

Note: Total annual earnings is calculated by taking the benefits estimated from work authorization in Table 2 for each scenario and multiplying it by the population participating in the labor market. For example: under the 350k scenario where the relevant population are earning, on average, $33,302/year and the wage penalty is 4%, then the benefit of work authorization is $1,332/year; when multiplied by the working population of 234,500, the total annual increase of gaining work authorization for this population is $312 million/year.

[206] The prime-age (25–54) employment-to-population ratio has been over 80% since November 2022. *https://fred.stlouisfed.org/series/LNS12300060* (last accessed July 10, 2024). Methods that isolate the effect of population aging (capturing, for example, aging within the 25–54 cohort) indicate that the adjusted employment-to-population ratio is at historical highs. *https://www.whitehouse.gov/cea/written-materials/2023/07/27/labor-market-indicators-are-historically-strong-after-adjusting-for-population-aging/*. Other measures of full employment provide evidence that there is not substantial slack in the labor market; for example, in the July 2024 Summary of Economic Projections of the Board of Governors of the Federal Reserve System, the unemployment rate is projected to remain below the longer-run stable value in 2024. *https://www.federalreserve.gov/monetarypolicy/2024-07-mpr-part3.htm.*

Using the 9% wage penalty as the preferred measure of central tendency, it implies increased earnings of $0.70 billion to $1.63 billion in additional earnings per year. To produce a point estimate, DHS takes the average across the two scenarios (using the 9% wage penalty) to arrive at $1.15 billion (rounded), as its preferred estimate of the gross annual increased earnings resulting from this process.

Benefits

As noted above, DHS estimates an additional $1.15 billion in annual earnings stemming from this process.[207] As noted in Ortega & Hsin (2022), these short-term increased earnings are explained by group-specific occupational barriers associated with a lack of legal status that cause a misallocation of talent and human capital. The study found that providing legal status to these workers increases the productivity of these workers, and therefore represent net economic gains.

To the extent that the long-term increase in productivity is not fully captured by the increase in earnings—for example, due to employer labor market power—this earnings estimate understates the true economic gains.[208] And as previously noted, to the extent that this process leads to additional labor force participation—as per Pope (2016), Pan (2012), and Orrenius and Zavodny (2015)—the earnings estimate may also understate the benefit of this process. The total increase in earnings will also be understated if individuals, after gaining lawful status, switch from industries where they currently face lower wage penalties to industries where they would currently face higher wage penalties. In the Ortega and Hsin (2022) estimation of the effects of grants of lawful status on GDP, the direct wage effect is less than a fifth of the total increase in earnings, meaning the true effect of lawful status on earnings may be five times higher than the wage penalty estimate. In addition, Ortega & Hsin note that the long-term productivity gain may be higher because the affected population anticipates labor market barriers in occupations with high skill requirements, leading to under-investment in human capital. To the extent the process leads to closer-to-optimal investment in human capital (in a manner not reflected in the literature used to estimate the wage penalty), the long-term benefits of this process could be higher.

Beyond earnings, the process's immediate benefits include a sense of security and belonging for the affected population, their families, and communities due to the program offering a less burdensome path to adjustment of status. The population that could be eligible for parole in place through this process subsequently could apply for adjustment of status to that of an LPR and, if granted, would gain the freedom and ability to travel internationally.

Noncitizens in the population granted parole in place under this process would benefit from being able to earn lawful wages through participation in the labor market (less the value of their leisure time prior to this process) including expanded employment options not previously available to them. Noncitizens who work would contribute to Federal, State, and local taxes and would benefit from the Social Security system in retirement. Additionally, and generally, some noncitizens could benefit from eventually having access to public assistance programs only available to qualified noncitizens and U.S. citizens if a need for such assistance arises and if they are not already a beneficiary of assistance through their U.S. citizen spouse or parent.[209]

Research provides a variety of more specific evidence on the benefits of gaining lawful status for populations that have resided in the United States for periods of time without lawful status. For example, Patler and Pirtle (2018) find that reports of current psychological wellness increase for DACA recipients.[210] Hasager (2024) finds that in conditions where women's resident status is contingent on remaining married to their husbands, grants of legal status (in this case, asylum) to such women decreases their risk of being victims of violence.[211]

Research also indicates that benefits can spillover to additional individuals. For example, Cascio, Cornell, and Lewis (2024) found that the Immigration Reform and Control Act of 1986 led to higher birthweights among mothers who gained legal status.[212] This effect arose immediately after applications opened—long before the affected women would have been able to become eligible for Medicaid—indicating that the causality stemmed from factors other than improved access to prenatal care, such as higher family income and reductions in stress that come from gaining legal status. As Cascio, Cornell, and Lewis (2024) note, birthweight is a predictor of later school achievement[213] as well as adult educational attainment rates, IQ, health, and labor market outcomes.[214]

Costs

The costs to the population affected by this process will include the various application costs (one person, parent or stepchild, per application). These costs include opportunity costs of time (OCT) of requestors and, if applicable, their representatives for filing Forms I–131F, I–765, I–130, and I–485 (OCT = [value of time based on relevant wages] * [estimated time burden to complete and submit required forms]). Requestors would also be responsible for any travel costs associated with a required biometrics collection appointment at a USCIS ASC.

The process to request parole in place requires an individual to file Form I–131F. Currently, Form I–131F has an estimated time burden of 1.1667 hours with a filing fee of $580.[215] To request employment authorization, an individual is required to file Form I–765, with a time burden of 4.317 hours,[216] and a fee of $470 if filing

[207] Not all of these earnings are retained by workers; some are taxed, both through payroll taxes and other taxes, as previously discussed.

[208] *See, e.g.,* David Card, Who Set *Your* Wage?, American Economic Review, vol. 112, no. 4, April 2022: 1075–90.

[209] For example, without this policy and all else equal, stepchildren that become adults and become independent of parents would not have access to public assistance program only available to authorized noncitizens or naturalized citizens. The same could apply in the cases of divorce.

[210] Caitlin Patler and Whitney Laster Pirtle, From Undocumented to Lawfully Present: Do Changes to Legal Status Impact Psychological Wellbeing Among Latino Immigrant Youth Adults?, Social Science & Medicine, vol. 199 (2018): 39–48.

[211] Linea Hasager, Does Granting Refugee Status to Family-Reunified Women Improve Their Integration?, Journal of Public Economics, vol. 234 (2024): 105119.

[212] Elizabeth U. Cascio, Paul Cornell and Ethan G. Lewis, The Intergenerational Effects of Permanent Legal Status, NBER Working Paper No. 32635 (June 2004), *https://www.nber.org/papers/w32635.*

[213] Figlio, David, Jonathan Guryan, Krzysztof Karbownik, and Jeffrey Roth. 2014. ''The Effects of Poor Neonatal Health on Children's Cognitive Development.'' American Economic Review 104(12): 3921–3955.

[214] Behrman, Jere R. and Mark R. Rosenzweig. 2004. ''Returns to Birth Weight.'' Review of Economics and Statistics. 86(2): 586–601; Black, Sandra E., Paul J. Devereux, and Kjell G. Salvanes. 2007. ''From the Cradle to the Labor Market? The Effect of Birth Weight on Adult Outcomes.'' Quarterly Journal of Economics 122(1): 409–439; Philip Oreopoulos, Mark Stabile, Randy Walld, and Leslie L. Roos, Short-, Medium-, and Long-Term Consequences of Poor Infant Health: An Analysis Using Siblings and Twins, Journal of Human Resources, January 2008, 43 (1) 88–138; Royer, Heather. 2009. ''Separated at Girth: U.S. Twin Estimates of the Effects of Birth Weight.'' American Economic Journal: Applied Economics 1(1): 49–85.

[215] Estimated burden hours, subject to revision based on public comments.

[216] *See* USCIS, Form I–765, Instructions for Application for Employment Authorization, OMB Control Number 1615–0040 (expires Feb. 28, 2027),

Continued

online.[217] Parolees who later choose to apply for adjustment of status must file Form I–485, with a time burden of 6.987 hours [218] and submit a fee of $1,440.[219] In addition to the Form I–485, U.S. citizen spouses or parents must file Form I–130, with a time burden of 1.817 hours [220] and a fee of $625 if filed online.[221] DHS assumes that if given the option, requestors will submit the required forms online. For all forms together, the total time burden is 14.2877 hours.

DHS calculates the costs of applying under this process as follows. Under the two earnings scenarios previously discussed, we convert the annual earnings of $33,302 and $36,135 to per hour earnings, arriving at an estimated $18.67 and $20.26 per hour, respectively. (DHS herein refers to the estimated $18.67 hourly wage as ''earnings scenario 1'' and the estimated $20.26 hourly wage as ''earnings scenario 2.'') We do not include any wage penalty adjustments for application costs purposes as the population is not authorized at the time of application, so their OCT is their estimated informal labor earnings. For applications that are prepared by a representative, DHS estimates an hourly total compensation rate of $123.02 (rounded) using the national average hourly wage for attorneys, adjusted to include benefits, as a reasonable proxy of the opportunity cost of time.[222] Using the behavior of I–601A filers as a best-approximation for the data, DHS estimates that 81 percent of applicants could seek assistance from a lawyer or an accredited representative and 19 percent would not.[223]

Biometrics collection occurs at a designated USCIS ASC. While travel times and distances vary, DHS estimates that the average roundtrip distance to an ASC is 50 miles [224] and travel takes about 2.5 hours on average to complete a roundtrip.[225] Furthermore, DHS estimates that a requestor spends an average of 1 hour and 10 minutes (1.17 hours) at an ASC to submit biometrics,[226] adding up to a total biometrics collection-related time burden of 3.7 hours per requestor. The per requestor biometrics travel costs are approximately $99.77 under earnings scenario 1, and $105.60 under earnings scenario 2.[227]

The costs are calculated under the two earnings scenarios and the two population scenarios, scenario 350K and scenario 750K. For scenario 350K, we estimate that approximately 66,500 individuals would not use a representative to file the required forms and 283,500 would use a representative. For scenario 750K, we estimate 142,500 individuals would not use a representative and 607,500 would use a representative. Table 4 presents the total cost estimates, including total time burden for filing required forms, per hour OCT estimates for requestors and representatives, population estimates, and biometrics travel costs estimates. To arrive at a point estimate, DHS takes the average across each population scenario and each earning scenario. As a result, the point estimate is approximately $868,583,362 ($0.87 billion).

TABLE 4—TOTAL PROGRAM APPLICATION COSTS

[2023 Dollars]

Costs	Earnings $33,302 ($18.67/hour)		Earnings $36,135 ($20.26/hour)	
	Scenario 350k	Scenario 750k	Scenario 350k	Scenario 750k
Forms	$516,039,219	$1,105,798,327	$517,549,929	$1,109,035,563
Biometrics	34,919,115	74,826,675	36,961,470	79,203,150
Total	550,958,334	1,180,625,002	554,511,399	1,188,238,713

Note: For example, forms costs under scenario 350k and $18.67/hour OCT, are calculated as the time burden for all forms, 14.2877 hours, multiplied by the applicant population of 66,500 and their OCT, plus the total forms time burden, 14.2877 hours, multiplied by the population using a representative, 283,500, and their respective OCT. This is (14.2877 * 66,500 * $18.67) + (14.2877 * 283,500 * $123.02) = $17,738,965 + $498,300,254 = $516,039,219 (rounded). Biometrics costs are approximately $99.77 * 350,000 = $34,919,115. Numbers are slightly off due to rounding.

Transfer Payments

All the fees paid for the required forms for this process represent a transfer to the federal government (see Table 5). As previously noted, an individual must file Form I–131F to request parole in place and pay a (online) filing fee of $580; file Form I–765 to request work authorization and pay a (online) filing fee of $470 and file Form I–485 to apply for adjustment of status and pay a (mail-in) fee of $1,440. Concurrently with Form I–485, U.S. citizen spouses or parents must file Form I–130, with (online) fee of $625.

https://www.uscis.gov/sites/default/files/document/forms/i-765instr.pdf (last visited July 11, 2024).

[217] *See* USCIS, Form G–1055, Fee Schedule, Effective April 1, 2024, p. 33 of 39, *https://www.uscis.gov/sites/default/files/document/forms/g-1055.pdf* (last visited July 11, 2024).

[218] *See* USCIS, Form I–485, Instructions for Application to Register Permanent Residence or Adjust Status, OMB Control Number 1615–0023 (expires Feb. 28, 2026), *https://www.uscis.gov/sites/default/files/document/forms/i-485instr.pdf* (last visited July 11, 2024).

[219] *See* USCIS, Form G–1055, Fee Schedule, Effective April 1, 2024, p. 14 of 39, *https://www.uscis.gov/sites/default/files/document/forms/g-1055.pdf* (last visited July 11, 2024).

[220] *See* USCIS, Form I–130, Instructions for Form I–130, Petition for Alien Relative, and Form I–130A, Supplemental Information for Spouse Beneficiary, OMB Control Number 1615–0012 (expires Feb. 28, 2027), *https://www.uscis.gov/sites/default/files/document/forms/i-130instr.pdf* (last visited July 11, 2024).

[221] *See* USCIS, Form G–1055, Fee Schedule, Effective April 1, 2024, p. 7 of 39, *https://www.uscis.gov/sites/default/files/document/forms/g-1055.pdf* (last visited July 11, 2024).

[222] DHS assumes the preparers with similar knowledge and skills necessary for filing an application have average wage rates equal to the average lawyer wage of $84.84 per hour. DHS adjusts by the benefits-to-wage multiplier for a total compensation rate of 84.84 * 1.45 = $123.02 (rounded). *See* Bureau of Labor Stat., DOL, Occupational Employment and Wage Statistics, ''Occupational Employment and Wages, May 2023, 23–1011 Lawyers,'' *https://www.bls.gov/oes/2023/may/oes231011.htm.*

[223] Source: OP&S, PRD, C3. Queried July 17, 2024.

[224] A mileage rate for travel-related automobile costs is assumed. A rate of $0.625 per mile is adopted from the U.S. General Services Administration website at *https://www.gsa.gov/travel/plan-book/transportation-airfare-pov-etc/privately-owned-vehicle-mileage-rates/pov-mileage-rates-archived* for privately owned vehicle mileage reimbursement rates. Rate effective July 1, 2022.

[225] *See Employment Authorization for Certain H–4 Dependent Spouses,* 80 FR 10284 (Feb. 25, 2015); *Provisional and Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives,* 78 FR 536, 572 (Jan. 3, 2013).

[226] Source: USCIS, DHS, Instructions for Application to Register Permanent Residence or Adjust Status (Form I–485), OMB No. 1615–0023 (expires Feb. 28, 2026), *https://www.uscis.gov/sites/default/files/document/forms/i-485instr.pdf.*

[227] Calculations: (((50 * $0.625) + ((2.5+1.17) * $18.67))) = $99.77 (rounded).

If the option exists to submit a form online, DHS assumes that requestors would take advantage of this option to save costs and hence we use the online form submission fees to calculate the fee transfers. Any fee waivers granted for filing forms would reduce transfers from the affected population to USCIS.[228]

TABLE 5—FORM FEE TRANSFERS TO THE FEDERAL GOVERNMENT

[2023 Dollars]

Forms	Fee	Scenario 350K	Scenario 750K
I–131F	$580	$203,000,000	$435,000,000
I–765	470	164,500,000	352,500,000
I–130	625	218,750,000	468,750,000
I–485	1,440	504,000,000	1,080,000,000
Total	3,115	1,090,250,000	2,336,250,000

Note: The point estimate is the average of the two scenarios, $1,713,250,000.

Tax Revenue Transfer Payments

Increased earnings would result in increased tax revenue to different levels of government. For Federal income taxes, DHS presents an estimate using the simplified assumption that all individuals have marginal earnings taxed at a 12% rate. This is the tax rate that DHS believes would be applicable to such earnings for most individuals.[229] The gross earnings estimates are multiplied by 12% to yield the results in Table 6.

TABLE 6—TOTAL FEDERAL INCOME TAX TRANSFERS AT 12% RATE

[2023 Dollars]

Wage penalty (%)	Earnings $33,302		Earnings $36,135	
	Scenario 350K	Scenario 750K	Scenario 350K	Scenario 750K
4	$37,484,731	$80,324,424	$40,673,556	$87,157,620
5	46,855,914	100,405,530	50,841,945	108,947,025
6	56,227,097	120,486,636	61,010,334	130,736,430
8	74,969,462	160,648,848	81,347,112	174,315,240
9	84,340,645	180,729,954	91,515,501	196,104,645
14	131,196,559	281,135,484	142,357,446	305,051,670
24	224,908,387	481,946,544	244,041,336	522,945,720

Note: The point estimate is the average across the 9% row, which is $138,172,686.

Following the same approach to calculating the point estimate as was done previously produces an estimate of approximately $138 million in additional annual Federal income tax revenue as a result of the process.

It is difficult to quantify State tax transfers because taxation rules imposed by different levels of government vary widely.[230] For that reason, DHS is not able to monetize State income tax revenue increases that will occur as a result of this process, but DHS anticipates that at least some states will see tax revenue increases.

DHS is also able to estimate the increase in transfer payments to Federal employment tax programs, namely Medicare and Social Security, which have a combined payroll tax rate of 7.65 percent (6.2 percent and 1.45 percent, respectively).[231] With both the employee and employer paying their respective portion of Medicare and Social Security taxes, the total estimated increase in tax transfer payments from employees and employers to Medicare and Social Security is 15.3 percent. DHS takes this rate and multiplies it by the total marginal increase in pre-tax, gross, income earnings from Table 3 to estimate the increase in employment tax transfers resulting from work authorization. Table 7 presents these estimates.

TABLE 7—TOTAL FEDERAL PAYROLL TAX TRANSFERS AT 15.3% RATE

[2023 Dollars]

Wage penalty (%)	Earnings $33,302		Earnings $36,135	
	Scenario 350K	Scenario 750K	Scenario 350K	Scenario 750K
4	$47,793,032	$102,413,641	$51,858,784	$111,125,966
5	59,741,290	128,017,051	64,823,480	138,907,457
6	71,689,548	153,620,461	77,788,176	166,688,948

[228] DHS cannot accurately and confidently estimate how many potential waivers could be granted across all of the required forms. For the purposes of this FRN, DHS assumes that if requestors have the ability to submit a new form I–131F and pay the $580 fee, they would generally have the ability to pay the rest of the required form filing fees in this process created by this policy and would generally not qualify for any fee waivers. Nevertheless, if some fee waivers were to be granted, the total amount of transfer payments would not change, but the fee waivers would represent a transfer from the USCIS-fee paying population to the requestors.

[229] Internal Revenue Service, Federal Income Tax Rates and Brackets, *https://www.irs.gov/filing/federal-income-tax-rates-and-brackets.*

[230] *See, e.g.,* Tonya Moreno, ''Your Guide to State Income Tax Rates,'' The Balance, *https://www.thebalance.com/state-income-tax-rates-3193320* (last updated July 11, 2024).

[231] Internal Revenue Service, *Topic No. 751 Social Security and Medicare Withholding Rates, https://www.irs.gov/taxtopics/tc751* (last updated July 11, 2024).

TABLE 7—TOTAL FEDERAL PAYROLL TAX TRANSFERS AT 15.3% RATE—Continued

[2023 Dollars]

Wage penalty (%)	Earnings $33,302		Earnings $36,135	
	Scenario 350K	Scenario 750K	Scenario 350K	Scenario 750K
8	95,586,065	204,827,281	103,717,568	222,251,931
9	107,534,323	230,430,691	116,682,264	250,033,422
14	167,275,613	358,447,742	181,505,744	388,940,879
24	286,758,194	614,481,844	311,152,703	666,755,793

Note: The point estimate is the average across the 9% row, which is $176,170,175.

Following the same approach to calculating the point estimate as was done previously, this produces an estimate of approximately $176 million in additional annual Federal payroll tax revenue as a result of the process, half from employers and half from the employed population.

Additionally, DHS has considered the impact of the process on eligibility for Federal public benefits. Only noncitizens who are considered ''qualified aliens'' may access certain Federal public benefits programs. ''Qualified aliens'' include noncitizens paroled under INA section 212(d)(5) for a period of at least one year. However, nearly all benefits programs are available only to noncitizens who have been in ''qualified'' status for at least five years. For example, the Supplemental Nutrition Assistance Program (SNAP) generally requires noncitizens to have been in ''qualified'' status for five years before they can receive benefits. Similarly, Medicaid, Temporary Assistance for Needy Families (TANF), and the Children's Health Insurance Program (CHIP) generally require five years in ''qualified'' status for noncitizens who entered the United States after August 22, 1996. Given that noncitizens eligible for this process are estimated on average to have lived in the United States for 23 years, DHS anticipates that the majority of those who may be considered for parole in place will have entered after this date. Accordingly, most noncitizens who receive parole pursuant to this process will not be eligible to access public Federal benefits for at least five years. Beyond five years, DHS is not able to monetize the degree of additional outlays from Federal public benefit programs.

The potential fiscal impacts of this process on State and local governments would vary based on a range of factors, such as the social and economic characteristics of the population within a particular jurisdiction at a particular time (or over a particular period), including a parolee's age, educational attainment, income, and level of work-related skill as well as the number of dependents in their families. Fiscal effects would also vary significantly depending on local rules governing eligibility for public benefits. Under this process, additional earnings have the effect of increasing tax revenues. With regard to drawing on public assistance programs, the effects would be uncertain and depend on a range of factors, including personal circumstances and any State and local policies' eligibility criteria.

Compared to the baseline, there are multiple reasons to believe that any burden on State and local fiscal resources caused by the process are unlikely to be significant, and further that the rule may have a positive net effect on their fiscal resources. In the baseline, the vast majority of this population would remain in the country, but without the additional measure of security, employment authorization, and lawful presence promoted by this process. In addition, because State and local governments are already expending resources on public goods for the population gaining lawful status due to this process—for example, public K–12 education—the marginal effect of gaining lawful status on State and local public expenditures is likely to be small. By contrast, the increased earnings stemming from lawful status clearly increase tax revenues relative to baseline (State and local income tax revenues; higher earnings leading to higher spending, and therefore higher sales tax revenues; higher earnings leading to higher spending on property, and therefore higher property tax revenues), albeit one that DHS cannot fully monetize.

In the long term, DHS expects State and local governments to continue to choose how to finance public goods, set tax structures and rates, allocate public resources, and set eligibilities for various public benefit programs, and to adjust these approaches based on the evolving conditions of their respective populations. DHS acknowledges that though this process may result in some indirect fiscal effects on State and local governments, such effects would be extremely challenging to quantify fully and would vary based on a range of factors, including policy choices made by such governments, and may very well be offset by increases in tax revenue and economic productivity that are equally challenging to quantify.

Labor Market Impacts

The labor market impacts of increased immigration are largely not relevant to the analysis of this process because it applies to individuals who have resided in the United States for more than 10 years. Such individuals would likely continue to reside in the United States with or without this process. Nevertheless, for completeness and to the extent relevant, DHS has included discussion of the effects of increased immigration on native-born workers' employment and earnings.

Although the estimated population is small relative to the total U.S. and individual State labor forces, DHS recognizes that, in general, any potential increase in worker supply may affect wages and, in turn, the welfare of other workers and employers. However, the effects are not obvious or straightforward as changes in wages depend on many factors and various market forces, such as the type of occupation and industry, geographic market locations, employer preferences, worker preferences, worker skills, experience, and education levels, and overall economic conditions. For example, in a tight labor market, certain industries' labor demand might outpace labor supply, such as in healthcare, food services, and software development sectors. BLS projects that home health and personal care aide occupations will grow by about 34 percent over the next 10 years, cooks in restaurants by about 23 percent, and software development occupations by about 22 percent.[232] In

[232] *See* BLS, Employment Projections (Sept. 2020), *Occupations with the most job growth,* Table 1.4. Occupations with the most job growth, 2019 and projected 2029, available at *https://www.bls.gov/emp/tables/occupations-most-job-growth.htm.*

growing industries or sectors such as these, holding everything else constant, any increases in the labor supply might not be enough to temporarily satisfy labor demand. As a result, employers might offer higher wages to attract workers. The opposite could happen in a slack labor market for industries or sectors where labor supply is greater than labor demand due to these industries not growing and/or too many workers entering theses industry relative to labor demand.

DHS also notes the possibility of positive dynamic effects from employing the population relevant to this process. Hiring persons from this population might permit businesses to grow and thus have positive, rather than negative, effects on other workers, including U.S. citizens. DHS cannot predict the degree to which this population of interest is substituted for other workers in the U.S. economy since this depends on factors such as industry characteristics as described above as well as on the hiring practices and preferences of employers, which depend on many factors, such as worker skill levels, experience levels, education levels, training needs, and labor market regulations, among others.

Assuming this population of interest would remain in the United States even without this process, there is the possibility that unauthorized noncitizens looking for work without authorization may be exploited, and employers may pay substandard wages, which in turn could potentially depress wages for some native and authorized noncitizen workers. By reducing this possibility, this process may help to protect U.S. workers and employers against the possible effects of unauthorized labor.

Generally, the benefits of facilitating access to employment authorization for this population outweigh potential costs to American workers or to the U.S. economy. A 2017 National Academies of Sciences, Engineering, and Medicine (NAS) publication concludes that providing legal status to unauthorized migrants does not harm U.S.-born and other immigrant workers in the longer term, as overall the impact of immigration on wages is very small.[233]

Research has found little evidence that immigration significantly affects the overall employment rate of native-born workers. The 2017 NAS publication synthesizes the then-current peer-reviewed literature on the effects of immigration along with empirical findings from various publications.[234] With respect to wages, in particular, the 2017 NAS Report described recent research showing that, when measured over a period of more than 10 years, the impact of immigration on the wages of natives overall is very small.[235] However, the NAS Report described research finding that immigration reduces the number of hours worked by native teens (but not their employment rate). Moreover, as with wage impacts, there is some evidence that recent immigrants reduce the employment rate of prior immigrants, suggesting a higher degree of substitutability between new and prior immigrants than between new immigrants and natives.[236]

Further, the characteristics of local economies matter with respect to wage and employment effects. For instance, the impacts to local labor markets can vary based on whether such market economies are experiencing growth, stagnation, or decline. On average, immigrants tend to locate to areas with relatively high labor demand or low unemployment levels where worker competition for available jobs is low.[237] This dissipates short-term localized labor supply shock effects and increases the efficiency of labor markets.[238]

The 2017 NAS Report also discusses the economic impacts of immigration and considers effects beyond labor market impacts. Similar to citizens, immigrants also pay taxes; stimulate the economy by consuming goods, services, and entertainment; engage in the real estate market; and take part in domestic tourism. Such activities contribute to further growth of the economy and create additional jobs and opportunities for both citizen and noncitizen populations.[239]

More recent evidence provides a stronger evidentiary basis that immigration increases the employment rate of native-born workers. Empirical evidence from Peri, Rury, and Wiltshire (2024) of the effect of Puerto Ricans who were displaced to Orlando following Hurricane Maria found ''evidence that the migration event induced by Hurricane Maria caused employment growth in Orlando, in aggregate and also within sectors most likely to be affected by labor supply and demand shocks.'' [240] Peri, Rury, and Wiltshire (2024) found that this held for non-Hispanic workers and less-educated workers as well. Clemens and Hunt (2019) as well as Peri and Yasenov (2019) found evidence that previous approaches to examining the labor market effects of the Mariel Boatlift were methodologically flawed, concluding that—when properly controlled—no significant difference in labor market outcomes could be discerned.[241]

More comprehensively, Caiumi and Peri (2024) extends and improves upon a series of previous influential articles in the field that estimated how the supply of immigrant workers affected native wages in the U.S. by extending the years studies (through 2022) and using improved identification methods.[242] They find that the effect of immigration at every skill level ''on natives' employment-population ratio is positive, significant and between 0.05% and 0.095%, in response to a 1% increase in immigrant employment.'' On the wage side, Caiumi and Peri (2024) estimate that the ''average increase of native wage by 0.01% to 0.02% for each 1% growth of immigrant share can be fully due to shifts of natives into better-paying types of occupations in response to immigration.'' These estimates imply that the 2000 to 2019 immigrant flows increased the wages of native workers with a high school degree or less by 1.7% to 2.6%, had no significant wage effect on native workers with a college degree, and in aggregate increased wages for all workers by an average of 0.5% to 0.8%; regarding employment in this period, this implies that these immigrant flows increased natives' employment rate by 2.4%. Similar, but smaller, estimates are generated for the 2019–2022 period.

[233] *See, e.g.,* National Academies, *The Economic and Fiscal Consequences of Immigration* (2017), *https://www.nationalacademies.org/our-work/economic-and-fiscal-impact-of-immigration.*

[234] NAS, *The Economic and Fiscal Consequences of Immigration* (2017), at 195 *https://www.nap.edu/catalog/23550/the-economic-and-fiscal-consequences-of-immigration.*

[235] *Id.* at 5.

[236] *Id.* at 5–6.

[237] *Id.* at 5.

[238] Joan Monras, Immigration and Wage Dynamics: Evidence from the Mexican Peso Crisi, Journal of Political Economy, 2020, vol. 128, no. 8: 3017–89.

[239] NAS Report at 6–7.

[240] Giovanni Peri, Derek Rury, and Justin C. Wiltshire, The Economic Impact of Migrants from Hurricane Maria, Journal of Human Resources (2022): 0521–11655R1.

[241] Clemens, M.A., & Hunt, J. (2019). The Labor Market Effects of Refugee Waves: Reconciling Conflicting Results. *ILR Review,* 72(4), 818–857; Giovanni Peri and Vasil Yasenov, The Labor Market Effects of a Refugee Wave: Synthetic Control Method Meets the Mariel Boatlift, Journal of Human Resources, vol. 54, no. 2 (2019): 267–309.

[242] Alessandro Caiumi and Giovanni Peri, Immigration's Effect on US Wages and Employment Redux, NBER Working Paper No. 32389 (Apr. 2024), *https://www.nber.org/papers/w32389.*

ACCOUNTING STATEMENT

Category	Primary estimate	Dollar year	Discount rate	Time horizon
BENEFITS:				
Annualized monetized benefits	$1.15 billion	2023	N/A	Annual.
Annualized quantified, but non-monetized benefits.	N/A	N/A	N/A	N/A.
Unquantified benefits	*To Population That Benefits from the Process:* • Increased sense of security and belonging, and psychological wellness. • Freedom and ability to travel internationally and access travel documents. • Access to a college education • Reduced risk of being subject to violence *Other:* • Higher birth weights for children of population, and consequent lifetime benefits to those children. • Preserve and more effectively use limited resources of the Federal government.	N/A	N/A	N/A.
COSTS:				
Total monetized costs	$0.87 billion	2023	N/A	Year 1.
Total quantified, but non-monetized costs.	N/A.			
Unquantified costs.				
TRANSFERS:				
Year 1 monetized Federal budgetary transfers.	$2.03 billion	2023	N/A	Year 1.
Year 2+ annualized monetized Federal budgetary transfers.	$0.31 billion	2023	N/A	Annual.
Bearers of transfer gain and loss?	From fees (Year 1) and taxes from applicants and employers to the Federal government (annual).			
NET BENEFITS:				
Year 1 monetized net benefits	$0.28 billion	2023	N/A	Year 1.
Year 2+ annualized monetized net benefits.	$1.15 billion	2023	N/A	Annualized.

B. Administrative Procedure Act

This **Federal Register** notice is exempt from notice-and-comment rulemaking requirements for the following reasons.

First, DHS is merely adopting a general statement of policy,[243] *i.e.,* a ''statement issued by an agency to advise the public prospectively of the manner in which the agency proposes to exercise a discretionary power.'' [244] As INA section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A), provides, parole decisions are made by the Secretary of Homeland Security ''in his discretion'' and this process leaves USCIS adjudicators the discretion to approve or deny requests consistent with the guidance described in section V.C. of this Notice as they perform their case-by-case review.[245] DHS has generally exercised its parole authority without rulemaking on the substance of parole processes through the issuance of such general statements of agency policy.[246] And it is well established that ''the mere fact that an agency action,'' including a policy statement, ''may have a substantial impact does not transform it into a legislative rule.'' [247]

Second, even if this process were considered to be a legislative rule that would normally be subject to requirements for notice-and-comment rulemaking and a delayed effective date, the process is exempt from such requirements because it involves a foreign affairs function of the United

[243] 5 U.S.C. 553(b)(A).

[244] *See Lincoln* v. *Vigil,* 508 U.S. 182, 197 (1993) (quoting *Chrysler Corp.* v. *Brown,* 441 U.S. 281, 302 n.31 (1979)).

[245] A general policy statement typically uses permissive, rather than binding, language that leaves the agency free to exercise discretion. *See, e.g., Nat'l Mining Ass'n* v. *McCarthy,* 758 F.3d 243, 251–52 (D.C. Cir. 2014) (distinguishing legislative rules from general statements of policy, observing that ''[a]n agency action that merely explains how the agency will enforce a statute or regulation—in other words, how it will exercise its broad enforcement discretion or permitting discretion under some extant statute or rule—is a general statement of policy''); *Appalachian Power Co.* v. *EPA,* 208 F.3d 1015, 1023 (D.C. Cir. 2000) (rejecting the EPA's characterization of its document as guidance exempt from notice-and-comment rulemaking, reasoning that the guidance ''commands, . . . requires, . . . orders, [and] dictates''); *Cmty. Nutrition Inst.* v. *Young,* 818 F.2d 943, 946 (D.C. Cir. 1987) (per curiam) (noting as primary considerations whether the agency action (1) ''impose[s] any rights and obligations,'' or (2) ''genuinely leaves the agency and its decisionmakers free to exercise discretion'' (quotation marks omitted)).

[246] *See, e.g., Cuban Family Reunification Parole Program* (Nov. 21, 2007), *supra* note 65; *Central American Minors Parole Program* (Dec. 1, 2014), discussed at 82 FR 38926; *Haitian Family Reunification Parole Program* (Oct. 27, 2014), *supra* note 66; *Filipino World War II Veterans Parole Policy* (May 9, 2016), *supra* note 67; *Implementation of a Family Reunification Parole Process for Colombians, et al.* (July 10–Aug. 11, 2023), *supra* notes 68–72. Prior to these parole policy statements, even after Congress's limiting amendment to the parole statute in 1996 to require ''case-by-case'' consideration, the parole authority continued to be used expansively to create new parole programs and processes. In 2000, for example, the parole authority was used to entirely replace the statutorily sunsetting Visa Waiver Pilot Program under INA section 217, in order to provide the significant public benefit of avoiding the wholesale disruption of international travel and commerce, and the serious harm to the U.S. economy and foreign relations that would have been caused by suddenly imposing visa requirements on visitors for business or pleasure from most developed countries. *See, e.g., Visa Waiver Pilot Program Expires; INS Puts In Place Interim Procedures,* 77 Interpreter Releases 597 (May 8, 2000); Congressional Research Service, *Visa Waiver Program* (revised Aug. 1, 2016) at 29, available at *https://crsreports.congress.gov/product/pdf/RL/RL32221/42.* Under that parole process, tens of millions of foreign visitors were paroled into the United States on a case-by-case basis between May 1 and October 30, 2000, without rulemaking. Although DHS prescribed certain guidelines for determinations on parole from custody of certain noncitizens, *see* 8 CFR 212.5(b), and established the international entrepreneur parole process, *see* 8 CFR 212.19, through notice-and-comment rulemaking, this does not preclude the Department from electing, consistent with the APA, to forgo formal rulemaking. *See, e.g., Hoctor* v. *U.S. Dep't of Agric.,* 82 F.3d 165, 171–72 (7th Cir. 1996) (observing that there is nothing in the APA that forbids an agency's use of notice-and-comment procedures even if not required under the APA, and that courts should attach no weight to an agency's varied approaches involving similar rules).

[247] *Cent. Texas Tel. Coop.* v. *FCC,* 402 F.3d 205, 214 (D.C. Cir. 2005) (cleaned up); *accord Sec. Indus. and Fin. Mkts. Ass'n* v. *CFTC,* 67 F. Supp. 3d 373, 423 (D.D.C. 2014) (citing cases).

States.[248] Courts have held that this exemption applies when the rule in question '' 'is clearly and directly involved' in 'a foreign affairs function.' '' [249] In addition, although the text of the Administrative Procedure Act does not require an agency invoking this exemption to show that such procedures may result in ''definitely undesirable international consequences,'' some courts have required such a showing.[250]

This process is exempt under both standards. Specifically, as discussed above, this process is one part of the United States' ongoing efforts to engage hemispheric partners to increase their efforts to collaboratively manage irregular migration. Regularizing certain noncitizens who have lived in and established deep ties to the United States is a key request of our partner countries, and establishment of this proposed process will help ensure our partners' continued collaboration to address irregular migration in the Western Hemisphere and improve economic stability and security in countries that are common sources of irregular migration to the United States.[251]

Delaying issuance and implementation of this process to undertake rulemaking would complicate ongoing conversations with key foreign partners about migration management on a range of priorities. These priorities include collaborating with partner countries on initiatives aimed at disrupting human smuggling, trafficking, and transnational criminal networks; increasing migration controls on bus and train routes; [252] imposing additional visa requirements to prevent individuals from exploiting legitimate travel regimes to facilitate their irregular journey to the United States; [253] and expanding access to lawful pathways.

The delay associated with implementing this process through notice-and-comment rulemaking would adversely affect the United States' ability to negotiate with our international partners, including Mexico and Colombia, for additional enforcement measures and increased cooperation with removals. In the context of ongoing discussions on migration management, representatives of Mexico have specifically requested that the U.S. government regularize Mexican nationals who have been long-term residents of the United States.[254] Similarly, the Government of Colombia delivered a diplomatic note in April 2024 that requested Deferred Enforced Departure for certain nationals of Colombia residing in the United States, which would enable those individuals to remain lawfully in the United States and access work authorization. The Government of Colombia made similar requests in November 2022 through its ambassador to the United States [255] and again in May 2023 during high-level dialogues to stem the flows of irregular migration through the Darién and during negotiations to establish and extend Safe Mobility Offices [256] beyond the initial phase.

The invocation of the foreign affairs exemption here is also consistent with DHS precedent. For example, in 2017, DHS published a notice eliminating an exception to expedited removal for certain Cuban nationals, which explained that the change in policy was consistent with the foreign affairs exemption because the change was central to ongoing negotiations between the two countries.[257] DHS similarly invoked the foreign affairs exemption more recently in connection with the parole processes for Cubans, Haitians, Nicaraguans, and Venezuelans [258] and family reunification parole processes for certain nationals of Colombia, Ecuador, El Salvador, Guatemala, and Honduras, announced in 2023.[259]

C. Paperwork Reduction Act (PRA)

Under the Paperwork Reduction Act (PRA), 44 U.S.C. chapter 35, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any new reporting requirements they impose. The process announced by this notice requires a new collection of information on Form I–131F, Application for Parole in Place for Certain Noncitizen Spouses and Stepchildren of U.S. Citizens (OMB control number 1615–NEW), which will be used for the parole in place process for certain noncitizen spouses and stepchildren of U.S. citizens. The Form I–131F will be available for online filing only to support more efficient adjudications and will charge a filing fee of $580 per requestor. The Form I–131F will require the requestor to submit biographic data, processing information, and other supporting documentation in order to evaluate the criteria outlined in this notice, including to: establish the requestor's status as either the spouse or stepchild of a U.S. citizen; rigorously screen the applicant for public safety and national security threats; identify whether the requestor has previously filed Form I–601A with USCIS; instruct the requestor on next steps for submitting required biometrics; and determine whether the requestor meets other criteria related to presence without admission or parole and physical presence for the requisite period, among other questions.

USCIS has submitted, and OMB has approved, the request for emergency authorization of the new Form I–131F (under 5 CFR 1320.13) for a period of 6 months. Within 60 days of publication of this notice at the **Federal Register**, USCIS will begin normal clearance procedures under the PRA to obtain

[248] *See* 5 U.S.C. 553(a)(1).

[249] *Mast Indus., Inc.* v. *Regan,* 596 F. Supp. 1567, 1582 (C.I.T. 1984) (quoting H.R. Rep. No. 79–1980, at 23 (1946)).

[250] *See, e.g., Rajah* v. *Mukasey,* 544 F.3d 427, 437 (2d Cir. 2008).

[251] *See, e.g.,* The White House, *Fact Sheet: The Los Angeles Declaration on Migration and Protection U.S. Government and Foreign Partner Deliverables* (June 10, 2022), available at *https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/10/fact-sheet-the-los-angeles-declaration-on-migration-and-protection-u-s-government-and-foreign-partner-deliverables/.*

[252] U.S. Dep't of State, Discussions with Mexican Officials on Migration at the Department of State (Jan. 20, 2024), available at *https://www.state.gov/discussions-with-mexican-officials-on-migration-at-the-department-of-state.*

[253] Ministry of Foreign Affairs of Mexico, Visas: Important Information, available at *https://embamex.sre.gob.mx/peru/index.php/sconsulares/visas* (last visited June 16, 2024).

[254] The White House, Mexico-U.S. Joint Communique, *supra* note 114.

[255] Manuel Rueda and Elliot Spagat, *Colombia asks for legal status for its people already in US,* Associated Press, Nov. 29, 2022, available at *https://apnews.com/article/venezuela-colombia-caribbean-united-states-immigration-7ed5fcde20338d56b04ff56925e54aff.*

[256] The Safe Mobility Initiative is one of the many ways the United States facilitates access to lawful pathways from partner countries in the region at no cost, so migrants do not have to undertake dangerous journeys in search of safety and better opportunities. *See* U.S. Safe Mobility Initiative—United States Department of State, Bureau of Population, Refugees, and Migration, Safe Mobility Initiative, available at *https://www.state.gov/refugee-admissions/safe-mobility-initiative/* (last visited July 24, 2024).

[257] *Eliminating Exception to Expedited Removal Authority for Cuban Nationals Encountered in the United States or Arriving by Sea,* 82 FR 4902 (Jan. 17, 2017).

[258] *See Implementation of a Parole Process for Cubans,* 88 FR 1266 (Jan. 9, 2023); *Implementation of a Parole Process for Haitians,* 88 FR 1243 (Jan. 9, 2023); *Implementation of a Parole Process for Nicaraguans,* 88 FR 1255 (Jan. 9, 2023); and *Implementation of Changes to the Parole Process for Venezuelans,* 88 FR 1279 (Jan. 9, 2023).

[259] *See* U.S. Dep't of Homeland Security, DHS Announces Family Reunification Parole Processes for Colombia, El Salvador, Guatemala, and Honduras (July 17, 2023), *https://www.dhs.gov/news/2023/07/07/dhs-announces-family-reunification-parole-processes-colombia-el-salvador-guatemala; see also Implementation of a Family Reunification Parole Process for Colombians, et al., supra* notes 68–72.

three-year approval for this collection.[260]

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2024–18725 Filed 8–19–24; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_AZ_FRN_MO4500181369]

Establishment and Call for Nominations for the Baaj Nwaavjo I'tah Kukveni-Ancestral Footprints of the Grand Canyon National Monument Advisory Committee

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is publishing this notice in accordance with the Federal Land Policy and Management Act, as amended (FLPMA), the Federal Advisory Committee Act (FACA), and Presidential Proclamation 10606, ''Establishment of the Baaj Nwaavjo I'tah Kukveni-Ancestral Footprints of the Grand Canyon National Monument''. The BLM gives notice that the Secretary of the Interior is establishing the Baaj Nwaavjo I'tah Kukveni-Ancestral Footprints of the Grand Canyon National Monument Advisory Committee (MAC) and is seeking nominations for individuals to be considered as MAC members.

DATES: Comments regarding the establishment of this MAC must be submitted no later than September 4, 2024. All nominations must be received no later than October 4, 2024.

ADDRESSES: Comments regarding the establishment of the MAC and nominations for the MAC should be sent to the BLM office listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

FOR FURTHER INFORMATION CONTACT: Rachel Carnahan, Public Affairs Specialist, BLM Arizona Strip District Office, 345 E Riverside Drive, St. George, UT 84780, phone: (435) 688–3303, email: *rcarnahan@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 10533 directs the Secretary of the Interior, through the Director of the BLM, and the Secretary of Agriculture, through the Chief of the U.S. Forest Service, to establish and maintain an advisory committee under FACA (5 U.S.C. ch. 10) with the specific purpose of providing information and advice regarding the development of the management plan and, as appropriate, management of the Baaj Nwaavjo I'tah Kukveni-Ancestral Footprints of the Grand Canyon National Monument. The MAC is established in accordance with section 309 of FLPMA, as amended (43 U.S.C. 1739). The BLM is subject to standards and procedures for the creation, operation, and termination of BLM resource advisory councils at 43 CFR 1784.

The MAC will include 15 members to be appointed by the Secretary of the Interior and the Secretary of Agriculture as follows:

1. A representative of the Arizona Game and Fish Department;
2. A representative employed by a State agency;
3. An elected official from local government;
4. Three representatives of Tribal Nations;
5. A representative of developed outdoor recreation, off-highway vehicle users, or commercial recreation activities in the Monument;
6. A representative of the conservation community;
7. A representative of wildlife, hunting, or fishing organizations;
8. A representative of cultural or historical interests;
9. A representative of the scientific community;
10. A representative of the ranching community;
11. A representative of local business owners; and
12. Two representatives of the public-at-large.

Members will be appointed to the MAC to serve three-year staggered terms.

Nominating Potential Members: Nominations should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding the membership requirements of the MAC and permit the Department of the Interior to contact a potential member. Nominees are strongly encouraged to include supporting letters from employers, associations, professional organizations, and/or other organizations that indicate support by a meaningful constituency for the nominee. Please indicate any BLM permits, leases, or licenses that you hold personally or are held by your employer. Members of the MAC serve without compensation. However, while away from their homes or regular places of business, members engaged in MAC business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, in the same manner as persons employed intermittently in Federal Government service.

The MAC will meet approximately two to four times annually, and at such other times as designated by the Designated Federal Officer.

Simultaneous with this notice, the BLM will issue a press release providing additional information for submitting nominations.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you may ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Deb Haaland,

Secretary of the Interior.

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DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before August 10, 2024, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by September 4, 2024.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public

[260] *See* 5 CFR 1320.8(d) and 1320.10(e).