I. Background:

Section 11 of Executive Order 13767 of January 25, 2017, “Border Security and Immigration Enforcement Improvements, (Section 11) provides that “[i]t is the policy of the executive branch to end the abuse of parole and asylum provisions currently used to prevent the lawful removal of removable aliens.” Section 11(d) instructs DHS to “take appropriate action to ensure that parole authority under section 212(d)(5) of the [Immigration and Nationality Act (“INA”)] (8 U.S.C. 1182(d)(5)) is exercised only on a case-by-case basis in accordance with the plain language of the statute, and in all circumstances only when an alien demonstrates an urgent humanitarian need or a significant public benefit derived from such parole.”

On February 20, 2017, then-Secretary of Homeland Security Kelly issued a memorandum entitled “Implementing the President’s Border Security and Immigration Enforcement Improvements Policies.” In that memorandum, Secretary Kelly stated that “[t]he statutory language authorizes parole in individual cases only where, after careful consideration of the circumstances, it is necessary because of demonstrated urgent humanitarian reasons or significant public benefit...[i]n my judgment, such authority should be exercised sparingly.” Additionally, it stated that “[t]he practice of granting parole to certain aliens in pre-designated categories in order to create immigration programs not established by Congress, has contributed to a border security crisis, undermined the integrity of the immigration laws and the parole
process, and created an incentive for illegal immigration.”1

Accordingly, USCIS undertook a review of existing categorical parole programs. USCIS is announcing the termination of HFRP and FWVP programs and is revising the Instructions for Form I-131 to remove references to and provisions regarding those programs. USCIS is also revising the form to remove references to the Cuban Family Reunification Parole (CFRP) Program.

A. HFRP

DHS established the HFRP program in 2014 as an exercise of its discretionary parole authority to permit certain eligible Haitians in Haiti who are the beneficiaries of approved family-based immigrant petitions to join their family members in the United States for an initial period of three years while they wait for immigrant visas to become available. 79 FR 75581 (Dec. 18, 2014). Consistent with INA section 212(d)(5), 8 U.S.C. 1182(d)(5), the decision to parole a particular alien into the country was a case-by-case, discretionary determination.

B. FWVP

In 2016, USCIS determined that paroling qualified applicants under FWVP would generally yield a “significant public benefit” (recognizing sacrifices of Filipino World War II veterans). 81 FR 28907 (May 9, 2016). USCIS also determined that grants of parole under the FWVP program would often address urgent humanitarian concerns (recognizing the advanced age of these veterans and the need for care by their alien family members). Id. Consistent with section 212(d)(5), 8 U.S.C. 1182(d)(5), the decision to parole a particular alien was a case-by-case, discretionary determination.

C. Explanation for Change

For both the HFRP and FWVP programs, DHS broadly exercised its statutory parole authority for multiple members of a narrowly defined group. Notwithstanding the perceived benefits of these categorical parole programs when they were established, this Administration undertook a renewed analysis. Consistent with Secretary Kelly’s February 20, 2017 implementing memorandum, USCIS has determined that, as a matter of policy, the HFRP and FWVP programs do not meet DHS’s obligation to narrowly exercise its parole authority.

Therefore, DHS is now rescinding the determination that there is a presumption that there are significant public benefit or urgent humanitarian reasons for parole requests from new applicants who meet the specific criteria established under HFRP and FWVP programs. Accordingly, new applicants who meet the FWVP and HFRP criteria will no longer be presumed to have demonstrated that there are significant public benefit or urgent humanitarian reasons present in their case by virtue of meeting HFRP and FWVP criteria. USCIS will continue to adjudicate requests from current beneficiaries of the HFRP and FWVP programs who are already in the United States under the existing standards of those programs and who request a new period of parole.

II. Administrative Procedure Act (APA)

A. Discretionary Policy Statement

USCIS established the HFRP and FWVP programs through policy statements announced by Federal Register notice (FRN). 81 FR 28907; 79 FR 75581. USCIS also revised the Instructions for Form I-131 to provide instructions and evidence requirements to implement the policies. USCIS did not change its regulations.

The HFRP and FWVP programs were established using DHS’ discretionary parole authority found in INA section 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A), and 8 CFR 212.5(c)-(d). An alien does not have a right to parole and there is no obligation for DHS to grant parole. Parole is an exercise of the Secretary’s discretionary authority to permit an alien to temporarily enter the United States for certain reasons on a case-by-case basis for urgent humanitarian reasons or for a significant public benefit. The APA exempts from its reason or for a significant public benefit derived from such parole. DHS believes the existing broad presumption that there are significant public benefit or urgent humanitarian reasons to consider parole for new applicants who meet the specific pre-established criteria under the HFRP and FWVP programs is inconsistent with the Executive Order and Secretary Kelly’s implementing guidance directing that the policy of DHS is to exercise its parole authority narrowly.

1. HFRP

The Federal Register notice establishing HFRP states, “By expanding existing legal means for Haitians to immigrate, the HFRP Program serves a significant public benefit by promoting safe, legal, and orderly migration to the United States. Furthermore, it supports U.S. goals for Haiti’s post-earthquake reconstruction and development. Once paroled into the United States, HFRP beneficiaries will be eligible to apply for employment authorization, and those who are able to work may contribute to Haiti’s post-earthquake reconstruction and development through remittances.” 79 FR 75581.

DHS has determined Haiti has made significant progress recovering from the 2010 earthquake and subsequent effects. With U.S. and international support for recovery, reconstruction, and development programs, Haiti has achieved significant improvements in basic health indicators, agricultural production, and job creation, according to the U.S. Department of State. 98 percent of 1.5 million people displaced

following the earthquake have been resettled as of 2020, according to the International Organization for Migration. In light of these determinations, DHS has determined that the HFRP program no longer serves a significant public benefit for new applicants.

2. FWVP

The Federal Register notice establishing FWVP states, “Recognizing the contributions and sacrifices of Filipino veterans who fought for the United States during World War II and their families, USCIS has determined to implement the FWVP policy. In many cases, ‘paroling these family members may also allow them to provide support and care for elderly veterans or their surviving spouse. . . . For certain Filipino American family members, this wait can exceed 20 years’.” 81 FR 28097. Further, “In light of the circumstances described above, among other considerations, USCIS believes that the parole of qualified applicants who establish on a case-by-case basis that they are eligible for consideration under this policy and merit a favorable exercise of discretion would generally yield a ‘significant public benefit.’ Additionally, considering the advanced age of World War II Filipino veterans and their spouses, and their increased need for care and companionship, grants of parole under the FWVP policy would often address urgent humanitarian concerns. In all cases, whether to parole a particular alien under this policy is a discretionary determination that will be made on a case-by-case basis.” Id.

DHS has determined that the FWVP program is inconsistent with the policy decision to narrowly exercise DHS’ parole authority in making determinations of significant public benefit. With regard to urgent humanitarian concerns, DHS has no data substantiating that the admission of participants in the FWVP program routinely addresses an urgent humanitarian concern. An eligible alien may request parole even if the veteran and spouse the alien is petitioning to support are both deceased. The parole of an alien may not actually be yielding any significant public or humanitarian benefit in such instances. For these reasons, DHS believes that new FWVP program applications are more appropriately adjudicated through an individual application instead of a categorical program with a presumption of a significant public benefit or urgent humanitarian concern.

B. Reliance Interest

DHS has taken into account serious reliance interests that may be engendered by the 2014 and 2016 HFRP and FWVP policies. With respect to initial and pending applicants, DHS has determined that potential applicants cannot reasonably be determined to have taken an action in detrimental reliance on DHS or USCIS continuing these programs. It is not reasonable that potential applications would make major changes in their lives or incur significant expenses in anticipation that DHS would continue these programs in perpetuity and that they would be able to apply and be approved. With respect to current HFRP and FWVP parolees, DHS acknowledges the reliance interest of those aliens who are not yet lawful permanent residents and will make a new period of parole under the criteria of these programs available to them, on a case-by-case basis, to ensure continued eligibility. Further discussion of these reliance interests follows.

1. Reliance Interest of HFRP Parolees

For HFRP, DHS has determined that any alien who has not yet applied for the HFRP program is unlikely to have incurred costs or been harmed based on relying on DHS continuing that policy because the petitioner must receive an invitation to apply, and USCIS has not issued any such invitations since 2016. Thus, although DHS is changing its past pattern and practice, the program has not been open for new applicants for four years, and a potential applicant will not be surprised by the change and will not have suffered harm as a result of acting in reliance on the continuation of the HFRP program. Haitian petitioners with an approved Form I–130 or their Haitian beneficiary relatives should not complete a Form I–131, incur expenses, and take actions in reliance on USCIS being able to process their application when they cannot do so on their own accord and without an invitation from USCIS. Nevertheless, DHS is formally announcing in this notice that the HFRP program will be terminated to provide advance notice to parties who may be affected. To the extent that an alien has a pending Form I–131 for HFRP as of the date of this notice, USCIS will process and adjudicate that request to completion. USCIS welcomes public comments on all of the effects of this change in policy.

With respect to granting a new parole period (‘re-parole’) for HFRP beneficiaries already paroled into the United States, DHS acknowledges that a current beneficiary has significant reliance interest in the continuation of the program as they were when they were granted parole. A current parolee decided to accept the USCIS invitation to apply for parole and expend the time, effort, and expense to uproot his or her life and move to the United States as a parolee, instead of staying in Haiti and waiting for an immigrant visa to become available. When the program was established, USCIS informed HFRP beneficiaries that it was their responsibility to seek re-parole in the United States until eligible to adjust status and they should apply for re-parole at least 90 days before parole expires. USCIS informed approved HFRP beneficiaries that, if their immigrant visa is still unavailable at the time their parole expires, they must apply to USCIS for a new parole authorization and pay the required fee. Therefore, HFRP program beneficiaries are expected to apply for lawful permanent resident status as soon as their immigrant visa becomes available. The majority of HFRP beneficiaries will have an immigrant visa available at the time their parole expires. Given these reliance interests, DHS will accept requests for re-parole under the existing standards of the HFRP program.

2. Reliance Interest of FWVP Parolees

For FWVP, DHS has determined that an applicant who has not yet applied for the FWVP program is unlikely to have incurred costs or been harmed based on relying on DHS continuing that policy. To the extent that an alien is in the process of completing and filing a request, USCIS will provide two public notices of the impending form, policy and procedure change. Aliens who are currently in the process of completing their paperwork may also apply for the FWVP program until the date that it is terminated, which is when the Form I–131 changes go into effect. To the extent that applicants who are not yet working on, researching, and gathering necessary evidence for an application may no longer receive parole after this change, DHS believes the FWVP program is inconsistent with its narrower interpretation of the parole authority and the public policy goals supported by a narrow use of its parole authority (as described in Secretary Kelly’s memorandum) justify and outweigh any minor reliance interests of those aliens who may have contemplated filing an application for FWVP but have not yet done so at the time the program is formally terminated. If an alien has an I–131 application for FWVP pending as of December 28, 2020, USCIS will process and adjudicate that request to completion. USCIS welcomes public
the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of https://www.regulations.gov.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Revision of a Currently Approved Collection.

(2) Title of the Form/Collection: Application for Travel Document.

(3) Agency form number: if any, and the applicable component of the DHS sponsoring the collection: I–131; USCIS.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households. Certain aliens, principally permanent or conditional residents, refugees or asylees, applicants for adjustment of status, aliens in Temporary Protected Status (TPS), and aliens abroad seeking humanitarian parole who need to apply for a travel document to lawfully enter or reenter the United States. Eligible recipients of deferred action under childhood arrivals (DACA) may now request an advance parole document based on humanitarian, educational and employment reasons. Lawful permanent residents may now file requests for travel permits (transformation letter or boarding foil).

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond per response is 1.9 hours; the estimated total number of respondents for biometrics processing is 75,100 and the estimated hour burden per response is 1.17 hours; the estimated total number of respondents for passport-style photos is 325,000 and the estimated hour burden per response is 0.5 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: The total estimated annual hour burden associated with this collection is 971,383 hours.

(7) An estimate of the total public burden (in cost) associated with the collection: The estimated total annual cost burden associated with this collection of information is $111,568,002.


Joseph Edlow,

Deputy Director for Policy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

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BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CONC–30740; PPWOBSADC0, PPWVSCS1Y.00000]

Notice of Intent to Extend Concession Contracts and Award Temporary Concession Contracts

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: The National Park Service gives public notice that it proposes to extend each concession contract listed in the Table 1 below until the date shown in the “Expiration Date” column or until the effective date of a new contract, whichever comes first. The National Park Service also gives public notice that it proposes to award the temporary concession contracts listed in Table 2 below.

DATES: The National Park Service intends that the concession contract extensions and temporary concession contracts will be effective on the dates shown in the “Expiration Effective Date” and “Expiration Date” columns, respectively.

FOR FURTHER INFORMATION CONTACT: Kurt Rausch, Program Chief, Commercial Services Program, National Park Service, 1849 C Street, NW, Mail Stop 2410, Washington, DC 20240; Telephone: 202–513–7156.

SUPPLEMENTARY INFORMATION: The concession contracts listed in Table 1