

DEPARTMENT OF HOMELAND SECURITY

Implementation of a Change to the Parole Process for Haitians

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security has authorized a change to the Parole Process for Haitians that the U.S. Department of Homeland Security (DHS) described in a **Federal Register** notice published on January 9, 2023. The change provides that those who have been interdicted at sea after April 27, 2023 will be ineligible for the announced parole process.

DATES: DHS will begin applying this amendment April 29, 2023.

FOR FURTHER INFORMATION CONTACT: Daniel Delgado, Acting Director, Border and Immigration Policy, Office of Strategy, Policy, and Plans, Department of Homeland Security, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0445; telephone (202) 447-3459 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

On January 9, 2023, DHS published a notice titled *Implementation of a Parole Process for Haitians*. See 88 FR 1243. That notice describes a new effort designed to respond to and protect against a significant increase in the number of Haitian nationals crossing the Southwest Border (SWB) without authorization, as the U.S. Government continues to implement its broader, multi-pronged and regional strategy to address the challenges posed by irregular migration. Haitians who do not avail themselves of this parole process, and instead enter the United States without authorization between ports of entry (POEs), generally are subject to return or removal. DHS implemented the parole process to allow certain Haitian nationals and their immediate family members to be considered on a case-by-case basis for parole and, if granted, lawfully enter the United States in a safe and orderly manner.

As described in the January 2023 notice, to be eligible, individuals must: (1) have a supporter in the United States who agrees to provide financial support for the duration of the beneficiary's parole period; (2) pass national security and public safety vetting; (3) fly at their own expense to an interior POE, rather than entering at a land POE; and (4) possess a valid, unexpired passport. Individuals are ineligible for this process if they have been ordered removed from the United States within

the prior five years; have entered unauthorized into Mexico or Panama after January 9, 2023 (the date of the notice's publication); have entered unauthorized into the United States between POEs after January 9, 2023 (except for individuals permitted a single instance of voluntary departure or withdrawal of their application for admission to still maintain their eligibility for this process); or are otherwise deemed not to merit a favorable exercise of discretion.

The parole process for Haitians is intended to enhance border security by responding to and protecting against a significant increase of irregular migration by Haitians to the United States via dangerous routes that pose serious risks to migrants' lives and safety, while also providing a process for certain such nationals to lawfully enter the United States in a safe and orderly manner.

II. Amendment

In response to the increasing number of Haitians traveling to the United States by sea without authorization through January 2023, and likelihood of another record level of interdictions this fiscal year (FY), DHS is announcing an amendment to the eligibility criteria announced in the January 9, 2023 notice¹ to make individuals who have been interdicted at sea² after April 27, 2023 ineligible for the parole process. The policy announced in this notice is consistent with the policy and justification described in the January 9, 2023 notice, including the justification for the parole process and description of the multiple exceptions to notice-and-comment rulemaking requirements applicable to this process. DHS incorporates those justifications here by reference as appropriate. This notice makes one update to the eligibility criteria for the parole process.

A. Impact of Cuba, Haiti, Nicaragua, and Venezuela Enforcement Processes

Parole processes established for nationals of Cuba, Haiti, Nicaragua, and Venezuela (CHNV) and their immediate family members have significantly reduced SWB encounters. Following the announcement of the CHNV parole processes, DHS has seen a drastic decrease in the number of Cubans, Haitians, Nicaraguans, and Venezuelans encountered at the SWB. In fact, DHS

encountered 128,410 noncitizens who entered between POEs along the SWB in January 2023, which is the lowest monthly SWB encounters total since February 2021.³ Encounters of CHNV nationals between POEs at the SWB declined from a 7-day average of 1,231 on the day of the announcement on January 5, to 35 on January 31—a drop of 97 percent in just over three weeks.⁴ Those trends have endured with a daily average of 46 encounters of CHNV nationals between POEs at the SWB during the last seven days of February 2023.⁵ The reduction occurred even as encounters of other noncitizens began to rebound from their typical seasonal decline.⁶ The data continue to underscore and support the notion that when there is a safe and orderly way to come to the United States, coupled with consequences for those who do not avail themselves of such established processes, people are less inclined to attempt the dangerous, and at times, deadly, journey to our borders, and less likely to put their lives in the hands of smugglers.

B. Maritime Migration Continues To Increase, With Devastating Consequences for Migrants

While DHS continues to see a meaningful reduction in encounters of CHNV nationals across the SWB following the announcement of the CHNV parole processes, maritime interdictions of Cuban and Haitian nationals in the Caribbean have increased in recent FYs and persist at high levels. Total interdictions at sea increased by 502 percent between FY 2020 (2,079) and FY 2022 (12,521). Interdictions continued to rise in FY 2023 with 7,402 through January, almost 60 percent of the total in FY 2022 within four months. Maritime migration from Haiti more than tripled in FY 2022, with a total of 4,025 Haitian nationals interdicted at sea compared to 1,205 in FY 2021 and 398 in FY 2020. In the first four months of FY 2023, Haitian interdictions are almost 50 percent of the Haitian FY 2022 total, comprising a

³ U.S. Customs and Border Protection, *CBP Releases January 2023 Monthly Operational Update*, Feb. 10, 2023, <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-january-2023-monthly-operational-update>.

⁴ DHS Office of Immigration Statistics (OIS) analysis of OIS Persist Dataset based on data through January 31, 2023.

⁵ OIS analysis of CBP Unified Immigration Portal (UIP) data pulled March 2, 2023.

⁶ DHS, *Unlawful Southwest Border Crossings Plummet Under New Border Enforcement Measures*, Jan. 25, 2023, <https://www.dhs.gov/news/2023/01/25/unlawful-southwest-border-crossings-plummet-under-new-border-enforcement-measures>.

¹ Implementation of a Parole Process for Haitians, 88 FR 1243 (Jan. 9, 2023).

² For purposes of this notice, "interdicted at sea" refers to migrants directly interdicted by the U.S. Coast Guard from vessels subject to U.S. jurisdiction or vessels without nationality, or migrants transferred to the U.S. Coast Guard.

quarter of all FY 2023 interdictions at sea.⁷

U.S. Border Patrol (USBP) apprehensions of Haitian nationals in southeast coastal sectors⁸ grew to 1,840 in FY 2022 compared to 601 in FY 2021, an increase of over 200 percent. In FY 2023 to date, there have been 656 apprehensions of Haitian nationals by USBP in southeast coastal sectors, 36 percent of FY 2022 total Haitian apprehensions.⁹

The U.S. Coast Guard (USCG) has been challenged with several large group interdictions of Haitians in recent months. In one instance on January 22, 2023, the USCG encountered a sail freighter suspected of illegally transporting migrants with nearly 400 Haitians aboard, necessitating repatriations of eligible individuals back to the Bahamas.¹⁰ Days later on January 26, the USCG interdicted and repatriated another 309 Haitians to Haiti.¹¹ USCG encountered yet another large group of Haitians on February 15, repatriating 311 Haitian migrants from that encounter¹² and another group of 206 Haitians were repatriated on March 2 following two successive encounters.¹³ Interdicting Haitian sail freighters poses unique challenges to Coast Guard crews and migrants. These types of vessels are often overloaded with more than 150 migrants onboard, including small children. Because these vessels do not have sufficient safety equipment, including life jackets, emergency locator beacons, or life rafts in the event of an emergency, the risk in the event that these vessels overturn or sink increases, in a situation where there could be hundreds of noncitizens in the water, who may not know how

to swim. Often times, noncitizens interdicted on these vessels have been at sea for several days, are dehydrated, need medical attention, or are otherwise experiencing elevated levels of stress. These factors increase the risk to Coast Guard personnel who rescue these migrants from these vessels because the number of migrants outnumber Coast Guard crews. Coast Guard encounters with sail freighters are not uncommon, but because of their capacity to carry several hundred migrants, they can exceed the holding capacity of Coast Guard cutters patrolling southeastern maritime smuggling vectors, increasing the risk not only to the migrants, but cutter crews as well.

While interdictions in February 2023 did ebb from the January peak so far this FY, the reduction to a combined 601 Haitian Coast Guard interdictions and USBP coastal apprehensions was not the same reduction in flows DHS observed along the SWB.¹⁴ DHS assesses that in the Caribbean, the weather and migrant knowledge of increased law enforcement presence played a significant role in this reduced maritime movement. Through much of February, weather conditions were unfavorable for maritime ventures, particularly on smaller vessels. However, DHS assesses this was only temporary. In the final days of February and early days of March 2023, DHS saw a return to multiple interdictions per day. Increasing levels of maritime interdictions put lives at risk and stress DHS's resources, and the increase in migrants taking to sea, under dangerous conditions, has led to devastating consequences.

Human smugglers and irregular migrant populations continue to use unseaworthy, overly crowded vessels, piloted by inexperienced mariners, without any safety equipment—including but not limited to, personal flotation devices, radios, maritime global positioning systems, or vessel locator beacons. In FY 2022, the USCG recorded 107 noncitizen deaths, including those presumed dead, as a result of irregular maritime migration. In January 2022, the USCG located a capsized vessel with a survivor clinging to the hull. USCG crews interviewed the survivor, who indicated there were 34 others on the vessel who were not in the vicinity of the capsized vessel and the survivor.¹⁵ The USCG conducted a

multi-day air and surface search for the missing migrants, eventually recovering five deceased migrants, while the others were presumed lost at sea.¹⁶ In November 2022, USCG and U.S. Customs and Border Protection (CBP) rescued over 180 people from an overloaded boat that became disabled off of the Florida Keys.¹⁷ They pulled 18 Haitian migrants out of the sea after they became trapped in ocean currents while trying to swim to shore.¹⁸

The International Organization for Migration's (IOM) Missing Migrants Project reported at least 321 documented deaths and disappearances of migrants throughout the Caribbean in 2022, signaling the highest recorded number since they began tracking such events in 2014.¹⁹ Most of those who perished or went missing in the Caribbean were from Haiti and Cuba.²⁰ This data emphasizes a tragic 78% overall increase over the 180 deaths in the Caribbean documented in 2021, underscoring the perils of the journey.²¹

The U.S. Government's response to maritime migration in the Caribbean region is governed by Executive Orders, Presidential Directives, and resulting framework and plans that outline interagency roles and responsibilities. Homeland Security Task Force—Southeast (HSTF—SE) is primarily responsible for DHS's response to maritime migration in the Caribbean Sea and the Straits of Florida. Operation Vigilant Sentry is the DHS interagency operational plan for integrated operations to address and mitigate the threat of a maritime migration in the Caribbean Sea and the Straits of Florida.²² The primary objectives of HSTF—SE are to protect the safety and security of the United States, uphold U.S. humanitarian principles, maintain the integrity of the U.S. immigration

⁷ OIS analysis of USCG data.

⁸ Includes Miami, Florida; New Orleans, Louisiana; and Ramey, Puerto Rico sectors where all apprehensions are land apprehensions not maritime.

⁹ OIS analysis of OIS Persist Dataset based on data through January 31, 2023.

¹⁰ Goodhue, David and Jacqueline Charles, Miami Herald, *Coast Guard stops boat with 400 Haitians off the Bahamas and likely headed to Florida*, Jan. 23, 2023, <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article271514157.html#:~:text=Close%20to%20400%20people%20crowd%20the%20deck%20of,island%20in%20the%20Bahamas%2C%20according%20to%20Bahamian%20officials.>

¹¹ USCG, *Coast Guard Repatriates 309 People to Haiti*, Jan. 31, 2023, <https://www.news.uscg.mil/Press-Releases/Article/3281802/coast-guard-repatriates-309-people-to-haiti>.

¹² USCG, *Coast Guard Repatriates 311 People to Haiti*, February 20, 2023, <https://www.news.uscg.mil/Press-Releases/Article/3302743/coast-guard-repatriates-311-people-to-haiti/>.

¹³ USCG, *Coast Guard Repatriates 206 People to Haiti*, March 2, 2023, <https://www.news.uscg.mil/Press-Releases/Article/3314530/coast-guard-repatriates-206-people-to-haiti/>.

¹⁴ OIS analysis of USCG data and UIP data pulled March 2, 2023.

¹⁵ Adriana Gomez Licon, Associated Press, *Situation 'dire' as Coast Guard seeks 38 missing off Florida*, Jan. 26, 2022, <https://apnews.com/article/florida-capsized-boat-live-updates-f251d7d279b6c1fe064304740c3a3019>.

¹⁶ Adriana Gomez Licon, Associated Press, *Coast Guard suspends search for migrants off Florida*, Jan. 27, 2022, <https://apnews.com/article/florida-lost-at-sea-79253e1c65cf5708f19a97b6875ae239>.

¹⁷ Ashley Cox, CBS News CW44 Tampa, *More than 180 people rescued from overloaded vessel in Florida Keys*, Nov. 22, 2022, <https://www.cbsnews.com/tampa/news/more-than-180-people-rescued-from-overloaded-vessel-in-florida-keys/>.

¹⁸ *Id.*

¹⁹ IOM, *Missing Migrants in the Caribbean Reached a Record High in 2022*, Jan. 24, 2023, <https://www.iom.int/news/missing-migrants-caribbean-reached-record-high-2022>.

²⁰ *Id.*

²¹ *Id.*

²² Homeland Security Task Force—Southeast, published through the U.S. Embassy in Cuba, *Homeland Security Task Force Southeast partners increase illegal migration enforcement patrols in Florida Straits, Caribbean*, Sept. 6, 2022, <https://cu.usembassy.gov/homeland-security-task-force-southeast-partners-increase-illegal-migration-enforcement-patrols-in-florida-straits-caribbean/>.

system, prevent loss of life at sea and to deter and dissuade maritime migration through mobilizing DHS resources, reinforced by other federal, state, and local assets and capabilities.

The USCG supports HSTF-SE and views its migrant interdiction mission as a humanitarian effort to rescue those taking to the sea and encourage noncitizens to pursue lawful pathways to enter the United States. By allocating additional assets to migrant interdiction operations and to prevent conditions that could lead to maritime mass migration, the USCG assumes certain operational risk to other statutory missions. Some USCG assets were diverted from other key mission areas, including counter-drug operations, protection of living marine resources, and support for shipping navigation. Through a reduction of maritime migration, USCG would in turn reduce the operational risk to its other statutory missions.

C. Ineligibility Criteria for Maritime Interdictions

In response to the increase in maritime migration and interdictions, and to disincentivize migrants from attempting the dangerous journey to the United States by sea, DHS will make individuals who have been interdicted at sea after April 27, 2023 ineligible for the parole process for Haitians. Further, DHS expects this change in eligibility criteria to materially reduce the number of maritime interdictions, by incentivizing migrants to use safe and orderly means to access the United States.

Migrants who take to the sea are putting their lives at incredible risk. The goal of this change, like the parole process for Haitians more broadly, is to save lives and undermine the profits and operations of the dangerous smuggling networks and transnational criminal organizations that callously prioritize their profits over the lives and safety of the people they transport and traffic. The parole process for Haitians will continue to incentivize intending migrants to use a safe and orderly means to access the United States via commercial air flights, thus ultimately reducing the demand for smuggling networks to facilitate the dangerous journey by sea.

III. 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 discussed in this

notice involves two collections of information, both of which have previously been approved under emergency processing. The collections are as follows:

- USCIS, Form I-134A, *Online Request to be a Supporter and Declaration of Financial Support*, OMB control number 1615-0157.
- CBP, *Advance Travel Authorization*, OMB control number 1651-0143.

More information about both collections can be viewed at www.reginfo.gov.

Alejandro N. Mayorkas,

Secretary of Homeland Security.

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DEPARTMENT OF HOMELAND SECURITY

Implementation of a Change to the Parole Process for Cubans

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security has authorized a change to the Parole Process for Cubans that the U.S. Department of Homeland Security (DHS) described in a **Federal Register** notice on January 9, 2023. The change provides that those who have been interdicted at sea after April 27, 2023 will be ineligible for the announced parole process.

DATES: DHS will begin applying this amendment on April 28, 2023.

FOR FURTHER INFORMATION CONTACT: Daniel Delgado, Acting Director, Border and Immigration Policy, Office of Strategy, Policy, and Plans, Department of Homeland Security, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0445; telephone (202) 447-3459 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

On January 9, 2023, DHS published a notice titled *Implementation of a Parole Process for Cubans*. See 88 FR 1266. That notice describes a new effort to address the increasing number of encounters of Cuban nationals at the Southwest Border (SWB) and at sea, which had reached record levels over the six months preceding the announcement. Cubans who do not avail themselves of this parole process, and instead enter the United States without authorization between ports of entry (POEs), generally are subject to return or removal. DHS implemented

the parole process to allow certain Cuban nationals and their immediate family members to be considered on a case-by-case basis for parole and, if granted, lawfully enter the United States in a safe and orderly manner. As described in the January 2023 notice, to be eligible, individuals must: (1) have a supporter in the United States who agrees to provide financial support for the duration of the beneficiary's parole period; (2) pass national security and public safety vetting; (3) fly at their own expense to an interior POE, rather than entering at a land POE; and (4) possess a valid, unexpired passport. Individuals are ineligible for this process if they have been ordered removed from the United States within the prior five years; have entered unauthorized into Mexico or Panama after January 9, 2023 (the date of the notice's publication); have entered the United States without authorization between POEs after January 9, 2023 (except for individuals permitted a single instance of voluntary departure or withdrawal of their application for admission to still maintain their eligibility for this process); or are otherwise deemed not to merit a favorable exercise of discretion.

The parole process for Cubans is intended to enhance border security by addressing the number of encounters of Cuban nationals at the SWB and at sea, which reached record levels in recent months, while also providing a process for certain such nationals to lawfully enter the United States in a safe and orderly manner.

II. Amendment

In response to the increasing number of Cubans traveling to the United States by sea without authorization through January 2023, and the likelihood of another record number of interdictions this fiscal year (FY), DHS is announcing an amendment to the eligibility criteria announced in the January 9, 2023 notice¹ to make individuals who have been interdicted at sea² after April 27, 2023 ineligible for the parole process. The policy announced in this notice is consistent with the policy and justification described in the January 9, 2023 notice, including the justification for the parole process and description of the multiple exceptions to notice-and-comment rulemaking requirements applicable to this process. DHS incorporates those justifications here by

¹ Implementation of a Parole Process for Cubans, 88 FR 1266 (Jan. 9, 2023).

² For purposes of this notice, "interdicted at sea" refers to migrants directly interdicted by the U.S. Coast Guard from vessels subject to U.S. jurisdiction or vessels without nationality, or migrants transferred to the U.S. Coast Guard.