in appropriations Acts, to assist in the resettlement of Rongelap Atoll: *Provided*, That the total of all contributions from any Federal source after April 26, 1996, may not exceed $32,000,000 and shall be contingent upon an agreement, satisfactory to the President, that such contributions are a full and final settlement of all obligations of the United States to assist in the resettlement of Rongelop[5] Atoll and that such funds will be expended solely on resettlement activities and will be properly audited and accounted for. In order to provide such contributions in a timely manner, each Federal agency providing assistance or services, or conducting activities, in the Republic of the Marshall Islands, is authorized to make funds available through the Secretary of the Interior, to assist in the resettlement of Rongelap. Nothing in this subsection shall be construed to limit the provision of ex gratia assistance pursuant to section 1905(c)(2) of this title including for individuals choosing not to resettle at Rongelap, except that no such assistance for such individuals may be provided until the Secretary notifies the Congress that the full amount of all funds necessary for resettlement at Rongelap has been provided.

(Pub. L. 94–241, § 4, as added Pub. L. 99–396, § 10, Aug. 27, 1986, 100 Stat. 841; amended Pub. L. 104–134, title I, § 101(c) [title I, § 118], Apr. 26, 1996, 110 Stat. 1321–156, 1321–178; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 106–113, div. B, § 1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–152; Pub. L. 110–229, title VII, § 703, May 8, 2008, 122 Stat. 867.)

Editorial Notes

REFERENCES IN TEXT

The Covenant, referred to in subsec. (a), is the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, which is contained in section 1 of Pub. L. 94–241, set out as a note under section 1801 of this title.

Section 1904(e)(6) of this title, referred to in subsec. (c)(1), was in the original ''section 104(c)(6) of Public Law 99–239'', which was translated as meaning section 104(e)(6) of Pub. L. 99–239 to reflect the probable intent of Congress, because section 1904(c) does not contain pars. and section 1904(e)(6) relates to impact aid.

CODIFICATION

Section was formerly set out as a note under section 1681 of this title.

April 26, 1996, referred to in subsec. (d), was in the original ''enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 104–134, which added subsec. (d) of this section, to reflect the probable intent of Congress.

AMENDMENTS

2008—Subsec. (c)(3). Pub. L. 110–229 substituted ''Marshall Islands, except that $200,000 in fiscal year 2009 and $225,000 annually for fiscal years 2010 through 2018 are hereby rescinded; Provided, That the amount rescinded shall be increased by the same percentage as that of the annual salary and benefit adjustments for Members of Congress'' for ''Marshall Islands:''.

1999—Subsec. (b). Pub. L. 106–113 substituted ''fiscal years 1996 through 1999'' for ''fiscal years 1996 through 2002'' and ''$11,000,000 annually and for fiscal year 2000, payments to the Commonwealth of the Northern Mariana Islands shall be $5,580,000, but shall return to the level of $11,000,000 annually for fiscal years 2001 and 2002. In fiscal year 2003, the payment to the Commonwealth of the Northern Mariana Islands shall be $5,420,000. Such payments shall be'' for ''$11,000,000 annually,''.

Subsec. (c)(4). Pub. L. 106–113 added par. (4).

1996—Subsec. (b). Pub. L. 104–134 substituted ''except that, for fiscal years 1996 through 2002, payments to the Commonwealth of the Northern Mariana Islands pursuant to the multi-year funding agreements contemplated under the Covenant shall be $11,000,000 annually, subject to an equal local match and all other requirements set forth in the Agreement of the Special Representatives on Future Federal Financial Assistance of the Northern Mariana Islands, executed on December 17, 1992 between the special representative of the President of the United States and special representatives of the Governor of the Northern Mariana Islands with any additional amounts otherwise made available under this section in any fiscal year and not required to meet the schedule of payments in this subsection to be provided as set forth in subsection (c) until Congress otherwise provides by law.'' for ''until Congress otherwise provides by law.''

Subsecs. (c), (d). Pub. L. 104–134 added subsecs. (c) and (d).

§ 1805. Failure to meet performance standards; resolution of issues; withholding of funds

Should the Secretary of the Interior believe that the performance standards of the agreement identified in section 1803 of this title are not being met, he shall notify the Government of the Northern Mariana Islands in writing with the intent to resolve such issue in a mutually agreeable and expeditious manner and notify the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Should the issue not be resolved within thirty days after the notification is received by the Government of the Northern Mariana Islands, the Secretary of the Interior may request authority from Congress to withhold payment of an appropriate amount of the operations funds identified in the schedule of payments in paragraph 2 of part II of the Agreement of the Special Representatives for a period of less than one year but no funds shall be withheld except by Act of Congress.

(Pub. L. 94–241, § 5, as added Pub. L. 99–396, § 10, Aug. 27, 1986, 100 Stat. 841.)

Editorial Notes

CODIFICATION

Section was formerly set out as a note under section 1681 of this title.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Interior and Insular Affairs of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 5, One Hundred Third Congress, Jan. 5, 1993.

§ 1806. Immigration and transition

(a) Application of the Immigration and Nationality Act and establishment of a transition program

(1) In general

Subject to paragraphs (2) and (3), effective on the first day of the first full month com-

[5] So in original. Probably should be ''Rongelap''.

mencing 1 year after May 8, 2008 (hereafter referred to as the ''transition program effective date''), the provisions of the ''immigration laws'' (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) shall apply to the Commonwealth of the Northern Mariana Islands (referred to in this section as the ''Commonwealth''), except as otherwise provided in this section.

(2) Transition period

There shall be a transition period beginning on the transition program effective date and ending on December 31, 2029, during which the Secretary of Homeland Security, in consultation with the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of the Interior, shall establish, administer, and enforce a transition program to regulate immigration to the Commonwealth, as provided in this section (hereafter referred to as the ''transition program'').

(3) Delay of commencement of transition period

(A) In general

The Secretary of Homeland Security, in the Secretary's sole discretion, in consultation with the Secretary of the Interior, the Secretary of Labor, the Secretary of State, the Attorney General, and the Governor of the Commonwealth, may determine that the transition program effective date be delayed for a period not to exceed more than 180 days after such date.

(B) Congressional notification

The Secretary of Homeland Security shall notify the Congress of a determination under subparagraph (A) not later than 30 days prior to the transition program effective date.

(C) Congressional review

A delay of the transition program effective date shall not take effect until 30 days after the date on which the notification under subparagraph (B) is made.

(4) Requirement for regulations

The transition program shall be implemented pursuant to regulations to be promulgated, as appropriate, by the head of each agency or department of the United States having responsibilities under the transition program.

(5) Interagency agreements

The Secretary of Homeland Security, the Secretary of State, the Secretary of Labor, and the Secretary of the Interior shall negotiate and implement agreements among their agencies to identify and assign their respective duties so as to ensure timely and proper implementation of the provisions of this section. The agreements should address, at a minimum, procedures to ensure that Commonwealth employers have access to adequate labor, and that tourists, students, retirees, and other visitors have access to the Commonwealth without unnecessary delay or impediment. The agreements may also allocate funding between the respective agencies tasked with various responsibilities under this section.

(6) Fees for training United States workers

(A) Supplemental fee

(i) In general

In addition to fees imposed pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) to recover the full costs of adjudication services, the Secretary shall impose an annual supplemental fee of $200 per nonimmigrant worker on each prospective employer who is issued a permit under subsection (d)(3) during the transition program. A prospective employer that is issued a permit with a validity period of longer than 1 year shall pay the fee for each year of requested validity at the time the permit is requested.

(ii) Inflation adjustment

Beginning in fiscal year 2020, the Secretary, through notice in the Federal Register, may annually adjust the supplemental fee imposed under clause (i) by a percentage equal to the annual change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

(iii) Use of funds

Amounts collected pursuant to clause (i) shall be deposited into the Treasury of the Commonwealth Government for the sole and exclusive purpose of funding vocational education, apprenticeships, or other training programs for United States workers.

(iv) Fraud prevention and detection fee

In addition to the fees described in clause (i), the Secretary—

(I) shall impose, on each prospective employer filing a petition under this subsection for one or more nonimmigrant workers, a $50 fraud prevention and detection fee; and

(II) shall deposit and use the fees collected under subclause (I) for the sole purpose of preventing and detecting immigration benefit fraud in the Northern Mariana Islands, in accordance with section 286(v)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(B)).

(B) Plan for the expenditure of funds

Not later than 120 days before the first day of fiscal year 2020, and annually thereafter, the Governor of the Commonwealth Government shall submit to the Secretary of Labor—

(i) a plan for the expenditures of amounts deposited under subparagraph (A)(iii);

(ii) a projection of the effectiveness of such expenditures in the placement of United States workers into jobs held by non-United States workers; and

(iii) a report on the changes in employment of United States workers attributable to expenditures of such amounts during the previous year.

(C) Determination and report

Not later than 120 days after receiving each expenditure plan under subparagraph (B)(i), the Secretary of Labor shall—

(i) issue a determination on the plan; and

(ii) submit a report to Congress that describes the effectiveness of the Commonwealth Government at meeting the goals set forth in such plan.

(D) Payment restriction

Payments may not be made in a fiscal year from amounts deposited under subparagraph (A)(iii) before the Secretary of Labor has approved the expenditure plan submitted under subparagraph (B)(i) for that fiscal year.

(7) Asylum

Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) shall not apply during the transition period to persons physically present in the Commonwealth or arriving in the Commonwealth (whether or not at a designated port of arrival), including persons brought to the Commonwealth after having been interdicted in international or United States waters.

(b) Numerical limitations for nonimmigrant workers

(1) In general

(A) Nonimmigrant workers generally

An alien, if otherwise qualified, may seek admission to Guam or to the Commonwealth during the transition program as a nonimmigrant worker under section 101(a)(15)(H) of the Immigration and Nationality Act (8 USC[1] 1101(a)(15)(H)) without counting against the numerical limitations set forth in section 214(g) of such Act (8 USC[1] 1184(g)).

(B) H-2B workers

In the case of an alien described in subparagraph (A) who seeks admission under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)), the alien, if otherwise qualified, may, before December 31, 2029, be admitted under such section, notwithstanding the requirement of such section that the service or labor be temporary, for a period of up to 3 years—

(i) to perform service or labor on Guam or in the Commonwealth pursuant to any agreement entered into by a prime contractor or subcontractor calling for services or labor required for performance of a contract or subcontract for construction, repairs, renovations, or facility services that is directly connected to, supporting, associated with, or adversely affected by the military realignment occurring on Guam and in the Commonwealth, with priority given to federally funded military projects; or

(ii) to perform service or labor as a health care worker (such as a nurse, physician assistant, or allied health professional) at a facility that jointly serves members of the Armed Forces, dependents, and civilians on Guam or in the Commonwealth, subject to the education, training, licensing, and other requirements of section 212(a)(5)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(C)), as applicable, except that this clause shall not be construed to include graduates of medical schools coming to Guam or the Commonwealth to perform service or labor as members of the medical profession.

(2) Locations

Paragraph (1) does not apply with respect to the performance of services of labor at a location other than Guam or the Commonwealth.

(3) Report

Not later than December 1, 2027, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate, the Committee on the Judiciary of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on the Judiciary of the House of Representatives that—

(A) projects the number of asylum claims the Secretary anticipates following the termination of the transition period; and

(B) describes the efforts of the Secretary to ensure appropriate interdiction efforts, provide for appropriate treatment of asylum seekers, and prepare to accept and adjudicate asylum claims in the Commonwealth.

(c) Nonimmigrant investor visas

(1) In general

Notwithstanding the treaty requirements in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), during the transition period, the Secretary of Homeland Security may, upon the application of an alien, classify an alien as a CNMI-only nonimmigrant under section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(ii)) if the alien—

(A) has been admitted to the Commonwealth in long-term investor status under the immigration laws of the Commonwealth before the transition program effective date;

(B) has continuously maintained residence in the Commonwealth under long-term investor status;

(C) is otherwise admissible; and

(D) maintains the investment or investments that formed the basis for such long-term investor status.

(2) Requirement for regulations

Not later than 60 days before the transition program effective date, the Secretary of Homeland Security shall publish regulations in the Federal Register to implement this subsection.

(d) Special provision to ensure adequate employment; Commonwealth only transitional workers

An alien who is seeking to enter the Commonwealth as a nonimmigrant worker may be ad-

[1] So in original. Probably should be ''U.S.C.''

mitted to perform work during the transition period subject to the following requirements:

(1) Such an alien shall be treated as a nonimmigrant described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), including the ability to apply, if otherwise eligible, for a change of nonimmigrant classification under section 248 of such Act (8 U.S.C. 1258) or adjustment of status under this section and section 245 of such Act (8 U.S.C. 1255).

(2) PROTECTION FOR UNITED STATES WORKERS.—

(A) TEMPORARY LABOR CERTIFICATION.—

(i) IN GENERAL.—Beginning with petitions filed with employment start dates in fiscal year 2020, a petition to import a nonimmigrant worker under this subsection may not be approved by the Secretary unless the petitioner has applied to the Secretary of Labor for a temporary labor certification confirming that—

(I) there are not sufficient United States workers in the Commonwealth who are able, willing, qualified, and available at the time and place needed to perform the services or labor involved in the petition; and

(II) employment of the nonimmigrant worker will not adversely affect the wages and working conditions of similarly employed United States workers.

(ii) PETITION.—After receiving a temporary labor certification under clause (i), a prospective employer may submit a petition to the Secretary for a Commonwealth Only Transitional Worker permit on behalf of the nonimmigrant worker.

(B) PREVAILING WAGE SURVEY.—

(i) IN GENERAL.—In order to effectuate the requirement for a temporary labor certification under subparagraph (A)(i), the Secretary of Labor shall use, or make available to employers, an occupational wage survey conducted by the Governor that the Secretary of Labor has determined meets the statistical standards for determining prevailing wages in the Commonwealth on an annual basis.

(ii) ALTERNATIVE METHOD FOR DETERMINING THE PREVAILING WAGE.—In the absence of an occupational wage survey approved by the Secretary of Labor under clause (i), the prevailing wage for an occupation in the Commonwealth shall be the arithmetic mean of the wages of workers similarly employed in the territory of Guam according to the wage component of the Occupational Employment Statistics Survey conducted by the Bureau of Labor Statistics.

(C) MINIMUM WAGE.—An employer shall pay each Commonwealth Only Transitional Worker a wage that is not less than the greater of—

(i) the statutory minimum wage in the Commonwealth;

(ii) the Federal minimum wage; or

(iii) the prevailing wage in the Commonwealth for the occupation in which the worker is employed.

(3) PERMITS.—

(A) IN GENERAL.—The Secretary shall establish, administer, and enforce a system for allocating and determining terms and conditions of permits to be issued to prospective employers for each nonimmigrant worker described in this subsection who would not otherwise be eligible for admission under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(B) NUMERICAL CAP.—The number of permits issued under subparagraph (A) may not exceed—

(i) 13,000 for fiscal year 2019;
(ii) 12,500 for fiscal year 2020;
(iii) 12,000 for fiscal year 2021;
(iv) 11,500 for fiscal year 2022;
(v) 11,000 for fiscal year 2023;
(vi) 10,000 for fiscal year 2024;
(vii) 9,000 for fiscal year 2025;
(viii) 8,000 for fiscal year 2026;
(ix) 7,000 for fiscal year 2027;
(x) 6,000 for fiscal year 2028;
(xi) 5,000 for fiscal year 2029; and
(xii) 1,000 for the first quarter of fiscal year 2030.

(C) REPORTS REGARDING THE PERCENTAGE OF UNITED STATES WORKERS.—

(i) BY GOVERNOR.—Not later than 60 days before the end of each calendar year, the Governor shall submit a report to the Secretary that identifies the ratio between United States workers and other workers in the Commonwealth's workforce based on income tax filings with the Commonwealth for the tax year.

(ii) BY GAO.—Not later than December 31, 2019, and biennially thereafter, the Comptroller General of the United States shall submit a report to the Chair and Ranking Member of the Committee on Energy and Natural Resources of the Senate, the Chair and Ranking Member of the Committee on Natural Resources of the House of Representatives, the Chair and Ranking Member of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chair and Ranking Member of the Committee on Education and the Workforce of the House of Representatives that identifies the ratio between United States workers and other workers in the Commonwealth's workforce during each of the previous 5 calendar years.

(D) PETITION; ISSUANCE OF PERMITS.—

(i) SUBMISSION.—A prospective employer may submit a petition for a permit under this paragraph not earlier than—

(I) 120 days before the date on which the prospective employer needs the beneficiary's services; or

(II) if the petition is for the renewal of an existing permit, not earlier than 180 days before the expiration of such permit.

(ii) EMPLOYMENT VERIFICATION.—The Secretary shall establish a system for each employer of a Commonwealth Only Transitional Worker to submit a semiannual report to the Secretary and the Secretary of

Labor that provides evidence to verify the continuing employment and payment of such worker under the terms and conditions set forth in the permit petition that the employer filed on behalf of such worker.

(iii) REVOCATION.—

(I) IN GENERAL.—The Secretary, in the Secretary's discretion, may revoke a permit approved under this paragraph for good cause, including if—

(aa) the employer fails to maintain the continuous employment of the subject worker, fails to pay the subject worker, fails to timely file a semi-annual report required under this paragraph, commits any other violation of the terms and conditions of employment, or otherwise ceases to operate as a legitimate business (as defined in clause (iv)(II));

(bb) the beneficiary of such petition does not apply for admission to the Commonwealth by the date that is 10 days after the period of petition validity begins, if the employer has requested consular processing; or

(cc) the employer fails to provide a former, current, or prospective Commonwealth Only Transitional Worker, not later than 21 business days after receiving a written request from such worker, with the original (or a certified copy of the original) of all petitions, notices, and other written communication related to the worker (other than sensitive financial or proprietary information of the employer, which may be redacted) that has been exchanged between the employer and the Department of Labor, the Department of Homeland Security, or any other Federal agency or department.

(II) REALLOCATION OF REVOKED PETITION.—Notwithstanding subparagraph (C), for each permit revoked under subclause (I) in a fiscal year, an additional permit shall be made available for use in the subsequent fiscal year.

(iv) LEGITIMATE BUSINESS.—

(I) IN GENERAL.—A permit may not be approved for a prospective employer that is not a legitimate business.

(II) DEFINED TERM.—In this clause, the term ''legitimate business'' means a real, active, and operating commercial or entrepreneurial undertaking that the Secretary, in the Secretary's sole discretion, determines—

(aa) produces services or goods for profit, or is a governmental, charitable, or other validly recognized nonprofit entity;

(bb) meets applicable legal requirements for doing business in the Commonwealth;

(cc) has substantially complied with wage and hour laws, occupational safety and health requirements, and all other Federal, Commonwealth, and local requirements related to employment during the preceding 5 years;

(dd) does not directly or indirectly engage in, or knowingly benefit from, prostitution, human trafficking, or any other activity that is illegal under Federal, Commonwealth, or local law;

(ee) is a participant in good standing in the E-Verify program;

(ff) does not have, as an owner, investor, manager, operator, or person meaningfully involved with the undertaking, any individual who has been the owner, investor, manager, operator, or otherwise meaningfully involved with an undertaking that does not comply with item (cc) or (dd), or is the agent of such an individual; and

(gg) is not a successor in interest to an undertaking that does not comply with item (cc) or (dd).

(v) CONSTRUCTION OCCUPATIONS.—A permit for Construction and Extraction Occupations (as defined by the Department of Labor as Standard Occupational Classification Group 47–0000) may not be issued for any worker other than a worker described in paragraph (7)(B).

(E) TYPHOON RECOVERY.—

(i) PERMITS FOR CONSTRUCTION WORKERS.—Notwithstanding any numerical cap set forth in subparagraph (B) for each of fiscal years 2020, 2021, and 2022, the Secretary of Homeland Security shall increase by 3,000, for each such fiscal year, the total number of permits available under this subsection for Construction and Extraction Occupations (as defined by the Department of Labor as Standard Occupational Classification Group 47–0000).

(ii) PERMIT REQUIREMENTS.—The Secretary may only issue a permit made available under clause (i) to a prospective employer if the permit is for an alien who—

(I) is a national of a country designated eligible to participate in the program under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during calendar year 2018; and

(II) is performing service or labor pursuant to a contract or subcontract for construction, repairs, renovations, or facility services directly connected to, or associated with recovery from a presidentially declared major disaster or emergency (as those terms are defined in section 5122 of title 42), or for preparation for a future disaster or emergency.

(iii) EXCEPTION FOR CONSTRUCTION WORKERS.—Subparagraph (D)(v) shall not apply to a permit made available under clause (i) for any fiscal year described in such clause.

(4) The Secretary of Homeland Security shall set the conditions for admission of such an alien under the transition program, and the Secretary of State shall authorize the

issuance of nonimmigrant visas for such an alien. Such a visa shall not be valid for admission to the United States, as defined in section 101(a)(38) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(38)), except admission to the Commonwealth or to Guam for the purpose of transit only. An alien admitted to the Commonwealth on the basis of such a visa shall be permitted to engage in employment only as authorized pursuant to the transition program.

(5) Such an alien shall be permitted to transfer between employers in the Commonwealth during the period of such alien's authorized stay therein, without permission of the employee's current or prior employer, within the alien's occupational category or another occupational category the Secretary of Homeland Security has found requires alien workers to supplement the resident workforce. Approval of a petition filed by the new employer with a start date within the same fiscal year as the current permit shall not count against the numerical limitation for that period.

(6) The Secretary of Homeland Security may authorize the admission of a spouse or minor child accompanying or following to join a worker admitted pursuant to this subsection.

(7) REQUIREMENT TO REMAIN OUTSIDE OF THE UNITED STATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B)—

(i) a permit for a Commonwealth Only Transitional Worker—

(I) shall remain valid for a period that may not exceed 1 year; and

(II) may be renewed for not more than two consecutive, 1-year periods; and

(ii) at the expiration of the second renewal period, an alien may not again be eligible for such a permit until after the alien has remained outside of the United States for a continuous period of at least 30 days prior to the submission of a renewal petition on their behalf.

(B) LONG-TERM WORKERS.—An alien who was admitted to the Commonwealth as a Commonwealth Only Transitional Worker during fiscal year 2015, and during every subsequent fiscal year beginning before July 24, 2018, may receive a permit for a Commonwealth Only Transitional Worker that is valid for a period that may not exceed 3 years and may be renewed for additional 3-year periods during the transition period. A permit issued under this subparagraph shall be counted toward the numerical cap for each fiscal year within the period of petition validity.

(e) Persons lawfully admitted under the Commonwealth immigration law

(1) Prohibition on removal

(A) In general

Subject to subparagraph (B), no alien who is lawfully present in the Commonwealth pursuant to the immigration laws of the Commonwealth on the transition program effective date shall be removed from the United States on the grounds that such alien's presence in the Commonwealth is in violation of section 212(a)(6)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)), until the earlier of the date—

(i) of the completion of the period of the alien's admission under the immigration laws of the Commonwealth; or

(ii) that is 2 years after the transition program effective date.

(B) Limitations

Nothing in this subsection shall be construed to prevent or limit the removal under subparagraph 212(a)(6)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)) of such an alien at any time, if the alien entered the Commonwealth after May 8, 2008, and the Secretary of Homeland Security has determined that the Government of the Commonwealth has violated section 702(i) of the Consolidated Natural Resources Act of 2008.

(2) Employment authorization

An alien who is lawfully present and authorized to be employed in the Commonwealth pursuant to the immigration laws of the Commonwealth on the transition program effective date shall be considered authorized by the Secretary of Homeland Security to be employed in the Commonwealth until the earlier of the date—

(A) of expiration of the alien's employment authorization under the immigration laws of the Commonwealth; or

(B) that is 2 years after the transition program effective date.

(3) Registration

The Secretary of Homeland Security may require any alien present in the Commonwealth on or after the transition period effective date to register with the Secretary in such a manner, and according to such schedule, as he may in his discretion require. Paragraphs (1) and (2) of this subsection shall not apply to any alien who fails to comply with such registration requirement. Notwithstanding any other law, the Government of the Commonwealth shall provide to the Secretary all Commonwealth immigration records or other information that the Secretary deems necessary to assist the implementation of this paragraph or other provisions of the Consolidated Natural Resources Act of 2008. Nothing in this paragraph shall modify or limit section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or other provision of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] relating to the registration of aliens.

(4) Removable aliens

Except as specifically provided in paragraph (1)(A) of this subsection, nothing in this subsection shall prohibit or limit the removal of any alien who is removable under the Immigration and Nationality Act.

(5) Prior orders of removal

The Secretary of Homeland Security may execute any administratively final order of exclusion, deportation or removal issued under authority of the immigration laws of the

United States before, on, or after the transition period effective date, or under authority of the immigration laws of the Commonwealth before the transition period effective date, upon any subject of such order found in the Commonwealth on or after the transition period effective date, regardless whether the alien has previously been removed from the United States or the Commonwealth pursuant to such order.

(6) Special provision regarding long-term residents of the Commonwealth

(A) CNMI Resident status

An alien described in subparagraph (B) may, upon the application of the alien, be admitted in CNMI Resident status to the Commonwealth subject to the following rules:

(i) The alien shall be treated as an alien lawfully admitted to the Commonwealth only, including permitting entry to and exit from the Commonwealth, until the earlier of the date on which—

(I) the alien ceases to reside in the Commonwealth; or

(II) the alien's status is adjusted under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) to that of an alien lawfully admitted for permanent residence in accordance with all applicable eligibility requirements.

(ii) The Secretary of Homeland Security—

(I) shall establish a process for such alien to apply for CNMI Resident status during the 180-day period beginning on a date determined by the Secretary but not later than the first day of the sixth month after June 25, 2019; and

(II) may, in the Secretary's discretion, authorize deferred action or parole, as appropriate, with work authorization, for such alien beginning on June 25, 2019, and continuing through the end of such 180-day period or the date of adjudication of the alien's application for CNMI Resident status, whichever is later.

(iii) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

(iv) An alien granted status under this paragraph—

(I) is subject to all grounds of deportability under section 237 of the Immigration and Nationality Act (8 U.S.C. 1227);

(II) is subject to all grounds of inadmissibility under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) if seeking admission to the United States at a port of entry in the Commonwealth;

(III) is inadmissible to the United States at any port of entry outside the Commonwealth, except that the Secretary of Homeland Security may in the Secretary's discretion authorize admission of such alien at a port of entry in Guam for the purpose of direct transit to the Commonwealth, which admission shall be considered an admission to the Commonwealth;

(IV) automatically shall lose such status if the alien travels from the Commonwealth to any other place in the United States, except that the Secretary of Homeland Security may in the Secretary's discretion establish procedures for the advance approval on a case-by-case basis of such travel for a temporary and legitimate purpose, and the Secretary may in the Secretary's discretion authorize the direct transit of aliens with CNMI Resident status through Guam to a foreign place;

(V) shall be authorized to work in the Commonwealth incident to status; and

(VI) shall be issued appropriate travel documentation and evidence of work authorization by the Secretary.

(B) Aliens described

An alien is described in this subparagraph if the alien—

(i) was lawfully present on June 25, 2019, or on December 31, 2018, in the Commonwealth under the immigration laws of the United States, including pursuant to a grant of parole under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) or deferred action;

(ii) is admissible as an immigrant to the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), except that no immigrant visa is required;

(iii) resided continuously and lawfully in the Commonwealth from November 28, 2009, through June 25, 2019;

(iv) is not a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau; and

(v) in addition—

(I) was born in the Northern Mariana Islands between January 1, 1974, and January 9, 1978;

(II) was, on November 27, 2009, a permanent resident of the Commonwealth (as defined in section 4303 of title 3 of the Northern Mariana Islands Commonwealth Code, in effect on May 8, 2008);

(III) is the spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))) of an alien described in subclause (I) or (II);

(IV) was, on November 27, 2011, a spouse, child, or parent of a United States citizen, notwithstanding the age of the United States citizen, and continues to have such family relationship with the citizen on the date of the application described in subparagraph (A); or

(V) had a grant of parole under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) on December 31, 2018, under the former parole program for certain in-home caregivers administered by United States Citizenship and Immigration Services.

(C) Authority of Attorney General

Beginning on the first day of the 180-day period established by the Secretary of Homeland Security under subparagraph (A)(ii)(I), the Attorney General may accept and adjudicate an application for CNMI Resident status under this paragraph by an alien who is in removal proceedings before the Attorney General if the alien—

(i) makes an initial application to the Attorney General within such 180-day period; or

(ii) applied to the Secretary of Homeland Security during such 180-period[2] and before being placed in removal proceedings, and the Secretary denied the application.

(D) Judicial review

Notwithstanding any other law, no court shall have jurisdiction to review any decision of the Secretary of Homeland Security or the Attorney General on an application under this paragraph or any other action or determination of the Secretary of Homeland Security or the Attorney General to implement, administer, or enforce this paragraph.

(E) Procedure

The requirements of chapter 5 of title 5 (commonly referred to as the Administrative Procedure Act), or any other law relating to rulemaking, information collection or publication in the Federal Register shall not apply to any action to implement, administer or enforce this paragraph.

(f) Effect on other laws

The provisions of this section and of the immigration laws, as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)), shall, on the transition program effective date, supersede and replace all laws, provisions, or programs of the Commonwealth relating to the admission of aliens and the removal of aliens from the Commonwealth.

(g) Accrual of time for purposes of section 212(a)(9)(B) of the Immigration and Nationality Act

No time that an alien is present in the Commonwealth in violation of the immigration laws of the Commonwealth shall be counted for purposes of inadmissibility under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)).

(h) Report on nonresident guestworker population

The Secretary of the Interior, in consultation with the Secretary of Homeland Security, and the Governor of the Commonwealth, shall report to the Congress not later than 2 years after May 8, 2008. The report shall include—

(1) the number of aliens residing in the Commonwealth;

(2) a description of the legal status (under Federal law) of such aliens;

(3) the number of years each alien has been residing in the Commonwealth;

(4) the current and future requirements of the Commonwealth economy for an alien workforce; and

(5) such recommendations to the Congress, as the Secretary may deem appropriate, related to whether or not the Congress should consider permitting lawfully admitted guest workers lawfully residing in the Commonwealth on May 8, 2008, to apply for long-term status under the immigration and nationality laws of the United States.

(i) Definitions

In this section:

(1) Commonwealth

The term ''Commonwealth'' means the Commonwealth of the Northern Mariana Islands.

(2) Commonwealth Only Transition Worker

The term ''Commonwealth Only Transition Worker'' means an alien who has been admitted into the Commonwealth under the transition program and is eligible for a permit under subsection (d)(3).

(3) Governor

The term ''Governor'' means the Governor of the Commonwealth of the Northern Mariana Islands.

(4) Secretary

The term ''Secretary'' means the Secretary of Homeland Security.

(5) Tax year

The term ''tax year'' means the fiscal year immediately preceding the current fiscal year.

(6) United States worker

The term ''United States worker'' means any worker who is—

(A) a citizen or national of the United States;

(B) an alien who has been lawfully admitted for permanent residence; or

(C) a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau (known collectively as the ''Freely Associated States'') who has been lawfully admitted to the United States pursuant to—

(i) section 141 of the Compact of Free Association between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia (48 U.S.C. 1921 note);[3] or

(ii) section 141 of the Compact of Free Association between the United States and the Government of Palau (48 U.S.C. 1931 note).

(Pub. L. 94–241, §6, as added Pub. L. 110–229, title VII, §702(a), May 8, 2008, 122 Stat. 854; amended Pub. L. 113–235, §10, Dec. 16, 2014, 128 Stat. 2134; Pub. L. 115–53, §2, Aug. 22, 2017, 131 Stat. 1091; Pub. L. 115–91, div. A, title X, §1049(a), Dec. 12, 2017, 131 Stat. 1558; Pub. L. 115–218, §3(a), July 24, 2018, 132 Stat. 1547; Pub. L. 115–232, div. A, title X, §1045(a), Aug. 13, 2018, 132 Stat. 1959; Pub. L. 116–24, §2, June 25, 2019, 133 Stat. 977; Pub. L. 116–94, div. P, title IX, §902, Dec. 20, 2019, 133 Stat. 3197; Pub. L. 116–283, div. H, title XCV, §9502, Jan. 1, 2021, 134 Stat. 4822; Pub. L. 117–263, div. E, title LIX, §5901, Dec. 23, 2022, 136 Stat.

[2] So in original. Probably should be ''180-day period''.

[3] See References in Text note below.

3440; Pub. L. 118–31, div. A, title XVIII, §1807, Dec. 22, 2023, 137 Stat. 688.)

Editorial Notes

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsecs. (d)(3)(A) and (e)(3), (4), (6)(B)(ii), is act June 27, 1952, ch. 477, 66 Stat. 163, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The Consolidated Natural Resources Act of 2008, referred to in subsec. (e)(1)(B), (3), is Pub. L. 110–229, May 8, 2008, 122 Stat. 754. Section 702(i) of the Act is set out as a note under this section. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 1 of Title 16, Conservation, and Tables.

Section 141 of the Compact of Free Association between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia, referred to in subsec. (i)(6)(C)(i), is contained in section 201 of Pub. L. 99–239, set out as a note under section 1901 of Title 48, Territories and Insular Possessions.

Section 141 of the Compact of Free Association between the United States and the Government of Palau, referred to in subsec. (i)(6)(C)(ii), is contained in section 201 of Pub. L. 99–658, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

AMENDMENTS

2023—Subsec. (b)(1)(B). Pub. L. 118–31 substituted ''December 31, 2029'' for ''December 31, 2024'' in introductory provisions.

2022—Subsec. (b)(1)(B). Pub. L. 117–263 substituted ''December 31, 2024'' for ''December 31, 2023'' in introductory provisions.

2021—Subsec. (b)(1)(B)(i). Pub. L. 116–283 substituted ''contract'' for ''contact'', inserted ''supporting,'' after ''connected to,'' and '', with priority given to federally funded military projects'' after ''and in the Commonwealth'', and struck out ''or'' before ''associated with''.

2019—Subsec. (d)(3)(E). Pub. L. 116–94 added subpar. (E).

Subsec. (e)(6). Pub. L. 116–24 added par. (6).

2018—Subsec. (a)(2). Pub. L. 115–218, §3(a)(1)(A), substituted ''2029'' for ''2019''.

Subsec. (a)(6). Pub. L. 115–218, §3(a)(1)(B), amended par. (6) generally. Prior to amendment, text read as follows: ''In addition to fees charged pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) to recover the full costs of providing adjudication services, the Secretary of Homeland Security shall charge an annual supplemental fee of $200 per nonimmigrant worker to each prospective employer who is issued a permit under subsection (d) of this section during the transition period. Such supplemental fee shall be paid into the Treasury of the Commonwealth government for the purpose of funding ongoing vocational educational curricula and program development by Commonwealth educational entities.''

Subsec. (b)(1)(B). Pub. L. 115–232, §1045(a)(1), amended subpar. (B) generally. Prior to amendment, text read as follows: ''In the case of such an alien who seeks admission under section 101(a)(15)(H)(ii)(b) of such Act, such alien, if otherwise qualified, may, before October 1, 2023, be admitted under such section for a period of up to 3 years to perform service or labor on Guam or the Commonwealth pursuant to any agreement entered into by a prime contractor or subcontractor calling for services or labor required for performance of a contact or subcontract for construction, repairs, renovations, or facility services that is directly connected to, or associated with, the military realignment occurring on Guam and the Commonwealth, notwithstanding the requirement of such section that the service or labor be temporary.''

Subsec. (b)(2). Pub. L. 115–232, §1045(a)(2), amended par. (2) generally. Prior to amendment, par. (2) provided numerical limitation on number of aliens that could be admitted for any fiscal year and directed that par. (1)(B) would not apply with respect to performance of services or labor at a location other than Guam or the Commonwealth.

Subsec. (b)(3). Pub. L. 115–218, §3(a)(2), added par. (3).

Subsec. (d)(2). Pub. L. 115–218, §3(a)(3)(B), added par. (2). Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 115–218, §3(a)(3)(C), amended par. (3) generally. Prior to amendment, text read as follows: ''The Secretary of Homeland Security shall establish, administer, and enforce a system for allocating and determining the number, terms, and conditions of permits to be issued to prospective employers for each such nonimmigrant worker described in this subsection who would not otherwise be eligible for admission under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), except a permit for construction occupations (as that term is defined by the Department of Labor as Standard Occupational Classification Group 47–0000 or any successor provision) shall only be issued to extend a permit first issued before October 1, 2015. In adopting and enforcing this system, the Secretary shall also consider, in good faith and not later than 30 days after receipt by the Secretary, any comments and advice submitted by the Governor of the Commonwealth. This system shall provide for a reduction in the allocation of permits for such workers on an annual basis to zero, during a period ending on December 31, 2019, except that for fiscal year 2017 an additional 350 permits shall be made available for extension of existing permits, expiring after August 22, 2017, through September 30, 2017, of which no fewer than 60 shall be reserved for healthcare practitioners and technical operations (as that term is defined by the Department of Labor as Standard Occupational Classification Group 29–0000 or any successor provision), and no fewer than 10 shall be reserved for plant and system operators (as that term is defined by the Department of Labor as Standard Occupational Classification Group 51–8000 or any successor provision). In no event shall a permit be valid beyond the expiration of the transition period. This system may be based on any reasonable method and criteria determined by the Secretary of Homeland Security to promote the maximum use of, and to prevent adverse effects on wages and working conditions of, workers authorized to be employed in the United States, including lawfully admissible freely associated state citizen labor. No alien shall be granted nonimmigrant classification or a visa under this subsection unless the permit requirements established under this paragraph have been met.''

Pub. L. 115–218, §3(a)(3)(A), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (d)(4). Pub. L. 115–218, §3(a)(3)(D), inserted ''or to Guam for the purpose of transit only'' after ''except admission to the Commonwealth''.

Pub. L. 115–218, §3(a)(3)(A), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (d)(5). Pub. L. 115–218, §3(a)(3)(E), inserted at end ''Approval of a petition filed by the new employer with a start date within the same fiscal year as the current permit shall not count against the numerical limitation for that period.''

Pub. L. 115–218, §3(a)(3)(A), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (d)(6). Pub. L. 115–218, §3(a)(3)(A), redesignated par. (5) as (6).

Subsec. (d)(7). Pub. L. 115–218, §3(a)(3)(F), added par. (7).

Subsec. (i). Pub. L. 115–218, §3(a)(4), added subsec. (i).

2017—Subsec. (a)(6). Pub. L. 115–53, §2(1), substituted ''$200'' for ''$150''.

Subsec. (b). Pub. L. 115–91 amended subsec. (b) generally. Prior to amendment, text read as follows: ''An alien, if otherwise qualified, may seek admission to

Guam or to the Commonwealth during the transition program as a nonimmigrant worker under section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) without counting against the numerical limitations set forth in section 214(g) of such Act (8 U.S.C. 1184(g)). This subsection does not apply to any employment to be performed outside of Guam or the Commonwealth. Not later than 3 years following the transition program effective date, the Secretary of Homeland Security shall issue a report to the Committee on Energy and Natural Resources and the Committee on the Judiciary of the Senate and the Committee on Natural Resources and the Committee on the Judiciary of the House of Representatives projecting the number of asylum claims the Secretary anticipates following the termination of the transition period, the efforts the Secretary has made to ensure appropriate interdiction efforts, provide for appropriate treatment of asylum seekers, and prepare to accept and adjudicate asylum claims in the Commonwealth.''

Subsec. (d)(2). Pub. L. 115–53, §2(2), inserted '', except a permit for construction occupations (as that term is defined by the Department of Labor as Standard Occupational Classification Group 47–0000 or any successor provision) shall only be issued to extend a permit first issued before October 1, 2015'' after ''(8 U.S.C. 1101 et seq.)'' and substituted ''ending on December 31, 2019, except that for fiscal year 2017 an additional 350 permits shall be made available for extension of existing permits, expiring after August 22, 2017, through September 30, 2017, of which no fewer than 60 shall be reserved for healthcare practitioners and technical operations (as that term is defined by the Department of Labor as Standard Occupational Classification Group 29–0000 or any successor provision), and no fewer than 10 shall be reserved for plant and system operators (as that term is defined by the Department of Labor as Standard Occupational Classification Group 51–8000 or any successor provision)'' for '' 'ending on December 31, 2019' ''.

2014—Subsec. (a)(2). Pub. L. 113–235, §10(1), substituted ''December 31, 2019'' for ''December 31, 2014, except as provided in subsections (b) and (d)''.

Subsec. (d)(2). Pub. L. 113–235, §10(2)(A), substituted '' 'ending on December 31, 2019' '' for ''not to extend beyond December 31, 2014, unless extended pursuant to paragraph 5 of this subsection''.

Subsec. (d)(5), (6). Pub. L. 113–235, §10(2)(B), (C), redesignated par. (6) as (5), and struck out former par. (5), which related to ascertaining current and anticipated labor needs of the Commonwealth, determination whether an extension of up to 5 years of provisions of subsection is necessary, publication of notice of such extension, and factors in determining whether alien workers are necessary to ensure adequate number of workers.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–232, div. A, title X, §1045(b), Aug. 13, 2018, 132 Stat. 1959, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 13, 2018].''

Pub. L. 115–218, §3(e), July 24, 2018, 132 Stat. 1554, provided that:

''(1) IN GENERAL.—Except as specifically otherwise provided, this Act [see Short Title of 2018 Amendment note set out under section 1801 of this title] and the amendments made by this Act—

''(A) shall take effect on the date of the enactment of this Act [July 24, 2018]; and

''(B) shall apply to petitions for Commonwealth Only Transitional Workers filed on or after such date.

''(2) AUTHORITY OF SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security, in the Secretary's discretion, may delay the effective date of any provision of this Act relating to Commonwealth Only Transition Workers until the effective date of the interim final rule described in subsection (b) [set out as a Rulemaking note below], except for provisions providing annual numerical caps for such workers.''

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, §1049(c), Dec. 12, 2017, 131 Stat. 1559, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 12, 2017] and shall apply as follows:

''(1) In the case of services or labor to be performed on Guam, such amendment shall apply beginning on the date that is 120 days after the date of the enactment of this Act.

''(2) In the case of services or labor to be performed on the Common Wealth [sic] of the Northern Mariana Islands, such amendment shall apply beginning on the later of—

''(A) the date that is 120 days after the date of the submittal of the certification and report required under subsection (b) [131 Stat. 1559]; or

''(B) the date on which the transition program ends under section 6(a)(2) of the Joint Resolution entitled 'A Joint Resolution to approve the ''Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America'', and for other purposes', approved March 24, 1976 (48 U.S.C. 1806(a)(2)).''

EFFECTIVE DATE

Pub. L. 110–229, title VII, §705, May 8, 2008, 122 Stat. 867, as amended by Pub. L. 113–4, title VIII, §809, Mar. 7, 2013, 127 Stat. 117, provided that:

''(a) IN GENERAL.—Except as specifically provided in this section or otherwise in this subtitle [subtitle A (§§701–705) of title VII of Pub. L. 110–229, enacting this section and sections 1807 and 1808 of this title, amending section 1804 of this title and sections 1101, 1158, 1182, 1184, and 1225 of Title 8, Aliens and Nationality, enacting provisions set out as notes under this section, section 1801 of this title, and section 1182 of Title 8, and amending provisions set out as notes under section 1801 of this title], this subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act [May 8, 2008].

''(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—The amendments to the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] made by this subtitle [amending sections 1101, 1158, 1182, 1184, and 1225 of Title 8], and other provisions of this subtitle applying the immigration laws (as defined in section 101(a)(17) of Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) to the Commonwealth, shall take effect on the transition program effective date described in section 6 of Public Law 94–241 [48 U.S.C. 1806] (as added by section 702(a)), unless specifically provided otherwise in this subtitle.

''(c) CONSTRUCTION.—Nothing in this subtitle or the amendments made by this subtitle shall be construed to make any residence or presence in the Commonwealth before the transition program effective date described in section 6 of Public Law 94–241 [48 U.S.C. 1806] (as added by section 702(a)) residence or presence in the United States, except that—

''(1) for the purpose of determining whether an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))[)] has abandoned or lost such status by reason of absence from the United States, such alien's presence in the Commonwealth, before, on or after November 28, 2009, shall be considered to be presence in the United States; and

''(2) for the purpose of determining whether an alien whose application for status under subparagraph (T) or (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) was granted is subsequently eligible for adjustment under subsection (*l*) or (m) of section 245 of such Act (8 U.S.C. 1255), such alien's physical presence in the

Commonwealth before, on, or after November 28, 2009, and subsequent to the grant of the application, shall be considered as equivalent to presence in the United States pursuant to a nonimmigrant admission in such status.''

RULEMAKING

Pub. L. 115–218, §3(b), July 24, 2018, 132 Stat. 1554, provided that:

''(1) SECRETARY OF HOMELAND SECURITY.—Notwithstanding the requirements under section 553(b) of title 5, United States Code, the Secretary of Homeland Security shall publish in the Federal Register, not later than 180 days after the date of the enactment of this Act [July 24, 2018], an interim final rule that specifies how the Secretary intends to implement the amendments made by subsection (a) [amending this section] that relate to the responsibilities of the Secretary.

''(2) SECRETARY OF LABOR.—Notwithstanding the requirements under section 553(b) of title 5, United States Code, the Secretary of Labor shall publish in the Federal Register, not later than 180 days after the date of the enactment of this Act, an interim final rule that specifies how the Secretary intends to implement the amendments made by subsection (a) that relate to the responsibilities of the Secretary.

''(3) RECOMMENDATIONS OF THE GOVERNOR.—In developing the interim final rules under paragraphs (1) and (2), the Secretary of Homeland Security and the Secretary of Labor—

''(A) shall each consider, in good faith, any written public recommendations regarding the implementation of this Act [see Short Title of 2018 Amendment note set out under section 1801 of this title] that are submitted by the Governor of the Commonwealth not later than 60 days after the date of the enactment of this Act; and

''(B) may include provisions in such rule that are responsive to any recommendation of the Governor that is not inconsistent with this Act, including a recommendation to reserve a number of permits each year for occupational categories necessary to maintain public health or safety in the Commonwealth.''

PURPOSES OF PUB. L. 115–218

Pub. L. 115–218, §2, July 24, 2018, 132 Stat. 1547, provided that: ''The purposes of this Act [see Short Title of 2018 Amendment note set out under section 1801 of this title] are—

''(1) to increase the percentage of United States workers (as defined in section 6(i) of the Joint Resolution entitled 'A Joint Resolution to approve the ''Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America'', and for other purposes' (48 U.S.C. 1806[(i)])) in the total workforce of the Commonwealth of the Northern Mariana Islands, while maintaining the minimum number of workers who are not United States workers to meet the changing demands of the Northern Mariana Islands' economy;

''(2) to encourage the hiring of United States workers into such workforce; and

''(3) to ensure that no United States worker—

''(A) is at a competitive disadvantage for employment compared to a worker who is not a United States worker; or

''(B) is displaced by a worker who is not a United States worker.''

OUTREACH AND TRAINING

Pub. L. 115–218, §3(d), July 24, 2018, 132 Stat. 1554, provided that: ''Not later than 120 days after the date on which the Secretary of Labor publishes an interim final rule in the Federal Register in accordance with subsection (b)(2) [set out as a Rulemaking note above], the Secretary shall conduct outreach and training in the Commonwealth of the Northern Mariana Islands for employers and workers on the foreign labor certification process set forth in section 6 of the Joint Resolution entitled 'A Joint Resolution to approve the ''Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America'', and for other purposes' [48 U.S.C. 1806], as amended by subsection (b) [probably should be ''(a)''], including the minimum wage requirement set forth in subsection (d)(2)(C) of such section.''

CONGRESSIONAL INTENT

Pub. L. 110–229, title VII, §701, May 8, 2008, 122 Stat. 853, provided that:

''(a) IMMIGRATION AND GROWTH.—In recognition of the need to ensure uniform adherence to long-standing fundamental immigration policies of the United States, it is the intention of the Congress in enacting this subtitle [subtitle A (§§701–705) of title VII of Pub. L. 110–229, see Effective Date note set out above]—

''(1) to ensure that effective border control procedures are implemented and observed, and that national security and homeland security issues are properly addressed, by extending the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)), to apply to the Commonwealth of the Northern Mariana Islands (referred to in this subtitle as the 'Commonwealth'), with special provisions to allow for—

''(A) the orderly phasing-out of the nonresident contract worker program of the Commonwealth; and

''(B) the orderly phasing-in of Federal responsibilities over immigration in the Commonwealth; and

''(2) to minimize, to the greatest extent practicable, potential adverse economic and fiscal effects of phasing-out the Commonwealth's nonresident contract worker program and to maximize the Commonwealth's potential for future economic and business growth by—

''(A) encouraging diversification and growth of the economy of the Commonwealth in accordance with fundamental values underlying Federal immigration policy;

''(B) recognizing local self-government, as provided for in the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America through consultation with the Governor of the Commonwealth;

''(C) assisting the Commonwealth in achieving a progressively higher standard of living for citizens of the Commonwealth through the provision of technical and other assistance;

''(D) providing opportunities for individuals authorized to work in the United States, including citizens of the freely associated states; and

''(E) providing a mechanism for the continued use of alien workers, to the extent those workers continue to be necessary to supplement the Commonwealth's resident workforce, and to protect those workers from the potential for abuse and exploitation.

''(b) AVOIDING ADVERSE EFFECTS.—In recognition of the Commonwealth's unique economic circumstances, history, and geographical location, it is the intent of the Congress that the Commonwealth be given as much flexibility as possible in maintaining existing businesses and other revenue sources, and developing new economic opportunities, consistent with the mandates of this subtitle. This subtitle, and the amendments made by this subtitle, should be implemented wherever possible to expand tourism and economic development in the Commonwealth, including aiding prospective tourists in gaining access to the Commonwealth's memorials, beaches, parks, dive sites, and other points of interest.''

REPORTS

Pub. L. 110–229, title VII, §702(h)(1), (2), May 8, 2008, 122 Stat. 864, provided that:

''(1) IN GENERAL.—Not later than March 1 of the first year that is at least 2 full years after the date of enactment of this subtitle [May 8, 2008], and annually thereafter, the President shall submit to the Committee on Energy and Natural Resources and the Committee on the Judiciary of the Senate and the Committee on Natural Resources and the Committee on the Judiciary of the House of Representatives a report that evaluates the overall effect of the transition program established under section 6 [48 U.S.C. 1806] of the Joint Resolution entitled 'A Joint Resolution to approve the ''Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America'', and for other purposes', approved March 24, 1976 (Public Law 94–241), as added by subsection (a), and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on the Commonwealth.

''(2) CONTENTS.—In addition to other topics otherwise required to be included under this subtitle [subtitle A (§§ 701–705) of title VII of Pub. L. 110–229, see Effective Date note set out above] or the amendments made by this subtitle, each report submitted under paragraph (1) shall include a description of the efforts that have been undertaken during the period covered by the report to diversify and strengthen the local economy of the Commonwealth, including efforts to promote the Commonwealth as a tourist destination. The report by the President shall include an estimate for the numbers of nonimmigrant workers described under section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) necessary to avoid adverse economic effects in Guam and the Commonwealth.''

Pub. L. 110–229, title VII, § 702(h)(4), May 8, 2008, 122 Stat. 865, provided that:

''(4) REPORTS BY THE LOCAL GOVERNMENT.—The Governor of the Commonwealth may submit an annual report to the President on the implementation of this subtitle [subtitle A (§§ 701–705) of title VII of Pub. L. 110–229, see Effective Date note set out above], and the amendments made by this subtitle, with recommendations for future changes. The President shall forward the Governor's report to the Congress with any Administration comment after an appropriate period of time for internal review, provided that nothing in this paragraph shall be construed to require the President to provide any legislative recommendation to the Congress.''

REQUIRED ACTIONS PRIOR TO TRANSITION PROGRAM EFFECTIVE DATE

Pub. L. 110–229, title VII, § 702(i), May 8, 2008, 122 Stat. 866, provided that:

''During the period beginning on the date of enactment of this Act [May 8, 2008] and ending on the transition program effective date described in section 6 of Public Law 94–241 [48 U.S.C. 1806] (as added by subsection (a)), the Government of the Commonwealth shall—

''(1) not permit an increase in the total number of alien workers who are present in the Commonwealth as of the date of enactment of this Act [May 8, 2008]; and

''(2) administer its nonrefoulement protection program—

''(A) according to the terms and procedures set forth in the Memorandum of Agreement entered into between the Commonwealth of the Northern Mariana Islands and the United States Department of Interior, Office of Insular Affairs, executed on September 12, 2003 (which terms and procedures, including but not limited to funding by the Secretary of the Interior and performance by the Secretary of Homeland Security of the duties of 'Protection Consultant' to the Commonwealth, shall have effect on and after the date of enactment of this Act [May 8, 2008]), as well as CNMI Public Law 13–61 and the Immigration Regulations Establishing a Procedural Mechanism for Persons Requesting Protection from Refoulement; and

''(B) so as not to remove or otherwise effect the involuntary return of any alien whom the Protection Consultant has determined to be eligible for protection from persecution or torture.''

§ 1807. Technical assistance program

(1) In general

The Secretary of the Interior, in consultation with the Governor of the Commonwealth, the Secretary of Labor, and the Secretary of Commerce, and as provided in the Interagency Agreements required to be negotiated under section 1806(a)(4) of this title, as added by subsection (a),[1] shall provide—

(A) technical assistance and other support to the Commonwealth to identify opportunities for, and encourage diversification and growth of, the economy of the Commonwealth;

(B) technical assistance, including assistance in recruiting, training, and hiring of workers, to assist employers in the Commonwealth in securing employees first from among United States citizens and nationals resident in the Commonwealth and if an adequate number of such workers are not available, from among legal permanent residents, including lawfully admissible citizens of the freely associated states; and

(C) technical assistance, including assistance to identify types of jobs needed, identify skills needed to fulfill such jobs, and assistance to Commonwealth educational entities to develop curricula for such job skills to include training teachers and students for such skills.

(2) Consultation

In providing such technical assistance under paragraph (1), the Secretaries shall—

(A) consult with the Government of the Commonwealth, local businesses, regional banks, educational institutions, and other experts in the economy of the Commonwealth; and

(B) assist in the development and implementation of a process to identify opportunities for and encourage diversification and growth of the economy of the Commonwealth and to identify and encourage opportunities to meet the labor needs of the Commonwealth.

(3) Cost-sharing

For the provision of technical assistance or support under this paragraph (other than that required to pay the salaries and expenses of Federal personnel), the Secretary of the Interior shall require a non-Federal matching contribution of 10 percent.

(Pub. L. 110–229, title VII, § 702(e), May 8, 2008, 122 Stat. 863.)

Editorial Notes

REFERENCES IN TEXT

Section 1806(a)(4) of this title, as added by subsection (a), referred to in par. (1), probably means section 1806(a)(5) of this title, as added by subsection (a) of section 702 of Pub. L. 110–229.

CODIFICATION

Section was enacted as part of the Consolidated Natural Resources Act of 2008, and not as part of Pub. L. 94–241 which comprises this subchapter.

[1] See References in Text note below.