

(2), or (3)” and from former subsec. (c) “paragraph (4) or (5)” before “of subsection (a) of this section” in first sentence, and from such former subsecs. (b) and (c) the requirement respecting the submission of reports on the fifteenth day of each calendar month in third sentence.

Subsec. (c)(2). Pub. L. 87-885 incorporated fourth and fifth sentences of former subsec. (b) in par. (2), prefacing provisions with introductory phrase reading “In the case of an alien specified in paragraph (1) of subsection (a) of this section.”

Subsec. (c)(3). Pub. L. 87-885 incorporated fourth and fifth sentences of former subsec. (c) in par. (3), prefacing provisions with introductory phrase reading “In the case of an alien specified in paragraph (2) of subsection (a) of this section.”

Subsec. (d). Pub. L. 87-885 struck out “area” after “reduce by one the quota of the quota”.

Subsec. (e). Pub. L. 87-885 substituted “paragraph (2) of subsection (a)” for “paragraph (4) or (5) of subsection (a).”

Subsec. (f). Pub. L. 87-885 added subsec. (f) which incorporated the last sentence of former subsec. (b) reading “The provisions of this subsection relating to the granting of suspension of deportation shall not be applicable to any alien who is a native of any country contiguous to the United States or of any adjacent island, unless he establishes to the satisfaction of the Attorney General that he is ineligible to obtain a non-quota immigrant visa.”

EFFECTIVE DATE OF 1991 AMENDMENT

Section 307(m) of Pub. L. 102-232 provided that the amendment made by that section is effective as if included in section 603(b) of the Immigration Act of 1990, Pub. L. 101-649.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 162(e)(2) of Pub. L. 101-649 effective Oct. 1, 1991, and applicable beginning with fiscal year 1992, see section 161(a) of Pub. L. 101-649, set out as a note under section 1101 of this title.

Amendment by section 603(b)(3) and (4) of Pub. L. 101-649 not applicable to deportation proceedings for which notice has been provided to the alien before Mar. 1, 1991, see section 602(d) of Pub. L. 101-649, set out as a note under section 1251 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 7343(b) of Pub. L. 100-690 applicable to any alien who has been convicted, on or after Nov. 18, 1988, of an aggravated felony, see section 7343(c) of Pub. L. 100-690, set out as a note under section 1252 of this title.

Amendment by Pub. L. 100-525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99-603, see section 2(s) of Pub. L. 100-525, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 315(e) of Pub. L. 99-603, as added by Pub. L. 100-525, §2(q)(2), Oct. 24, 1988, 100 Stat. 2614, provided that: “The amendment made by subsection (b)(1) [amending this section] shall apply to applications submitted under section 244 of the Immigration and Nationality Act [this section] before, on, or after the date of the enactment of this Act [Nov. 6, 1986]; but shall not apply to aliens removed from the United States before the date of the enactment of this Act.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97-116, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-212 effective Apr. 1, 1980, see section 204 of Pub. L. 96-212, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 20, 1976, see section 10 of Pub. L. 94-571, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

CROSS REFERENCES

Definition of the term—

- Adjacent islands, see section 1101(b)(5) of this title.
- Alien, see section 1101(a)(3) of this title.
- Attorney General, see section 1101(a)(5) of this title.
- Child, as used in subchapter III of this chapter, see section 1101(c)(1) of this title.
- Child, as used in this subchapter and subchapter I of this chapter, see section 1101(b)(1) of this title.
- Entry, see section 1101(a)(13) of this title.
- Immigrant visa, see section 1101(a)(16) of this title.
- Parent, as used in subchapter III of this chapter, see section 1101(c)(2) of this title.
- Parent, as used in this subchapter and subchapter I of this chapter, see section 1101(b)(2) of this title.
- Person of good moral character, see section 1101(f) of this title.
- Special immigrant, see section 1101(a)(27) of this title.
- Spouse, see section 1101(a)(35) of this title.
- United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1151, 1252b, 1254a of this title; title 18 section 4113.

§ 1254a. Temporary protected status

(a) Granting of status

(1) In general

In the case of an alien who is a national of a foreign state designated under subsection (b) of this section (or in the case of an alien having no nationality, is a person who last habitually resided in such designated state) and who meets the requirements of subsection (c) of this section, the Attorney General, in accordance with this section—

(A) may grant the alien temporary protected status in the United States and shall not deport the alien from the United States during the period in which such status is in effect, and

(B) shall authorize the alien to engage in employment in the United States and provide the alien with an “employment authorized” endorsement or other appropriate work permit.

(2) Duration of work authorization

Work authorization provided under this section shall be effective throughout the period the alien is in temporary protected status under this section.

(3) Notice

(A) Upon the granting of temporary protected status under this section, the Attorney General shall provide the alien with information concerning such status under this section.

(B) If, at the time of initiation of a deportation proceeding against an alien, the foreign state (of which the alien is a national) is designated under subsection (b) of this section,

the Attorney General shall promptly notify the alien of the temporary protected status that may be available under this section.

(C) If, at the time of designation of a foreign state under subsection (b) of this section, an alien (who is a national of such state) is in a deportation proceeding under this subchapter, the Attorney General shall promptly notify the alien of the temporary protected status that may be available under this section.

(D) Notices under this paragraph shall be provided in a form and language that the alien can understand.

(4) Temporary treatment for eligible aliens

(A) In the case of an alien who can establish a prima facie case of eligibility for benefits under paragraph (1), but for the fact that the period of registration under subsection (c)(1)(A)(iv) of this section has not begun, until the alien has had a reasonable opportunity to register during the first 30 days of such period, the Attorney General shall provide for the benefits of paragraph (1).

(B) In the case of an alien who establishes a prima facie case of eligibility for benefits under paragraph (1), until a final determination with respect to the alien's eligibility for such benefits under paragraph (1) has been made, the alien shall be provided such benefits.

(5) Clarification

Nothing in this section shall be construed as authorizing the Attorney General to deny temporary protected status to an alien based on the alien's immigration status or to require any alien, as a condition of being granted such status, either to relinquish nonimmigrant or other status the alien may have or to execute any waiver of other rights under this chapter. The granting of temporary protected status under this section shall not be considered to be inconsistent with the granting of non-immigrant status under this chapter.

(b) Designations

(1) In general

The Attorney General, after consultation with appropriate agencies of the Government, may designate any foreign state (or any part of such foreign state) under this subsection only if—

(A) the Attorney General finds that there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state (or to the part of the state) would pose a serious threat to their personal safety;

(B) the Attorney General finds that—

(i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected,

(ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and

(iii) the foreign state officially has requested designation under this subparagraph; or

(C) the Attorney General finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

A designation of a foreign state (or part of such foreign state) under this paragraph shall not become effective unless notice of the designation (including a statement of the findings under this paragraph and the effective date of the designation) is published in the Federal Register. In such notice, the Attorney General shall also state an estimate of the number of nationals of the foreign state designated who are (or within the effective period of the designation are likely to become) eligible for temporary protected status under this section and their immigration status in the United States.

(2) Effective period of designation for foreign states

The designation of a foreign state (or part of such foreign state) under paragraph (1) shall—

(A) take effect upon the date of publication of the designation under such paragraph, or such later date as the Attorney General may specify in the notice published under such paragraph, and

(B) shall remain in effect until the effective date of the termination of the designation under paragraph (3)(B).

For purposes of this section, the initial period of designation of a foreign state (or part thereof) under paragraph (1) is the period, specified by the Attorney General, of not less than 6 months and not more than 18 months.

(3) Periodic review, terminations, and extensions of designations

(A) Periodic review

At least 60 days before end of the initial period of designation, and any extended period of designation, of a foreign state (or part thereof) under this section the Attorney General, after consultation with appropriate agencies of the Government, shall review the conditions in the foreign state (or part of such foreign state) for which a designation is in effect under this subsection and shall determine whether the conditions for such designation under this subsection continue to be met. The Attorney General shall provide on a timely basis for the publication of notice of each such determination (including the basis for the determination, and, in the case of an affirmative determination, the period of extension of designation under subparagraph (C)) in the Federal Register.

(B) Termination of designation

If the Attorney General determines under subparagraph (A) that a foreign state (or part of such foreign state) no longer continues to meet the conditions for designation under paragraph (1), the Attorney General shall terminate the designation by pub-

lishing notice in the Federal Register of the determination under this subparagraph (including the basis for the determination). Such termination is effective in accordance with subsection (d)(3) of this section, but shall not be effective earlier than 60 days after the date the notice is published or, if later, the expiration of the most recent previous extension under subparagraph (C).

(C) Extension of designation

If the Attorney General does not determine under subparagraph (A) that a foreign state (or part of such foreign state) no longer meets the conditions for designation under paragraph (1), the period of designation of the foreign state is extended for an additional period of 6 months (or, in the discretion of the Attorney General, a period of 12 or 18 months).

(4) Information concerning protected status at time of designations

At the time of a designation of a foreign state under this subsection, the Attorney General shall make available information respecting the temporary protected status made available to aliens who are nationals of such designated foreign state.

(5) Review

(A) Designations

There is no judicial review of any determination of the Attorney General with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection.

(B) Application to individuals

The Attorney General shall establish an administrative procedure for the review of the denial of benefits to aliens under this subsection. Such procedure shall not prevent an alien from asserting protection under this section in deportation proceedings if the alien demonstrates that the alien is a national of a state designated under paragraph (1).

(c) Aliens eligible for temporary protected status

(1) In general

(A) Nationals of designated foreign states

Subject to paragraph (3), an alien, who is a national of a state designated under subsection (b)(1) of this section (or in the case of an alien having no nationality, is a person who last habitually resided in such designated state), meets the requirements of this paragraph only if—

(i) the alien has been continuously physically present in the United States since the effective date of the most recent designation of that state;

(ii) the alien has continuously resided in the United States since such date as the Attorney General may designate;

(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

(iv) to the extent and in a manner which the Attorney General establishes, the alien

registers for the temporary protected status under this section during a registration period of not less than 180 days.

(B) Registration fee

The Attorney General may require payment of a reasonable fee as a condition of registering an alien under subparagraph (A)(iv) (including providing an alien with an “employment authorized” endorsement or other appropriate work permit under this section). The amount of any such fee shall not exceed \$50. In the case of aliens registered pursuant to a designation under this section made after July 17, 1991, the Attorney General may impose a separate, additional fee for providing an alien with documentation of work authorization. Notwithstanding section 3302 of title 31, all fees collected under this subparagraph shall be credited to the appropriation to be used in carrying out this section.

(2) Eligibility standards

(A) Waiver of certain grounds for inadmissibility

In the determination of an alien’s admissibility for purposes of subparagraph (A)(iii) of paragraph (1)—

(i) the provisions of paragraphs (5) and (7)(A) of section 1182(a) of this title shall not apply;

(ii) except as provided in clause (iii), the Attorney General may waive any other provision of section 1182(a) of this title in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest; but

(iii) the Attorney General may not waive—

(I) paragraphs (2)(A) and (2)(B) (relating to criminals) of such section,

(II) paragraph (2)(C) of such section (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana, or

(III) paragraphs (3)(A), (3)(B), (3)(C), and (3)(E) of such section (relating to national security and participation in the Nazi persecutions or those who have engaged in genocide).

(B) Aliens ineligible

An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that—

(i) the alien has been convicted of any felony or 2 or more misdemeanors committed in the United States, or

(ii) the alien is described in section 1253(h)(2) of this title.

(3) Withdrawal of temporary protected status

The Attorney General shall withdraw temporary protected status granted to an alien under this section if—

(A) the Attorney General finds that the alien was not in fact eligible for such status under this section,

(B) except as provided in paragraph (4) and permitted in subsection (f)(3) of this section,

the alien has not remained continuously physically present in the United States from the date the alien first was granted temporary protected status under this section, or

(C) the alien fails, without good cause, to register with the Attorney General annually, at the end of each 12-month period after the granting of such status, in a form and manner specified by the Attorney General.

(4) Treatment of brief, casual, and innocent departures and certain other absences

(A) For purposes of paragraphs (1)(A)(i) and (3)(B), an alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences from the United States, without regard to whether such absences were authorized by the Attorney General.

(B) For purposes of paragraph (1)(A)(ii), an alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence described in subparagraph (A) or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

(5) Construction

Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for temporary protected status under this section.

(6) Confidentiality of information

The Attorney General shall establish procedures to protect the confidentiality of information provided by aliens under this section.

(d) Documentation

(1) Initial issuance

Upon the granting of temporary protected status to an alien under this section, the Attorney General shall provide for the issuance of such temporary documentation and authorization as may be necessary to carry out the purposes of this section.

(2) Period of validity

Subject to paragraph (3), such documentation shall be valid during the initial period of designation of the foreign state (or part thereof) involved and any extension of such period. The Attorney General may stagger the periods of validity of the documentation and authorization in order to provide for an orderly renewal of such documentation and authorization and for an orderly transition (under paragraph (3)) upon the termination of a designation of a foreign state (or any part of such foreign state).

(3) Effective date of terminations

If the Attorney General terminates the designation of a foreign state (or part of such foreign state) under subsection (b)(3)(B) of this section, such termination shall only apply to documentation and authorization issued or renewed after the effective date of the publica-

tion of notice of the determination under that subsection (or, at the Attorney General's option, after such period after the effective date of the determination as the Attorney General determines to be appropriate in order to provide for an orderly transition).

(4) Detention of alien

An alien provided temporary protected status under this section shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States.

(e) Relation of period of temporary protected status to suspension of deportation

With respect to an alien granted temporary protected status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 1254(a) of this title, unless the Attorney General determines that extreme hardship exists. Such period shall not cause a break in the continuity of residence of the period before and after such period for purposes of such section.

(f) Benefits and status during period of temporary protected status

During a period in which an alien is granted temporary protected status under this section—

(1) the alien shall not be considered to be permanently residing in the United States under color of law;

(2) the alien may be deemed ineligible for public assistance by a State (as defined in section 1101(a)(36) of this title) or any political subdivision thereof which furnishes such assistance;

(3) the alien may travel abroad with the prior consent of the Attorney General; and

(4) for purposes of adjustment of status under section 1255 of this title and change of status under section 1258 of this title, the alien shall be considered as being in, and maintaining, lawful status as a nonimmigrant.

(g) Exclusive remedy

Except as otherwise specifically provided, this section shall constitute the exclusive authority of the Attorney General under law to permit aliens who are or may become otherwise deportable or have been paroled into the United States to remain in the United States temporarily because of their particular nationality or region of foreign state of nationality.

(h) Limitation on consideration in Senate of legislation adjusting status

(1) In general

Except as provided in paragraph (2), it shall not be in order in the Senate to consider any bill, resolution, or amendment that—

(A) provides for adjustment to lawful temporary or permanent resident alien status for any alien receiving temporary protected status under this section, or

(B) has the effect of amending this subsection or limiting the application of this subsection.

(2) Supermajority required

Paragraph (1) may be waived or suspended in the Senate only by the affirmative vote of

three-fifths of the Members duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate duly chosen and sworn shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph (1).

(3) Rules

Paragraphs (1) and (2) are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the matters described in paragraph (1) and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner as in the case of any other rule of the Senate.

(i) Annual report and review

(1) Annual report

Not later than March 1 of each year (beginning with 1992), the Attorney General, after consultation with the appropriate agencies of the Government, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the operation of this section during the previous year. Each report shall include—

(A) a listing of the foreign states or parts thereof designated under this section,

(B) the number of nationals of each such state who have been granted temporary protected status under this section and their immigration status before being granted such status, and

(C) an explanation of the reasons why foreign states or parts thereof were designated under subsection (b)(1) of this section and, with respect to foreign states or parts thereof previously designated, why the designation was terminated or extended under subsection (b)(3) of this section.

(2) Committee report

No later than 180 days after the date of receipt of such a report, the Committee on the Judiciary of each House of Congress shall report to its respective House such oversight findings and legislation as it deems appropriate.

(June 27, 1952, ch. 477, title II, ch. 5, §244A, as added and amended Nov. 29, 1990, Pub. L. 101-649, title III, §302(a), title VI, §603(a)(24), 104 Stat. 5030, 5084; Dec. 12, 1991, Pub. L. 102-232, title III, §§304(b), 307(l)(5), 105 Stat. 1749, 1756; Oct. 25, 1994, Pub. L. 103-416, title II, §219(j), (z)(2), 108 Stat. 4317, 4318.)

AMENDMENTS

1994—Subsec. (c)(1)(B). Pub. L. 103-416, §219(z)(2), made technical correction to directory language of Pub. L. 102-232, §304(b)(2). See 1991 Amendment note below.

Subsec. (c)(2)(A)(iii)(III). Pub. L. 103-416, §219(j), substituted “paragraphs” for “Paragraphs” and “and (3)(E)” for “or (3)(E)”.

1991—Subsec. (a)(1). Pub. L. 102-232, §304(b)(1), inserted parenthetical relating to alien having no nationality.

Subsec. (c)(1)(A). Pub. L. 102-232, §304(b)(3), inserted parenthetical relating to alien having no nationality.

Subsec. (c)(1)(B). Pub. L. 102-232, §304(b)(2), as amended by Pub. L. 103-416, §219(z)(2), inserted provisions requiring separate fee of aliens registered pursuant to designation made after July 17, 1991, and directing that all fees be credited to appropriation to be used to carry out this section.

Subsec. (c)(2)(A)(iii)(I). Pub. L. 102-232, §307(l)(5)(A), substituted “paragraphs (2)(A) and (2)(B)” for “paragraphs (9) and (10)”.

Subsec. (c)(2)(A)(iii)(III). Pub. L. 102-232, §307(l)(5)(B), amended subcl. (III) generally. Prior to amendment, subcl. (III) read as follows: “paragraphs (3) (relating to security and related grounds).”

1990—Subsec. (c)(2)(A)(i). Pub. L. 101-649, §603(a)(24)(A), which directed the substitution of “(5) and (7)(A)” for “(14), (20), (21), (25), and (32)”, was executed by making the substitution for “(14), (15), (20), (21), (25), and (32)”, as the probable intent of Congress.

Subsec. (c)(2)(A)(iii)(I). Pub. L. 101-649, §603(a)(24)(B), which directed the substitution of “Paragraphs (2)(A) and (2)(B)” for “Paragraphs (9) and (10)”, could not be executed because the quoted language differed from the text. See 1991 Amendment note above.

Subsec. (c)(2)(A)(iii)(II). Pub. L. 101-649, §603(a)(24)(C), substituted “(2)(C)” for “(23)” and inserted “or” at end.

Subsec. (c)(2)(A)(iii)(III). Pub. L. 101-649, §603(a)(24)(D), which directed the substitution of “(3) (relating to security and related grounds)” for “(27) and (29) (relating to national security)”, and a period for “; or”, was executed by substituting “(3) (relating to security and related grounds)” for “(27) and (29) of such section (relating to national security)”, and a period for “; or”, as the probable intent of Congress.

Subsec. (c)(2)(A)(iii)(IV). Pub. L. 101-649, §603(a)(24)(E), struck out subcl. (IV) which referred to par. (33).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 219(j) of Pub. L. 103-416 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 219(dd) of Pub. L. 103-416, set out as a note under section 1101 of this title.

Section 219(z) of Pub. L. 103-416 provided that the amendment made by subsec. (z)(2) of that section is effective as if included in the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Pub. L. 102-232.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 304(b) of Pub. L. 102-232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 310(1) of Pub. L. 102-232, set out as a note under section 1101 of this title.

Section 307(l) of Pub. L. 102-232 provided that the amendment made by that section is effective as if included in section 603(a) of the Immigration Act of 1990, Pub. L. 101-649.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 603(a)(24) of Pub. L. 101-649 applicable to individuals entering United States on or after June 1, 1991, see section 601(e)(1) of Pub. L. 101-649, set out as a note under section 1101 of this title.

ALIENS AUTHORIZED TO TRAVEL ABROAD TEMPORARILY

Section 304(c) of Pub. L. 102-232 provided that:

“(1) In the case of an alien described in paragraph (2) whom the Attorney General authorizes to travel abroad temporarily and who returns to the United States in accordance with such authorization—

“(A) the alien shall be inspected and admitted in the same immigration status the alien had at the time of departure if—

“(i) in the case of an alien described in paragraph (2)(A), the alien is found not to be excludable on a ground of exclusion referred to in section 301(a)(1)

of the Immigration Act of 1990 [Pub. L. 101-649, set out as a note under section 1255a of this title], or

“(ii) in the case of an alien described in paragraph (2)(B), the alien is found not to be excludable on a ground of exclusion referred to in section 244A(c)(2)(A)(iii) of the Immigration and Nationality Act [8 U.S.C. 1254a(c)(2)(A)(iii)]; and

“(B) the alien shall not be considered, by reason of such authorized departure, to have failed to maintain continuous physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act if the absence meets the requirements of section 244(b)(2) of such Act.

“(2) Aliens described in this paragraph are the following:

“(A) Aliens provided benefits under section 301 of the Immigration Act of 1990 (relating to family unity).

“(B) Aliens provided temporary protected status under section 244A of the Immigration and Nationality Act, including aliens provided such status under section 303 of the Immigration Act of 1990 [Pub. L. 101-649, set out below].”

EFFECT ON EXECUTIVE ORDER 12711

Section 302(c) of Pub. L. 101-649, as amended by Pub. L. 102-232, title III, § 304(a), Dec. 12, 1991, 105 Stat. 1749; Pub. L. 103-416, title II, § 219(y), Oct. 25, 1994, 108 Stat. 4318, provided that: “Notwithstanding subsection (g) of section 244A of the Immigration and Nationality Act [8 U.S.C. 1254a(g)] (inserted by the amendment made by subsection (a)), such section shall not supersede or affect Executive Order 12711 (April 11, 1990 [8 U.S.C. 1101 note], relating to policy implementation with respect to nationals of the People's Republic of China).”

SPECIAL TEMPORARY PROTECTED STATUS FOR SALVADORANS

Section 303 of Pub. L. 101-649, as amended by Pub. L. 102-65, § 1, July 2, 1991, 105 Stat. 322, provided that:

“(a) DESIGNATION.—

“(1) IN GENERAL.—El Salvador is hereby designated under section 244A(b) of the Immigration and Nationality Act [8 U.S.C. 1254a(b)], subject to the provisions of this section.

“(2) PERIOD OF DESIGNATION.—Such designation shall take effect on the date of the enactment of this section [Nov. 29, 1990] and shall remain in effect until the end of the 18-month period beginning January 1, 1991.

“(b) ALIENS ELIGIBLE.—

“(1) IN GENERAL.—In applying section 244A of the Immigration and Nationality Act [8 U.S.C. 1254a] pursuant to the designation under this section, subject to section 244A(c)(3) of such Act, an alien who is a national of El Salvador meets the requirements of section 244A(c)(1) of such Act only if—

“(A) the alien has been continuously physically present in the United States since September 19, 1990;

“(B) the alien is admissible as an immigrant, except as otherwise provided under section 244A(c)(2)(A) of such Act, and is not ineligible for temporary protected status under section 244A(c)(2)(B) of such Act; and

“(C) in a manner which the Attorney General shall establish, the alien registers for temporary protected status under this section during the registration period beginning January 1, 1991, and ending October 31, 1991.

“(2) REGISTRATION FEE.—The Attorney General shall require payment of a reasonable fee as a condition of registering an alien under paragraph (1)(C) (including providing an alien with an ‘employment authorized’ endorsement or other appropriate work permit under this section). The amount of the fee shall be sufficient to cover the costs of administration of this section. Notwithstanding section 3302 of title 31, United States Code, all such registration fees

collected shall be credited to the appropriation to be used in carrying out this section.

“(C) APPLICATION OF CERTAIN PROVISIONS.—

“(1) IN GENERAL.—Except as provided in this subsection, the provisions of section 244A of the Immigration and Nationality Act [8 U.S.C. 1254a] (including subsection (h) thereof) shall apply to El Salvador (and aliens provided temporary protected status) under this section in the same manner as they apply to a foreign state designated (and aliens provided temporary protected status) under such section.

“(2) PROVISIONS NOT APPLICABLE.—Subsections (b)(1), (b)(2), (b)(3), (c)(1), (c)(4), (d)(3), and (i) of such section 244A shall not apply under this section.

“(3) 6-MONTH PERIOD OF REGISTRATION AND WORK AUTHORIZATION.—Notwithstanding section 244A(a)(2) of the Immigration and Nationality Act, the work authorization provided under this section shall be effective for periods of 6 months. In applying section 244A(c)(3)(C) of such Act under this section, ‘semi-annually, at the end of each 6-month period’ shall be substituted for ‘annually, at the end of each 12-month period’ and, notwithstanding section 244A(d)(2) of such Act, the period of validity of documentation under this section shall be 6 months.

“(4) REENTRY PERMITTED AFTER DEPARTURE FOR EMERGENCY CIRCUMSTANCES.—In applying section 244A(f)(3) of the Immigration and Nationality Act under this section, the Attorney General shall provide for advance parole in the case of an alien provided special temporary protected status under this section if the alien establishes to the satisfaction of the Attorney General that emergency and extenuating circumstances beyond the control of the alien requires the alien to depart for a brief, temporary trip abroad.

“(d) ENFORCEMENT OF REQUIREMENT TO DEPART AT TIME OF TERMINATION OF DESIGNATION.—

“(1) SHOW CAUSE ORDER AT TIME OF FINAL REGISTRATION.—At the registration occurring under this section closest to the date of termination of the designation of El Salvador under subsection (a), the Immigration and Naturalization Service shall serve on the alien granted temporary protected status an order to show cause that establishes a date for deportation proceedings which is after the date of such termination of designation. If El Salvador is subsequently designated under section 244A(b) of the Immigration and Nationality Act [8 U.S.C. 1254a], the Service shall cancel such orders.

“(2) SANCTION FOR FAILURE TO APPEAR.—If an alien is provided an order to show cause under paragraph (1) and fails to appear at such proceedings, except for exceptional circumstances, the alien may be deported in absentia under section 242B of the Immigration and Nationality Act [8 U.S.C. 1252b] (inserted by section 545(a) of this Act) and certain discretionary forms of relief are no longer available to the alien pursuant to such section.”

§ 1255. Adjustment of status of nonimmigrant to that of person admitted for permanent residence

(a) Status as person admitted for permanent residence on application and eligibility for immigrant visa

The status of an alien who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.