subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

**SEC. 2111. STATUTORY CONSTRUCTION.**

Except as specifically provided, nothing in this subtitle, or any amendment made by this subtitle, may be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

**Subtitle B—Agricultural Worker Program**

**SEC. 2201. SHORT TITLE.**

This subtitle may be cited as the “Agricultural Worker Program Act of 2013”.

**SEC. 2202. DEFINITIONS.**

In this subtitle:

(1) **BLUE CARD STATUS.**—The term “blue card status” means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 2211.

(2) **AGRICULTURAL EMPLOYMENT.**—The term “agricultural employment” has the meaning given such term in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802), without regard to whether the specific service or activity is temporary or seasonal.
(3) CHILD.—The term “child” has the meaning given the term in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)).

(4) EMPLOYER.—The term “employer” means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) QUALIFIED DESIGNATED ENTITY.—The term “qualified designated entity” means—

(A) a qualified farm labor organization or an association of employers designated by the Secretary; or

(B) any other entity that the Secretary designates as having substantial experience, demonstrated competence, and a history of long-term involvement in the preparation and submission of application for adjustment of status under title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.).

(6) WORK DAY.—The term “work day” means any day in which the individual is employed 5.75 or more hours in agricultural employment.
CHAPTER 1—PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

Subchapter A—Blue Card Status

SEC. 2211. REQUIREMENTS FOR BLUE CARD STATUS.

(a) REQUIREMENTS FOR BLUE CARD STATUS.—Notwithstanding any other provision of law, the Secretary, after conducting the national security and law enforcement clearances required under section 245B(c)(4), may grant blue card status to an alien who—

(1)(A) performed agricultural employment in the United States for not fewer than 575 hours or 100 work days during the 2-year period ending on December 31, 2012; or

(B) is the spouse or child of an alien described in subparagraph (A) and was physically present in the United States on or before December 31, 2012, and has maintained continuous presence in the United States from that date until the date on which the alien is granted blue card status, with the exception of absences from the United States that are brief, casual, and innocent, whether or not such absences were authorized by the Secretary;

(2) submits a completed application before the end of the period set forth in subsection (b)(2); and
(3) is not ineligible under paragraph (3) or (4) of section 245B(b) of the Immigration and Nationality Act (other than a nonimmigrant alien admitted to the United States for agricultural employment described in section 101(a)(15)(H)(ii)(a) of such Act.

(b) APPLICATION.—

(1) IN GENERAL.—An alien who meets the eligibility requirements set forth in subsection (a)(1), may apply for blue card status and that alien's spouse or child may apply for blue card status as a dependent, by submitting a completed application form to the Secretary during the application period set forth in paragraph (2) in accordance with the final rule promulgated by the Secretary pursuant to subsection (e).

(2) SUBMISSION.—The Secretary shall provide that the alien shall be able to submit an application under paragraph (1)—

(A) if the applicant is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(B) to a qualified entity if the applicant consents to the forwarding of the application to the Secretary.
(3) Application Period.—

(A) Initial Period.—Except as provided in subparagraph (B), the Secretary may only accept applications for blue card status for a 1-year period from aliens in the United States beginning on the date on which the final rule is published in the Federal Register pursuant to subsection (f), except that qualified non-immigrants who have participated in the H-2A Program may apply from outside of the United States.

(B) Extension.—If the Secretary determines, during the initial period described in subparagraph (A), that additional time is required to process applications for blue card status or for other good cause, the Secretary may extend the period for accepting applications for an additional 18 months.

(4) Application Form.—

(A) Required Information.—The application form referred to in paragraph (1) shall collect such information as the Secretary determines necessary and appropriate.

(B) Family Application.—The Secretary shall establish a process through which an alien
may submit a single application under this section on behalf of the alien, his or her spouse, and his or her children, who are residing in the United States.

(C) INTERVIEW.—The Secretary may interview applicants for blue card status to determine whether they meet the eligibility requirements set forth in subsection (a)(1).

(5) ALIENS APPREHENDED BEFORE OR DURING THE APPLICATION PERIOD.—If an alien, who is apprehended during the period beginning on the date of the enactment of this Act and ending on the application period described in paragraph (3), appears prima facie eligible for blue card status, the Secretary—

(A) shall provide the alien with a reasonable opportunity to file an application under this section during such application period; and

(B) may not remove the individual until a final administrative determination is made on the application.

(6) SUSPENSION OF REMOVAL DURING APPLICATION PERIOD.—

(A) PROTECTION FROM DETENTION OR REMOVAL.—An alien granted blue card status may
not be detained by the Secretary or removed from the United States unless—

(i) such alien is, or has become, ineligible for blue card status; or

(ii) the alien’s blue card status has been revoked.

(B) ALIENS IN REMOVAL PROCEEDINGS.— Notwithstanding any other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)—

(i) if the Secretary determines that an alien, during the period beginning on the date of the enactment of this section and ending on the last day of the application period described in paragraph (2), is in removal, deportation, or exclusion proceedings before the Executive Office for Immigration Review and is prima facie eligible for blue card status under this section—

(I) the Secretary shall provide the alien with the opportunity to file an application for such status; and

(II) upon motion by the Secretary and with the consent of the alien or upon motion by the alien, the Execu-
tive Office for Immigration Review shall—

(aa) terminate such proceedings without prejudice to future proceedings on any basis; and

(bb) provide the alien a reasonable opportunity to apply for such status; and

(ii) if the Executive Office for Immigration Review determines that an alien, during the application period described in paragraph (2), is in removal, deportation, or exclusion proceedings before the Executive Office for Immigration Review and is prima facie eligible for blue card status under this section—

(I) the Executive Office of Immigration Review shall notify the Secretary of such determination; and

(II) if the Secretary does not dispute the determination of prima facie eligibility within 7 days after such notification, the Executive Office for Im-
migrant Review, upon consent of the
alien, shall—

(aa) terminate such pro-
ceedings without prejudice to fu-
ture proceedings on any basis;
and

(bb) permit the alien a rea-
sonable opportunity to apply for
such status.

(C) TREATMENT OF CERTAIN ALIENS.—

(i) IN GENERAL.—If an alien who
meets the eligibility requirements set forth
in subsection (a) is present in the United
States and has been ordered excluded, de-
ported, or removed, or ordered to depart vol-
untarily from the United States under any
provision of this Act—

(I) notwithstanding such order or
section 241(a)(5) of the Immigration
and Nationality Act (8 U.S.C.
1231(a)(5)), the alien may apply for
blue card status under this section; and

(II) if the alien is granted such
status, the alien shall file a motion to
reopen the exclusion, deportation, re-
moval, or voluntary departure order, which motion shall be granted unless 1 or more of the grounds of ineligibility is established by clear and convincing evidence.

(ii) LIMITATIONS ON MOTIONS TO REOPEN.—The limitations on motions to reopen set forth in section 240(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(7)) shall not apply to motions filed under clause (i)(II).

(D) PERIOD PENDING ADJUDICATION OF APPLICATION.—

(i) IN GENERAL.—During the period beginning on the date on which an alien applies for blue card status under this subsection and the date on which the Secretary makes a final decision regarding such application, the alien—

(I) may receive advance parole to reenter the United States if urgent humanitarian circumstances compel such travel;

(II) may not be detained by the Secretary or removed from the United
States unless the Secretary makes a prima facie determination that such alien is, or has become, ineligible for blue card status;

(III) shall not be considered unlawfully present for purposes of section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)); and

(IV) shall not be considered an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))).

(ii) EVIDENCE OF APPLICATION FILING.—As soon as practicable after receiving each application for blue card status, the Secretary shall provide the applicant with a document acknowledging the receipt of such application.

(iii) CONTINUING EMPLOYMENT.—An employer who knows an alien employee is an applicant for blue card status or will apply for such status once the application period commences is not in violation of sec-
tion 274(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(2)) if the employer continues to employ the alien pending the adjudication of the alien employee's application.

(iv) EFFECT OF DEPARTURE.—Section 101(g) of the Immigration and Nationality Act (8 U.S.C. 1101(g)) shall not apply to an alien granted—

(I) advance parole under clause (i)(I) to reenter the United States; or

(II) blue card status.

(7) SECURITY AND LAW ENFORCEMENT CLEARANCES.—

(A) BIOMETRIC AND BIOGRAPHIC DATA.—

The Secretary may not grant blue card status to an alien or an alien dependent spouse or child under this section unless such alien submits biometric and biographic data in accordance with procedures established by the Secretary.

(B) ALTERNATIVE PROCEDURES.—The Secretary shall provide an alternative procedure for applicants who cannot provide the standard biometric data required under subparagraph (A) because of a physical impairment.
(C) CLEARANCES.—

(i) DATA COLLECTION.—The Secretary shall collect, from each alien applying for status under this section, biometric, biographic, and other data that the Secretary determines to be appropriate—

(I) to conduct national security and law enforcement clearances; and

(II) to determine whether there are any national security or law enforcement factors that would render an alien ineligible for such status.

(ii) PREREQUISITE.—The required clearances described in clause (i)(I) shall be completed before the alien may be granted blue card status.

(8) DURATION OF STATUS.—After the date that is 8 years after the date regulations are published under this section, no alien may remain in blue card status.

(9) FEES AND PENALTIES.—

(A) STANDARD PROCESSING FEE.—

(i) IN GENERAL.—Aliens who are 16 years of age or older and are applying for blue card status under paragraph (2), or for
an extension of such status, shall pay a processing fee to the Department in an amount determined by the Secretary.

(ii) RECOVERY OF COSTS.—The processing fee authorized under clause (i) shall be set at a level that is sufficient to recover the full costs of processing the application, including any costs incurred—

(I) to adjudicate the application;

(II) to take and process biometrics;

(III) to perform national security and criminal checks, including adjudication;

(IV) to prevent and investigate fraud; and

(V) to administer the collection of such fee.

(iii) AUTHORITY TO LIMIT FEES.—The Secretary, by regulation, may—

(I) limit the maximum processing fee payable under this subparagraph by a family, including spouses and unmarried children younger than 21 years of age; and
(II) exempt defined classes of individuals from the payment of the fee authorized under clause (i).

(B) DEPOSIT AND USE OF PROCESSING FEES.—Fees collected pursuant to subparagraph (A)(i)—

(i) shall be deposited into the Immigration Examinations Fee Account pursuant to section 286(m); and

(ii) shall remain available until expended pursuant to section 286(n).

(C) PENALTY.—

(i) PAYMENT.—In addition to the processing fee required under subparagraph (A), aliens who are 21 years of age or older and are applying for blue card status under paragraph (2) shall pay a $100 penalty to the Department.

(ii) DEPOSIT.—Penalties collected pursuant to clause (i) shall be deposited into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1).

(10) ADJUDICATION.—
(A) FAILURE TO SUBMIT SUFFICIENT EVIDENCE.—The Secretary shall deny an application submitted by an alien who fails to submit—

(i) requested initial evidence, including requested biometric data; or

(ii) any requested additional evidence by the date required by the Secretary.

(B) AMENDED APPLICATION.—An alien whose application for blue card status is denied under subparagraph (A) may file an amended application for such status to the Secretary if the amended application—

(i) is filed within the application period described in paragraph (3); and

(ii) contains all the required information and fees that were missing from the initial application.

(11) EVIDENCE OF BLUE CARD STATUS.—

(A) IN GENERAL.—The Secretary shall issue documentary evidence of blue card status to each alien whose application for such status has been approved.

(B) DOCUMENTATION FEATURES.—Documentary evidence provided under subparagraph (A)—
(i) shall be machine-readable and tamper-resistant, and shall contain a digitized photograph;

(ii) shall, during the alien’s authorized period of admission, and any extension of such authorized admission, serve as a valid travel and entry document for the purpose of applying for admission to the United States;

(iii) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)(B)); and

(iv) shall include such other features and information as the Secretary may prescribe.

(c) TERMS AND CONDITIONS OF BLUE CARD STATUS.—

(1) CONDITIONS OF BLUE CARD STATUS.—

(A) EMPLOYMENT.—Notwithstanding any other provision of law, including section 241(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(7)), an alien with blue
card status shall be authorized to be employed in the United States while in such status.

(B) **TRAVEL OUTSIDE THE UNITED STATES.**—An alien with blue card status may travel outside of the United States and may be admitted, if otherwise admissible, upon returning to the United States without having to obtain a visa if—

(i) the alien is in possession of—

(I) valid, unexpired documentary evidence of blue card status that complies with subsection (b)(11); or

(II) a travel document that has been approved by the Secretary and was issued to the alien after the alien’s original documentary evidence was lost, stolen, or destroyed;

(ii) the alien’s absence from the United States did not exceed 180 days, unless the alien’s failure to timely return was due to extenuating circumstances beyond the alien’s control; and

(iii) the alien establishes that the alien is not inadmissible under subparagraph (A)(i), (A)(iii), (B), or (C) of section
212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)).

(C) ADMISSION.—An alien granted blue card status shall be considered to have been admitted in such status as of the date on which the alien’s application was filed.

(D) CLARIFICATION OF STATUS.—An alien granted blue card status—

(i) is lawfully admitted to the United States; and

(ii) may not be classified as a non-immigrant or as an alien who has been lawfully admitted for permanent residence.

(2) REVOCATION.—

(A) IN GENERAL.—The Secretary may revoke blue card status at any time after providing appropriate notice to the alien, and after the exhaustion or waiver of all applicable administrative review procedures under section 245E(c) of the Immigration and Nationality Act, as added by section 2104(a) of this Act, if the alien—

(i) no longer meets the eligibility requirements for blue card status;
(ii) knowingly used documentation issued under this section for an unlawful or fraudulent purpose; or

(iii) was absent from the United States for—

(I) any single period longer than 180 days in violation of the requirement under paragraph (1)(B)(ii); or

(II) for more than 180 days in the aggregate during any calendar year, unless the alien’s failure to timely return was due to extenuating circumstances beyond the alien’s control.

(B) ADDITIONAL EVIDENCE.—

(i) IN GENERAL.—In determining whether to revoke an alien’s status under subparagraph (A), the Secretary may require the alien—

(I) to submit additional evidence;

or

(II) to appear for an interview.

(ii) EFFECT OF NONCOMPLIANCE.—The status of an alien who fails to comply with any requirement imposed by the Secretary under clause (i) shall be revoked unless the
alien demonstrates to the Secretary’s satisfaction that such failure was reasonably excusable.

(C) INVALIDATION OF DOCUMENTATION.—If an alien’s blue card status is revoked under subparagraph (A), any documentation issued by the Secretary to such alien under subsection (b)(11) shall automatically be rendered invalid for any purpose except for departure from the United States.

(3) INELIGIBILITY FOR PUBLIC BENEFITS.—An alien who has been granted blue card status is not eligible for any Federal means-tested public benefit (as such term is defined and implemented in section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613)).

(4) TREATMENT OF BLUE CARD STATUS.—A noncitizen granted blue card status shall be considered lawfully present in the United States for all purposes while such noncitizen remains in such status, except that the noncitizen—

(A) is not entitled to the premium assistance tax credit authorized under section 36B of the Internal Revenue Code of 1986 for his or her coverage;
(B) shall be subject to the rules applicable to individuals who are not lawfully present set forth in subsection (e) of such section;

(C) shall be subject to the rules applicable to individuals who are not lawfully present set forth in section 1402(e) of the Patient Protection and Affordable Care Act (42 U.S.C. 18071(e)); and

(D) shall be subject to the rules applicable to individuals not lawfully present set forth in section 5000A(d)(3) of the Internal Revenue Code of 1986.

(5) ADJUSTMENT TO REGISTERED PROVISIONAL IMMIGRANT STATUS.—The Secretary may adjust the status of an alien who has been granted blue card status to the status of a registered provisional immigrant under section 245B of the Immigration and Nationality Act if the Secretary determines that the alien is unable to fulfill the agricultural service requirement set forth in section 245F(a)(1) of such Act.

(d) RECORD OF EMPLOYMENT.—

(1) IN GENERAL.—Each employer of an alien granted blue card status shall annually provide—

(A) a written record of employment to the alien; and
(B) a copy of such record to the Secretary of Agriculture.

(2) CIVIL PENALTIES.—

(A) IN GENERAL.—If the Secretary finds, after notice and an opportunity for a hearing, that an employer of an alien granted blue card status has knowingly failed to provide the record of employment required under paragraph (1) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil penalty in an amount not to exceed $500 per violation.

(B) LIMITATION.—The penalty under subparagraph (A) for failure to provide employment records shall not apply unless the alien has provided the employer with evidence of employment authorization provided under subsection (c).

(C) DEPOSIT OF CIVIL PENALTIES.—Civil penalties collected under this paragraph shall be deposited in the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1).

(3) TERMINATION OF OBLIGATION.—The obligation under paragraph (1) shall terminate on the date
that is 8 years after the date of the enactment of this Act.

(4) EMPLOYER PROTECTIONS.—

(A) USE OF EMPLOYMENT RECORDS.—Copies of employment records or other evidence of employment provided by an alien or by an alien’s employer in support of an alien’s application for blue card status may not be used in a civil or criminal prosecution or investigation of that employer under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) or the Internal Revenue Code of 1986 for the prior unlawful employment of that alien regardless of the adjudication of such application or reconsideration by the Secretary of such alien’s prima facie eligibility determination. Employers that provide unauthorized aliens with copies of employment records or other evidence of employment pursuant to an application for blue card status shall not be subject to civil and criminal liability pursuant to such section 274A for employing such unauthorized aliens.

(B) LIMIT ON APPLICABILITY.—The protections for employers and aliens under subparagraph (A) shall not apply if the aliens or em-
players submit employment records that are
deemed to be fraudulent.

(e) RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, shall issue final regulations to implement this chapter.

SEC. 2212. ADJUSTMENT TO PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245E, as added by section 2104 of this Act, the following:

"SEC. 245F. ADJUSTMENT TO PERMANENT RESIDENT STATUS FOR AGRICULTURAL WORKERS.

(a) IN GENERAL.—Except as provided in subsection (b), and not earlier than 5 years after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

"(1) QUALIFYING EMPLOYMENT.—Except as provided in paragraph (3), the alien—

(A) during the 8-year period beginning on the date of the enactment of the Border Security,
Economic Opportunity, and Immigration Modernization Act, performed not less than 100 work days of agricultural employment during each of 5 years; or

“(B) during the 5-year period beginning on such date of enactment, performed not less than 150 work days of agricultural employment during each of 3 years.

“(2) EVIDENCE.—An alien may demonstrate compliance with the requirement under paragraph (1) by submitting—

“(A) the record of employment described in section 2211(d) of the Border Security, Economic Opportunity, and Immigration Modernization Act;

“(B) documentation that may be submitted under subsection (c)(4); or

“(C) any other documentation designated by the Secretary for such purpose.

“(3) EXTRAORDINARY CIRCUMSTANCES.—

“(A) IN GENERAL.—In determining whether an alien has met the requirement under paragraph (1), the Secretary may credit the alien with not more than 12 additional months of agricultural employment in the United States to
meet such requirement if the alien was unable to work in agricultural employment due to—

“(i) pregnancy, disabling injury, or disease that the alien can establish through medical records;

“(ii) illness, disease, or other special needs of a child that the alien can establish through medical records;

“(iii) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time; or

“(iv) termination from agricultural employment, if the Secretary determines that—

“(I) the termination was without just cause; and

“(II) the alien was unable to find alternative agricultural employment after a reasonable job search.

“(B) EFFECT OF DETERMINATION.—A determination under subparagraph (A)(iv), with respect to an alien, shall not be conclusive, binding, or admissible in a separate or subsequent judicial or administrative action or proceeding
between the alien and a current or prior employer of the alien or any other party.

“(4) APPLICATION PERIOD.—The alien applies for adjustment of status before the alien’s blue card status expires.

“(5) FINE.—The alien pays a fine of $400 to the Secretary, which shall be deposited into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) of the Border Security, Economic Opportunity, and Immigration Modernization Act.

“(b) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—

“(1) IN GENERAL.—The Secretary may not adjust the status of an alien granted blue card status if the alien—

“(A) is no longer eligible for blue card status; or

“(B) failed to perform the qualifying employment requirement under subsection (a)(1), considering any amount credited by the Secretary under subsection (a)(3).

“(2) MAINTENANCE OF WAIVERS OF INADMISSIBILITY.—The grounds of inadmissibility set forth in section 212(a) that were previously waived for the
alien or made inapplicable shall not apply for purposes of the alien’s adjustment of status under this section.

“(3) Pending Revocation Proceedings.—If the Secretary has notified the applicant that the Secretary intends to revoke the applicant’s blue card status, the Secretary may not approve an application for adjustment of status under this section unless the Secretary makes a final determination not to revoke the applicant’s status.

“(4) Payment of Taxes.—

“(A) In General.—An applicant may not file an application for adjustment of status under this section unless the applicant has satisfied any applicable Federal tax liability.

“(B) Definition of Applicable Federal Tax Liability.—In this paragraph, the term ‘applicable federal tax liability’ means all Federal income taxes assessed in accordance with section 6203 of the Internal Revenue Code of 1986 since the date on which the applicant was authorized to work in the United States in blue card status.

“(C) Compliance.—The applicant may demonstrate compliance with subparagraph (A)
by submitting such documentation as the Secretary, in consultation with the Secretary of the Treasury, may require by regulation.

"(c) Spouses and Children.—Notwithstanding any other provision of law, the Secretary shall grant permanent resident status to the spouse or child of an alien whose status was adjusted under subsection (a) if—

“(1) the spouse or child (including any individual who was a child on the date such alien was granted blue card status) applies for such status;

“(2) the principal alien includes the spouse and children in an application for adjustment of status to that of a lawful permanent resident; and

“(3) the spouse or child is not ineligible for such status under section 245B.

“(d) Numerical Limitations Do Not Apply.—The numerical limitations under sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

“(e) Submission of Applications.—

“(1) Interview.—The Secretary may interview applicants for adjustment of status under this section to determine whether they meet the eligibility requirements set forth in this section.

“(2) Fees.—
"(A) IN GENERAL.—Applicants for adjustment of status under this section shall pay a
processing fee to the Secretary in an amount
that will ensure the recovery of the full costs of
adjudicating such applications, including—

"(i) the cost of taking and processing
biometrics;

"(ii) expenses relating to prevention
and investigation of fraud; and

"(iii) costs relating to the administration
of the fees collected.

"(B) AUTHORITY TO LIMIT FEES.—The Sec-
retary, by regulation—

"(i) may limit the maximum proc-
essing fee payable under this paragraph by
a family, including spouses and unmarried
children younger than 21 years of age; and

"(ii) may exempt individuals described
in section 245B(c)(10) and other defined
classes of individuals from the payment of
the fee under subparagraph (A).

"(3) DISPOSITION OF FEES.—All fees collected
under paragraph (2)(A)—
“(A) shall be deposited into the Immigration Examinations Fee Account pursuant to section 286(m); and

“(B) shall remain available until expended pursuant to section 286(n).

“(4) DOCUMENTATION OF WORK HISTORY.—

“(A) BURDEN OF PROOF.—An alien applying for blue card status under section 2211 of the Border Security, Economic Opportunity, and Immigration Modernization Act or for adjustment of status under subsection (a) shall provide evidence that the alien has worked the requisite number of hours or days required under subsection (a)(1) of such section 2211 or subsection (a)(3) of this section, as applicable.

“(B) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien’s burden of proof under subparagraph (A) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

“(C) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under subpara-
graph (A) to establish that the alien has performed the days or hours of work referred to in subparagraph (A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

“(f) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

“(1) CRIMINAL PENALTY.—Any person who—

“(A) files an application for blue card status under section 2211 of the Border Security, Economic Opportunity, and Immigration Modernization Act or an adjustment of status under this section and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

“(B) creates or supplies a false writing or document for use in making such an application, shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.
“(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be deemed inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

“(3) DEPOSIT.—Fines collected under paragraph (1) shall be deposited into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) of the Border Security, Economic Opportunity, and Immigration Modernization Act.

“(g) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (Pub. L. No. 104–134; 110 Stat. 1321–55) may not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for blue card status under section 2211 of the Border Security, Economic Opportunity, and Immigration Modernization Act, to an individual who has been granted blue card status, or for an application for an adjustment of status under this section.

“(h) ADMINISTRATIVE AND JUDICIAL REVIEW.—Aliens applying for blue card status under section 2211 of the Border Security, Economic Opportunity, and Immigration Modernization Act or adjustment to permanent resident
status under this section shall be entitled to the rights and
subject to the conditions applicable to other classes of aliens
under sections 242(h) and 245E.

“(i) APPLICABILITY OF OTHER PROVISIONS.—The
provisions set forth in section 245E which are applicable
to aliens described in section 245B, 245C, and 245D shall
apply to aliens applying for blue card status under section
2211 of the Border Security, Economic Opportunity, and
Immigration Modernization Act or adjustment to perma-
nent resident status under this section.

“(j) LIMITATION ON BLUE CARD STATUS.—An alien
granted blue card status under section 2211 of the Border
Security, Economic Opportunity, and Immigration Mod-
ernization Act may only adjust status to an alien lawfully
admitted for permanent residence under this section, section
245C of this Act, or section 2302 of the Border Security,
Economic Opportunity, and Immigration Modernization
Act.

“(k) DEFINITIONS.—In this section:

“(l) BLUE CARD STATUS.—The term ‘blue card
status’ means the status of an alien who has been
lawfully admitted into the United States for tem-
porary residence under section 2211 of the Border Se-
curity, Economic Opportunity, and Immigration
Modernization Act.
“(2) AGRICULTURAL EMPLOYMENT.—The term ‘agricultural employment’ has the meaning given such term in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802), without regard to whether the specific service or activity is temporary or seasonal.

“(3) EMPLOYER.—The term ‘employer’ means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

“(4) WORK DAY.—The term ‘work day’ means any day in which the individual is employed 5.75 or more hours in agricultural employment.”.

(b) CONFORMING AMENDMENT.—Section 201(b)(1) (8 U.S.C. 1151(b)(1), as amended by section 2103(c), is further amended by adding at the end the following:

“(G) Aliens granted lawful permanent resident status under section 245F.”.

(c) CLERICAL AMENDMENT.—The table of contents, as amended by section 2104(e), is further amended by inserting after the item relating to section 245E the following:

“Sec. 245F. Adjustment to permanent resident status for agricultural workers.”.

SEC. 2213. USE OF INFORMATION.

Beginning not later than the first day of the application period described in section 2211(b)(3), the Secretary, in cooperation with qualified designated entities, shall
broadly disseminate information respecting the benefits that
aliens may receive under this subchapter and the require-
ments that an alien is required to meet to receive such bene-
fits.

SEC. 2214. REPORTS ON BLUE CARDS.

Not later than September 30, 2013, and annually
thereafter for the next 8 years, the Secretary shall submit
a report to Congress that identifies, for the previous fiscal
year—

(1) the number of aliens who applied for blue
card status;

(2) the number of aliens who were granted blue
card status;

(3) the number of aliens who applied for an ad-
justment of status pursuant to section 245F(a) of the
Immigration and Nationality Act, as added by sec-
tion 2212; and

(4) the number of aliens who received an adjust-
ment of status pursuant such section 245F(a).

SEC. 2215. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Sec-
retary such sums as may be necessary to implement this
subchapter, including any sums needed for costs associated
with the initiation of such implementation, for fiscal years
2013 and 2014.
Subchapter B—Correction of Social Security Records

SEC. 2221. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking “or” at the end;

(2) in subparagraph (C), by inserting “or” at the end;

(3) by inserting after subparagraph (C) the following:

“(D) who is granted blue card status under the Agricultural Worker Program Act of 2013;”;

and

(4) by striking “1990.” and inserting “1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted blue card status under section 2211(a) of the Agricultural Worker Program Act of 2013.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.
CHAPTER 2—NONIMMIGRANT
AGRICULTURAL VISA PROGRAM

SEC. 2231. NONIMMIGRANT CLASSIFICATION FOR NON-
IMMIGRANT AGRICULTURAL WORKERS.

Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by adding at the end the following:

“(W) an alien having a residence in a foreign country who is coming to the United States for a temporary period—

“(iii)(I) to perform services or labor in agricultural employment and who has a written contract that specifies the wages, benefits, and working conditions of such full-time employment in an agricultural occupation with a designated agricultural employer for a specified period of time; and

“(II) who meets the requirements under section 218A for a nonimmigrant visa described in this clause; or

“(iv)(I) to perform services or labor in agricultural employment and who has an offer of full-time employment in an agricultural occupation from a designated agricultural employer for such employment and is not described in clause (i); and
“(II) who meets the requirements under section 218A for a nonimmigrant visa described in this clause.”.

SEC. 2232. ESTABLISHMENT OF NONIMMIGRANT AGRICULTURAL WORKER PROGRAM.

(a) In General.—Chapter 2 of title II (8 U.S.C. 1181 et seq.) is amended by inserting after section 218 the following:

“SEC. 218A. NONIMMIGRANT AGRICULTURAL WORKER PROGRAM.

“(a) DEFINITIONS.—In this section and in clauses (iii) and (iv) of section 101(a)(15)(W):

“(1) AGRICULTURAL EMPLOYMENT.—The term ‘agricultural employment’ has the meaning given such term in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802), without regard to whether the specific service or activity is temporary or seasonal.

“(2) AT-WILL AGRICULTURAL WORKER.—The term ‘at-will agricultural worker’ means an alien present in the United States pursuant to section 101(a)(15)(W)(iv).

“(3) BLUE CARD.—The term ‘blue card’ means an employment authorization and travel document issued to an alien granted blue card status under sec-
tion 2211(a) of the Agricultural Worker Program Act of 2013.

“(4) CONTRACT AGRICULTURAL WORKER.—The term ‘contract agricultural worker’ means an alien present in the United States pursuant to section 101(a)(15)(W)(iii).

“(5) DESIGNATED AGRICULTURAL EMPLOYER.—The term ‘designated agricultural employer’ means an employer who is registered with the Secretary of Agriculture pursuant to subsection (e)(1).

“(6) ELECTRONIC JOB REGISTRY.—The term ‘Electronic Job Registry’ means the Electronic Job Registry of a State workforce agency (or similar successor registry).

“(7) EMPLOYER.—Except as otherwise provided, the term ‘employer’ means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

“(8) NONIMMIGRANT AGRICULTURAL WORKER.—The term ‘nonimmigrant agricultural worker’ mean a nonimmigrant described in clause (iii) or (iv) of section 101(a)(15)(W).
“(9) PROGRAM.—The term ‘Program’ means the Nonimmigrant Agricultural Worker Program established under subsection (b).

“(10) SECRETARY.—Except as otherwise specifically provided, the term ‘Secretary’ means the Secretary of Agriculture.

“(11) UNITED STATES WORKER.—The term ‘United States worker’ means an individual who—

“(A) is a national of the United States; or

“(B) is an alien who—

“(i) is lawfully admitted for permanent residence;

“(ii) is admitted as a refugee under section 207;

“(iii) is granted asylum under section 208;

“(iv) holds a blue card; or

“(v) is an immigrant otherwise authorized by this Act or by the Secretary of Homeland Security to be employed in the United States.

“(b) REQUIREMENTS.—

“(1) EMPLOYER.—An employer may not employ an alien for agricultural employment under the Program unless such employer is a designated agricul-
tural employer and complies with the terms of this section.

“(2) WORKER.—An alien may not be employed for agricultural employment under the Program unless such alien is a nonimmigrant agricultural worker and complies with the terms of this section.

“(c) NUMERICAL LIMITATION.—

“(1) FIRST 5 YEARS OF PROGRAM.—

“(A) IN GENERAL.—Subject to paragraph (2), the worldwide level of visas for nonimmigrant agricultural workers for the fiscal year during which the first visa is issued to a nonimmigrant agricultural worker and for each of the following 4 fiscal years shall be equal to—

“(i) 112,333; and

“(ii) the numerical adjustment made by the Secretary for such fiscal year in accordance with paragraph (2).

“(B) QUARTERLY ALLOCATION.—The annual allocation of visas described in subparagraph (A) shall be evenly allocated between the 4 quarters of the fiscal year unless the Secretary determines that an alternative allocation would better accommodate the seasonal demand for visas. Any unused visas in a quarter shall be
added to the allocation for the subsequent quarter of the same fiscal year.

“(C) Effect of 2nd or Subsequent Designated Agricultural Employer.—A non-immigrant agricultural worker who has a valid visa issued under this section that counted against the allocation described in subparagraph (A) shall not be recounted against the allocation if the worker is petitioned for by a subsequent designated agricultural employer.

“(2) Annual Adjustments for First 5 Years of Program.—

“(A) In General.—The Secretary, in consultation with the Secretary of Labor, and after reviewing relevant evidence submitted by agricultural producers and organizations representing agricultural workers, may increase or decrease, as appropriate, the worldwide level of visas under paragraph (1) for each of the 5 fiscal years referred to in paragraph (1) after considering appropriate factors, including—

“(i) a demonstrated shortage of agricultural workers;
“(ii) the level of unemployment and underemployment of agricultural workers during the preceding fiscal year;

“(iii) the number of applications for blue card status;

“(iv) the number of blue card visa applications approved;

“(v) the number of nonimmigrant agricultural workers sought by employers during the preceding fiscal year;

“(vi) the estimated number of United States workers, including blue card workers, who worked in agriculture during the preceding fiscal year;

“(vii) the number of nonimmigrant agricultural workers issued a visa in the most recent fiscal year who remain in the United States in compliance with the terms of such visa;

“(viii) the number of United States workers who accepted jobs offered by employers using the Electronic Job Registry during the preceding fiscal year;

“(ix) any growth or contraction of the United States agricultural industry that
has increased or decreased the demand for agricultural workers; and

“(x) any changes in the real wages paid to agricultural workers in the United States as an indication of a shortage or surplus of agricultural labor.

“(B) Notification; Implementation.—
The Secretary shall notify the Secretary of Homeland Security of any change to the worldwide level of visas for nonimmigrant agricultural workers. The Secretary of Homeland Security shall implement such changes.

“(C) Emergency Procedures.—The Secretary shall establish, by regulation, procedures for immediately adjusting an annual allocation under paragraph (1) for labor shortages, as determined by the Secretary. The Secretary shall make a decision on a petition for an adjustment of status not later than 30 days after receiving such petition.

“(3) Sixth and Subsequent Years of Program.—The Secretary, in consultation with the Secretary of Labor, shall establish the worldwide level of visas for nonimmigrant agricultural workers for each fiscal year following the fiscal years referred to in
paragraph (1) after considering appropriate factors, including—

“(A) a demonstrated shortage of agricultural workers;

“(B) the level of unemployment and underemployment of agricultural workers during the preceding fiscal year;

“(C) the number of applications for blue card status;

“(D) the number of blue card visa applications approved;

“(E) the number of nonimmigrant agricultural workers sought by employers during the preceding fiscal year;

“(F) the estimated number of United States workers, including blue card workers, who worked in agriculture during the preceding fiscal year;

“(G) the number of nonimmigrant agricultural workers issued a visa in the most recent fiscal year who remain in the United States in compliance with the terms of such visa;

“(II) the number of United States workers who accepted jobs offered by employers using the
Electronic Job Registry during the preceding fiscal year;

"(I) any growth or contraction of the United States agricultural industry that has increased or decreased the demand for agricultural workers; and

"(J) any changes in the real wages paid to agricultural workers in the United States as an indication of a shortage or surplus of agricultural labor.

"(4) EMERGENCY PROCEDURES.—The Secretary shall establish, by regulation, procedures for immediately adjusting an annual allocation under paragraph (3) for labor shortages, as determined by the Secretary. The Secretary shall make a decision on a petition for an adjustment of status not later than 30 days after receiving such petition

"(d) REQUIREMENTS FOR NONIMMIGRANT AGRICULTURAL WORKERS.—

"(1) ELIGIBILITY FOR NONIMMIGRANT AGRICULTURAL WORKER STATUS.—

"(A) IN GENERAL.—An alien is not eligible to be admitted to the United States as a non-immigrant agricultural worker if the alien—
"(i) violated a material term or condition of a previous admission as a non-immigrant agricultural worker during the most recent 3-year period (other than a contract agricultural worker who voluntarily abandons his or her employment before the end of the contract period or whose employment is terminated by the employer for cause);

"(ii) has not obtained successful clearance of any security and criminal background checks required by the Secretary of Homeland Security or any other examination required under this Act; or

"(iii)(I) departed from the United States while subject to an order of exclusion, deportation, or removal, or pursuant to an order of voluntary departure; and

"(II)(aa) is outside of the United States; or

"(bb) has reentered the United States illegally after December 31, 2012, without receiving consent to the alien's reapplication for admission under section 212(a)(9)."
"(B) Waiver.—The Secretary of Homeland Security may waive the application of subparagraph (A)(iii) on behalf of an alien if the alien—

"(i) is the spouse or child of a United States citizen or lawful permanent resident; "(ii) is the parent of a child who is a United States citizen or lawful permanent resident; "(iii) meets the requirements set forth in clause (ii) or (iii) of section 245D(b)(1)(A); or "(iv)(I) meets the requirements set forth in section 245D(b)(1)(A)(ii); "(II) is 16 years or older on the date on which the alien applies for non-immigrant agricultural status; and "(III) was physically present in the United States for an aggregate period of not less than 3 years during the 6-year period immediately preceding the date of the enactment of this section.

"(2) Term of Stay for Nonimmigrant Agricultural Workers.— "(A) In general.—
“(i) INITIAL ADMISSION.—A non-immigrant agricultural worker may be admitted into the United States in such status for an initial period of 3 years.

“(ii) RENEWAL.—A nonimmigrant agricultural worker may renew such worker’s period of admission in the United States for 1 additional 3-year period.

“(B) BREAK IN PRESENCE.—A non-immigrant agricultural worker who has been admitted to the United States for 2 consecutive periods under subparagraph (A) is ineligible to renew the alien’s nonimmigrant agricultural worker status until such alien—

“(i) returns to a residence outside the United States for a period of not less than 3 months; and

“(ii) seeks to reenter the United States under the terms of the Program as a non-immigrant agricultural worker.

“(3) LOSS OF STATUS.—

“(A) IN GENERAL.—An alien admitted as a nonimmigrant agricultural worker shall be ineligible for such status and shall be required to depart the United States if such alien—
“(i) after the completion of his or her contract with a designated agricultural employer, is not employed in agricultural employment by a designated agricultural employer; or

“(ii) is an at-will agricultural worker and is not continuously employed by a designated agricultural employer in agricultural employment as an at-will agricultural worker.

“(B) EXCEPTION.—Subject to subparagraph (C), a nonimmigrant agricultural worker has not violated subparagraph (A) if the nonimmigrant agricultural worker is not employed in agricultural employment for a period not to exceed 60 days.

“(C) WAIVER.—Notwithstanding subparagraph (B), the Secretary of Homeland Security may waive the application of clause (i) or (ii) of subparagraph (A) for a nonimmigrant agricultural worker who was not employed in agricultural employment for a period of more than 60 days if such period of unemployment was due to—

“(i) the injury of such worker; or
“(ii) a natural disaster declared by the Secretary.

“(D) TOLLING OF EMPLOYMENT REQUIREMENT.—A nonimmigrant agricultural worker may leave the United States for up to 60 days in any fiscal year while in such status. During the period in which the worker is outside of the United States, the 60-day limit specified in subparagraph (B) shall be tolled.

“(4) PORTABILITY OF STATUS.—

“(A) CONTRACT AGRICULTURAL WORKERS.—

“(i) IN GENERAL.—Except as provided in clause (ii), an alien who entered the United States as a contract agricultural worker may—

“(I) seek employment as a non-immigrant agricultural worker with a designated agricultural employer other than the designated agricultural employer with whom the employee had a contract described in section 101(a)(15)(W)(iii)(I); and

“(II) accept employment with such new employer after the date the
contract agricultural worker completes such contract.

"(ii) Voluntary Abandonment; Termination for Cause.—A contract agricultural worker who voluntarily abandons his or her employment before the end of the contract period or whose employment is terminated for cause by the employer—

"(I) may not accept subsequent employment with another designated agricultural employer without first departing the United States and reentering pursuant to a new offer of employment; and

"(II) is not entitled to the 75 percent payment guarantee described in subsection (e)(4)(B).

"(iii) Termination by Mutual Agreement.—The termination of an employment contract by mutual agreement of the designated agricultural employer and the contract agricultural worker shall not be considered voluntary abandonment for purposes of clause (ii).
"(B) AT-WILL AGRICULTURAL WORKERS.—

An alien who entered the United States as an at-will agricultural worker may seek employment as an at-will agricultural worker with any other designated agricultural employer referred to in section 101(a)(15)(W)(iv)(I).

"(5) PROHIBITION ON GEOGRAPHIC LIMITATION.—A nonimmigrant visa issued to a nonimmigrant agricultural worker—

"(A) shall not limit the geographical area within which such worker may be employed;

"(B) shall not limit the type of agricultural employment such worker may perform; and

"(C) shall restrict such worker to employment with designated agricultural employers.

"(6) TREATMENT OF SPOUSES AND CHILDREN.—

A spouse or child of a nonimmigrant agricultural worker—

"(A) shall not be entitled to a visa or any immigration status by virtue of the relationship of such spouse or child to such worker; and

"(B) may be provided status as a non-immigrant agricultural worker if the spouse or child is independently qualified for such status.

"(e) EMPLOYER REQUIREMENTS.—
“(1) Designated Agricultural Employer Status.—

“(A) Registration Requirement.—Each employer seeking to employ nonimmigrant agricultural workers shall register for designated agricultural employer status by submitting to the Secretary, through the Farm Service Agency in the geographic area of the employer or electronically to the Secretary, a registration that includes—

“(i) the employer’s employer identification number; and

“(ii) a registration fee, in an amount determined by the Secretary, which shall be used for the costs of administering the program.

“(B) Criteria.—The Secretary shall grant designated agricultural employer status to an employer who submits a registration for such status that includes—

“(i) documentation that the employer is engaged in agriculture;

“(ii) the estimated number of non-immigrant agricultural workers the employer will need each year;
“(iii) the anticipated periods during which the employer will need such workers; and

“(iv) documentation establishing need for a specified agricultural occupation or occupations.

“(C) DESIGNATION.—

“(i) Registration number.—The Secretary shall assign each employer that meets the criteria established pursuant to subparagraph (B) with a designated agricultural employer registration number.

“(ii) Term of designation.—Each employer granted designated agricultural employer status under this paragraph shall retain such status for a term of 3 years. At the end of such 3-year term, the employer may renew the registration for another 3-year term if the employer meets the requirements set forth in subparagraphs (A) and (B).

“(D) Assistance.—In carrying out the functions described in this subsection, the Secretary may work through the Farm Service
Agency, or any other agency in the Department of Agriculture—

“(i) to assist agricultural employers with the registration process under this paragraph by providing such employers with—

“(I) technical assistance and expertise;

“(II) internet access for submitting such applications; and

“(III) a nonelectronic means for submitting such registrations; and

“(ii) to provide resources about the Program, including best practices and compliance related assistance and resources or training to assist in retention of such workers to agricultural employers.

“(E) DEPOSIT OF REGISTRATION FEE.—Fees collected pursuant to subparagraph (A)(ii)—

“(i) shall be deposited into the Immigration Examinations Fee Account pursuant to section 286(m); and

“(ii) shall remain available until expended pursuant to section 286(n).
“(2) NONIMMIGRANT AGRICULTURAL WORKER
PETITION PROCESS.—

“(A) IN GENERAL.—Not later than 45 days
before the date on which nonimmigrant agricul-
tural workers are needed, a designated agricul-
tural employer seeking to employ such workers
shall submit a petition to the Secretary of Hom-
land Security that includes the employer’s des-
ignated agricultural employer registration num-
ber.

“(B) ATTESTATION.—An petition submitted
under subparagraph (A) shall include an attesta-
tion of the following:

“(i) The number of named or unnamed
nonimmigrant agricultural workers the des-
ignated agricultural employer is seeking to
employ during the applicable period of em-
ployment.

“(ii) The total number of contract ag-
ricultural workers and of at-will agricul-
tural workers the employer will require for
each occupational category.

“(iii) The anticipated period, includ-
ing expected beginning and ending dates,
during which such employees will be needed.
“(iv) Evidence of contracts or written disclosures of employment terms and conditions in accordance with the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), which have been disclosed or provided to the non-immigrant agricultural workers, or a sample of such contract or disclosure for unnamed workers.

“(v) The information submitted to the State workforce agency pursuant to paragraph (3)(A)(i).

“(vi) The record of United States workers described in paragraph (3)(A)(iii) on the date of the request.

“(vii) Evidence of offers of employment made to United States workers as required under paragraph (3)(B).

“(viii) The employer will comply with the additional program requirements for designated agricultural employers described in paragraph (4).

“(C) EMPLOYMENT AUTHORIZATION WHEN CHANGING EMPLOYERS.—Nonimmigrant agricultural workers in the United States who are iden-
tified in a petition submitted pursuant to sub-
paragraph (A) and are in lawful status may
commence employment with their designated ag-
gricultural employer after such employer has sub-
mitted such petition to the Secretary of Home-
land Security.

“(D) REVIEW.—The Secretary of Homeland
Security shall review each petition submitted by
designated agricultural employers under this
paragraph for completeness or obvious inaccura-
cies. Unless the Secretary of Homeland Security
determines that the petition is incomplete or ob-
viously inaccurate, the Secretary shall accept the
petition. The Secretary shall establish a proce-
dure for the processing of petitions filed under
this subsection. Not later than 7 working days
after the date of the filing, the Secretary, by elec-
tronic or other means assuring expedited deliv-
ery, shall submit a copy of notice of approval or
denial of the petition to the petitioner and, in
the case of approved petitions, to the appropriate
immigration officer at the port of entry or
United States consulate, as appropriate, if the
petitioner has indicated that the alien bene-
ficiary or beneficiaries will apply for a visa or admission to the United States.

“(3) Employment of United States workers.—

“(A) Recruitment.—

“(i) Filing a job opportunity with local office of state workforce agency.—Not later than 60 days before the date on which the employer desires to employ a nonimmigrant agricultural worker, the employer shall submit the job opportunity for such worker to the local office of the State workforce agency where the job site is located and authorize the posting of the job opportunity on the appropriate Department of Labor Electronic Job Registry for a period of 45 days.

“(ii) Construction.—Nothing in clause (i) may be construed to cause a posting referred to in clause (i) to be treated as an interstate job order under section 653.500 of title 20, Code of Federal Regulations (or similar successor regulation).

“(iii) Record of United States workers.—An employer shall keep a
record of all eligible, able, willing, and qualified United States workers who apply for agricultural employment with the employer for the agricultural employment for which the nonimmigrant agricultural non-immigrant workers are sought.

“(B) REQUIREMENT TO HIRE.—

“(i) UNITED STATES WORKERS.—An employer may not seek a nonimmigrant agricultural worker for agricultural employment unless the employer offers such employment to any equally or better qualified United States worker who will be available at the time and place of need and who applies for such employment during the 45-day recruitment period referred to in subparagraph (A)(i).

“(ii) EXCEPTION.—Notwithstanding clause (i), the employer may offer the job to a nonimmigrant agricultural worker instead of an alien in blue card status if—

“(I) such worker was previously employed by the employer as an H-2A worker;
“(II) such worker worked for the employer for 3 years during the most recent 4-year period; and
“(III) the employer pays such worker the adverse effect wage rate calculated under subsection (f)(5)(B).

“(4) ADDITIONAL PROGRAM REQUIREMENTS FOR DESIGNATED AGRICULTURAL EMPLOYERS.—Each designated agricultural employer shall comply with the following requirements:

“(A) NO DISPLACEMENT OF UNITED STATES WORKERS.—

“(i) IN GENERAL.—The employer shall not displace a United States worker employed by the employer, other than for good cause, during the period of employment of the nonimmigrant agricultural worker and for a period of 30 days preceding such period in the occupation and at the location of employment for which the employer seeks to employ nonimmigrant agricultural workers.

“(ii) LABOR DISPUTE.—The employer shall not employ a nonimmigrant agricultural worker for a specific job for which the
employer is requesting a nonimmigrant agricultural worker because the former occupant of the job is on strike or being locked out in the course of a labor dispute.

“(B) GUARANTEE OF EMPLOYMENT FOR CONTRACT AGRICULTURAL WORKERS.—

“(i) OFFER TO CONTRACT WORKER.—

The employer shall guarantee to offer contract agricultural workers employment for the hourly equivalent of at least 75 percent of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. In this clause, the term ‘hourly equivalent’ means the number of hours in the work days as stated in the job offer and shall exclude the worker’s Sabbath and Federal holidays. If the employer affords the contract agricultural worker less employment than the number of hours required under this subparagraph, the employer shall pay such worker the amount the worker would have
earned had the worker worked the guaranteed number of hours.

“(ii) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker’s Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

“(iii) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of a contract agricultural worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regu-
latory drought, before the guarantee in
clause (i) is fulfilled, the employer—

“(I) may terminate the worker’s
employment;

“(II) shall fulfill the employment
guarantee described in clause (i) for
the work days that have elapsed from
the first work day after the arrival of
the worker to the termination of em-
ployment;

“(III) shall make efforts to trans-
fer the worker to other comparable em-
ployment acceptable to the worker; and

“(IV) if such a transfer does not
take place, shall provide the return
transportation required under sub-
paragraph (J).

“(C) WORKERS’ COMPENSATION.—

“(i) REQUIREMENT TO PROVIDE.—If a
job referred to in paragraph (3) is not cov-
ered by the State workers’ compensation
law, the employer shall provide, at no cost
to the nonimmigrant agricultural worker,
insurance covering injury and disease aris-
ing out of, and in the course of, such job.
“(ii) BENEFITS.—The insurance required to be provided under clause (i) shall provide benefits at least equal to those provided under and pursuant to the State workers’ compensation law for comparable employment.

“(D) PROHIBITION FOR USE FOR NON-AGRICULTURAL SERVICES.—The employer may not employ a nonimmigrant agricultural worker for employment other than agricultural employment.

“(E) WAGES.—The employer shall pay not less than the wage required under subsection (f).

“(F) DEDUCTION OF WAGES.—The employer shall make only deductions from a non-immigrant agricultural worker’s wages that are authorized by law and are reasonable and customary in the occupation and area of employment of such worker.

“(G) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

“(i) IN GENERAL.—Except as provided in clauses (iv) and (v), a designated agricultural employer shall offer to provide a nonimmigrant agricultural worker with
housing at no cost in accordance with clause (ii) or (iii).

"(ii) HOUSING.—An employer may provide housing to a nonimmigrant agricultural worker that meets—

"(I) applicable Federal standards for temporary labor camps; or

"(II) applicable local standards (or, in the absence of applicable local standards, State standards) for rental or public accommodation housing or other substantially similar class of habitation.

"(iii) HOUSING PAYMENTS.—

"(I) PUBLIC HOUSING.—If the employer arranges public housing for nonimmigrant agricultural workers through a State, county, or local government program and such public housing units normally require payments from tenants, such payments shall be made by the employer directly to the landlord.

"(II) DEPOSITS.—Deposits for bedding or other similar incidentals re-
lated to housing shall not be collected from workers by employers who provide housing for such workers.

"(III) DAMAGES.—The employer may require any worker who is responsible for damage to housing that did not result from normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repairing such damage.

"(iv) HOUSING ALLOWANCE ALTERNATIVE.—

"(I) IN GENERAL.—The employer may provide a reasonable housing allowance instead of providing housing under clause (i). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker or assists a worker in locating housing, which the worker occupies, shall not be deemed a housing
provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing that is owned or controlled by the employer.

"(II) Certification Requirement.—Contract agricultural workers may only be provided a housing allowance if the Governor of the State in which the place of employment is located certifies to the Secretary that there is adequate housing available in the area of intended employment for migrant farm workers and contract agricultural workers who are seeking temporary housing while employed in agricultural work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

"(III) Amount of Allowance.—

"(aa) Nonmetropolitan Counties.—If the place of employment of the workers provided
an allowance under this clause is a nonmetropolitan county, the amount of the housing allowance under this clause shall be equal to the average fair market rental for existing housing in nonmetropolitan counties in the State in which the place of employment is located, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

"(bb) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this clause is a metropolitan county, the amount of the housing allowance under this clause shall be equal to the average fair market rental for existing housing in metropolitan counties
in the State in which the place of employment is located, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(v) Exception for commuting workers.—Nothing in this subparagraph may be construed to require an employer to provide housing or a housing allowance to workers who reside outside of the United States if their place of residence is within normal commuting distance and the job site is within 50 miles of an international land border of the United States.

“(II) Worksite transportation for contract workers.—During the period a designated agricultural employer employs a contract agricultural worker, such employer shall, at the employer’s option, provide or reimburse the contract agricultural worker for the cost of daily
transportation from the contract worker's living quarters to the contract agricultural worker's place of employment.

"(I) REIMBURSEMENT OF TRANSPORTATION TO THE PLACE OF EMPLOYMENT.—

"(i) IN GENERAL.—A nonimmigrant agricultural worker shall be reimbursed by the first employer for the cost of the worker's transportation and subsistence from the place from which the worker came from to the place of first employment.

"(ii) LIMITATION.—The amount of reimbursement provided under clause (i) to a worker shall not exceed the lesser of—

"(I) the actual cost to the worker of the transportation and subsistence involved; or

"(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

"(J) REIMBURSEMENT OF TRANSPORTATION FROM PLACE OF EMPLOYMENT.—

"(i) IN GENERAL.—A contract agricultural worker who completes at least 27
months under his or her contract with the
same designated agricultural employer shall
be reimbursed by that employer for the cost
of the worker's transportation and subsis-
tence from the place of employment to the
place from which the worker came from
abroad to work for the employer.

“(ii) LIMITATION.—The amount of re-
imbursement required under clause (i) shall
not exceed the lesser of—

“(I) the actual cost to the worker
of the transportation and subsistence
involved; or

“(II) the most economical and
reasonable common carrier transpor-
tation charges and subsistence costs for
the distance involved.

“(f) WAGES.—

“(1) WAGE RATE REQUIREMENT.—

“(A) IN GENERAL.—A nonimmigrant agri-
cultural worker employed by a designated agri-
cultural employer shall be paid not less than the
wage rate for such employment set forth in para-
graph (3).
“(B) WORKERS PAID ON A PIECE RATE OR
OTHER INCENTIVE BASIS.—If an employer pays
by the piece rate or other incentive method and
requires 1 or more minimum productivity stand-
ard as a condition of job retention, such stand-
ards shall be specified in the job offer and be no
more than those which have been normally re-
quired (at the time of the employee’s first appli-
cation for designated employer status) by other
employers for the activity in the geographic area
of the job, unless the Secretary approves a higher
standard.

“(2) JOB CATEGORIES.—

“(A) IN GENERAL.—For purposes of para-
graph (1), each nonimmigrant agricultural
worker employed by such employer shall be as-
signed to 1 of the following standard occupa-
tional classifications, as defined by the Bureau
of Labor Statistics:

“(i) First-Line Supervisors of Farm-
ing, Fishing, and Forestry Workers (45–
1011).


“(iii) Graders and Sorters, Agricul-
tural Products (45–2041).
“(iv) Agricultural equipment operator (45–2091).

“(v) Farmworkers and Laborers, Crop, Nursery, and Greenhouse (45–2092).

“(vi) Farmworkers, Farm, Ranch and Aquacultural Animals (45–2093).

“(B) DETERMINATION OF CLASSIFICATION.—A nonimmigrant agricultural worker is employed in a standard occupational classification described in clause (i), (ii), (iii), (iv), (v), or (vi) of subparagraph (A) if the worker performs activities associated with that occupational classification, as specified on the employer’s petition, for at least 75 percent of the time in a semiannual employment period.

“(3) DETERMINATION OF WAGE RATE.—

“(A) CALENDAR YEARS 2014 THROUGH 2016.—The wage rate under this subparagraph for calendar years 2014 through 2016 shall be the higher of—

“(i) the applicable Federal, State, or local minimum wage; or

“(ii)(I) for the category described in paragraph (2)(A)(iii)—
“(aa) $9.37 for calendar year 2014;

“(bb) $9.60 for calendar year 2015; and

“(cc) $9.84 for calendar year 2016;

“(II) for the category described in paragraph (2)(A)(iv)—

“(aa) $11.30 for calendar year 2014;

“(bb) $11.58 for calendar year 2015; and

“(cc) $11.87 for calendar year 2016;

“(III) for the category described in paragraph (2)(A)(v)—

“(aa) $9.17 for calendar year 2014;

“(bb) $9.40 for calendar year 2015; and

“(cc) $9.64 for calendar year 2016; and

“(IV) for the category described in paragraph (2)(A)(vi)—
“(aa) $10.82 for calendar year 2014;

“(bb) $11.09 for calendar year 2015; and

“(cc) $11.37 for calendar year 2016.

“(B) SUBSEQUENT YEARS.—The Secretary shall increase the hourly wage rates set forth in clauses (i) through (iv) of subparagraph (A), for each calendar year after the calendar years described in subparagraph (A) by an amount equal to—

“(i) 1.5 percent, if the percentage increase in the Employment Cost Index for wages and salaries during the previous calendar year, as calculated by the Bureau of Labor Statistics, is less than 1.5 percent;

“(ii) the percentage increase in such Employment Cost Index, if such percentage increase is between 1.5 percent and 2.5 percent, inclusive; or

“(iii) 2.5 percent, if such percentage increase is greater than 2.5 percent.

“(C) AGRICULTURAL SUPERVISORS AND ANIMAL BREEDERS.—Not later than September
1, 2015, and annually thereafter, the Secretary, in consultation with the Secretary of Labor, shall establish the required wage for the next calendar year for each of the job categories set out in clauses (i) and (ii) of paragraph (2)(A).

"(D) SURVEY BY BUREAU OF LABOR STATISTICS.—Not later than April 15, 2015, the Bureau of Labor Statistics shall consult with the Secretary to expand the Occupational Employment Statistics Survey to survey agricultural producers and contractors and produce improved wage data by State and the job categories set out in clauses (i) through (vi) of subparagraph (A).

"(4) CONSIDERATION.—In determining the wage rate under paragraph (3)(C), the Secretary may consider appropriate factors, including—

"(A) whether the employment of additional alien workers at the required wage will adversely affect the wages and working conditions of workers in the United States similarly employed;

"(B) whether the employment in the United States of an alien admitted under section 101(a)(15)(II)(ii)(a) or unauthorized aliens in the agricultural workforce has depressed wages of United States workers engaged in agricultural
employment below the levels that would otherwise have prevailed if such aliens had not been employed in the United States;

“(C) whether wages of agricultural workers are sufficient to support such workers and their families at a level above the poverty thresholds determined by the Bureau of Census;

“(D) the wages paid workers in the United States who are not employed in agricultural employment but who are employed in comparable employment;

“(E) the continued exclusion of employers of nonimmigrant alien workers in agriculture from the payment of taxes under chapter 21 of the Internal Revenue Code of 1986 (26 U.S.C. 3101 et seq.) and chapter 23 of such Code (26 U.S.C. 3301 et seq.);

“(F) the impact of farm labor costs in the United States on the movement of agricultural production to foreign countries;

“(G) a comparison of the expenses and cost structure of foreign agricultural producers to the expenses incurred by agricultural producers based in the United States; and
“(H) the accuracy and reliability of the Occupational Employment Statistics Survey.

“(5) ADVERSE EFFECT WAGE RATE.—

“(A) PROHIBITION OF MODIFICATION.—The adverse effect wage rates in effect on April 15, 2013, for nonimmigrants admitted under 101(a)(15)(H)(ii)(a)—

“(i) shall remain in effect until the date described in section 2233 of the Agricultural Worker Program Act of 2013; and

“(ii) may not be modified except as provided in subparagraph (B).

“(B) EXCEPTION.—Until the Secretary establishes the wage rates required under paragraph (3)(C), the adverse effect wage rates in effect on the date of the enactment of the Agricultural Worker Program Act of 2013 shall be—

“(i) deemed to be such wage rates; and

“(ii) after September 1, 2015, adjusted annually in accordance with paragraph (3)(B).

“(C) NONPAYMENT OF FICA AND FUTA TAXES.—An employer employing nonimmigrant agricultural workers shall not be required to pay and withhold from such workers—
“(i) the tax required under section 3101 of the Internal Revenue Code of 1986; or

“(ii) the tax required under section 3301 of the Internal Revenue Code of 1986.

“(6) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), employers seeking to hire United States workers shall offer the United States workers not less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to nonimmigrant agricultural workers. No job offer may impose on United States workers any restrictions or obligations that will not be imposed on the employer’s nonimmigrant agricultural workers.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), a designated agricultural employer is not required to provide housing or a housing allowance to United States workers.

“(g) WORKER PROTECTIONS AND DISPUTE RESOLUTION.—
“(1) **EQUALITY OF TREATMENT.**—Nonimmigrant agricultural workers shall not be denied any right or remedy under any Federal, State, or local labor or employment law applicable to United States workers engaged in agricultural employment.

“(2) **APPLICABILITY OF THE MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.**—

“(A) **MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.**—Nonimmigrant agricultural workers shall be considered migrant agricultural workers for purposes of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

“(B) **ELIGIBILITY OF NONIMMIGRANT AGRICULTURAL WORKERS FOR CERTAIN LEGAL ASSISTANCE.**—A nonimmigrant agricultural worker shall be considered to be lawfully admitted for permanent residence for purposes of establishing eligibility for legal services under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) on matters relating to wages, housing, transportation, and other employment rights.

“(C) **MEDIATION.**—

“(i) **FREE MEDIATION SERVICES.**—The Federal Mediation and Conciliation Service
shall be available to assist in resolving disputes arising under this section between nonimmigrant agricultural workers and designated agricultural employers without charge to the parties.

“(ii) COMPLAINT.—If a nonimmigrant agricultural worker files a complaint under section 504 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854), not later than 60 days after the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute.

“(iii) NOTICE.—Upon filing a request under clause (ii) and giving of notice to the parties, the parties shall attempt mediation within the period specified in clause (iv).

“(iv) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 90 days beginning on the date on
which the Federal Mediation and Conciliation Service receives a request for assistance under clause (vi) unless the parties agree to an extension of such period.

“(v) AUTHORIZATION OF APPROPRIATIONS.—

“(I) IN GENERAL.—Subject to clause (II), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this subparagraph.

“(II) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized—

“(aa) to conduct the mediation or other dispute resolution activities from any other account containing amounts available to the Director; and

“(bb) to reimburse such account with amounts appropriated pursuant to subclause (I).
“(vi) PRIVATE MEDIATION.—If all parties agree, a private mediator may be employed as an alternative to the Federal Mediation and Conciliation Service.

“(3) OTHER RIGHTS.—Nonimmigrant agricultural workers shall be entitled to the rights granted to other classes of aliens under sections 242(h) and 245E.

“(4) WAIVER OF RIGHTS.—Agreements by non-immigrant agricultural workers to waive or modify any rights or protections under this section shall be considered void or contrary to public policy except as provided in a collective bargaining agreement with a bona fide labor organization.

“(h) ENFORCEMENT AUTHORITY.—

“(1) INVESTIGATION OF COMPLAINTS.—

“(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—

“(i) PROCESS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a designated agricultural employer’s failure to meet a condition specified in subsection (e), or an employer’s mis-
representation of material facts in a petition under subsection (e)(2).

“(ii) FILING.—Any aggrieved person or organization, including bargaining representatives, may file a complaint referred to in clause (i) not later than 1 year after the date of the failure or misrepresentation, respectively.

“(iii) INVESTIGATION OR HEARING.—
The Secretary of Labor shall conduct an investigation if there is reasonable cause to believe that such failure or misrepresentation has occurred.

“(B) DETERMINATION ON COMPLAINT.—
Under such process, the Secretary of Labor shall provide, not later than 30 days after the date on which such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (F). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United
States Code, within 60 days after the date of the
determination. If such a hearing is requested, the
Secretary of Labor shall make a finding con-
cerning the matter not later than 60 days after
the date of the hearing. In the case of similar
complaints respecting the same applicant, the
Secretary of Labor may consolidate the hearings
under this subparagraph on such complaints.

“(C) Failure to meet conditions.—If
the Secretary of Labor finds, after notice and op-
portunity for a hearing, a failure to meet a con-
dition under subsection (e) or (f), or a material
misrepresentation of fact in a petition under
subsection (e)(2)—

“(i) the Secretary of Labor shall notify
the Secretary of such finding and may, in
addition, impose such other administrative
remedies (including civil money penalties
in an amount not to exceed $1,000 per vio-
lation) as the Secretary of Labor determines
to be appropriate; and

“(ii) the Secretary may disqualify the
designated agricultural employer from the
employment of nonimmigrant agricultural
workers for a period of 1 year.
“(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition under subsection (e) or (f) or a willful misrepresentation of a material fact in an registration or petition under paragraph (1) or (2) of subsection (e)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

“(ii) the Secretary of Labor may seek appropriate legal or equitable relief; and

“(iii) the Secretary may disqualify the designated agricultural employer from the employment of nonimmigrant agricultural workers for a period of 2 years.

“(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition under subsection (e)
or (f) or a willful misrepresentation of a material fact in an registration or petition under paragraph (1) or (2) of subsection (e), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's petition under subsection (e)(2) or during the period of 30 days preceding such period of employment—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(ii) the Secretary may disqualify the employer from the employment of non-immigrant agricultural workers for a period of 3 years.

“(F) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation,
subsistence reimbursement, or guarantee of employment required under subsections (e)(4) and (f), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or nonimmigrant agricultural worker employed by the employer in the specific employment in question. The back wages or other required benefits required under subsections (e) and (f) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

"(G) DISPOSITION OF PENALTIES.—Civil penalties collected under this paragraph shall be deposited into the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1) of the Border Security, Economic Opportunity, and Immigration Modernization Act.

"(2) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to a petition under subsection (e)(2) in excess of $90,000.

"(3) ELECTION.—A nonimmigrant agricultural worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil
action unless a complaint based on the same violation
filed with the Secretary of Labor under paragraph (1)
is withdrawn before the filing of such action, in which
case the rights and remedies available under this sub-
section shall be exclusive.

“(4) PRECLUSIVE EFFECT.—Any settlement by a
nonimmigrant agricultural worker, a designated agri-
cultural employer, or any person reached through the
mediation process required under subsection (g)(2)(C)
shall preclude any right of action arising out of the
same facts between the parties in any Federal or
State court or administrative proceeding, unless spe-
cifically provided otherwise in the settlement agree-
ment.

“(5) SETTLEMENTS.—Any settlement by the Sec-
retary of Labor with a designated agricultural worker
on behalf of a nonimmigrant agricultural worker of
a complaint filed with the Secretary of Labor under
this section or any finding by the Secretary of Labor
under this subsection shall preclude any right of ac-
tion arising out of the same facts between the parties
under any Federal or State court or administrative
proceeding, unless specifically provided otherwise in
the settlement agreement.
“(6) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section.

“(7) DISCRIMINATION PROHIBITED.—It is a violation of this subsection for any person who has filed a petition under subsection (e) or (f) to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee, including a former employee or an applicant for employment, because the employee—

“(A) has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of subsection (e) or (f), or any rule or regulation relating to subsection (e) or (f); or

“(B) cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer’s compliance with the requirements under subsection (e) or (f) or any rule or regulation pertaining to subsection (e) or (f).

“(8) ROLE OF ASSOCIATIONS.—
“(A) VIOLATION BY A MEMBER OF AN ASSOCIATION.—

“(i) IN GENERAL.—If an association acting as the agent of an employer files an application on behalf of such employer, the employer is fully responsible for such application, and for complying with the terms and conditions of subsection (e). If such an employer is determined to have violated any requirement described in this subsection, the penalty for such violation shall apply only to that employer except as provided in clause (ii).

“(ii) COLLECTIVE RESPONSIBILITY.—If the Secretary of Labor determines that the association or other members of the association participated in, had knowledge of, or reason to know of a violation described in clause (i), the penalty shall also be invoked against the association and complicit association members.

“(B) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—

“(i) IN GENERAL.—If an association filing an application as a sole or joint em-
ployer is determined to have violated any requirement described in this section, the penalty for such violation shall apply only to the association except as provided in clause (ii).

“(ii) Member responsibility.—If the Secretary of Labor determines that 1 or more association members participated in, had knowledge of, or reason to know of the violation described in clause (i), the penalty shall be invoked against all complicit association members.

“(i) Special nonimmigrant visa processing and wage determination procedures for certain agricultural occupations.—

“(1) Finding.—Certain industries possess unique occupational characteristics that necessitate the Secretary of Agriculture to adopt special procedures relating to housing, pay, and visa program application requirements for those industries.

“(2) Special procedures industry defined.—In this subsection, the term ‘Special Procedures Industry’ means—

“(A) shepherding and goat herding;
“(B) itinerant commercial beekeeping and pollination;

“(C) open range production of livestock;

“(D) itinerant animal shearing; and

“(E) custom combining industries.

“(3) WORK LOCATIONS.—The Secretary shall allow designated agricultural employers in a Special Procedures Industry that do not operate in a single fixed-site location to provide, as part of its registration or petition under the Program, a list of anticipated work locations, which—

“(A) may include an anticipated itinerary;

and

“(B) may be subsequently amended by the employer, after notice to the Secretary.

“(4) WAGE RATES.—The Secretary may establish monthly, weekly, or biweekly wage rates for occupations in a Special Procedures Industry for a State or other geographic area. For an employer in those Special Procedures Industries that typically pay a monthly wage, the Secretary shall require that workers will be paid not less frequently than monthly and at a rate no less than the legally required monthly cash wage for such employer as of the date of the enactment of the Border Security, Economic Oppor-
tunity, and Immigration Modernization Act and in
an amount as re-determined annually by the Sec-
retary of Agriculture through rulemaking.

“(5) HOUSING.—The Secretary shall allow for
the provision of housing or a housing allowance by
employers in Special Procedures Industries and allow
housing suitable for workers employed in remote loca-
tions.

“(6) ALLERGY LIMITATION.—An employer en-
gaged in the commercial beekeeping or pollination
services industry may require that an applicant be
free from bee pollen, venom, or other bee-related aller-
gies.

“(7) APPLICATION.—An individual employer in
a Special Procedures Industry may file a program
petition on its own behalf or in conjunction with an
association of employers. The employer’s petition may
be part of several related petitions submitted simulta-
neously that constitute a master petition.

“(8) RULEMAKING.—The Secretary or, as appro-
priate, the Secretary of Homeland Security or the
Secretary of Labor, after consultation with employers
and employee representatives, shall publish for notice
and comment proposed regulations relating to hous-
ing, pay, and application procedures for Special Procedures Industries.

“(j) MISCELLANEOUS PROVISIONS.—

“(1) DISQUALIFICATION OF NONIMMIGRANT AGRICULTURAL WORKERS FROM FINANCIAL ASSISTANCE.— An alien admitted as a nonimmigrant agricultural worker is not eligible for any program of financial assistance under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Secretary in consultation with other agencies of the United States.

“(2) MONITORING REQUIREMENT.—

“(A) IN GENERAL.—The Secretary shall monitor the movement of nonimmigrant agricultural workers through—

“(i) the Employment Verification System described in section 274A(b); and

“(ii) the electronic monitoring system established pursuant to subparagraph (B).

“(B) ELECTRONIC MONITORING SYSTEM.— Not later than 2 years after the effective date of this section, the Secretary of Homeland Security, through the Director of U.S. Citizenship and Im-
migrant Services, shall establish an electronic
monitoring system, which shall—

“(i) be modeled on the Student and
Exchange Visitor Information System
(SEVIS) and the SEVIS II tracking system
administered by U.S. Immigration and
Customs Enforcement;

“(ii) monitor the presence and employ-
ment of nonimmigrant agricultural work-
ers; and

“(iii) assist in ensuring the compliance
of designated agricultural employers and
nonimmigrant agricultural workers with
the requirements of the Program.”.

(b) RULEMAKING.—The Secretary of Agriculture shall
issue regulations to carry out section 218A of the Immigra-
tion and Nationality Act, as added by subsection (a), not
later than 1 year after the date of the enactment of this
Act.

(c) CLERICAL AMENDMENT.—The table of contents is
amended by inserting after the item relating to section 218
the following:

“Sec. 218A. Nonimmigrant agricultural worker program.”.

(d) EFFECTIVE DATE.—The amendments made by this
section shall take effect on October 1, 2014.
SEC. 2233. TRANSITION OF H-2A WORKER PROGRAM.

(a) SUNSET OF PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (2), an employer may not petition to employ an alien pursuant to section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) after the date that is 1 year after the date on which the regulations issued pursuant to section 2241(b) become effective.

(2) EXCEPTION.—An employer may employ an alien described in paragraph (1) for the shorter of—

(A) 10 months; or

(B) the time specified in the position.

(b) CONFORMING AMENDMENTS.—


(2) REPEAL OF ADMISSION REQUIREMENTS FOR H-2A WORKER.—Section 218 (8 U.S.C. 1188) is repealed.

(3) CONFORMING AMENDMENTS.—

(A) AMENDMENT OF PETITION REQUIREMENTS.—Section 214(c)(1) (8 U.S.C. 1184(c)(1)) is amended by striking “For purposes of this subsection” and all that follows.
(B) Clerical Amendment.—The table of
contents is amended by striking the item relating
to section 218.

(4) Effective Date.—The amendments made
by this subsection shall take effect on the date that is
1 year after the effective date of the regulations issued
pursuant to section 2241(b).

SEC. 2234. REPORTS TO CONGRESS ON NONIMMIGRANT AG-
RICULTURAL WORKERS.

(a) Annual Report by Secretary of Agriculture.—Not later than September 30 of each year, the
Secretary of Agriculture shall submit a report to Congress
that identifies, for the previous year, the number,
disaggregated by State and by occupation, of—

(1) job opportunities approved for employment of
aliens admitted pursuant to clause (iii) or clause (iv)
of section 101(a)(15)(W) of the Immigration and Na-
nationality Act, as added by section 2231; and

(2) aliens actually admitted pursuant to each
such clause.

(b) Annual Report by Secretary of Homeland
Security.—Not later than September 30 of each year, the
Secretary shall submit a report to Congress that identifies,
for the previous year, the number of aliens described in sub-
section (a)(2) who—
(1) violated the terms of the nonimmigrant agri-
cultural worker program established under section
218A(b) of the Immigration and Nationality Act, as
added by section 2232; and

(2) have not departed from the United States.

CHAPTER 3—OTHER PROVISIONS

SEC. 2241. RULEMAKING.

(a) Consultation Requirement.—In the course of
promulgating any regulation necessary to implement this
subtitle, or the amendments made by this subtitle, the Sec-
retary, the Secretary of Agriculture, the Secretary of Labor,
and the Secretary of State shall regularly consult with each
other.

(b) Deadline for Issuance of Regulations.—Ex-
cept as provided in section 2232(b), all regulations to im-
plement this subtitle and the amendments made by this sub-
title shall be issued not later than 6 months after the date
of the enactment of this Act.

SEC. 2242. REPORTS TO CONGRESS.

Not later than 180 days after the date of the enactment
of this Act, the Secretary and the Secretary of Agriculture
shall jointly submit a report to Congress that describes the
measures being taken and the progress made in imple-
menting this subtitle and the amendments made by this
subtitle.