

(III) AN IMMEDIATE FAMILY MEMBER OF A FARM LABOR CONTRACTOR; OR

(IV) A NONIMMIGRANT ALIEN, AS DEFINED IN 8 U.S.C. § 1101(A)(15)(H)(II)(A), WHO IS AUTHORIZED UNDER FEDERAL LAW TO WORK IN AGRICULTURAL EMPLOYMENT IN THE UNITED STATES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 100, § 80A(a)(8) and the first through third clauses of (2).

Paragraph (1)(ii) of this subsection is revised to describe affirmatively who is a migrant agricultural worker. This revision avoids the confusion caused by the triple negative in the second sentence of former Art. 100, § 80A(a)(8), which, if read literally, stated that an individual who is absent overnight from the individual's permanent place of residence is a migrant agricultural worker unless the individual also is transported as part of a day-haul operation.

Paragraph (2)(i) and (ii) of this subsection is revised to incorporate the substance of the first through third clauses of former Art. 100, § 80A(a)(2), which were part of the definition of "[a]gricultural employer". See the revisor's note to subsection (b) of this section.

Paragraph (2)(iv) of this subsection is revised so that the citation to "8 U.S.C. § 1101(a)(15)(H)(ii)(a)" modifies "nonimmigrant alien", since the referenced statute merely defines a class of individuals — *i.e.*, an "alien having a residence in a foreign country which he has no intention of abandoning ... who is coming temporarily to the United States ... to perform agricultural labor or services ... ." Authorization to work is provided under related provisions of federal law.

Also in paragraph (2)(iv) of this subsection, the word "temporary", which formerly modified "nonimmigrant alien", is deleted as unnecessary since nonimmigrant aliens are, by definition in 8 U.S.C. § 1101(a)(15)(H)(ii)(a), in the United States "temporarily".

Also in paragraph (2)(iv) of this subsection, the words "as amended", which formerly modified "8 U.S.C. § 1101(a)(15)(H)(ii)", are deleted as unnecessary in light of Art. 1, § 21 of the Code.

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that the reference in paragraph (1)(ii)2 of this subsection to a "day-haul operation" is unclear. Although the federal Migrant and Seasonal Agricultural Worker Protection Act defines "day-haul operation", there is no similar definition in this title. See 29 U.S.C. § 1802(4).

The Committee also notes, for consideration by the General Assembly, that the exclusions in paragraph (2)(i), (ii), and (iii) of this subsection may be overly broad since they are not limited to an individual who is working for a