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DEPARTMENT OF HOMELAND SECURITY

Rescission of Discretionary Parole Policies Relating to Nationals of the Russian Federation Seeking Entry into Guam and/or the Commonwealth of the Northern Mariana Islands for a Temporary Visit for Business or Pleasure

AGENCY: Department of Homeland Security.

ACTION: Notice.

SUMMARY: Under discretionary parole policies, Department of Homeland Security (DHS) has granted parole on a case-by-case basis to nationals of the Russian Federation (Russia) to enter Guam and the Commonwealth of the Northern Mariana Islands (CNMI) for temporary visits for business or pleasure for up to 45 days provided the traveler meets certain conditions. DHS is publishing this notice to announce to the public that it plans to end this discretionary parole policy. This discretionary change in policy does not preclude affected individuals from applying for parole, which DHS will grant on a case-by-case basis only where the applicant demonstrates an urgent humanitarian or a significant public benefit reason for parole and the applicant merits a favorable exercise of discretion.

DATES: DHS will be ending these uses of its discretionary parole authority as of [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Michael T. Dougherty, Office of Strategy, Policy, and Plans, Department of Homeland Security, 2707 Martin Luther King Jr. Ave SE, Washington, DC 20528-0445

SUPPLEMENTARY INFORMATION:

Background

On October 21, 2009, former Secretary of Homeland Security Janet Napolitano announced that, effective November 28, 2009, DHS would favorably consider, on a case-by-case basis, requests for discretionary parole into the CNMI from eligible nationals of Russia who are temporary visitors for business or pleasure. Effective January 15, 2012, this policy was extended to Russian visitors to Guam.

Secretary Napolitano justified this exercise of parole based on her discretionary parole authority and the authority to administer the Nation's immigration laws. *See* Immigration and Nationality Act, as amended (INA) secs. 103(a), 212(d)(5); 8 U.S.C. 1103(a), 1182(d)(5). Although parole is an authorized entry into the United States, it does not constitute an admission to the United States. INA secs. 101(a)(13)(B), 212(d)(5)(A); 8 U.S.C. 1101(a)(13)(B), 1182(d)(5)(A). Parole may be granted to an alien, regardless of her or his inadmissibility, as a matter of discretion "on a case-by-case basis for urgent humanitarian reasons or significant public benefit." INA sec. 212(d)(5)(A), 8 U.S.C. 1182(d)(5)(A).

Under the 2009 and 2012 discretionary parole policies, nationals of Russia may be allowed to enter Guam and the CNMI and to travel between Guam and the CNMI, visa-free for a period of stay up to 45 days, provided the traveler meets certain conditions. Pursuant to these policies, nationals of Russia seeking entry are required to: i) possess a valid, unexpired machine-readable passport; ii) not have previously violated the terms of any prior travel to the United States; and iii) present a valid completed CBP Form I-94, Arrival/Departure Record and Form I-736, Guam-CNMI Visa Waiver

Information. Visitors who are paroled under this authority may not engage in local employment or labor for hire. Parole authorization is limited to Guam and the CNMI only and does not permit travel to another location within the United States.

After careful consideration, and consistent with the President's directive in Executive Order (EO) 13767 of January 25, 2017, *Border Security and Immigration Enforcement Improvements*, 82 FR 8793 (Jan. 30, 2017), as well as authorities under the Consolidated Natural Resources Act of 2008 (CNRA), Pub. L. 110-229, which, among other things, established the Guam-CNMI Visa Waiver Program (GCVWP), the Secretary of Homeland Security has decided to terminate the 2009 and 2012 policies concerning the exercise of discretionary parole authority for Russian nationals.

In Executive Order 13767, the President directed the Secretary of Homeland Security to "take appropriate action to ensure that parole authority under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) is exercised only on a case-by-case basis in accordance with the plain language of the statute, and in all circumstances only when an individual demonstrates urgent humanitarian reasons or a significant public benefit derived from such parole."

Pursuant to EO 13767, the Secretary has reviewed this use of discretionary parole authority and concluded that the policy should be terminated, for numerous reasons, effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The previous announcement allowing for parole effectively has invited nationals of Russia to seek parole to visit Guam and the CNMI rather than having them obtain visas. The policy broadly announced to this population that a visitor visa would not be required to travel to Guam and the CNMI if the alien met the specified

requirements. Under this policy, the parole authority effectively has been used as a substitute for the visa process.

Moreover, the Guam-CNMI parole policy for Russian nationals was designed as a temporary measure to support tourism in Guam and the CNMI while allowing for due consideration of Russia as a potential participating country under the GCVWP. *See* INA sec. 212(l)(3), 8 U.S.C. 1182(l)(3). In the nearly 10-year period since the parole policies were announced, Russia has not been considered eligible for the GCVWP.

And the parole authority has been exercised far too expansively than originally intended. For Guam, parole accounted for approximately 99 percent of all Russian visitors in 2012 and 85 percent of all Russian visitors in 2017. Similarly, parole accounted for approximately 90 percent of all Russian visitors to the CNMI in 2010 and 82 percent of all Russian visitors in 2017.

Since the 2012 expansion of the discretionary parole authority for Russian nationals seeking entry into Guam, overstays increased from 26 in FY 2012 to 147 in FY 2017, or by 465 percent. While this represents a relatively small percentage of overall Russian visitors in the CNMI and Guam, the increase in overstays is in and of itself a security concern for DHS.

Benefits of Requiring Nonimmigrant Visas

Discontinuing discretionary parole and requiring Russian nationals to obtain a visa to visit the United States for business or pleasure enhances U.S. safety and national security because it requires visa applicants to be screened by the U.S. Department of State. As a result, these visa applicants generally will undergo advance screening and recurrent vetting that includes an in-person visa interview. The perceived negative

economic impact of discontinuing discretionary parole Russian nationals in the CNMI and Guam would be offset by admission of the availability of traditional B-1 visas for business and B-2 visas for pleasure. Currently, the vast majority of applications by Russian nationals for B-1/B-2 visas are approved. If admitted in B-1 or B-2 status, individuals generally will be afforded an authorized period of stay of approximately 180 days – four times longer than the current 45-day cap under the more restrictive parole authority.

DHS acknowledges that certain businesses in Guam and the CNMI may have been formed in reliance on commerce and tourism arising out of this parole policy and could be negatively impacted by its termination. Likewise, Russian nationals may have developed business or personal connections to Guam or the CNMI pursuant to the policy and may be inconvenienced by its termination. DHS believes, however, that any such impacts should be largely mitigated by the fact that bona fide visitors for business or pleasure from Russia generally would be able to obtain a visa to allow them to visit Guam or the CNMI. To the extent that travelers from Russia are deterred from travel to Guam and the CNMI due to the visa requirement, however, DHS believes that the security, immigration, and border management interests of the United States outweigh the potential economic or personal interests that may be adversely affected.

Notice of Rescission of Discretionary Parole Policy Relating to Nationals of Russia Seeking Entry into Guam and/or the CNMI for a Temporary Visit for Business or Pleasure

This notice announces to the public that as of [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], DHS rescinds its policy

relating to the exercise of its discretionary parole authority for nationals of Russia who are seeking entry into Guam or the CNMI solely for a temporary visit for business or pleasure.

As of [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], CBP will no longer give favorable consideration to parole requests simply because the individual is a national of Russia seeking to enter CNMI or Guam for tourism or a business visit. Individuals who have already been paroled into Guam and/or the CNMI will maintain parole until the expiration of that parole period unless there are other grounds for parole termination consistent with DHS regulations at 8 CFR 212.5(e).

As of [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], nationals from Russia traveling to Guam and/or the CNMI for a temporary visit for business or pleasure should consider seeking a B-1 or B-2 nonimmigrant visa from a U.S. Embassy or Consulate, prior to their travel to Guam.

This discretionary change in policy does not preclude affected individuals from applying for parole by filing USCIS Form I-131, Application for Travel Document, consistent with the instructions for that form. In accordance with section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)), parole will only be issued on a case-by-case basis and only

where the applicant demonstrates an urgent humanitarian or a significant public benefit reason for parole and that applicant merits a favorable exercise of discretion. Any alien may request parole to travel to the United States, but an alien does not have a right to parole.

Kevin K. McAleenan,
Acting Secretary.

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