



Questions and Answers

Oct. 27, 2009

USCIS Amends Immigration Regulations Relating to the Commonwealth of the Northern Mariana Islands (CNMI)

Background

On May 8, 2008, President Bush signed into law Public Law 110-229, the Consolidated Natural Resources Act of 2008 (CNRA). Title VII of this law amended Pub. L. 94-241, the Act approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands (CNMI) in Political Union with the United States. Title VII fully extends certain provisions of the immigration laws of the United States to CNMI for the first time in history. A transition period formally begins November 28, 2009.

Questions and Answers

Q. Why was this Conforming Rule developed?

A: The U.S. Department of Homeland Security's (DHS) U.S. Citizenship and Immigration Services (USCIS) announced an interim final rule to revise the wording of immigration regulations, in order to implement new law applying to the Commonwealth of the Northern Mariana Islands (CNMI). This is basically a collection of amendments to the wording of immigration regulations, in order for current regulations to conform to changes specifically applicable to CNMI.

Q. Why is this IFR being issued by both the U.S. Department of Homeland Security (DHS) and the U.S. Department of Justice (DOJ)?

A: This conforming rule was published in today's Federal Register jointly with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR). USCIS and EOIR wrote the conforming amendments to their respective regulations to comply with the Consolidated Natural Resources Act of 2008 (CNRA) and to make certain that regulations apply to persons and entities arriving in or physically present in CNMI.

The U.S. Congress passed the CNRA, extending the immigration laws of the United States to CNMI, to ensure effective border controls and address national security and homeland security concerns. U.S. "immigration laws" include the Immigration and Nationality Act (INA) and "all laws, conventions, and treaties of the United States relating to the immigration, exclusion, deportation, expulsion, or removal of aliens."

DHS administers and enforces the INA, and most laws relating to the immigration and naturalization of aliens. DOJ is responsible for the immigration courts that provide administrative adjudications of removal proceedings, and the Board of Immigration Appeals that hears appeals of immigration court decisions and certain DHS decisions. Some of the changes implemented under the CNRA affect existing regulations governing both DHS immigration policy and procedures and proceedings before immigration judges and the Board. As it is necessary to make amendments both to DHS and DOJ regulations, the DHS Secretary and the Attorney General are making conforming amendments to their respective regulations in this single rulemaking document.

Q. What does this interim final rule specifically amend?

A: This interim final rule:

- Defines the term “transition program effective date,” referenced in the CNRA;
- Removes references to the CNMI as a territory or possession of the United States not subject to the INA;
- Updates the definition of the geographical “United States” to include CNMI for immigration purposes;
- Enables prohibitions in CNMI against knowingly employing unauthorized aliens and hiring individuals without verifying their identity and employment authorization;
- Designates CNMI-issued documentation that may be accepted by employers in CNMI to verify the identity and employment authorization of newly hired employees;
- Adds work-authorized aliens in CNMI under the CNRA’s “grandfather” clause for the first two years following the transition program effective date to the DHS work authorization regulations;
- Addresses the limitations on granting asylum to aliens physically present in or arriving in CNMI and the adjustment of status for such aliens; and
- Clarifies that immediate relatives who were admitted to the United States under the Guam Visa Waiver Program, and those who will be admitted under the new Guam-CNMI Visa Waiver Program, may apply for adjustment of status to that of a lawful permanent resident.

Q. How can I comment on this rule?

A. You may submit comments, identified by “DHS Docket No. USCIS-2008-0039” by one of the following methods:

- Internet - Follow the instructions for submitting comments at the Federal e-Rulemaking Portal: <http://www.regulations.gov>
- E-mail - Submit comments directly to USCIS at rfs.regs@dhs.gov, including “DHS Docket No. USCIS- 2008-0039” in the subject line of the message
- Mail - Paper, disk, or CD-ROM submissions may be mailed to: Chief, Regulatory Products Division, DHS-USCIS, 111 Massachusetts Avenue, NW, Suite 3008, Washington, DC 20529. Reference “DHS Docket No. USCIS-2008-0039” on the correspondence
- Hand Delivery/Courier - U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW, Suite 3008, Washington, DC 20529. Contact telephone number is (202) 272-8377

All submissions must include “USCIS” and “DHS Docket No. USCIS-2008-0039.”

Q. How can I get more information on this rule?

A. To read background documents or comments received, go to <http://www.regulations.gov>. Comments may also be inspected at the Regulatory Products Division, DHS-USCIS, 111 Massachusetts Avenue, NW, Suite 3008, Washington, DC 20529-2140.

For further information regarding USCIS-related items, contact Fred Ongcapin, DHS-USCIS, 20 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20529-2211, telephone (202) 272-8221 (not a toll-free call).

Regarding EOIR items related to immigration judges and the Board of Immigration Appeals, contact Robin Stutman, General Counsel, EOIR, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22401, telephone (703) 305-0470 (not a toll-free call).

Q. When will this Interim Final Rule become effective?

A. The rule will be effective Nov. 28, 2009, with implementation necessary to the Transition Period becoming effective on Nov. 28, 2009.