



News Release

Oct. 27, 2009

USCIS Establishes Transitional Worker Program for the CNMI

Program Allows Eligible Employers to Petition for Non-Resident Workers in CNMI

WASHINGTON—U.S. Citizenship and Immigration Services (USCIS) today published an interim final rule in the Federal Register that creates a Transitional Worker visa classification in the Commonwealth of the Northern Mariana Islands (CNMI). The CNMI-Only Transitional Worker Program is one of several initiatives that implements the Consolidated Natural Resources Act of 2008 (CNRA), which expands U.S. immigration law in the CNMI.

Although U.S. immigration law applies to the CNMI beginning on November 28, a transition period will begin on that date during which time temporary measures will be carried out to allow for an orderly transition from the CNMI's permit system to U.S. immigration law. This will give foreign workers time to identify an appropriate visa classification according to the Immigration and Nationality Act (INA).

A "transitional worker" under CNRA is defined as an alien worker who is currently ineligible for another classification under INA and who performs services or labor for an employer in CNMI. The Transitional Worker Visa category is a new nonimmigrant visa classification under INA using the admission code CW-1 for the principal transitional worker and CW-2 for dependents.

The CNMI-Only Transitional Worker Program will be available to two groups of nonresidents: (1) those who are lawfully present in the CNMI and (2) those who are abroad.

Non-residents living in CNMI may be classified as CW-1 nonimmigrants if, during the transition period, they:

1. Will enter or stay in CNMI to work in an occupational category that needs alien workers to supplement the resident workforce;
2. Are petitioned for by an employer;
3. Live in CNMI;
4. Are lawfully present in CNMI; and
5. Are not otherwise inadmissible to the United States.

CNMI employers may also use the CW-1 program to obtain eligible workers coming to CNMI from abroad.

The transition period begins on November 28, 2009 and ends on December 31, 2014. The CW classification is valid for the duration of the transition period. At the end of the transition period, the CNMI-Only Transitional Worker Program will cease to exist and the transitional workers who held this status must change to another nonimmigrant or immigrant status under INA to stay in CNMI lawfully.

Under the CNMI-Only Transitional Worker program, employers may file a petition for a transitional worker with USCIS using Form I-129CW, Petition for a Nonimmigrant Worker in CNMI. This new form was modeled after the existing Form I-129. The fee for Form I-129CW would be \$320, the same amount charged for the I-129 and an \$80 biometrics fee. In addition, the CNRA mandates a "CNMI education funding fee" of \$150 per beneficiary per year which cannot be waived.

Due to unique circumstances in CNMI, the I-129CW fee may be waived in extraordinary situations where an employer can demonstrate an inability to pay the fee and still pay the employee's wage. With some restrictions, employers may file for multiple beneficiaries on the same I-129CW. Employers must conduct legitimate business and may not engage directly or indirectly in prostitution, trafficking in minors, or any other activity that is illegal under federal or CNMI law.

Under the interim final rule, the CNMI-Only Transitional Worker program includes all occupational categories being used in CNMI now. Also, for the first year, the numerical limits for CW-1 status are based on the CNMI government's own estimate of the nonresident worker population, which is 22,417. After the first year, the numerical limit will decrease, as determined by the Secretary of Homeland Security.

The CW visa classification is valid only in the CNMI and provides no basis for travel to any other part of the United States, including Guam. Once status is obtained, the CW-1 or CW-2 nonimmigrant may leave the CNMI and return, but must have the appropriate visa for readmission.

The public is encouraged to submit comments on this rulemaking by Nov. 27, 2009. Comments should be identified by DHS Docket No. USCIS-2008-0038 and submitted one of the following ways:

- Federal eRulemaking Portal: <http://www.regulations.gov>.
- E-mail: rfs.regs@dhs.gov. Include DHS Docket No. USCIS-2008-0038 in the subject line.
- Mail: Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529-2210. To ensure proper handling, please reference DHS Docket No. USCIS-2008-0038 on your correspondence.