



OOD
PM 20-12

Effective: April 29, 2020

To: All of EOIR
From: James R. McHenry III, Director
Date: April 29, 2020

**ADJUDICATING APPLICATIONS FOR CNMI RESIDENT STATUS AND
EXTENDING THE ASYLUM APPLICATION BAR FOR CERTAIN PERSONS IN THE
CNMI**

PURPOSE: Provide guidance on two issues relating to the Commonwealth of the Northern Mariana Islands (CNMI): (1) the adjudication of CNMI Resident Status applications in removal proceedings and (2) the extended asylum application bar for persons present or arriving in the CNMI.

OWNER: Office of the Director

AUTHORITY: 48 U.S.C. § 1806(e)(6); 48 U.S.C. § 1806(a)(2), (7); 8 C.F.R. § 1003.0(b)(1)

CANCELLATION: None

This policy memorandum provides guidance on recent changes to the law which may affect individuals in the CNMI and cases pending before the Saipan and Honolulu Immigration Courts.

I. CNMI Resident Status

A. Background

On June 25, 2019, President Trump signed the Northern Mariana Islands Long-Term Legal Residents Relief Act, Pub. L. 116-24, 133 Stat. 977 (codified at 48 U.S.C. § 1806(e)(6)), which provides certain long-term CNMI residents with the opportunity to apply for CNMI Resident Status.

If an applicant is granted CNMI Resident Status, the applicant will be treated as lawfully admitted to the CNMI with work authorization until the applicant ceases to reside in the CNMI or adjusts to lawful permanent resident status under INA § 245. 48 U.S.C. § 1806(e)(6)(A)(i). An applicant granted CNMI Resident Status (1) remains subject to all grounds of deportability under INA § 237, (2) remains subject to all grounds of inadmissibility under INA § 212 if seeking admission to the United States at a port of entry in the CNMI, (3) is inadmissible to the United States at any port of entry outside the CNMI, except that the Department of Homeland Security (DHS) may authorize the admission of such alien at a port of entry in Guam for the purpose of direct transit to the CNMI,

which admission shall be considered an admission to the CNMI, and (4) shall automatically lose CNMI Resident Status if the alien travels from the CNMI to any other place in the United States, except that DHS may provide advance approval for such travel on a case-by-case basis for a temporary and legitimate purpose and may also authorize the direct transit of aliens with CNMI Resident Status through Guam to a foreign place. 48 U.S.C. § 1806(e)(6)(A)(iv).

B. Requirements

Aliens not in removal proceedings apply for CNMI Resident Status through DHS's U.S. Citizenship and Immigration Services (USCIS). Immigration judges have jurisdiction to adjudicate applications for CNMI Resident Status for aliens in removal proceedings, subject to the following filing-deadline requirement. *See* 48 U.S.C. § 1806(e)(6)(C). An applicant for CNMI Resident Status in removal proceedings must either (1) file an application with the immigration court within the 180-day period beginning on February 19, 2020, and ending on August 17, 2020, or (2) have previously filed an application with DHS during this 180-day period before being placed in removal proceedings and had the original application denied by DHS. *Id.* §§ 1806(e)(6)(C)(i)-(ii). The application form is the [Form I-955, Application for CNMI Long-Term Resident Status](#), which is available on the website for USCIS.

1. Eligibility

To be eligible for CNMI Resident Status, an applicant must meet all of the following requirements:

- a. lawfully present on June 25, 2019, or on December 31, 2018, in the CNMI under the immigration laws of the United States, including pursuant to a grant of parole under INA § 212(d)(5) or deferred action;
- b. admissible as an immigrant to the United States under the INA, except that no immigrant visa is required;
- c. continuously and lawfully resided in the CNMI from November 28, 2009 through June 25, 2019;
- d. is not be a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau; and
- e. is described in one or more of the following categories:
 - i. born in the CNMI between January 1, 1974 and January 9, 1978;
 - ii. a permanent resident of the CNMI on November 27, 2009 (as defined in section 4303 of title 3 of the Northern Mariana Islands Commonwealth Code, in effect on May 8, 2008);
 - iii. a spouse or child, as defined in section INA § 101(b)(1), of a person who was born in the CNMI between January 1, 1974 and January 9, 1978, or who was a permanent resident of the CNMI on November 27, 2009;
 - iv. a spouse, child, or parent of a United States citizen on November 27, 2011, notwithstanding the age of the United States citizen, who continues to have such family relationship with the citizen as of the date of their application; or
 - v. had a grant of parole under INA § 212(d)(5) on December 31, 2018,

under the former USCIS parole program for certain in-home caregivers of CNMI residents.

48 U.S.C. § 1806(e)(6)(B).

2. Judicial Review

There is no judicial review of administrative determinations made by EOIR regarding CNMI Resident Status. *See* 48 U.S.C. § 1806(e)(6)(D).

II. CNMI Asylum Application Bar

On July 24, 2018, President Trump signed the Northern Mariana Islands U.S. Workforce Act of 2018 (“the Workforce Act”), Pub. L. 115-218, 132 Stat. 1547. Among other provisions, the Workforce Act extends the transition period for the application of the INA to the CNMI to December 31, 2029. 48 U.S.C. § 1806(a)(2). Accordingly, persons physically present in the CNMI or arriving in the CNMI (whether or not at a designated port of arrival), including persons brought to the CNMI after having been interdicted in international or United States waters, are barred from asylum eligibility through December 31, 2029. *See* 48 U.S.C. § 1806(a)(7). Therefore, effective April 30, 2020, the Department of Justice has modified EOIR’s regulations to implement this date change and replace “January 1, 2015” with “January 1, 2030” in the following locations:

- a. 8 C.F.R § 1208.1(a)(2),
- b. 8 C.F.R § 1208.2(c)(1)(iii), (iv), (vii), (viii),
- c. 8 C.F.R § 1208.4(a)(2)(ii),
- d. 8 C.F.R § 1208.5(a), (b)(1)(iii),
- e. 8 C.F.R § 1208.30(a),
- f. 8 C.F.R § 1209.2(a)(3),
- g. 8 C.F.R § 1212.1(q)(8)(i)(A), (ii)(A), and
- h. 8 C.F.R § 1235.6(a)(1)(ii), (iii).

III. Other Provisions of 48 U.S.C. § 1806

Other CNMI-specific immigration laws in 48 U.S.C. § 1806 remain unaltered and in effect, and immigration judges are encouraged to review those statutory provisions in all cases involving individuals from the CNMI.

IV. Conclusion

This PM is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Nothing herein should be construed as mandating a particular outcome in any specific case.

Please contact your supervisor if you have any questions.