



**U.S. Customs and
Border Protection**

OCT 17 2011

MEMORANDUM FOR: Directors, Field Operations
Office of Field Operations

Director, Preclearance
Operations (b) (6), (b) (7)(C)

FROM: Executive Director
Admissibility and Passenger Programs

SUBJECT: Commonwealth of the Northern Mariana Islands
Transitional Worker Classification

The purpose of this memorandum is to inform officers of the new, temporary, Commonwealth of the Northern Mariana Islands (CNMI)-only transitional worker classification (CW classification) in accordance with title VII of the Consolidated Natural Resources Act of 2008 (CNRA).

The CNMI is a U.S. territory located in the Western Pacific that has been subject to most U.S. laws for many years. Before November 2009, the CNMI administered its own immigration system under the terms of the 1976 Covenant with the United States. On May 8, 2008, President Bush signed into law the CNRA. Title VII of the CNRA is to ensure effective border control procedures, to properly address national security and homeland security concerns by extending U.S. immigration law to the CNMI to maximize the CNMI's potential for future economic and business growth, and to assure worker protections from potential abuse and exploitation.

Section 702 of the CNRA stated that U.S. immigration laws would apply to the CNMI approximately one year after the date of enactment, subject to certain transition provisions unique to the CNMI. The transition period commenced on November 28, 2009 and will conclude December 31, 2014.

On October 27, 2009, the Department of Homeland Security (DHS) published an interim rule creating the CW classification. The CW is intended to provide for an orderly transition from the CNMI permit system to the U.S. Federal immigration system under the immigration laws of the United States, including the Immigration and Nationality Act (INA). The final rule implements the CW classification and establishes that a CW transitional worker is an alien worker who is ineligible for another classification under the INA and who performs services or labor for an employer in the CNMI during the five-year transition period. The rule also establishes employment authorization incident to CW status. The CW classification is intended to be effective for the duration of the transition period.

The interim rule included provisions to:

- Classify transitional workers using an admission code of CW-1 for principal transitional workers and CW-2 for dependents;
- Allow aliens who were previously admitted to the CNMI under the CNMI nonresident worker permit program to be granted CW status by U.S. Citizenship and Immigration Services (USCIS);
- Allow workers, who would not be eligible for any other lawful status under the INA, to enter or remain in the CNMI as transitional workers during the transition period; and
- Establish eligibility criteria, limitations and parameters for the CW-1 nonimmigrant program as required by or consistent with the CNRA.

The final rule date September 7, 2011 adopted most of the changes set forth in the interim rule:

- The final rule clarifies the authority and process by which applicants in the CNMI can be granted CW-1 or CW-2 status in the CNMI without having to travel abroad to obtain a nonimmigrant visa.
- DHS may grant a section 212(d)(3)(A)(ii) waiver to an alien who is physically present in the CNMI and approved for an initial grant of CW-1 transitional worker status or CW-2 dependent status in the CNMI.
- Such aliens will be inadmissible under section 212(a)(7)(B)(i)(II) of the INA for lack of a CW-1 or CW-2 transitional worker visa issued by the U.S. Department of State (DOS) and also may (unless changing to CW-1 status from another nonimmigrant status under the INA) be aliens present in the United States without admission or parole and thus inadmissible under section 212(a)(6)(A)(i) of the INA.
- The interim rule provided that an alien with CW-1 or CW-2 status, who enters or attempts to enter, travels or attempts to travel to any other part of the United States, will be deemed to have violated CW-1 or CW-2 status.
- The final rule retains the travel restriction but provides a limited exception:
 - Philippine nationals who hold CW status or intend to apply for admission to the CNMI in CW status, may travel, if otherwise permissible, between the CNMI and the Philippines through Guam so long as the travel is on a direct Guam transit itinerary.
 - Such direct Guam transit will not be considered a violation of the conditions of the Philippine national's CW status.
- Aliens in the CNMI have until November 27, 2011 to obtain a U.S. employment visa such as transitional CW visa or an H visa, or could face deportation.

If you have any questions concerning this memorandum, please have a member of your staff contact (b) (6), (b) (7)(C) Director, Enforcement Programs, Admissibility and Passenger Programs at (b) (6), (b) (7)(C)

Attachment

Weekly Muster

Date: Upon Receipt

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Transitional Worker Classification

Headquarters POC: (b) (6), (b) (7)(C)

Office: Admissibility and Passenger Programs

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- Before November 2009, the CNMI administered its own immigration system under the terms of the 1976 Covenant with the United States.
- On September 7, 2011, a final rule was published which implemented the CW classification and established that a CW transitional worker is an alien worker who is ineligible for another classification under the INA and who performs services or labor for an employer in the CNMI during the five-year transition period.
- The final rule provides that an alien with CW-1 or CW-2 status, who enters or attempts to enter, travels or attempts to travel to any other part of the United States, will be deemed to have violated CW-1 or CW-2 status.
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