



## U.S. Citizenship and Immigration Services

# Commonwealth of the Northern Mariana Islands

## Form I-9 Guidance for Employers Hiring Individuals in the Commonwealth of the Northern Mariana Islands

### **CNMI and Federal Immigration Law**

On November 28, 2009, the Immigration and Nationality Act (INA) and other federal immigration laws took effect in the Commonwealth of the Northern Mariana Islands (CNMI), as provided by the Consolidated Natural Resources Act of 2008. Under U.S. immigration law CNMI employers are now required to verify the identity and employment authorization of their new hires on standard Form I-9, and are subject to the same civil fines and criminal penalties as U.S. employers for Form I-9 violations.

### **CNMI Employers Use of Standard Form I-9**

As of November 28, 2011, CNMI employers must use the [standard Form I-9](#) for all new hires and reverifications in the CNMI. All workers who previously held CNMI-issued employment authorization documents must now have another basis of work authorization, or have a petition pending for CNMI-only transitional worker status to continue working in the CNMI.

### **Umbrella Permits and Other CNMI-issued Documents**

An umbrella permit is the common name for several types of Transitional Conditional permits issued by the CNMI Department of Labor or the CNMI Department of Commerce prior to the transition to U.S. immigration law on November 28, 2009. All umbrella permits, CNMI permanent resident cards, or other evidence of work authorization issued by the CNMI government expired on Nov. 27, 2011. All affected workers must obtain other work authorization, under U.S. law, to continue to work in the CNMI.

### **Reverifying an Employees' Work Authorization**

Employers must reverify employees' work authorization if umbrella permits or other CNMI-issued work authorization documents were used for employment authorization purposes. To reverify and update the employee's work authorization, the employer should write the employee's name in Section 1 on the standard Form I-9 and complete Section 3. The employer does not need to complete the rest of Section 1 or Section 2. To complete Section 3, the employee must present a document that shows current employment authorization. This means that the employee must present any document from List A or List C of the standard Form I-9, such as an unrestricted Social Security Card (List C document). The employer should attach the updated standard Form I-9 to the employee's old Form I-9 CNMI, and retain both forms as directed in Part 3 of the Handbook for Employers (M-274).

There is one exception to this reverification requirement. An employer who filed a Form I-129CW, Petition for a CNMI-Only Nonimmigrant Transitional Worker, on or before November 28, 2011, is not required to reverify an employee's work authorization until USCIS issues a

decision on the petition.

### **Employees Hired Before November 28, 2009**

An employer does not need to complete Form I-9 for an employee who was hired for employment in the CNMI before November 28, 2009 and has been continuing in his or her employment and has had a reasonable expectation of employment with such employer at all times. However, the employer may be subject to penalties if the employer knows that such an employee does not have work authorization under U.S. law.

### **CNMI-Only Transitional Workers**

If an employer filed an (initial) Form I-129CW Petition for a CNMI-Only Nonimmigrant Transitional Worker on or before November 28, 2011, for a current employee who is lawfully present in the CNMI to obtain CNMI-only Nonimmigrant Transitional Worker (CW) status, the employer may continue to employ the worker until USCIS makes a decision on the petition.

If the employer previously completed Form I-9 CNMI with this employee, the employer should make a note in the margin of the previously completed form that it has filed a Form I-129CW petition on the employee's behalf. When USCIS makes a favorable decision on the petition, and the employee is granted CW status, the employer should reverify the employee's work authorization by completing Section 3 of the standard Form I-9, as described above. In that case, the employee will receive a Form I-94 indicating CW status which, along with the foreign passport, constitutes evidence of work authorization (see item no. 5 in List A of Form I-9). The employer should attach the newly completed standard Form I-9 to the employee's Form I-9 CNMI and retain both forms as directed in Part 3 of the Handbook for Employers (M-274).

If USCIS denies the Form I-129CW, the individual's work authorization ceases at that time, and the employer cannot continue to employ the worker after receiving the denial notice.

### **Extending CW status**

CW status is valid for one year. Employers must file a new petition for CW status on behalf of an employee or the employee must obtain another Immigration and Nationality Act (INA) nonimmigrant or immigrant classification to lawfully stay in the CNMI after that. Employers cannot file an extension request for an employee in CW status more than six months in advance of the expiration date of the employee's current status, but are encouraged to file as soon as they can within that time frame to prevent gaps in employment authorization. USCIS will reject extensions filed more than six months in advance of the employee's expiration date.

When an employee's employment authorization or employment authorization documentation expires, an employer must reverify that the employee is still authorized to work. Employers may use Section 3 of Form I-9, or, if Section 3 has already been used for a previous reverification/update or the Form I-9 is no longer a valid version of the form, use Section 3 of a new Form I-9 using the most current version and attach it to the previously completed Form I-9.

If USCIS denies the Form I-129CW extension petition, and the employee's initial CW-1 validity period has ended, the employee is not authorized to work. There is no grace period. The notice of denial will provide additional instructions. Individuals without a valid status must leave the CNMI.

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<http://www.uscis.gov/portal/site/uscis/template.PRINT/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=ce75ffac357b3310VgnVCM100000082ca60aRCRD&vgnnextchannel=ad3e1921c6898210VgnVCM100000082ca60aRCRD> 2/21/2012