



FORMS

NEWS

RESOURCES

LAWS

OUTREACH

ABOUT US

- Public Releases by Topic
- News Releases
- Updates
- Questions and Answers
- Fact Sheets
- Media Contacts
- Alerts
- Outstanding Americans by Choice

Home > NEWS > Questions and Answers

Printer Friendly

Questions & Answers: Employment Authorization and Verification in the Commonwealth of the Northern Mariana Islands (CNMI)

Background

On Nov. 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 (CNRA). This document answers common questions employers and workers have about employment authorization and verification under Federal immigration law, particularly with respect to so-called "umbrella permits." During the last weeks of immigration control by the CNMI government, the CNMI government issued two-year transition conditional permits, commonly referred to as "umbrella permits," to many people holding CNMI alien permits.

Questions and Answers

Q. Is the employment authorization of aliens present in the CNMI a matter of Federal law or of CNMI territorial law?

A. The employment authorization of aliens in the CNMI is now a matter of Federal law. However, for a two-year period following the Nov. 28, 2009 transition to Federal immigration law, Federal law authorizes aliens to work based on the employment authorization they had received under CNMI law as of the transition date. The U.S. Department of Homeland Security (DHS), which is charged with administering and enforcing the immigration laws, fully recognizes employment authorization based on that provision, as further discussed in this guidance.

Q. What is an "umbrella permit"?

A. An umbrella permit is the common name for several types of Transition Conditional permits issued by the CNMI Department of Labor (CNMI DOL) or the CNMI Department of Commerce in the fall of 2009 shortly before the Nov. 28, 2009 transition to Federal immigration law. DHS is currently aware of the following types of umbrella permits:

- Category 240K Foreign National Worker Permit
- Category 240D Immediate Relative Permit (immediate relative of U.S. citizen)
- Category 240E Immediate Relative Permit (immediate relative of sponsoring alien)
- Category 240G, 240N, 240O Investment and Business Permit
- Category 240H Foreign Student Permit and
- Category 240B CNMI Government Permit

Umbrella permits have the seal of the CNMI DOL at the upper right. The letterhead varies: CNMI DOL (Category 240K); CNMI Department of Commerce (Category 240G, 240N, 240O, or Category 240H); or CNMI Division of Immigration (Category 240D, Category 240E).

Q. As the holder of an umbrella permit, may I work in the CNMI under Federal law?

A. In the case of the Category 240K Foreign National Worker Permit, you are authorized to work for any private sector employer in the CNMI until Nov. 27, 2011. In the case of the Category 240D Immediate Relative Permit, the Category 240H Foreign Student Permit, and the Category 240G, 240N, 240O Investment and Business Permit, you are authorized to work for any private or public sector employer in the CNMI until Nov. 27, 2011. In the case of the Category 240B CNMI Government Permit, you are authorized to work only for the CNMI Government until Nov. 27, 2011.

The Category 240E Immediate Relative Permit does NOT provide for work authorization. Holders of this permit are not authorized to work in the CNMI, unless they have another basis for work authorization. All references to employment authorization under an umbrella permit in this guidance apply only to authorization under a permit other than a Category 240E. To constitute evidence of work authorization, an umbrella permit must state on its face that it authorizes employment.

Note that if you are authorized to work in the CNMI on a basis other than an umbrella permit, your work authorization may expire on a date other than Nov. 27, 2011.

Q. My umbrella permit has two dates. Which one controls the length of my authorized employment?

A. Holders of umbrella permits authorizing employment may work until Nov. 27, 2011, even if the permit contains two dates. Umbrella permits contain a date with the legend "Next filing date to avoid revocation." They also state that the permit is without effect after Nov. 27, 2011. If these two dates are different, the holder of an umbrella permit is authorized to work in the CNMI until Nov. 27, 2011. When completing Form I-9 CNMI, if an employee changes employers, the date Nov. 27, 2011 should be used as the expiration date for work authorization in Section 1 of the form and as the document expiration date in Section 2 of the form.

Q. As an employer in the CNMI, do I need the approval of the CNMI DOL to hire the holder of an umbrella permit for new employment?

A. No. Federal law does not require that you seek CNMI DOL approval to hire an alien with an umbrella permit for new employment in the CNMI. Your new employee must fully complete Section 1 of the Form I-9 CNMI no later than the date that he or she begins work, and you (the employer) must examine the employee's documentation and complete Section 2 of the Form I-9 within three business days after the date the employee begins work.

Q. Can an umbrella permit be extended or revoked?

A. Umbrella permits are valid through Nov. 27, 2011; the maximum period of time permitted by Federal law, and cannot be extended. An employee will need another work authorization under Federal law to continue to work after that date. Even if CNMI authorities revoke a holder's umbrella permit, the holder remains authorized to work under Federal law until Nov. 27, 2011.

Q. As an umbrella permit holder, how can I obtain an immigration status that will allow me to remain in the CNMI after Nov. 27, 2011?

A. You will need to obtain an immigration status under Federal law to remain lawfully in the CNMI after your umbrella permit expires on Nov. 27, 2011. USCIS will provide further guidance on U.S. immigration statuses and the CNMI later in the transition period. There are many statuses under U.S. law, and which one may be available to you is something only you (or your employer in the case of an employer-sponsored immigrant) can determine. **ALLA InfoNet Doc. No. 10091561. (Posted 03/15/10)**

Related Links

- [Commonwealth of the Northern Mariana Islands Page](#)

Add Our RSS Feed

Share This Page

currently available to eligible applicants, but the CNMI transitional worker and transitional investor statuses are not yet available. For more information about Federal immigration benefits, visit the USCIS Web site at www.uscis.gov.

Q. Can holders of umbrella permits change employment without regard to existing employment contracts or to professional licensing requirements?

A. Under Federal immigration law, employment authorization of an umbrella permit holder or other alien authorized to work affects only the basic privilege to work in the CNMI. Contractual arrangements between an employer and an alien employee do not affect an employee's employment authorization under Federal immigration law, and DHS will not enforce such arrangements. However, contractual obligations may affect an employee's ability to obtain new employment and/or an employer's obligations toward that employee as a matter of contract law. Employers and employees remain fully responsible for complying with all other occupational and licensing requirements under CNMI law. For example, an umbrella permit authorizes its holder generally to work in the CNMI, but it does not authorize the holder to work as a physician unless the holder is qualified and licensed to practice medicine in the CNMI. Similarly, CNMI employers are responsible for complying with other applicable requirements of law, such as wage and hour and occupational safety requirements.

Q. Does this mean that if I hold an umbrella permit I cannot be removed from the CNMI until after Nov. 27, 2011?

A. No. The holder of an umbrella permit is authorized to work until Nov. 27, 2011. Under another provision of the CNRA, an alien who was lawfully present in the CNMI under CNMI law on Nov. 28, 2009 cannot be removed solely on the basis of being present in the United States without inspection until the expiration of the status formerly granted by the CNMI or Nov. 27, 2011, whichever is sooner. However, aliens who have work authorization can still be removed. All other grounds of removal from the United States apply, including inadmissibility due to committing certain crimes. If you violate Federal immigration law, DHS may seek your removal from the United States. If you are placed in a removal proceeding, you have procedural rights including the ability to request protection from being returned to a country where you would suffer persecution or torture.

Q. On the transition date, I was an investor (or visitor, temporary worker, student, permanent resident, etc.) under CNMI law. What is my status under Federal immigration law?

A. On Nov. 28, 2009, immigration statuses granted under CNMI law ceased to exist as a matter of law. Aliens in the CNMI (other than those holding U.S. lawful permanent resident ("green card") status) who have not been inspected and admitted or paroled by a Federal immigration officer on or after that date are aliens present in the United States without inspection, regardless of their former status under CNMI law. Former CNMI immigration statuses did not convert to equivalent statuses under Federal law. However, the CNRA provided transition provisions under which aliens may complete the period of stay that they were authorized as of the transition date, or lawfully remain for two years after that date, whichever is sooner. Aliens in the CNMI who are within this period of authorized stay will be considered lawfully present under Federal immigration law, and will not be removed from the CNMI unless they commit some other violation of law (such as committing a crime) that makes them removable, and as long as their activities in the CNMI are consistent with those authorized by their previous CNMI status (for example, students should attend school, and tourists may not work). Although employment authorization and immigration status are not necessarily the same thing, DHS will consider an alien who has been granted an umbrella permit to be authorized to lawfully remain in and to be employed in the CNMI until Nov. 27, 2011, as long as the alien is engaged in the activity that is the alien's reason for lawful presence.

Q. I have a student umbrella permit or an investment and business umbrella permit. Can I work fulltime for any employer?

A. Yes, but only as long as you are maintaining the activities that are the basis of your authority to lawfully remain in the CNMI until Nov. 27, 2011. For example, if you are a student you may be employed, but you must remain in school. If you have an investment or business permit, you must continue the investment or business activity that was the basis for the permit. In short, you may be employed only to the extent that your employment does not prevent you from fully carrying out the activity that was the basis for your permit.

Q. I am on the CNMI's "barred employer list." Does Federal immigration law prohibit me from employing aliens who are authorized to be employed in the CNMI?

A. No. DHS neither maintains nor enforces a CNMI "barred employer list". You may hire workers as a matter of Federal immigration law as long as you comply with Form I-9 requirements and other applicable Federal requirements. However, employers on the CNMI's "barred employer" list may be subject to enhanced monitoring by Federal agencies to ensure full compliance with all applicable Federal laws, including but not limited to, those governing wages, work hours, employment eligibility verification, work conditions and treatment, and worksite safety.

Q. Does my umbrella permit authorize me to travel outside the CNMI and return?

A. No. The umbrella permit is not a document authorizing travel to Guam or to any other part of the United States, including return to the CNMI from a foreign destination. You may depart the CNMI for a foreign destination at any time, but if you intend to return to the CNMI, you MUST obtain a visa from a U.S. consulate abroad or a grant of advance parole from USCIS. ALL travel to any U.S. destination, including travel from the CNMI to Guam and travel from any foreign place to the CNMI, requires acceptable travel documents under Federal immigration law.

Q. If I quit my job or I am terminated from employment, does my umbrella permit authorize me to remain in the CNMI until Nov. 27, 2011 without working?

A. That depends. The purpose of the continuing work authorization provision of the CNRA is to encourage gainful employment in the CNMI by holders of the umbrella permit or others authorized to work there. If the holder of an umbrella permit is not employed and lacks some other lawful basis under Federal immigration law to remain, he or she may be subject to removal from the CNMI by DHS. DHS will consider situations involving possible removal on a case-by-case basis. Note, however, that if you have an umbrella permit that includes work authorization but whose primary purpose is not employment, you may remain lawfully in the CNMI without working, as long as you maintain the activity that is the basis of the permit. In particular, holders of student permits, or investor and business permits, are not required to be otherwise employed as long as they continue to be students, or maintain their investment or business activity, as appropriate under their permit.

Q. Can the CNMI government or my employer remove me from the CNMI?

A. No. Only DHS may lawfully remove an alien from the United States, including the CNMI. Within DHS, this authority is limited to immigration officers who are authorized and trained to enforce Federal immigration law, and who are acting in compliance with Federal immigration laws and regulations including (when applicable) executing a final order of removal issued by the U.S. Department of Justice. If you are not in DHS custody, you may voluntarily choose to leave the CNMI, and your employer may be contractually obligated to pay the cost of your repatriation.

Q. What is the Form I-9 CNMI?

A. Federal immigration law requires all U.S. employers to verify the identity and employment authorization of each newly hired employee. The Form I-9 is a USCIS form established for this purpose. As CNMI employers are U.S. employers for Section 274A purposes as of Nov. 28, 2009, Form I-9 requirements apply to their new hires on or after that date. The Form I-9 CNMI is a version of the Form I-9 designated for use only in the CNMI that allows for the use of several types

AILA InfoNet Doc. No. 10031561. (Posted 03/15/10)

of employment authorization documents that are unique to the CNMI, in addition to those acceptable in other parts of the United States. When completing the Form I-9 CNMI, the employee attests to his or her employment authorization status in Section 1 of the form and presents his or her employer with acceptable documents that demonstrate his or her identity and employment authorization. The employer inspects the documents and records them in Section 2 of the form. Form I-9 CNMI requirements apply to ALL new hires, regardless of citizenship.

Q. How Do I Complete the Form I-9 CNMI?

A. The Form I-9 CNMI has three sections. A new employee must complete, date and sign Section 1 of the form, including the attestation of his or her citizenship or immigration status no later than the first date of employment. The new employee should then select and show the employer one or more documents from the list of acceptable documents on the back of the Form I-9 CNMI establishing identity and work authorization. The employer must complete, date and sign Section 2 of the Form I-9 CNMI no later than three days after the new employee begins his or her employment. To complete Section 2, the employer must identify the document or documents the new employee presented, insert the date of hire, and certify that the employer inspected the original document(s) establishing identity and work authorization and determined that the documents reasonably appeared on their face to be genuine and to relate to the new employee. Section 3 of the Form I-9 CNMI is not completed when initially hiring a new employee. Section 3 should be used only when the work authorization of certain foreign workers expires after their initial hire. For more information on how to complete the Form I-9 CNMI, employers should consult the USCIS Handbook for Employers (M-274).

Q. The Form I-9 CNMI is in English. What if my new employee does not understand English?

A. Section 1 of the Form I-9 CNMI must still be completed no later than the first day of employment. If the employee needs assistance in completing Section 1 in English because he or she does not understand English or for some other reasons, the individual (including a representative of the employer) must also separately complete, date and sign the "translation/assistance" portion of Section 1.

Q. Do I need to complete the Form I-9 CNMI for my current employees?

A. You only need to complete the Form I-9 CNMI for employees hired on or after Nov. 28, 2009. You should not complete the Form I-9 CNMI for any employees already working for you on Nov. 28, 2009 who are continuing in their employment, even if you assign them new job responsibilities after that date.

Q. Is an umbrella permit acceptable documentation of employment authorization for the Form I-9 CNMI?

A. DHS considers a valid umbrella permit stating that the permit holder is work authorized to be a temporary work authorization letter issued by the CNMI DOL, which may be used to complete Section 2 of the Form I-9 CNMI. The umbrella permit must contain the name and photograph of the person. If the umbrella permit indicates issuance by a CNMI government agency other than the CNMI DOL, it must at least bear the seal of the CNMI DOL at the top right of the document. In addition to the umbrella permit, the employee must also present an unexpired foreign passport. These two documents are considered "List A" documentation of identity and employment authorization for Form I-9 CNMI purposes. The documents must reasonably appear to be genuine and to relate to the person presenting them. The Category 240E Immediate Relative Permit does not state that the permit holder is work authorized, and therefore this type of permit is not acceptable documentation of identity and employment authorization.

Q. May an employer accept an umbrella permit issued after Nov. 27, 2009?

A. The authority of the CNMI government to grant immigration statuses and work authorization ended on Nov. 27, 2009. Umbrella permits or other alien work authorization documentation issued by the CNMI government after that date are generally not acceptable evidence of work authorization for Form I-9 purposes. However, DHS recognizes that there may be situations where CNMI documentation issued before that date is lost, stolen or damaged, and in the situation where the CNMI government simply replaces a previously issued umbrella permit that was lost, stolen or damaged (as opposed to issuing any documentation reflecting any different immigration status or work authorization than that applicable on Nov. 27, 2009), that document may be used for Form I-9 purposes. Similarly, umbrella permits that are revised or reissued purely to correct clerical error, in particular to include a photograph, may be used for Form I-9 purposes to the same extent as umbrella permits issued before Nov. 27, 2009.

Please note that acceptable valid, unexpired "List B" documentation used in the Form I-9 process as evidence of identity only, such as a CNMI driver's license, may be used whether its date of issuance is before or after Nov. 28, 2009.

Q. My umbrella permit does not have a photograph. What should I do?

A. You do not need to present your umbrella permit with photograph to continue working for your current employer if you began your employment before Nov. 28, 2009. However, if you change employers, your umbrella permit must contain a photograph if you use that document for Form I-9 CNMI purposes. DHS cannot issue or amend umbrella permits. Please contact the CNMI DOL for information about affixing photographs to umbrella permits issued without them.

Q. I do not have an unexpired foreign passport. Can I work with my umbrella permit?

A. You do not need to present your passport and umbrella permit to continue working for your current employer. However, if you change employers, you will need to present an unexpired foreign passport along with your umbrella permit if you use that document for Form I-9 CNMI purposes. If you do not have a foreign passport, you will need to obtain one. If your country of nationality will not issue you a passport (for example, if CNMI or Federal authorities have granted you protection from removal because you would be persecuted in your country of nationality), please make an appointment online to visit the USCIS Application Support Center, TSL Plaza Building, Beach Road South, Saipan, for more information on what options may be available to you.

Q. My umbrella permit has been lost, stolen, or damaged. What should I do?

A. DHS cannot replace an umbrella permit for you. You should contact the CNMI DOL regarding its procedures for replacement of umbrella permits that have been lost, stolen, or damaged. Under Form I-9 CNMI procedures, a receipt for an application for the replacement document is acceptable evidence of work authorization for a period of up to 90 days. The individual must present the replacement document within that time period.

Q. As an employer, may I demand that my new employee present his or her umbrella permit when completing Form I-9 CNMI?

A. No. The employee may present any acceptable document or document combination, as described in the instructions to the Form I-9 CNMI. The documents must reasonably appear to be genuine and to relate to the individual. Employers who require employees to present specific Form I-9 documents may be considered to have committed an unfair immigration-related employment practice under Section 274B of the INA, which may result in fines or penalties. Section 274B is enforced by the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) in the U.S. Department of Justice. For more information about the anti-discrimination requirements of Section 274B, employers should contact OSC at 1-800-255-8155 or visit OSC's Web site at www.usdoj.gov/crt/osc.

Q. May I hire an employee who I know is not authorized to work in the CNMI?

A. No. An employer in the CNMI who hires, or knowingly continues to employ, an employee who

AILA InfoNet Doc. No. 10031561. (Posted 03/15/10)

the employer knows to be unauthorized to work in that employment is in violation of Section 274A of the INA, and may be subject to civil money penalties or (if a pattern or practice of such hiring is established) criminal prosecution. An employer with knowledge of an employee's unauthorized status may be penalized even if the employee is able to present Form I-9 CNMI documentation. However, an employer who complies in good faith with Form I-9 CNMI verification requirements has established a defense to a charge of knowingly hiring an unauthorized employee.

Q. Who is responsible for enforcing penalties against employers who knowingly employ unauthorized aliens, or who fail to comply with Form I-9 CNMI requirements?

A. U.S. Immigration and Customs Enforcement (ICE), a component of DHS, is responsible for enforcing Section 274A of the INA, in coordination with the U.S. Department of Justice as appropriate.

Q. What is the process for assessing penalties under Section 274A of the INA?

A: In general, if ICE believes that an employer has violated Section 274A based on its inspection of Forms I-9 CNMI or other information, ICE may serve a Notice of Intent to Fine upon the employer. The Notice of Intent to Fine will advise the employer of the civil money penalties ICE seeks to assess. If the employer contests the charge, the employer is entitled to a hearing before an administrative law judge. The administrative law judges who hear cases under Section 274A are in the Executive Office for Immigration Review of the U.S. Department of Justice (DOJ). If the administrative law judge finds the employer to have violated Section 274A, the employer has the right to an administrative appeal and the right to appeal a final DOJ order to a Federal court of appeals.

Q. What penalties are provided for an employer who has violated Section 274A of the INA?

A: An employer who knowingly hires or continues the employment of an unauthorized alien is subject to a civil money penalty of between \$375 and \$3,200 for each unauthorized alien, for a first offense. Higher penalties apply for subsequent offenses. An employer who fails to properly complete, retain and/or make available for inspection Forms I-9 CNMI as required by law is subject to a civil money penalty of between \$110 and \$1,100 per violation. The proper amount of penalty within this range is determined by the adjudicating official. Please note that these same monetary penalties are also applicable to violations of anti-discrimination requirements of Section 274B of the INA. A "pattern or practice" (i.e., multiple violations over time) of knowing hire or continued employment violations by an employer, or fraud of any kind with respect to the Form I-9 CNMI by an employer or employee, may subject the violator to Federal criminal prosecution.

Q. May I require my employees to indemnify me against liability under Section 274A of the INA?

A. No. An employer who is found to have required a bond or indemnity from an employee against liability under Section 274A may be required to pay a civil money penalty of \$1,100 for each violation and to return any amounts received to the employee.

Q. Who is responsible for enforcing the anti-discrimination provisions of Section 274B of the INA?

A. The Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC), a component of the Civil Rights Division of the U.S. Department of Justice, is responsible for enforcing Section 274B of the INA. Section 274B prohibits discrimination on the basis of citizenship status or national origin in the hiring, firing, recruitment or referral for employment for a fee. The section also prohibits discrimination in the inspection of documents establishing a person's work authorization under Section 274A, and retaliation against an individual for asserting rights protected under the anti-discrimination provision of the INA. For more information about the anti-discrimination provision of the INA, OSC or how to file a charge of discrimination with OSC, people can call OSC toll-free at 1 800 255 7688 (employee), 1-800 237 2515 (TDD) or 1 800 255 8155 (employer). Information can also be obtained by visiting OSC's web site at <http://www.justice.gov/crt/osc>.

Q. Where can I get more information about my Form I-9 responsibilities as an employer or an employee?

A. Please see the USCIS Handbook for Employers (M-274) and other information available at the USCIS Web site, www.uscis.gov. Note that the M-274 provides general information about Form I-9 compliance in the United States and has not been updated at this time to include specific information about the Form I-9 CNMI. The Form I-9 CNMI is a version of the Form I-9 intended specifically for use in the CNMI only. For information or guidance on compliance with the anti-discrimination requirements of Section 274B of the INA when completing the Form I-9 CNMI, employers should contact OSC at 1-800-255-8155 or visit OSC's Web site at www.usdoj.gov/crt/osc.

Q. Can I ask DHS to verify the employment authorization of my employees?

A. DHS cannot verify employment authorization upon request of an employer, except for those employers who participate in the E-Verify program. E-Verify is a voluntary program operated by USCIS in partnership with the Social Security Administration that verifies the employment authorization of all newly hired employees of participating employers.

Q. Is E-Verify available to employers in the CNMI?

A. Not yet. E-Verify currently cannot verify umbrella permits or other work authorization status originally granted by the CNMI government. CNMI employers should not enroll in E-Verify until further notice. USCIS hopes to make E-Verify available to CNMI employers in the future.

Contact Us
 Site Map (Index)
 Careers at USCIS
 Windows Media Player
 Adobe PDF Reader

Adoption
 Green Card
 Humanitarian
 Citizenship
 Military
 Family
 Visit the U.S.
 Working in the U.S.
 Genealogy

U.S. Department of Homeland Security
 U.S. Customs & Border Protection
 U.S. Immigration & Customs Enforcement
 White House
 U.S. Department of State
 USA.gov

Freedom of Information Act (FOIA)
 No FEAR Act
 Website Policies
 Accessibility