

TITLE 80: DEPARTMENT OF LABOR

**SUBCHAPTER 80-20.6
SPECIAL CIRCUMSTANCE TEMPORARY WORK
AUTHORIZATIONS REGULATIONS**

Part 001	General Provisions	§ 80-20.6-120	Temporary Work
[Reserved.]		Authorization	
		§ 80-20.6-125	Renewal of
Part 100	Issuance of Special	Temporary Work Authorization	
Circumstance Temporary Work		§ 80-20.6-130	Form of Request
Authorizations		§ 80-20.6-135	Confidentiality of
§ 80-20.6-101	Introduction	Information	
§ 80-20.6-105	Request of	§ 80-20.6-140	Employer
Federal Enforcement Agency		Responsibility	
§ 80-20.6-110	Request of	§ 80-20.6-145	No Right to
Commonwealth Enforcement Agency		Remain in the Commonwealth	
§ 80-20.6-115	Nonresident	§ 80-20.6-150	Entry Permit Not
Worker Pursuing Labor Claim through		Modified	
Private Lawsuit			

Subchapter Authority: 3 CMC § 4424(a)(1).

Subchapter History: Adopted 26 Com. Reg. 22579 (May 24, 2004); Proposed 26 Com. Reg. 21643 (Jan. 22, 2004).

Commission Comment: Under the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States (Covenant, Pub. L. No. 94-241, § 301, 90 Stat. 263), the CNMI government retained nearly exclusive control over immigration. After the enactment of the Consolidated Natural Resources Act of 2008 (CNRA, Pub. L. No. 110-229, 122 Stat. 754) on May 8, 2008, federal immigration law became applicable to the CNMI beginning on November 28, 2009. Under CNRA § 702(a), the CNRA made the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) applicable to the CNMI. The CNRA further amended the Covenant to state that the “immigration laws,” as well as the amendments to the Covenant, “shall ... supersede and replace all laws, provisions, or programs of the Commonwealth relating to the admission of aliens and the removal of aliens from the Commonwealth.” On March 22, 2010, the Governor of the CNMI signed P.L. 17-1 into law, which effectively removed all references to immigration and deportation functions from the Commonwealth Code, and on April 15, 2010, the Office of the Attorney General, Division of Immigration, repealed the Division of Immigration Rules and Regulations (NMIAC Title 5, Chapter 40). The CNMI Department of Labor’s regulations relating to the admission of aliens in this subchapter were not specifically repealed, and therefore, remain.

For a complete history of the authority of the Department of Labor, see the commission comment to NMIAC subchapters 80-10.1 and 80-20.1.

On September 23, 2004, the Secretary of Labor issued a public notice that requires alien workers seeking memorandums for temporary work authorizations pursuant to this subchapter to present an original letter or certified copy from the requesting federal or local agency. See 26 Com. Reg. 22957 (Sept. 24, 2004).

Part 001 - General Provisions

[Reserved.]

TITLE 80: DEPARTMENT OF LABOR

Part 100 - Issuance of Special Circumstance Temporary Work Authorizations

§ 80-20.6-101 Introduction

In addition to other circumstances described by statute or regulation, the Director of Labor or his designee may issue a memorandum authorizing a nonresident who is within the Commonwealth to seek temporary employment under the circumstances in this part.

Modified, 1 CMC § 3806(d).

History: Adopted 26 Com. Reg. 22579 (May 24, 2004); Proposed 26 Com. Reg. 21643 (Jan. 22, 2004).

Commission Comment: The Commission created the section titles in part 100.

§ 80-20.6-105 Request of Federal Enforcement Agency

Upon a request by any federal enforcement agency including but not limited to the National Labor Relations Board, Equal Employment Opportunity Commission, U.S. Department of Labor and U.S. Department of Justice.

Modified, 1 CMC § 3806(f).

History: Adopted 26 Com. Reg. 22579 (May 24, 2004); Proposed 26 Com. Reg. 21643 (Jan. 22, 2004).

§ 80-20.6-110 Request of Commonwealth Enforcement Agency

Upon a request by any Commonwealth enforcement agency including but not limited to the Department of Public Safety, Office of the Attorney General, the Division of Immigration, or the Office of the Governor.

History: Adopted 26 Com. Reg. 22579 (May 24, 2004); Proposed 26 Com. Reg. 21643 (Jan. 22, 2004).

§ 80-20.6-115 Nonresident Worker Pursuing Labor Claim through Private Lawsuit

A memorandum may be issued to a nonresident worker seeking relief through private lawsuits involving labor claims upon presentation of a letter from the attorney of record identifying the worker as a party in a pending law suit and identifying the court in which the case is pending and the case number of the court action.

History: Adopted 26 Com. Reg. 22579 (May 24, 2004); Proposed 26 Com. Reg. 21643 (Jan. 22, 2004).

§ 80-20.6-120 Temporary Work Authorization

The memorandum shall permit the person to seek temporary employment while within the Commonwealth. Upon securing employment the person must present him or herself to the Department of Labor for issuance of a temporary work authorization (TWA). The

TITLE 80: DEPARTMENT OF LABOR

TWA shall be valid for a period not to exceed 90 days and shall be renewable every 90 days until the justification for the request has been accomplished. The Department of Labor may require that the applicant meet the usual application requirements set forth by statute, regulation or Department policy for a TWA (such as the appropriate health certificate, etc.) before approving the application. The Director of Labor or his designee may waive any application requirements deemed to be inappropriate under the circumstances of the application or that would defeat the purpose for the person's continued presence in the Commonwealth.

Modified, 1 CMC § 3806(f).

History: Adopted 26 Com. Reg. 22579 (May 24, 2004); Proposed 26 Com. Reg. 21643 (Jan. 22, 2004).

§ 80-20.6-125 Renewal of Temporary Work Authorization

At the time of renewal of a TWA issued under this subchapter the requesting agency or attorney shall certify to the Department of Labor that the need continues to exist for the person to remain in the Commonwealth.

Modified, 1 CMC § 3806(d).

History: Adopted 26 Com. Reg. 22579 (May 24, 2004); Proposed 26 Com. Reg. 21643 (Jan. 22, 2004).

§ 80-20.6-130 Form of Request

The request for a memorandum shall be in writing and shall contain the following information:

- (a) The name, date of birth, nationality and entry permit and passport number of the person for whom the memorandum is requested;
- (b) The purpose for the person's continuing presence in the Commonwealth;
- (c) The name and business address of the requesting agency or attorney;
- (d) A statement of the anticipated length of time the nonresident will remain in the Commonwealth or of the anticipated date when the person's presence will no longer be necessary;
- (e) An acknowledgment that the requesting agency or attorney is required to notify the Department of Labor and Division of Immigration Services within seven days following the conclusion of the proceedings or other reason justifying the nonresident's presence in the Commonwealth.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 26 Com. Reg. 22579 (May 24, 2004); Proposed 26 Com. Reg. 21643 (Jan. 22, 2004).

TITLE 80: DEPARTMENT OF LABOR

Commission Comment: In subsection (e), the Commission corrected the spelling of “acknowledgment.”

§ 80-20.6-135 Confidentiality of Information

Information received by the Department of Labor in connection with the request for memorandum and any subsequently received documents shall be confidential and shall be subject to release only to the Director of Labor or his designee, the person or agency requesting the memorandum or TWA, a law enforcement officer including an officer of the CNMI Immigration Service, or upon court order.

History: Adopted 26 Com. Reg. 22579 (May 24, 2004); Proposed 26 Com. Reg. 21643 (Jan. 22, 2004).

§ 80-20.6-140 Employer Responsibility

The employer shall assume all responsibilities concerning the temporary worker as if the employer had initially hired the person as a full-time nonresident worker from within the Commonwealth except that the TWA employer shall not be liable for the purchase of a repatriation airline ticket. Nothing in the regulations in this subchapter shall exempt an employer from the other requirements of the Nonresident Workers Act or the Alien Labor Rules and Regulations [NMIAC, title 80, subchapter 20.1].

Modified, 1 CMC § 3806(d).

History: Adopted 26 Com. Reg. 22579 (May 24, 2004); Proposed 26 Com. Reg. 21643 (Jan. 22, 2004).

§ 80-20.6-145 No Right to Remain in the Commonwealth

A person receiving relief under the regulations in this subchapter does not acquire any vested right to continued employment in the Commonwealth or the right to remain within the Commonwealth or to transfer to another employer when the justification for the issuance of the TWA has ended. An employer seeking to hire a worker previously employed under a TWA pursuant to this regulation may do so only after complying in full with the laws and regulations regarding the initial hiring of nonresident workers.

Modified, 1 CMC § 3806(d).

History: Adopted 26 Com. Reg. 22579 (May 24, 2004); Proposed 26 Com. Reg. 21643 (Jan. 22, 2004).

§ 80-20.6-150 Entry Permit Not Modified

Temporary work authorization allowed pursuant to the regulations in this subchapter does not modify the person’s entry permit nor shall the TWA be deemed to be a “nonresident worker certificate” as that term is used in the Commonwealth Entry and Deportation Act, 3 CMC §§ 4301, et seq., or the Nonresident Workers Act, 3 CMC §§ 4411, et seq., or any other statutes, or regulations promulgated by the Secretary of Labor pursuant to 3 CMC § 4424(a)(1).

Modified, 1 CMC § 3806(d), (f).

TITLE 80: DEPARTMENT OF LABOR

History: Adopted 26 Com. Reg. 22579 (May 24, 2004); Proposed 26 Com. Reg. 21643 (Jan. 22, 2004).