



# Frequently Asked Questions

Oct. 14, 2008

## USCIS ANNOUNCES INCREASED PERIOD OF STAY FOR TRADE NAFTA PROFESSIONAL WORKERS FROM CANADA OR MEXICO

### **Q: What is the TN nonimmigrant classification?**

A: The TN nonimmigrant classification permits qualified Canadian and Mexican citizens to seek temporary entry into the United States to engage in business activities at a professional level. The TN classification was created following Congressional approval of the North American Free Trade Agreement (NAFTA) on December 8, 1993.

### **Q: What professional activities may a TN worker engage in?**

A: Generally, eligible professional activities are activities that require at least a bachelor's degree or appropriate credentials demonstrating status as a professional. The specific occupations that qualify for the TN nonimmigrant classification are listed in Appendix 1603.D.1 to Annex 1603 of the NAFTA and are reproduced in DHS regulations at 8 CFR 214.6(c). Among the types of professionals who are eligible to seek admission as TN nonimmigrants are accountants, engineers, lawyers, pharmacists, scientists, and teachers.

### **Q: Is there an annual cap or limit on the number of TN visas?**

A: There is no annual limit on the number of TN admissions to the United States. Further, a single individual may enter the United States in TN status multiple times in a given year, and the statistics kept by DHS reflect this practice. For Fiscal Year 2006, there were a total of 74,098 TN admissions. As noted, this figure includes readmissions to the United States of TN nonimmigrants who travel outside the United States and return.

### **Q: How do Canadian citizens obtain the TN nonimmigrant classification?**

A: Canadian citizens are not required to apply for a visa with a U.S. consulate or file a petition with USCIS. When requesting admission as TN workers at a U.S. port-of-entry, however, they must provide proof of citizenship, a letter from their prospective employer detailing items such as professional capacity, purpose, length of stay, and educational qualifications. They may also need to provide credential evaluations. Following inspection by a U.S. Customs and Border Protection (CBP) Officer, an eligible Canadian citizen will be admitted as a TN nonimmigrant with a Form I-94 as evidence of such admission.

### **Q: How do Mexican citizens obtain the TN nonimmigrant classification?**

A: Mexican citizens seeking TN nonimmigrant classification do not need to file a petition with USCIS. However, a visa is required for Mexican citizens to enter the United States in the TN nonimmigrant classification. Therefore, Mexican citizens should apply for a TN visa directly at a U.S. consulate in Mexico and present proof of citizenship, a letter from their prospective employer detailing items such as the professional capacity in which they will work in the U.S., the purpose of their employment, their length of stay, and their educational qualifications. They may also need to provide credential evaluations. TN visa holders then may apply for admission at a U.S. port-of-entry, and if found qualified by a CBP inspector, will be issued, as in the case of qualified Canadian citizens, a "multiple entry" Form I-94, indicating that the person has been admitted as a TN nonimmigrant.

**Q: Why are the rules different for Canadian and Mexican citizens?**

A: Canadian citizens, unlike Mexican citizens, are generally eligible for admission as nonimmigrants without a visa. The TN category, as a nonimmigrant classification, simply reflects this general exemption from the visa requirement.

**Q: For how long is a person granted TN classification admitted?**

A: Previously, aliens admitted in TN status are admitted for a maximum of one year and by the end of that period must either seek readmission in TN nonimmigrant status or apply to USCIS for an extension of stay. This final rule will extend that period to a maximum of three years to be consistent with other nonimmigrant worker categories, such as the H-1B.

**Q: How many times can a person apply for TN visas?**

A: There is no limit on the number of times a person can apply for a TN visa or seek admission in TN status. TN professionals previously could be admitted initially for a period of up to one year, and, if they are otherwise admissible / eligible, may be granted, at a port-of-entry, an additional period of stay of up to one year following each departure from the country. They may also, upon application, be granted an extension of stay for a period of up to one year.

**Q: What are the benefits to employers and to TN workers of the proposed extension of the TN period of stay?**

A: Increasing the maximum period of stay for TN workers from one to three years before requiring the workers to seek readmission or an extension would:

- Provide for a more stable and predictable workforce for TN employers;
- Make the TN program more attractive to Canadian or Mexican employers and professionals who might otherwise be required to seek admission under the capped H-1B program, thereby possibly freeing up H-1B visa slots for other professional workers; and
- Reduce the cost and bureaucratic inconvenience to TN workers of extending status by requiring application for readmission or extension only once every three years instead of annually.

**Q: Are spouses and children of TN nonimmigrants allowed to enter the U.S.?**

A: Yes. Spouses and children may be granted nonimmigrant status as a NAFTA dependent (TD) and may be admitted to the U.S. but may not work. This proposed rule would also increase such dependents' maximum period of stay from one year to three years.

**Q: What systems are in place to avoid fraud or misuse of the TN visa by corrupt employers and smugglers?**

A: The final rule does not change security check requirements for TN nonimmigrants or their dependents. The extended period of admission and readmission from one year to three years will be subject to all applicable security checks. Further, TN nonimmigrants present in the United States will still be subject to the same rules regarding removability/deportability and the same conditions of stay (other than the initial period of admission/one year extension of stay requirement) as they are under the current regulations.