



RALPH DLG. TORRES
Governor

VICTOR B. HOCOG
Lieutenant Governor

COMMONWEALTH of the NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

September 18, 2018

The Honorable Kirstjen Nielsen
Secretary
Department of Homeland Security
Washington, DC

SCANNED/RECEIVED
BY EXEC SEC
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Dear Secretary Nielsen:

Pursuant to the Section 3(b)(3) of the Northern Mariana Islands U.S. Workforce Act of 2018, *U.S. Public Law 115-218*, I write to provide the Department of Homeland Security my comments and recommendations on the development of interim final rules for the implementation of the Act.

Since the enactment of Pub. Law 115-218, I have spoken with many individuals throughout the Commonwealth of the Northern Mariana Islands (CNMI) to solicit their thoughts, plans and questions regarding this law. The following recommendations represent an effort to ensure this law works toward the development of a strong and stable U.S. workforce in the CNMI and does so with recognition on the need for continued economic growth in this present stage of our development.

48 CMC § 1806 (d)(3)(D)(iii)(I)(bb) – Revocation

The revocation of a permit if the beneficiary does not apply for admission to the Commonwealth after ten (10) day period following the period of petition validity is unclear and would be potentially problematic for employers given processing times and coordination within the U.S. State Department's Consulates and Embassies.

Historically, the timeframe in between a beneficiary's receipt of approval for a CW-1 permit and the completion consular processing is unpredictable and outside the control of legitimate employers within the CNMI.

To have an approved beneficiary be denied entry into the CNMI due to delays with consular processing, would be detrimental to our business community and be outside of the intent of this provision.

I see the merit in the full application of this provision and its role in securing the limited number of permits to provide their fullest economic potential, however, I request that the permit revocation process based on this criterion be delayed until further understanding of the State Department's new role in this law is obtained.

If this is not a feasible recommendation, I ask that this sole provision does not immediately disqualify admission into the CNMI if the other criteria set for entry and employment in the CNMI are met satisfactorily.

48 CMC § 1806 (d)(7)(A)(iii) – Requirement to Remain Outside the United States

The requirement for a CW permit holder to remain outside of the United States for 30 continuous days prior to submission of a renewal petition generates significant questions that must be recognized in this time frame.

There appears to be needed clarity on what constitutes the genesis of a renewal period under the new law. I recommend that, given the new requirements and upcoming regulations to govern this program, that the first renewal period begin in Fiscal Year 2020, leading to the second renewal period concluding at the end of Fiscal Year 2021. This will provide clarity to employers on the mandates of Pub. Law 115-218 and allow them to make the necessary adjustments to their internal processes to plan for the departure of their CW-1 employees following the end of the second renewal period. Given that the forms and procedures for renewals in the Fiscal Year 2019 application period follow the processes of the previous law and regulations, the initiation of the first renewal period in Fiscal Year 2020 is reasonable and appropriate.

Further, it is understandable and reasonable that US Citizenship and Immigration Services (USCIS) requires time to adjudicate the many CW-1 petitions from the CNMI. However, the adjudication timeframe raises concerns as to the temporary loss of a large number of our workforce upon the second year of this program and onward. If a majority of the CNMI's CW-1 permit holders are required to leave prior to initiating their renewal petitions it would likely place our economy in successive periods of months of economic loss while awaiting adjudication.

To mitigate this risk, I additionally recommend acknowledgement that the language of the law states that beneficiaries would be submitting "renewal" petitions following the expiration of the second renewal period, and that this renewal petition be allowed to reenter and resume their employment the CNMI following the thirty (30) day period under 8 C.F.R. § 274a.12(b)(20).

While I appreciate that this request is outside of typical processes of the current immigration system, I offer this recommendation in the interest of raising this issue of economic disruption following the end of the second renewal period and request that, if this recommendation is not feasible, we commit to further dialogue regarding the application of this provision in practice.

I thank you for your consideration of these recommendations and the recommendations I have offered in my August 8, 2018 letter regarding the reservation of permits for occupational categories necessary to maintain public health and safety in the Commonwealth.

If you have questions or need clarification on these recommendations please contact my Executive Advisor, Matthew Deleon Guerrero at matt.deleonguerrero@gov.mp.

Sincerely,



RALPH DLG. TORRES
Governor



**U.S. Citizenship
and Immigration
Services**

October 29, 2018

The Honorable Ralph DLG. Torres
Governor
Commonwealth of the Northern Mariana Islands
Caller Box 10007
Saipan, Northern Mariana Islands 96950

Dear Governor Torres:

Thank you for your March 16, 2018, August 8, 2018 and September 18, 2018 letters. Secretary Nielsen asked that I respond on her behalf. U.S. Citizenship and Immigration Services (USCIS) appreciates your recommendations for implementation of the interim final rule.

The Northern Mariana Islands U.S. Workforce Act of 2018, Public Law 115-218, requires the Secretary of Homeland Security to consider your recommendations in developing the interim final rule implementing the law. The statute specifically states that the Department of Homeland Security shall consider in good faith "any written public recommendations regarding the implementation of this Act that are submitted by the Governor of the Commonwealth not later than 60 days after the date of the enactment of this Act; and ... may include provisions in such rule that are responsive to any recommendation of the Governor that is not inconsistent with this Act, including a recommendation to reserve a number of permits each year for occupational categories necessary to maintain public health or safety in the Commonwealth." Please be assured that we will consider your recommendations as outlined in your letters, as directed by statute in developing the forthcoming interim final rule.

As mandated by Public Law 115-218, USCIS has immediately implemented the CW-1 cap increase for Fiscal Year (FY) 2019 to 13,000, and we are currently receiving petitions. We do not have authority to reserve permits for occupational categories pursuant to your request prior to the interim final rule taking effect. Therefore, our ability to make any such reservations for FY 2019 (as opposed to future fiscal years) will depend upon when the interim final rule takes effect and whether FY 2019 CW-1 permits are still available at that point in time (i.e., whether the FY 2019 cap has been reached); unfortunately, neither of these factors can yet be determined.

We appreciate your stated concerns and your recommendations for implementing the specific statutory provisions of the new law, and will consider your input as we draft the interim final rule.

The Honorable Ralph DLG. Torres
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Thank you again for your letters and your interest in this matter. Should you wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "L. Francis Cissna". The signature is fluid and cursive, with the first letter of each word being capitalized and prominent.

L. Francis Cissna
Director