

LISA MURKOWSKI
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February 10, 2012

Mr. Jeffrey Zients
Acting Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Mr. Zients:

I understand the Office of Management and Budget is currently reviewing the Department of State's proposed interim final rule to exclude the manufacturing sector from the J-1 Visa Summer Work Travel program (J-1). The Department includes seafood processing facilities in this interim final rule.

I strongly object to the use of the interim final rulemaking process to exclude seafood processing from the J-1 program. Such a rulemaking should only be taken with advance public notice and the opportunity for comment from the affected sectors. There is no compelling reason to use the interim final rulemaking process for the Alaska seafood processing industry and such action would be extremely disruptive to 2012 summer season fisheries.

Recruitment for 2012 employment has already begun. Just months before the summer salmon season, J-1 students could not be easily replaced. This abrupt reduction in the available workforce would impact not just the participating students and processing companies but fishermen who depend on these processors to sell their catch and the communities in which these facilities operate. Remote Alaska communities where the local economy largely depends on relatively small processing facilities are likely to suffer the greatest hardship.

The attached letter to Secretary Clinton expands on my concerns and suggests an alternative approach to addressing any issues regarding the J-1 program in the Alaska seafood industry. Given the harm this sudden decision could inflict on the largest private sector employer in my state, I request you reject the proposal for an interim final rulemaking and direct the State Department to proceed with a formal process of proposed rulemaking which includes advance notice and comments from the affected seafood sector.

Thank you for your attention to this matter. If you have any questions regarding this, please contact Stefanie Moreland in my office at 202-224-6665.

Sincerely,


Lisa Murkowski
United States Senator

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February 6, 2012

Honorable Hillary Rodham Clinton
Secretary of State
2201 C Street NW
Washington, DC 20520

Dear Madam Secretary:

I write to express concern about the Bureau of Educational and Cultural Affairs' plan to exclude seafood processing facilities, as well as all manufacturing facilities, from participation in the Summer Work Travel Program through an Interim Final Rule which could take effect in March 2012. I understand the Bureau of Educational and Cultural Affairs obtained approval for this plan in a memorandum from Principal Deputy Assistant Secretary Adam Erel to Assistant Secretary Ann Stock dated January 18, 2012.

Excluding manufacturing facilities from the J-1 visa program, including seafood processing plants, without notice and the opportunity for public comment would be a mistake. Ideally, this notice and comment process would involve an Advance Notice of Proposed Rulemaking, which would enable the affected industries to enter into a dialogue with the Bureau of Educational and Cultural Affairs on what is working, what is not, and how the program can be improved.

I understand that some in the Bureau may be concerned that Alaska's seafood industry does not offer an appropriate American cultural experience. I am inclined to suggest that this is a biased view. Yes, the seafood industry involves hard work in challenging environments, but it is this kind of hard work that has historically been central to the American cultural experience, and it is work that provides opportunities to explore some of the most unique and beautiful areas in the country. Further, even if the Bureau is correct, the better course is for the Bureau to work with the seafood processing industry to determine how to improve that aspect of the foreign student's experience. I know Alaska's seafood processing industry is anxious to enter into this dialogue with the Bureau.

On a more practical level, the exclusion of seafood processing facilities from the J-1 program in this spring could have a severe adverse effect on the upcoming summer commercial fishing season in Alaska. While I have yet to survey all of the seafood processing companies in Alaska that employ J-1 students, my initial assessment is that implementation of the contemplated regulation just as the fishing season is beginning would throw the industry into turmoil, with the greatest adverse effect felt by the smallest players.

I understand that Alaska's seafood processing industry does not believe it could recruit US workers in the numbers needed to fill the void left by the loss of J-1 participants. Companies that are unable to find enough qualified replacement workers would be unable to operate at full capacity. They would not be able to purchase all of the salmon that fishermen have to offer. This would hurt the fishermen and Alaska communities as well as the processors.

The Administrative Procedure Act expects that agencies will listen to affected stakeholders through a formal process of notice and comment before promulgating regulations that affect them. Congress instituted the notice and comment requirement to ensure that agencies do not make up their minds on important policy questions in a vacuum. The Interim Final Rulemaking mechanism is not intended to supplant the notice and comment requirements of the Administrative Procedure Act. This mechanism provides a limited exception for advance notice and the opportunity to comment when critical interests are at stake and time is of the essence. I am aware of no reason that this is the case with the J-1 program in Alaska's seafood processing industry, and I have seen no evidence to suggest that exclusion of the seafood processing industry in 2012 would prevent immediate adverse effects on the health, safety or welfare of participating students.

I respectfully request that you enable Alaska's seafood processing industry to fully participate in the dialogue regarding possible changes to the J-1 Summer Work Travel program before changes are made to the program and that you establish a framework for dialogue with the industry with respect to participation in future years. If your staff requires further information, please have them contact Nathan Bergerbest, my Senior Counsel, or Stefanie Moreland, my Legislative Assistant for Fisheries at (202) 224-6665. Thank you for considering my views on this subject.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Murkowski", written in a cursive style.

Lisa Murkowski
United States Senator