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March 22, 2012

Mr. Sunstein, Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
1650 Pennsylvania Avenue NW, Room 262
Washington, DC 20503

Dear Mr. Sunstein:

Thank you for discussing the State Department's plan to implement significant changes in the Summer Work Travel Program through an Interim Final Rule (RIN 1400-AD14) with me. As we discussed, this Interim Final Rule will preclude students participating in the Summer Work Travel program from working in the seafood processing industry, which could detrimentally impact the industry.

I believe that it is inappropriate to implement these changes without full notice and comment rulemaking. I am seriously concerned that the State Department has already begun to implement its change in thinking by discouraging organizations that place Summer Work Travel participants from working with Alaska's seafood processing industry.

Moreover, immediate implementation of the rule will have extremely deleterious economic effects on Alaska's 2012 salmon season and those impacts will not be limited to processors but will also flow down to individual fishermen. The economic activity generated by harvesting and processing the full allowable catch is vital to healthy fishing communities. I have received letters and calls from communities from Southeast Alaska to Western Alaska urging this process to change the J-1 program be slowed down in order to allow everyone to adapt and to not disrupt the salmon season. These communities have also pointed out the mutual benefit of having J-1 program students in their communities. In support of this position I have attached letters from the City of Cordova, the City of Seward, the Southwest Alaska Municipal Conference, and members of the Alaska State Legislature.

This response is not surprising to me. Fishermen require a market, and a labor shortage in the processing sector would negatively impact those markets. Alaska's highest volume salmon fisheries are seasonal. Some occur in very short windows while the fish are returning to spawn. Fishing opportunities depend on returns, and vary from year to year. Many fisheries have steep peaks in returns, harvests, and production. These peaks require the harvesting and processing capacity be in place to take full advantage of allowable harvests. The processors need to be ready to receive the fish when they arrive and plan their workforce needs around these peaks. They cannot buy fish from Alaska's fishermen if they do not have adequate staff to process the fish.

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Some of the processors most vulnerable to the State Department's Interim Final Rule are located in the most remote parts of Alaska whose residents are predominantly Alaska Native. I submit that implementation of the Interim Final Rule could have a disproportionately adverse effect on Alaska Native fishermen who rely on income from commercial fishing to sustain their year round subsistence lifestyles. In communities dependent on subsistence activities for survival, income from commercial fishing activity is often what is used to support equipment purchases and fuel necessary for subsistence fishing and hunting year-round.

However, even in less remote parts of Alaska the adverse impact could be significant. The larger processors which have Human Resources Departments may be in a stronger position to recruit replacement workers than the small businesses which will find it impossible to adapt to rapid changes in the regulatory environment. Those that are in a position to rapidly hire may experience high failure rate among these new hires. The processors report that they have mitigated this risk in the J-1 program by refining their J-1 program recruitment process and relationships with sponsors over time. If the J-1 recruitment opportunity is no longer available the processors will require substantial time to find the right labor market and tailor their recruiting practices to ensure they have workers who will fulfill their employment contracts and meet their company performance standards.

I strongly encourage Alaska's processors to meet these needs by hiring local residents and other Alaskans. But in many cases, particularly in the remotest corners of Alaska, it may not be possible to recruit the necessary workforce without reliance on the Summer Work Travel program. While I understand concerns have been raised about the program, I believe it is imperative that the Department of State and Office of Management and Budget use a transparent process informed by public comment to evaluate any changes proposed to the program.

In conclusion, the State Department's actions have caused severe disruption for processing businesses in Alaska planning for their 2012 salmon season, which has and will continue to have ripple effects through other sectors and fishing communities in Alaska this year. I again urge you to reject the proposal for interim final rulemaking excluding seafood facilities from the J-1 program and direct the Department to proceed with a full notice and comment rulemaking which will allow participation from all interested parties.

Sincerely,



Lisa Murkowski
United States Senator

Enclosures

cc: Mr. Jeffrey Zients, Acting Director of the Office of Management and Budget
The Honorable Hilary Clinton, Secretary, of the Department of State