

United States Senate

November 18, 2022

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, NW
Washington, DC 20528

The Honorable Marty Walsh
Secretary
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Dear Secretary Mayorkas and Secretary Walsh:

We write to thank you for working closely with our offices as we tackle issues surrounding the H-2B visa program, and the problems encountered by Alaska seafood processors in particular. More specifically, we thank you for your October 12, 2022 announcement of the release of 64,716 additional H-2B visas for use in fiscal year (FY) 2023. We applaud your leadership in acting quickly and decisively, as the early announcement of these supplemental visas will aid in addressing workforce shortages seafood processing plants in Alaska will be facing in January. To realize the benefits of this forthcoming visa release, the temporary final rule (TFR) must include provisions that accommodate certain operational realities facing Alaska seafood processors—a sector with key features distinguishing it from other H-2B employers.

Alaska seafood processors are unique in their employment of H-2B visa guest workers as they annually produce up to six billion pounds of wild, sustainable seafood. They provide markets for thousands of independent American fishermen and support tens of thousands of additional jobs in regional service and support sectors. When seafood processors operate with a full workforce, including H-2B workers, they support a supply chain that provides nutritious food security for millions of Americans and generates billions of dollars in American income and spending, including in far remote and otherwise underserved areas of Alaska. H-2B workers are a critical link in this chain, allowing for operational stability and reliable delivery of healthy and affordable proteins to consumers at home and around the world. Without access to the H-2B workforce in FY23, estimates are in excess of \$100 million that could be lost to our seafood supply chain, based on extrapolations of past H-2B shortfall economic impacts in Alaska seafood.

As you know, the additional 64,716 H-2B visas, in combination with the 66,000 authorized annually, will still fall short of overall estimated H-2B visa demand for FY23. Therefore, as your agencies work to prepare the TFR for releasing the 64,716 additional visas, we ask you to ensure that H-2B visas are made available specifically for the seasonal needs Alaska seafood processors, consistent with your agencies' recognition of the need to reserve visa allocation for peak summer visa demand. Specifically, Alaska seafood processors will need approximately 2,000 supplemental visas in the first half of FY23, and up to 7,000 for the summer of 2023—including coverage for the Bristol Bay sockeye salmon fishery in which tens of millions of fish are harvested annually in a compressed six-week fishing season. Additionally, seafood processors operating in Alaska will need to access returning workers, as also recognized by your agencies in the visa

release announcement, to accommodate work start dates in January 2023. Visa release needs to happen quickly for this fishery to be able to effectively utilize the H-2B visa program.

With your continued leadership on this workforce issue that is critical to fisheries occurring in Alaska, it will be possible to realize full productive capacity of the Alaska seafood supply chain. In turn, this outcome is consistent with the Biden administration's policy goals of providing domestic food security through critical/essential infrastructure employers, supporting supply chain predictability, and controlling the cost of food for consumers. It will help maximize the net benefits of our public fishery resources for the Nation, and to the fishermen, communities, and other stakeholders that make this sustainable seafood industry possible.

We look forward to ongoing dialogue on this issue, and we stand ready to work with you to provide any additional information you need to follow through on the terms of the TFR.

Sincerely,



Lisa Murkowski
United States Senator



Dan Sullivan
United States Senator



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

December 9, 2022

The Honorable Lisa Murkowski
United States Senate
Washington, DC 20510

Dear Senator Murkowski:

Thank you for your November 18, 2022 letter to the U.S. Department of Homeland Security (DHS) urging the prompt release of the previously announced supplemental H-2B visas. Secretary Mayorkas asked that I respond on his behalf.

U.S. Citizenship and Immigration Services (USCIS) appreciates the concerns you raised regarding the labor challenges facing the seafood processing sector. As you referenced in your letter, on October 12, 2022, DHS, in consultation with the U.S. Department of Labor (DOL), announced that it will be issuing a supplemental increase of 64,716 visas for the H-2B program for U.S. employers seeking to employ additional temporary nonagricultural workers in fiscal year (FY) 2023¹ - the largest number of supplemental H-2B visas to date. Making this determination early on enables DHS and DOL to take the necessary administrative steps to complete the rulemaking and release these much needed supplemental H-2B visas to address the labor shortages facing U.S. businesses, including Alaska's seafood processing sector. Both Departments also place a high priority on strong worker and wage protections and will ensure this shared commitment is reflected in the joint temporary final rule authorizing these additional visas, which will be published in the very near future.

Of the total number of supplemental H-2B visas, 44,716 will be available to returning workers who received an H-2B visa, or were otherwise granted H-2B status, during one of the last three fiscal years. These 44,716 visas will be allocated to account for the need for additional seasonal workers during the course of the year, with a portion of the second half allocation reserved to meet the demand for workers during the peak summer season. The remaining 20,000 supplemental H-2B visas will be reserved for nationals of the Northern Central American countries and Haiti, regardless of whether they qualify as a returning worker. These visas will be available throughout the entire fiscal year. With these measures, the Departments endeavor to balance the needs of U.S. employers in all sectors whose needs vary seasonally.

In addition to meeting the needs of U.S. employers, DHS and DOL announced their ongoing commitment to ensuring protections for both H-2B and U.S. workers, most notably with

¹ <https://www.uscis.gov/newsroom/news-releases/dhs-to-supplement-h-2b-cap-with-nearly-65000-additional-visas-for-fiscal-year-2023>.

The Honorable Lisa Murkowski

Page 2

the creation of a task force aimed at safeguarding the integrity of the H-2A and H-2B programs. Further, DHS plans to issue a notice of proposed rulemaking that will modernize and reform the H-2A and H-2B nonimmigrant worker programs. DHS will propose, among other things, policies that strengthen worker protections and increase program efficiencies.

Thank you again for your letter and interest in this important issue. The cosigner of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,



Ur M. Jaddou
Director