

# Department of Labor Issues Final H-2B Wage Rule

<http://www.gcsaa.org/thisweek/2011/feb/3/twnews.asp#twnews1>

The U.S. Department of Labor issued a final rule January 19 that will raise the minimum wages employers must pay seasonal H-2B visa workers starting January 2012. The DOL estimates that the proposed change in wage calculation methodology will result in a \$4.38 increase in the weighted average hourly wage for H-2B workers and similarly employed U.S. workers. GCSAA submitted written comments in opposition to the proposed wage hike last November.

The H-2B visa program allows the only legal entry of seasonal, temporary foreign workers into the U.S. when qualified U.S. workers are not available and when the employment of foreign workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. The H-2B program is limited by law to a program cap of 66,000 visas per year.

The final rule requires employers to pay H-2B and U.S. workers recruited in connection with an H-2B job application a wage that meets or exceeds the highest of the following: the prevailing wage, the federal minimum wage, the state minimum wage or the local minimum wage. Under the final rule, the prevailing wage would be based on the highest of the following:

- Wages established under an agreed-upon collective bargaining agreement.
- A wage rate established under the Davis-Bacon Act or the Service Contract Act for an occupation in an area of intended employment, if the job opportunity is in an occupation for which such a wage rate has been determined.
- The arithmetic mean wage rate established by the Occupational Employment Statistics wage survey for an occupation in an area of intended employment.

GCSAA is working with the H-2B Workforce Coalition to discuss the new rule with members of Congress to gauge the possibility of having a Joint Resolution of Disapproval filed. GCSAA was also a signatory to H-2B Workforce Coalition comments submitted last week to President Obama expressing how the DOL's rule is inconsistent with the President's recent Executive Order 13563 expressing the Administration's commitment to eliminating excessive and unjustified burdens on small businesses.

*(See page 14 for more labor-related news.)*



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## More Labor News

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### *New countries eligible to participate in H-2B program*

The U.S. Citizenship and Immigration Services has announced that the Department of Homeland Security, in consultation with the Department of State, has identified 53 countries whose nationals are eligible to participate in the H-2B visa program for the coming year. A new list of eligible countries was published in a Federal Register notice on Jan. 18, 2011, and the designations are valid for one year from the date of publication.

### *H-2B employers must use new Form I-129*

The U.S. Citizenship and Immigration Services will now only accept the Form I-129 with a November 23, 2010, revision date from employers when attempting to secure H-2B visa workers. Employers who wish to hire foreign workers to temporarily perform services or labor or to receive training may file an I-129 petition. The I-129 form is mainly used for nonimmigrant categories; thus, in most cases, workers who enter the U.S. under this petition must depart the U.S. when their maximum period of stay has been reached.

## AFFILIATES CORNER

### Back of the House

By Dave Wilber

One of the things that I like best about our business is that we get to be behind the scenes. Seriously. Look at how many people pay for the privilege of getting to call themselves an insider, even if for just a few hours. Backstage passes in the rock concert world are sought after to the point of being subjects of movies. A little known fact about a lot of the world's top restaurants is that you can get a table in the kitchen, and they actually charge a premium for getting to eat in the middle of kitchen chaos. You get the picture, right?

Our green grass world is the same way. We really do have the best seats in the house when it comes to the operation of our clubs and courses. When I was a super, I loved being "in the know" about things going on at the club. And later as a consultant and agronomist, I would get calls asking me to explain what "really" went on behind the scenes on a project or at a venue. As a super, it was sure fun knowing all the members' stories and all the back channel stuff and often knowing those things made my job easier. Now, as I hit my shots in the distribution world, you can bet that I gained a greater understanding of trucking, when I watched a driver carefully load a truck for a day worth of delivering. So I recognize the value of being in the "back of the house."

*(Continued on page 15.)*

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