



June 10, 2013

Mr. Michael Jones, Acting Administrator  
Office of Policy Development and Research  
Employment and Training Administration  
United States Department of Labor  
200 Constitution Ave., NW  
Room N-5641  
Washington, DC 20210

Re: Regulatory Information Number (RIN) 1205-AB69;  
8 CFR Part 214, 20 CFR Part 655.10, Prevailing Wage Methodology and Revisions to 8  
CFR 216.2(h)(6) and 20 CFR 655.10(b)

Dear Acting Administrator Jones:

The Golf Course Superintendents Association of America (GCSAA) submits these comments to the Employment and Training Administration of the U.S. Department of Labor (DOL) regarding its proposed rule entitled *Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program, Part 2* (Regulatory Information Number 1205-AB69) published in the April 24, 2013 *Federal Register*.

GCSAA is a leading golf organization, which has its focus on golf course management. Since 1926, GCSAA has been the top professional association for the men and women who manage golf courses in the United States and worldwide. From its headquarters in Lawrence, KS, the association provides education information and representation to the more than 17,000 members in 85 countries. GCSAA's mission is to serve its members, advance their profession and enhance the enjoyment, growth and vitality of the game of golf. The association's philanthropic organization, The Environmental Institute for Golf, works to strengthen the compatibility of golf with the natural environment through research grants, support for education programs and outreach efforts.

Golf facilities and other small and seasonal businesses (H-2B employers) will be negatively impacted by the new wage regime in effect now for the calculation of wages for H-2B workers and American workers recruited during the H-2B recruitment process as outlined in the April 24, 2013 interim final rule.

As a member of the H-2B Workforce Coalition, whose mission is to protect American workers through a stable and reliable seasonal workforce, GCSAA concurs with the comments submitted by the H-2B Workforce Coalition on the final interim rule and offers our own comments. GCSAA supports the coalition's goal to protect all workers. GCSAA also supports comments submitted by the U.S. Small Business Administration's Office of the Advocacy on this topic.

GCSAA is troubled that the majority of the interim final rule mirrors the DOL's January 19, 2011 H-2B wage methodology rule (RIN 1205-AB61). This rule was temporarily blocked by the United States District Court for the Northern District of Florida, Pensacola Division, and then also by Congress in Public Law 112-74 and also again in subsequent law. Section 546 "prohibited any funds from being used to implement, administer, or enforce the 'Wage Methodology for the Temporary Non-agricultural Employment H-2B Program' prior to January 1, 2012" and directed DOL to use the December 19, 2008 H-2B regulations to administer the program. This prohibition continues to this day.

Golf is an industry comprised of a significant number of small businesses and H-2B workers support growth and stability of the industry. According to the *2011 Golf Economy Report* published by SRI International in 2012, golf is a \$68.8 billion industry, with a total impact on the U.S. economy of \$176.8 billion. Additionally, golf is responsible for contributing about \$3.9 billion annually to charities across the country, more than any other sporting activity. Golf creates approximately 2 million jobs with wage income of \$55.6 billion.

The DOL has said the interim final rule will result in a \$2.12 increase in the weighted average hourly wage for H-2B workers and similarly employed American workers during the H-2B recruitment process. This is a sudden and unexpected wage increase mandated in the middle of the golf season and golf facilities have not had an opportunity to plan for such a sudden and dramatic wage increase. Further, a sampling of actual revised prevailing wage determinations gathered by the H-2B Workforce Coalition demonstrates an actual 32% increase in H-2B wage rates. Several golf facilities have projected this sudden and unexpected increase in labor costs in the middle of the season will result in a \$65,000-\$125,000 hit to their bottom-line.

GCSAA is concerned the interim final rule places a significant economic burden on golf facilities relying on seasonal, low-skilled workers. Golf facilities are committed to hiring a legally documented workforce and currently pay H-2B workers an hourly rate that is in many cases well above minimum wage.

H-2B workers employed at golf facilities perform labor intensive jobs considered to be low and semi-skilled positions, but that are vital to maintain the playability of a golf course. Golf facilities have difficulty attracting workers to do manual labor jobs despite paying good wages and making extensive efforts to recruit domestic laborers. American workers are actively recruited before a golf facility considers hiring H-2B workers. Even when golf facilities offer an excellent wage to prospective employees, it is difficult to find local domestic workers who are willing to work seasonal jobs, start work between 4:00-6:00 a.m., work weekends and holidays and do the physical work (such as walk-mowing greens and tees) that is a large and important component of golf course maintenance. When local domestic workers are hired to fill these positions, golf facilities report high turnover rates and are kept in a continuous hiring process.

GCSAA's 2013 *Compensation, Benefits and Operations Report* reports on average that golf course superintendents are responsible for 24 employees and 11 of those are seasonal employees. Golf operates on extremely thin profit margins and relies heavily on peak seasons to generate revenue to retain full-time year-round employees. Facilities must generate enough revenue during the golf season to pay the salary of the 11 employees not seasonal. If money must be found to pay for the "must have" seasonal workers, it stands to reason that full-time year-round employees with full benefits will have hours shortened or be eliminated causing additional domestic workers to be unemployed.

Most golf courses cannot simply pass along the unexpected and higher labor costs to its customers. Golf is a leisure sport. There is a limit to how much golfers will pay to play golf before they simply decide to forgo the sport. Golf facilities are not in a position to increase the cost to play golf during this down economic time. In fact, the current economy has had a crippling effect on golf facilities across the country and golf facilities are doing whatever they can to keep their doors open including reducing green fees to attract and retain customers. It is projected the golf market will remain flat for the next five years.

H-2B workers who are arriving or have arrived in the U.S. in 2013 were hired at a certain rate. Golf facilities budgeted for this rate. If courses are forced in the middle of the golf season at peak playing times to raise the wages of their H-2B workers as well as corresponding American workers this will have a devastating effect on many golf facilities.

In lieu of the wage methodology as outlined in the RIN 1205-AB69, GCSAA urges the DOL to immediately rescind the rule and replace it with a more equitable formula for calculating H-2B prevailing wages:

1. The most appropriate wage methodology is found in DOL's December 19, 2008 H-2B rule entitled "Labor Certification Process and Enforcement for Temporary Employment in Occupations Other Than Agriculture or Registered Nursing in the United States (H-2B Workers), and Other Technical Changes."
2. In addition to this regulation, DOL's "Employment and Training Administration, Prevailing Wage Determination Policy Guidance, Nonagricultural Immigration Programs, Revised May 9, 2005" is also a reasonable approach to determine wages.
3. Finally, DOL could rely on the legislative text of S. 744, the "Border Security, Economic Opportunity, and Immigration Modernization Act," which is under debate right now in the U.S. Senate. This is bipartisan legislation that was signed off by immigration stakeholders (business, labor, etc.) prior to bill introduction.

Golf facilities will be able to stay in business and ensure that workers are well compensated if any of these three approaches are adopted by the DOL as the wage regime for the H-2B program.

Adjusting the wage regime as proposed in the interim final rule will hurt golf facilities seeking a legal means to find workers. We urge DOL to adopt one of the wage regimes as outlined above effective immediately. Thank you for this opportunity to comment. For questions, you can reach me at (785) 832-3619 or [cmmckeel@gcsaa.org](mailto:cmmckeel@gcsaa.org).

Sincerely,

A handwritten signature in cursive script that reads "Chava McKeel". The signature is written in black ink and is positioned below the word "Sincerely,".

Chava McKeel  
Director, Government Relations  
Golf Course Superintendents Association of America