

ROBERT J. WITTMAN
1ST DISTRICT, VIRGINIA

HOUSE ARMED SERVICES COMMITTEE
OVERSIGHT AND INVESTIGATIONS SUBCOMMITTEE,
CHAIRMAN
SEAPOWERS AND PROJECTION FORCES
SUBCOMMITTEE

COMMITTEE ON NATURAL RESOURCES
FISHERIES, WILDLIFE, OCEANS, AND
INSULAR AFFAIRS SUBCOMMITTEE

CO-CHAIR, CONGRESSIONAL
SHIPBUILDING CAUCUS

WWW.WITTMAN.HOUSE.GOV

Congress of the United States
House of Representatives
Washington, DC 20515-4601

July 29, 2011

WASHINGTON OFFICE:
1317 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4261

DISTRICT OFFICES:
FREDERICKSBURG OFFICE
3504 PLANK ROAD, SUITE 203
FREDERICKSBURG, VA 22407
(540) 548-1086
PENINSULA OFFICE
4904-B GEORGE WASHINGTON
MEMORIAL HIGHWAY
YORKTOWN, VA 23692
(757) 874-6687
MIDDLE PENINSULA OFFICE
508 CHURCH LANE
TAPPAHANNOCK, VA 22560
(804) 443-0668

Dear Colleague:

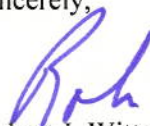
The H-2B program is vitally important for small and seasonal businesses around the country. These companies rely on the H-2B program to fill temporary vacancies in seafood processing, horse training, hospitality, landscaping, carnivals and other occupations. The seasonal nature of these businesses and industries means that they routinely face shortages of local workers during their peak work periods. By filling temporary jobs, H-2B workers not only keep these businesses open; they contribute to the creation of additional, year-round jobs for local workers.

Unfortunately, a January 19, 2011 U.S. Department of Labor (DOL) final rule will greatly increase the hourly wage rates for H-2B workers well above levels that can be supported by small, seasonal businesses. The Chief Counsel for Advocacy of the Small Business Administration noted that "DOL cannot certify this rule because this rule will have a significant economic impact on a substantial number of small entities." The rule was slated to take effect on January 1, 2012, but due to a court action, DOL recently proposed an October 1, 2011 implementation date. This accelerated implementation date will further exacerbate this economic hardship. Successful companies develop annual budget plans and make decisions about hiring, wages, and pricing of goods and services as part of this annual planning process. Companies using the H-2B program lack the resources to implement massive and unjustified wage increases in such a short timeframe.

Further, a March 18 proposed rule would result in sweeping changes to the program that would render the program virtually unusable. The rule would require employers to hire any qualified U.S. worker up to three days before the H-2B worker is scheduled to begin, even though the employer has already offered the job to the H-2B worker, assisted with the visa process and paid transportation, housing and other associated fees. The proposed rule would also require employers to pay transportation and subsistence costs for potential U.S. workers, among other things.

Like you, we have been hearing from seasonal businesses in our districts about the negative impact of these two rules on their companies and their permanent workforce. We hope you will consider signing the attached letter to DOL regarding these rules. Thank you very much for your consideration of this important issue for small and seasonal businesses. To sign please contact Brent (Wittman) at brent.robinson@mail.house.gov. Deadline for signature: August 5, 2011.

Sincerely,



Robert J. Wittman
Member of Congress

July XX, 2011

The Honorable Hilda Solis
Secretary of Labor
U.S. Department of Labor
Francis Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Solis:

The H-2B program is a lifeline for scores of small and seasonal businesses around the country. These companies, upon which so many of our constituents rely for their livelihoods, are frequently unable to find enough local workers to fill their temporary and seasonal job openings, even in today's tough economic climate. As elected officials, we continue to hear from small and seasonal businesses in our states about their concerns with the Department of Labor's January 19, 2011 final H-2B wage methodology rule. This economic hardship is further exacerbated by the recently announced October 1, 2011 implementation date. The rule's impact will be even more dramatic if the Department moves forward with its March 18, 2011 proposed H-2B rule. While we appreciate the Department of Labor's attention to the H-2B program and agree with the intent of the reforms, we believe that the impact of these rules could threaten the economic survival of many small and seasonal businesses.

Seasonal businesses rely on the H-2B program to fill temporary vacancies in seafood processing, horse training, hospitality, landscaping, carnivals and other occupations. The seasonal nature of these businesses and industries means that they routinely face shortages of local workers during their peak work periods. By filling temporary jobs, H-2B workers not only keep these businesses open; they contribute to the creation of additional, year-round jobs for local workers. In these challenging economic times, we believe the Department should be pursuing policies that help our employers expand their businesses and increase hiring. Unfortunately, the Department's recent H-2B wage rule and the March 18 proposed rule threatens to do just the opposite. The proposals will negatively affect the viability of companies using the H-2B program and could possibly lead to full-time job losses.

Our constituents tell us that the current wage rates for H-2B positions already exceed the local market-based wages. Yet, by the Department's own estimates, the new wage methodology would increase H-2B hourly wages by approximately 50 percent in a manner unrelated to economic realities. Moreover, your proposed H-2B program rule creates a $\frac{3}{4}$ guarantee for each month's work (instead of for the life of the contract), establishes a new "corresponding employment" concept unrelated to how employees of small businesses share tasks and responsibilities, and mandates that H-2B employers continue to hire and recruit up until 3 days before the H-2B worker is scheduled to begin work. For many seasonal employers who operate on thin profit margins, such a dramatic increase in labor costs so quickly could drive them into bankruptcy. We cannot afford to let that happen.

As the Department knows well, without a fairly administered H-2B program that is workable, many small and seasonal businesses will simply not be able to continue operations. Therefore, we encourage the Department to rescind and revise the January 19, 2011 wage rule and abandon its plans to immediately finalize the March 18, 2011 proposed rule.

We look forward to continuing to work with you on this issue and in supporting businesses that create jobs.

Sincerely,