

6(b) of the Act on June 27, 1991 (56 FR 29500).

**Constance K. Robinson,**  
*Director of Operations, Antitrust Division.*  
 [FR Doc. 95-2886 Filed 2-6-95; 8:45 am]  
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**DEPARTMENT OF LABOR**

**Employment and Training Administration**

**Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States: 1995 Adverse Effect Wage Rates and Allowable Charges for Agricultural and Logging Workers' Meals**

**AGENCY:** Employment Service, Employment and Training Administration, Labor.

**ACTION:** Notice of adverse effect wage rates (AEWRs) and allowable charges for meals for 1995.

**SUMMARY:** The Director, U.S. Employment Service, announces 1995 adverse effect wage rates (AEWRs) for employers seeking nonimmigrant alien (H-2A) workers for temporary or seasonal agricultural labor or services and the allowable charges employers seeking nonimmigrant alien workers for temporary or seasonal agricultural labor or services or logging work may levy upon their workers when they provide three meals per day.

AEWRs are the minimum wage rates which the Department of Labor has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant alien agricultural workers (H-2A visaholders). AEWRs are established to prevent the employment of these aliens from adversely affecting wages of similarly employed U.S. workers.

The Director also announces the new rates which covered agricultural and logging employers may charge their workers for three daily meals.

**EFFECTIVE DATE:** February 7, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. John M. Robinson, Deputy Assistant Secretary for Employment and Training, U.S. Department of Labor, Room N4700, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: 202-219-5257 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Attorney General may not approve an employer's petition for admission of temporary alien agricultural (H-2A) workers to perform agricultural labor or

services of a temporary or seasonal nature in the United States unless the petitioner has applied to the Department of Labor (DOL) for an H-2A labor certification. The labor certification must show that (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188.

DOL's regulations for the H-2A program require that covered employers offer and pay their U.S. and H-2A workers no less than the applicable hourly adverse effect wage rate (AEWR). 20 CFR 655.102(b)(9); see also 20 CFR 655.107. Reference should be made to the preamble to the July 5, 1989, final rule (54 FR 28037), which explains in great depth the purpose and history of AEWRs, DOL's discretion in setting AEWRs, and the AEWR computation methodology at 20 CFR 655.107(a). See also 52 FR 20496, 20502-20505 (June 1, 1987).

**A. Adverse Effect Wage Rates (AEWRs) for 1995**

Adverse effect wage rates (AEWRs) are the minimum wage rates which DOL has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant (H-2A) agricultural workers. DOL emphasizes, however, that such employers must pay the highest of the AEWR, the applicable prevailing wage or the statutory minimum wage, as specified in the regulations. 20 CFR 655.102(b)(9). Except as otherwise provided in 20 CFR Part 655, Subpart B, the nationwide AEWR for all agricultural employment (except those occupations deemed inappropriate under the special circumstances provisions of 20 CFR 655.93) for which temporary alien agricultural labor (H-2A) certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the U.S. Department of Agriculture (USDA does not provide data on Alaska). 20 CFR 655.107(a).

The regulation at 20 CFR 655.107(a) requires the Director, U.S. Employment Service, to publish USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** notice. Accordingly, the 1995 AEWRs for work performed on or after the effective date

of this notice, are set forth in the table below:

**1995 ADVERSE EFFECT WAGE RATES (AEWRs)**

State	1995 AEWR
Alabama	\$5.66
Arizona	5.80
Arkansas	5.19
California	6.24
Colorado	5.62
Connecticut	6.21
Delaware	5.81
Florida	6.33
Georgia	5.66
Hawaii	8.73
Idaho	5.57
Illinois	6.18
Indiana	6.18
Iowa	5.72
Kansas	5.99
Kentucky	5.47
Louisiana	5.19
Maine	6.21
Maryland	5.81
Massachusetts	6.21
Michigan	5.65
Minnesota	5.65
Mississippi	5.19
Missouri	5.72
Montana	5.57
Nebraska	5.99
Nevada	5.62
New Hampshire	6.21
New Jersey	5.81
New Mexico	5.80
New York	6.21
North Carolina	5.50
North Dakota	5.99
Ohio	6.18
Oklahoma	5.32
Oregon	6.41
Pennsylvania	5.81
Rhode Island	6.21
South Carolina	5.66
South Dakota	5.99
Tennessee	5.47
Texas	5.32
Utah	5.62
Vermont	6.21
Virginia	5.50
Washington	6.41
West Virginia	5.47
Wisconsin	5.65
Wyoming	5.57

**B. Allowable Meal Charges**

Among the minimum benefits and working conditions which DOL requires employers to offer their alien and U.S. workers in their applications for temporary logging and H-2A agricultural labor certification is the provision of three meals per day or free and convenient cooking and kitchen facilities. 20 CFR 655.102(b)(4) and 655.202(b)(4). Where the employer provides meals, the job offer must state the charge, if any, to the worker for meals.

DOL has published at 20 CFR 655.102(b)(4) and 655.111(a) the methodology for determining the maximum amounts covered H-2A agricultural employers may charge their U.S. and foreign workers for meals. The same methodology is applied at 20 CFR 655.202(b)(4) and 655.211(a) to covered H-2B logging employers. These rules provide for annual adjustments of the previous year's allowable charges based upon Consumer Price Index (CPI) data.

Each year the maximum charges allowed by 20 CFR 655.102(b)(4) and 655.202(b)(4) are changed by the same percentage as the twelve-month percent change in the CPI for all Urban Consumers for Food (CPI-U for Food) between December of the year just past and December of the year prior to that. Those regulations and 20 CFR 655.111(a) and 655.211(a) provide that the appropriate Regional Administrator (RA), Employment and Training Administration, may permit an employer to charge workers no more than a higher maximum amount for providing them with three meals a day, if justified and sufficiently documented. Each year, the higher maximum amounts permitted by 20 CFR 655.111(a) and 655.211(a) are changed by the same percentage as the twelve-month percent change in the CPI-U for Food between December of the year just past and December of the year prior to that. The regulations require the Director, U.S. Employment Service, to make the annual adjustments and to cause a notice to be published in the **Federal Register** each calendar year, announcing annual adjustments in allowable charges that may be made by covered agricultural and logging employers for providing three meals daily to their U.S. and alien workers. The 1994 rates were published in a notice on February 4, 1994 at 59 FR 5444.

DOL has determined the percentage change between December of 1993 and December of 1994 for the CPI-U for Food was 2.4 percent.

Accordingly, the maximum allowable charges under 20 CFR 655.102(b)(4), 655.202(b)(4), 655.111, and 655.211 were adjusted using this percentage change, and the new permissible charges for 1995 are as follows: (1) For 20 CFR 655.102(b)(4) and 655.202(b)(4), the charge, if any, shall be no more than \$6.97 per day, unless the RA has approved a higher charge pursuant to 20 CFR 655.111 or 655.211(b); for 20 CFR 655.111 and 655.211, the RA may permit an employer to charge workers up to \$8.71 per day for providing them with three meals per day, if the employer justifies the charge and

submits to the RA the documentation required to support the higher charge.

Signed at Washington, DC, this 20th day of January 1995.

**John M. Robinson,**

*Deputy Assistant Secretary for Employment and Training.*

[FR Doc. 95-2964 Filed 2-6-95; 8:45 am]

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**[General Administration Letter No. 1-95]**

**Procedures for H-2B Temporary Labor Certification in Nonagricultural Occupations**

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** The Employment and Training Administration (ETA), Department of Labor has issued General Administration Letter (GAL) No. 1-95 that transmits to State and Regional Offices revised procedures for processing H-2B temporary labor certification applications in nonagricultural occupations, including revised standards for determining the temporary nature of a job under the H-2B classification. The revised procedures and standards replace: (1) GAL 10-84, Subject: Procedures for Temporary Labor Certifications in Nonagricultural Occupations, issued April 23, 1984; (2) GAL 10-84, Change 1, Subject: Revised Standards for Determining the Temporary or Permanent Nature of a Job Offer Made in Conjunction With an Application for Nonagricultural Temporary Labor Certification, issued August 21, 1989; and (3) General Administrative Letter No. 10-84, Change 2, Subject: Handling of Temporary Labor Certification Applications for Boilermakers, issued May 9, 1990.

GAL 1-95 is published below for the information of all interested parties.

**DATES:** GAL 1-95 was issued on November 10, 1994.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Denis Gruskin, Senior Specialist, Division of Foreign Labor Certifications, Employment and Training Administration, Room N-4456, 200 Constitution Avenue NW., Washington, DC 20210. Telephone (202) 219-4369 (this is not a toll-free number).

Signed at Washington, DC, this 7th day of December 1994.

**John M. Robinson,**

*Deputy Assistant Secretary for Employment and Training.*

Directive: General Administration Letter No. 1-95

To: All State Employment Security Agencies  
From: Barbara Ann Farmer, Administrator for Regional Management  
Subject: Procedures for H-2B Temporary Labor Certification in Nonagricultural Occupations  
Classification: ES/Nonag.  
Correspondence symbol: TEES  
Date: Nov. 10, 1994

1. *Purpose.* To transmit revised procedures for processing H-2B temporary labor certification applications in nonagricultural occupations, including revised standards for determining the temporary nature of a job under the H-2B classification.

2. *References.* Title 20 CFR Parts 652 and 655, 8 CFR 214.2(h), 48 FR 2587, GAL 10-84.

3. *Background.* The H-2B visa classification applies to aliens coming temporarily to the U.S. to perform nonagricultural work of a temporary or seasonal nature, if U.S. workers capable of performing such service or labor cannot be found in the United States. The H-2B visa classification requires a temporary labor certification from the Secretary of Labor advising the Immigration and Naturalization Service (INS) whether or not U.S. workers capable of performing the temporary services or labor are available and whether or not the alien's employment will adversely affect the wages and working conditions of similarly employed U.S. workers, or a notice that such certification cannot be made, prior to filing an H-2B visa petition with INS.

The attached procedures are intended to clarify and update DOL procedures for processing applications for temporary labor certification and to incorporate INS standards for determining the temporary nature of a job opportunity under the H-2B classification. They do not apply to applications filed on behalf of aliens in the entertainment industry and in professional team sports. These procedures replace:

- General Administration Letter No. 10-84: Procedures for Temporary Labor Certifications in Nonagricultural Occupations (Issued 4/23/84);

- General Administration Letter No. 10-84, Change 1: Revised Standards for Determining the Temporary or Permanent Nature of a Job Offer Made in Conjunction With an Application for Nonagricultural Temporary Labor Certification (Issued 8/21/89); and

- General Administration Letter No. 10-84, Change 2: Handling of Temporary Labor Certification Applications for Boilermakers (Issued 5/9/90).

4. *Action Required.* SESA Administrators are required to provide the attached procedures to appropriate staff, and instruct that they be followed in processing H-2B applications.

5. *Inquiries.* Inquiries should be directed to the appropriate Regional Certifying Officer.

6. *Attachments.* Procedures for H-2B Temporary Labor Certification in Nonagricultural Occupations.

Rescissions: GAL Nos. 10-84; 10-84, Ch. 1; 10-84, Ch. 2

Expiration Date: December 31, 1995