

posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* DOL-ETA.

*Type of Review:* Extension without changes.

*Title of Collection:* Weekly Claims and Extended Benefits Data and Weekly Initial and Continued Weeks Claimed.

*Form:* ETA 538 and ETA 539.

*OMB Control Number:* 1205-0028.

*Affected Public:* State Workforce Agencies.

*Estimated Number of Respondents:* 53.

*Frequency:* Both reports once a week.

*Total Estimated Annual Responses:* 5,512.

*Estimated Average Time per Response:* 30 minutes per submittal for the ETA 538, 50 minutes per submittal for the ETA 539.

*Estimated Total Annual Burden Hours:* 3,675 hours.

*Total Estimated Annual Other Cost Burden:* \$0.

*Authority:* 44 U.S.C. 3506(c)(2)(A).

**Molly E. Conway,**

*Acting Assistant Secretary for Employment and Training, Labor.*

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**BILLING CODE 4510-FW-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Labor Certification Process for the Temporary Employment of H-2A and H-2B Foreign Workers in the United States: Annual Update to Allowable Charges for Agricultural Workers' Meals and for Travel Subsistence Reimbursement, Including Lodging

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Labor (DOL) is issuing this Notice to announce the annual update to: (1) The allowable charges that employers seeking H-2A workers in occupations other than herding or production of livestock on the range may charge their workers when the employer provides three meals per day; and (2) the maximum travel subsistence meal reimbursement that a worker with receipts may claim under the H-2A and H-2B programs. The Notice also includes a reminder regarding employers' obligations with respect to overnight lodging costs as part of required subsistence.

**DATES:** This notice is applicable on March 22, 2019.

**FOR FURTHER INFORMATION CONTACT:** Thomas M. Dowd, Deputy Assistant Secretary, Employment and Training Administration, U.S. Department of Labor, Box PPII 12-200, 200 Constitution Avenue NW, Washington, DC 20210, 202-513-7350 (this is not a toll-free number) or, for individuals with hearing or speech impairments, 1-877-889-5627 (this is the TTY toll-free Federal Information Relay Service number).

**SUPPLEMENTARY INFORMATION:** The U.S. Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H-2A or H-2B nonimmigrant temporary workers in the United States unless the petitioner has received from DOL an H-2A or H-2B labor certification. See 8 CFR 214.2(h)(5) and (h)(6). Both the H-2A and H-2B labor certifications generally provide that: (1) There are not sufficient U.S. workers who are qualified and who will be available to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. See 20 CFR 655.1(a) and 655.100.

### Allowable Meal Charge

H-2A agricultural employers of workers in occupations other than herding or production of livestock on the range must offer and provide each worker three meals per day or provide the workers free and convenient cooking facilities.<sup>1</sup> See § 655.122(g). Where the employer provides the meals, the job offer must state the charge, if any, to the worker for such meals. *Id.* The amount of meal charges is governed by § 655.173.

By regulation, the DOL has established the methodology for determining the maximum amount that H-2A agricultural employers may charge workers for providing them with three meals per day. See § 655.173(a). This methodology allows for annual adjustments of the previous year's maximum allowable charge based on the updated Consumer Price Index for All Urban Consumers for Food (CPI-U for Food), not seasonally adjusted. *Id.* The maximum amount employers may charge workers for providing meals is adjusted annually by the 12-month percentage change in the CPI-U for Food for the prior year (*i.e.*, between December of the year just concluded and December of the prior year). *Id.* The Office of Foreign Labor Certification (OFLC) Certifying Officer may also permit an employer to charge workers a higher amount for providing them with three meals a day, if the higher amount is justified and sufficiently documented by the employer, as set forth in § 655.173(b).

The percentage change in the CPI-U for Food between December 2017 and December 2018 was 1.6 percent.<sup>2</sup> Thus, the annual update to the H-2A allowable meal charge is calculated by multiplying the current allowable meal charge (\$12.26)<sup>3</sup> by the 12-month percentage change in the CPI-U for Food between December 2017 and December 2018 ( $\$12.26 \times 1.016 = \$12.46$ ). Accordingly, the updated maximum allowable charge under §§ 655.122(g) and 655.173 is \$12.46 per day, and an employer is not permitted to charge a worker more than \$12.46 per day unless the OFLC Certifying Officer approves a higher charge, as authorized under § 655.173(b).

<sup>1</sup> H-2A employers must provide workers engaged in herding or the production of livestock on the range meals or food to prepare meals without charge or deposit charge. See 20 CFR 655.210(e).

<sup>2</sup> Consumer Price Index—December 2018, published January 11, 2019 at [https://www.bls.gov/news.release/archives/cpi\\_01112019.pdf](https://www.bls.gov/news.release/archives/cpi_01112019.pdf).

<sup>3</sup> In 2018, the maximum allowable charge under 20 CFR 655.122(g) and 655.173 was \$12.26 per day. 83 FR 12410 (Mar. 21, 2018).

### Reimbursement for Travel-Related Subsistence

Under the following conditions, H-2B and H-2A employers must pay the reasonable travel and subsistence costs, including the costs of meals and lodging, incurred by workers during travel to the worksite from the place from which the worker has come to work for the employer and from the place of employment to the place from which the worker departed to work for the employer, as well as any such costs incurred by the worker incident to obtaining a visa authorizing entry to the U.S. for the purpose of H-2A or H-2B employment. See §§ 655.122(h)(1)-(2) and 655.20(j)(1)(i)-(ii). Specifically, an H-2A employer is responsible for providing, paying in advance, or reimbursing a worker for the reasonable costs of daily travel-related subsistence between the employer's worksite and the place from which the worker has come to work for the employer, if the worker completes 50 percent of the work contract period, and must provide (or pay at the time of departure) the worker's return costs, upon the worker completing the contract or being dismissed without cause. See § 655.122(h)(1)-(2). Similarly, an H-2B employer is responsible for providing, paying in advance, or reimbursing a worker for the reasonable costs of transportation and daily subsistence between the employer's worksite and the place from which the worker has come to work for the employer, if the worker completes 50 percent of the job order period, and upon the worker completing the job order period or being dismissed early (for any reason), return costs. See § 655.20(j)(1)(i)-(ii).

The minimum amount of daily travel subsistence expense for meals, for which a worker is entitled to reimbursement, must be at least as much as the employer would charge for providing the worker with three meals per day during employment (if applicable). In no circumstances may the employer reimburse workers less than the amount permitted under § 655.173(a) (*i.e.*, the current year's daily meal charge amount of \$12.46). The maximum amount an employer is required to reimburse workers for daily travel-related subsistence, as evidenced with receipts, is equal to the standard Continental United States (CONUS) per diem rate, as established by the General Services Administration (GSA) at 41 CFR part 301, formerly published in Appendix A, and now found at <https://www.gsa.gov/travel/plan-book/per-diem-rates>. See, *e.g.*, Annual Update to Allowable Charges for Agricultural

Workers' Meals and for Travel Subsistence Reimbursement, Including Lodging, 83 FR 12410 (Mar. 21, 2018) (2018 Update). The standard CONUS meals and incidental expenses rate is \$55.00 per day for 2019.<sup>4</sup> Workers who qualify for travel reimbursement are entitled to reimbursement for meals up to the standard CONUS meals and incidental expenses rate when they provide receipts. In determining the appropriate amount of reimbursement for meals for less than a full day, the employer may limit the meal expense reimbursement, with receipts, to 75 percent of the maximum reimbursement for meals, or \$41.25, based on the GSA per diem schedule. See, *e.g.*, 2018 Update, 83 FR at 12411. If a worker does not provide receipts, the employer is not obligated to reimburse above the minimum stated at § 655.173, as specified above.

If transportation and lodging are not provided by the employer, the amount an employer must pay for transportation and, where required, lodging, must be no less than (and is not required to be more than) the most economical and reasonable costs. The employer is responsible for those costs necessary for the worker to travel to the worksite if the worker completes 50 percent of the work contract period but is not responsible for unauthorized detours. The employer also is responsible for the costs of return transportation and subsistence, including lodging costs where necessary, as described above. These requirements apply equally to instances where the worker is traveling within the U.S. to the employer's worksite. See §§ 655.122(h)(1)-(2) and 655.20(j)(1)(i)-(ii).

For further information on when the employer is responsible for lodging costs, please see the DOL's H-2A Frequently Asked Questions on Travel and Daily Subsistence, which may be found on the OFLC website: <https://www.foreignlaborcert.doleta.gov/>.

#### Molly E. Conway,

*Acting Assistant Secretary, Employment and Training Administration.*

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<sup>4</sup> Maximum Per Diem Reimbursement Rates for the Continental United States (CONUS), 83 FR 42501 (August 22, 2018); see also <https://www.gsa.gov/travel/plan-book/per-diem-rates/mie-breakdown>.

### DEPARTMENT OF LABOR

#### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Application for Self-Insurance Under the Black Lung Benefits Act; Office of the Secretary

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) proposal titled, "Application for Self-Insurance Under the Black Lung Benefits Act," to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before April 22, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov website at [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201901-1240-008](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201901-1240-008) (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov). Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**FOR FURTHER INFORMATION CONTACT:** Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**SUPPLEMENTARY INFORMATION:** This ICR seeks PRA authority for the Application for Self-Insurance Under the Black Lung