DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States: 2000 Adverse Effect Wage Rates, Allowable Charges for Agricultural and Logging Workers' Meals, and Maximum Travel Subsistence Reimbursement

AGENCY: U.S. Employment Service, Employment and Training Administration, Labor.

ACTION: Notice of adverse effect wage rates (AEWRs), allowable charges for meals, and maximum travel subsistence reimbursement for 2000.

SUMMARY: The Administrator, Office of Workforce Security, announces 2000 adverse effect wage rate (AEWRs) for employers seeking nonimmigrant alien (H–2A) workers for temporary or seasonal agricultural labor or services, 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, and the maximum travel subsistence reimbursement which a worker with receipts may claim in 2000.

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

Under specified conditions, workers are entitled to reimbursement for travel subsistence expense. The minimum reimbursement is the charge for three daily meals as discussed above. The Administrator here announces the current maximum reimbursement for works with receipts.

EFFECTIVE DATE: February 4, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Grace A. Kilbane, Administrator, Office of Workforce Security, U.S. Department of Labor, Room S–4231, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: 202–219–7831 (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 2000

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 regionwide 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 Administrator, Office of Workforce Security, to publish USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** notice. Accordingly, the 2000 AEWRs for work performed on or after the effective date of this notice, are set forth in the table below:

TABLE.—2000 ADVERSE EFFECT WAGE RATES (AEWRS)

State	2000 AEWR
Alabama	$6.72
Arizona	6.74
Arkansas	6.50
California	7.27
Colorado	7.04
Connecticut	7.68
Delaware	7.04
Florida	7.25
Georgia	6.72
Hawaii	9.38
Idaho	6.79
Illinois	7.62
Indiana	7.62
Iowa	7.76
Kansas	7.49
Kentucky	6.39
Louisiana	6.50
Maine	7.68
Maryland	7.04
Massachusetts	7.68
Michigan	7.65
Minnesota	7.65
Mississippi	6.50
Missouri	7.76
Montana	6.79
Nebraska	7.49
Nevada	7.04
New Hampshire	7.68
New Jersey	7.04
New Mexico	6.74
New York	7.68
North Carolina	6.98
North Dakota	7.49
Ohio	7.62
Oklahoma	6.49
Oregon	7.64
Pennsylvania	7.04
Rhode Island	7.68
South Carolina	6.72
South Dakota	7.49
Tennessee	6.39
Texas	6.49
Utah	7.04
Vermont	7.68
Virginia	6.98
Washington	7.64
West Virginia	6.39
Wisconsin	7.65
Wyoming	6.79

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–2 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 CPU–U for Food between December of the year just past and December of the year prior to that. The regulations require the Administrator, Office of Workforce Security, 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 1999 rates were published in a notice on February 10, 1999 at 64 FR 6689.

DOL has determined the percentage change between December of 1998 and December of 1999 for the CPI–U for Food was 2.1 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 2000 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 $8.00 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 $9.90 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.

C. Maximum Travel Subsistence Expense

The regulations at 20 CFR 655.102(b)(5) establish that the minimum daily subsistence expense related to travel expenses, for which a worker is entitled to reimbursement, is the employer's daily charge for three meals or, if the employer makes no charge, the amount permitted under 20 CFR 655.104(b)(4). The regulation is silent about the maximum amount to which a qualifying worker is entitled.

The Department, in Field Memorandum 42–94, established that the maximum is the meals component of the standard CONUS (continental United States) per diem rate established by the General Services Administration (GSA) and published at 41 CFR Ch. 301. The CONUS meal component is now $30.00 per day.

Workers who qualify for travel reimbursement are entitled to reimbursement up to the CONUS meal rate for related subsistence when they provide receipts. In determining the appropriate amount of subsistence reimbursement, the employer may use the GSA system under which a traveler qualifies for meal expense reimbursement per quarter of a day. Thus, a worker whose travel occurred during two quarters of a day is entitled, with receipts, to a maximum reimbursement of $15.00. If a worker has no receipts, the employer is not obligated to reimburse above the minimum stated at 20 CFR 655.102(b)(4) as specified above.

Signed at Washington, DC, this 31st day of January, 2000.

Grace A. Kilbane,

Administrator, Office of Workforce Security.

Timothy F. Sullivan

Chief, U.S. Employment Service/ALMIS.

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DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–03188]

Philips Electronics North America Corporation Philips Components Division Departments 133, 134, 136, 400, 630, 420, 240, 261, 266 and 430 Saugerties, New York; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on June 25, 1999, applicable to workers of Philips Electronics North America Corporation, Philips Components Division, Departments 133, 134, 136, 400, 630, 420, 240, 261 and 266, Saugerties, New York. The notice was published in the **Federal Register** on July 20, 1999 (64 FR 38922).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred at Philips Components Division, Department 430 of Philips Electronics North America Corporation, Saugerties, New York. The workers are engaged in the production of soft ferrites (''back end''—*i.e.* grinding, toroids and inspect and pack, and related support departments).

The intent of the Department's certification is to include all workers of Philips Electronics North America Corporation, Philips Components Division who were adversely affected by the shift in production to Mexico.

Accordingly, the Department is amending the certification to cover the workers of Philips Electronics North America Corporation, Philips Components Division, Department 430, Saugerties, New York.

The amended notice applicable to NAFTA–03188 is hereby issued as follows:

All workers of Philips Electronics North America Corporation, Philips Components Division, Departments 133, 134, 136, 400, 630, 420, 240, 261, 266 and 430, Saugerties, New York who became totally or partially separated from employment on or after May 19, 1998 through June 25, 2001 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.