

DEPARTMENT OF LABOR**Employment and Training
Administration****Labor Certification Process for the
Temporary Employment of Aliens in
Agriculture and Logging in the United
States: 2003 Adverse Effect Wage
Rates, Allowable Charges for
Agricultural and Logging Workers'
Meals, and Maximum Travel
Subsistence Reimbursement**

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of adverse effect wage rates (AEWRs), allowable charges for meals, and maximum travel subsistence reimbursement for 2003.

SUMMARY: The Employment and Training Administration (ETA), announces 2003 adverse effect wage rates (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 2003.

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 Department of Labor 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 Department of Labor here announces the current maximum reimbursement for workers with receipts.

EFFECTIVE DATE: February 26, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Dale M. Ziegler, Chief, Division of Foreign Labor Certification, U.S. Department of Labor, Room C-4318, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-693-2942 (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 2003**

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 Assistant Secretary, Employment and Training Administration, to publish USDA field and livestock worker (combined) wage

data as AEWRs in a **Federal Register** notice. Accordingly, the 2003 AEWRs for work performed on or after the effective date of this notice, are set forth in the table below:

**TABLE—2003 ADVERSE EFFECT WAGE
RATES (AEWRs)**

State	2003 AEWR
Alabama	\$7.49
Arizona	7.61
Arkansas	7.13
California	8.44
Colorado	8.07
Connecticut	8.53
Delaware	7.97
Florida	7.78
Georgia	7.49
Hawaii	9.29
Idaho	7.70
Illinois	8.65
Indiana	8.65
Iowa	8.91
Kansas	8.53
Kentucky	7.20
Louisiana	7.13
Maine	8.53
Maryland	7.97
Massachusetts	8.53
Michigan	8.70
Minnesota	8.70
Mississippi	7.13
Missouri	8.91
Montana	7.70
Nebraska	8.53
Nevada	8.07
New Hampshire	8.53
New Jersey	7.97
New Mexico	7.61
New York	8.53
North Carolina	7.75
North Dakota	8.53
Ohio	8.65
Oklahoma	7.29
Oregon	8.71
Pennsylvania	7.97
Rhode Island	8.53
South Carolina	7.49
South Dakota	8.53
Tennessee	7.20
Texas	7.29
Utah	8.07
Vermont	8.53
Virginia	7.75
Washington	8.71
West Virginia	7.20
Wisconsin	8.70
Wyoming	7.70

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