Form No.	Number of respondents	Average time per respondence (minutes)	Burden hours
5000–4 ..	633	21	221
5000–7 ..	37	19	12
Total	.....	.....	233

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: This information collection contains provisions whereby persons may be temporarily qualified or certified to perform certain duties at coal mines which are related to miner safety and health and which require specialized expertise.

Agency: Occupational Safety and Health Administration.

Title: Inorganic Arsenic (1910.1018).

OMB Number: 1218–0104.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 42.

Estimated Time Per Respondent: Ranges from 5 minutes to maintain records to 12 hours to update compliance programs.

Total Burden Hours: 9,060.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $1,316,218.

Description: The purpose of the inorganic arsenic standard and its information collection is to provide protection for employees against the health effects associated with occupational exposure to inorganic arsenic. This standard requires employers to monitor employee exposure, to provide medical surveillance and to maintain employee exposure monitoring and medical records. If exposure levels are above the Permissible Exposure Limits (PELs), then employers must establish and implement a written control plan to reduce exposures below the PELs. Employers are also required to notify OSHA area offices of regulated areas and changes to regulated areas.

Agency: Occupational Safety and Health Administration.

Title: Coke Oven Emissions (1910.1029).

OMB Number: 1218–0128.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 22.

Estimated Time Per Respondent: Ranges from 5 minutes to maintain records to 3 hours to update compliance programs.

Total Burden Hours: 96,379.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $2,012,684.

Description: The purpose of the coke oven emissions standards and its information collection to provide protection for employees against the health effects associated with occupational exposure to coke oven emission. This standard requires employers to monitor employee exposure, to provide medical surveillance and to maintain employee exposure monitoring and medical records. If exposure levels are above the Permissible Exposure Limits (PELs), the employers must establish and implement a written control plan to reduce exposures below the PELs. Employers are also required to notify OSHA area offices of regulated areas and changes to regulated areas.

Agency: Occupational Safety and Health Administration.

Title: 1,3 Butadiene (1910.1051), Final Rule.

OMB Number: 1218–0170.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 255.

Estimated Time Per Respondent: Ranges from 15 seconds to label a respirator filter element to 6 hours to develop a compliance program.

Total Burden Hours: 9,254.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $9,254.

Description: The purpose of the 1,3 butadiene standard and its information collection is designed to provide protection for employees from the adverse health effects associated with the occupational exposure to 1,3 butadiene. The standard requires employers to monitor employee exposure, to provide medical surveillance and to maintain employee exposure monitoring the medical records. If exposure levels are above the action level, employers must establish and implement a written Exposure Goal Program. If exposure levels are above the Permissible Exposure Limits (PELs), employers must establish and implement a written compliance program.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–3098 Filed 2–6–97; 8:45 am]

BILING CODE 4510–26–M

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States: 1997 Adverse Effect Wage Rates and Allowable Charges for Agricultural and Logging Workers' Meals

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 1997.

SUMMARY: The Director, U.S. Employment Service, announces 1997 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 1997.

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.

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 Director here announces the current maximum reimbursement for workers with receipts.

EFFECTIVE DATE: February 7, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Beverly, III, Director, U.S. Employment Service, U.S. Department of Labor, Room N–4700, 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 1997

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 Director, U.S. Employment Service, to publish USDA field and livestock worker (combined) wage data as AEWRs in a Federal Register notice. Accordingly, the 1997 AEWRs for work performed on or after the effective date of this notice, are set forth in the table below:

TABLE.—1997 ADVERSE EFFECT WAGE RATES (AEWRS)

State	1997 AEWR
Alabama	$5.92
Arizona	5.82
Arkansas	5.70
California	6.53
Colorado	6.09
Connecticut	6.71
Delaware	6.26
Florida	6.36
Georgia	5.92
Hawaii	8.62
Idaho	6.01
Illinois	6.66
Indiana	6.66
Iowa	6.22
Kansas	6.55
Kentucky	5.68
Louisiana	5.70
Maine	6.71
Maryland	6.26
Massachusetts	6.71
Michigan	6.56
Minnesota	6.56
Mississippi	5.70
Missouri	6.22
Montana	6.01
Nebraska	6.55
Nevada	6.09
New Hampshire	6.71
New Jersey	6.26
New Mexico	5.82
New York	6.71
North Carolina	5.79
North Dakota	6.55
Ohio	6.66
Oklahoma	5.48
Oregon	6.87
Pennsylvania	6.26
Rhode Island	6.71
South Carolina	5.92
South Dakota	6.55
Tennessee	5.68
Texas	5.48
Utah	6.09
Vermont	6.71
Virginia	5.79
Washington	6.87
West Virginia	5.68
Wisconsin	6.56
Wyoming	6.01

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 1996 rates were published in a notice on February 8, 1996 at 61 FR 4800.

DOL has determined the percentage change between December of 1995 and December of 1996 for the CPI–U for Food was 3.3 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 1997 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 $7.41 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 $9.25 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 $28.00 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 $14.00. 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, D.C., this 31st day of January 1997.

John R. Beverly

Director, U.S. Employment Service.

[FR Doc. 97–3095 Filed 2–6–97; 8:45 am]

BILLING CODE 4510–30–M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–11; Application D–09707]

Class Exemption for the Receipt of Certain Investment Services by Individuals for Whose Benefit Individual Retirement Accounts or Retirement Plans for Self-Employed Individuals Have Been Established or Maintained

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Grant of class exemption.

SUMMARY: This document contains a final class exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code of 1986 (the Code). The class exemption permits the receipt of services at reduced or no cost by an individual for whose benefit an individual retirement account (IRA) or, it self-employed, a Keogh Plan is established or maintained, or by members of his or her family, from a broker-dealer, provided that the conditions of the exemption are met. The exemption affects individuals with beneficial interests in such plans who receive such services as well as the broker-dealers who provide such services.

EFFECTIVE DATE: February 7, 1997.

FOR FURTHER INFORMATION CONTACT: Allison Padams, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 219–8971, (This is not a toll-free number); or Paul D. Mannina, Plan Benefits Security Division, Office of Solicitor, U.S. Department of Labor (202) 219–9141, (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On July 31, 1996, the Department of Labor (the Department) published a notice in the Federal Register (61 FR 39996) of the pendency of a proposed class exemption from the restrictions of sections 406(a)(1)(D) and 406(b) of ERISA and the sanctions resulting from the application of sections 4975 (a) and (b), 4975(c)(3) and 408(e)(2) of the Code by reason of section 4975(c)(1) (D), (E) and (F) of the Code. This exemption was requested in an exemption application filed on behalf of the Securities Industry Association (the SIA or the Applicant). The application was filed pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B, (55 FR 32836, August 10, 1990.) [1]

The notice of pendency gave interested persons an opportunity to comment or request a public hearing on the proposal. No requests for a public hearing were received by the Department. Two public comments were received by the Department. Upon consideration of the record as a whole, the Department has determined to grant the proposed exemption subject to certain modifications. These modifications and the comments are discussed below.

Discussion of the Comments Received

One commenter sought clarification of the language in the preamble to the notice of proposed exemption which addressed the Investment Company Institute's inquiry as to whether the exemption would provide relief for a relationship brokerage program whereby a broker-dealer offers reduced sales charges with respect to the purchase of investment company shares as the size of the purchase increases. In this regard, a broker-dealer would aggregate total purchases of all of a customer's accounts, including IRAs and Keogh Plans. Thus, a broker-dealer would set a schedule of commissions or rates that vary according to the size of the transaction. Specifically, the commenter requests that the Department clarify that the exemption covers ''rights of accumulation'' programs as described in the National Association of Securities Dealers' Rules of Fair Practice in which a broker dealer takes into account both a customer's present purchases of shares and the aggregate quantity of securities previously purchased by the customer. The Department notes that such programs would be covered by the exemption provided that all the conditions of the exemption are satisfied.

In addition, the commenter requests that the Department reconsider its views stated in footnote 8 of the Preamble relating to ''letter of intent programs'' in which broker-dealers reduce sales commissions based on the aggregate of a customer's actual purchases and anticipated purchases over a specified period of time, as agreed to by the customer (the Target Amount). The commenter states that the letter of intent is not a binding obligation on the customer to purchase the Target Amount. Rather, if the customer holds

[1] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor.