Signed at Washington, DC, this 11th day of February, 1998.

Anna W. Goddard,

Director, Office of Special Targeted Programs.

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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: 1998 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 1998.

SUMMARY: The Director, U.S. Employment Service, announces 1998 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 1998.

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 18, 1998.

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 1998

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 1998 AEWRs for work performed on or after the effective date of this notice, are set forth in the table below:

TABLE—1998 ADVERSE EFFECT WAGE RATES (AEWRS)

State	1998 AEWR
Alabama	$6.30
Arizona	6.08
Arkansas	5.98
California	6.87
Colorado	6.39
Connecticut	6.84
Delaware	6.33
Florida	6.77
Georgia	6.30
Hawaii	8.83
Idaho	6.54
Illinois	7.18
Indiana	7.18
Iowa	6.86
Kansas	7.01
Kentucky	5.92
Louisiana	5.98
Maine	6.84
Maryland	6.33
Massachusetts	6.84
Michigan	6.85
Minnesota	6.85
Mississippi	5.98
Missouri	6.86
Montana	6.54
Nebraska	7.01
Nevada	6.39
New Hampshire	6.84
New Jersey	6.33
New Mexico	6.08
New York	6.84
North Carolina	6.16
North Dakota	7.01
Ohio	7.18
Oklahoma	5.92
Oregon	7.08
Pennsylvania	6.33
Rhode Island	6.84
South Carolina	6.30
South Dakota	7.01
Tennessee	5.92
Texas	5.92
Utah	6.39
Vermont	6.84
Virginia	6.16
Washington	7.08
West Virginia	5.92
Wisconsin	6.85
Wyoming	6.54

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 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) provided 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 document. 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 1997 rates were published in a notice on February 7, 1997 at 62 FR 5853.

DOL has determined the percentage change between December of 1996 and December of 1997 for the CIP–U for Food was 2.6 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 1998 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 $7.60 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 $9.49 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 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 entitle 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 11th day of February, 1998.

John R. Beverly, III,

Director, U.S. Employment Service.

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DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02048; NAFTA–02048A; NAFTA–02048B]

Oxford Industries, Incorporated; Oxford Women's Catalog and Special Markets Division, Alma, GA; Oxford of Giles, Pearisburg, VA; Oxford of Gaffney, Gaffney, SC; 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, as amended (19 USC 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on December 21, 1997, applicable to workers of Oxford Women's Catalog and Special Markets Division of Oxford Industries, Incorporated located in Alma, Georgia. The notice was published in the **Federal Register** on January 22, 1998 (63 FR 3352).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports that layoffs will occur at Oxford Industries, Incorporated locations in Pearisburg, Virginia where the workers produce ladies knit apparel, and in Gaffney, South Carolina where the workers produce jackets and outerwear.

The intent of the Department's certification is to include all workers of Oxford Industries, Incorporated adversely affected by increased imports from Mexico. Accordingly, the Department is amending the certification to include workers of Oxford Industries, Incorporated locations in Pearisburg, Virginia and Gaffney, South Carolina.

The amended notice applicable to NAFTA–02048 is hereby issued as follows:

All workers of Oxford Industries, Incorporated, Oxford Women's Catalog and Special Markets Division, Alma, Georgia (NAFTA–02048), Oxford of Giles, Pearisburg, Virginia (NAFTA–02048A), Oxford of Gaffney, Gaffney, South Carolina (NAFTA–02048B) who became totally or partially separated from employment on or after November 24, 1996 through December 21, 1999, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.