WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

Fact Sheet #26D: Meal Obligations for H-2A Employers

November 2022

On April 29, 2024, The U.S. Department of Labor published a final rule, "Improving Protections for Workers in Temporary Agricultural Employment in the United States" Further information on the final rule is found here.

This Fact Sheet provides general information about the requirements for employers to provide meals or to furnish free and convenient cooking and kitchen facilities to workers under H-2A temporary labor certifications approved on or after November 14, 2022.

Introduction

The Immigration and Nationality Act (INA) authorizes the lawful admission of temporary, nonimmigrant workers (H-2A workers) into the U.S. to perform agricultural labor or services of a temporary or seasonal nature when the employer demonstrates that there are not sufficient workers who are able, willing, qualified, and available, and that the employment of the H-2A workers will not adversely affect the wages and working conditions of workers similarly employed in the U.S. The Department of Labor's (DOL's) regulations governing the H-2A visa program also apply to the employment of other workers by the H-2A employer to perform any work included in the job order, which includes the material terms and conditions of employment and is approved by DOL's Employment and Training Administration (ETA), or any agricultural work performed by the H-2A workers during the period of employment stated on the job order. These other workers are engaged in corresponding employment.

Information about other H-2A requirements can be found in Fact Sheets #26, #26A, #26B, #26C, #26D, #26E, #26F and #26G.

Meal Obligations

H-2A employers must either provide each worker with three meals per day or must furnish free and convenient cooking and kitchen facilities to the workers that will enable the workers to prepare their own meals.

Where the employer provides the meals, the job offer and work contract must state the charge, if any, to the worker for such meals. The maximum allowable daily meal charge changes annually based on the Consumer Price Index and is published in the Federal Register when the new Adverse Effect Wage Rate (AEWR) is published. Employers may deduct the meal charge only if this charge was previously disclosed in the job order. In addition, any meal charge may not exceed the actual expense of providing the meals.

Employer-Provided Kitchen Facilities

Employers that provide kitchen facilities in lieu of meals must ensure that there is clean space for food preparation, and that cooking and refrigeration appliances, and dishwashing facilities are available. No specific cooking appliances are required; however, the appliances provided must be sufficient to allow workers to safely prepare three meals per day. Also, when mechanical refrigeration of food is not feasible, the worker must be provided with another means of keeping food fresh and preventing spoilage, such as a butane or propane gas refrigerator, or other proven methods of safeguarding fresh foods, such as dehydrating or salting. The requirement is not met if the employer merely provides an electric hot plate, a microwave, or an outdoor community grill, or if workers are required to purchase cooking appliances or accessories such as portable burners, charcoal, propane, or lighter fluid.

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Meal Obligations and Rental and Public Accommodations

In instances where employers house workers in hotels, motels, or other similar public accommodations that do not have adequate cooking facilities to satisfy an employer's meal obligations, then the employer must provide three meals per day. Complimentary breakfasts offered by hotels and motels are rarely sufficient to be considered one of the three required meals as meals must be readily accessible to the workers and nutritionally adequate.

Employer-Provided Meals

Employers that elect to provide meals must do so in a timely and sanitary fashion. Employers may arrange for a third-party vendor and pay for the workers' meals or use a voucher or ticket system where the employer purchases the meals and distributes vouchers or tickets to workers to obtain the meals from the third-party vendor. Employers choosing to provide meals must ensure that meals are calorically and nutritionally adequate. The United States Department of Agriculture (USDA), National Institutes of Health, and other credible sources of nutrition and caloric intake guidelines may be consulted to meet this requirement.

Additionally, employers must ensure safe storage and handling of all the meals they provide to workers.

Providing workers with cash or stipends to buy their own meals is not sufficient to meet an employer's meal obligations. Employers that elect not to provide free and convenient kitchen and cooking facilities **must** provide workers with actual meals.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: http://www.dol.gov/agencies/whd and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

The requirements listed above can be found in 20 CFR Part 655 subpart B, and 29 CFR Part 501.

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

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