

■ **IMMIGRATION AND NATIONALITY ACT (*TEMPORARY AGRICULTURAL WORKERS*)**

TERMS:

**Assurance of Cost-Free Housing** — Every employer applying for the use of foreign agricultural workers under the so-called "H-2A" program must assure that housing is available for any worker who is not able to return to his or her own home each day, at no charge to the worker. The employer's obligation to provide cost-free housing applies not only to the foreign workers admitted to the U.S. under the H-2A application (if approved), but also to those U.S. workers recruited before approval of the application, and to any U.S. workers hired by the employer afterwards to perform the same services in the same area. Furthermore, when it is common practice for growers in the local area to provide farmworkers with family-type housing, family housing must be provided to those U.S. workers recruited in connection with an H-2A job offer who request such housing for themselves and their families.

**Housing Standards and Inspection** — Housing facilities owned or operated by the employer must be inspected and found in conformance with the OSHA or ETA farmworker housing standards (*summarized in earlier entries, above*), or the employer's H-2A application will be denied. As an alternative, the employer may arrange to house the workers in rental units or public housing which meets local, state or federal standards, but any charges for the use of such facilities must be paid by the employer. The workers may not be charged for housing-related items furnished to them, such as bedding, and only under certain conditions may the employer require workers found responsible for damages to housing or facilities to pay for them.

**ENFORCEMENT:** *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* The Wage and Hour Division is responsible for enforcing the required work contract — including the provision regarding free worker housing — between employers who use foreign workers under the H-2A program, and the foreign and U.S. workers recruited under the H-2A application.

Local offices of the Wage and Hour Division may be located on the agency's website, at [www.dol.gov/whd/america2.htm](http://www.dol.gov/whd/america2.htm).

**SPECIAL NOTE:** A person may not fire, discipline or discriminate in any way against a worker because the worker has consulted with an attorney or legal services program, filed a complaint, participated in an investigation or other enforcement action, or made use of any other right under this law. Reports of unlawful retaliation should be filed with the Wage and Hour Division.