

extensions would be 12 months or more, except in extraordinary circumstances. The employer may appeal a denial of a request for an extension by following the procedures in § 655.171.

(c) *Disclosure.* The employer must provide to the workers a copy of any approved extension in accordance with § 655.122(q), as soon as practicable.

§ 655.171 Appeals.

Where authorized in this subpart, employers may request an administrative review or de novo hearing before an ALJ of a decision by the CO. In such cases, the CO will send a copy of the OFLC administrative file to the Chief ALJ by means normally assuring next-day delivery. The Chief ALJ will immediately assign an ALJ (which may be a panel of such persons designated by the Chief ALJ from the Board of Alien Labor Certification Appeals (BALCA)).

(a) *Administrative review.* Where the employer has requested administrative review, within 5 business days after receipt of the ETA administrative file the ALJ will, on the basis of the written record and after due consideration of any written submissions (which may not include new evidence) from the parties involved or amici curiae, either affirm, reverse, or modify the CO's decision, or remand to the CO for further action. The decision of the ALJ must specify the reasons for the action taken and must be immediately provided to the employer, the CO, the OFLC Administrator and DHS by means normally assuring next-day delivery. The ALJ's decision is the final decision of the Secretary.

(b) *De novo hearing—(1) Conduct of hearing.* Where the employer has requested a de novo hearing the procedures in 29 CFR part 18 apply to such hearings, except that:

(i) The appeal will not be considered to be a complaint to which an answer is required;

(ii) The ALJ will ensure that the hearing is scheduled to take place within 5 business days after the ALJ's receipt of the OFLC administrative file, if the employer so requests, and will allow for the introduction of new evidence; and

(iii) The ALJ's decision must be rendered within 10 calendar days after the hearing.

(2) *Decision.* After a de novo hearing, the ALJ must affirm, reverse, or modify the CO's determination, or remand to the CO for further action. The decision of the ALJ must specify the reasons for the action taken and must be immediately provided to the employer, CO, OFLC Administrator and DHS by means normally assuring next-day delivery. The ALJ's decision is the final decision of the Secretary.

§ 655.172 Withdrawal of job order and application for temporary employment certification.

(a) Employers may withdraw a job order from intrastate posting if the employer no longer plans to file an *Application for Temporary Employment Certification*. However, a withdrawal of a job order does not nullify existing obligations to those workers recruited in connection with the placement of a job order pursuant to this subpart or the filing of an *Application for Temporary Employment Certification*.

(b) Employers may withdraw an *Application for Temporary Employment Certification* once it has been formally accepted by the NPC. However, the employer is still obligated to comply with the terms and conditions of employment contained in the *Application for Temporary Employment Certification* with respect to workers recruited in connection with that application.

§ 655.173 Setting meal charges; petition for higher meal charges.

(a) *Meal charges.* Until a new amount is set under this paragraph, an employer may charge workers up to \$10.64 for providing them with three meals per day. The maximum charge allowed by this paragraph (a) will be changed annually by the same percentage as the 12 month percentage change for the Consumer Price Index for all Urban Consumers for Food between December of the year just concluded and December of the year prior to that. The annual adjustments will be effective on the date of their publication by the OFLC Administrator as a Notice in the FEDERAL REGISTER. When a charge or deduction for the cost of meals would