

**DEPARTMENT OF LABOR****Employment and Training  
Administration****Agency Information Collection  
Activities; Comment Request; Form  
ETA-232, Domestic Agricultural In-  
Season Wage Report, and Form-232A,  
Wage Survey Interview Record****ACTION:** Notice.

**SUMMARY:** The Department of Labor's (DOL's) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, "Form ETA-232, Domestic Agricultural In-Season Wage Report, and Form-232A, Wage Survey Interview Record." This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

**DATES:** Consideration will be given to all written comments received by January 27, 2020.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Thomas M. Dowd, Deputy Assistant Secretary by telephone at 202-513-7350 (this is not a toll-free number), TTY 1-877-889-5627 (this is not a toll-free number), or by email at [ETA.OFLC.Forms@dol.gov](mailto:ETA.OFLC.Forms@dol.gov).

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, 200 Constitution Avenue NW, Box PPII 12-200, Washington, DC 20210; by email: [ETA.OFLC.Forms@dol.gov](mailto:ETA.OFLC.Forms@dol.gov); or by Fax 202-513-7395.

**FOR FURTHER INFORMATION CONTACT:** Thomas M. Dowd, Deputy Assistant Secretary, Office of Foreign Labor Certification, by telephone at 202-513-7350 (this is not a toll-free number) or by email at [ETA.OFLC.Forms@dol.gov](mailto:ETA.OFLC.Forms@dol.gov).

**Authority:** 44 U.S.C. 3506(c)(2)(A).

**SUPPLEMENTARY INFORMATION:** DOL, in its continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of

Management and Budget (OMB) for final approval. This program helps ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

This information collection is required under 8 U.S.C. 1188, which authorizes DOL to administer the H-2A temporary agricultural program, and Section 218 of the Immigration and Nationality Act (INA), which authorizes the lawful admission into the United States of nonimmigrant workers (H-2A workers) to perform agricultural labor or services of a temporary or seasonal nature. In order for DOL to certify that there are not sufficient U.S. workers qualified and available to perform the labor involved in the petition and that the employment of the foreign worker will not have an adverse effect on the wages and working conditions of similarly employed U.S. workers, employers must demonstrate the need for a specific number of H-2A workers. The section of law authorizing DOL to collect information for OMB control number 1205-0017 is the Wagner-Peyser Act at 29 U.S.C 49(f). Specifically, Congress appropriates funding through the Wagner-Peyser allocations under the State Unemployment Insurance Employment Service Operation Provisions, to meet certain obligations mandated by the INA.

DOL's Office of Foreign Labor Certification (OFLC), within ETA, is responsible for administering the H-2A program, which requires the filing of temporary labor certification applications by employers seeking to use nonimmigrant workers in agricultural work. DOL's H-2A program regulations issued, under the Immigration Reform and Control Act of 1986 for the temporary employment of nonimmigrant agricultural and logging workers in the United States, 20 CFR part 655, subpart B, require employers to pay "at least the [adverse effect wage rate], the prevailing hourly wage rate, the prevailing piece rate, the agreed-upon collective bargaining rate, or the Federal or State minimum wage rate, in effect at the time the work is performed, whichever is highest[.]" To determine prevailing wages, State Workforce Agencies (SWA) either formally survey employers' wages or conduct "ad hoc" wage surveys. In addition, DOL's H-2A program regulations require that "[e]ach job qualification and requirement listed in the [H-2A] job offer . . . be bona fide and consistent with the normal and accepted qualifications required by

employers that do not use H-2A workers in the same or comparable occupation and crops." To determine whether certain working conditions meet these standards, SWAs collect information by either formally surveying employers' prevailing practices or by conducting "ad hoc" surveys. DOL uses Form ETA-232, which the SWA completes according to its survey of information from employers on Form ETA-232A, to collect information that will permit DOL to establish and publish H-2A program prevailing wages and prevailing practices.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205-0017.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

*Agency:* DOL-ETA.

*Type of Review:* Extension Without Changes.

*Title of Collection:* Form ETA-232, Domestic Agricultural In-Season Wage Report, and Form 232A, Wage Survey Interview Record.

*OMB Control Number:* 1205-0017.

*Affected Public:* Private Sector (businesses or other for-profit institutions, farms), Not-for-profit Institutions, Federal Government, and State, Local, and Tribal governments.

*Estimated Number of Respondents:*

Form ETA-232A—SWA Interviews of Employer: 9,600.

Form ETA-232—SWA Completion: 400.

Prevailing Practice Surveys—SWA Interviews of Employer: 4,120.

Prevailing Practice Surveys—SWA Completion: 206.

*Frequency:* On Occasion.

*Total Estimated Number of Annual Responses:* 14,326.

*Estimated Average Time per Response:* Varies.

*Estimated Total Annual Burden*

*Hours:* 8,963 hours.

*Total Estimated Annual Other Costs Burden:* \$0.

**John Pallasch,**

*Assistant Secretary for Employment and Training.*

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**BILLING CODE 4510-FP-P**

## DEPARTMENT OF LABOR

### Office of the Secretary

**Agency Information Collection Activities; Submission for OMB Review; Comment Request; Form ETA-9142-B-CAA-3, Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers Under Section 105 of Division H of the Consolidated Appropriations Act, 2019 Public Law 116-6**

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL or Department) is submitting the Employment and Training Administration (ETA)-sponsored Information Collection Request (ICR), titled, *Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers Under Section 105 of Division H of the Consolidated Appropriations Act, 2019 Public Law 116-6* (Feb. 15, 2019) (OMB

Control Number 1205-0535), to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

**DATES:** OMB will consider all written comments it receives on or before December 26, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free of charge from the *RegInfo.gov* website at: [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201911-1205-005](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201911-1205-005) (this link will only become active on the day following publication of this notice); by contacting Frederick Licari at 202-693-8073/TTY 202-693-8064 (these are not toll-free numbers); or by sending an email to: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-ETA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202-395-6881 (this is not a toll-free number); or by email: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov). Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202-693-8073/TTY 202-693-8064 (these are not toll-free numbers) or by sending an email to: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**SUPPLEMENTARY INFORMATION:** This ICR seeks approval under the PRA for revisions to Form ETA-9142-B-CAA-3, *Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers Under Section 105 of Division H of the Consolidated Appropriations Act, 2019 Public Law 116-6* (Feb. 15, 2019), which is currently set to expire on November 30, 2019, and all applicable instructions and electronic versions (OMB Control Number 1205-0535). The Department collected information through Form ETA-9142-B-CAA-3 to carry out its statutory and regulatory responsibilities under the H-2B temporary non-agricultural employment-based visa program. Although the form is no longer in use, joint regulations between DOL

and the Department of Homeland Security (DHS) require H-2B employers that have filed the form with DHS to retain the form and maintain records supporting the attestations the employer made on the form.

Before an employer may petition for any temporary skilled or unskilled foreign workers, it must submit a request for certification to the Secretary of Labor containing the elements prescribed by the Immigration and Nationality Act (INA) and the Department's implementing regulations, which differ depending on the visa program under which the foreign workers are sought. The H-2B visa program enables employers to bring nonimmigrant foreign workers to the United States to perform nonagricultural work of a temporary or seasonal nature as defined in INA Section 101(a)(15)(H)(ii)(b), 8 U.S.C. 1101(a)(15)(H)(ii)(b). For purposes of the H-2B program, the INA and governing federal regulations at 20 CFR part 655, subpart A, and 8 CFR part 214, require the Secretary of Labor to certify that any foreign worker seeking to enter the United States on a temporary basis for the purpose of performing non-agricultural services or labor will not, by doing so, adversely affect wages and working conditions of U.S. workers who are similarly employed. In addition, the Secretary must certify that qualified U.S. workers are not available to perform such temporary labor or services.

On February 15, 2019, the President signed the Consolidated Appropriations Act, 2019. Division H, Section 105 of the Act authorized the Secretary of Homeland Security, in consultation with the Secretary of Labor, to increase the number of H-2B visas available to U.S. employers, notwithstanding the otherwise established statutory numerical limitation. DOL and the Department of Homeland Security (DHS) issued a temporary final rule implementing Division H, Section 105 of the Act on May 8, 2019. This collection of information was required by that rule. The Secretary of Homeland Security, in consultation with the Secretary of Labor, increased the H-2B cap for Fiscal Year (FY) 2019 by up to 30,000 additional visas for American businesses that were likely to suffer irreparable harm (that is, permanent and severe financial loss) without the ability to employ the H-2B workers requested on their petition. The 30,000 additional visas were available only to workers who were issued an H-2B visa or