

(INA) (8 U.S.C. 1182(n) and (t) and 1184(c)). The Department of Labor (Department) and the Department of Homeland Security (DHS) have promulgated regulations to implement the INA. Specifically for this collection, Title 20 CFR 655 Subparts H and I and Title 8 CFR 214.2(h)(4) are applicable. The INA mandates that no alien may enter the United States for the purpose of performing professional work on a temporary basis unless the U.S. employer has attested to the Secretary of Labor that the working conditions for the alien will be identical to those of other U.S. workers, that the salary will equal either the prevailing wage in the area of employment or match that being paid others in the employer's business—whichever is higher; that there is no strike or lockout at the employer's facility; and that the employer has met all other requirements of the program as specified in the regulations.

## II. Review Focus

The Department of Labor is particularly interested in comments which:

- 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 submissions of responses.

## III. Current Actions

In order to meet its statutory responsibilities under the INA, the Department needs to extend an existing collection of information pertaining to employers seeking to apply for labor condition applications to allow them to bring foreign labor to the United States on a temporary basis. Extensive program experience has demonstrated the need for further clarification on this information collection.

In the past the respondents have been for-profit businesses and not-for-profit institutions. On rare occasions the

respondents have been local, state, tribal governments, or the federal government.

The Secretary of Labor uses the collected information to determine if employers are meeting their statutory and regulatory obligations.

The modifications being proposed to ETA Form 9035, 9035CP, and 9035E are primarily due to the elimination of the "Fax Back" system and converting exclusively to the electronic submission system except in rare cases of physical disability that prevents use of a computer. All three forms needed to be updated to eliminate all reference to the "Fax Back" system and provide more clarity to the user of the form, thereby obtaining more accurate information for the Department to assist in more efficient and effective adjudication of the requested benefit. The information collected remains the same.

*Type of Review:* Extension of Currently Approved Information Collection.

*Agency:* Employment and Training Administration.

*Title:* Labor Condition Application For H-1b, H-1b1, and E-3 Nonimmigrants.

*OMB Control No.:* 1205-0310.

*Agency Number(s):* Forms ETA-9035, ETA-9035CP, ETA-9035E, and WH-4.

*Recordkeeping:* On occasion.

*Affected Public:* Businesses or other for-profits and not-for profits, and Federal, State, Local or Tribal Governments.

*Total Respondents:* 420,000.

*Estimated Total Burden Hours:* 366,479.

*Total Burden Cost (capital/startup):* 0.

*Total Burden Cost (operating/maintaining):* 0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 19, 2008.

**William L. Carlson,**

*Administrator, Office of Foreign Labor Certification.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

**ACTION:** 60-day notice of information collection under review: Labor Certification for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Administrative Measures to Improve Program Performance, OMB Control No. 1205-0404.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, is conducting a pre-clearance consultation to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This consultation is undertaken to ensure that 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 on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the measures to improve program performance in the labor certification program for temporary employment of nonimmigrant aliens in agriculture in the United States. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice or at this Web site: <http://www.doleta.gov/OMBCN/OMBControlNumber.cfm>.

**DATES:** Written comments must be submitted to the office listed in the addressee section below on or before August 25, 2008.

**ADDRESSES:** William L. Carlson, Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, Room C4312, 200 Constitution Ave., NW., Washington, DC 20210. Phone (202) 693-3010 (This is not a toll-free number.), fax (202) 693-2768, or e-mail at [ETA.OFLC.Forms@dol.gov](mailto:ETA.OFLC.Forms@dol.gov) subject line: 1205-0404.

#### SUPPLEMENTARY INFORMATION:

*I. Background:* The information collection is required by 20 CFR 655.103(e) and 655.106(e)(1)(ii). The Department of Labor mandates that

employers who have received certification for temporary foreign agricultural labor inform their local State Workforce Agency in writing if the foreign (H-2A) workers do not depart for the place of employment three days prior to the date of need as specified in their certified applications for such foreign labor. The departure date is used to start the running of the contract period for administration of the Fifty-percent Rule. Section 103(e) provides that the employer must continue to provide employment to any qualified and eligible U.S. worker who applies to the employer until 50 percent of the work contract period, under which the foreign worker is in the job, has elapsed. The employer's obligation to engage in positive recruitment ends on the date the foreign workers depart for the employer's place of business. The notification required under the regulations is written by the employer and sent to the SWA. The SWA uses the information to calculate the end of active recruitment requirements and Fifty-percent Rule referral requirements.

*II. Review Focus:* The Department of Labor is particularly interested in comments which:

- 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 submissions of responses.

*III. Current Actions:* The information collected remains the same.

*Type of Review:* Extension of Currently Approved Information Collection.

*Agency:* Employment and Training Administration.

*Title:* Labor Certification for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Administrative Measures to Improve Program Performance.

*OMB Control No.:* 1205-00404.

*Agency Number(s):* None.

*Recordkeeping:* On occasion.

*Affected Public:* Businesses or other for-profits, not-for-profit institutions, and farms.

*Total Respondents:* 385.

*Estimated Total Burden Hours:* 96.

*Total Burden Cost (capital/startup):* 0.

*Total Burden Cost (operating/maintaining):* 0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 20, 2008.

**William L. Carlson,**

*Administrator, Office of Foreign Labor Certification.*

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Submission for OMB Review: Comment Request

June 20, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Darrin King on 202-693-4129 (this is not a toll-free number) / e-mail: [king.darrin@dol.gov](mailto:king.darrin@dol.gov).

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, *Attn:* OMB Desk Officer for the Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202-395-7316/Fax: 202-395-6974 (these are not toll-free numbers), e-mail: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- 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:* Employment and Training Administration.

*Type of Review:* Extension without change of a currently approved collection.

*Title:* Employment and Training Administration Disaster Unemployment Assistance (DUA) Handbook.

*OMB Control Number:* 1205-0051.

*Form Number:* ETA-902.

*Affected Public:* State Governments.

*Estimated Number of Respondents:* 30.

*Estimated Total Annual Burden Hours:* 2,413.

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

*Description:* Unemployment compensation claims, financial management and data on disaster unemployment assistance (DUA) activity are needed for timely program evaluation necessary for competent administration of Sections 410 and 423 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 100-707). The Form ETA 902 is a monthly report submitted by the states on DUA program activities once a disaster is declared by the President. Such report is prescribed by the Secretary under 20 CFR 625.8 and 625.9 and is necessary for oversight of the DUA program. For additional information, see related notice published at 73 FR 8905 on February 15, 2008.

**Darrin A. King,**

*Acting Departmental Clearance Officer.*

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