

**Supporting Statement for U.S. Department of Labor ETA Form  
9118, Non Production Questionnaire**

A. Justification:

1. This form is used to collect data on investigations in the Office of National Response, Division of Trade Adjustment Assistance as a result of a policy decision in regard to the Trade Adjustment Assistance (TAA) petition investigation process regarding service workers. The data obtained from this form is necessary for an accurate assessment of the group eligibility of service worker groups. Where indicated, it is also essential to the correct and timely issuance of the 9043a Business Confidential Data Request (OMB control number 1205-0342, expiration date 11/30/2008) that is part of a comprehensive investigation process leading to correct determinations on TAA petitions within the 40 day time frame mandated under the Trade Act of 1974, as amended.

Previously, group certification for service workers relied exclusively on employment declines and whether the workers supported an affiliated worker group under current TAA certification. Since the Department of Labor has information on which worker groups it has certified, no additional collection of information was required.

Recent certifications on TAA cases under review with the United States Court of International Trade (USCIT) expanded the pool of data used in investigations involving service worker groups. The USCIT has requested that we no longer check if the service workers are tied to a certification of production workers, but rather, whether the production workers are in themselves certifiable. In order to make this determination, the Division of Trade Adjustment Assistance (DTAA) has to obtain contact information for officials that are knowledgeable about the production and sales of articles production by the production workers and then obtain that sales and production data from those officials. This policy came into effect on April 29, 2004.

The ETA 9118 Non Production Questionnaire is undertaken in accordance with Sections 222, 223 and 249

of the Trade Act of 1974, as amended by the Trade Act of 2002, which require the Secretary of Labor to certify groups of workers as eligible to apply for worker TAA.

The Non Production Questionnaire, along with ETA 9043a Business Confidential Data Request and ETA 8562a Customer Survey, are undertaken in accordance with Sections 222, 223 and 249 of the Trade Act of 1974, as amended by the Trade Act of 2002, which require the Secretary of Labor to certify groups of workers who meet the eligibility requirements to apply for TAA. A determination of eligibility is reached after reviewing all the information obtained for each petition for worker adjustment assistance filed with the Department. The information collected in these data collections is necessary for the Secretary to specifically determine to what extent, if any, increased imports or shift in production have impacted the selling market of petitioning workers' firm, and thus determine whether the statutory criteria of eligibility to apply for TAA are met. All of the above forms are approved under OMB control number 1205-0342, expiring 11/30/2008.

The collection of the information in ETA 9118 Non Production Questionnaire is mandatory. Section 249 of the Trade Act of 1974 provides the Secretary of Labor subpoena authority to collect this or any information necessary to issue a worker group determination.

2. For firms receiving ETA 9118 Non Production Questionnaire, a company official representing the firm or subdivision that employs the petitioning worker group provides the employment levels in the relevant period, establish whether layoffs may be attributed to a decreased demand for production that the workers support, the type(s) of production that workers are related to and, where relevant, provide contact information of knowledgeable official(s) who can provide information on the production that the petitioning worker group supports. The identified production subdivision/firm official(s) is then issued the Business Confidential Data Request(s) in order to provide the sales, production, and import data and contact information for major declining customers. If warranted, a customer survey may be generated from

this customer contact information in order to identify whether imports have affected purchasing trends of products that the petitioning workers support. In this way, DTAA may collect all of the information necessary to adequately determine whether layoffs in the petitioning worker group may be attributed to foreign trade.

The purpose of the Non Production Questionnaire is to identify the scope of TAA investigations in cases regarding petitions on behalf of service workers. It primarily serves three functions. First, it collects data on employment levels in the relevant period in order to identify if employment has declined or is threatened to decline. Second, it clarifies whether workers are related to production, either through support of an affiliated subdivision, or through a contract that involves providing onsite services. Finally, it provides relevant contact information for the issuance of Business Confidential Data Request to officials knowledgeable about any related production.

3. DTAA sends the ETA 9118 Non Production Questionnaire by fax, or in circumstances where this equipment is not available to respondent, by first class or registered mail. In order to comply with the Government Paperwork Reduction Act, DTAA also accepts electronic transmissions of the form via email. In these cases, the typed name of the relevant official in the signature line is considered as a signature. Electronic signatures are also acceptable.
4. For ETA 9118 Non Production Questionnaire, no duplication exists. There is no similar information available.

Questions are designed to identify whether there is any affiliated production occurring elsewhere in the petitioning workers' firm, and in cases where affiliated production exists, the exact nature of the relationship between the petitioning workers' functions and that of the production. In cases where there is no significant employment decline, or no connection to production as described above, the Non Production Questionnaire may serve as the terminal form in the investigation, and the petition may be

denied on the basis that layoffs cannot be attributed to adverse trade affects on articles produced, as required by Section 222 and Section 223 of the Trade Act of 1974.

In cases where the petitioning worker group is identified as related to an affiliated production subdivision, or under contract to a firm to perform services related to production onsite, the nature of production is described and contact information of a knowledgeable company official(s) at the production firm or subdivision may be provided. In this way, DTAA collects all of the information necessary to adequately determine whether the group eligibility criteria stipulated in Section 223 of the Trade Act have been met in petitions filed on behalf of service worker groups.

The request for employment data on the Business Confidential Data Request concerns that of the production subdivision, thus there is no duplication with the employment data requested on the Non Production Questionnaire, which involves the petitioning service worker group.

The ETA 9118 Non Production Questionnaire is essential for conducting TAA investigations in cases of petitions received on behalf of service worker groups. Without ETA 9118 Non Production Questionnaire, DTAA will not be able to determine how service workers are related to production and if they are, which company officials to contact and obtain production information from in order to make an adequate determination for the worker group.

5. The collection of this information does not significantly impact small business or small entities.

In order to minimize the burden placed on small businesses or other small entities by the ETA 9118 Non Production Questionnaire, DTAA staff assist, by telephone, firms or entities experiencing difficulty in completing the questionnaire.

The ETA 9118 Non Production Questionnaire is designed with the intent to be as simple as possible, asking

questions that may be answered specifically by a company official that represents the petitioning workers' subdivision.

6. Without the ETA 9118 Non Production Questionnaire, there would be no way to establish how service workers are related to production, nor to identify relevant company officials who can provide data necessary to establish whether the production supported by the petitioning workers is trade affected. As a result, DTAA would be unable to correctly identify whether the petitioning worker group's separations could be attributed to increased imports or a shift of production to a foreign country within the 40 day deadline mandated by the Trade Act.

Under provisions of the Trade Act of 2002, only 40 days are allowed from the receipt of the workers' petition to make a determination of worker eligibility to apply for TAA. In order for the 40-day statutory time limit to be met, DTAA must issue the Non Production Questionnaire as quickly as possible in relevant cases, so that the relevant Business Confidential Data Requests and Customer Surveys may be issued to, and subsequently completed by, respective company officials as quickly as possible after receipt of the petition.

7. The ETA 9118 Non Production Questionnaire is not consistent with the guidelines in 5 CFR 1320.5, because the requested information is to be returned in less than 30 days. This is necessary in order to meet the 40-day statutory requirement discussed in Item number 6 above. Occasionally, ETA 9118 Non Production Questionnaire, ETA 9043a Business Confidential Data Request, and ETA 8562a Customer Survey must be undertaken and all three must be completed within the same 40-day period. Since these data collections are undertaken sequentially, respondents need to complete and return the form in less than 30 days.
8. In accordance with the Paperwork Reduction Act requirements, a 60 day notice regarding the extension of this information collection and soliciting public comments was published in the Federal Register on

March 14, 2008 (Vol. 73, No. 51, p 13922 et seq.). No comments were received.

9. There is no payment to respondents.
10. Any information supplied by the respondent on ETA 9118 Non Production Questionnaire will be used by the Department to make TAA eligibility determinations. All sales and production information received by DTAA is treated as "business confidential" information (29 CFR 90.33, 5 U.S.C. 552, 18 U.S.C. 1905, 29 CFR part 70).
11. There are no questions of a sensitive nature.
12. An ETA 9118 Non Production Questionnaire is submitted to the company for each TAA petition filed on behalf of workers groups that exclusively provide a service. To estimate the burden hours, DTAA believes the time necessary to complete an ETA 9118 Non Production Questionnaire is comparable to the 9043a Business Confidential Data Request, or 3.5 hours. Out of the 2,200 petitions received in 2007, an estimated 25 percent (or 555) were exclusively on behalf of service workers.

ETA 9118 (3.5 hours X 555 responses = 1,942.5 hours)

In order to determine the annualized cost, DTAA first noted the job titles of a sample of respondents to questionnaires. The majority of the respondents were employed in the administrative office of the firm. Next, estimates of their hourly earnings were determined by using the Occupational Outlook Handbook 2000-01. The earnings per hour ranged from an estimated \$12.00 for bookkeepers, \$18.00 for accountants, to \$24.00 for business lawyers. DTAA estimates the average hourly earnings for these categories are \$18.00, resulting in a total annualized cost for the 555 responses of \$34,965.

#### SUMMARY OF BURDEN COST TO RESPONDENTS

ETA 9118 (\$18.00 per hour X 3.5 hours X 555 responses = \$34,965)

13. The ETA 9118 asks for information that DTAA expects respondents to have ready access to on existing payroll and accounting systems. As such, there are no capital or start-up costs involved in the collection of the data for the petition form. The burden hours

associated with editing, analyzing, validating in inputting the data are described in Item 12.

14. The annualized cost of the ETA 9118 Non Production Questionnaire to the federal government is based on the assumption that updating the relevant time periods on the form, printing and sending the questionnaire, requires one-half hour of staff time at an approximate salary of \$23 per hour, plus \$4 to transmit the form via FAX to the company official. The number of forms is equivalent to the number of petitioning service worker groups (555), as calculated in the response to question 12 above.

SUMMARY OF BURDEN COST TO FEDERAL GOVERNMENT

$(\$23.00 \text{ per hour} \times 0.5 \text{ hours} \times 555 \text{ responses}) + (555 \text{ responses} \times \$4 \text{ per fax transmittal}) = \$8,602.50$

15. The lower burden is due to the lower number of petitions received in the latest year to have concluded, 2007, compared with 2003, the previous submission's benchmark year. In 2003, 4,100 petitions were received, with 20% (810) estimated to be exclusively on behalf of service workers. Roughly half of the number of petitions was received in 2007, or 2,200, with 25% (555) estimated to be exclusively on behalf of service workers.
16. There are no plans to publish the data for this collection of information.
17. The expiration date for OMB approval of the information collection will be displayed on the report form.
18. There are no exceptions to Item 18.
  - b. Collection of Information Employing Statistical Methods  
No statistical methods have been used for the collection of the data.