

**OMB 1205-0466: SUPPORTING STATEMENT
UNDER THE PAPERWORK REDUCTION ACT OF 1995**

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SUPPORTING STATEMENT

APPLICATION FOR TEMPORARY EMPLOYMENT CERTIFICATION AND JOB OFFER AND REQUIRED WAGE DETERMINATION REQUEST FOR H-2B PROGRAM ONLY

A. Justification

A.1. Circumstances that make the collection of information necessary.

The information collection (IC) is required by Title 8 CFR 214.2 (h)(6). Specifically, sections 214.2(h)(6)(b)(iii)(A) and (iv)(A) of Title 8 require the Secretary of Labor (Secretary) to certify, among other things, that any foreign worker seeking to enter the United States (U.S.) for the purpose of performing certain temporary non-agricultural labor will not, by doing so, adversely affect wages and working conditions of U.S. workers similarly employed. The Secretary must also certify that there are not sufficient qualified U.S. workers who are available for the job opportunity. Before an employer can petition for temporary nonagricultural foreign workers, it must submit a request for certification to the Secretary containing the elements prescribed by the regulations.

This proposed rule is designed to obtain the necessary information for the Secretary to make an informed decision in meeting the regulatory obligations referenced above. The information collected will be used, among other things, to inform U.S. workers of the job opportunity, thereby testing the labor market; to determine whether the employer is offering to all employees the appropriate wage for the job opportunity; to ensure that the employer (and its agents) can demonstrate a temporary need, thus qualifying to request foreign workers under the H-2B program; to obtain written assurances from the employer of its intent to comply with program requirements; and to ensure program integrity.

An employer filing under the H-2B program currently utilizes the Employment and Training Administration (ETA) Form 9141, ETA Form 9142, and Appendix B.1 in the Office of Management and Budget's (OMB) Paperwork Reduction Act Control Number 1205-0466. This request for modification, which is associated with a Notice of Proposed Rulemaking (NPRM or proposed rule), only affects the ETA Form 9142 Appendix B.1 and creates a new form, ETA Form 9155, which is the means by which an H-2B employer will register with the Department of Labor (Department) prior to submitting its request for labor certification.

The H-2A IC remains unchanged. Within this IC, the burdens for the H-1B and PERM programs remain unchanged. This Supporting Statement accounts for all of the collections and burden changes associated with the rulemaking. All of the collections, including the new form ETA Form 9155 will be included in the H-2B

IC under OMB Control No. 1205-0466. This Supporting Statement accounts for each of the burdens created by the proposed rule.

A.2. How, by whom, and for what purpose the information is to be used.

In order to meet its regulatory responsibilities, the Department must request information pertaining to employers seeking to import foreign labor. The Department will use the information collected to determine eligibility of an employer to sponsor H-2B nonimmigrant temporary non-agricultural workers.

A.3. Extent to which collection is automated, reasons for automation, and considerations for reducing impact on burden.

In compliance with the Government Paperwork Elimination Act, the forms are fillable and available via the Internet by download for manual submission by mail. Eventually, the Department intends to make the forms both fillable and fileable online, but will seek OMB approval for such an electronic version prior to introducing the form for public use.

A.4. Efforts to identify duplication – why similar information already available cannot be used for the purpose described in A.2.

For the most part, the information required in the ETA Form 9141, ETA Form 9142, Appendix B.1, and the ETA Form 9155, H-2B Registration, is sufficiently specific to avoid duplication of activities within or outside of the Department under the H-2B program. Any duplicative information such as the name, address, and contact information of the employer will be eliminated once the forms are incorporated into the Department's iCert electronic system currently in use for other foreign labor certification programs. Once employers provide such information through iCert, the system will populate appropriate fields in all forms accessed by the employer through iCert thereafter.

In addition, to demonstrate compliance with these information collection requirements, DOL will accept responsive records maintained by the employer for other purposes (e.g., records maintained to demonstrate compliance with other labor laws). Additional Information on identified overlapping provisions is available in item 12.

A.5. Efforts to minimize burden on small businesses.

The collection is required of small businesses who want to import foreign labor. However, the recordkeeping requirements largely involve information that already exists in payroll and other records kept by most employers for other purposes.

A.6. Consequences to Federal program if collection is not done or is done less frequently and any technical or legal obstacles to reducing the burden.

The Department would be in direct violation of the law if this information was not collected.

A.7. Special circumstances for conducting information collection.

There are no special circumstances that would require the information to be collected or kept in any manner other than those normally required under the Paperwork Reduction Act (PRA), except per the regulatory requirement that employers retain the records and supporting documents used to fill in the form for at least 3 years.

A.8. Summary of public comments.

The public is given an opportunity to comment for 60 days on the proposed changes as part of the NPRM for the H-2B program (RIN 1205-AB58), published March 18, 2011. See 76 Fed. Reg. 15130.

A.9. Explanation of decision to provide any payment or gift to respondents.

No payments or gifts will be made to respondents.

A.10. Assurance of confidentiality provided to respondents.

DOL offers no assurances of confidentiality to those responding to this information collection. The information collected is not exempt from disclosure under the Freedom of Information Act.

A.11. Justification for any sensitive questions.

The information collected does not involve sensitive matters.

A.12. Estimated hourly burden

I. H-2B Program only.

The Department is revising its hourly burden for the H-2B program based on the proposed rule published simultaneously with this submission. The Department previously estimated that it would receive 12,000 applications based on 2006 data and projected increases in the usage of the program based on a previous rulemaking. However, in order to better estimate the potential hourly burden of the collections required to apply for a labor certification as described in this proposed rule, the Department relied upon program experience and program data from fiscal years 2000-2009. Based on information on program usage from these years, the Department estimates that it will receive an average of 8,717 applications requesting an average of 236,706 foreign workers. This is a decrease from the 12,000 applications estimated in the previous submission and used to calculate the burden under OMB Control No. 1205-0466. The methodology used to arrive at the current lower estimate includes periods in which the U.S. economy grew and periods in which the U.S. economy contracted. The Department is also accounting for all collections created by the proposed rule, which require submission of information by 10 or more people, but not necessarily on the ETA Form 9141, ETA Form 9142, Appendix B.1, or the new ETA Form 9155 H-2B Registration form.

The H-2B NPRM proposes the following collections:

1. Agents and recruiters

Proof of agent relationship (20 CFR 655.8(a)). The Department proposes requiring all agents who file H-2B applications on behalf of employers to demonstrate that a bona fide relationship exists between them and the employer. The Department is not requiring any specific form of such documentation and will accept a copy of the agent agreement or other document demonstrating the agent's authority to act on behalf of the employer. We estimate that it will take 30 minutes to write, print, sign, and deliver a letter confirming the relationship. Based on recent experience, we estimate that 1,875 letters will be submitted with applications. The hourly burden for this collection is 938 reporting hours (1,875 filers x .5 hours = 938).

Agent's proof of MSPA registration (20 CFR 655.8(b)). The proposed rule would require agents who are Farm Labor Contractors to provide a copy of their MSPA Certificate of Registration. The Department estimates it will take agents approximately 5 minutes to copy their certificates and attach them to the application. In the past only 12 agents in the H-2B program have been certified Farm Labor Contractors. The hourly burden for this collection is 1 reporting hour (12 filers x 5 minutes = 1 hour).

Foreign recruitment contract (20 CFR 655.9). The Department proposes to require employers, attorneys, or agents to provide a copy of all agreements with foreign labor contractors or recruiters who they engage or plan to engage in the international recruitment of H-2B workers. This is a new requirement under the proposed rule. The Department bases its estimate on anecdotal evidence that the majority of H-2B employers employ such foreign agents and recruiters. Therefore, the Department estimates that 3,966 employers will have such contracts attached to their applications and that it will take 5 minutes to copy and attach the contract. The hourly burden for this collection is 331 reporting hours. (3,966 filers x 5 minutes ÷ 60 minutes = 331 hours.)

Inform of fee prohibitions (20 CFR 655.20(p) and 29 CFR 503.16(p)). The Department proposes to require employers to prohibit in a written contract any agent or recruiter whom the employer engages in international recruitment of H-2B workers, either directly or indirectly, from seeking or receiving payments or other compensation from prospective workers. Because the Department estimates that 3,966 employers will utilize foreign agents and recruiters and it will take the employer an average of 15 minutes to comply with this requirement, the burden for this collection is 992 third party disclosure hours. (3,966 filers x 15 minutes ÷ 60 minutes = 992 hours.)

2. Registration of H-2B employers

ETA Form 9155, H-2B Registration (20 CFR 655.11). The Department is proposing to require H-2B employers to register in advance of submitting an Application for Temporary Employment Certification in order to demonstrate their temporary need and qualifications under the H-2B program. This registration step will streamline the adjudication of applications and ensure a more efficient process. The Department has created a new form for this purpose – the ETA Form 9155. The form will collect job specific information, i.e., the employer will be required to register for each job opportunity it has, about the employer's temporary need for services or labor, the number of workers needed, the nature of the job classification and/or duties, and the specific dates of need. Once approved, the registration will be valid for up to 3 consecutive years from the date of issuance. For purposes of the paperwork burden, the Department is basing its estimates on annual filings instead of every 3 years. We have approximately 3,966 employers who participate in the H-2B program each year; however, some of these employers submit more than one application because they have different job opportunities. Therefore, we estimate receiving 8,717 H-2B Registration forms and we estimate it will take 1 hour to fill out and submit the form for a total burden of 8,717 reporting hours. (8,717 applications x 1 hour = 8,717 hours.)

Request for Further Information (RFI) (20 CFR 655.11(g)). The Department proposes to issue an RFI to an H-2B employer where the H-2B Registration cannot be approved for various reasons such as, but not limited to, where the ETA Form 9155 is incomplete or inaccurate, the employer failed to demonstrate temporary need, and/or the job classification and duties do not appear to qualify as non-agricultural. Program experience shows that we issue an average of approximately 2,711 RFIs a year. We estimate it takes 1 hour to respond to the RFI for a total burden of 2,717 reporting hours. (2,711 applications x 1 hour = 2,711 hours.)

3. Prevailing wage determination

ETA Form 9141 (20 CFR 655.10(c)). The proposed rule would require all employers participating in the H-2B program to obtain a prevailing wage determination (PWD) from the National Prevailing Wage Center (NPWC). Employers currently request prevailing wage determinations under various foreign labor certification programs by submitting an ETA Form 9141, which is already part of this IC. The Department estimates that it will take employers 1 hour to read the instructions, collect all of the necessary information, and fill in the form. The Department estimates that it will receive an average of 8,717 applications each year, which is a decrease in burden of 3,283 reporting hours for this collection. The total burden is 8,717 reporting hours. (8,717 applications x 1 hour = 8,717 hours.)

Center Director review of PWDs (20 CFR 655.13(a)). The proposed rule would permit employers who disagree with the prevailing wage determination issued by the NPWC to request review of the determination by the Center Director. The Department, based on program experience, estimates that 110 employers will request such review and that it will take each employer 30 minutes to prepare the request for a total burden of 55 reporting hours. (110 requests x .5 hours = 55 hours.)

BALCA review of PWDs (20 CFR 655.13(b)). The Department proposes to permit employers who disagree with the redetermination made by the Center Director to appeal to the Board of Alien Labor Certification Appeals. The Department, based on program experience, estimates that 5 employers will request an appeal and that it will take each employer 30 minutes to prepare the request for a total burden of 3 reporting hours. (5 requests x .5 hours = 3 hours.)

4. Application for Temporary Employment Certification

ETA Form 9142 (20 CFR 655.15). The Department proposes that once an employer's H-2B Registration is granted, the employer can submit an Application for Temporary Employment Certification (ETA Form 9142) requesting employment of temporary non-agricultural foreign workers. The form takes approximately 1 hour to complete. The Department previously estimated

employers would file approximately 12,000 applications for a total burden of 12,000 reporting hours. The Department estimates that it will now receive only an average of 8,717 applications each year, which is a decrease in burden of 3,283 reporting hours for a total of 8,717 reporting hours. (8,717 applications x 1 hour = 8,717 hours.)

Waiver of filing timeframes due to emergency situations (20 CFR 655.17). The proposed rule would permit an employer who for good and substantial cause is unable to meet the regulatory timeframes for filing the H-2B Registration and/or the Application for Temporary Employment Certification to request a waiver of such timeframes by submitting a letter of explanation along with the completed applications. The Department estimates that it will take an employer 30 minutes to compose, print, and mail such a letter. The Department anticipates receiving 111 such requests for a total burden of 56 reporting hours. (111 requests x .5 hours = 56 hours.)

Submission of a modified application or job order (20 CFR 655.32). The Department proposes to permit employers to modify and resubmit their applications and/or job orders, as appropriate, according to the insufficiencies listed in the Notice of Deficiency. We estimate that one third of the applications will require modification a year. We estimate it takes 1 hour to respond to the RFI for a total burden of 2,717 reporting hours. (2,711 applications x 1 hour = 2,711 hours.)

Amending the application or job order (20 CFR 655.35). The Department proposes to permit employers to amend their applications and/or job orders at any time before the Department makes a final determination to grant or deny the application. The Department anticipates receiving 522 such amendments and that it will take an employer 30 minutes on average to prepare and file an amendment for a total burden of 261 reporting hours. (522 amendments x .5 hours = 261 hours.)

5. Recruitment

Recruitment activities, including advertising for U.S. workers and/or placing job orders is a usual and customary activity for employers. Therefore, under the regulations of the OMB at 5 CFR 1320.3(b), the resources expended by employers to comply with the recruitment provisions at 20 CFR 655.16 of the proposed rule are excluded in compiling the paperwork burden estimates under the proposed rule.

However, the Department's proposed requirement that employers' job orders meet the standards set forth in 20 CFR 655.18 of the proposed rule, are subject to the PRA burden calculations. The Department estimates that it will take employers 1 hour to review the job order, ensure regulatory standards are met,

and make corrections if necessary for a total burden of 8,717 third party disclosure hours. (8,717 job orders x 1 hour = 8,717 hours.)

Also, the time needed to prepare the recruitment report in 20 CFR 655.48 of the proposed rule is not excludable in compiling the burden. Under this proposed provision, employers must prepare, sign, and retain a written summary report describing the recruitment steps undertaken and the results achieved, including the number of hires, and if applicable the number of U.S. workers rejected, summarized by the lawful job related reasons for such rejection. Additionally, under the proposed audit process detailed in 20 CFR 655.70, the Department may request the employer submit such a recruitment report along with the resumes or applications of U.S. workers sorted by the reasons they were rejected. The Department estimates that it will take employers 1 hour to prepare a recruitment report for a total burden of 8,717 reporting hours. (8,717 reports x 1 hour = 8,717 hours.)

Contacting former employees (20 CFR 655.43). The Department is proposing to require employers to contact their former U.S. workers in the same occupation and place of employment, including those who were laid off within 120 calendar days of the employer's date of need, unless they were dismissed for cause or abandoned the worksite prior to the completion of the last work period. The proposed rule requires that employers contact these employees by mail or other effective means. The Department estimates it will take employers 1 hour per application filed with the Department to contact former employees for a total burden of 8,717 third party disclosure hours. (8,717 applications x 1 hour = 8,717 hours.)

Contacting labor organizations and union representatives (20 CFR 655.44 and 655.45). Where the occupation or industry is customarily unionized or where any of the employer's employees in the same occupation and area of intended employment have a bargaining representative, the proposed rule would require the employer to contact the local union in writing to inquire about the availability of qualified U.S. workers. The Department estimates it will take employers 20 minutes per application filed with the Department to contact union representatives for a total burden of 2,179 third party disclosure hours. (8,717 applications x 15 minutes ÷ 60 minutes = 2,179 hours.)

Posting requirement (20 CFR 655.45(b)). Where there is no bargaining representative of the employer's employees, the Department proposes to require the employer to post the availability of the job opportunity in at least two conspicuous locations at the place of anticipated employment for 10 consecutive business days in order to provide reasonable notification to all employees in the job classification and area in which the work will be performed by the H-2B workers. For simplicity, the Department is assuming that employers using the H-2B program do not have employees with bargaining representatives and that all will be required to comply with the posting requirement. The Department

estimates it will take employers 30 minutes per application filed with the Department to prepare and post the notice for a total burden of 4,359 third party disclosure hours. (8,717 applications x .5 hours = 4,359 hours.)

Additional recruitment (20 CFR 655.45(c) and 655.46). The proposed rule would authorize the Department, at its discretion, to require employers to conduct additional recruitment. We assume that 50 percent of the employers will be required to perform this additional recruitment and it will take them 5 minutes to comply with this request for a total of 165 third party disclosure hours. (3,966 employers x 50% x 5 minutes ÷ 60 = 165 hours.)

Proof of recruitment (20 CFR 655.46(c)). The records required to be kept by the employer to demonstrate compliance with the advertising requirements under the proposed rule must also be retained by employers under the regulations of the Equal Employment Opportunity Commission at 29 CFR 1602.14 (OMB Control No. 3046 -- 0040), promulgated pursuant to Title VII of the Civil Rights Act and the American With Disabilities Act, and 29 CFR 1627.3(b)(3) (OMB Control No. (3046 -- 0018), promulgated pursuant to the Age Discrimination in Employment Act, at 29 CFR 1627.3(b)(3), and therefore, the burden to maintain such records can be excluded in compiling the paperwork burden under the proposed rule. For example, 29 CFR 1602.14 requires the employer to keep “(a)ny personnel or employment record made or kept by an employer (including but not limited to requests for reasonable accommodation, application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be kept for a period of one year from the date of making of the record or the personnel action involved, whichever occurs later. . . .”

The records that employers must maintain pursuant to 29 CFR 1627 (b)(3)(a)(1), that was promulgated pursuant to the Age Discrimination in Employment Act, includes but are not limited to the following:

- o Job applications, resumes or any other form of employment inquiry whenever submitted to the employer in response to his advertisement or other notice of existing or anticipated job openings, including records pertaining to the failure or refusal to hire any individual.
- o Promotion, demotion, transfer, selection for training, layoff, recall or discharge of any employee.
- o Job orders submitted by the employer to an employment agency or labor organization for recruitment of personnel and job openings.

- o Any advertisement or notice to the public or to employees relating to job openings, promotions, training programs, or to opportunities for overtime work.

State Workforce Agencies (SWAs) postings, distribution, and referrals (20 CFR 655.33(b)(4)-(7)). The Department proposes to require SWAs to post the employer's submitted job orders, distribute the job orders to other SWAs, where applicable, and refer applicants to the employer. This function is exempt from the paperwork burden calculations under 5 CFR 1320.3(d) because it is a normal function of the SWAs and does not increase their burden.

6. Worker's rights

Provide copy of job order to workers (20 CFR 655.20(l) and 29 CFR 503.16(l)). The Department proposes to require employers to provide both the H-2B workers and U.S. workers in corresponding employment a copy of the job order. The Department has no available means of calculating how many U.S. workers are in corresponding employment. However, the Department does not always approve the total number of H-2B workers requested by the employer because it may find, for example, that the employer failed to hire qualified U.S. workers. Therefore, the Department assumes that the number of requested workers equals the total amount of H-2B and U.S. workers that are eventually hired. The Department receives requests for an average of 236,706 workers each year. The Department estimates it will take employers an average of 5 minutes to provide each worker a copy of the job order for a total burden of 19,726 third party disclosure hours. (236,706 workers x 5 minutes ÷ 60 minutes = 19,726 hours.)

Post notice of worker rights (20 CFR 655.20(m) and 29 CFR 503.16(m)). The proposed rule would require employers to post and maintain in a conspicuous location at the place of employment a poster provided by the Department that sets out the rights and protections for H-2B workers and workers in corresponding employment. However, this burden is exempt from the PRA under 5 CFR 1320.3(c)(2).

SWA informs applicants of requirements (20 CFR 655.47). The proposed rule would require SWAs to only refer individuals who have been apprised of all the material terms and conditions of employment and have indicated, by accepting referral to the job opportunity that they are qualified and will be available for employment. Since this requirement would be specific to the H-2B program and calls for the SWAs to go beyond their normal functions, it is, therefore, not exempt under 5 CFR 1320.3(d). The Department has never collected data on how many overall referrals the SWAs make under any of its foreign labor certification programs. However, the Department does track the number of partial certifications it issues due to the employers' failure to hire the qualified U.S. workers that are referred by the SWAs. The number of rejected U.S. applicants averages about 60,000 a year. The Department estimates it will take

SWAs an average of 5 minutes to explain the job requirements to each worker for a total burden of 5,000 third party disclosure hours. (60,000 workers x 5 minutes ÷ 60 minutes = 5,000 hours.)

7. Retention Requirements

Retention of documents (20 CFR 655.10(h), 655.11(i), and 655.56). The Department proposes to require employers who file an H-2B Registration (ETA Form 9155), Application for Prevailing Wage Determination (ETA Form 9141), and Application for Temporary Employment Certification (ETA Form 9142) to retain any documents and records not otherwise submitted proving compliance with 20 CFR 655.10, 655.12(h), and 655.56. An employer whose application is approved is required to retain all such records for a period of 3 years from the final date of applicability of the H-2B Registration or Certification. An employer whose H-2B Registration or Certification is denied or withdrawn is also required to retain all records for 3 years, to be measured from the date of the final registration decision or date of receipt of the employers written request for withdrawal. The Department estimates that employers will spend about 10 minutes per year, per application to retain the required wage rate determination, Application for Temporary Employment Certification, and supporting documentation in the 2 years following the mandated 1 year of required retention for companies subject to Title VII and during the 5 years already mandated for all other employers. This results in an annual burden of 1,453 Recordkeeping hours (8,717 applications x 10 minutes ÷ 60 minutes = 1,453 hours).

8. Post-certification requirements

Notify of abandonment or termination (20 CFR 655.20(y) and 29 CFR 503.16(y)). The proposed rule would require employers to notify the Department when any of their H-2B workers voluntarily abandon the job or are terminated before the certified end date of employment. The Department estimates it will take employers an average of 10 minutes to write an email to the Department to meet this requirement. The Department receives approximately 2,500 such emails each year for a total burden of 417 reporting hours. (2,500 emails x 10 minutes ÷ 60 minutes = 417 hours.)

Notify SWA when H-2B workers depart (20 CFR 655.33(b)(3)). The proposed rule would require the employer to notify the SWA in possession of its job order if the last H-2B worker has not departed for the place of employment by the third day preceding the employer's date of need. This indicates to the SWA when to stop referring potential U.S. workers to the employer. The Department estimates, based on program experience in other similar foreign labor certification programs, that SWAs will receive approximately 653 such notices from employers each year. The Department also estimates that it will take the employer 20 minutes to comply with this requirement for a total burden of 218

third party disclosure hours. (653 notices x 20 minutes ÷ 60 minutes = 218 hours.)

Extension of the application (20 CFR 655.60). The proposed rule would permit employers, under certain circumstances involving weather conditions or other factors beyond the control of the employer, to request in writing an extension of the period of employment. The Department estimates that it will receive approximately 326 such requests each year. The Department also estimates that it will take the employer 30 minutes to comply with this requirement for a total burden of 163 reporting hours. (326 notices x .5 hours = 163 hours.)

Notice of appeal (20 CFR 655.61(a)). The Department proposes to permit an employer whose certification is denied to request administrative review of the decision by the Board of Alien Labor Certification Appeals. To do so an employer must submit a written request for review within 10 business days from the date of determination. The Department estimates that it will receive approximately 110 such requests each year. The Department also estimates that it will take the employer 1 hour to comply with this requirement for a total burden of 110 reporting hours. (110 notices x 1 hour = 110 hours.)

Request for withdrawal (20 CFR 655.62). The proposed rule would permit employers to request withdrawal of an application after it has been accepted for processing, but before it is adjudicated. The Department estimates that it will receive approximately 184 such requests each year. The Department also estimates that it will take the employer 10 minutes to comply with this requirement for a total burden of 31 reporting hours. (184 notices x 10 minutes ÷ 60 minutes = 31 hours.)

9. Integrity measures

Audit, revocation, and debarment (20 CFR 655.70, 655.72, and 655.73). The proposed rule would authorize the Department at its discretion to audit applications to ensure program integrity. Based on the results of these audits or other information, the Department may revoke a certified application and/or place an employer, agent, or attorney in debarment proceedings. In addition, the Department is proposing to require employers to respond to notices sent by the Department as part of these three processes. However, such responses are exempt from the paperwork burden under 5 CFR 1320.3(h)(6) & (9) and 5 CFR 1320.4(a)(2).

Cooperation with investigators (29 CFR 503.16(aa)). The Department's Wage and Hour Division is authorized to investigate employer compliance with the provisions of this regulation. The proposed rule would require employers to cooperate with and comply with any requests made by Wage and Hour Division investigators as part of this process. However, such responses are exempt from the paperwork burden under (9) and 5 CFR 1320.4(a)(2).

Request for hearing by Administrative Law Judge (29 CFR 503.43). The proposed rule would permit an employer found by the Wage and Hour Division to be in violation of the regulations to request in writing review of the decision by the Administrative Law Judge of the Department. The Department estimates that it will receive approximately two such requests each year. The Department also estimates that it will take the employer 2 hours to comply with this requirement for a total burden of 4 reporting hours. (2 notices x 2 hours = 4 hour.)

Request for hearing with Administrative Review Board (29 CFR 503.51). The proposed rule would permit an employer who disagrees with the findings of the Administrative Law Judge to request in writing review of the decision by the Administrative Review Board of the Department. The Department estimates that it will receive approximately one such request each year. The Department also estimates that it will take the employer 30 minutes to comply with this requirement for a total burden of 1 reporting hour. (1 notices x .5 hours = 1 hour.)

Total Annual Burden Hours for H-2B Information Collection – 94,187 hours
42,661 Reporting Hours
1,453 Recordkeeping Hours
50,073 Third Party Disclosure Hours

10. Previously submitted burdens in this IC

PERM Program. No direct changes were proposed to this program by the rulemaking; therefore, the burden calculations previously submitted are still valid.

Annual Burden Hours for PERM Information Collections
Form ETA 9141– 80,625 Reporting Hours
16,667 Recordkeeping Hours

H-1B Program. No direct changes were proposed to this program by the rulemaking; therefore, the burden calculations previously submitted are still valid.

Annual Burden Hours for H-1B Information Collections
Form ETA 9141 – 283,500 Reporting Hours
70,000 Recordkeeping Hours

H-1C Program. No direct changes were proposed to this program by the rulemaking; however, the program has sunset and the Department is not receiving any collections for this program. Therefore, the burden calculations previously submitted are no longer valid and should be zeroed out.

Annual Burden Hours for H-1C Information Collections:
Form ETA 9141 only – 0 Reporting Hours
0 Recordkeeping Hours

The total annual hourly burden for this IC:

406,786 Reporting hours
42,661 hours – H-2B
80,625 hours – PERM
283,500 hours – H-1B
0 hours – H-1C

88,120 Recordkeeping hours
1,453 hours – H-2B
16,667 hours – PERM
70,000 hours – H-1B
0 hours – H-1C

50,073 Third Party Disclosure hours (H-2B only)

Total: 544,979 hours for this IC

Difference from previous H-2B IC: increase of 51,312 hours

II. H-2A Program only.

In addition, this overall information collection request applies to the H-2A program, which the March 18, 2011, NPRM would not change. The Department recounts those burden estimates here.

A. Application for Temporary Employment Certification

Employers submit an Application for Temporary Employment Certification (Form ETA 9142) when they wish to employ a nonimmigrant foreign worker (20 CFR 655.130-132). The form takes approximately one hour to complete. The Department estimated employers file approximately 8,356 applications and each takes 1 hour. (8,356 x 1 hour = 8,356 hours).

H-2A Labor Contractors (H-2ALC) must submit the list of fixed site employers with whom they have contracted to provide H-2A workers along with copies of the contracts. They must provide copies of their Foreign Labor Contractor Certificate issued by the Wage and Hour Division, bond, drivers' licenses, and auto insurance policies. Finally, they must supply proof that the proposed housing for the workers complies with the applicable Federal, State, and local laws. The Department anticipates that it will take the 559 H-2ALC employers one hour and 20 minutes to comply

with this requirements for a total burden of 745 reporting hours (559 applicants x 80 minutes ÷ 60 minutes = 745 hours)

There are times where employers miss the statutorily mandated deadline for filing an application due to unforeseen circumstances or because they are new to the program and did not realize there was a deadline. In such instances, the employer must request a waiver of the filing deadline (20 CFR 655.134(b)). In FY 2008, the Department received 151 such requests and this is not much different from other years. The Department estimates it will take employers 30 minutes to write a letter addressed to the Department explaining why they need such a waiver for a total burden of 66 reporting hours (151 requests x .5 hours = 66 hours).

Agents filing applications on behalf of employers must submit a letter authorizing such representation from the employer (20 CFR 655.133(a)). The Department believes it will take employers 30 minutes to produce such a letter and send it to the agent or attorney. In FY 2008, 4,574 applications were filed by agents. Therefore, the hourly burden for this collection is 2,287 reporting hours (4,574 filers x .5 hours = 2,287).

Agents who are Farm Labor Contractors must provide a copy of their MSPA certificate (20 CFR 655.133(b)). The Department estimates it will take agents only 5 minutes to copy their certificate and attach it to the application. In the past only 309 agents have been certified Farm Labor Contractors. Therefore, the total reporting burden is 26 reporting hours (309 agents x 5 minutes ÷ 60 minutes = 26 hours).

If an application is deficient, the rule allows the employer to modify the application (20 CFR 655.144). The Department estimates that it will take an employer 30 minutes to modify its application. Last year the Department received 1151 applications requiring modification. Program experience shows that this number does not fluctuate much year to year, therefore, assuming the same rate in future years this would account for 576 reporting hours (1151 applications x .5 hours = 576 hours).

There are times when an employer needs to amend its application to increase or decrease the number of foreign workers requested or to change the dates of need due to weather or harvest conditions (20 CFR 655.145). The Department estimates it takes the employer 30 minutes to request such an amendment. Last year the Department received 668 such requests. Program experience shows that this number does not fluctuate much year to year, therefore, assuming the same rate in future years this would account for 334 reporting hours (668 requests x .5 hours = 334 hours).

B. Recruitment

Recruitment activities, including advertising for workers and placing job orders, is a usual and customary activity of employers. Therefore, under the regulations of the Office of Management and Budget at 5 CFR §1320.3(b), the resources expended by employers to comply with the recruitment provisions at § 655.151 and 152 of the proposed rule are excluded in compiling the paperwork burden estimates under the proposed rule.

Similarly, since the records required to be kept by the employer to demonstrate compliance with the advertising requirements (20 CFR 655.154) must also be retained by employers under the regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR §1602.14 (OMB Control No. 3046 -- 0040), promulgated pursuant to Title VII of the Civil Rights Act and the American With Disabilities Act, and 29 CFR §1627.3(b)(3) (OMB Control No. (3046 -- 0018), promulgated pursuant to the Age Discrimination in Employment Act, at 29 CFR §1627.3(b)(3), the burden to maintain such records can be excluded in compiling the paperwork burden under the proposed rule. For example, § 1602.14 requires the employer to keep “(a)ny personnel or employment record made or kept by an employer (including but not limited to requests for reasonable accommodation, application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be kept for a period of one year from the date of making of the record or the personnel action involved, whichever occurs later. . . .”

The records that employers must maintain pursuant to 29 CFR §1627 (b) (3)(a)(1) that was promulgated pursuant to the Age Discrimination in Employment Act, includes but are not limited to the following:

- o Job applications, resumes or any other form of employment inquiry whenever submitted to the employer in response to his advertisement or other notice of existing or anticipated job openings, including records pertaining to the failure or refusal to hire any individual.
- o Promotion, demotion, transfer, selection for training, layoff, recall or discharge of any employee.
- o Job orders submitted by the employer to an employment agency or labor organization for recruitment of personnel and job openings.

- o Any advertisement or notice to the public or to employees relating to job openings, promotions, training programs, or to opportunities for overtime work.

However, the time required to contact former employees as part of the recruitment (20 CFR 655.153) and to prepare the required recruitment report (20 CFR 655.156) is not excludable in compiling the burden under the regulation. The Department estimates it will take employers an average of 1 hour per application to contact old employees for a total hourly burden of 8,356 third party disclosure hours (8,356 applications x 1 hour = 8,356 hours)

Title 29 CFR 1602.14 does not require an employer to create any records, but rather requires an employer to preserve all personnel or employment records which the employer “made or kept.” Once made or kept (i.e., records received from others that are not immediately discarded), EEOC regulations requires that these records be preserved.

All employers that file applications under the H-2A process must prepare and retain a summary report under § 655.156 signed by the employer describing the recruitment steps undertaken and the results achieved, including the number of hires, and if applicable, the number of U.S. workers rejected, summarized by the lawful job related reasons. The recruitment report must then be submitted to the Certifying Officer by the date indicated in the Notice of Acceptance. The Department estimates that it will take an average of 1 hour for an employer to prepare a recruitment report for each application it files. Because the Department anticipates that 8,356 Applications for Temporary Employment Certification will be filed with the Department of Labor, the total annual burden for preparing recruitment reports is estimated to amount to 8,356 reporting hours (8,356 applications x 1 hour = 8,356).

C. Retention of Supporting Documentation

The Department estimates that employers will spend about 10 minutes per year per application to retain the required wage rate determination, Application for Temporary Employment Certification, and supporting documentation in the two years following the mandated one-year retention for companies subject to Title VII and three years for all other employers. This results in an annual burden of 1,393 recordkeeping hours (8,356 applications x 10 minutes ÷ 60 minutes = 1,393 hours).

D. Post-Certification Processes

After the Department has certified a labor certification for a certain period of employment, an employer may apply to the Department for an

extension of that period of employment if the extension is needed because of weather conditions or other factor beyond the control of the employer (20 CFR 655.170). Such an extension is requested in writing. The Department estimates that it will take an employer 30 minutes to prepare and send such a request and 418 employers will make such requests annually for a total of 209 reporting hours (418 requests x .5 hours = 209 hours).

If an employer receives a denial of its request for a labor certification, the employer may appeal the process by filing a Notice of Appeal (20 CFR 655.171). Due to the nature of the agricultural business, the Department receives few appeals and estimates that it will receive approximately 70 appeals annually and that it will take employers 20 minutes to prepare and send the Notice of Appeal for a total hourly burden of 23 reporting hours (70 appeals x 20 minutes ÷ 60 minutes = 23 hours).

On occasion, an employer finds it necessary to withdraw an application (20 CFR 655.172). A withdrawal request may be sent by email, therefore, the Department estimates that it will take employers approximately 10 minutes to prepare and submit a withdrawal request. The Department estimates it will receive 226 such requests annually for a total hourly burden of 38 reporting hours (226 requests x 10 minutes ÷ 60 minutes = 38 hours).

The Department also proposes to use audits, revocation, and debarment to increase program integrity. All of these integrity measures require the employers to respond to notices by the Department. However, all of these responses are exempt from the hourly burden calculations. Title 5 CFR 1320.3(h)(6) and (9) exempt from collection requests that require facts or opinions be submitted, which are addressed to a single entity and facts or opinions obtained or solicited through non-standardized follow-up questions designed to clarify responses to approved collections of information. Likewise 5 CFR 1320.4(a)(2) exempts administrative actions such as audits of specific individuals or entities.

E. Notification Requirements

The proposed rule requires employers to notify its H-2A workers of their duty to depart the United States after the contract period ends (20 CFR 655.135(i)) and of their rights by posting a Department issued Workers' Rights Poster (20 CFR 655.135(l)). The rule also requires employers to contractually forbid their foreign labor recruiters from charging the H-2A workers any recruitment fees (20 CFR 655.135(k)).

The requirement to post a government provided poster for disclosure to the public is exempt from the hourly burden calculations because it is

specifically excluded from the definition of “collection of information” under 5 CFR 1320.3(c)(2). However, the other two notification requirements are not exempt. The Department estimates that it will take each employer approximately 2 minutes to orally inform its H-2A workers of their duty to leave the U.S. during the workers’ orientation at the beginning of the contract period for a total burden of 278 third party disclosure hours (8,356 applications x 2 minutes ÷ 60 minutes = 278 hours).

The Department estimates that it will take 5 minutes for employers to ensure that the contracts they have with foreign labor recruiters comply with 20 CFR 655.135(k) each time they submit an application to the Department. The total burden will be 696 third party disclosure hours (8,356 applications x 5 minutes ÷ 60 minutes = 696 hours).

F. Complaints

The proposed rule provides several avenues for aggrieved parties to complain to the Federal Government. The hourly burdens for three of those methods are calculated under other information collections. The hourly burden in utilizing the Job Service Complaint System in 20 CFR 655.185 and 29 CFR 501.2 is accounted for under OMB control number 1205-0039. The hourly burden associated with filing complaints with the Wage and Hour Division of the Department is accounted for under OMB control number 1235-0021. Complaints of immigration discrimination in hiring practices can be filed with the Department of Justice’s Office of Special Counsel for Immigration-related Unfair Employment Practices on either that office’s Charge Form or in a letter addressed to the Special Counsel.

Individuals who would like to complaint about unfair employment practices relating specifically to the withholding of U.S. workers until the H-2A workers have arrived in the United States under 20 CFR 655.157 must do so by filing a complaint with the Secretary. There is no form for this type of complaint. The Department estimates it would take an individual 30 minutes to prepare and send such a complaint. However, in over 20 years of program experience, the Department has never received such a complaint, therefore, we estimate that the burden is zero.

G. Meal Charges

Employers who provide three meals a day for their workers may deduct the cost of the meal from the employee’s paychecks up to the maximum allowed by 20 CFR 655.173. However, section 655.173 also allows an employer to petition for higher meal charges. The Department anticipates receiving 84 such requests and that it will take employers approximately 1

hour to prepare the petition for a total of 84 reporting hours (84 petitions x 1 hour = 84 hours).

These existing requirements amount to

21,110 Reporting hours

1,393 Recordkeeping hours

9,330 Third Party Disclosure hours

Total: 31,833 hours

The combined information collections equate to 605,296 responses and 576,812 hours.

Monetized Hourly Burden

Employers filing applications for temporary alien employment certification may be from a wide variety of industries. Salaries for employers and/or their employees who perform the reporting and recordkeeping functions required by this regulation may range from several hundred dollars to several hundred thousand dollars where the corporate executive office of a large company performs some or all of these functions. However, the Department recognizes that in most companies a Human Resources Manager will perform these activities. Therefore, in estimating employer staff time and costs, the Department used the hourly wage rate for a Human Resources Manager (\$42.95), as published by the U.S. Department of Labor's Occupational Employment Statistics survey, O*NET Online, and increased it by a factor of 1.43 to account for private-sector employee benefits (source: BLS). Thus, the loaded hourly compensation rate for a Human Resources Manager is \$61.42.

Total annual respondent hour costs under OMB control No. 1205-0466 are 576,812 hours x \$61.42 = \$35,427,793, of which \$5,784,966 is attributed to the March 18, 2011 NPRM.

A.13. Estimated cost burden to respondents.

a. Start-up/capital costs: There are no start-up costs. There is no obligation to own a computer to participate in the program. Anyone without computer access can request the form from the Department's Office of Foreign Labor Certification. However, to participate in the program the employer is required to generate records and retain them. The only necessary supplies needed to store and maintain the records are filing cabinets and filing folders. The Department estimates that the initial cost to employers is minimal because it is a customary and usual business practice for businesses to have storage space.

However, there is a one-time fee the H-2A applicant must pay the Department after its application has been approved. The proposed rule stipulates that the applicant who receives an approved labor certification must pay \$150 plus \$15 for each foreign worker requested with an overall cap of \$2,000 per application. Assuming a 95% approval rate and the same amount of approved foreign workers as in previous years at 94,445, the Department estimates the maximum cost to employers will be \$2,607,405 [(8,356 applicants x .95 x \$150) + (94,445 foreign workers x \$15)].

b. Annual costs: There are no annual costs involved with operation and maintenance because ETA will be responsible for the annual maintenance costs for the free downloadable forms and, subject to future OMB approval, the web-based data collection and reporting system.

A.14. Estimated cost burden to the Federal Government.

The average Federal Government cost for a year of operation is estimated on an hourly basis multiplied by an index of 1.69 to account for employee benefits and proportional operating costs, otherwise known as Fully Loaded Full Time Equivalent (FLFTE). For State Government workers working under Federal grant to perform the functions necessary under this proposed rule the FLFTE factor is 1.52. The index is derived by using the Bureau of Labor Statistics' index for salary plus benefits and the Department's internal analysis of overhead costs averaged over all employees of its Office of Foreign Labor Certification. The total cost to the Federal Government for the proposed H-2B program is estimated at \$3,587,268 calculated as follows:

Estimated Hours - Data Entry/Review

<u>SWA Cost to Post Job Order and Refer Applicants</u>	\$450,320
Staff (GS-12, Step 5 x 1.69 FLFTE) @ 1 hour	
$\$51.66 \times 8,717 = \$450,320$	
 <u>Data Entry</u>	 \$2,146
(A small (2 percent) sampling of applications will be data entered for statistical purposes)	
Clerical (GS-6, Step 3 x 1.69 FLFTE) @ 30 minutes	
$\$ 24.67 \times 174 \text{ applications} \times .5 \text{ hour} = \$2,146$	
 <u>Staff Cost for Adjudicating Applications</u>	 \$1,983,815
H-2B Registration (ETA Form 9155)	
Staff (GS-12, Step 5 x 1.69 FLFTE) @ 1.5 hours	
$\$51.66 \times 8,717 \times 1.5 \text{ hours} = \$675,480$	
Manager (GS-14, Step 5 x 1.69) @ 15 minutes	
$\$72.60 \times 8,717 \times .25 \text{ hours} = \$158,214$	

Prevailing wage determination (ETA Form 9141)
 Staff (GS-12, Step 5 x 1.69 FLFTE) @ .5 hours
 $\$51.66 \times 8,717 \times .5 \text{ hours} = \$225,160$
 Manager (GS-14, Step 5 x 1.69) @ 15 minutes
 $\$72.60 \times 8,717 \times .25 \text{ hours} = \$158,214$

Application for Temporary Employment Certification
 (ETA Form 9142)
 Staff (GS-12, Step 5 x 1.69 FLFTE) @ 1 hour
 $\$51.66 \times 8,717 \times 1 \text{ hour} = \$450,320$
 Manager (GS-14, Step 5 x 1.69) @ 30 minutes
 $\$72.60 \times 8,717 \times .5 \text{ hours} = \$316,427$

Staff Cost for Appealed Required Wage Applications \$6,445
 Manager (GS-14, Step 5 x 1.69) @ 45 minutes
 $\$72.60 \times 110 \times .75 \text{ hours} = \$5,990$

Administrative Law Judge (AL/C3 x 1.69) @ 1 hour
 $\$91.00 \times 5 \times 1 \text{ hour} = \455

Staff Cost for RFI or Modified Applications \$1,138,042
 (30 percent of applications are modified and 30 percent of registrations will
 need additional information)
 Staff (GS-12, Step 5 x 1.69 FLFTE) @ 3 hours
 $\$51.66 \times 5,434 \times 3 \text{ hours} = 842,161$
 Manager (GS-14, Step 5 x 1.69) @ 45 minutes
 $\$72.60 \times 5,434 \times .75 \text{ hours} = 295,881$

Estimated Total Cost for H-2B
 Staff \$3,580,768
 Printing/Mailing \$ 6,500
\$3,587,268

Additional costs attributed to this IC carried over
 from the previous H-2B IC
Estimated Total Cost for H-1B **\$1,627,290**
Estimated Total Cost for PERM **\$4,488,000**
Estimated total cost for H-1C **\$ 0**
 =====

Total cost burden to Federal Government due to NPRM \$9,702,558

Existing requirements

The average Federal Government cost for a year of operation is estimated on an hourly basis multiplied by an index of 1.69 to account for employee benefits and proportional operating costs, otherwise known as Fully Loaded Full Time Equivalent (FLFTE). For State government workers working under Federal grant to perform the functions necessary under this proposed rule the FLFTE factor is 1.52. The index is derived by using the Bureau of Labor Statistics' index for salary plus benefits and the Department's internal analysis of overhead costs averaged over all employees of OFLC. The total cost to the Federal Government for the H-2A program is estimated at \$1,448,659 calculated as follows:

Estimated Hours - Data Entry/Review

<u>NPC Staff Cost for Verifying the Prevailing Wage</u> Staff (GS-12, Step 5 x 1.69 FLFTE) @ 15 minutes $\$51.66 \times 8,356 \times 15 \text{ min} \div 60 = \$107,918$	\$107,918
<u>SWA Cost to Post Job Order and Refer Applicants</u> Staff (GS-12, Step 5 x 1.52 FLFTE) @ 1 hour $\$46.46 \times 8,356 = \$388,220$	\$388,220
<u>Data Entry</u> (A small (1%) sampling of applications will be data entered for statistical purposes) Clerical (GS-6, Step 3 x 1.69 FLFTE) @ 30 minutes $\$24.67 \times 84 \text{ applications} \times .5 \text{ hour} = \$1,036$	\$1,036
<u>Staff Cost for Adjudicating Applications</u> Staff (GS-12, Step 5 x 1.69 FLFTE) @ 1.5 hours $\$51.66 \times 8,356 \times 1.5 \text{ hours} = \$647,506$	\$647,506
<u>Management Review of Applications</u> Manager (GS-14, Step 5 x 1.69) @ 45 minutes $\$72.60 \times 2,507 \times .75 \text{ hours} = \$136,506$	\$136,506
<u>Staff Cost for Receiving and Logging Notifications (modifications, amendments, extensions, withdrawals)</u> Staff (GS-9, Step 5 x 1.69 FLFTE) @ 15 minutes $\$37.59 \times 2,463 \times 15 \text{ minutes} \div 60 \text{ minutes} = \$23,146$	\$23,146
<u>Staff Cost for Adjudication of Extensions</u> Staff (GS-12, Step 5 x 1.69 FLFTE) @ 30 minutes $\$51.66 \times 418 \times .5 \text{ hours} = \$10,797$	\$10,797

<u>Staff Cost for Preparing Appeal File</u>	\$3,616
Staff (GS-12, Step 5 x 1.69 FLFTE) @ 1 hour	
\$51.66 x 70 x 1 hour = \$3,616	
 <u>Management Review of Petition for Meal Charges</u>	 \$4,574
Manager (GS-14, Step 5 x 1.69) @ 45 minutes	
\$72.60 x 84 x .75 hours = \$4,574	
 <u>Estimated Total Cost for H-2A</u>	
Staff	= \$1,323,319
Printing/Mailing (average \$15 per application)	= \$ 125,340
	\$1,448,659
 Total cost burden to Federal Government due to NPRM	 \$9,702,558
Total cost burden to Federal Government due to Existing Provisions	\$1,448,659
Total cost burden for Control Number 1205-0466	\$11,151,217

A.15. Reasons for any program changes reported in Items 13 or 14 of the OMB Form 83-1.

The changes are due to new rulemaking. Previously this Information Collection Request (ICR) contained the burden and cost estimates for the H-2A and H-2B rulemaking that occurred in 2008 and became effective in January of 2009. The Department created two distinct ICs within the one ICR. This new H-2B NPRM modifies the current H-2B and PERM regulations and, because the H-1B regulations refer to the section modified in this rulemaking at 20 CFR 656.40, effectively the H-1B program is also affected. However, the burden hours previously accounted for in the PERM and H-1B programs have not changed, therefore, the totals listed in the previous H-2B IC are being included so that all the burdens previously accounted for and the ones being accounted for here are included for this updated IC. The changes in the H-2B IC are due to new requirements in the proposed rule, better calculations of the information collections required, updated data on program usage, and the sunset of the H-1C program.

To sum up, the reduction in responses is due to the economic downturn and the consequent reduction in applications, and the rise in hour burden is due to the restoring of ICs as described above. Thus, of the annual number of responses reduced from the previously approved figure of 693,902 to 605,296, 29,536 of the reduced responses are due to agency discretion, and there are 59,070 fewer responses because of an adjustment in the agency's estimate. Burden hours have increased while the annual number of responses has decreased. Thus,

while the responses have decreased due to the economic downturn, while the burden increases (from 513,010 to 576,812) are due to both the adjustment in the agency's estimate (+46,763) and a program change (+17,039) due to the agency's discretion (restoring the ICs).

For the same reasons, the annual cost burden change in ROCIS is separated into \$162,930 as the disaggregated amount for a "change due to agency estimate" and \$869,135 is allocated to a "change due to agency discretion."

DOL has updated the ROCIS entries for the H-2A information collections to reflect the supporting statement information.

A.16. Method for publishing results.

The Department's Office of Foreign Labor Certification discloses information about applicants to the public on its public access webpage at <http://www.flcdatacenter.com/CaseData.aspx>. For the H-2B program, the name, address, phone, and contact person of the employer and its agent, the number of foreign workers requested, the occupation, salary proposed and prevailing wage along with final determination by the Department are all disclosed on the website.

A.17. If seeking approval not to display the expiration date for OMB approval, explain why display would be inappropriate.

The Department will display the expiration date for OMB approval on the form.

A.18. Explanation of each exception in the certification statement identified in Item 19 "Certification for Paperwork Reduction Act Submissions" on OMB Form 83-1.

The Department is not seeking any exception to the certification requirements.

B. Collection of Information Employing Statistical Methods

No statistical methods are employed.