SUPPORTING STATEMENT FOR REQUEST FOR OMB APPROVAL UNDER THE PAPERWORK REDUCTION ACT OF 1995

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SUPPORTING STATEMENT

APPLICATION FOR TEMPORARY EMPLOYMENT CERTIFICATION
AND
APPLICATION FOR PREVAILING WAGE DETERMINATION
1205-0466

A. Justification

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

The information collection is required by sections 203(b)(3), 212(a)(5)(A), 212(m), (n), (t), 214(c), and 218 of the Immigration and Nationality Act (INA) (8 U.S.C. §§1153(b)(3), 1182(a)(5)(A), 1182(m), (n), (t), 1184(c), and 1188) and 8 CFR 214.2 (h). The INA requires the Secretary of Labor to certify, among other things, that any foreign worker seeking to enter the United States for the purpose of performing certain skilled or unskilled 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 U.S. workers able, willing, and qualified to perform such skilled or unskilled labor. Before any employer may petition for any temporary or permanent skilled or unskilled foreign workers, it must submit a request for certification to the Secretary of Labor containing the elements prescribed by the INA and regulations, which differ depending on the visa program under which the labor is sought. In addition, before the Secretary of Labor can certify that wages for U.S. workers have not been adversely affected, she must ensure that the wages being paid the foreign workers are the same as those being offered and paid to U.S. workers.

The information contained in the ETA Forms 9141 and 9142 is the basis for the Secretary's determination of the wage employers must pay U.S. and foreign workers in order to not have an adverse affect on wages and determining that no U.S. workers are available.

Prior to submitting a request for certification to the Secretary of Labor, employers must obtain a prevailing wage for the place of employment in order to ensure that wages are not being adversely affected by paying foreign workers less than a prevailing wage. ETA Form 9141, Application for Prevailing Wage Determination, is used to collect the necessary information from employers to enable the Department of Labor (Department) to issue a prevailing wage for the occupation and location of the job offer. The ETA Form 9141 is used not only in the H-2B program, but also in the H-1B, H-1B1, E-3, and PERM programs administered by the Department. Because the H-2A regulations prescribe a different wage determination process for agricultural occupations, than is utilized in the H-2B, H-1B and PERM programs, the H-2A program does not use the ETA Form 9141.

The ETA Form 9142, Application for Temporary Employment Certification, is used to collect information to permit the Department to meet its statutory responsibilities for administering the H-2A and H-2B temporary labor certification programs. The H-2A program enables employers to bring nonimmigrant foreign workers to the U.S. to perform agricultural work of a temporary or seasonal nature as defined in 8 U.S.C. 1101 (a)(15)(H)(ii)(a). The H-2B program enables employers to bring nonimmigrant foreign workers to the U.S. to perform nonagricultural work of a temporary or seasonal nature as defined in 8 U.S.C. 1101 (a)(15)(H)(ii)(b).

On April 8, 2012, OMB approved changes to this Information Collection in conjunction with recent rulemaking resulting in a final rule published on February 21, 2012 (the 2012 H-2B Final Rule). 77 FR 10038. All comments, documents, and forms related to the information collection approved in conjunction with the 2012 H-2B Final Rule can be found on http://www.reginfo.gov. However, a lawsuit was brought in Federal court in the Northern District of Florida, Pensacola Division, against the Department and an order is expected to be issued by the court enjoining the Department from implementing the 2012 H-2B Final Rule. (*Bayou Lawn & Landscape Services, et al. v. Hilda L. Solis, et al*., 12-cv-00183-RV-CJK). This requires the Department to revert back to the information collection instruments used in this collection prior to 2012 H-2B Final Rule. Specifically, ETA Form 9155, H-2B Registration, is no longer needed. ETA Form 9142 and Appendix B.1 must revert back to the specific information collected before the2012 H-2B Final Rule. The combination of 1205-0404 and 1205-0466 will now be divided again into two separate ICs as it was in the past. (To ensure the public is fully aware of the intent to combine OMB Control Numbers 1205-0466 and 1205-0404, the agency will publish a Federal Register Notice to seek comments on the merger that specifically identifies each form by its OMB Control Number.) ETA Form 9141 also reverts back to the information collection before the 2012 H-2B Final Rule. The Appendix A.1 to ETA Form 9142 was removed from the Department's August 19, 2009 ICR and continues to be obsolete.

As a result, DOL is asking for this emergency revision to use the former 1205-0466 instruments. The reason the forms must revert back to those in effect prior to the 2012 H-2B Final Rule is because the attestations that an employer using the H-2B program must make, which are listed in Appendix B.1, have changed substantially and the Department cannot require employers to make attestations that are not required by the current regulations, which will remain in effect if the rule is enjoined. The many instances of differences in the attestations between the forms require the Department to revert back to the forms that correspond to the 2008 H-2B Rule (73 FR 78020) to obtain information that conforms to the regulatory obligations in that earlier rule during the injunction period. For example, the 2012 H-2B Final Rule requires employers to provide transportation and subsistence costs to its H-2B employees traveling to the employer's place of business, which the current regulations do not require. The 2012 H-2B Final Rule also requires employers to attest, and the currently approved form collects, that they have displayed a poster with rights and protections for H-2B and corresponding workers, which the current

regulations do not. These and other statements appear in the newly approved Appendix B.1 and are not applicable to the current regulations. Of course, the Department would intend to withdraw this request were the Court not to enjoin the Department from enforcing the 2012 H-2B Final Rule.

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

In order to meet its statutory responsibilities under the INA, the Department must request information from employers seeking to hire and import foreign labor. The Department uses the information collected to determine eligibility of an employer for the H-2A nonimmigrant temporary agricultural worker program and the H-2B nonimmigrant temporary nonagricultural worker program, and to determine the appropriate wages that must be paid by an employer to foreign workers in all programs.

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 Department anticipates eventual electronic filing for both forms in this collection. To date, only the ETA Form 9141 is fully operational as both a fillable and electronically fileable form and is available on the Department's iCert Portal System at http://icert.doleta.gov/ where it can be accessed by employers who wish to complete and submit it electronically. Both the PDF fillable form and the fileable electronic form (available on the iCert Portal) include guidance in the form of field-specific instructions intended to assist employers with completing the form. At this time the ETA Form 9142 is available as a fillable PDF form at http://www.foreignlaborcert.doleta.gov/pdf/ETA_Form_9142.pdf, but is not yet available for electronic filing. Until both of these forms are fully operational as fillable and electronically fileable, the forms will continue to be available online in fillable-printable format so that they can be submitted to the Department by mail for manual filing.

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

The information requested on the ETA Forms 9141 and 9142 is sufficiently diverse to avoid duplication of activities within the Department for the H-2A, H-2B, H-1B, H-1B1, E-3, and PERM programs.

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

The information collection is required of small businesses who want to hire and 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 not done or done less frequently and any technical or legal obstacles to reducing the burden.

The Department would be in direct violation of law and regulations 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, except the regulatory requirement that employers retain the records and supporting documents used to fill in the forms for at least three years for the H-2A and H-2B programs; five years for the PERM program; and one year beyond the validity of the certified Labor Condition Application in the H-1B program, including the H-1B1 and E-3 programs.

A.8. Preclearance notice and summary of public comments.

The previously mentioned ongoing litigation precludes DOL from seeking public comment in advance of this submission, and public harm would result were the agency unable to collect this information needed for the subject non-immigrant worker programs. Upon approval of this request, in accordance with the Paperwork Reduction Act of 1995, the public will be given 60 days to comment on this collection and a summary of comments will be provided to OMB. The Agency intends to forward to the Federal Register for publication a 60-day notice within 2 weeks of the granting of this emergency extension request.

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.

The information collected is not exempt from full disclosure under the Freedom of Information Act. No assurance of confidentiality is provided.

A.11. Justification for any sensitive questions.

The information collected does not involve sensitive matters.

A*.12. Estimated hourly burden.*

Based on previous program experience, the Department estimates it will receive approximately 7,977 ETA Form 9142 submissions for the H-2A program, 7,613 ETA Form 9141 and ETA Form 9142 submissions for the H-2B program and 21,798 ETA Form 9141 applications a year for the H-1B program, and 91,637 ETA Form 9141 submissions a year for the PERM program. The hourly burdens are separated by program.

I. The H-2A Program

A. Determination of wages to be paid for H-2A labor certification purposes

As indicated under A.1 above, the ETA Form 9141 is not used in the H-2A program.

However, in order to recruit U.S. workers and complete the ETA Form 9142, an H-2A employer must determine the appropriate wage to pay agricultural employees. The regulations require employers to obtain the appropriate wage in advance of recruitment. Pursuant to the regulations, the employer must offer, recruit at, and pay a wage that is the highest of the Adverse Effect Wage Rate (AEWR) in effect at the time the job order is placed, the prevailing hourly or piece rate, the agreed-upon collective bargaining rate (CBA), or the Federal or State minimum wage. The Department annually publishes new AEWRs and the employer may locate the appropriate AEWR(s) online through the Office of Foreign Labor Certification website at http://www.foreignlaborcert.doleta.gov/adverse.cfm; the employer can locate the appropriate prevailing hourly or piece rate(s) online in the Office of Foreign Labor Certification Agricultural Online Wage Library at http://www.foreignlaborcert.doleta.gov/aowl.cfm.

The employer will use both the existing approved information collection ETA 790, OMB control number 1205-0134, and the ETA 9142 (OMB control number 1205-0466[1]) to submit its wage rate for approval. The hourly burden for the completion and filling of the ETA 790 is accounted for in that information collection. The estimated time required to research the wage rate and reflect it on the Form ETA 9142 is estimated at 10 minutes. The total annual burden of the required wage rate determinations is 1,330 reporting hours (7,977 x 10 minutes ÷ 60 minutes = 1,330 hours).

[1] The Form ETA 9142, OMB control number 1205-0466 is the subject of this information collection extension request.

B. Application for Temporary Employment Certification

Employers submit an Application for Temporary Employment Certification (ETA Form 9142 and Appendix A.2) when they wish to employ a nonimmigrant foreign worker in the H-2A visa classification on a temporary basis to perform agricultural services and/or labor (20 CFR 655.130-132). The form takes approximately one hour to complete. The Department estimates, based on its operating experience over the last three years, that in the upcoming year employers will file approximately 7,977 applications for a total burden of 7,977 reporting hours (7,977 applications x 1 hour = 7,977 hours).

H-2A Labor Contractors (H-2ALC) have additional requirements under 20 CFR 655.132(b). They must submit the list of fixed site employers with whom they have contracted to provide H-2A workers along with copies of the contracts. H-2ALCs who are subject to the Migrant and Seasonal Agricultural Workers Protection Act (MSPA) must also provide copies of their Farm Labor Contractor (FLC) Certificate of Registration issued by the Wage and Hour Division, drivers' licenses, and auto insurance policies. H-2ALCs must also submit original surety bonds pursuant to 20 CFR 655.132(b)(3). 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 these 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)). The Department estimates it will receive 150 such requests based on program experience. 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 75 reporting hours (150 requests x 0.5 hours = 75 hours).

Agents filing applications on behalf of employers must submit an agency agreement or similar document authorizing such representation from the employer (20 CFR 655.133(a)). The Department believes it will take an employer and its agent and/or attorney 30 minutes to generate such a document and submit it to the Department. In FY 2010 4,726 applications were filed by agents and attorneys. Therefore, the hourly burden for this collection is 2,363 reporting hours (4,726 filers x .5 hours = 2,363).

Agents who are FLCs must provide a copy of their MSPA FLC Certificate of Registration (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 117 applications have been filed by certified Farm Labor Contractors. Therefore the total reporting burden is 10 reporting hours (117 applications x 5 minutes ÷ 60 minutes = 10 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 2,344 applications requiring modification. Assuming the same rate in future years this would account for 1,172 reporting hours (2,344 applications x .5 hours = 1,172 hours).

C. Recruitment

Recruitment activities, including advertising for workers and placing job orders, are usual and customary activities 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 paperwork burdens of the recruitment provisions at sections 655.150, .151, .153, and .154 of the H-2A regulations is 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 or to prepare the required recruitment report must 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, 29 CFR 1602.14 of the EEOC regulations 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), promulgated pursuant to the Age Discrimination in Employment Act, includes but are not limited to the following:

- 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.

- Promotion, demotion, transfer, selection for training, layoff, recall or discharge of any employee.

- Job orders submitted by the employer to an employment agency or labor organization for recruitment of personnel and job openings.

- 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 prepare the required recruitment report is not excludable in compiling the burden under the regulations. Section 1602.14 of the EEOC regulations 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 require that these records be preserved.

All employers that file applications under the non-emergency H-2A filing procedures at 20 CFR 655.130 must prepare and submit a recruitment report summarizing their compliance with the applicable H-2A recruitment requirements. Section 20 CFR 655.156 requires that the recruitment report be signed by the employer and describe recruitment steps undertaken and the results achieved, including the number of hires, and if applicable, the number of U.S. workers rejected, and listing the lawful, job-related reasons for the rejection. In addition, pursuant to section 655.156(b) employers must continue to update the recruitment report for the duration of the recruitment period. An updated recruitment report may be requested by the Certifying Officer along with the resumes or applications of U.S. workers sorted by the reasons they were rejected during an audit under 20 CFR 655.180. The Department estimates that it will take an average of 1 hour for an employer to prepare and update the recruitment report for each application it files. Because the Department anticipates that 7,977 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 7,977 recordkeeping hours (7,977 applications x 1 hour = 7,977 hours).

D. Retention of Supporting Documentation 20 CFR 655.167

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 1,330 recordkeeping hours (7,977 applications x 10 minutes ÷ 60 minutes = 1,330 hours).

E. Informing DOL and DHS of H-2A Worker Abscondment or Termination

Employers are required, pursuant to 20 CFR 655.122(n), to inform the Department and the Department of Homeland Security (DHS) of the termination of workers for cause and abandonment of the job by workers in writing within two (2) business days of the termination or discovering the abandonment. Based on program experience during the last three years, the Department estimates that it will receive letters/emails from employers in approximately 315 cases and that it will take employers 15 minutes to compose and send such letters/emails for a total of 79 reporting hours (315 cases x 0.25 = 79 hours.

F. Notification Requirements

The H-2A regulations require 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 266 third party disclosure hours (7,977 applications x 2 minutes ÷ 60 minutes = 266 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 665 third party disclosure hours (7,977 applications x 5 minutes ÷ 60 minutes = 665 hours).

G. Providing Workers With Copy of Contract

Pursuant to the Department's regulations at 20 CFR 655.122(q), employers must provide to H-2A workers (no later than the time at which the workers apply for the visa) or to workers in corresponding employment (no later than on the day work commences) a copy of the work contract between the employer and the workers in a language understood by the worker as necessary or reasonable. For H-2A workers going from an H-2A employer to a subsequent H-2A employer, the copy must be provided no later than the time an offer of employment is made by the subsequent H-2A employer. In the absence of a separate written work contract, the employer may provide copies of the certified ETA 9142, Appendix A.2 and ETA Form 790. Program experience shows that an average of 95,500 H-2A workers are certified by the Department each year. The Department estimates it will take employers approximately 15 minutes to make copies of the work contract (or substitute documentation as described above) and to provide it to each worker for a total of 23,875 third party disclosure hours. (95,500 workers x .25 hours = 23,875 hours)

H. Amending the Application for Temporary Employment Certification (ETA 9142)

Pursuant to regulations at 20 CFR 655.145, at any time before final determination, an employer may submit a written request to the National Processing Center to amend the H-2A application in order to increase the number of workers requested, or to request minor changes to the period of employment. Program experience shows that approximately 900 amendments are requested each year. The Department estimates it will take employers approximately 30 minutes to make such requests for a total of 450 reporting hours. (900 applications x 0.5 hours = 450 hours)

I. Post-Certification Processes

Extensions
After the Department has certified an Application for Temporary Employment Certification for a certain period of employment, an employer may apply to the Department for an extension of that period of employment. If the requested extension is longer than 2 weeks, it must be based on weather factors or some other condition beyond the employer's control (20 CFR 655.170). Such an extension must be requested in writing. The Department estimates that it will take an employer 30 minutes to prepare and send such a request. Program experience shows that approximately 100 employers will make such requests annually for a total of 50 reporting hours (100 requests x 0.5 hours = 50 hours).

Appeals
Several aspects of the H-2A labor certification process provide the employer with administrative appeal rights including expedited administrative review or a *de novo* hearing (20 CFR 655.141 deficiencies, .142 modifications, .164 denials, .165 partial certifications, .181 revocation, and .182 debarment). The employer may request an expedited administrative appeal or a *de novo* hearing to the Board of Alien Labor Certification Appeals (BALCA) in writing in accordance with the procedures prescribed by the specific regulatory provision authorizing the appeal (see above). The Department estimates that it will receive approximately 92 appeals annually and that it will take employers 20 minutes to prepare and send the Notice of Appeal for a total hourly burden of 31 reporting hours (92 appeals x 20 minutes ÷ 60 minutes = 31 hours).[2]

Withdrawals
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 100 such requests annually for a total hourly burden of 17 reporting hours (100 requests x 10 minutes ÷ 60 minutes = 17 hours).

Redeterminations
The regulations allow an employer to petition the Department for a redetermination if U.S. workers recruited as a result of the labor market test become unavailable on or during the 30 day period before the date of need (655.166). The Department estimates it takes employers 30 minutes to call or email the Department with its request and then follow-up with a written request. The Department usually receives 11 such requests each year for a total reporting burden of 6 hours. (11 x 0.5 hours = 5.5 hours)

Integrity Measures
The Department also uses audits, revocation, and debarment to increase program integrity. All of these integrity measures require the employers to respond to notices from the Department. However, 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.

J. Meal Charges

[2] This estimate reflects a typical historic rate of appeals in the H-2A program not including the last (FY 2011) fiscal year where the appeal rate in the program spiked due to ongoing operational challenges related to the implementation of the 2010 H-2A Final Rule. Temporary Agricultural Employment of H-2A Aliens in the United States; Final Rule. 75 FR 6884 (Feb. 12, 2010).

Employers who provide three meals a day for their workers may deduct the cost of the meals from the employee's pay checks up to the maximum allowed by 20 CFR 655.173. The Department annually publishes the H-2A allowable meal charges and travel subsistence. Employers may access this information online through the Office of Foreign Labor Certification website at http://www.foreignlaborcert.doleta.gov/meal_travel_subsistence.cfm. The time to research the allowable meal charges and retain the necessary information as required under 20 CFR 655.167(c)(5) and 655.122(j) is accounted for under section "D. Retention of Supporting Documentation 20 CFR 655.167 of this Supporting Statement."

In addition, 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).

K. 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 1215-0001. 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 file a 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.

Annual Burden Hours for H-2A Information Collections:

14,389 Reporting Hours
9,307 Recordkeeping Hours
24,806 Third Party Disclosure Hours
48,502 Total Hours

Average Time Per Application Process
Prevailing wage – 10 minutes
ETA Form 9142 – 1 hour
Other H-2A ICs – 20 minutes

Total H-2A Responses: 152,860
Total H-2A Respondents: 7,977

II. The H-2B Program

A. Determination of prevailing wages for labor certification purposes

In order to recruit U.S. workers and complete the ETA Form 9142, an H-2B employer must first obtain a prevailing wage determination from the Department (20 CFR 655.10(a)). The regulations require employers to obtain the prevailing wage determination in advance of recruitment or filing by submitting a completed Application for Prevailing Wage Determination (ETA Form 9141) to the NPWC. The H-2B program also allows employers to appeal the prevailing wage determination made by the NPWC. Program experience has shown that the majority of employers will accept the NPWC's determination and will, therefore, only spend 45 minutes preparing and submitting the ETA Form 9141 to the NPWC.

In the H-2B program, the employer also has the option of submitting its own survey to the NPWC for validation if it meets the requirements of 20 CFR 655.10(f). If the NPWC finds the survey provided by the employer unacceptable, the employer may submit supplemental information for the NPWC's consideration. The Department has found that in the past employers challenged the determination and/or submitted supplemental information in approximately 3.5 percent of the prevailing wage determination requests and that it will take employers 45 minutes to prepare such requests. The Department further found that 2.32 percent of those employers appeal the final decision of the Certifying Officer to the Center Director and only one or two appeal the Center Director's decision to the Board of Alien Labor Certification Appeals (BALCA). The Department estimates it takes an employer 30 minutes each to prepare the appeal to both the Center Director and BALCA. The total annual burden of the prevailing wage determinations is (7,613 x 0.75 hours) + (7,613 x 3.5% x 0.75 hours) + (266 x 2.32% x 0.5 hours) + (2 x 0.5 hours) = 5,914 reporting hours.

The Department estimates that employers will spend about 10 minutes per year per application to retain an application and required supporting documentation as required in 20 CFR 655.10(i). This results in an annual burden of 1,269 recordkeeping hours (7,613 applications x 10 minutes ÷ 60 minutes = 1,269 hours).

B. Application for Temporary Employment Certification

Employers submit an Application for Temporary Employment Certification (ETA Form 9142 and Appendix B.1) when they wish to employ a nonimmigrant foreign worker in the H-2B visa classification on a temporary basis to perform nonagricultural labor and/or services. The form takes approximately one hour to complete. The Department estimates, based on its operating experience, that in the upcoming year employers will file approximately 7,613 applications for a total burden of 7,613 reporting hours (7,613 applications x 1 hour = 7,613 hours).

C. Temporary Need Statement

In order to qualify for the H-2B program an employer must demonstrate it has a temporary need (20 CFR 655.6 and 655.21). The Department of Homeland Security's (DHS) regulations at 8 CFR 214.2(h)(6)(ii)(B) define four different types of temporary need. Therefore, an employer is required to fill in a section of the ETA Form 9142 with a narrative statement explaining and justifying its temporary need. The Department estimates that it will take each applicant one-half hour to prepare the narrative for a total burden of 3,807 reporting hours (7,613 applications x 0.5 hours = 3,807 hours).

D. Recruitment

Recruitment activities, including advertising for U.S. workers and placing a job order with a State Workforce Agency, are usual and customary activities of employers under the H-2B program. 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 20 CFR 655.15 of the current regulations are excluded in compiling the paperwork burden estimates.

Similarly, since the records required to be kept by the employer to demonstrate compliance with the advertising requirements or to prepare the required recruitment report must be retained by employers under the regulations of the 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. 0304-0018), 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 final rule. For example, 29 CFR 1602.14 of the EEOC regulations 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), promulgated pursuant to the Age Discrimination in Employment Act, includes but are not limited to the following:

- 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.

- Promotion, demotion, transfer, selection for training, layoff, recall or discharge of any employee.

- Job orders submitted by the employer to an employment agency or labor organization for recruitment of personnel and job openings.

- 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 prepare the required recruitment report is not excludable in compiling the burden under the regulations. Section 1602.14 of the EEOC regulations 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 which are not immediately discarded) EEOC regulations requires that these records be preserved.

All employers that file applications under the H-2B process at 20 CFR 655.20 must prepare and retain a recruitment report under § 655.15(j) 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 may be requested by the Certifying Officer along with the resumes or applications of U.S. workers sorted by the reasons they were rejected under § 655.23(c) – request for additional information and during an audit under § 655.24. 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, and, if requested by the Certifying Officer, sort the resumes or applications it received by the reasons they were rejected. Since the Department anticipates that 7,613 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 7,613 recordkeeping hours (7,613 applications x 1 hour = 7,613 hours).

E. Retention of Supporting Documentation

The Department estimates that employers will spend about 10 minutes per year, per application, to retain an application and required 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 as required in 20 CFR 655.15(c). This results in an annual burden of 1,269 recordkeeping hours (7,613 applications x 10 minutes ÷ 60 minutes = 1,269 hours).

F. Informing DOL and DHS of H-2B Worker Abscondment or Termination

Employers are required, pursuant to 20 CFR 655.22(f), to inform the Department and the Department of Homeland Security (DHS) of the termination of workers for cause and abandonment of the job by workers in writing within two (2) business days of the termination or five (5) days of discovering the abandonment. Based on program experience during the last three years, the Department estimates that it will receive letters/emails from employers in 215 cases and that it will take employers 15 minutes to compose and send such letters/emails for a total of 54 reporting hours (215 cases x 0.25 = 54 hours).

G. Notification Requirements

The Department's H-2B regulations require employers to notify its H-2B workers of their duty to depart the United States after the contract period ends (20 CFR 655.22(m)). The rule also requires employers to contractually prohibit their foreign labor recruiters from charging the H-2B workers any recruitment fees (20 CFR 655.22(g)(2)).

The Department estimates that it will take each employer approximately 2 minutes to orally inform its H-2B 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 254 third party disclosure hours (7,613 applications x 2 minutes ÷ 60 minutes = 254 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 655.22(m) each time they submit an application to the Department. The total burden will be 634 third party disclosure hours (7,613 applications x 5 minutes ÷ 60 minutes = 634 hours).

H. Post-Certification Processes

If an employer receives a denial of its request for a labor certification or a partial certification, the employer may appeal the Department's final determination in accordance with the requirements of section 20 CFR 655.33. Based on program experience, the Department estimates that it will receive approximately 95 appeals annually and that it will take employers 2 hours to prepare and send the Request for Review for a total hourly burden of 190 reporting hours (95 appeals x 2 hours = 190 hours).

The Department uses audits and debarment to increase program integrity. 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.

I. Supervised Recruitment

In cases where the employer violated the terms of the program and the Department determines it to be appropriate, some employers will be required to be supervised during their next participation in the program (20 CFR 655.30). Program experience has shown that the Department requires employers to conduct supervised recruitment in less than half of one percent of the applications. The time required to conduct such recruitment will average 2.5 hours per application for an annual burden of 95 reporting hours (7,613 x 0.5% x 2.5 hours = 95 hours) with some employers expending five hours, while the majority expending one-half hour to place the advertisement, receive and analyze resumes and interview candidates. Employers will also be required to provide a recruitment report to the Certifying Officer that on average will take one hour to prepare for an annual burden of 38 reporting hours (7,613 x 0.5% x 1 hour = 38 hours). Therefore, it is estimated that the total annual burden associated with conducting supervised recruitment will amount to 133 reporting hours (95 + 38 = 133 hours).

Annual Burden Hours for H-2B Information Collections:

17,711 Reporting
10,151 Recordkeeping Hours
888 Third party disclosure hours
28,750 Total Hours

Average Time Per Application Process:
ETA Form 9141 – 45 minutes
ETA Form 9142 – 1.5 hours
Other H-2B ICs – 25 minutes

Total H-2B Responses: 76,886
Total H-2B Respondents: 7,613

III. The H-1B program (including H-1B1 and E-3)

A. Determination of wages to be paid for purposes of approval of a Labor Condition Application.

In order to complete the ETA Form 9035, Labor Condition Application (OMB control number 1205-0310), an employer must determine the appropriate wage to pay the foreign worker. The regulations require employers to determine the appropriate wage in advance of submitting the Labor Condition Application (LCA). Unlike in the H-2B and PERM programs, under the Department's regulations at 20 CFR 655.731, an H-1B, H-1B1 or E-3 employer has the option of requesting a prevailing wage determination from the NPWC using the ETA Form 9141 which includes reviewing the Department's wage information available through the Online Wage Library at http://www.flcdatacenter.com/OESWizardStart.aspx. The employer may choose not to request a formal prevailing wage determination and instead rely on the wage information available through the Department's Online Wage Library without requesting a formal prevailing wage determination from the NPWC, or the employer may rely on another legitimate source of wage information such as a collective bargaining agreement or another source. The first option, however, has a distinct advantage of affording the employer a safe harbor in the case of an investigation by the Wage and Hour Division. Whether the employer chooses to request a prevailing wage determination from the NPWC using ETA Form 9141 or uses the OES Library, it will take the employer approximately 45 minutes to complete and file the prevailing wage request with the NPWC using the ETA Form 9141 or perform the research itself. Program experience has shown that at least 90 percent of applicants use the first two methods, and 10 percent rely on another legitimate source of wage information such as collective bargaining agreements and other sources readily available to the employer without burden hours. The Department receives an average of 361,927 Labor Condition Applications filed on the ETA Form 9035 a year of which 21,798 request prevailing wage determinations from the NPWC using the ETA Form 9141.

In the H-1B program, the employer may, in the course of requesting a prevailing wage determination from the NPWC submit its own survey to the NPWC for validation, if it meets the requirements of 20 CFR 655.40(g). If the

NPWC finds the survey provided by the employer unacceptable, the employer may submit supplemental information for the NPWC's consideration. The Department has found that in the past employers challenged the determination and/or submitted supplemental information in approximately 3.5 percent of the prevailing wage determination requests and that it will take employers 45 minutes to prepare such requests. The Department further found that 2.32 percent of those employers appeal the final decision of the Certifying Officer to the Center Director and only one or two appeal the Center Director's decision to the Board of Alien Labor Certification Appeals (BALCA). The Department estimates it takes an employer 30 minutes each to prepare the appeal to both the Center Director and BALCA. The total annual burden of the prevailing wage determinations is (361,927 x .90 x 0.75 hours) + (21,798 x 3.5% x 0.75 hours) + (763 x 2.32% x 0.5 hours) + (2 x 0.5 hours) = 244,884 reporting hours.

B. Retention of Supporting Documentation

The Department estimates that employers will spend about 10 minutes per year, to retain the documentation of its compliance with the required wage rate under 20 CFR 655.731, including, if applicable, the prevailing wage determination and any required supporting documentation during the requisite retention period. This results in an annual burden of 60,321 recordkeeping hours (361,927 applicants x 10 minutes ÷ 60 minutes = 60,321 hours).

Total Annual Burden Hours for the H-1B Information Collections:

ETA Form 9141 only –	244,884 Reporting Hours
	60,321 Recordkeeping Hours
	305,205 Total Hours

Average Time Per Application Process:
ETA Form 9141 only – 55 minutes

Total H-1B Responses: 688,444
Total H-1B Respondents: 361,927

IV. The PERM program

A. Determination of wages to be paid for labor certification

In order to recruit U.S. workers and complete the ETA Form 9089, Application for Permanent Employment Certification (OMB control number 1205-0451), an employer must obtain the appropriate wage in advance of filing the ETA Form 9089 by submitting the Application for Prevailing Wage Determination ETA Form 9141 to the NPWC and receiving a prevailing wage determination. Program experience shows that the majority of employers will accept the NPWC's determination and will, therefore, only spend 45 minutes preparing

and submitting the Application for Prevailing Wage Determination (ETA Form 9141) to the NPWC. In the PERM program, the employer has the option of submitting its own survey if it meets the requirements of 20 CFR 656.40(g) for NPWC validation. If the NPWC finds the survey provided by the employer unacceptable, the employer may submit supplemental information for the NPWC's consideration. The PERM program also allows employers to appeal the prevailing wage determination. The Department has found that in the past employers challenged the determination and/or submitted supplemental information in approximately 3.5 percent of the prevailing wage determination requests and that it will take employers 45 minutes to prepare such requests. The Department further found that 2.32 percent of those employers appeal the decision of the Certifying Officer to the Center Director and only one or two appeal the Center Director's decision to the Board of Alien Labor Certification Appeals (BALCA). The Department estimates it takes an employer 30 minutes each to prepare the appeal to both the Center Director and BALCA. The total annual burden of the prevailing wage determinations is (91,637 x 0.75 hours) + (91,637 x 3.5% x 0.75 hours) + (3,207 x 2.32% x 0.5 hours) + (2 x 0.5 hours) = 71,172 reporting hours.

B. Retention of Supporting Documentation

The Department estimates that employers will spend about 10 minutes per year per application to retain an application and required supporting documentation in the four years following the mandated one year retention for companies subject to Title VII and five years for all other employers. This results in an annual burden of 15,273 recordkeeping hours (91,637 applications x 10 minutes ÷ 60 minutes = 15,273 hours).

Total Annual Burden Hours for the PERM Information Collection related to ETA Form 9141:

ETA Form 9141 only –	71,172 Reporting Hours
	15,273 Recordkeeping Hours
	86,445 Total Hours

Average Time Per Application Process
Form 9141 only – 55 minutes

Total PERM Responses: 186,557
Total PERM Respondents: 91,637

Totals For All Programs:

Reporting Hours:	348,156
Recordkeeping Hours:	95,052
Third party Disclosure Hours:	25,694

Total Responses: 1,104,747
Total Respondents: 469,154

V. Total Hourly Cost

Employers filing applications for temporary and permanent 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 themselves. However, the Department believes that in most companies a Human Resources Manager will perform these activities. In estimating employer staff time costs, the Department used the national cross-industry mean hourly wage rate for a Human Resources Manager ($52.21), based on the U.S. Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics survey wage data,[3] and increased it by a factor of 1.43 to account for employee benefits and other compensation for a total hourly cost of $74.66. This number was multiplied by the total hourly annual burden for the information collection for each foreign labor certification program in order to arrive at total annual respondent hourly costs for all information collections under this extension request. The total annual respondent hourly costs are estimated as follows:

H-2A	48,502 x $74.66	=	$3,621,159
H-2B	28,750 x $74.66	=	$2,146,475
H-1B	305,205 x $74.66	=	$22,786,605
PERM	86,445 x $74.66	=	$6,453,984
Total:	468,902 hours		$35,008,223

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 programs. Anyone without computer access can request the forms from OFLC. However, to participate in the programs employers are 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

[3] Source: Bureau of Labor Statistics. Occupational Employment Statistics: May 2010 National Occupational Employment and Wage Estimates; Management Occupations

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for businesses to have storage space. However, there is a one-time fee the H-2A employer must pay the Department after its application has been approved. The H-2A final rule indicates that an employer applicant who receives an approved labor certification must pay $100 plus $10 for each foreign worker requested with an overall cap of $1,000 per application. Assuming a 100% approval rate and the same amount of foreign workers as in previous years at 95,500, the Department estimates the maximum cost to employers will be $1,752,700 [(7,977 applicants x $100) + (95,500 foreign workers x $10)]

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 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). 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 and the H-2B programs and the prevailing wage determinations for H-1B, H-1B1, E-3, and PERM is estimated at $8,489,341 calculated as follows:

I. H-2A program:

Estimated Hours - Data Entry/Review

NPC Staff Cost for Verifying the Offered Wage Rate Staff (GS-12, Step 5 x 1.69 FLFTE) @ 30 minutes $51.66 x 7,977 x 0.5 hours = $206,046	$206,046
SWA Cost to Post Job Order and Refer Applicants Staff (GS-12, Step 5 x 1.69 FLFTE) @ 1 hour $51.66 x 7,977 = $412,092	$412,092
Data Entry (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 x 80 applications x 0.5 hours = $987	$ 987
Staff Cost for Adjudicating Applications Staff (GS-12, Step 5 x 1.69 FLFTE) @ 1.5 hours	$618,138

$51.66 x 7,977 x 1.5 hours = $618,138

Estimated Total Cost for H-2A

Staff	= $1,237,263
Printing/Mailing	= $ 8,961
	$1,246,224

II. H-2B program:

Estimated Hours - Data Entry/Review

SWA Cost to Post Job Order and Refer In-person Applicants $393,288
Staff (GS-12, Step 5 x 1.69 FLFTE) @ 1 hour
$51.66 x 7,613 = $393,288

Data Entry $938
(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 x 76 applications x .5 hour = $938

Staff Cost for Adjudicating Applications $589,931
Staff (GS-12, Step 5 x 1.69 FLFTE) @ 1.5 hours
$51.66 x 7,613 x 1.5 hours = $589,931

Staff Cost for Appealed Required Wage Applications $ 16,083
(3.5% of applications are appealed)
Manager (GS-14, Step 5 x 1.69) @ 45 minutes
$72.60 x 267 x .75 hours = $14,538
(2.32% of those request Center Director Review)
Center Director (GS-15 Step 5 x 1.69) @ 2 hours
$113.59 x 6 x 2 hours = $1,363
(2 applications are appealed to BALCA)
Administrative Law Judge (AL/C3 x 1.69) @ 1 hour
$91.00 x 2 x 1 hour = $182

Staff Cost for Supervised Recruitment $9,046
(0.5% of applications are required to do supervised recruitment)
Staff (GS-12, Step 5 x 1.69 FLFTE) @ 2.5 hours
$51.66 x 38 x 2.5 hours = $4,908
Manager (GS-14, Step 5 x 1.69) @ 1.5 hours
$72.60 x 38 x 1.5 hours = $4,138

Estimated Total Cost for H-2B

Staff	= $1,009,286
Printing/Mailing	= $ 10,000
	$1,019,286

III. H-1B program (including H-1B1 and E-3):
APPLICATIONS FOR PREVAILING WAGE ONLY

Staff Cost for Adjudicating Prevailing Wage Applications $844,563
Staff (GS-12, Step 5 x 1.69 FLFTE) @ 45 minutes
$51.66 x 21,798 x .75 hours = $844,563

Staff Cost for Appealed Prevailing Wage Applications $ 45,816
(3.5% of applications are appealed)
Manager (GS-14, Step 5 x 1.69) @ 45 minutes
$72.60 x 763 x .75 hours = $41,545
(2.32% of those request Center Director Review)
Center Director (GS-15 Step 5 x 1.69) @ 2 hours
$113.59 x 18 x 2 hours = $4,089
(2 applications are appealed to BALCA)
Administrative Law Judge (AL/C3 x 1.69) @ 1 hour
$91.00 x 2 x 1 hour = $182

Estimated Total Cost for H-1B **$890,379**

IV. PERM program:

APPLICATIONS FOR PREVAILING WAGE ONLY
Staff Cost for Adjudicating Prevailing Wage Applications $3,550,204
Staff (GS-12, Step 5 x 1.69 FLFTE) @ 45 minutes
$51.66 x 91,630 x .75 hours = $3,550,204

Staff Cost for Appealed Prevailing Wage Applications $ 191,614
(3.5% of applications are appealed)
Manager (GS-14, Step 5 x 1.69) @ 45 minutes
$72.60 x 3,207 x .75 hours = $174,621
(2.32% of those request Center Director Review)
Center Director (GS-15 Step 5 x 1.69) @ 2 hours
$113.59 x 74 x 2 hours = $16,811
(2 applications are appealed to BALCA)
Administrative Law Judge (AL/C3 x 1.69) @ 1 hour
$91.00 x 2 x 1 hour = $182

Estimated Total Cost for PERM **$3,741,818**
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Total Cost to Federal Government	**$6,897,707**

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

This ICR requests a change of 217,072 responses (from 1,321,819 to 1,104,747), 79,677 burden hours (from 389,225 to 468,902), and $39,885 in other burden costs (from $1,712,815 to $1,752,700).

The changes reflected in this ICR are attributed to the reversion back to the 2008 H-2B Final Rule. This Information Collection Request (ICR) most recently contained the burden and cost estimates for the 2012 H-2B Final Rule. However, a Federal court in the Northern District of Florida, Pensacola Division, is expected to enjoin the Department from implementing the 2012 H-2B Final Rule. The changes in the number of responses and burden hours in H-2B IC result from the reversion back to the old requirements under the 2008 regulations. Current estimates are based on the annual average of actual applications received over the course of three years.

The Department has updated the burden entries in ROCIS for both the H-2B and the H-2A information collections to reflect the information contained in this Supporting Statement.

A.16. Method for publishing results.

OFLC discloses information about employer applicants to the public on its public access webpage at http://www.flcdatacenter.com/CaseData.aspx. For the H-2A program, the name and address of the employer; the number of foreign workers requested and certified; the occupation; the rate of pay; the hours per week guaranteed; and the date certification begins and ends, along with final determination by the Department, and are all disclosed on the website.

For the H-2B program, the name, address, phone number, agent, and contact person of the employer; the number of foreign workers requested; the occupation; the salary proposed; and the prevailing wage, along with final determination by the Department are all disclosed on the website.

For the H-1B program, the name and address of the employer; the number of foreign workers requested; the occupation; the salary proposed; and the prevailing wage, its source and year of publication, along with final determination by the Department and the dates of validity are all disclosed on the website.

For the PERM program, the name and address of the employer; the citizenship of the foreign worker for whom certification is sought; the occupation; the salary proposed;

and the 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 forms.

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

This information collection does not employ statistical methods.