

SUPPORTING STATEMENT

Migrant and Seasonal Farmworker (MSFW) Monitoring Report and One-Stop Career Center Complaint/Referral Record: OMB CONTROL NO. 1205-0039

This Information Collection Request (ICR) is being submitted in association with a Proposed Rule to implement the Workforce Innovation Opportunity Act of 2014. The Department of Labor asks that the Office of Management and Budget conclude its review by filing comment on this ICR in accordance with 5 CFR 1320.11(c).

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

Employment and Training Administration (ETA) regulations at 20 CFR 651, 653, and 658, authorized by the Wagner-Peyser Act, set forth requirements to ensure that migrant and seasonal farmworkers (MSFWs) receive services that are qualitatively equivalent and quantitatively proportionate to the services provided to non-MSFWs. The regulations at 20 CFR 653.108 (q) requires State Workforce Agencies (SWAs) to report on a quarterly basis, their compliance with the appropriate regulations at 20 CFR 653 and 658. Such reporting helps DOL monitor SWA compliance with the regulations. The data collected represents the minimum information necessary to assure SWA compliance with federal regulations. (See 20 CFR 653.100 through 653.113).

The Workforce Innovation and Opportunity Act (WIOA) Title III section 302 uses the term, “employment service” instead of “job service.” The proposed updates to the federal regulations at 20 CFR 658, Subpart E, would change the name of the Job Service Complaint System to the Employment Service and Employment-Related Law Complaint System (Complaint System). Therefore, DOL intends to simplify and update the name of the Job Service Complaint Form, to “Complaint/Apparent Violation Form.”

The regulations at 20 CFR 658 ensure that SWAs handle complaints appropriately and uniformly. SWAs are required to use the Complaint Form, ETA- 8429 to process complaints pursuant to 20 CFR 658 Subpart E. A revised definition of *complaint* is proposed to align with language in section 2 of the Wagner-Peyser Act, as amended by WIOA Title III section 302, to refer to “employment service” offices rather than “job service” offices. The revised definition specifies that complaints are representations or referrals of *alleged* violations of employment service regulations, Federal laws enforced by DOL’s Wage and Hour Division (WHD) or Occupational Safety and Health Administration (OSHA), or Federal, State or local employment-related laws. DOL proposes to add language in the definition clarifying that the complaints filed are alleging a violation occurred, rather than confirming that a complaint represents an actual violation—which may be determined after the complaint is under investigation pursuant to 658 Subpart F.

More specifically, the WIOA Notice of Proposed Rulemaking sections containing information collections approved under this control number are: 20 CFR § 653.107, § 653.108(g)(6), § 653.108(s), § 653.108(i), § 653.108(m), § 653.410, § 658.601, § 658.601(a). These regulations ensure that SWAs handle complaints appropriately and uniformly. The Complaint/Apparent Violation Form, ETA- 8429, is used by SWAs to process complaints.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

Pursuant to 20 CFR 653.109, DOL uses ETA Form 5148 to collect information on SWAs' provision of services to MSFWs. This helps DOL monitor SWA regulatory compliance. SWAs must submit ETA Form 5148 quarterly to report the level of services provided to MSFWs through the One-Stop Career Centers and to demonstrate the degree to which MSFWs are offered services that are "qualitatively equivalent and quantitatively proportionate" to the services provided to non-MSFWs, as required in the Judge Richey Court Order.

SWAs use the Complaint Form, ETA Form 8429 to record and process complaints and apparent violations. MSFWs complaints are coded to expedite the process which ensures that complaints and apparent violations have a greater probability of being resolved before MSFWs move to another area.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Reports are produced electronically through ETA's Enterprise Business Support System (EBSS) which can be accessed by SWAs via the Internet. Some data elements are generated from the ETA's 9002 Report (i.e., number of applicants and types of services) others items such as outreach contacts and complaints are manually compiled at the state level.

ETA does not believe that the automation of Complaint/Apparent Violation Form, ETA -8429 is beneficial or cost effective. This form is available electronically and can be accessed via the Internet at <http://www.doleta.gov/programs/MSFW.cfm>. This allows individuals to access the electronic version for downloading, faxing, or e-mailing to SWAs for review and processing.

4. Describe efforts to identify duplication.

Efforts are continually underway to identify duplication. None of the information recorded on ETA Form 8429 is duplicative of any other information that is already captured by the SWAs. Likewise, the information captured on Parts 1, 2, & 4 of the Services to MSFW Report; ETA 5148 is unique and not currently captured elsewhere. There is some duplication on the collection of information on Part 3 of ETA Form 5148. Some of the data elements that comprise the Equity Indicators (Part 3) are derived from the current ETA 9002 reporting system. The burden to the states of extracting data from ETA 9002 reporting system and inserting it into the Services to MSFW, ETA Form 5148 is minimal and allows State Monitor Advocates, states and federal staff to have a complete view of services to MSFWs in one document.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden

There is no impact to small businesses or other small entities.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If data were not collected quarterly, SWAs and DOL would not be in compliance with federal regulations at 20 CFR 653.100 *et. seq.*

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

- ✓ *requiring respondents to report information to the agency more often than quarterly;*
- ✓ *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
- ✓ *requiring respondents to submit more than an original and two copies of any document;*
- ✓ *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*
- ✓ *In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
- ✓ *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
- ✓ *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
- ✓ *requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

There are no special circumstances concerning the information collection process.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of

instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Concurrent with submission of this ICR submission, ETA issued a Notice of Proposed Rulemaking that provides a 60-day period for the public to comment. In addition, the NPRM instructed that comments on the information collections in the proposed rule could be sent directly to OMB during a 30-day period.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There is no payment or gift to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality of the information collected. There are no individuals identifiers on the report submitted to the National Office.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no questions of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

- ✓ *Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Instead this cost should be included in Item 14. Generally, estimates should not include burden hours for customary and usually business practices.*
- ✓ *If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.*
- ✓ *Provides estimates of annualized cost to respondents for the hour burdens for collection of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included in Item 14.*

Estimates of the following burden hours of collection of information were derived after consultations with a number of State Monitor Advocates that are intensively involved with these

activities. State Monitor Advocates have determined from years of experience that they spend 3.428 hours annually doing the recordkeeping involved for ETA-5148.

COMPLAINT LOG (ETA-8429)

- a. Recordkeeping:**
 - Annual average number of complaints: 3,536*
 - Annual minutes per intake: 8
 - Total burden hours: 471

- b. Reporting:**
 - Annual average number of forms: 3,536*
 - Minutes per form: 120
 - Total reporting hours: 7,072

*Note - all complaints that are logged utilize the Complaint/Apparent Violation Form, ETA Form 8429. The SWAs are only required to utilize this form for MSFW complaints and apparent violations and ES related complaints from non-MSFWs. Based upon contacts with those states with the highest level of reported complaint activity, we believe that approximately 3,536 complaints were captured on the ETA- 8429 according to the most recent program year for which data is available.

The estimate above is based on the Bureau of Labor Statistics data provided by the SWAs as reported in the Occupational Employment Statistics (OES) National Monitor Advocate Annual Report for PY 2012 located at: <http://www.bls.gov/oes/current/oes434061.htm>. http://doleta.gov/programs/nat_mon_advocate_annual_rep.cfm

TOTAL burden hours for ETA- 8429: 471 (recordkeeping) + 7,072 (reporting) =7543 hours

OUTREACH LOG (ETA- 5148)

- a. Recordkeeping:**
 - Number of record keepers: 200 (state monitor advocates)
 - Estimated annual hours per record keeper 3.428
- o Estimated annual hours for all 200 record keepers = 685.6
or 4 state monitor advocates per state (50 state (respondents)
= 685.6 (686) divided by 4 = 171.4
x 50 (states, respondents) = 685.6 or 686 annual recordkeeping hours

- b. Reporting, ETA 5148 Reports:**
 - Annual number of reports: 250
(5 reports multiplied by 50 respondents)
 - Estimated minutes per report: 70
 - Total record keeping hours: 292
(50 x 5 x 70 minutes divided by 1 hour (60 minutes)

Estimated total Burden Hours for ETA- 5148 = 978 (686 + 292)

Any differences in ROCIS are due to rounding off to whole numbers.
TOTAL respondents for ETA -5148: 50

TOTAL burden hours for ETA- 8429 (7,543 hours)
plus ETA- 5148 (686 + 292) = (978 hours)

7,543 hours + 978 hours = 8,521 hours.

State monitor advocates and SWAs are estimated at the average hourly pay level of GS 13 step 5, or \$45.33. 8,521 hours x \$45.33 = \$386,257 annualized.

http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/RUS_h.pdf

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

- ✓ *The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account cost associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.*
- ✓ *If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.*
- ✓ *Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995 (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.*

There are no annual reporting and recordkeeping cost burdens under this collection.

14. Provide estimates of annualized cost to the Federal government.

Based on the basic hourly rate of Monitor Advocates at the GS-13 step 5 level in each region (computed for GS-13 step 5, \$39.31 in 2014), who spend approximately 40 hours or 40 x \$39.31 (\$1,572) per year to review the complaint form, the average Federal cost of \$1,572 x 6 regions =

\$9,434. (Source: <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2014/salhrl.pdf>)

15. Explain the reasons for any program changes or adjustments

The agency believes there are no program changes from this rulemaking that will affect burden. The estimates have been revised to reflect the most current data on complaint submission.

16. For collections whose results will be published, outline the plans for tabulation and publication

At this present time there are no plans to publish this data.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

No request for approval to not display the expiration date from OMB approval of the information collection.

18. Explain each exception to the certification statement.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

(If your collection does not employ statistical methods, just say that and delete the following five questions from the form.)

This collection of information does not employ statistical methodologies.