

SUPPORTING STATEMENT
H-2A APPLICATION FOR TEMPORARY EMPLOYMENT CERTIFICATION
ICR Number: To be provided

Introduction: *This information collection request (ICR) seeks to revise the H-2A temporary agricultural labor certification program information collection tools to reflect revisions to the information collection covered under OMB Control Number 1205-0466, necessary to accommodate regulatory changes the Department is proposing in a Notice of Proposed Rulemaking RIN 1205-AB89, Temporary Agricultural Employment of H-2A Nonimmigrants in the United States (NPRM).*

The Department is not submitting this ICR under that control number, however, because the ROCIS database, which is OMB's system for processing requests, allows only one ICR per control number to be pending at any given time, and the existing control number will be encumbered by an unrelated ICR when submitting the NPRM in this regulatory process. The Department is therefore submitting the instant ICR under a different new control number, to be assigned by OMB, for administrative purposes only. Once all of the outstanding actions are complete, the Department intends to submit a non-material change request to transfer the burden from the new OMB control number to the existing OMB control number for the H 2A Foreign Labor Certification Program (1205-0466) and proceed to discontinue the use of the new OMB control number that will be assigned.

This supporting statement, along with its accompanying Paperwork Reduction Act package (i.e., revised documents and notice), will be posted for public comments upon publication of the NPRM.

The Department's proposed regulatory changes that are being announced through the NPRM, would prompt the following revisions to a currently approved ICs, covered under OMB Control Number 1205-0466:

- *Proposing a new Form ETA-9142A, Appendix B, H-2A Labor Contractor Surety Bond, and electronic submission to simplify the submission, review, and enforcement of the required bond.*
- *Proposing to replace the existing Form ETA-232/232A with a new Form ETA-232, Domestic Agricultural In-Season Wage Report (Form ETA-232). This is an IC tool that will only collect information from SWAs, not from employers. The SWAs will use the proposed new Form ETA-232 to report to OFLC the results of wage surveys in compliance with the revised prevailing wage determination methodology discussed in the NPRM. OFLC currently collects information to establish prevailing wage rates for the H-2A program. ETA is now seeking to revise the information collection tools, Form ETA-232, Domestic Agricultural In-Season Wage Report, and Form ETA-232A, Wage Survey Interview Record, and Form ETA-232, as well as the associated burden imposed on SWAs (currently authorized under OMB Control Number 1205-0017; set to expire on January 31, 2020). ETA will request that OMB approves the new Form ETA-232, along*

with the burden associated with the existing Form ETA-232/232A, under OMB Control Number 1205-0466.

- *Proposing revisions to the H-2A Temporary Agricultural Labor Certification Program information collection tools, as necessary, to reflect proposed regulatory changes.*
- *NOTE - Screenshots of the built out systems supporting electronic filing of the application forms will be cleared with OMB through the non-material change process.*

A. Justification.

A1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Immigration and Nationality Act (INA) establishes the H-2A nonimmigrant visa classification for a worker “having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform agricultural labor or services...of a temporary or seasonal nature.” [8 U.S.C. 1101\(a\)\(15\)\(H\)\(ii\)\(a\)](#). Employers must petition the DHS to import temporary workers as H-2A nonimmigrants. [8 U.S.C. 1184\(c\)\(1\)](#). The INA authorizes DHS to permit employers to import nonimmigrant workers to perform agricultural labor or services of a temporary or seasonal nature under the H-2A visa classification only after the employer has applied to the Department for a certification that:

- 1) There are not sufficient U.S. workers who are able, willing, and qualified, and who will be available at the time and place needed to perform the labor or services involved in the petition; and
- 2) The employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

8 U.S.C. 1188(a)(1). Under the INA, DOL is also authorized to enforce “employer compliance with terms and conditions of employment” in the H-2A program. 8 U.S.C. 1188(g)(2).

The Secretary of Labor (Secretary) has delegated the responsibility of issuing temporary labor certifications, through the Assistant Secretary, Employment and Training Administration (ETA), to ETA’s OFLC. See [Secretary’s Order 06-2010](#). The Secretary has also delegated responsibility for enforcement of the worker protections to the Administrator of the Wage and Hour Division (WHD). See [Secretary’s Order 01-2014](#). This information collection, OMB Control No. 1205-0466, includes the collection of information related to an employer’s request for nonimmigrant workers, as well as the material terms, wages, and conditions of employment that facilitate the recruitment of U.S. workers and issuance of temporary labor certifications in the H-2A program.

As provided in the Department's regulations at 20 CFR 655, subpart B, the information contained in Form ETA-9142A, *H-2A Application for Temporary Employment Certification* (H-2A Application), and all supporting documentation, constitutes the basis for DOL's determination that an insufficient number of qualified U.S. workers are available to fill the employer's job opportunity and that the wages and working conditions of similarly employed U.S. workers will not be adversely affected by the employment of H-2A workers. This determination is required before a petition can be approved by DHS.

As required by the INA, the Department may not issue a temporary labor certification unless the employer has conducted required recruitment "in addition to, and...within the same time period as, the circulation through the interstate employment service system of the employer's job offer." 8 U.S.C. 1188(b)(4). In accordance with the Wagner-Peyser Act of 1933, as amended by Title III of the Workforce Innovation and Opportunity Act, Pub. L. 113-128 (Jul. 22, 2014), the Department has established regulatory standards and procedures governing the Agricultural Recruitment System (ARS), which is administered by SWAs facilitating the intrastate and interstate clearance recruitment of U.S. workers for temporary agricultural employment. 20 CFR 653, subparts B and F. In order to access the ARS, the employer must prepare and submit a job order (Form ETA-790) to the SWA serving the area of intended employment describing all the material terms and conditions of employment, including those relating to wages, working conditions, and other benefits that will be offered to prospective workers.

Recruitment for the employer's job offer through the ARS, and, therefore, using Form ETA-790 are essential components of the Department's H-2A temporary labor certification review. The NPRM proposes to centralize all information collection submission with OFLC by requiring the employer to submit its job order (Form ETA-790 and the newly proposed Form ETA-790A and addenda) and all supporting documentation to OFLC instead of the SWA. As is the case under the current regulation, the NPRM would require the job order form and supporting documentation to satisfy the requirements for agricultural clearance orders in both 20 CFR 653, subpart F, and 20 CFR 655, subpart B. Under the NPRM, OFLC would share the form with the SWA for the SWA's review and posting in ARS, and OFLC would review the content of Form ETA-790 in conjunction with the content of Form ETA-9142A before issuing an H-2A temporary labor certification. Because the proposed rule would require OFLC to simultaneously review both ICs before determining whether a request for temporary labor certification may be granted, and the two ICs solicit certain redundant information, the Department proposes consolidating the ICR for OMB Control Number 1205-0466 and the ICR for OMB Control Number 1205-0134 into a single ICR.

Statutory Authority: Immigration and Nationality Act section 101(a)(15)(H)(ii)(a), [8 U.S.C. 1101\(a\)\(15\)\(H\)\(ii\)\(a\)](#), 1184(c), and 1188

Regulatory Authority: 20 CFR 653, subparts B and F, and 20 CFR 655, subpart B

A2. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

ETA uses this information collection to meet its statutory and regulatory responsibilities for administering the H-2A program. An employer seeking to employ H-2A workers must file a completed Form ETA-9142A (including all supporting documentation) and a copy of the job order (also known as the agricultural clearance order, Form ETA-790) must be submitted for circulation in ARS by the SWA serving the area of intended employment and the SWAs in other states, as appropriate to recruit for the job opportunity. These forms and all supporting documentation constitute the H-2A application.

OFLC reviews H-2A applications submitted by employers for compliance with all applicable program requirements. Upon receiving an application, OFLC issues either a Notice of Deficiency (NOD) or Notice of Acceptance (NOA). Where deficiencies in the application are discovered, the NOD provides the employer with an opportunity to correct the deficiencies or file an appeal with the Department's Office of Administrative Law Judges. Where all program requirements are met, the NOA will direct the employer to engage in positive recruitment of U.S. workers and authorize the SWA to circulate a copy of the approved job order (Form ETA-790/790A) through the interstate clearance system for recruitment of U.S. workers. Also, the NOA will specify a date on which the employer must provide an initial written report of its recruitment efforts such that a temporary labor certification may be granted. 8 U.S.C. 1188(b) (4).

Upon review of the recruitment report and any other supporting documentation (e.g., workers' compensation insurance coverage, inspection of housing for workers), OFLC may grant a full or partial temporary labor certification determination or deny the employer's H-2A application. In accordance with regulatory requirements, OFLC sends all certified H-2A applications (including the applicable certification fee invoices under 20 CFR 655.163) to the employer or the employer's authorized attorney or agent. The proposed electronic transmission process allows OFLC to transmit the certification electronically to DHS's U.S. Citizenship and Immigration Services (USCIS) and a copy to the employer.

The employer must retain the H-2A application and all supporting documentation for three years from the date of certification (for approved applications) or date of determination if the application is denied or withdrawn. 20 CFR 655.167(b). Employers must be prepared to produce all information and records contained in this information collection for DOL or other federal agencies in the event of an audit examination, investigation, or other enforcement proceedings in the H-2A program.

Specifically, the information collected is used by OFLC in the manner described below:

Form ETA-9142A, H-2A Application for Temporary Employment Certification

On Form ETA-9142A, an employer must include information related to its business for the purpose of determining whether the establishment operating in the United States is *bona fide*; the type of application being submitted for processing (e.g., individual employer or agricultural association filing as a joint employer), and contact information for purposes of sending and receiving communications during the course of processing an employer's H-2A application. For an employer represented by an agent, the form also collects required compliance documentation

for the agent, such as a current agreement or other documentation demonstrating the agent's authority to represent the employer, and a current Migrant and Seasonal Agricultural Worker Protection Act (MSPA) Certificate of Registration identifying the farm labor contracting activities the agent has authority to perform under the application, if applicable.

For employers operating as H-2A Labor Contractors (H-2ALCs), the current form collects additional information, such as the names of fixed-site agricultural businesses where the workers will be placed, and fully-executed work contract(s) with each fixed-site agricultural business, which assists OFLC in determining compliance with all application filing requirements for H-2ALCs under 20 CFR 655.132. On the proposed new forms, this information would be collected on the job order (Form ETA-790A, Addendum B).

Finally, the employer identifies the Standard Occupational Classification code and title that most clearly corresponds to the agricultural services or labor to be performed and attaches the proposed Form ETA-790/790A containing all the material terms, wages, and working conditions of employment that will be used for recruiting U.S. workers.

This information collection is also used in post-adjudication audit examinations and/or program integrity proceedings (e.g., revocation or debarment actions) and is requested by the Department's WHD during an investigation or enforcement proceedings.

Form ETA-9142A, Appendix A - Attorney/Agent/Employer Declarations

The Department's regulations at 20 CFR 655.130(a) and (d), and 655.135 require an employer and, if applicable, their attorneys or agents to submit a completed *Appendix A* attesting to compliance with all of the terms, assurances, and obligations of the H-2A program in order to obtain a temporary labor certification. For two or more employers operating as joint employers, the Form ETA-9142A requires disclosure and submission of a signed and dated *Appendix A* completed by each employer in the joint employment relationship. However, if the application is being filed by an agricultural association operating as a joint employer with its employer-members, the agricultural association is responsible for providing a signed and dated *Appendix A* on behalf of its employer-members. 20 CFR 655.131.

Form ETA-9142A, Appendix B – H-2A Labor Contractor Surety Bond

An employer filing a Form ETA-9142A, *H-2A Application for Temporary Employment Certification* as an H-2ALC must submit a surety bond as proof of its ability to discharge financial obligations under the H-2A program. This *Appendix B* would not impose a new collection requirement; H-2ALCs already submit surety bonds. However, such employers submit bonds in a variety of formats and using various legal terms and language, some of which do not satisfy regulatory requirements. *Appendix B* would standardize the format of the existing collection and simplify employer responses by including required terms and language. OFLC would use this information to ensure that the surety bond submitted is enforceable for the coverage required. A certification cannot be issued to an H-2ALC without a compliant surety bond.

Form ETA-9142A, H-2A Approval Final Determination: Temporary Agricultural Labor Certification

Where the employer's application has met all the regulatory requirements, including the criteria for certification in 20 CFR 655.161, the Department will complete and electronically send the new Form ETA-9142A, *H-2A Approval Final Determination: Temporary Agricultural Labor Certification* to USCIS with a copy to the employer and, if applicable, the employer's authorized attorney or agent. This one-page certification form provides the official determination that a sufficient number of qualified U.S. workers have not been identified as being available at the time and place needed to fill the job opportunities for which certification is sought, and the employment of the H-2A temporary workers in such labor or services will not adversely affect the wages and working conditions of U.S. workers similarly employed. Upon receipt of the Form ETA-9142A, *H-2A Approval Final Determination: Temporary Agricultural Labor Certification*, the employer may file an H-2A petition with DHS's USCIS.

Form ETA-790/790A, H-2A Agricultural Clearance Order

All employers seeking to employ U.S. workers to perform agricultural services or labor on a temporary, less than year-round basis must submit a completed agricultural clearance order (Form ETA-790) to the SWA for placement on its intrastate and interstate job clearance systems, as set forth in 20 CFR 653.500. An employer filing the Form ETA-9142A must submit to the Department a copy of the Form ETA-790 submitted to the SWA for review. 20 CFR 655.121.

The amended Form ETA-790/790A consists of two parts. First, the form has a one-page coversheet (Form ETA-790) that will be completed, in part, by the employer and is designed to (1) facilitate the SWA's receipt and processing of the job order through its intrastate and interstate job clearance systems, (2) identify the primary employer of the worker(s) sought for the job opportunity, and (3) designate that the job order will be used in connection with a future Form ETA-9142A for H-2A workers. Second, the employer will complete the Form ETA-790A requiring the disclosure of all the material terms and conditions of employment that satisfy the requirements for agricultural clearance orders in 20 CFR part 653, subpart F and the job order content requirements set forth in 20 CFR 655.122. The NPRM would require the employer to submit the Form ETA-790/790A to OFLC for its coordination with the SWA. At the time of filing the Form ETA-9142A with the Department, OFLC will review the Form ETA-9142A and the Form ETA-790/790A along with any other supporting documentation.

To summarize, the Form ETA-790A will collect information related to the employer's job opportunity, including the job title, number of workers needed, period of intended employment, and a description of the agricultural services or labor to be performed. This information will permit OFLC to evaluate whether the employer has a bona fide need for temporary labor and whether the duties to be performed qualify as agricultural services or labor under the H-2A program. To ensure no adverse effect on the wages of similarly employed U.S. workers in the area(s) of intended employment, the form will collect information on specific crops or agricultural activities, the places of intended employment (i.e., worksites), and the wage rate(s) that will be paid to workers in each crop or agricultural activity, as well as any other conditions or deductions from pay not required by law. In addition, employers will be required to disclose the actual

minimum qualifications or requirements of the job, including education, training, experience, and any other special requirements. This information will be used by the Department to determine whether the job qualifications or requirements are consistent with the normal and accepted qualifications required by U.S. employers who do not use the H-2A program. 20 CFR 655.122(b).

Because the INA mandates that employers participating in the H-2A program provide housing to workers that meets applicable housing standards prior to occupancy, the form will also collect basic information regarding the geographic location, type, capacity, and the applicable inspection standards (i.e., local, state, federal) of the housing for workers who are employed under the agricultural clearance order. 8 U.S.C. 1188(c)(4). Finally, the employer will provide other disclosures required by regulation related to the provision of meals, transportation, and daily subsistence, and any other material terms and conditions of the job offer, as well as referral and hiring instructions. Employers will complete Form ETA-790A by reading and then attesting (i.e., signing and dating) to compliance with the required conditions of employment and assurances for H-2A agricultural clearance orders, as set forth under 20 CFR 653, subpart F, and 20 CFR 655, subpart B.

Form ETA-790A, Addendum A - Additional Crops or Agricultural Activities

In circumstances where work is expected to be performed in different agricultural activities, crops, and/or varieties within a single crop other than what is disclosed on the main Form ETA-790A, the employer will have to complete the *Addendum A* identifying all crops or agricultural activities for the job opportunity, as well as details about the wages that will be offered, advertised, and paid to workers. Employers already submit information related to the different crops or agricultural activities that workers are expected to perform, including appropriate wage offer(s), in a variety of paper-based formats, and this *Addendum A* will standardize the process and provide an electronic format for collecting this information. OFLC will use this information to ensure that (1) all duties to be performed in the crops or agricultural activities qualify under the H-2A program, (2) all crops and/or agricultural activities cover the same occupation or represent comparable work, and (3) the employer is offering wages that will not create adverse effect on the wages of U.S. workers who are similarly employed.

Form ETA-790A, Addendum B - Additional Worksite and/or Housing Information

In circumstances where the employer needs workers to perform the services or labor at worksites other than the primary one identified on the Form ETA-790A and/or additional housing is needed to accommodate all workers under the job order at the worksite location(s), the employer must complete the *Addendum B*. Employers already submit information disclosing all worksites and housing for workers in a variety of paper-based formats, and *Addendum B* will establish a standardized process and provide an electronic format for collecting this existing information. OFLC will use this information to ensure that (1) all worksite locations are compliant with applicable regulatory requirements regarding an area of intended employment, (2) employers filing as H-2ALCs and joint employers (i.e., two or more individual employers or agricultural associations) properly disclose the name(s) and location(s) of all fixed-site agricultural business or association

members, and (3) the housing employers will provide is sufficient to accommodate all workers under the job order and meets applicable standards.

Form ETA-790A, Addendum C - Additional Material Terms and Conditions of the Job Offer

As described further in Item A8, in response to public comments received in connection with a previous PRA action the 60-day comment period, the Department developed a new proposed addendum (*i.e.*, *Addendum C*) to alleviate space limitations on the form and support full disclosure of material terms and conditions of employment in the job order. This addendum will facilitate full disclosure of job opportunity information within the four corners of the ETA-790A and in a standardized format, as opposed to employer-created “attachments.”

Form ETA-232, Domestic Agricultural In-Season Wage Report

SWAs currently conduct surveys of wages employers are paying workers to perform specific crop activities and agricultural activities and report their findings to the Department using Form ETA-232, *Domestic Agricultural In-Season Wage Report*, and Form ETA-232A, *Wage Survey Interview Record*. If the Department accepts the survey as establishing the prevailing wage rate for H-2A program purposes, it becomes one of the sources the Department relies on to ensure no adverse effect on the wages and working conditions of U.S. workers similarly employed. The NPRM proposes to revise and modernize the current methodology used to conduct H-2A prevailing wage surveys, in part, for consistency with available resources at the state and federal levels and to better meet the aim of producing reliable prevailing wage rates. For example, the SWA would no longer be required to conduct in-person interviews; instead the SWA could use more modern, less resource intense methods (e.g., email). Also, the SWA relies on surveys conducted by a broader range of State agencies and submits those surveys for the Department’s consideration on Form ETA-232, *Domestic Agricultural In-Season Wage Report*, if they meet H-2A program standards. The newly proposed Form ETA-232, *Domestic Agricultural In-Season Wage Report*, would collect all the information required by the proposed prevailing wage survey standards, and the Form ETA-232A, *Wage Survey Interview Record*, would be discontinued.

A3. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.*

In accordance with 20 CFR 655.130(c) and 77 Fed. Reg. 59670, 59570 (Sept. 28, 2012), an employer or, if applicable, its authorized attorney or agent, seeking temporary labor certification must submit the Form ETA-9142A and all documentation supporting the H-2A application to OFLC either electronically or by U.S. mail. Since December 2012, the electronic filing of the Form ETA-9142A and all supporting documentation is maintained in the Department’s iCERT Visa Portal System (iCERT System) at <http://icert.doleta.gov>. Although not mandated by regulation, approximately 84 percent of H-2A applications were filed electronically by

employers during Fiscal Year (FY) 2017. In circumstances where an application is filed using the traditional paper-based method, OFLC staff manually enters the data and information contained in the paper application into the iCERT System's internal case management system for processing in a similar manner as those filed electronically. The NPRM proposes mandatory electronic filing, absent lack of internet access or the need for an accommodation due to disability. In addition, the NPRM proposes to accommodate electronic signatures, which would allow electronic submission of signed documents and relieve filers of the need to print, sign, scan, and upload collection tools requiring signature. OFLC believes these changes will result in a decrease in the current burden related to the filing of H-2A applications.

The iCERT System permits an employer or, if applicable, its authorized attorney or agent to efficiently prepare and submit H-2A applications for processing by OFLC. During the preparation of H-2A applications, the system provides employers with a series of electronic data checks and prompts to ensure each required field is completed and values entered on the form are valid and consistent with regulatory requirements. The OFLC website and the iCERT System provide access to the general instructions designed to help employers understand what each form collection item means and what kind of entries are required. Where it is not practical to collect supporting documentation using a standard Office of Management and Budget (OMB)-approved appendix, the system permits an employer to upload documentation supporting the application in an acceptable digitized format (e.g., Adobe PDF, Microsoft Word, .TXT). Examples of the supporting documents currently uploaded electronically include copies of the agent agreement with the employer, fully-executed work contracts between the H-2ALCs and fixed-site employers, and MSPA registration(s).

When the employer or, if applicable, its authorized attorney or agent initially enters contact information and establishes a web-based system account, the H-2A Case Preparation Module automatically pre-populates all contact information on the draft Form ETA-9142A, significantly reducing the time and burden for repeated online data entry. Additionally, the H-2A Case Preparation Module provides employers with an option to reuse previously filed applications, which automatically copies information into a new draft Form ETA-9142A. This option significantly reduces the time and burden for online data entry, particularly for those employers who need to access the program to hire nonimmigrant workers for seasonal jobs that predictably recur each year. OFLC's experience is that the electronic submission of all required documentation, at the time of filing the application, facilitates a more efficient and consistent review of the employer's application, and reduces the incidence of OFLC issuing a NOD to request missing documentation or corrections of errors or inaccuracies.

ETA intends to make the proposed Form ETA-790/790A, *H-2A Agricultural Clearance Order*, and all addendums available for electronic filing in a manner similar to the Form ETA-9142A. The system will permit an employer or, if applicable, its authorized attorney or agent to efficiently prepare a completed Form ETA-790/790A using their web-based system account and, after reading all conditions of employment and assurances for the agricultural clearance order and affixing the employer's signature (including digital signature) under Section I, submit the completed job order directly to the SWA serving the area of intended employment electronically without the need to use U.S. mail or overnight courier. For employers that have recurring seasonal job opportunities, the system will allow an employer to prepare multiple Form ETA-

790/790As and reuse previously filed job orders, which will automatically pre-populate information into a new draft Form ETA-790/790A. Similar to the preparation of the Form ETA-9142A, the “reuse” capability will significantly reduce data collection time and burden by pre-populating key sections into a new draft Form ETA-790/790A, including all information related to the job opportunity and requirements, crops or agricultural activities, wage offers, worksite and housing locations, and other worker guarantees (e.g., meals, transportation). After the employer has submitted the initial Form ETA-790/790A to the SWA and is prepared to file the H-2A application, the system will permit the employer to attach an electronic copy of the Form ETA-790/790A to the Form ETA-9142A for submission to ETA.

In compliance with the Government Paperwork Elimination Act, ETA will continue to make all forms and appendices approved under this ICR easily accessible on the OFLC website (<https://www.foreignlaborcert.doleta.gov/form.cfm>) and electronically fillable and fileable.

The Department will seek OMB approval of the electronically fileable forms and all appendices prior to making them available for public use. However, the proposed revised Form ETA-9142A, *H-2A Approval Final Determination: Temporary Agricultural Labor Certification*, will not be made available in an electronically fillable format, because it is for the Department’s use only and not to be completed by the employer or its attorney or agent. When the employer’s application has met all regulatory requirements, the system will release the one-page Form ETA-9142A, *H-2A Approval Final Determination: H-2A Temporary Agricultural Labor Certification*, to the employer and, if applicable, its authorized attorney or agent, using email. The form will contain key information reflecting OFLC’s decision to grant approval of the employer’s request for temporary labor certification. The employer will be able to electronically download, print, and submit the Form ETA-9142A, *H-2A Approval Final Determination: Temporary Agricultural Labor Certification*, along with any other required documentation to support the filing of an H-2A petition to the USCIS for processing.

The NPRM also proposes changes to the prevailing wage determination process in the H-2A program, which require revisions to the IC currently authorized under OMB Control Number 1205-0017. The IC currently authorized under OMB Control Number 1205-0017 collects wage information from the SWAs using Form ETA-232, *Domestic In-Season Agricultural Wage Report*. The Department’s proposed revisions to the Form ETA-232, *Domestic In-Season Agricultural Wage Report*, will allow SWAs to use modern, more efficient methods of collecting wage data from employers than are currently required (e.g., in-person interviews). To address NPRM-related IC matters efficiently, the Department proposes to consolidate the ICR for OMB Control Number 1205-0017 into the ICR for OMB Control Number 1205-0466.

A4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The procedures and documentation requirements are sufficiently specific to avoid duplication of activities. No other government agency collects similar information to adjudicate this type of application.

To provide employers with a more efficient means of filing H-2A job orders and applications using the proposed Form ETA-790/790A, ETA is proposing to eliminate duplicative information collection. Currently, fields related to the employer's need for temporary workers, job opportunity and requirements, worksite locations (including names of fixed-site agricultural businesses), and wage offer information are collected through both Form ETA-9142A and Form ETA-790. Under this proposal, these fields would be eliminated from proposed Form ETA 9142A and maintained on proposed Form ETA-790/790A. Duplication of information such as the names, addresses, and contact information of the employer and, if applicable, its authorized attorney or agent would be eliminated once all of the form revisions are incorporated into the iCERT System (or any successor electronic filing system). The procedures and documentation requirements are sufficiently specific to avoid duplication of activities. The information collections covered under OMB Control No. 1205-0466 only apply to entities seeking H-2A workers; consequently, there is no duplication of information collection requirements.

A5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The information collected under this information collection is required of small businesses that need to import temporary nonimmigrant workers under the H-2A visa classification of the INA. Approximately 98 percent of the employers who request H-2A certification are small businesses. The Department cannot make any exemptions or eliminate forms for small businesses, because the statute and regulations require all employers seeking temporary labor certification to make the necessary attestations and provide the required information. These forms ensure that the Department relies on a uniform system that allows for these employers to provide the information that is necessary to process their requests for temporary labor certifications.

This collection of information is not disproportionately more burdensome for small entities than it is for large ones, because the forms and accompanying appendices are easy to understand and provide all of the attestations and assurances necessary for the filing employer to understand how to request a temporary labor certification.

This information collection does not impose any extra requirements on small entities; these forms collect from all H-2A employers the minimally required information to determine program eligibility and allow DOL to issue a temporary labor certification determination.

In addition, through this ICR, the Department is proposing additional changes that aim to lessen the burden that collection activities might impose on small entities. See Question 3, above, for further information.

A6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The information collected from employers under this IC will need to be provided at the time an employer needs to submit a job order to the SWA serving the area of intended employment (i.e., Form ETA-790/790A) and temporary labor certification to employ nonimmigrant workers under

the H-2A visa classification. Information collected from SWAs on the Form ETA-232, *Domestic Agricultural In-Season Wage Report*, will need to be provided annually to ensure current prevailing wage information is available for the Department and employers to use in determining the appropriate wage offer to H-2A workers.

The Department would be in direct violation of its statutory and regulatory mandates if this information was not collected. The information must be collected to enable the Department to meet its obligation to determine whether an insufficient number of qualified U.S. workers are available to fill the employer's job opportunity and the wages and working conditions of similarly employed U.S. workers will not be adversely affected by the employment of H-2A workers. Additionally, in the absence of this information collection, the Department would be unable to efficiently enforce the rights and obligations of workers and employers under the H-2A program.

A7. Explain any special circumstances that would cause an information collection to be conducted in a manner that requires further explanation pursuant to regulations 5 CFR 1320.5.

There are no special circumstances that would require the information to be collected or kept in a manner that requires further explanation pursuant to the regulations set forth at 5 CFR 1320.5(d) (2). The Department's regulations, however, require that employers retain applications for temporary employment certifications and all supporting documentation for three years from the date of certification (for approved applications) or date of determination if the application is denied or withdrawn. 20 CFR 655.167(b). The Department requires that employers retain and maintain supporting documentation, because it is essential information in post-adjudication audit examinations and/or program integrity proceedings (e.g., revocation or debarment actions) and in the Department's WHD investigations or enforcement proceedings.

A8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe 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.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years—even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

In accordance with the Paperwork Reduction Act of 1995, the Department is offering the public 60 days to comment on the proposed changes to this information collection via a notice included in the NPRM published in the Federal Register. The Department will update this section of the supporting statement after the *Federal Register* notice publishes and the comment period concludes. Any public comment received in connection with the 60-day *Federal Register* notice will be properly reviewed and considered, and the Department will provide a response when the 30-day notice is published.

Specifically, the Department is seeking public comments on:

- Proposed changes to Form ETA-9142A, *H-2A Application for Temporary Employment Certification*, Appendix A, *Attorney/Agent/Employer Declarations*, and Form ETA-9142A, *H-2A Approval Final Determination: Temporary Agricultural Labor Certification*, and the new Appendix B, *H-2A Labor Contractor Surety Bond*. The proposed revisions to these forms are designed to better align information collection requirements with the Department's proposed regulatory framework, provide greater clarity to employers on regulatory requirements, and promote greater transparency in OFLC's review and issuance of temporary labor certification decisions under the H-2A visa program.
- Proposed changes to Form ETA-790/790A, *H-2A Agricultural Clearance Order*, and Addenda A and B, which will be attached to Form ETA-9142A to eliminate redundant data collection and promote a more efficient means for employers to file the required job order with ETA and the SWA serving the area of intended employment. The proposed revisions to these forms are designed to better align information collection requirements with the Department's proposed regulatory framework, provide greater clarity to employers on regulatory requirements, and promote greater transparency in OFLC's review and issuance of temporary labor certification decisions under the H-2A visa program.¹
- ETA's proposal to replace the existing Form ETA-232/232A with a new Form ETA-232, *Domestic Agricultural In-Season Wage Report*, for SWAs to use to report to OFLC the results of wage surveys in compliance with the new prevailing wage determination methodology proposed in the NPRM.

A9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

No payments or gifts will be made to respondents in exchange for the information provided in response to this information collection.

¹ ETA published a *Federal Register* notice on October 25, 2018 at [83 FR 5391](#) seeking public comment on its proposed revisions to and consolidation under this ICR of the current collection of the information and burden on employers seeking H-2A temporary labor certification through the existing Form ETA-790, *Agricultural and Food Processing Clearance Order*, which is separately authorized under OMB Control Number 1205-0134 and expires on December 31, 2018.

A10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

This information collection provides no express assurance of confidentiality. As a practical matter, however, the Agency would only release information that is commonly made available through public access files and/or in accordance with the Freedom of Information Act (FOIA). FOIA has a number of disclosure exemptions including ones that might relate to confidential business information that might cause substantial harm to a person or that person's business position.

Although the Department does not directly request sensitive personal identifiable information through this IC, the public provides data and documentation that might, in some instances, cause the Privacy Act to be triggered. The collection of data and information under this OMB Control No. 1205-0466 is incorporated into the Department's System of Records Notice (SORN) DOL/ETA-7. Employers submit H-2A requests through the electronic filing system that is also the repository of information collected from employers in connection with other labor certification and prevailing wage applications. Part of the information provided by employers is made publicly available, as labor certification programs are voluntary programs of which the public may choose to benefit, on a voluntary basis.

Labor Condition Application collection activities are covered under the Statement of Records Notice (SORN DOL/ETA-7; *Foreign Labor Certification System and Employer Application Case Files*) at 81 FR 25765, published on April 29, 2016. This SORN identifies the categories of records in the system containing Office of Foreign Labor Certification (OFLC) records including records of a sensitive nature. ETA's (OFLC) Case Files are retained for a period of 5 years after close in accordance with Records Schedule Number DAA-0369-2013-0002. Paper files are retained on-site at national processing centers for six months from the date of final determination. OFLC will continuously scan or convert paper records into OFLC Archive and Scan database(s). Paper copies of employer applications that are scanned will be destroyed once converted to an electronic medium and verified, or when no longer needed for legal or audit purposes in accordance with the records schedule. Paper copies of case files that are not scanned are retained on-site for six months after close, and then transferred to Federal Records Center for duration of 5 year retention period.

The categories of records in this collection include information on employers and their authorized attorneys and agents, such as the names, addresses, and types of businesses; material terms and conditions of employment to be offered to unknown numbers of U.S. and nonimmigrant workers; and all obligations and assurances related to an employer being granted temporary labor certification by the Department. The laws authorizing this program and collection of information provide for compliance with the Privacy Act in all its aspects.

Under routine uses for this system of records, case files developed in processing labor certification applications, labor condition applications, or labor attestations may be released as follows: in connection with appeals of denials before DOL Office of Administrative Law Judges and Federal courts, records may be released to the employers that filed such applications, their representatives, to named foreign workers or their representatives, and to DOL Office of

Administrative Law Judges and Federal courts; and in connection with administration and enforcement of immigration laws and regulations, records may be released to such agencies as the DOL Office of Inspector General, Department of Justice, DOL WHD, DHS, and the Department of State.

A11. 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. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

The information collections tools covered under OMB Control No. 1205-0466 do not involve sensitive matters.

A12. Provide estimates of the hour burden of the collection of information.

A. Collection of Information from Employers

The Department is proposing to adjust the hourly burden estimates for this information collection due to its updated reporting estimates for the estimated number of respondents and the time burden hours associated with collection tools covered under OMB Control Number 1205-0466.

Based on recent program experience, the Department estimates it will receive, on average, approximately 8,947² Form ETA-9142A submissions and 8,947 Form ETA-790/790A submissions for the H-2A program under the provisions of the NPRM. All actions associated with the collection vary depending on nature and complexity of the employer's job opportunity and need for temporary nonimmigrant workers, as well as the employer's familiarity with the program. The estimated reporting burden is calculated using the number of expected responses to each element and the estimated time to complete each element. Please see the Time Reporting Burden Appendix for a detailed breakdown of time reporting burden estimates.

Total Annual Burden Hours for the H-2A Information Collection from Employers:

Total Burden Hours	55,673
Total Responses	290,464
Total Respondents	8,947

Total Hourly Cost Estimates

² The numerical estimation of 8,947 is derived from the average submissions of H-2A applications from three previous fiscal years based on the Department's experience implementing the 2010 H-2A Final Rule (8,783) plus the average number of H-2B applications filed during the same period for reforestation and pinestraw labor or services that would be filed in the H-2A program in the future (164), consistent with the Department's proposal in the NPRM. (H-2A submissions: FY 2015: 7,567; FY 2016: 8,684; and FY 2017: 10,097. H-2B submissions that would move into H-2A: FY 2015: 151; FY 2016: 183; and FY 2017: 162.) The Department estimates that 8,947 respondents will submit, on average, 290,464 responses.

The Department receives applications requesting temporary labor certification under the H-2A visa program from employers operating across a wide spectrum of agricultural activities and commodities in the U.S. economy. While it is difficult to estimate the costs involved, 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 (\$59.38), as published by the Department's Occupational Employment Statistics survey,³ and increased it by a factor of 1.43 to account for employee benefits and other compensation for a total hourly cost of \$84.91. Therefore, the total compensation for a Human Resources manager is \$84.91 per hour ($\59.38×1.43). The Department estimated the total cost of \$4,727,383.72⁴ by multiplying the hourly compensation for a Human Resources manager by the total time to complete and retain the forms and supporting documentation in the amount of 55,673⁵ hours.

B. Collection of U.S. Worker Wage Information from SWAs

The Department is adjusting the hourly burden estimates for this information collection due to its updated reporting estimates for the time burden hours associated with proposed survey standards in the NPRM and the revised ETA-Form 232, *Domestic Agricultural In-Season Wage Report*. The revised collection tool simplifies and modernizes the collection. OFLC believes that eliminating in-person interviews and allowing SWAs to use electronic methods to conduct surveys will reduce time burden significantly and render the current Form ETA-232A obsolete. Further, the NPRM proposes to permit SWAs to leverage other state agencies' wage surveys, provided those surveys satisfy H-2A prevailing wage methodology requirements, which further reduces the SWA's burden in responding to this collection. The SWA would attach the proposed Form ETA-232 to the survey for submission to OFLC.

Based on recent program experience, the Department estimates it will receive, on average, approximately 361⁶ Form ETA-232 submissions annually. All actions associated with the collection vary depending on whether the SWA uses another state agency's survey or conducts its own survey, as well as the SWA's familiarity with the survey methodology requirements. The estimated reporting burden is calculated using the number of expected responses and the estimated time to complete each response. Please see the Time Reporting Burden Appendix for a detailed breakdown of time reporting burden estimates.

Total Annual Burden Hours for the H-2A Information Collection from SWAs:

Total Burden Hours	1,190
Total Responses	361
Total Respondents	35

³ Source: [Bureau of Labor Statistics May 2017 National Occupational Employment and Wage Estimates: Management Occupations](#).

⁴ Total estimate number is rounded.

⁵ Total estimate number is rounded.

⁶ The numerical estimation of 361 is derived by multiplying the number of SWAs (35) that submitted at least one Form ETA-232 during at least one of the past three fiscal years by the average number of submissions per SWA per year (10.3046). (FY 2015: 300 submissions from 34 SWAs; FY 2016: 286 submissions from 29 SWAs; and FY 2017: 318 submissions from 26 SWAs.)

Total Hourly Cost Estimates

SWAs are funded under reimbursable annual grants. The grants allow for costs related to the preparation and submission of all required financial and programmatic reports, including the surveying and submission of prevailing wage results using Form ETA-232, *Domestic In-Season Agricultural Wage Report*. This analysis uses an estimated average hourly rate of \$30.14 based on the median national wage for Compensation, Benefits, and Job Analysis Specialists, as published by the Bureau of Labor Statistics (<http://www.onetonline.org/link/summary/13-1141.00>). The fully loaded wage of \$52.44 is computed by taking the hourly wage rate of \$30.14 and multiplying it by the benefit and overhead of 74 percent ($\$30.14 \times 1.74 = \52.44). The Department estimates the total cost of \$62,422.57⁷ by multiplying this fully loaded wage by the total time to complete, validate, and submit information on the Form ETA-232 in the amount of 1,190.28⁸ hours.

C. Total Annual Burden Hours for the H-2A Information Collection

Total Burden Hours	56,863
Total Responses	290,824
Total Respondents	8,982

The Department has prepared, and will be submitting to OMB for review, a “**Burden Statement Appendix to the Supporting Statement**” to its response to Question 12 of this supporting statement. This will detail a specific breakdown of the number of responses and the annual burden hours, as well as the cost associated with each collection activity conducted in connection with this program. The Appendix offers information regarding the specific activity that causes a burden on the public when collecting information or imposing a requirement, the type of respondents and the volume, and the number of responses received from those respondents, in addition to the reporting hours per form or collection tool and the cost associated with each activity.

A13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

1. *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 OFLC in order to file an application. To participate in the program, the employer is required to generate records and retain them. Employers may retain these records in the manner they regularly choose to retain employment records, including electronic format. 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 whether physical or electronic. With regard to the Form ETA-232, *Domestic Agricultural In-Season Wage*

⁷ Total estimate number is rounded.

⁸ Total estimate number is rounded.

Report, there are no start-up costs for the SWAs, which are the only respondents and receive Federal grants to respond to this collection. See Question 14.

2. *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 the web-based data collection and reporting system. ETA will also make the Form ETA-790A available in Spanish.

A14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The Department estimates that the annual costs to administer the H-2A program amount are \$27,014,264. This total is comprised of \$15,796,450 in federal administration costs and \$11,217,814 in state-level costs funded by federal grants.

Federal administrative costs include salaries and expenses for the staff who process H-2A applications; IT systems that support application-filing and case-processing operations; rent; supplies; equipment; and agency indirect costs, which include support for human resources, financial and administrative oversight, and grants and contracts management. Estimated annual costs for the federal administration of the H-2A program are \$15,796,450. This estimate is based on recurring annual costs to administer the program in recent fiscal years and does not include costs associated with funding appropriated on a one-time occurrence basis. Based on past obligations and expenditures, the table below provides a detailed breakdown of the annualized costs associated with federal administration of the H-2A program by major cost category.

For transparency purposes only, the Department discloses in this supporting statement that there is a fee that employers are assessed when the Form ETA-9142A is certified by the Department. In accordance with 20 CFR 655.163, the fee is comprised of \$100 plus \$10 for each H-2A worker position certified under the Form ETA-9142A, with an overall cap of \$1,000. In the case of an agricultural association acting as a joint employer applying on behalf of its employer-members, there is no additional fee to the agricultural association filing the Form ETA-9142A, and the aggregate fees for all employer-members of H-2A workers under the certified Form ETA-9142A must be paid by one check or money order. All fees must be received by OFLC no more than 30 days after the date of certification. Those fees are deposited into the General Treasury and not available to the Department to offset any Federal Government costs for administering the H-2A program.

Based on program data over the last three fiscal years, the Department estimates that 96 percent of all employers' requests for temporary labor certification will be certified for the full number of H-2A worker positions requested. We estimate that the aggregate annual fee costs to

employers will be approximately \$2,631,080 ((8,581⁹ certified applications X \$100) + (177,298¹⁰ certified H-2A worker positions X \$10)).

Major Cost Category	Cost Activities	Annualized Costs (estimated)
Federal Salaries & Benefits	<u>Chicago National Processing Center</u> <ul style="list-style-type: none"> ▪ GS-12/13 staff processing applications and job orders ▪ GS-14/15 operations management ▪ Other federal administrative support <u>OFLC Headquarters</u> <ul style="list-style-type: none"> ▪ Management support, policy development, and stakeholder training ▪ Budget, contract procurements, and grants management 	\$6,161,136
Contracts for Services (not technology related)	<ul style="list-style-type: none"> ▪ Mail, data entry, and other clerical support services ▪ Case processing and administrative support for operations 	\$5,100,651
Technology Contracts for Services (O&M)	<ul style="list-style-type: none"> ▪ Application development services & network infrastructure support ▪ Hardware & software updates 	\$1,090,297
GSA & DHS Services	<ul style="list-style-type: none"> ▪ Rent payments for office space ▪ Security clearance services 	\$806,310
DOL Working Capital Assessment	<ul style="list-style-type: none"> ▪ Indirect costs associated with ETA and DOL administrative and executive management services 	\$2,394,981
Supplies & Equipment	<ul style="list-style-type: none"> ▪ General office supplies ▪ Computers, printers, and other office related equipment 	\$60,331
Mail & Telecommunications	<ul style="list-style-type: none"> ▪ Mail or overnight delivery services ▪ Phone and other telecommunication related charges 	\$76,848
Other Costs	<ul style="list-style-type: none"> ▪ Travel ▪ Printing and other Government Agency Services 	\$106,096
TOTAL COSTS - FEDERAL ADMINISTRATION		\$15,796,450

The Department also provides annual grants to the SWAs in 50 states and 5 U.S. territories for required employment-based immigration activities in support of the foreign labor certification program. Estimated annual costs for the H-2A portion of these activities are \$11,217,814 and supported by Federal funds appropriated into the State Unemployment Insurance and Employment Service Operations Account. State-level H-2A activities include, but are not limited to: reviewing and placing job orders to recruit U.S. workers; receiving and processing required notifications from employers and the Department; performing the prevailing practice and wage surveys used to set wages and standards for a number of occupations; and conducting inspections of employer-provided housing. SWAs submit annual work plans to OFLC to establish continued eligibility for these grants, in accordance with the requirements of their foreign labor certification grant agreements. These work plans describe the specific activities and workload expectations of each SWA during the upcoming year.

⁹This number includes the reforestation and pinestraw certifications anticipated as a result of the inclusion of those occupations in the H-2A program rather than the H-2B program (8,431 H-2A certifications + 150 (the annual average of reforestation and pinestraw certifications) = 8,581).

¹⁰This number includes the reforestation and pinestraw certified workers anticipated as a result of the inclusion of those occupations in the H-2A program rather than the H-2B program (167,884 H-2A certified workers + 9,414 (the annual average of reforestation and pinestraw certified workers) = 177,298).

The hourly rate used to calculate cost is the average hourly rate for an employee in the Federal service (based on 2017 GS locality pay schedules for Chicago, Illinois, and the Washington-Baltimore-Arlington, DC-MD-VA-WV-PA area). See relevant GS Scales:

Chicago-Naperville-IL-IN-WI- <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/CHI.pdf>

Washington- Baltimore-Arlington, DC-MD-VA-WV-PA-
www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/DCB_h.pdf

* Bureau of Labor Statistics in O*Net Online – Job title: Benefits, Job Analysis Specialists
<http://www.onetonline.org/link/summary/13-1141.00>

The average Federal Government cost for one year of operation is estimated on an hourly basis multiplied by an index of 1.74 to account for employee benefits and proportional operating costs, otherwise known as “Fully Loaded Full Time Equivalent.” The index is derived by Departmental analysis of current personnel and overhead cost data.

A15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

The total number of responses, burden hours, and monetized costs associated with all collections under this ICR differ from previous estimates. The answer provided to A.12 provides more information regarding this burden increase. The chart below shows the changes being requested under this ICR, from the [Notice of Action OMB last approved](#) and the proposed estimates resulting from the NPRM. All estimates have been rounded up to the nearest dollar.

OMB Control Number (1205-0466)	Currently approved Estimates	Proposed Estimates (New in NPRM)	Change from in burden estimate
Annual Responses	160,773	290,825	+ 130,052
Burden Hours	49,194	56,863	+ 7,669
Cost of Time	\$1,608,700	\$4,789,577	+ \$3,180,877

There has been an increase of total burden hours. . There are three main reasons why the estimated numbers of annual responses, burden hours, and monetized cost of respondent time associated with this ICR have increased from the previously approved burden. First, the NPRM would increase the number of employers using the H-2A program by expanding the definition of agricultural labor or services to include reforestation and pinestraw gathering occupations. To estimate the annual burden hours under this ICR, the Department utilized a three-year average of the total number of respondents that filed applications during the three precedent fiscal years (8,783), then added 164, the three-year annual average number of respondents to the

Department's H-2B collection that are expected to begin filing H-2A applications due to the move of reforestation and pinestraw from the H-2B to the H-2A program through this rulemaking. The additional employers responding under this ICR are expected to be H-2A Labor Contractors, which are subject to more complex collection requirements involving more responses and higher burden per respondent. As a result, the Department estimates, based on this increase in the number of respondents, that the total annual burden hours will increase from the previously estimated annual burden hours.

Second, the additional responses, burden hours, and costs associated with a new wage methodology proposed in the NPRM, which the Department estimates will increase an employer's time burden per job order by three minutes, and integrating the burden and costs related to Form ETA-232, which is currently authorized under ICR 1205-0017, will increase the total burden under ICR 1205-0466. In connection with the request for approval to integrate ICR 1205-0017, the Department requests approval to revise the collection to create a new Form ETA-232 for use in the H-2A program under OMB Control No. 1205-0466. The proposal to modernize wage data collection methods and permit the SWA to leverage other state agency surveys should reduce the SWA's burden per response to this information collection by 70 percent, from 11 hours per response to 3.30 hours per response. This revision would reduce the SWA's burden in responding to the Form ETA-232 by 7.70 hours, but would increase the burden of this ICR by 3.30 hours per SWA response.

Finally, the Department proposes two new optional information collections through the NPRM: an employer may notify the OFLC of its intent to stagger the entry of some of its H-2A workers, and an employer may request post-certification changes to specific worksites in the area of intended employment where H-2A workers are authorized to work.

Despite the estimated increase in burden hours overall, due in part to the increased volume of responses and the transfer of information collection tools currently covered under ICR OMB Control Number 1205-0017 into this collection (OMB Control Number 1205-0466), the proposed forms are intended to reduce the overall burden and costs associated with each individual information collection response.

Although the Department proposes a new Form ETA-9142A, Appendix B, *H-2A Labor Contractor Surety Bond*, the collection tool simplifies and facilitates an existing response requirement.

A16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

No collection of information will be published.

A17. If seeking approval not to display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Department displays the expiration date for OMB approval on the form and instructions.

*A18. Explain each exception to the topics of the certification statement identified in
“Certification for Paperwork Reduction Act Submissions.”*

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

B. Collections of Information Employing Statistical Methods

This information collection does not employ statistical methods.