

SUPPORTING STATEMENT
APPLICATION FOR PERMANENT EMPLOYMENT CERTIFICATION
OMB Control Number 1205-0451

Introduction: *The Department of Labor’s (Department or DOL) Employment and Training Administration (ETA) seeks approval of this Information Collection Request (ICR) under the Paperwork Reduction Act (PRA) for revisions to the Permanent (PERM) Employment Certification Program information collection. More specifically, the Department proposes the following changes to the ICR for the PERM employment certification program and changes to the Form ETA-9089, Application for Permanent Employment Certification. Moreover, the Department respectfully requests the Office of Management and Budget (OMB) grant a delayed implementation period for the Department to incorporate all changes into its electronic filing and application processing system resulting from the proposed changes to the information collection (IC). During the period of delayed implementation, the Department requests that the current form remain valid for public use.*

The Department’s proposed changes include the reorganization of the form to better correspond with related approved data collection for the temporary certification program; the revision of the form to collect attorney or agent information; and eliminate duplicative fields related to prevailing wage information collected on the Form ETA-9141, Application for Prevailing Wage Determination. Additionally, the proposed changes include reorganizing the sections on recruitment and adding a new section disclosing the geographic area of intended employment to allow the employer an opportunity to clarify information on potential roving employees and to ensure and verify that the worksite location is the same as the location noted on the Form ETA-9141. The proposed changes to the general instructions accompanying the form provide more precise explanations of terminology to ensure that the form is properly completed.

Furthermore, this request includes implementation of new appendices to the Form ETA-9089. The proposed appendices include Appendix A, Foreign Worker Information, will allow the employer to provide information on the foreign worker’s qualifications, education, skills and abilities. Appendix B, Additional Worksite Information, will be used to identify all places of employment. Appendix C, Supplemental Information, will allow the employer additional space to provide explanations based on its responses to Section G on the Form ETA-9089. Appendix D, Special Recruitment for College and University Teachers allows the employer to provide additional recruitment information under 20 CFR 656.18. Lastly, the elimination of the issuance of the paper-based employment certification decision by creating a two-page Form ETA-9089, Final Determination: Permanent Employment Certification Approval which would be issued electronically to the employer’s agent or attorney representative, if any, otherwise directly to the employer upon approval of their labor certification application.

This information request will also result in the subsequent request for discontinuation of OMB Control Number 1205-0015, which employers currently use to file Forms ETA-750A, Application for Alien Employment – Offer of Employment, and/or ETA-750B, Application for Alien Employment Certification – Statement of Qualifications of Alien that seeks to employ

professional athletes or coaches and those claiming National Interest Waivers (NIW). Forms ETA-750A and ETA-750B will remain in use during the period of delayed implementation.

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 Department seeks a revision of the current form OMB Control Number 1205-0451. The IC is required by sections 203(b)(2) and (b)(3) and 212(a)(5)(A) of the Immigration and Nationality Act (INA) (8 U.S.C. 1153(b)(2) and (b)(3) and 1182(a)(5)(A)). The Department and Department of Homeland Security (DHS) have promulgated regulations to implement these provisions of the INA at 20 CFR Part 656 and 8 CFR 204.5, respectively.

Furthermore, the INA mandates the Secretary of Labor to certify that any foreign worker seeking to enter the United States for the purpose of performing skilled or unskilled labor is not adversely affecting wages and working conditions of U.S. workers similarly employed and that there are not sufficient U.S. workers able, willing, qualified, and available to perform such skilled or unskilled labor. Before an employer may request any skilled or unskilled foreign labor, it must submit a request for certification to the Secretary of Labor containing the elements prescribed by the INA and the regulations or, in limited circumstances, apply for a waiver thereof with DHS. The Department's employment certification regulations require employers to document their recruitment efforts and substantiate the reasons no U.S. workers were hired.

Consequently, the information collected on the form is used not only by the Department, but also other federal agencies in furtherance of meeting the requirements of the INA. The Department uses the information collected to provide employment certifications for permanent residency applications of foreign workers seeking to obtain lawful permanent resident status in the United States via employment. DHS also uses the current form to analyze the foreign worker's background and experience for Schedule A occupations and sheepherders in accordance to INA § 203(b)(2)(B)(i) (8 U.S.C. § 1153) and 8 CFR 204.5(k)(4)(ii).

In addition, the Department relies on Forms ETA-750A and ETA-750B to process applications for PERM employment certification to assess whether a foreign professional athlete or coach meets the requirements of Section 212(a)(5)(A). DHS regulations at 8 CFR 204.5(k)(4)(ii) require foreign nationals applying for a NIW of the job offer requirement, under INA § 203(b)(2)(B)(i), to file a Form ETA-750B with DHS.

The Department collects the information necessary to make the certification on the ETA Form 9089. During this renewal cycle, the Department is proposing a revision to this collection of information and requesting a three-year approval. The currently approved form can be found online at <https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/9089form.pdf>.

Statutory Authority: INA, Section 203(b)(2)(B)(i) (8 U.S.C. 1153)

Regulatory Authority: 20 CFR Part 656, subpart C, Labor Certification Process, and 8 CFR 204.5(k)(4)(ii)

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.

By the Federal Government

The information collected is used not only by the Department, but also by other federal agencies to include DHS and the Department of State (DOS) to meet requirements of the INA.

The Department will use the information collected through the revised form and its appendices to adjudicate PERM employment certification applications for foreign workers filed by employers seeking to employ foreign workers on a permanent basis. An employer seeking a PERM employment certification to employ an intending immigrant must submit the proposed form to the Department, including all required appendices. Once submitted, the Department will determine whether the employer adequately sought available and willing U.S. workers qualified for the opportunity as required under the regulations, and whether U.S. workers who applied were rejected for lawful, job-related reasons. 20 CFR 656.24. If the Certifying Officer's (CO) Final Determination denies certification of the application, the regulations provide the employer with the ability to request reconsideration of the decision or appeal the denial. 20 CFR 656.24 and 656.26. The Department will also use the information collected through the form and Appendix A to adjudicate PERM applications for professional athletes and coaches that currently apply using the Forms ETA-750A and ETA-750B under OMB Control Number 1205-0015.

DHS will also use the information collected for the Job Offer Requirement of the National Interest Waivers (NIW) process, which exempts foreign workers from the job offer requirement if their expertise is in the national interest of the United States. In addition, under 20 CFR 656.15, employers of foreign workers who are in occupations that meet DOL regulatory requirements for being designated as "Schedule A – Shortage Occupations" must apply for an employment certification using the proposed form and submit an uncertified form directly to DHS. Similarly, under 20 CFR 656.16, employers of foreign workers who are sheepherders must apply for an employment certification using the proposed form and submit an uncertified form directly to DHS. When the proposed form is submitted to DHS directly, DHS will use the form to analyze the foreign worker's background and experience for NIWs, Schedule A occupations, and sheepherders.

By the Employer

The employer is required to submit attestations regarding the types and dates of its efforts to recruit U.S. workers. The Department has codified at 20 CFR 656.17(e) and (f) the type of recruitment steps that must be performed to test the U.S. market. The regulations require employers to recruit for able, willing, qualified, and available U.S. workers and offering

prevailing wages and working conditions. Without such a test of the labor market, the Secretary would not be able to certify there are no available U.S. workers willing to accept the offered job opportunity as required by the INA. Pursuant to the Department's regulation, employers are required to test the labor market during the 180 days preceding the filing of the form. 20 CFR 656.17(e).

Employers are also required to prepare a report of their recruitment activities. The regulations state that the employer must prepare a report signed by the employer describing the recruitment steps undertaken and the results achieved, including the number of U.S. workers who applied for the job opportunity, the number of hires, and, if applicable, the number of U.S. workers rejected, summarized by the lawful job-related reasons for such rejections. 20 CFR 656.17(g). This documentation must be maintained by the employer for five years. Upon review of the attestation-based form, the CO may request the recruitment documentation and recruitment report via the Audit Review process. 20 CFR 656.20. The CO requests workers' resumes sorted by the reasons they were rejected in every case that is audited. If the information provided by the employer fails to resolve the concerns of the CO, the case may be denied or inducted into supervised recruitment for closer review.

Where the CO determines it to be appropriate, post-filing supervised recruitment may be ordered. 20 CFR 656.21. This includes cases selected for audit and cases where questions arise about the adequacy of the employer's test of the labor market. Supervised recruitment is a process whereby the Department oversees all aspects of the employer's recruitment of U.S. workers, including approving job advertisement text and informing the employer where to recruit, receiving all U.S. worker resumes, and reviewing the employer's recruitment report to ensure all U.S. worker applicants have been properly considered. Subsequently, at the completion of the supervised recruitment efforts, the employer is required to provide a report of its supervised recruitment steps, including documenting the lawful job-related reasons for not hiring any U.S. workers who applied for the position.

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 compliance with the Government Paperwork Elimination Act, a fillable version of the form can be found on-line at <https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/9089form.pdf>. U.S. employers can electronically submit their applications at <http://www.plc.doleta.gov>, or complete, print, and submit by mail a copy of the form, if they choose to do so. In circumstances where the application is filed using the traditional paper-based method, OFLC staff will manually enter the data and information contained on the paper application for processing in a similar manner as those filed electronically.

Employers also have the option to use the electronic filing system, which permits employers to fill out their PERM applications on the Department's website and submit them electronically.

Because the electronic filing system includes guidance to employers completing their applications on-line, there are fewer incomplete or inaccurate entries. For example, system warnings or checks will appear when required fields are not filled in completely or properly. For the same reasons, the Department consistently encourages employers to file electronically where they are able to do so.

When the employer or, if applicable, its authorized attorney or agent initially enters contact information and establishes an account, the OFLC case management system will allow the system to automatically pre-populate all contact information from the Form ETA-9141, significantly reducing the time and burden for repeated online data entry. The Department's experience is that the submission of all required information being available at the time of filing the application facilitates a more efficient and consistent review of the employer's application and reduces the incidences of the Department returning an incomplete application without further review.

The system will include detailed instructions, prompts, and checks to help employers fill out the Form ETA-9089. In order to file electronically, the employer must become a "registered user" by creating an account that contains secure files within OFLC's case management system that can be accessed by password. Each time a registered user accesses the website to file an application, the information common to that user's applications is entered automatically by the electronic filing system, thereby reducing the burden on registered users. Moreover, in the response to an Audit or a Request for Information (RFI), where it is not practical to collect supporting documentation using a standard 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, etc.).

Furthermore, the redesign of the current form and creation of different appendices will also allow the Department to leverage technology to more easily automate processes and reduce burden. The current form is designed such that it must be completed as a whole for each individual application, thus requiring an applicant to repeatedly input information that may often be the same for an employer or for the agent or attorney completing an application on the employer's behalf.

By separating the form into more manageable sections and appendices, it will better allow for additional information that may be auto-populated by the system. For example, by removing foreign worker information that, by its very nature, is unique for every PERM application and placing it into a new Appendix A, an employer who is seeking to fill out multiple applications for unique positions that have the same job parameters will no longer have to repeatedly input the same information into a new form. Instead, the employer would only have to input unique information for the each foreign worker in Appendix A for that specific job opportunity described by the form. Effectively, by reorganizing the current form into distinct pieces that consolidate sections that should be considered as a whole, it will allow the Department to enhance automation and efficiencies that will reduce burden on employers. Thus, for employers who annually submit large numbers of PERM applications that represent unique job

opportunities but have exactly the same or extremely similar job requirements, the time and burden it would take to complete an application will be reduced.

The Department will seek OMB approval of the electronically fillable forms and all appendices prior to making them available for public use. However, the Final Determination will not be made publicly 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 authorized attorney or agent, and will be pre-populated with key information reflecting the Department's decision to grant certification of the employer's PERM application. The employer will download, print, and submit the Final Determination to DHS upon obtaining all required signatures.

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.

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 IC is required of small businesses that need foreign workers, which must obtain a PERM labor certification under the INA. Only 7 percent of applications for PERM employment certification are submitted by small entities. The Department cannot make any exemptions or eliminate forms for small entities because the statute and regulations require all employers seeking PERM employment certification to make the necessary attestations and provide the information requested. These forms ensure the Department relies on a uniform system that allows for these employers to provide the information that is necessary to process their requests for PERM employment 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 necessary attestations and assurances to minimize the need for the filing employer to find the appropriate law or regulation to know how to request a PERM labor certification. Recordkeeping requirements largely involve information that already exists in payroll and other records kept by most employers for other purposes. The Department believes that the recruitment requirements are those that any business would utilize to legitimately recruit workers.

This IC does not impose any extra requirements on small entities; these forms collect from all PERM employers the minimally required information to determine program eligibility and allow DOL to issue an employment certification determination.

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.*

DOL would be unable to meet its statutory and regulatory mandates if this information was not collected. The information must be collected to enable DOL to meet its obligations by determining whether or not an employer and foreign worker meet the criteria necessary to be issued a certification and whether employment of the foreign worker will adversely affect the wages or working conditions of U.S. workers similarly employed.

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 any manner other than those normally required under the PRA, except that the Department's regulations require that employers retain applications for PERM employment certifications and all supporting documentation for five years after submission. 20 CFR 656.10(f). The Department requires that employers maintain supporting documentation because the CO may decide that it is necessary to conduct an Audit Review or Supervised Recruitment of the application, and DHS may decide it is necessary to review the employer's supporting documentation in the course of processing the Form I-140, Immigrant Petition for Alien Workers, to which the proposed form is attached. Either Department may want to review the information for the purpose of investigating possible violations of the INA.

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 PRA, the Department solicited comments on this proposed collection for 60 days. The Department published the 60-day notice on July 20, 2020 (85 FR 43877) and the public comment period expired on September 18, 2020. The Department received public

comment submissions from ten commenters, nine of which were within the scope of the IC. The comments have also been uploaded into the reginfo.gov database. In response to the public comments received, the Department has made changes to the proposed form, instructions, and Appendix D.

The changes the Department made in response to the public comments are more thoroughly discussed in the Supporting Statement Appendix A, which is included as an attachment in the ICR submission. Changes to the burden estimates as a result of changes made in response to these comments are discussed in detail in Section A.12 of this document.

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 IC.

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

There are no assurances of confidentiality. The information collected is not exempt from full disclosure under the Freedom of Information Act (FOIA). This material will be subject to review and potential disclosure under FOIA.

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the information provided is protected under the Privacy Act. The extent of privacy that applicants can expect is delineated on Form ETA-9089. The Department maintains a System of Records titled Employer Application and Attestation File for Permanent and Temporary Alien Workers (DOL/ETA-7) that includes this record. Therefore, the collection of data and information under this OMB Control No. 1205-0451 is incorporated into this system.

Under routine uses for this system of records notice, case files developed in processing employment certification applications and prevailing wage determination, are released to the employers that filed such applications and their representatives; to review Department actions in connection with appeals of denials or other wage-related final determinations before the Office of Administrative Law Judges or Federal Courts; and to participating agencies such as the DOL Office of Inspector General, DHS, USCIS, DOJ and Department of State in connection with administering and enforcing related immigration laws and regulations. Records may also be released to named foreign worker beneficiaries or their representatives, and third party requests under the Freedom of Information Act.

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 IC does not involve sensitive matters.

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

The Department is adjusting the burden estimates for this information collection. The following table can be used as a guide to calculate the total information collection burden:

Activity	Number of Respondents	Frequency	Total Annual Responses	Time per Response (in minutes)	Total Annual Burden (in hours)	Hourly Rate	Monetized Value of Respondent Time
Completion and Submission of Form ETA-9089	63,851	1.70447	108,832	10	18,138.67	\$81.91	\$1,485,738.46
Appendix A	63,851	1.70447	108,832	12	21,766.40	\$81.91	\$1,782,885.82
Appendix B	5,542	3.656	20,262	3	1,013.10	\$81.91	\$82,983.02
Appendix C	57,951	1.41935	82,253	6	8,225.30	\$81.91	\$673,734.32
Appendix D	914	2.918	2,667	3	133.35	\$81.91	\$10,922.70
Gathering and Submission of Evidence	65	1	65	60	65	\$81.91	\$5,324.15
Recruitment	63,851	1.70447	108,832	60	108,832	\$81.91	\$8,914,429.12
Retention of Supporting Documentation	63,851	1.70447	108,832	5	9,069.33	\$81.91	\$742,869.09
Supervised Recruitment	130	2.033	264	240	1,056	\$81.91	\$86,496.96
Requests for Reconsideration and BALCA Appeals	3,334	0.516	1,720.3	120	3,440.6	\$81.91	\$281,819.55
Professional Athlete Application	86.6	1	86.6	82	118.35	\$81.91	\$9,694.05
National Interest Waiver Qualifications	9,558	1	9,558	12	1,911.60	\$81.91	\$156,579.16
Schedule A and Sheepherder	7,000	1	7,000	22	2,566.67	\$81.91	\$210,235.67

Applications							
Notice Requirements	70,937.6*	1.634092	115,918.6	30	57,959.3	\$81.91	\$4,747,446.26
Unduplicated Totals	80,496**	N/A	675,123	--	234,295.67	N/A	\$19,191,158.30

* This figure represents the total respondents required for notice, which includes respondents using the basic filing process, Schedule A, and Shepherders. 656.10(d). It does not include NIWs.

** This figure represents the total number of filings, which have been individually reported in connection with each activity above, in the same column. This figure is not an aggregated total of all of the figures in this column. This total includes unique filers for applications filed with the Department as well as those submitted to DHS, including NIWs.

The Department receives PERM applications from a wide spectrum of U.S. employers. While compensation rates for the employees performing the reporting and recordkeeping functions related to the Form ETA-9089 vary, the Department believes that in most companies a human resources manager will perform these activities. The national mean hourly wage for a human resource manager (SOC code 11-3121) is \$62.29,¹ while benefits averaged 31.5 percent of total employee compensation.² The estimated average hourly compensation for a human resources manager, including wages and benefits, is thus \$81.91 ($\$62.29 + (\$62.29 \times .315)$).

1. Form ETA-9089 – Application for Permanent Employment Certification

Employers submit a Form ETA-9089 when they seek to employ immigrant workers. Burden calculations have been split to provide an estimate of the annual burden hours associated with the proposed form and each of its appendices, instead of a single figure estimating the burden for the current form as a whole.

Over a period of three and one-quarter years (i.e., Fiscal Years 2017, 2018, 2019, and Quarter 1 of Fiscal Year 2020), the Department received 353,704 PERM applications.³ These 353,704 applications were filed by 63,851 unique employers as identified by the Federal Employer Identification Number (FEIN), indicating that each employer submitted an average of 5.54 applications during that three and one-quarter year period. Accordingly, this data indicates that on average, the Department projects to receive 108,832 applications ($353,704 / 3.25$) each year. Similarly, these 63,851 unique employers filed on average 1.70447 applications per year ($108,832 / 63,851$).⁴

1 *Occupational Employment and Wages, May 2019: 11-3121 Human Resources Managers*, U.S. Department of Labor, Bureau of Labor Statistics, <https://www.bls.gov/oes/current/oes113121.htm>.

2 Due to an increase in average benefits increasing for 31.4 to 31.5%, the total hourly average compensation rate increased from \$81.85 to \$81.91 per hour. See *Employer Costs for Employee Compensation – June 2020*, U.S. Department of Labor, Bureau of Labor Statistics, www.bls.gov/news.release/ecec.toc.htm. As a result of this increase, the monetized value of respondent time has increased, even though the burden in time for each activity remains unchanged as a result of changes made to the IC based on the comments that were received.

3 Figures for submissions of Form ETA-9089 applications to DHS or in support of NIWs, are addressed in Section A.12.8, below.

4 As the number of respondents in each year includes numerous duplicates, the total number of unique respondents should be used to determine how frequently on average a respondent submits a Form ETA-9089. Alternatively, the calculation can also be determined by determining the average number of unique applicants in a year and

➤ Completion & Submission of Form ETA-9089 – Application for Permanent Employment Certification

The Department received various comments on the proposed form and appendices that will be discussed below. Therefore, on the proposed Form ETA-9089 Section C: Attorney or Agent Information three commenters requested clarification on the banner on the form regarding questions C.17-19 to indicate that an “attorney acting as an agent” should answer those questions. The Department agreed with those commenters and decided to adopt this revision to the form and accompanying instructions. As a result, these form changes will result in revisions to mimic the regulatory definition of an Agent in accordance to 20 CFR 656.3, but they do not require filers to input any additional information and result in no change to the burden.

Moreover, for Section E: Job Opportunity and Wage Information the Department reviewed the proposed form and decided that it better served stakeholders to have the response to question E.5 change from being a mandatory response to a conditional response. The Department’s decision to change this question from a mandatory to a conditional response resulted in a free-text field that allows employers to include information relating to the specific job opportunity and wage that was not imported over from the Form ETA-9141. The section allows the employer to provide any additional caveats or conditions of employment that were taken into consideration when determining the actual rate of pay. As an example, the employer may want to include a statement that the rate of pay does or does not include future bonuses, cost of living increases or locality pay. Since this field is conditional, it would only need to be completed if additional conditions about the offered wage needs to be explained. Although this section has been modified to be conditional and reduces the mandatory fields, this form change does not reduce the filing burden on the employer as compared to the estimation of (time, responses, etc.) based on the historical (filings, responses, etc.).

Furthermore, the Department received comments relating to Section F: Area of Intended Employment Information, question F.c. Other Definable Geographic Area as commenters requested that the Department should find a way to address the issue of potential worksites that are unknown by the employer. The Department concurred with the commenters and decided to include additional language in the instructions for this section both on the form and accompanying instructions that will read “If the job opportunity requires roving, travel or possible relocation, enter the phrase “various worksites” otherwise enter “N/A.” However, including this additional language on the form and in the instructions for this section does not change any IC burden nor place any additional burden on the employer in completing this section of the application. As a result, these forms changes will not result in a change in burden.

Section G: Additional Job Opportunity Information and Other Requirements received several comments for this section from various commenters. One commenter asked the Department for question G.1 to clarify work schedules with less than 35 hours per week. As a result, the Department included additional language in its revision for both the form and accompanying

multiplying it by their full application volume over the period (i.e., 63,854 applicants / 3.25 years * 5.54 = 108,832 (disregarding rounding).

instructions. In addition, another commenter suggested for questions G.2b, and G.2c to be revised to reflect regulatory language from 20 CFR 656.19(b)(2) by changing the words work contract on the proposed form to employment contract as noted in the regulations. The Department agreed with the commenter and decided to adopt this revision to the form and accompanying instructions. Lastly, for question G.5, one commenter suggested that the question be revised to align with regulatory language in 20 CFR 656.17(i)(3)(1) that is “while working for the employer,” including as a contract employee as opposed to the language on the proposed form “gained while employed by the employer.” The Department agreed with the commenter and decided to adopt this revision to the form and accompanying instructions. The Department would like to reiterate that correcting the language in this Section to align with regulatory guidance does not change the requirements by employers to provide the required information when filing their labor certification application, or increase or decrease the time to complete the form. Considering Section G as a whole, the Department has determined that there will be no change to the burden in this IC.

The Department made a substantive change to Section H: Recruitment Information question H.1b rendering the question from being a conditional question to be responded to by employers to being a mandatory question that must be responded to by employers. In addition, other cosmetic changes were made to the form for question H.1e addressing what was determined a typo within the body of the question. Other cosmetic changes were discovered in the banner for part C. Professional/Non-Professional Recruitment Information and part D. Additional Recruitment Requirements for Professional Occupations where typos were discovered and corrected. Lastly, the Department reviewed and revised a part of question H.d based on a suggestion from a commenter that all fields of this question be reflected as singular requirements relating to additional recruitment requirements for professional occupations. The Department agreed with the commenter and made the revision to align with the regulatory language in 20 CFR 656.17(e)(1)(i) and align with the other recruitment events in this question. The corrections of these typographical errors did not change the burden to this IC.

Lastly, Section I, Employer Labor Condition Statements was revised due to a commenter’s statement that because professional sports teams are exempt from the normal PERM recruitment process, sports teams should not be subject to the attestation on the proposed form. The Department agreed with this commenter and modified this Section to indicate that employers who file for professional athletes must only attest to conditions 1-7 in this section. In addition, the language in the instructions was also modified to align with this revision. Thereby, the revisions to this section do not result in any change to the burden in this IC.

As noted in the 60-day PRA package Supporting Statement, the Department estimated that it would have taken applicants 10 minutes to complete and submit the proposed form once program requirements have been completed. The total annual burden for completing the Form ETA-9089 was estimated to be 1,088,320 minutes (1.70447 applications per respondents x 63,851 respondents x 10 minutes per application). The total annual burden is 18,138.67 hours.

As a whole, these additional revisions to the form have not changed the time burden to complete each Form ETA-9089.⁵ As a result, the total annual burden for completing the Form ETA-9089 remains estimated as 1,088,320 minutes (1.70447 applications per respondent x 63,851 respondents x 10 minutes per application). This estimate is based on the premise that the majority of the information placed on the proposed form will be auto-populated from the employer's profile OFLC case management system and the Form ETA-9141 to include the Employer Information, Employer Point of Contact, and Employer Worksite Information among other pertinent data associated with the proposed form once the employer inputs their prevailing wage determination (PWD) tracking number for the job opportunity.

Consequently, these revisions to the form will not reduce the burden in time spent to complete the application.

➤ Form ETA-9089 – Appendix A: Foreign Worker Information

The Department estimates that it will take employers an additional 12 minutes along with the completion of the proposed form to complete Appendix A. The total annual burden for completing Appendix A is also estimated to be 1,305,984 minutes (1.70447 applications per respondent x 63,851 respondents x 12 minutes per application). Appendix A moves information from Sections D, J, and K on the current application and resolves the issue of not having a space to list special skills, certifications, etc. The total annual burden is 21,766.40 hours.

➤ Form ETA-9089 – Appendix B: Additional Worksite Information

In circumstances where the employer needs workers to perform the services or labor at more than one specific worksite address or geographical area, the employer must complete the Appendix B. Employers already submit information disclosing all worksites and this Appendix B will establish a standardized process and provide an electronic format for collecting this existing information.

In the supporting statement to OMB Control Number 1205-0508, *Application for Prevailing Wage Determination*, the Department estimates that the Appendix A for Form ETA-9141 (which is structured exactly the same as the proposed Appendix B for proposed Form ETA-9089) would have, across all programs requiring a PWD (including H-1B, H-2B, and PERM), on average respondents would complete the appendix on average 3.656 times each year. As this estimate crosses all programs requiring a PWD, the Department projects that the number of Appendix B applications will be equivalent to the relative filing frequency of PERM PWDs out of all PWD applications.⁶ The relative filing frequency of PERM PWDs

5 In addition to the changes made as a result of public comment, the Department – in reviewing the Form ETA-9089 and other documents – made minor non-substantive changes to correct typographical errors regarding formatting, spacing, and similar issues. Any changes made to correct these typographical errors did not increase the burden. In addition, burden figures for the time for response were changed to minutes for this 30-day FRN versus hours in the 60-day FRN.

6 Such an information collection is not duplicative, as an employer may submit an Appendix A with a Form ETA-9141 for hundreds of worksites to obtaining unique prevailing wages based on the area of intended employment; however, only those worksites that relate to the specific job opportunity being offered are relevant to the

is 0.878 (129,899 PERM application / (129,899 PERM PWDs + 5,139 H-1B PWDs + 12,873 H-2B PWD) = 129,899 / 147,911 = 0.878). The Department anticipates that it will take 3 minutes to complete Appendix B. Extrapolating these figures to the overall frequency of filings, the Department estimates that 5,542 respondents (6,312 x 0.878) will complete Appendix B, which when multiplied by the frequency of 3.656 times per year, will result in an estimated 20,262 responses and at 3 minutes to complete, results in a total burden of 60,786 minutes. The total annual burden is 1013.10 hours.

➤ Form ETA-9089 – Appendix C: Supplemental Information

The Department will use the information on Appendix C as additional information for determining the job requirements and the qualifications of the foreign worker where the employer does not believe it has enough space to do so in the body of Form ETA-9089. The proposed form allows this additional information to be provided for fields G.6 through G.12.

As described in the methodology above for determining the estimated burden with the Form ETA-9089, 57,951 respondents filed 267,322 responses over the three and one quarter year period from Fiscal Year 2017 through the first quarter of Fiscal Year 2020, that would require the submission of an Appendix C, submitting on average 4.613 applications during that time period. Similarly, over a single year, the Department estimates that it would receive 82,253 responses (267,322 / 3.25) requiring the submission of an Appendix C, and that each unique employer will send each year, on average, 1.41935 applications (82,253 / 57,951) requiring completion of Appendix C. The Department estimates that Appendix C should take on average 6 minutes to complete for each application. This yields a total burden of 493,518 minutes (57,951 respondents x 1.41935 applications per respondent per year x 6 minutes per application). The total annual burden is 8,225.30 hours.

➤ Form ETA-9089 – Appendix D: Special Recruitment for College and University Teachers

The Department received comments on this proposed appendix. One comment stated it appeared an allowance was created for advertisements in publications other than a national professional journal as required by regulation in accordance with 20 CFR 656.18(b)(3) in the creation of this proposed form. As a result, the Department considered the comment and revised this appendix and accompanying instructions to better align with regulatory language of 20 CFR 656.18.

In addition, the Department identified a typographical error in Appendix D that it corrected. As employers are required to list recruitment efforts as outlined in 20 CFR 656.18(b), revising this appendix to change the fields from conditional to mandatory will not affect how they report this information. The change of the fields from being conditional to mandatory does not change the burden because the Department's assessment of the burden to complete Appendix D was always based on these fields being mandatory.

adjudication of the Form ETA-9089.

As described in the methodology above for determining the estimated burden with the Form ETA-9089, 914 respondents filed 8,668 applications over the three and one quarter year period from Fiscal Year 2017 through the first quarter of Fiscal Year 2020, submitting on average 9.48 applications during that time period. Similarly, over a single year, the Department estimates that it would receive 2,667 applications (8,668 / 3.25) requiring Appendix D, and that each unique employer will send, on average, 2.918 applications (2,667 / 914) requiring completion of Appendix D each year. The Department estimates that Appendix D should take on average 3 minutes to complete for each application. This yields a total burden of 8,001 minutes (914 respondents x 2.918 applications per respondent per year x 3 minutes per application). The total annual burden is 133.35 hours.

2. Gathering and Submission of Evidence – 20 CFR 656.10(e)

The regulations allow any person to submit to the CO documentary evidence bearing on a PERM application that is filed with DOL. The Department estimates that 50 individuals or organizations will avail themselves of the opportunity to provide such evidence and each filing of documentary evidence will take approximately one hour for a total annual burden of 60 minutes for a total burden of 3000 minutes (50 persons x 60 minutes).

Individuals or organizations may provide to the appropriate DHS office documentary evidence of fraud or willful misrepresentation in a Schedule A application filed under 20 CFR 656.15 or a shepherd application filed under 20 CFR 656.16. The Department estimates 15 individuals or organizations will avail themselves of the opportunity to provide such evidence and each filing of documentary evidence will take approximately 60 minutes for a total annual burden of 900 minutes (15 persons x 60 minutes).

The total annual burden for submission of evidence to DOL and DHS offices would come to 3900 reporting minutes.⁷ The total annual burden is 65 hours.

3. Recruitment – 20 CFR 656.17(e), (f) and (g)

Job advertisements. Recruitment activities, including advertising for workers and placing job orders, is a usual and customary activity of employers. Therefore, under OMB regulations at 5 CFR 1320.3(b)(2), the resources expended by employers to comply with the recruitment provisions at 20 CFR 656.17(e) and (f) are excluded from the paperwork burden estimates for this ICR.

Employer's recruitment report. All employers that file applications under the basic process at 20 CFR 656.17 must prepare a summary report under section 656.17(g) 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-

⁷ Neither the Form ETA-9089 application nor its accompanying instructions refers to the voluntary submission of evidence under 20 CFR 656.10(e). However, the PRA and its burden estimate requirements apply to information collections that are voluntary, as well as mandatory. 5 CFR 1320(c)(3) and 1320.8(a)(4) and (b)(4).

related reasons. Further, the CO, after reviewing the employer's recruitment report, may request the resumes or applications of U.S. workers sorted by the reasons they were rejected.

The Department estimates that it will take an employer an average of one hour to prepare a recruitment report for each application it files, and, if requested by the CO, there should be no additional burden as an employer would already have reviewed and sorted the resumes it received for the application as part of completing the recruitment report. Since the Department anticipates that 108,832 applications for PERM employment certification will be filed under the basic process, which requires advertising, the total annual burden for preparing recruitment reports is estimated to amount to 6,529,920 recordkeeping minutes (108,832 applications x 60 minutes). The total annual burden is 108,832 hours.

4. Retention of Supporting Documentation – 20 CFR 656.10(f)

The regulations require employers to retain records demonstrating their compliance with the advertising requirements, as well as records they used to prepare the required recruitment report. Employers already have an obligation to maintain such records.⁸

The records that employers must maintain pursuant to 29 CFR 1627.3(b) that are promulgated pursuant to the Age Discrimination in Employment Act, include 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 for job openings; and
- Any advertisement or notice to the public or to employees relating to job openings, promotions, training programs, or to opportunities for overtime work.

As noted, employers are already required to keep recruitment and hiring documents for one-year under various equal opportunity federal laws, and the Department's regulations require that they be kept for five years. Therefore, the Department estimates that employers will spend 5 minutes per application per year to retain an application and required supporting documentation in the four years PERM regulations require for retention beyond the one-year retention period mandated under Title VII and other equal employment opportunity laws noted above. This

⁸The burden to maintain such records can be excluded in compiling the burden under this ICR. See, e.g., Equal Employment Opportunity Commission (EEOC) regulations at 29 CFR 1602.14 (OMB Control No. 3046-0040), promulgated pursuant to Title VII of the Civil Rights Act, the American With Disabilities Act, and the Genetic Information Nondisclosure Act; and at 29 CFR 1627.3(b) (OMB Control No. 3046-0018), promulgated pursuant to the Age Discrimination in Employment Act.

results in an annual burden of 544,160 recordkeeping minutes (108,832 applications x 5 minutes per application). The total annual burden is 9,069.33 hours.

5. Supervised Recruitment – 20 CFR 656.21

In a case where the CO determines it to be appropriate, post-filing recruitment may be required of the employer. As described in the methodology above for determining the estimated burden with the Form ETA-9089, 130 respondents filed 859 applications over the three and one quarter year period from Fiscal Year 2017 through the first quarter of Fiscal Year 2020 under supervised recruitment procedures, submitting on average 6.61 applications during that time period. Similarly, over a single year, the Department estimates that it will receive 264 applications (859 / 3.25) requiring supervised recruitment, and that each unique employer will send, on average, 2.033 applications (264 / 130) requiring an employer to undergo supervised recruitment each year.

The Department estimates that the time to complete all requirements necessary for supervised recruitment is four hours. Accordingly, the total burden is 63,360 minutes (130 respondents x 2.033 applications per respondent x 240 minutes per application). The total annual burden is 1,056 hours. Of that time period, the time required to conduct such recruitment will average three hours per application (or 75 percent of the required total hours) to place the advertisement, receive and analyze resumes and interview candidates for an annual burden of 47,520 minutes (63,360 minutes x 0.75) or 792 third-party disclosure hours. Employers will also be required to provide a recruitment report to the CO that on average will take about 60 minutes (or 25 percent of the required total hours) to prepare for an annual burden of 15,840 minutes (63,360 minutes x 0.25) or 264 reporting hours.

This burden is included in the estimate of the total paperwork burden for this ICR.

6. Requests for Reconsideration and BALCA Appeals – 20 CFR 656.24

Employers may request reconsideration of a denial by the CO of a PERM application. If the reconsideration is denied, they may appeal to BALCA. Employers may also choose to forego a request for reconsideration and appeal directly to BALCA if an application is denied. The employer is expected to retain all evidence relating to the submitted form and is not allowed to submit new evidence while going through this process.

As described in the methodology above for determining the estimated burden with the Form ETA-9089, 3,344 respondents filed 5,591 requests for reconsideration or appeals over the three and one quarter year period from Fiscal Year 2017 through the first quarter of Fiscal Year 2020, submitting on average 1.672 appeals during that time period. Similarly, over a single year, the Department estimates that it will receive 1,720.3 appeals each year (5,591 / 3.25), and that each unique employer will send, on average, 0.516 appeals (1,720.3 / 3,334) each year.

The Department estimates that the time to complete all requirements necessary to file an appeal to take, on average, 120 minutes. Accordingly, the total annual burden is 206,436 minutes (3,334

respondents x 0.516 appeals per respondent x 120 minutes per appeal). The total annual burden is 3,440.60 hours.

7. Professional Athlete Applications

The Department estimates that it would process 86.6 applications per year for professional athletes and coaches and that it would take 82 minutes for each application to be completed. Currently, when submitting one of these applications to the Department, both forms are required. This time included both: (1) the public reporting burden for the collection of information, which includes the supporting documentation such as press clippings of the athletes, sports team contracts, off-season employment letter, and notice of filing, and (2) the time for reviewing instructions, searching existing information/data sources, gathering and maintaining information, completing and reviewing the application, and providing notice of the filing.

The Department has made changes to the Form ETA-9089 that would allow Forms ETA-750A and ETA-750B to be discontinued, such that the Department could take advantage of the improved efficiencies that the changes to the Form ETA-9089 and OFLC's case management system will offer. Most importantly, applications using the Forms ETA-750A and ETA-750B will no longer rely solely on manual entry for each application. An employer needing to complete an application for a professional athlete or coach would only need to complete the automated Form ETA-9089 and Appendix A. Accordingly, the Department estimates this burden to be 1,905 minutes (86.6 respondents x 1 application per year x (10 minutes for Form ETA-9089 + 12 minutes for Appendix A)); however, the Department is estimating that there will be no change to the public reporting burden, which will remain 5,196 minutes (86.6 respondents x 1 application per year x 60 minutes). This will result in total burden of 7,101 total minutes. The total annual burden is 118.35 hours.

8. National Interest Waivers

In the supporting statement for OMB Control Number 1205-0015, regarding Form ETA-750, the Department estimated that 9,558 respondents would complete the Form ETA-750B and that it would take 108 minutes for each application to be completed. When submitted to DHS, only Form ETA-750B is required. However, the Department has made minimal changes to the Form ETA-9089 that would allow Form ETA-750B to be discontinued, such that the Department could take advantage of the improved efficiencies that the changes to the Form ETA-9089 and OFLC's case management system will offer. Most importantly, unlike the Form ETA-750B, employers will no longer have to rely on manual entry for each application as the Form ETA-750B is unsupported by a system. An employer needing to complete an application for a NIW would only need to complete Appendix A. Accordingly, the Department estimates this burden to be 114,696 total minutes (9,558 respondents x 1 application per year x 12 minutes). The total annual burden is 1,911.60 hours.

9. Schedule A and Shepherders – 20 CFR 656.15 and 20 CFR 656.16

Form ETA-9089 is used by employers under Schedule A and for sheepherding positions, who submit the application directly to DHS. The Department estimates 7,000 respondents completing one application annually and submitting it to DHS for these positions, and the time it will take to complete the application is the combined time to complete Form ETA-9089 (10 minutes) and Appendix A (12 minutes), or 22 minutes. Accordingly, the Department estimates the total burden to be 154,000 total minutes (7,000 respondents x 22 minutes per respondent). The total annual burden is 2,566.67 hours.

10. Notice Requirements – 20 CFR 656.10(d)

Employers must provide notice of the filing of the Form ETA-9089 to either their employees directly or to their employees' bargaining representative in a manner specified in 20 CFR 656.10(d). This requirement does not apply to individuals using the form to apply for a NIW, but will for every other application, or for 70,937.6 respondents (63,851 PERM respondents + 86.6 professional athlete respondents + 7,000 Schedule A and sheepherder respondents), who will file 115,918.6 applications (108,832 basic process applications + 86.6 professional athlete applications + 7,000 Schedule A and sheepherder applications), or on average 1.634092 responses per year (115,918.6 applications / 70,937.6 respondents). For employers covered by the requirement, the notice must be posted in a conspicuous place for 10 business days. Producing a notice, posting it, and documenting the dates of posting takes approximately 30 minutes for a total of 3,477,558 third party disclosure minutes (115,918.6 applications x 30 minutes). The total annual burden is 57,959.30 hours.

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).

a) Start-up/capital costs: There are no start-up costs. There is no obligation to own a computer to participate in the program. Anyone without computer access can request the form and appendices from DOL.

b) Annual costs: There are no annual costs involved with operation and maintenance of the forms because the Department will be responsible for the annual maintenance costs for the free downloadable forms. There is also no filing fee involved with filing a Form ETA-9089 or associated forms. The Department assumes that employers would incur preliminary costs, such as advertising, even if they were not filing applications for employment certification because they are required to make good faith efforts to recruit U.S. workers and it is assumed that advertising their job openings is a normal cost of doing business. Therefore, the Department is not including any out-of-pocket expenses as part of its burden estimates for the majority of cases. However, as indicated in the above response to A.12.5, the Department estimates that 130 employers will file an annual average of 264 applications to conduct supervised recruitment. The Department estimates that the cost of an advertisement over all types of publications and geographic locations will average \$500.00 for a total annual burden of \$132,150.

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 the Federal government associated with the ICR are \$24,357,149. This total is comprised of \$17,921,078 in OFLC federal administration costs, \$6,203,136 in state-level costs funded by Wagner-Peyser grants, and \$232,935 in USCIS case-review costs. The total annual costs to the Federal government has been revised downward from \$26,837,494 due to a decrease in OFLC federal administration costs from \$20,401,423.

Federal administrative costs include salaries and expenses for the staff who process applications for permanent employment certification; 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 contracts management. The table below provides a detailed breakdown by major cost category of OFLC’s annualized costs to administer the permanent employment certification program.

Major Cost Category	Cost Activities	Annualized Costs (estimated)
Federal Salaries & Benefits	<u>National Processing Centers</u> <ul style="list-style-type: none"> ▪ GS-12/13 staff processing applications ▪ 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 and procurement management 	\$8,597,687
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 	\$3,062,526
Technology (IT) Contracts	<ul style="list-style-type: none"> ▪ Application development services & network infrastructure support ▪ Hardware & software updates 	\$1,319,134
GSA & DHS Services	<ul style="list-style-type: none"> ▪ Rent payments for office space ▪ Security services 	\$1,018,766
DOL Working Capital Assessment	<ul style="list-style-type: none"> ▪ Indirect costs associated with DOL administrative and executive management services 	\$3,786,739
Supplies & Equipment	<ul style="list-style-type: none"> ▪ General office supplies ▪ Computers, printers, and other office related equipment 	\$41,364
Mail, Printing and Telecommunications	<ul style="list-style-type: none"> ▪ Mail services ▪ Phone and telecommunication charges 	\$24,859
Other Costs	<ul style="list-style-type: none"> ▪ Travel ▪ Training and other Government Agency Services 	\$70,003
TOTAL COSTS – OFLC FEDERAL ADMINISTRATION		\$17,921,078

The Department estimates that staff in the State Workforce Agencies (SWAs) spend one hour on average to process job orders associated with Form ETA-9089. States’ costs related to these job

orders are funded through Wagner-Peyser grants. The Department also estimates that USCIS staff spend twelve minutes (0.2 hours) on average to read and analyze the information contained in Form ETA-9089, which is attached to applications to USCIS for permanent residency. The table below summarizes the estimated state and USCIS costs associated with Form ETA-9089.

<u>Description (GS-Level/Step)</u>	<u>Applications</u>	<u>Activity</u>	<u>Hourly Rate⁹</u>	<u>Hours/App</u>	<u>Total Cost</u>
SWA Staff ¹⁰	106,165 ¹¹	Job Orders	\$33.58 x 1.74	1	\$6,203,136
USCIS (GS 12/5) ¹²	14,278	ETA-9089 Review	\$46.88 x 1.74	0.2	\$232,935

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

The estimated burden hours and associated costs have changed due to updated projections based on more recent programmatic experience and expected processing efficiencies due to technology improvements, as well as adjustments to anticipated annual application volumes and the average reporting time per application. The answer provided to A.12 provides more information regarding this burden increase.

The Department reported during the last renewal cycle that it would receive 113,304 applications per year in connection with the PERM program and that DHS would receive 1,300 Form ETA-9089 applications in lieu of the Form ETA-750B for its NIW application process, and 4,620 for Schedule A and Shepherdher applications combined.

The Department now estimates that applications will increase to 125,476.6 on average per year. For purposes of a similar comparison to the last cycle, Form ETA-9089 applications are projected to remain relatively flat at 108,832. The remaining difference in application volume, and therefore burden, corresponds to an increase in applications to DHS for Schedule A and Shepherdherders from 4,620 to 7,000, and adjustments being made to incorporate additional Form ETA-9089 applications that will be filed as a result of the planned discontinuance of Forms ETA-750A and ETA-750B (OMB Control Number 1205-0015), which will result in 86.6 additional Form ETA-9089 applications completed for professional athletes and coaches, and 9,558 additional Form ETA-9089 applications for NIW qualifications.

⁹ The hourly rate is multiplied by a factor of 1.74 to account for employee benefits and proportional operating costs.

¹⁰ *Occupational Employment and Wages, May 2019: 13-1141 Compensation, Benefits, and Job Analysis Specialists*, U.S. Department of Labor, Bureau of Labor Statistics, www.bls.gov/oes/current/oes131141.htm.

¹¹ A job order is required of every PERM application using the basic labor certification process with the exception of college and university professors. 20 CFR 656.17(e)(1)(i). Subtracting the annual average of college and university professor filings from the annual average of total filings results in 106,165 job orders (108,832 – 2,667 = 106,165).

¹² Federal rates are based on the FY 2020 General Schedule for Washington, DC. *2020 General Schedule (GS) Locality Pay Tables*, U.S. Office of Personnel Management, www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf.

The only changes to the burden, as noted regarding the table above, was a slight increase in the monetized value of response time as a result of the new hourly average compensation rate due to newly published data from the Bureau of Labor Statistics in June 2020.¹³

The edits to the form and instructions do not cause the burden increase reported by DOL. The new projections are made based on past filings, current filing trends, and the general improvement of the Department's methodology for arriving at these estimates.

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.

¹³ See Note 2, *supra*.