

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210



December 15, 2022

Dominic Mancini
Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street N.W.
Washington, DC 20503

Dear Mr. Mancini:

Pursuant to Office of Management and Budget (OMB) procedures established at 5 CFR Part 1320, Controlling Paperwork Burdens on the Public, I request that the proposed information collection, Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers under Section 204 of Division O of the Consolidated Appropriations Act, 2022, Public Law 117-103, and Section 101(6) of Division A of the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023, Public Law 117-180, Form ETA-9142B-CAA-7 (1205-NEW), be processed as an Emergency Clearance Request in accordance with section 1320.13, Emergency Processing.

I have determined that this information must be collected prior to the time periods established under Part 1320 of the Paperwork Reduction Act (PRA) and that this information is essential to the mission of the Employment and Training Administration's (ETA) Office of Foreign Labor Certification to administer the labor certification process for the H-2B program, as well as the Department of Homeland Security's (DHS) responsibilities in connection with the same program.

Specifically, ETA is requesting emergency clearance of an information collection request (ICR) that supports the Temporary Final Rule (TFR), Exercise of Time-Limited Authority to Increase the Numerical Limitation for Fiscal Year 2023 for H-2B Temporary Nonagricultural Worker Program and Portability Flexibility for H-2B Workers Seeking To Change Employers, which is being promulgated by the Department of Labor (Department) and DHS (collectively, the Departments). The regulatory requirements will be codified at 8 CFR part 214 and 20 CFR part 655. The ICR includes a new form, Form ETA-9142B-CAA-7.

ETA cannot reasonably comply with the normal clearance procedures under the PRA because the current efforts to recover, economically, from COVID-19 and to ensure there is a robust availability of workers required that DOL and DHS release an additional 64,716 slots for H-2B workers. To meet the current demand, within the statutory timeframe for such slots to be released, the rule in question will become effective upon publication in the *Federal Register* and the forms must be in place in time for employers to be able to utilize these additional workers. Without the approval of this form in a manner that foregoes prior notice and comment, public harm is likely to occur and the agencies may not be able to release any additional slots under the H-2B program in time for them to be useful in aiding our economic recovery. The Departments anticipate publication will take place on December 15, 2022. The Form ETA-9142B-CAA-7, as well as its instructions, must be made immediately available to all employers that will be seeking to benefit from the 64,716 supplemental H-2B visas that the rule announces, through the procedures

established under the soon-to-be enacted regulations and in compliance with the above-mentioned Congressional mandate.

Therefore, ETA requests a 180-day emergency clearance to establish the Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers under Section 104 of Division O of the Consolidated Appropriations Act, 2022, Public Law 117-103, and Section 101(6) of Division A of the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023, Public Law 117-180, Form ETA-9142B-CAA-7.

Please provide an approval/disapproval determination of this request to collect information under an emergency clearance by December 15, 2022.

Respectfully,

A handwritten signature in black ink, appearing to read "Brent Parton", with a large, stylized initial "B" and a long horizontal stroke extending to the right.

Brent Parton

Acting Assistant Secretary
Employment and Training Administration