

U.S. Department of Labor

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



November 15, 2023

Richard L. Revesz
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street N.W.
Washington, DC 20503

Dear Dr. Revesz:

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 303 of Division O of the Consolidated Appropriations and Ukraine Supplemental Appropriations Act, 2023, Public Law 117-328, as extended by sections 101(6) and 106 of Division A of the Continuing Appropriations Act, 2024 and Other Extensions Act, Public Law 118-15, Form ETA-9142B-CAA-8 (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 2024 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-8.

ETA cannot reasonably comply with the normal clearance procedures under the PRA and ensure a robust availability of workers upon the release by DOL and DHS of an additional 64,716 visas for H-2B workers. To meet the current demand for workers within the statutory timeframe for such visas to be released, the rule in question will need to become effective upon publication in the *Federal Register* and the forms must be in place in time for employers to be able to petition for these additional workers immediately. 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 visa under the H-2B program in time for them to be useful in aiding our continued economic recovery and to help prevent irreparable harm that is currently experienced by some U.S. employers or avoid impending economic harm for others. The Departments anticipate publication will take place no later than November 17, 2023. The Form ETA-9142B-

CAA-8, 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 303 of Division O of the Consolidated Appropriations and Ukraine Supplemental Appropriations Act, 2023, Public Law 117-328, as extended by sections 101(6) and 106 of Division A of the Continuing Appropriations Act, 2024 and Other Extensions Act, Public Law 118-15, Form ETA-9142B-CAA-8.

Please provide an approval/disapproval determination of this request to collect information under an emergency clearance by November 17, 2023.

Respectfully,

A handwritten signature in cursive script, appearing to read "Laura P. Watson".

Laura P. Watson
Deputy Assistant Secretary