

SUPPORTING STATEMENT

Criteria and Non-Criteria Agricultural Clearance Order Forms and H-2A Application for Temporary Employment Certification in States and by Employers Covered by Injunction of the Farmworker Protection Final Rule (ICR Number 1205-0562)

Introduction: *The Department of Labor (Department or DOL) requests an extension without change for this Information Collection Request (ICR), which includes Forms ETA-9142A, ETA-790, ETA-790A, and ETA-790B. This information collection request (ICR) seeks to provide a 30-day public notice following an emergency filing of a new information collection to reinstate Forms ETA-9142A, ETA-790, ETA-790A, and ETA-790B that were approved and in effect on June 27, 2024. Use of these prior forms is necessary to comply with preliminary injunctions in the following cases.*

1. **Kansas, et al. vs. U.S. Department of Labor, et al., No. 2:24-cv-00076-LGW-BWC (S.D. Ga., Aug. 26, 2024) (“Kansas”):** *The Kansas preliminary injunction specifically prohibits DOL from enforcing the Farmworker Protection Final Rule (89 FR 33898) in Georgia, Kansas, South Carolina, Arkansas, Florida, Idaho, Indiana, Iowa, Louisiana, Missouri, Montana, Nebraska, North Dakota, Oklahoma, Tennessee, Texas, and Virginia, and against Miles Berry Farm and members of the Georgia Fruit and Vegetable Growers Association as of August 26, 2024.*
2. **Barton, et al. v. U.S. Department of Labor, et al., No. 5:24-cv-249-DCR (E.D. Ky., Nov. 25, 2024) (“Barton”):** *The Barton preliminary injunction prohibits the Department from enforcing certain provisions of the Farmworker Protection Final Rule in Kentucky, Alabama, Ohio, and West Virginia, and in connection with the activities of the private plaintiffs to the proceeding, including any members of any association or entity that is a plaintiff to the proceeding as of November 25, 2024.*
3. **International Fresh Produce Association, et al. v. U.S. Department of Labor, et al., No. 1:24-cv-309-HSO-BWR (S.D. Miss., Nov. 25, 2024) (“IFPA”):** *The IFPA order stayed the effective date of certain provisions in the Farmworker Protection Final Rule nationwide until the conclusion of proceedings in the case, including any appellate proceeding.*

In light of these court orders, the Department has concluded that utilization of the forms associated with the Farmworker Protection Final Rule is infeasible in the short term. Accordingly, all SWAs and employers (or employers’ authorized attorneys or agents) will prepare and submit clearance orders and H-2A applications using the forms applicable under the versions of 20 CFR part 653, subpart F and part 655, subpart B in effect on June 27, 2024, the day before the effective date of the Farmworker Protection Final Rule, which are available through this ICR (Office of Management and Budget (OMB) Approval Number 1206-0562). That is, all states and employers will use the forms that were used before the effective date of the Farmworker Protection Final Rule.

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 Department of Homeland Security (DHS) to import temporary workers as H-2A nonimmigrants. See [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](#). OMB 1205-0562 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 part 655, subpart B, the information collected through Form ETA-9142A, *H-2A Application for Temporary Employment Certification* (H-2A Application) and Form ETA-790A, *Agricultural Clearance Order*, and all required 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 workers in the U.S. will not be adversely affected by the employment of H-2A workers. This determination is required before a petition can be filed with and 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 State Workforce Agencies (SWAs) facilitating the intrastate and interstate clearance recruitment of U.S. workers for temporary, less than year-round agricultural employment. 20 CFR part 653, subpart F. To access the ARS, the employer must prepare and submit a job order (Form

ETA-790/790A) 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.

The ARS prescribes requirements that Employment Service (ES) offices and SWAs must follow when placing intrastate and interstate clearance orders seeking U.S. workers to perform agricultural labor on a temporary, less than year-round basis. 20 CFR 653.500. It is governed by the regulations set forth at 20 CFR part 653, subpart F. ETA has promulgated regulations that require ES offices and SWAs to post agricultural clearance orders on the Form ETA-790 (or a subsequently issued form) and ensure that this form and any required attachments are complete. See 20 CFR 653.501(b)(1). The required contents of these orders are set forth in the regulations at 20 CFR 653.501(c).

Agricultural clearance orders placed in connection with H-2A *Applications for Temporary Employment Certification* are subject to both the requirements of the ARS and the requirements governing H-2A temporary labor certifications and are known as “criteria” clearance orders. By contrast, agricultural clearance orders that are *not* placed in connection with an H-2A *Application for Temporary Employment Certification* are known as “non-criteria” clearance orders. Form ETA-790B is only used by employers who submit non-criteria clearance orders requesting U.S. workers for temporary agricultural jobs. If an employer seeks to use the ARS to exclusively recruit U.S. workers to perform farmwork on a temporary, less than year-round basis (non-criteria clearance order), it must: 1) complete the Form ETA-790; 2) complete the Form ETA-790B, including its attachments; and 3) submit both forms to the SWA serving the area of intended employment.

Statutory Authority: Wagner-Peyser Act of 1933, [29 U.S.C. 49](#) *et seq.*; 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 part 653, subpart F, and 20 CFR part 655, subpart B; 29 CFR part 501

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.*

Under 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 job order (also known as a criteria clearance order, Form ETA-790/790A) for circulation through the ARS by the SWA serving the area of intended employment and the SWAs in other states, as selected by the Department to recruit for the job opportunity. These forms and all supporting documentation constitute the H-2A application.

Under the ARS, an employer seeking U.S. workers to perform agricultural labor on a temporary, less than year-round basis must file Form ETA-790 and Form ETA-790B (noncriteria clearance order) with the SWA to request access to intrastate recruitment services (recruitment assistance from all other ES offices within the state). No ES staff may place a job order seeking workers to perform farmwork into intrastate or interstate clearance unless: (1) the ES office and employer have attempted and have not been able to obtain sufficient workers within the local labor market area; or (2) the ES office anticipates

a shortage of local workers. If the SWA approves the non-criteria clearance order for intrastate recruitment but there are insufficient workers within the state, the appropriate ETA regional office reviews Forms ETA-790 and ETA-790B for interstate clearance (recruitment assistance from other ES offices in a different state or states, referred to as “supply states”). The ETA regional office instructs the SWA to send the forms to supply states for further labor recruitment (interstate). This allows the workers in those states to review the exact terms and conditions of the clearance order before making a decision to apply for the job opening. These forms are used to recruit U.S. workers for temporary positions in agriculture. If a sufficient supply of U.S. workers is not available, an agricultural employer can request to bring nonimmigrant foreign workers to the U.S. through the H-2A program to perform agricultural labor or services of a temporary or seasonal nature, using Form ETA-790A.

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

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-790/790A/790B) for placement in the ARS intrastate and interstate job clearance systems, as set forth in 20 CFR 653, subpart F. An employer filing the Form ETA-9142A must submit to the Department the Form ETA-790/790A for SWA review. *See* 20 CFR 655.121.

The Form ETA-790/790A consists of two parts. First, the form has a one-page coversheet (Form ETA-790) that is 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 completes 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 employer is required 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 collects 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 permits 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 workers, the form collects 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 are required to disclose the actual minimum qualifications or requirements of the job, including education, training, experience, and any other special requirements. This information is 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. *See* 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 also collects 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. *See* 8 U.S.C. 1188(c)(4). Finally, the employer provides 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 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 part 653, subpart F, and 20 CFR part 655, subpart B.

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 and/or other enforcement agencies during an investigation or enforcement proceedings.

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 must 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. OFLC uses 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 are disclosed to prospective workers, and (3) the employer is offering wages that will not create adverse effect on the wages of workers in the U.S. who are similarly employed.

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 and/or other enforcement agencies during an investigation or enforcement proceedings.

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*. OFLC uses 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.

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 and/or other enforcement agencies during an investigation or enforcement proceedings.

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

Addendum C alleviates space limitations on the form and supports full disclosure of material terms and conditions of employment in the job order. This addendum supports full disclosure of job opportunity information within the four corners of the Form ETA-790A and in a standardized format, as opposed to employer-created "attachments."

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 and/or other enforcement agencies during an investigation or enforcement proceedings.

Form ETA-790/790B, Agricultural Clearance Order

Employers submitting non-criteria intrastate or interstate agricultural clearance orders must complete Forms ETA-790 and ETA-790B, including attachments to ETA-790B, as applicable. Employers submitting criteria clearance orders, which are placed in connection with an H-2A Application for Temporary Employment Certification (Form ETA-9142A), must not use Form ETA-790B.

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 workers in the U.S. similarly employed.

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. This information is 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, which the SWA assigned on the Form ETA-790 and attaches the 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 and/or other enforcement agencies 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. *See* 20 CFR 655.131.

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 and/or other enforcement agencies during an investigation or enforcement proceedings.

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. A certification cannot be issued to an H-2ALC without a compliant surety bond. *Appendix B* standardizes the format of the existing collection and simplifies employer responses by including required terms and language. OFLC will use this information to ensure that the surety bond submitted is enforceable for the coverage required.

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 and/or other enforcement agencies during an investigation or enforcement proceedings.

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 workers in the U.S. 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.

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 and/or other enforcement agencies during an investigation or enforcement proceedings.

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.*

For 1205-0562, the ICR contains Form ETA-9142A, Form ETA-790, Form ETA-790A and Form ETA-790B, along with accompanying appendices and instructions. In accordance with 20 CFR 655.130(c)(1), 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 electronically, unless the filer qualifies for one of the exceptions in 20 CFR 655.130(c)(2) or 20 CFR 655.130(c)(3). Since July 2019, the electronic filing of the Form ETA-9142A, ETA-790/790A, and all supporting documentation is maintained in the Department's FLAG system at <https://flag.dol.gov/>. The FLAG 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 FLAG 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 Notice of Deficiency to request missing documentation or corrections of errors or inaccuracies.

Similarly, ETA made 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. FLAG permits 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 electronically. For employers that have recurring seasonal job opportunities, the system allows an employer to prepare multiple Form ETA-790/790As and reuse previously filed job orders, which automatically pre-populate information into a new draft Form ETA-790/790A. Similar to the preparation of the Form ETA-9142A, the "reuse" capability significantly reduces 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 and is prepared to file the H-2A application, the system will permit the employer to electronically attach 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.dol.gov/agencies/eta/foreign-labor>) and electronically fillable and fileable.

Employers submitting non-criteria clearance orders submit Forms ETA-790 and ETA-790B according to the instructions of the SWA where the employer files the clearance order (order-holding state). These forms require employer signatures, which may be completed electronically. Employers can download these forms through the internet and may submit them to the SWA through e-mail, postal mail, or in person at ES offices.

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.

For employers that use Form ETA-790B to place non-criteria clearance orders (not connected to H-2A applications), there is no duplication of information collection. However, it is possible that employers might first submit non-criteria clearance orders and, after not finding sufficient U.S. workers, may choose to file H-2A applications. In that case, they would need to complete and submit Form ETA-790 and Form ETA-790A along with their H-2A application, which would require similar information collection as they already submitted through Form ETA-790B. The Department's current processes under the FLAG system make this necessary. While SWAs do not specifically report to the Department the number of employers that place noncriteria clearance orders and later file criteria clearance orders attached to H-2A applications, the Department believes this has not occurred in the last program year.

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 use the ARS to recruit U.S. workers and 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 to use the ARS and seeking temporary labor certification to make the necessary attestations and provide the required information. 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 and conduct themselves within the agricultural recruitment system. Additionally, 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.

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 (*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 in this manner. 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 workers in the U.S. 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.

Federal regulations at 20 CFR 653.501(b) require the ETA Form 790 “(or its subsequently issued form), and its attachments” (in this case, Forms ETA-790A or ETA-790B) to be used when an employer requests assistance from the ES office in recruiting temporary agricultural workers outside of the local area. The data collected in this collection must be collected each time an employer places a clearance order to ensure the employer and SWA meet requirements for clearance order processing at 20 CFR 653, Subpart F. If the collection were not completed, employers could not place clearance orders and SWAs would not meet the basic requirements of the Wagner-Peyser Act labor exchange.

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. *See* 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. Additionally, under 2 CFR 200.334, SWAs must maintain all Federal award records for three years from the date of submission of their final financial reports.

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.

Pursuant to OMB procedures established at 5 CFR Part 1320, Controlling Paperwork Burdens on the Public, this IC was processed as an Emergency Clearance Request in accordance with section 1320.13, Emergency Processing requesting a 6-month approval. *See* 89 FR 73725, dated September 11, 2024.

Within the 6-month period following emergency approval, the Department sought public comment on the information collection package as provided under 5 CFR part 1320 and the Paperwork Reduction Act and provided 60-days in which the public may respond. *See* 89 FR 99908, dated December 11, 2024. The Department received no comments addressing this ICR. The Department now seeks public comment on the information collection package as provided under 5 CFR part 1320 and the Paperwork Reduction Act by providing 30-days in which the public may respond with comments.

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.

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 Department 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 which could 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 H-2A data and information under this OMB 1205-0562, is only 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 programs from which the public may voluntarily choose to benefit.

There is no assurance of confidentiality of the information collected through Form ETA-790B. The information is submitted by the employers with the knowledge that it is to be disseminated to the general public in order to recruit workers through SWA public labor exchange systems.

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 1205-0562 do not involve sensitive matters.

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

I. Burden Related to Non-Criteria (not H-2A related) Clearance Orders

For employers filing non-criteria clearance orders, the Department is including the burden to the public for the completion of Form ETA-790 and 790B, including its attachments, in this ICR. In program year 2023, SWAs reported that they processed 1,931 intrastate and interstate non-criteria clearance orders. The chart below provides detailed information regarding the burden to complete and process the Form ETA-790 and the 790B.

For the employers completing both forms and attachments, the combined burden is estimated to be 120 minutes for Forms ETA-790 and 790B.

- ETA-790: 1,931 multiplied by .33 hours = 637.23 hours
- ETA-790B and attachments: 1,931 multiplied by 1.67 hours = 3,224.77 hours
- The total burden hours for both forms = 3,862 hours
- The annual hours of 3,862 multiplied by the fully loaded hourly rate of \$64.03 = \$247,283.86 total annual burden cost.

The cost estimate above is based on the Bureau of Labor Statistics data provided in the Occupational Employment Statistics (OES) at www.bls.gov. In calculating the cost of completing and processing of the forms, ETA used the median hourly wage of \$40.27 per hour for [Farmers, Ranchers, and Other Agricultural Managers](#). For private sector occupations, the fringe benefit is calculated at 42% and overhead is calculated at 17% (combined total of 59%). The fully loaded hourly rate is, therefore \$64.03. The total burden cost is calculated in the table below.

For the SWA officials reviewing and processing both forms, the burden is estimated to be 90 minutes for Forms 790 and 790B:

- Reviewing the ETA-790 and 790B, including attachments: 1,931 multiplied by 78 minutes = 150,618 minutes divided by 60 = 2510.30 hours
- Processing and record keeping of ETA-790 and 790B, including attachments: 1,931 multiplied by 12 minutes = 23,172 divided by 60 = 386.20 hours
- The total burden hours for the SWA review and processing of these two forms = 2,896.5 hours
- The annual hours of 2,896.5 multiplied by the hourly rate of \$53.11 = \$153,833.11 total annual burden cost.

The Department used the median hourly wage of \$29.67 for educational, guidance, and career counselors and advisors [Educational, Guidance, and Career Counselors and Advisors](#) employed by State governments. For public sector occupations, fringe benefits are calculated at 62% and 17% for overhead (combined total of 79%). The fully loaded hourly rate is therefore \$53.11.

Table I: Burden Related to Non-Criteria (not H-2A related) Clearance Orders							
Activity	Number of Respondents	Number of Responses per Respondent	Total Number of Responses	Time Per Response (in hours)	Total Burden Hours	Hourly Wage Rate*	Total Cost Burden
ETA Form 790 Employer	1,931	1	1,931	.33	637.23	\$64.03	\$40,801.84
ETA Form 790B, Including Attachments, Employer	1,931	1	1,931	1.67	3,224.77	\$64.03	\$206,482.02
ETA Form 790 SWA Employee Processing	1,931	1	1,931	.4	772.4	\$53.11	\$41,022.16
ETA Form 790 SWA Employee Record Keeping	1,931	1	1,931	.1	193.1	\$53.11	\$10,255.54
ETA Form 790B, Including Attachments, SWA Employee Processing	1,931	1	1,931	.9	1,737.9	\$53.11	\$92,299.87
ETA Form 790B, Including Attachments, SWA Employee Record Keeping	1,931	1	1,931	.1	193.1	\$53.11	\$10,255.54
Unduplicated Totals	11,586	1	11,586	varies	6,758.5	varies	\$401,116.97

II. Burden Related to OMB number 1205-0562 under the H-2A Program

A. Collection of Information from Employers

The Department is adjusting the hourly burden estimates for this information collection due to its updated reporting estimates for the estimated limited number of respondents and the time burden hours associated with collection tools covered under OMB 1205-0562.

Based on recent program experience, the Department estimates it will receive, on average, a total of 16,567 Form ETA-9142A submissions and 16,567 Form ETA-790/790A submissions from participants of the H-2A program.¹ 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 Tables below** for a detailed breakdown of time reporting burden estimates for the participants under the H-2A program.

Information Collection Activity	Number of Respondents	Number of Responses per Respondent	Total Annual Responses	Average Burden in hours (minutes)	Total Annual Burden (in hours)	Hourly Rate (Mean Wage)	Total Burden Cost (in dollars)
A. Agents and recruiters							
A1. Proof of Agent Relationship	314	19	5,966	0.25	1,491.50	\$49.71	\$74,142.47
A.2 Agent MSPA Registration	76	1	76	0.083	6.31	\$49.71	\$313.57
A.3 Inform of Fee Prohibitions	9,627	1	9,627	0.083	799.04	\$49.71	\$39,720.33
Unduplicated Totals	10,017		15,669		2,296.85		\$114,176.36
B. H-2A Agricultural Clearance Order							
B.1 Determining Offered Wage	16,567	1	16,567	0.033	546.71	\$49.71	\$27,177.00
B.2 Form ETA-790/790A	16,567	1	16,567	0.67	11,099.89	\$49.71	\$551,775.53
Unduplicated Totals	33,134		33,134		11,646.60		\$578,952.54
C. H-2A Application for Temporary Employment Certification							
C.1 Form ETA-9142A	16,567	1	16,567	0.55	9,111.85	\$49.71	\$452,950.06
C.2 H-2ALC Filing Requirements	2,203	1	2,203	1.33	2,929.99	\$49.71	\$145,649.80
C.3 Waiver for Emergency Situations	1,255	1	1,255	0.5	627.50	\$49.71	\$31,193.03
C.4 Modify Application/Job Order	5,196	1	5,196	0.25	1,299.00	\$49.71	\$64,573.29

¹ The numerical estimation of 16,567 is derived from the average submissions of all H-2A applications filed under this ICR from three previous full fiscal years. The Department estimates that 16,567 H-2A respondents will submit, on average, 507,625 responses under ICR 1205-0562.

Criteria and Non-Criteria Agricultural Clearance Order Forms and H-2A Application for Temporary Employment Certification in States and by Employers Covered by Injunction of the Farmworker Protection Final Rule
 OMB Control No. 1205-0562
 Expiration: 02/28/2025

C.5 Amend Application/Job Order	2,480	1	2,480	0.5	1,240.00	\$49.71	\$61,640.40
C.6 Herder Variance Request	5	1	5	0.5	2.50	\$49.71	\$124.28
Unduplicated Totals	27,706		27,706		15,210.84		\$756,130.86
D. Recruitment of U.S. Workers							
D.3 Surveys	223	1	223	1	223.00	\$49.71	\$11,085.33
D.4 Recruitment Report	16,567	1	16,567	1	16,567.00	\$49.71	\$823,545.57
Unduplicated Totals	16,567		16,567		16,567		\$823,545.57
E. Worker Guarantees & Rights							
E.1.a Provider Workers With Job Order	16,567	20	331,340	0.083	27,501.22	\$49.71	\$ 1,367,085.65
E.1.b Translate Application/Job Order	16,567	1	16,567	1	16,567.00	\$49.71	\$ 823,545.57
E.3 Notice to Leave United States	16,567	1	16,567	0.033	546.71	\$49.71	\$ 27,177.00
E.4 Petition for Higher Meal Charges	30	1	30	1	30.00	\$49.71	\$ 1,491.30
E.5 Substitute Housing for Workers	48	1	48	0.33	15.84	\$49.71	\$ 787.41
E.6 Workers' Compensation Coverage	16,567	1	16,567	0.17	2,816.39	\$49.71	\$ 140,002.75
E.7 Compliant Withholding Workers	1	1	1	0.5	0.50	\$49.71	\$ 24.86
Unduplicated Totals	66,347		381,120		47,477.66		\$ 2,360,114.53
F. Retention Requirements							
F.1 Retention of Documents	16,567	1	16,567.00	0.17	2,816.39	\$49.71	\$ 140,002.75
Unduplicated Totals	16,567		16,567.00		2,816.39		\$ 140,002.75
G. Post-adjudication requirements							
G.1 Abandonment/Termination Notice	15,892	1	15,892	0.17	2,701.64	\$49.71	\$ 134,298.52
G.2 Redetermination Request	38	1	38	0.5	19.00	\$49.71	\$ 944.49
G.3 Extend Period of Certified Work	332	1	332	0.5	166.00	\$49.71	\$ 8,251.86
G.4 Administrative Appeals	102	1	102	0.33	33.66	\$49.71	\$ 1,673.24
G.5 Withdrawal Request	288	1	288	0.17	48.96	\$49.71	\$ 2,433.80
G.6 H-2A Worker Departure Notice	145	1	145	0.033	4.79	\$49.71	\$ 237.86
Unduplicated Totals			16,797		2,974	\$49.71	\$ 147,839.78

	16,797						
H. Integrity measures							
H.2 Audit-imposed Special Procedures	65	1	65	1	65.00	\$49.71	\$ 3,231.15
Unduplicated Totals	65		65		65		\$ 3,231.15
Grand Totals	187,200.00		507,625.00		99,054.39		\$ 4,923,993.53

**The column representing the number of respondents and number of responses that complete the collection of information steps described in this table cannot be added up as not all employers or agents complete each one of the steps described. The Department estimates for users of the H-2A program, that on a yearly average, 16,567 respondents will provide on average 507,625 responses in connection with this information collection.*

Total Hourly Cost Estimates

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 these activities will be performed by standard Occupational Classification (SOC) Code 13-1071, Human Resources Specialist, rather than SOC Code 11-3121, Human Resources Manager. Previous estimates were based on Human Resource Managers performing the activities, however, the Department’s OFLC has reevaluated the occupation level most likely to complete H-2A applications and concluded those activities are a better with a human resources specialist. It has updated its burden calculations accordingly. To calculate the full cost to the employer, the Department combines the mean hourly wage of human resource specialists with the benefits and other compensation received by such employees. As the difference in the mean hourly wages between the two occupations is significant, the change in the hourly rate between the two occupations has resulted in a significant decrease in total burden costs as compared to previous years, despite the hourly program burdens increasing over the years, as it is affected by the volume of program applications.

Accordingly, for this PRA package, as explained above, the hourly rate changed from \$84.89 in the previous Supporting Statement for Human Resources Directors to the new rate of \$49.71 for Human Resources Specialists. In addition, ETA is also standardizing the applicable benefits factor that applies for its information collections. The benefits factor is determined by dividing the most recent BLS Employer Costs for Employee Compensation (ECEC) by the wages and salary costs for a worker population. BLS provides three ECEC rates based on the worker population: (1) civilian workers; (2) private sector workers; and (3) state and local (*i.e.*, certain public sector) workers. OFLC has determined that the private sector worker ECEC is correct, as the burdens listed in A.12 being performed by Human Resources Specialists, which is an occupation almost exclusively performed by employers in the private sector. Accordingly, for this PRA package, as explained above, the hourly rate changed from \$84.89 in the previous Supporting Statement for Human Resources Managers to the new rate of \$49.71 for Human Resources Specialists. The Department estimates the total cost by multiplying the

compensation for a Human Resources specialist by the total time to complete and retain the forms and supporting documentation in the amount of 63,287.44 hours.²

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

Based on recent program experience, the Department estimates it will receive, on average, approximately 210 surveys annually from SWAs.³ 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.

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

Total Burden Hours	249,900
Total Responses	210
Total Respondents	23

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 completion of prevailing wage surveys. The average hourly wage for Compensation, Benefits, and Job Analysis Specialists, who the Department believes are likely to perform these functions, is \$34.91.⁴ Including benefits averaging 42 percent of total employee compensation, the estimated average hourly compensation for a Compensation, Benefits, and Job Analysis Specialist is \$49.57 (\$34.91 x 1.42).⁵ At an estimated 1,190 total hours to complete and validate survey information, the total estimated annual cost of these activities is \$17,697.30.

III. Total Annual Burden

Table III: Total Annual Burden							
Activity	Number of Respondents	Number of Responses per Respondent	Total Number of Responses	Time Per Response (in hours)	Total Burden Hours	Hourly Wage Rate*	Total Cost Burden
Burden Related to	11,586	1	11,586	varies	6,758.5	varies	\$401,116.97

² Total estimate number is not rounded.

³ This estimate is the average number of surveys conducted. In FY 2022, states conducted 34 surveys; in FY 2023; states conducted 40 surveys, and in FY 2024, states conducted 136 surveys under the H-2A program. For purposes of this IC, the Department estimates that it will receive on average 210 surveys from states. At an estimated 1,190 total hours to complete, a survey, the Department estimates that the total burden hours are 184,450 (210 surveys X 1,190 hours = 249,900) total burden hours.

⁴ *Occupational Employment and Wages, May 2022: 11-3121, Compensation, Benefits, and Job Analysis Specialists*, DOL, BLS, www.bls.gov/oes/current/oes131141.htm.

⁵ *Employer Costs for Employee Compensation – June 2022*, U.S. Department of Labor, Bureau of Labor Statistics, https://www.bls.gov/news.release/archives/ecec_09162021.htm.

Non-Criteria (not H-2A related) Clearance Orders							
Burden Related to OMB number 1205-0562 under the H-2A Program	16,567	1	507,625	Varies	99,054.39	49.71	\$4,923,993.53
Unduplicated Totals	28,153	1	519,211	varies	105,812.89	varies	\$5,327,110.70

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 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.
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.

There is no other annual cost burden to respondents or recordkeepers resulting from this collection of information related to Form ETA-790B.

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 to \$26,432,198. This total is comprised of \$10,206,598 in federal administration costs and \$16,225,600 in state-level costs funded by federal grants.

Federal administrative costs include 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 \$10,206,598. 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 the H-2A program, there are 54 SWA respondents, including the 50 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.⁶ Funding for these grants is provided through annual appropriations. The estimated annual cost for the H-2A portion of these activities is \$16,225,600. 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; providing assistance to employers in the effective recruitment of U.S. workers; conducting safety inspections of employer-provided housing for H-2A agricultural workers; and performing prevailing practice and wage surveys used to set the wages and working standards for a number of occupations within the state.

There are no costs to the Federal Government for the Forms ETA-790 and ETA-790B, when used for non-criteria clearance orders.

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. At the time of the last approval on September 12, 2024, only the *Kansas* preliminary injunction was effective and for that reason the Department only included estimates for the 17 states identified in the *Kansas* order. Since that time, the *Barton* preliminary injunction and the *IFPA* order were issued. As discussed above, all SWAs and employers (or employers' authorized attorneys or agents) have been directed to prepare and submit clearance orders and H-2A applications using the forms applicable under the version of 20 CFR part 653, subpart F and part 655, subpart B in effect on June 27, 2024, the day before the effective date of the Farmworker Protection Rule, which are available through this ICR (Office of Management and Budget (OMB) Approval Number 1206-0562). Therefore, this notice includes burden estimates for all SWAs and employers using forms identified in this ICR.

While this notice identifies increased estimated burden compared to the prior approval, the overall burden to SWAs and employers for processing clearance orders and H-2A applications is not materially increasing because of these changes.

The chart below shows the changes in burden requested under this ICR, by showing the burden last approved by OMB in connection with Emergency Filing OMB 1205-0562 as of September 12, 2024, for which approval is sought through this IC. All estimates have been rounded up to the nearest dollar.

Burden Worksheet Changes Compared to Prior Approval

⁶ These respondents receive funding under the Wagner-Peyser Act. The Commonwealth of the Northern Mariana Islands is not covered by the Act.

Table: Burden Changes for Non-Criteria Clearance Order Information Collection

	Estimates Under Emergency Filing OMB 1205-0562 (As of 9/12/2024)	New Burden Estimates (As reported in this IC)	Change In Burden Estimate
Annual Responses	1,062	11,586	+10,524
Burden Hours	619.5	6,758.5	+6,139
Cost of Time	\$34,241.54	\$401,116.97	+\$366,875.43

Table: Burden Changes for Criteria Clearance Order and H-2A Information Collection

	Estimates Under Emergency Filing OMB 1205-0562 (As of 9/12/2024)	New Burden Estimates (As reported in this IC)	Change In Burden Estimate
Annual Responses	140,410	141,472	+1,062
Burden Hours	13,321.83	63,906.94	+50,585
Cost of Time	\$2,431,010	\$3,180,260.23	+\$749,250

There has been an increase of total burden hours. The reason why the estimated numbers of annual responses, burden hours, and monetized cost of respondent time associated with this ICR increased from the previously approved burden is due to the fact that the Department had more time to calculate program usage by all program users when drafting this supporting statement than it did when drafting the supporting statement for the emergency PRA package. In the emergency estimate, the Department calculated burden by assigned burden based on a calculation of what percentage of the states and territories the 17 *Kansas* plaintiffs make up and assigned that percentage of total H-2A burden to those states. The Department has now been able to calculate the percentage of applications submitted with worksites in the 17 states that are *Kansas* plaintiffs. Over the last three full fiscal year (2022, 2023, and 2024), the Department determined that 52% of all H-2A applications filed were for worksites in the 17 states that are *Kansas* plaintiffs. The Department has updated its burden estimates for this supporting statement accordingly.

There are no program changes or adjustments related to Form ETA-790B.

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.