JUSTIFICATION FOR
NON-SUBSTANTIVE CHANGE FOR OMB CONTROL NO. 1205-0451

FORM ETA-9089, *APPLICATION FOR PERMANENT EMPLOYMENT CERTIFICATION*,
FORM ETA-9089, *GENERAL INSTRUCTIONS, and*
FORM ETA-9089, APPENDIX A: *FOREIGN WORKER INFORMATIO*N

The Department Labor's (Department or DOL) Employment and Training Administration (ETA) seeks approval for non-substantive changes of this Information Collection Request (ICR) under the Paperwork Reduction Act (PRA) for revisions to the Permanent Employment Certification Program (PERM) information collection. These changes are not expected to impact respondent burden.

The following non-substantive change requests seek to clarify content within the already approved information collection to certain sections of the application, instructions, and appendices that are indicated below. As stated above, these changes are not expected to impact respondent burden.

Form ETA-9089, *Application for Permanent Employment Certification; General Instructions*

Non-Substantive Issue 1:

General Instructions for Form ETA-9089, *Application for Permanent Employment Certification*, Section A.13: Employer Information: In the instructions both on paper and in the Foreign Labor Application Gateway (FLAG) system in which the application has been incorporated into for stakeholders to file labor certification applications, it is noted that the web address for the North American Industry Classification System (NAICS) code changed while the PRA package was in the clearance process with the Office of Management and Budget (OMB). The website should be corrected and reflected as such https://www.census.gov/naics/.

The instructions are **currently** written as: "Enter the four-digit North American Industry Classification System (NAICS) code that best describes the employer's business, not the PERM job opportunity. A listing of NAICS codes can be found at www.census.gov/eos/www/naics/."

The instructions should be **changed** to be written as: "Enter the four-digit North American Industry Classification System (NAICS) code that best describes the employer's business, not the PERM job opportunity. A listing of NAICS codes can be found at https://www.census.gov/naics."

Non-Substantive Issue 2:

General Instructions for Form ETA-9089, *Application for Permanent Employment Certification*, Section H.d. Recruitment Information: The title in the application's instructions for this section **currently** read "Additional Recruitment for Professional Occupations".

The title for this subsection in the application's instructions **should be corrected** to read "Additional Recruitment Requirements for Professional Occupations" to align correctly with the application.

Non-Substantive Issue 3:

General Instructions for Form ETA-9089, Appendix A: ***Foreign Worker Information*, Section B.a.1e; Educational Attainment Information**: The text within the appendix instructions **currently** read, "Enter the **year** the foreign worker received the diploma or degree identified in question 1. Use a full year (MM/YYYY) format. If no relevant diploma or degree, leave blank.

The appendix instructions for this section in the instructions, to align correctly with the form, **should read** "Enter the month and year the foreign worker received the diploma or degree identified in question 1. Use a full year (MM/YYYY) format. If no relevant diploma or degree, leave blank."

Non-Substantive Issue 4:

Instructions for Form ETA-9089, Appendix D: *Special Recruitment for College and University Teachers*: Employers are required to complete Appendix D when option 1c under question H.b is selected on the Form ETA-9089. Specifically, this Appendix collects information only if recruitment for the employer's job opportunity is for a college or university teacher and the candidate was selected using the special recruitment process in accordance with 20 CFR 656.18.

The text in the appendix instructions **currently** reads for both questions **#3a** and **#4a**, "Enter the date on which the advertisement referenced in question **2** was started. Use a MM/DD/YYYY format. If not applicable, leave blank.

Therefore, the instructions for **#3a** for this section **should be revised** to read "Enter the date on which the advertisement referenced in question 3 was started…" instead of referenced in question 2 as currently read. The same applies to the instructions for question **#4a**, the instructions should read "Enter the date on which the advertisement referenced in question 4 was started…" instead of referenced in question 2 as currently read. This revision will align correctly with the form.

Form ETA-9089: *Application for Permanent Employment Certification*

Non-Substantive Issue 5:

Form ETA-9089, Application, Section F.a.1: Area of Intended Employment Information-Worksite Information: The information on the application is **currently** written as, "Note: If submitting this application non-electronically and "No one specific worksite address or physical location" is marked in question 1, enter "N/A" or "0" (zero), as appropriate, in questions 2-7, complete questions 8 and 8a, and continue to Section F.b.

The *Note section* on the application should **correctly** read as: If submitting this application non-electronically and "no one specific worksite address or physical location" is marked in question 1, enter "N/A or "0" (zero), as appropriate, in questions 2-7, mark questions 8 and 8a, and continue to Section F.b. to align correctly with the instructions.

Non-Substantive Issue 6:

Form ETA-9089, Application, Section G: Additional Job Opportunity Information and Other Requirements

Question **5**: The application's **current** language reads as "Is the employer relying solely on the experience the foreign worker while working for the employer, including as a contract employee to qualify him/her for the job opportunity covered by this application by marking "yes" or "no".

The word gained on the application **should be added** to the question to read "Is the employer relying solely on the experience the foreign worker gained while working for the employer, including as a contract employee to qualify him/her for the job opportunity covered by this application by marking "yes" or "no".

This addition will align with the language that was a part of the expired application; in addition to aligning with the language outlined in the instructions. The inclusion of this word also aligns with previously approved information collections relating to this labor certification application.

Non-Substantive Issue 7:

Form ETA-9089, Application, Section H.c.2: Recruitment Information: Professional/Non-Professional Recruitment Information: The instruction on the application **currently** reads, "Is there is a Sunday edition of the newspaper in the area of intended employment by marking "yes" "no" or **"n/a"**.

The option of "N/A" **should be removed** from the application to align with the general instructions as this is a mandatory section for stakeholders in accordance with 20 CFR 656.17(e)(2)(ii).

Form ETA-9089, Appendix A: ***Foreign Worker Information***

Non-Substantive Issue 8:

Form ETA-9089, Appendix A, Section D: ***Foreign Worker Training Qualifications*****:** The heading for this subsection on the appendix **currently** read Foreign Worker Training Qualifications.

The heading for this subsection on the appendix **should read** Foreign Worker Skills, Abilities and Proficiencies to align correctly with the instructions.

The following minor changes seeks to clarify the importance for stakeholders to properly identify additional exceptions and eliminate burdens or barriers that employers might encounter while filing a labor certification application. As stated above these changes are not expected to impact respondent burden.