



BILLING CODE: 4510-FP-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Form ETA-9142-B-CAA-2, Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers Under Section 205 of Division M of the Consolidated Appropriations Act, 2018 Public Law 115-141

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL or Department) is submitting the Employment and Training Administration (ETA) sponsored Information Collection Request (ICR), titled, “Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers Under Section 205 of Division M of the Consolidated Appropriations Act, 2018 Public Law 115-141 (March 23, 2018),” to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments it receives on or before [INSERT DATE 30 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free of charge from the RegInfo.gov web site at:

http://www.reginfo.gov/public/do/PRAViewICR?ref_201811-1205-003 (this link will only become active on the day following publication of this notice); by contacting Michel

Smyth at 202-693-4129/TTY 202-693-8064 (these are not toll-free numbers); or by sending an email to: DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-ETA, Office of Management and Budget, Room 10235, 725 17th Street, N.W., Washington, DC 20503; by Fax: 202-395-6881 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov.

Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue, N.W., Washington, D.C. 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202-693-4129/TTY 202-693-8064 (these are not toll-free numbers) or by sending an email to: DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers Under Section 205 of Division M of the Consolidated Appropriations Act, 2018 Public Law 115-141 (March 23, 2018) information collection. On March 23, 2018, the President signed the Consolidated Appropriations Act, 2018. Division M, Section 205 of the Act authorized the Secretary of Homeland Security, in consultation with the Secretary of Labor, to increase the number of H-2B visas available to U.S. employers, notwithstanding the otherwise established statutory numerical limitation. This collection of information was required by the regulations that went into effect on May 31, 2018,

implementing Section 205. The Secretary of Homeland Security increased the H-2B cap for Fiscal Year 2018 by up to 15,000 additional visas for American businesses that were likely to suffer irreparable harm (that is, permanent and severe financial loss) without the ability to employ before the end of FY 2018 the H-2B workers requested on their petition.

The exigency created by the Consolidated Appropriations Act to meet the high demand by American businesses for H-2B workers, and the short period of time remaining in the fiscal year for U.S. employers to avoid the economic harm this legislation was intended to prevent, required initial clearance of this information collection using expedited processes. As a result, initial clearance for this information collection was sought using Paperwork Reduction Act emergency procedures outlined in regulations at 5 CFR 1320.13, and the Department received a six-month approval. Subsequently, the Department has sought public comment to revise this information collection through the notice and comment process. Specifically, the Department proposes: to revise this collection to eliminate the now expired provisions for completing and submitting Form ETA-9142-B-CAA-2, *Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers Under Section 205 of Division M of the Consolidated Appropriations Act, 2018 Public Law 115-141* (March 23, 2018). In accordance with the applicable regulations, the ICR would continue to require employers to retain the required supporting documentation for three years from the date the certification was issued.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA

and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. The Department obtains OMB approval for this information collection under Control Number 1205-0531. The current approval is scheduled to expire on November 30, 2018; however, the DOL notes that remaining information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the *Federal Register* on August 30, 2018, 83 FR 44305.

- Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs, at the address shown in the ADDRESSES section within thirty (30) days of the publication of this notice in the *Federal Register*. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205-0531. The OMB is particularly interested in comments that
 - Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
 - Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
 - Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL-ETA.

Title of the Collection: Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers Under Section 205 of Division M of the Consolidated Appropriations Act, 2018 Public Law 115-141 (March 23, 2018).

OMB Control Number: 1205-0531.

Affected Public: Private Sector (businesses or other for-profits and not-for-profit institutions) and State, Local, and Tribal Governments.

Total Estimated Annual Respondents: 5,177.

Total Estimated Annual Responses: 5,177.

Total Estimated Average Time per Response: 1 hour.

Total Estimated Annual Time Burden: 5,177 hours.

Total Estimated Annual Other Cost Burden: \$0.

AUTHORITY: 44 U.S.C. 3507(a)(1)(D).

DATED: November 26, 2018.

Michel Smyth

Departmental Clearance Officer

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