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DEPARTMENT OF LABOR

Employment And Training Administration

Agency Information Collection Activities; Comment Request; Extension Package for Labor Condition Application for H-1B, H-1B1, and E-3 Nonimmigrant Workers and Nonimmigrant Worker Information Form

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice; request for comments.

SUMMARY: The Department of Labor’s (DOL) Employment and Training Administration (ETA) is soliciting comments concerning the proposed extension of the information collection request (ICR) for the “Labor Condition Application for Nonimmigrant Workers” and “Nonimmigrant Worker Information Form”; and related information collection and retention requirements (OMB Control Number 1205-0310), which covers Form ETA-9035, Form ETA-9035E (electronic), Form ETA-9035 & 9035E, Appendix A, Form ETA-9035CP, General Instructions for the 9035 & 9035E, and Form WH-4. This action seeks an extension of the forms without changes. This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by [INSERT DATE 60 DAYS AFTER DATE OF 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 for free by contacting Brian Pasternak, Administrator, Office of Foreign Labor Certification, by telephone at 202-693-8200 (this is not a toll-free number), TTY 1-877-889-5627 (this is not a toll-free number), or by email at

ETA.OFLC.Forms@dol.gov.

Instructions: Submit written comments about, or requests for a copy of, this ICR by email at ETA.OFLC.Forms@dol.gov. To ensure proper consideration, include the OMB control number 1205-0310.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, by telephone at 202-693-8200 (this is not a toll-free number) or by email at ETA.OFLC.Forms@dol.gov.

SUPPLEMENTARY INFORMATION: DOL, in its continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program ensures the public provides all necessary data in the desired format, the reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

This information collection is required under sections 212(n) and (t) and 214(c) of the Immigration and Nationality Act (INA). *See* 8 U.S.C. 1182(n) and (t), and 1184(c). DOL and the Department of Homeland Security have promulgated regulations to implement the INA's requirements at 20 CFR part 655, subparts H and I, and 8 CFR 214.2(h)(4), respectively. The INA mandates that no H-1B, H-1B1 or E-3 temporary nonimmigrant worker may enter the United States (U.S.) to perform work in a specialty occupation or as a fashion model of distinguished merit and ability unless the U.S. employer makes certain attestations to the Secretary of Labor (Secretary). The employer must attest that the working conditions for the nonimmigrant worker will not adversely affect the working conditions of workers similarly employed; that it will offer a wage that is at least the higher of the prevailing wage for the occupational classification in the area

of employment or the actual wage paid to all other individuals with similar experience and qualifications for the specific employment in question; that there is no strike or lockout in the course of a labor dispute in the occupational classification at the place of employment; and that it has provided notice of the filing of the LCA. *See* 20 CFR 655.731, 655.732, 655.733, and 655.734. In addition, further attestations are generally required for H-1B dependent employers and willful violators. *See* 20 CFR 655.736, 655.738, and 655.739. The current ICR expires December 31, 2024. DOL seeks to extend, without changes, the validity of Forms ETA-9035, ETA-9035E, ETA-9035 & 9035E, Appendix A, ETA-9035CP, General Instructions, and WH-4.

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 OMB, under the PRA, approves it and the collection tool 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.

Interested parties are encouraged to provide comments regarding this ICR to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. To help ensure appropriate consideration, comments should mention OMB control number 1205-0310.

Submitted comments will also be a matter of public record for this ICR and posted on the Internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL 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.

Type of Review: Extension Without Changes.

Title of Collection: Labor Condition Application for H-1B, H-1B1, and E-3 Non-immigrants; and Nonimmigrant Worker Information Form.

Forms: ETA-9035, ETA-9035E, ETA-9035 & 9035E, Appendix A, ETA-9035CP, and WH-4

OMB Control Number: 1205-0310.

Affected Public: Private Sector: Business or other for-profits and not-for-profit institutions; State, Local, and Tribal Governments; Individuals or Households.

Total Estimated Number of Annual Respondents: 138,314.

Annual Frequency: On Occasion.

Total Estimated Number of Annual Responses: 645,353.

Estimated Time per Response: Varies by form.

Total Estimated Annual Burden Hours: 843,989 hours.

Total Estimated Annual Other Costs: \$41,140.

Authority: 44 U.S.C. 3506(c)(2)(A).

José Javier Rodríguez,

Assistant Secretary for Employment and Training, Labor.

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