



DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment request; Revision of H-2A

Temporary Agricultural Labor Certification Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice; request for comments.

SUMMARY: On July 2, 2025, the Department of Labor's (Department or DOL) Employment and Training Administration (ETA) and Wage and Hour Division issued a notice of proposed rulemaking (NPRM or proposed rule), "Recission of Final Rule: Improving Protections for Workers in Temporary Agricultural Employment in the United States," proposing to rescind provisions contained within the final rule published by the Department on April 29, 2024. The Department is notifying the public about its proposed revisions to the information collection request (ICR) covered under *H-2A Temporary Agricultural Labor Certification Program* (Office of Management and Budget (OMB) Control Number 1205-0466) based on the changes proposed through the NPRM. The Department is seeking comments regarding its proposal to replace the existing information collection tools (e.g. forms and instructions) covered under OMB Control Number 1205-0466 with those that were required to implement the final rule "Temporary Agricultural Employment of H-2A Nonimmigrants in the United States" published on October 12, 2022 ("2022 Final Rule"), and which were covered under the same OMB Control Number, 1205-0466, while maintaining some changes put in place by the final rule published on April 29, 2024. 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 THE 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 1205-0466.

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, as part of 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 helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The information collection is required by secs. 101(a)(15)(H)(ii)(a), 214(c), and 218 of the Immigration and Nationality Act (INA) (8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188), as well as 8 CFR 214.2(h)(5) and 20 CFR part 655, subpart B, and 20

CFR part 653, subpart F, and 29 CFR part 501. The H-2A visa program enables employers to bring nonimmigrant foreign workers to the United States to perform agricultural work of a seasonal or temporary nature as defined in 8 U.S.C.

1101(a)(15)(H)(ii)(a). Before an employer can file a petition with the Department of Homeland Security (DHS) to import temporary workers as H-2A nonimmigrants, the INA and DHS regulations require an employer to first obtain a determination from DOL certifying whether a qualified U.S. worker is available to fill the job opportunity described in the employer's petition for a temporary agricultural worker and whether a foreign worker's employment in the job opportunity will adversely affect the wages or working conditions of similarly employed workers in the U.S. 8 U.S.C. 1188, INA sec. 218; 8 CFR 214.2(h)(5)(i), (ii), and (iv)(B). DOL's regulations establish the processes by which an employer must obtain a temporary labor certification from DOL and the rights and obligations of workers and employers. 20 CFR part 655, subpart B; 29 CFR part 501.

This ICR, OMB Control Number 1205-0466, includes the collection of information related to the temporary labor certification process connected to the H-2A program and covers Forms ETA-9142A, Application for H-2A Temporary Employment Certification; ETA-9142A, Appendix A, Assurances and Obligations; ETA-9142A, Final Determination: H-2A Temporary Labor Certification Approval; ETA-790, Agricultural Clearance Order; ETA-790A, H-2A Agricultural Clearance Order; ETA-790/790A, Addendum A, Additional Crops or Agricultural Activities; ETA-790/790A, Addendum B, Additional Worksite and/or Housing Information; and related form instructions. ETA is seeking a revision of OMB Control Number 1205-0466 to replace the information collection covered by it, with the forms, instructions and information collection tools that were covered by this OMB Control Number and implemented on June 13, 2023, as a

result of the publication of the 2022 Final Rule.¹ The only information collection tool that was part of that approved ICR package that will require revision is Form ETA-790A, H-2A Agricultural Clearance Order. Since the NPRM proposes to retain some regulatory provisions, the Department seeks to retain some of the assurances in Form ETA-790A, H-2A Agricultural Clearance Order approved by OMB on July 11, 2024. The Department wants to ensure that these assurances remain in place. The Department welcomes comment on any text, assurances, or disclosures that should be retained in this ICR.

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 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.

Interested parties are encouraged to provide comments 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. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205-0466.

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:

¹ *See Temporary Agricultural Employment of H-2A NonImmigrants in the United States*, 87 FR 61660 (Oct. 12, 2022).

- 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: Revision to a currently approved collection.

Title of Collection: H-2A Temporary Agricultural Labor Certification Program.

Forms: ETA-9142A, *H-2A Application for Temporary Employment Certification*; ETA-9142A – *Appendix A*; ETA-9142A – *Final Determination: H-2A Temporary Labor Certification Approval*; ETA-790, *Agricultural Clearance Order*; ETA-790A, *H-2A Agricultural Clearance Order*; ETA-790/790A – *Addendum A*; ETA-790/790A – *Addendum B*.

OMB Control Number: 1205-0466.

Affected Public: Individuals or Households; Private Sector (businesses or other for-profits); Not-for-profit Institutions; Government, State, Local and Tribal Governments.

Estimated Number of Respondents: 11,905.

Frequency: On Occasion.

Total Estimated Annual Responses: 141,472.

Estimated Average Time per Response: Varies.

Estimated Total Annual Burden Hours: 63,906.94 hours.

Total Estimated Annual Other Cost Burden: \$0.

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

Susan Frazier,

Acting Assistant Secretary for Employment and Training, Labor.

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