



DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities for Application for Prevailing Wage

Determination; Comment Request

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 a proposed extension to the information collection request (ICR) titled “Application for Prevailing Wage Determination,” and related information collection and retention requirements (OMB Control Number 1205-0508), which covers Forms ETA-9141, *Application for Prevailing Wage Determination*; Form ETA-9141, *General Instructions*; Form ETA-9141, Appendix A, *Request for Additional Worksite(s)*; Form ETA 9165, *Employer-Provided Survey Attestations to Accompany H-2B Prevailing Wage Determination Request Based on a Non-OEWS Survey*; and Form ETA-9165, *General Instructions*. This action seeks to extend 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: To submit written comments and/or request a copy of this ICR (e.g., forms; instructions; supporting documents, etc.), for free, please send an email to Brian Pasternak, Administrator, Office of Foreign Labor Certification (OFLC), at ETA.OFLC.Forms@dol.gov. To ensure proper consideration, include the OMB control number 1205-0508.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator,
Office of Foreign Labor Certification by email at ETA.OFLC.Forms@dol.gov.

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

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 by the Immigration and Nationality Act (INA), which, assigns the responsibilities to the Secretary of Labor (Secretary) relating to the entry and employment of certain categories of immigrant and nonimmigrant foreign workers under the PERM, H-2B, H-1B, H-1B1, and E-3 programs. The INA prohibits the admission of certain employment-based immigrants unless the Secretary has certified that (1) there are not sufficient workers who are able, willing, qualified and available at the time of application for a visa and admission to the United States and at the place where the foreign worker is to perform such skilled or unskilled labor, and (2) the employment of such foreign worker will not adversely affect the wages and working conditions of workers in the United States similarly employed. *See* 8 U.S.C. § 1182(a)(5)(A)(i)(II); 8 CFR 204.5(k)(4)(i), 214.2(h)(4)(i)(B)(I), (h)(6)(iii)(A), and (h)(6)(iv)(A). Similarly, the INA prohibits the employment of foreign workers under the H-1B, H-1B1, and E-3 Labor Condition Application (LCA) programs unless the Secretary has approved an LCA in which the employer attests to pay the foreign worker at least the prevailing wage level for

the occupational classification in the area of employment or the actual wage level paid by the employer to workers with similar experience and qualifications for the specific employment in question, whichever is greater. *See* 8 U.S.C. §§ 1182(n)(1)(A)(i)(I)-(II) and (t)(1)(A)(i)(I)-(II).

Prior to filing a PERM or H-2B labor certification application, the employer must apply for prevailing wage determination (PWD) from OFLC. Employers seeking to employ foreign workers under the H-1B, H-1B1, and E-3 programs are not required to obtain a PWD from the NPWC but may choose to do so.

ETA is seeking comments on proposed extension without change to the covers Form ETA-9141, *Application for Prevailing Wage Determination*; Form ETA-9141, *General Instructions*; Form ETA-9141, Appendix A, *Request for Additional Worksite(s)*; Form ETA-9165, *Employer-Provided Survey Attestations to Accompany H-2B Prevailing Wage Determination Request Based on a Non-OEWS Survey*, and its related form instructions.

This information collection is subject to 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. The current ICR expires July 31, 2026. DOL obtains OMB approval for this information collection under Control Number 1205-0508. DOL notes that existing information collection requirements submitted to OMB receive a month-to-month extension while they undergo review.

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 1205-0508.

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.

Action: Extension without Changes.

Title of Collection: Application for Prevailing Wage Determination.

OMB Control Number: 1205-0508.

Affected Public: Private Sector (businesses or other for-profits); Not-for-Profit Organizations; Government, State, Local and Tribal Governments.

Form(s): Form ETA-9141, *Application for Prevailing Wage Determination*; Form

ETA-9141, *General Instructions*; Form ETA-9141, Appendix A, *Request for Additional Worksite(s)*; Form ETA-9165, *Employer-Provided Survey Attestations to Accompany H-2B Prevailing Wage Determination Request Based on a Non-OEWS Survey*, and Form ETA-9165, *General Instructions*.

Total Estimated Number of Annual Respondents: 61,109.

Frequency: On Occasion.

Total Estimated Annual Responses: 498,432.

Average Time per Response: 1 hour and 42 minutes.

Total Estimated Annual Time Burden: 226,292.84.

Total Estimated Annual Other Costs Burden: \$188,939.45.

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

Henry Maklakiewicz

Assistant Secretary for Employment and Training, Labor.

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