

Dated: October 26, 2015.

**Michel Smyth,**

*Departmental Clearance Officer.*

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Agency Information Collection Activities; Submission for OMB Review; Comment Request; H-2B Foreign Labor Certification Program

**ACTION:** Notice.

**SUMMARY:** On October 30, 2015, the Department of Labor (DOL) will submit the Employment and Training Administration (ETA) sponsored information collection request (ICR) revision titled, "H-2B Foreign Labor Certification Program," to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before November 30, 2015.

**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\\_nbr=201510-1205-004](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201510-1205-004) (this link will only become active on October 31, 2015) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit comments about this request by mail or courier 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 NW., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: [OIRA\\_submission@omb.eop.gov](mailto: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 NW., Washington, DC 20210; or by email: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

#### FOR FURTHER INFORMATION CONTACT:

Contact Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

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

**SUPPLEMENTARY INFORMATION:** This ICR seeks approval under the PRA for revisions to the H-2B Foreign Labor Certification Program information collection. Before an employer may petition the Department of Homeland Security for any temporary or permanent skilled or unskilled foreign workers, the employer must submit a request for certification to the Secretary of Labor containing elements prescribed by the Immigration and Nationality Act (INA) and its implementing regulations at 8 CFR 214.2(h)(6). The H-2B visa program enables an employer to bring nonimmigrant foreign workers to the U.S. to perform nonagricultural work of a temporary or seasonal nature.

Information collected through Form ETA-9142B, H-2B Application for Temporary Employment Certification, is the basis for the Secretary's determination of whether unemployed U.S. workers are not available to perform the services or labor and U.S. workers' wages and working conditions will not be adversely affected by H-2B workers' employment. The Secretary must issue an affirmative determination before the Department of Homeland Security may approve a petition for H-2B workers. Form ETA-9142B is used to collect information to permit the DOL to meet its statutory responsibilities for administering the H-2B temporary labor certification program.

This ICR also includes Forms ETA-9142B Appendix B and ETA-9155, H-2B Registration. Form ETA-9155 allows the DOL to make a preliminary determination with respect to an employer's temporary need and to issue an H-2B Registration for the employer to use for a period up to three years in connection with subsequent labor certification applications. An H-2B employer must register with the DOL prior to submitting a request for labor certification. Finally, employers in the seafood industry may file the Form ETA-9142B Seafood Attestation in order to avail themselves of the staggered entry provision for H-2B workers enacted by Consolidated and Further Continuing Appropriations Act, 2014 section 113. See Pub. Law 113-235 section 113.

This information collection has been classified as a revision, because of changes to Forms ETA-9142B, ETA-914B-Appendix B, and the Form ETA-

9155 instructions made in response to public comments the ETA received in response to an earlier notice published in the **Federal Register** on July 10, 2015 (80 FR 39801). Immigration and Nationality Act sections 101(a)(15)(H)(ii)(b) and 214(c) and Consolidated Appropriations Act, 2014 section 113 authorize this information collection. See 8 U.S.C. 1011(a)(15)(H)(ii)(b), 1184(c); Public Law 113-76 section 113.

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 DOL obtains OMB approval for this information collection under Control Number 1205-0509. The current approval is scheduled to expire on October 31, 2015; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 10, 2015 (80 FR 39801).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by November 30, 2015. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205-0509. 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 Collection:* H-2B Foreign Labor Certification Program.

*OMB Control Number:* 1205-0509.

*Affected Public:* State, Local, and Tribal Governments; Private Sector—businesses or other for-profits, farms, and not-for-profit institutions.

*Total Estimated Number of Respondents:* 7,355.

*Total Estimated Number of Responses:* 180,185.

*Total Estimated Annual Time Burden:* 48,800 hours.

*Total Estimated Annual Other Costs Burden:* \$351,800.

Dated: October 24, 2015.

**Michel Smyth,**

*Departmental Clearance Officer.*

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Genetic Information Nondiscrimination Act of 2008 Research Exception Notice

**ACTION:** Notice.

**SUMMARY:** On October 30, 2015, the Department of Labor (DOL) will submit the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, “Genetic Information Nondiscrimination Act of 2008 Research Exception Notice,” to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before November 30, 2015.

**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\\_nbr=201509-1210-003](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201509-1210-003) (this link will only become active on October 31, 2015) or by contacting

Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-EBSA Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: [OIRA\\_submission@omb.eop.gov](mailto: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 NW., Washington, DC 20210; or by email: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto: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 email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

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

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Genetic Information Nondiscrimination Act of 2008 (GINA), Public Law 110-233, Research Exception Notice information collection codified in regulations 29 CFR 2590.702A(c)(5)(iv). GINA sections 101 through 104 respectively amended the Employee Retirement Income Security Act of 1974 (ERISA), the Public Health Service Act, the Internal Revenue Code of 1986, and the Social Security Act to prohibit discrimination in health coverage based on genetic information. GINA sections 101 through 103 generally prevent employment-based group health plans and health insurance issuers in the group and individual markets from discriminating based on genetic information and from collecting such information. The GINA amended ERISA section 702 by adding paragraph (c) that limits a group health plan and an insurer offering such a plan from requesting or requiring genetic testing. See 29 U.S.C. 1182(c). Paragraph (c)(4) provides a research exception that allows a group health plan or group health insurance issuer to request, but not require, a participant or beneficiary to undergo a genetic test if specified conditions are satisfied that include making certain disclosures to the participant or beneficiary. See 29 U.S.C. 1182(c)(4). The EBSA has developed a prototype notice that may be used. GINA section 101(f) authorizes this

information collection. See 29 U.S.C. 1132 note.

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 DOL obtains OMB approval for this information collection under Control Number 1210-0136.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on October 31, 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing 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 June 17, 2015 (80 FR 34696).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by November 30, 2015. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210-0136. 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,