

section VI(c)(1)) will be deemed to satisfy the requirements of this section VI(o) if the requirements of Part V are met.

(p) Exemption Audit. An "exemption audit" of a plan must consist of the following:

(1) A review of the written policies and procedures adopted by the QPAM pursuant to section V(b) for consistency with each of the objective requirements of this proposed exemption (as described in section VI(q)).

(2) A test of a representative sample of the plan's transactions in order to make findings regarding whether the QPAM is in compliance with (i) the written policies and procedures adopted by the QPAM pursuant to section VI(q) of the exemption and (ii) the objective requirements of the exemption.

(3) A determination as to whether the QPAM has satisfied the definition of an QPAM under the exemption; and

(4) Issuance of a written report describing the steps performed by the auditor during the course of its review and the auditor's findings.

(q) For purposes of section VI(p), the written policies and procedures must describe the following objective requirements of the exemption and the steps adopted by the QPAM to assure compliance with each of these requirements:

(1) The definition of a QPAM in section V(a).

(2) The requirement of sections V(a) and I(c) regarding the discretionary authority or control of the QPAM with respect to the plan assets involved in the transaction, in negotiating the terms of the transaction and with respect to the decision on behalf of the investment fund to enter into the transaction.

(3) For a transaction described in Part I:

(A) That the transaction is not entered into with any person who is excluded from relief under section I(a), section I(d), or section I(e),

(B) That the transaction is not described in any of the class exemptions listed in section I(b),

(4) If the transaction is described in section III,

(i) That the amount of space covered by the lease does not exceed the limitations described in section III(a); and

(ii) That no commission or other fee is paid by the investment fund as described in section III(d).

Signed at Washington, DC, this 11th day of August, 2005.

**Ivan L. Strasfeld,**

*Director, Office of Exemption Determinations,  
Employee Benefits Security Administration,  
Department of Labor.*

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**BILLING CODE 4510-29-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Proposed Information Collection Request Submitted for Public Comment and Recommendations; Labor Condition Application for Nonimmigrant Workers

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(A)). This program helps to ensure that 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 on respondents can be properly assessed. Currently, the Employment and Training Administration (ETA), Office of National Programs is soliciting comments concerning the proposed extension of the collection for ETA form 9035—Labor Condition Application for Nonimmigrant Workers. A copy of the proposed Information Collection Request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

**DATES:** Written comments must be submitted to the office listed in the addressee's section below on or before October 24, 2005.

**ADDRESSES:** William L. Carlson, Chief, Division of Foreign Labor Certification, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C-4312, Washington, DC 20210. Mr. Carlson may be reached at (202) 693-3010; this is not a toll-free number.

**FOR FURTHER INFORMATION CONTACT:** Gregory Wilson, Program Analyst, Division of Foreign Labor Certification, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C-

4312, Washington, DC 20210. Mr. Wilson may also be reached at (202) 693-3010; this is not a toll-free number.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Immigration and Naturalization Act (INA) requires that before any foreign worker may be admitted or otherwise provided status as an H-1B, H-1B1, or E-3 nonimmigrant the prospective employer must have filed with the Department of Labor (Department) a Labor Condition Application (LCA). Employers must state on the LCA that they will offer prevailing wages and working conditions, that there is not a strike or lockout in the course of a labor dispute in the occupational classification at the place of employment, and that they have provided notice of filing in conspicuous locations at the place of employment. Further, the employer must make certain documentation available for public examination. The Department's review of each LCA filed is limited by law solely to a review for completeness or "obvious inaccuracies." Complaints may be filed with the Department alleging a violation of the LCA process. If reasonable cause is found to believe a violation has been committed, the Department will conduct an investigation and, if appropriate, assess penalties. The INA places a limit on the number of foreign workers who can be admitted to the United States on H-1B, H-1B1, or E-3 visas. The INA generally limits H-1B workers to a maximum of a six-year duration of stay under H-1B status, although extensions are permitted for certain foreign workers on whose behalf a labor certification or employment-based immigrant petition has been pending for 365 days or more. The INA requires that the Department make available for public examination in Washington, DC, a list of employers which have filed LCAs.

##### II. Review Focus

Currently, the Department is soliciting comments concerning the proposed extension of the collection for ETA form 9035—Labor Condition Application for Nonimmigrant Workers. The Department is particularly interested in comments which:

- Evaluate whether the proposed information collection 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, *e.g.*, permitting electronic submissions of responses.

A copy of the proposed ICR can be obtained by contacting the office listed above in the addressee section of this notice.

### III. Current Actions

*Type of Review:* Extension with change.

*Agency:* Employment and Training Administration, Labor.

*Title:* Labor Condition Application for Nonimmigrant Workers.

*OMB Number:* 1205-0310.

*Affected Public:* Businesses or other for-profit institutions; Federal government; State, local, or tribal government.

*Form:* ETA 9035.

*Total Respondents:* 200,000.

*Frequency of Response:* On occasion.

*Total Responses:* 325,200.

*Average Burden Hours per Response:* 45 minutes.

*Estimate Total Annual Burden Hours:* 279,170.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the ICR; they will also become a matter of public record.

Dated: August 17, 2005.

**Emily Stover DeRocco,**

*Assistant Secretary, Employment and Training Administration.*

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**BILLING CODE 4510-30-M**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 05-129]

### Privacy Act of 1974; Privacy Act System of Records

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of Privacy Act system of records.

**SUMMARY:** The National Aeronautics and Space Administration proposes to establish a system of records titled

“National Aeronautics and Space Administration Foreign National Management System.” This system of records is to document, track, manage, analyze, and/or report on foreign access to NASA resources. Routine uses of this system of records will be to determine eligibility of foreign nationals, and U.S. citizens representing foreign entities, to access NASA facilities and resources. The records in this system of records are intended for the sole use of the U.S. Government and its contractors who support U.S. Government operations, policies, laws and regulations.

**DATES:** Submit comments 60 calendar days from the date of this publication.

**ADDRESSES:** Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546-0001, (202) 358-4787.

**FOR FURTHER INFORMATION CONTACT:** Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546-0001, (202) 358-4787.

**SUPPLEMENTARY INFORMATION:** This publication is in accordance with the Privacy Act requirement that agencies publish each system of records in the **Federal Register**. Pursuant to Section 208 of the E-Government Act of 2002, NASA has conducted a Privacy Impact Assessment (PIA). A copy of the PIA can be obtained by contacting the NASA Privacy Act Officer at the address listed above. Authorization as an Information Collection under the Paperwork Reduction Act is being sought from OMB and will be noticed as a separate submission.

### NASA 10 FNMS

#### SYSTEM NAME:

National Aeronautics and Space Administration Foreign National Management System.

#### SECURITY CLASSIFICATION:

None.

#### SYSTEM LOCATION:

The centralized data system is located at the Extranet Security Portals Group, 1225 Clark Street, Suite 1103, Arlington, VA 22202.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All non-U.S. citizens, to include Lawful Permanent Residents seeking access to NASA facilities, resources, laboratories, contractor sites, Federally Funded Research and Development

Centers or NASA sponsored events for unclassified purposes to include employees of NASA or NASA contractors; prospective NASA or NASA contractor employees; employees of other U.S. Government agencies or their contractors of universities, of companies (professional or service staff), or of other institutions; foreign students at U.S. institutions; officials or other persons employed by foreign governments or other foreign institutions who may or may not be involved in cooperation with NASA under international agreements; permanent resident aliens; foreign media representatives; and representatives or agents of foreign national governments seeking access to NASA facilities, to include high-level protocol visits; or international relations.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include information about the individuals seeking access to NASA resources. Information about an individual may include, but is not limited to: name, home address, place of birth and citizenship, U.S. visitor/travel document numbers, employment information, Tax Identification Numbers (Social Security Number), and reason and length of proposed NASA access.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 304(a) of the National Aeronautics and Space Act, codified at 42 U.S.C. § 2455; Federal Property Management Regulation, 41 CFR Ch. 101; 14 CFR parts 1203 through 1203b; 14 CFR 1213; 15 CFR 744; 22 CFR 62; 22 CFR 120-130; 40 U.S.C. 1441, and 44 U.S.C. 3101, and Executive Order 9397.

#### PURPOSE(S):

Records are maintained and used by NASA to document, track, manage, analyze, and/or report on foreign visit and assignment access to NASA facilities including Headquarters, Field Offices, National Laboratories, Federally Funded Research and Development Centers, Contractor Sites, components facilities (NASA Management Office, Wallops Flight Facility, White Sands Test Facility, White Sands Complex, Independent Validation & Verification Facility, Michoud Assembly Center, Moffett Federal Airfield, Goldstone Deep Space Communications Complex, Goddard Institute for Space Studies, National Scientific Balloon Facility, Plum Brook Station).

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

1. A record from this system may be disclosed to authorized contractors who