

exemption, as described herein, and ensures that such terms and conditions are at all times satisfied;

(d) Throughout the duration of the Lease of the Premises, the I/F monitors compliance with the terms of the Lease of the Premises and takes any and all steps necessary to ensure that the Plan is protected, including, but not limited to, notifying Dakotas NECA of the Plan's intention to extend the Lease of the Premises at the conclusion of the initial five (5) year term of the Lease;

(e) The rent paid by the Plan for the Premises under the terms of the Lease and under the terms of any subsequent extension of the Lease is at no time greater than the fair market rental value of the Premises, as determined by an independent, qualified appraiser retained by the Board of Trustees of the Plan (the Trustees);

(f) The Plan pays no rent for the Premises, any remodeling or maintenance costs, any taxes, insurance, operating expenses or other costs, expenses, or charges for the Premises for the period from the date of the Plan's first occupancy of the Premises to the date the final exemption is published in the **Federal Register**. Nothing in this condition (f) shall preclude the payment by the Plan of rent plus its proportionate share of the cost of taxes, maintenance, and insurance on the Premises after the final exemption is published in the **Federal Register** and the Lease of the Premises is executed;

(g) Under the provisions of the Lease, the transaction is on terms and at all times remains on terms that are at least as favorable to the Plan as those that would have been negotiated under similar circumstances at arm's length with an unrelated third party;

(h) The transaction is appropriate and helpful in carrying out the purposes for which the Plan is established or maintained;

(i) The Trustees maintain, or cause to be maintained within the United States for a period of six (6) years in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described, below, in paragraph (j)(1) of this exemption to determine whether the conditions of this exemption have been met; except that—

(1) If the records necessary to enable the persons described, below, in paragraph (j)(1) of this exemption to determine whether the conditions of this exemption have been met are lost or destroyed, due to circumstances beyond the control of the Trustees, then no prohibited transaction will be considered to have occurred solely on

the basis of the unavailability of those records; and

(2) No party in interest, other than the Trustees shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (i) of this exemption; and

(j)(1) Except as provided, below, in paragraph (j)(2) of this exemption and notwithstanding any provisions of sections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (i) of this exemption are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or any other applicable federal or state regulatory agency;

(B) Any fiduciary of the Plan, or any duly authorized representative of such fiduciary;

(C) Any contributing employer to the Plan and any employee organization whose members are covered by the Plan, or any duly authorized employee or representative of these entities; or

(D) Any participant or beneficiary of the Plan, or any duly authorized representative of such participant or beneficiary.

(2) None of the persons described, above, in paragraph (j)(1)(B)–(D) of this exemption are authorized to examine trade secrets or commercial or financial information that is privileged or confidential.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 2005, at 70 FR 47252.

*For Further Information Contact:* Angelena C. Le Blanc of the Department, telephone (202) 693–8540 (This is not a toll-free number.)

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the

interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 31st day of October, 2005.

**Ivan Strasfeld,**

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

[FR Doc. 05–21963 Filed 11–2–05; 8:45 am]

**BILLING CODE 4510–29–P**

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## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Proposed Information Collection Request Submitted for Public Comment and Recommendations; Foreign Labor Certification Quarterly Activity Report

**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, Office of National Programs is soliciting comments concerning the proposed collection of information on the Foreign Labor Certification Quarterly Activity Report from the State Workforce Agencies. 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 January 3, 2006.

**ADDRESSES:** John R. Beverly, Administrator, Office of National Programs, U.S. Department of Labor, Employment and Training Administration, Room C-4312, 200 Constitution Avenue, NW., Washington, DC 20210, phone: (202) 693-3010 (this is not a toll-free number); fax: (202) 693-2768; e-mail: [ETApersons@dol.gov](mailto:ETApersons@dol.gov).

**FOR FURTHER INFORMATION CONTACT:** Gregory Wilson, Program Analyst, Division of Foreign Labor Certification, U.S. Department of Labor, Employment & Training Administration, Room C-4312, 200 Constitution Avenue, NW., Room C-4312, Washington, DC 20210; phone: (202) 693-3010 (this is not a toll-free number); fax: (202) 693-2768; e-mail: [ETApersons@dol.gov](mailto:ETApersons@dol.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Foreign labor certification programs administered by the Employment and Training Administration (ETA) of the Department of Labor (DOL or Department) require State Workforce Agencies (SWAs) to initially process applications for temporary labor certifications (H-2A and H-2B) filed by U.S. employers on behalf of foreign workers seeking to be employed in the U.S. SWAs are also responsible for issuing prevailing wage determinations, reviewing employer-provided wage surveys or other source data, conducting housing inspections of facilities offered to migrant and seasonal workers, and conducting and monitoring recruitment activities seeking qualified U.S. workers for the temporary jobs employers are attempting to fill with foreign workers. The SWAs perform these functions under a reimbursable grant that is awarded annually. The information pertaining to these functions is proposed to be collected on the Form ETA 9127 and will be used by Departmental staff to manage foreign (alien) labor certification programs in the SWAs. The Department will use the data collected to: (1) Monitor the

number of temporary applications that are received, processed, and forwarded to the national processing centers; (2) determine the number of prevailing wage determinations issued to employers under the permanent and temporary labor certification programs, as well as the H-1B program for nonimmigrant professionals in specialty occupations; and (3) track the number of agricultural prevailing wage and practice surveys conducted, housing inspections made, and job orders filed. The information on workload will be used for formulating budget estimates for both state and Federal workloads, and for monitoring a state's performance against the grant statement of work and work plan. Without such information, the budget workload figures will be estimates and the allocation of funding to the SWAs will not reflect the true workload in a state.

##### II. Review Focus

Currently, the Department is soliciting comments concerning the proposed collection of information on the Foreign Labor Certification Quarterly Activity Report.

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 collections 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

In order for the Department to meet its statutory responsibilities under the Immigration and Nationality Act, there is a need for a new collection of information pertaining to the SWAs changing role in the program. There is an increase in burden due to a change in the frequency of the report.

**Type of Review:** Proposed information request.

**Agency:** Employment and Training Administration, Labor.

**Title:** Foreign Labor Certification Quarterly Activity Report OMB Number: 1205-XXXX (new).

**Affected Public:** State, local, or tribal governments.

**Form:** ETA 9127.

**Total Respondents:** 54 State Workforce Agencies.

**Frequency of Response:** Quarterly.

**Total Responses:** 216.

**Average Burden Hours Per Response:** 2 hours.

**Estimate Total Annual Burden Hours:** 432.

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: October 18, 2005.

**Emily Stover DeRocco,**

*Assistant Secretary, Employment and Training Administration.*

[FR Doc. E5-6097 Filed 11-2-05; 8:45 am]

**BILLING CODE 4510-30-P**

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

##### [Notice (05-149)]

#### Notice of Intent To Grant Partially Exclusive License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of intent to grant partially exclusive license.

**SUMMARY:** This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license in the United States to practice the inventions described and claimed in U.S. Patent Nos. 5,153,131, entitled "High Aspect Reactor Vessel and Method of Use"; 5,153,132, entitled "Three-Dimensional Co-culture Process"; 5,153,133, entitled "Method for Culturing Mammalian Cells in a Horizontally Rotated Bioreactor"; 5,155,034, entitled "Three Dimensional Cell to Tissue Assembly Process"; 5,155,035, entitled "Method for Culturing Mammalian Cells in a Perfusion Bioreactor"; 5,308,764, entitled "Multi-Cellular Three-Dimensional Living Mammalian Tissue"; 5,496,722, entitled "Method for Producing Non-neoplastic, Three-dimensional, Mammalian Tissue and Cell Aggregates under Microgravity Culture Conditions