

Explanatory Statement

The Civil Division, U.S. Department of Justice currently reports 400,000 annual respondents for the Claim for Damage, Injury, or Death information collection, the SF 95, OMB control number 1105-0008 (the "SF 95"). Since the Division estimates that it takes a respondent six hours to complete the form, the total current annual burden for 400,000 respondents is 2,400,000 burden hours.

At this point, the Civil Division will reduce its annual estimate for the SF 95 information collection to 100,000 respondents and 600,000 hours. This reflects a decrease of 300,000 respondents and a decrease of 1,800,000 burden hours.

The Civil Division's currently reported estimate of 400,000 annual claimants is based on the assumption that in an average year, 100,000 forms will be submitted. However, the annual estimate in 2007 was increased to 400,000 because of a one-time increase of 300,000 administrative claims associated with Hurricane Katrina. For the reasons set forth below, the Civil Division does not expect to continue receiving administrative claims related to Hurricane Katrina and can now reduce its annual estimate for the number of completed SF 95 forms to 100,000 annually.

By way of background, this information collection is used to file an administrative claim against the United States Government. A lawsuit against the United States Government may be brought under the Federal Tort Claims Act only if the claimant first seeks administrative relief by submitting a SF 95 form to the proper federal agency. The statute of limitations to file an administrative claim is two years from the date of the incident.

The events surrounding Hurricane Katrina caused a significant increase in the number of administrative claims filed in 2007. On August 29, 2005, Hurricane Katrina made landfall causing several breaches in the levees around New Orleans, Louisiana. In total, it is estimated that more than 600,000 people were displaced, 275,000 homes were destroyed, and 1,071 people died. Many individuals brought administrative claims against federal agencies, principally with the U.S. Army Corps of Engineers. The two-year statute of limitations for claims related to Hurricane Katrina expired around August 29, 2007. In total, nearly 500,000 administrative claims related to Hurricane Katrina were submitted to federal agencies, and the overwhelming majority were submitted in 2007.

Since the statute of limitations for administrative claims has expired, the Civil Division does not expect agencies will continue to receive a large amount of claims related to Hurricane Katrina. However, these matters will still effect the work of the Civil Division since these claims have advanced to litigation against the United States. Approximately 215 tort suits have already been filed against the United States, and the Civil Division is representing the government in these suits. One case, *Robinson, et al. v. United States* has been designated as the test case, and a trial is currently scheduled for this case in September 2008. The remaining tort suits have been consolidated in the *In re Katrina Canal Breaches Consolidated Litigation*, and a trial in that case is expected to commence in Spring 2009. Before these cases go to trial, the government must respond to extensive and complex Case Management and Scheduling Orders in both cases. The

stakes in this litigation are incredible – this litigation promises to be the largest and the most complex group of cases ever handled by the Civil Division. Because of the importance of these cases, appellate review – including, possibly, the United States Supreme Court – of the ultimate decision is inevitable.

Since the legal case has moved beyond the administrative claims phase and into the litigation phase, the Civil Division does not expect to continue to receive SF 95 forms from incidents arising out of Hurricane Katrina. Therefore, the estimated number of annual respondents is 100,000.