

## SUPPORTING STATEMENT

### Overpayment Recovery Questionnaire (OWCP-20) OMB No. 1215-0144

#### A. Justification

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collections. Attach a copy of the appropriate section of each statute and of each regulation mandating or authorizing the collection of information.**

1. This information collection is necessary to determine whether or not the recovery of any Black Lung, Energy Employees Occupational Illness Compensation Act (EEOICPA) or Federal Employees' Compensation (FECA) overpayment may be waived, compromised, terminated, or collected in full. Standards for Federal agency collection of government debts are regulated under the Federal Claims Collection Acts of 1966 and 1982 and the Debt Collection Improvement Act of 1996. In the Office of Workers' Compensation Programs, collection information pertaining to the collection of accounts receivable is authorized under the Federal Coal Mine Health and Safety Act of 1969, as amended, 30 USC 923(b) and 20 CFR 725.544(c), the EEOICPA, 42 USC 7385j-2 and 20 CFR 30.510 - 30.520, and the Federal Employees' Compensation Act, 5 USC 8129(b) and 20 CFR 10.430 - 10.441.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

2. The information is used by OWCP examiners to ascertain the financial condition of the beneficiary to see if the overpayment or any part can be recovered; to identify the possible concealment or improper transfer of assets; and to identify and consider present and potential income and current assets for enforced collection proceedings. The questionnaire provides a means for the beneficiary to explain why he/she is without fault in an overpayment matter. If this information were not collected Black Lung, EEOICPA and FECA would have little basis to decide on collection proceedings.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

3. Because an original signature is required for the debtor's information to be considered valid and authentic, the form must be returned to OWCP in hard copy. The OWCP-20 (in PDF format) was made available on the OWCP Internet website in mid-October 2003, and can be completed on-line, downloaded and printed for mailing to OWCP at the following DOL/ESA website <http://www.dol.gov/library/forms/go-us-dol-form.asp?FormNumber=389>

The OWCP-20 is mailed to the overpaid person along with other correspondence at the time of the initial notification of the overpayment. The form does require a verifiable signature as proof of responsibility for the personal and financial information disclosed on the form. OWCP has determined that the cost of signature certification is too high to justify enabling the OWCP-20 to be submitted electronically. Providing electronic certification services would not be cost effective (\$35 per individual versus \$.44 per individual for postage), particularly considering that form submissions are a generally one-time occurrence per individual, the cost to the public of mailing the form is very small, and in addition the overpaid population who have the ability to file electronically is small. Mailing the form is much less expensive.

**4. Describe efforts to identify duplication. show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

4. There are no similar or like requirements known within the agency. Each OWCP program solicits information from its own overpaid beneficiaries. This information is only collected for this specific purpose, and is not available otherwise. There is no duplication of information collection between Black Lung, EEOICPA and FECA. Each program uses only this form to collect this information. Other federal agencies have similar data collection needs from their own populations.

**5. If the collection information impacts small businesses or other small entities (Item 5 of 014B Form 83-1), describe any methods used to minimize burden.**

5. This information collection does not have a significant economic impact on a substantial number of small entities.

**6. Describe the consequence of Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

6. The collection of this information only occurs when an overpayment is discovered. If the information were not collected,

there would be no mechanism to verify the circumstance and the beneficiary's ability to repay the overpayment.

**7. Explain any special circumstances.**

7. There are no special circumstances for this information collection:

- requiring respondents to report information to the agency more often than quarterly;
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments.**

8. A Federal Register Notice inviting public comment was published on April 2, 2009 [vol. 74 and page 15004]. No comments were received.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

9. There are no payments or gifts made to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.**

10. All information collected as a result of the use of this questionnaire is fully protected by the Privacy Act of 1974 and OMB Circular A-108. FECA's System of Records Notice is DOL/Govt-1: <http://www.dol.gov/sol/privacy/dol-govt-1.htm>. Moreover, FECA case files are exempted from disclosure under the Freedom of Information Act (See U.S.D.C., D.C. Civil Action No. 78-1647, Plain Dealer Publishing Company, et. al. vs. U.S. Department of Labor). Black Lung System of Records Notices are DOL/ESA-6 <http://www.dol.gov/sol/privacy/dol-esa-6.htm> and DOL/ESA-30 <http://www.dol.gov/sol/privacy/dol-esa-30.htm> protects Black Lung recovery questionnaires. EEOICPA System of Records Notice is DOL/ESA-49 <http://www.dol.gov/sol/privacy/dol-esa-49.htm> protects EEOICPA questionnaires.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary; the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

11. No questions of a sensitive nature concerning sexual preference, religion, etc. are requested. Questions concerning personal finances and benefits from other sources may be considered sensitive, but these are the very matters that permit a determination concerning waiver of the overpayments of compensation.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not make special surveys to obtain information on which to base burden estimates. Consultation with a sample of potential respondents is desirable. If the burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated burden and explain the reason for the variance. Generally, estimates should not include burden hours for customary and usual business practices. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not make special surveys to obtain information on which to base burden estimates. Consultation with a sample of potential respondents is desirable. If the burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated burden and explain the reason for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**

12. Information collection from the public is conducted by OWCP on an as-needed basis. The estimated public burden per year of the form is 4,020 hours. We estimate that it will take between 45 and 75 minutes, or an average of 1 hour, to complete this form. Each respondent should only have to complete the form once, and we estimate 4,020 respondents per year.

a. EEOICPA:

Approximately 20 individuals will be requested to submit information using the form for EEOICPA. Filling out the form is estimated to take 1 hour per individual. Thus, the public burden for the EEOICPA will be 20 hours.

b. FECA:

Approximately 3,500 respondents per year (estimated from actual counts), will be requested to respond to the questionnaire. Filling out the questionnaire requires one hour. Each respondent will complete one questionnaire. Thus, the total public burden will be 3,500 hours.

c. Black Lung:

The estimated total time for a respondent to complete the form is one hour. The form will be completed once by 500 respondents (estimated from actual counts) in each year for a total public burden of 500 hours.

The information being requested is kept in the respondents' personal records, most likely at home, and its retrieval requires only minimal cost. The burden hour monetary cost to respondents is calculated using the average rate of compensation for an individual in each of the two OWCP programs and EEOICPA.

The cost burden for Black Lung beneficiaries is based on the minimum wage, \$6.55 per hour, times 1 hour for completion times 500 respondents, for a total cost of \$3,275.

Because the wage category of most of the FECA respondents is not known, the FECA and EEOICPA Program have estimated the cost of the burden hours using the National Average Weekly Wage for non-supervisory workers on private non-agriculture payrolls as computed by BLS for January 2009, or \$18.49 per hour. 3,520 respondents x \$18.49 = \$65,085.

Total public burden cost is \$68,360.

**13. Annual Costs to Respondents (capital/start-up & operation and maintenance).**

13. Annual Cost to Respondents for Operation and Maintenance

The cost to respondents for operation and maintenance consists of the price of postage to return the request, or a total \$1,889 for 4,020 respondents at \$.47 cents each (postage and envelope.)

**14. Provide estimates of annualized cost to the Federal government.**

14. Annualized Cost to the Federal Government (The FY 09 Salary Table for the RUS was used to determine the hourly wages.)

a. EEOICPA:		
1.	GS-12/4; \$35.64/hour x 20 forms	\$713
2.	Printing and Distribution	0
3.	Mailing (\$.47 postage and envelope)	<u>\$ 9</u>
		\$722
b. FECA:		
1.	GS-12/4; \$35.64/hour X 3,500 forms	\$124,740
2.	Printing and Distribution	350
3.	Mailing (\$.47 postage and envelope)	<u>1,645</u>
		\$126,735
c. Black Lung:		
1.	GS-12/4, \$35.64/hour X 500 forms	\$17,820
2.	Printing and Distribution	50
3.	Mailing cost (\$.47 per form)	<u>235</u>
		\$18,105
Total		\$145,562

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.**

15. There was no change to the burden hours to the Black Lung related to instances where benefits checks were issued after a beneficiary's death and prior to receipt of notification of the death by the BL program. Under new Treasury procedures with post mortem overpayments, repayment of the debt is not the burden of the person that received a descendant's benefits. The burden is on the bank that improperly failed to close the account and paid out the money. Rather than using the OWCP-20 form that a claimant debtor would complete, these overpayments are recovered by using a protected need-to-know Department of the Treasury website service to collect from the liable bank. This service is currently called by Treasury PACER for Payment and Claims Enhanced Reconciliation, <http://pacer.psc.uscourts.gov/>, and is commonly referred to as POL for PACER-On-Line. There has been no change in the annual responses.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection information, completion of report, publication dates, and other actions.**

16. No plans exist to publish the data obtained by the use of this questionnaire.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

17. The expiration date will be displayed on the form.

**18. Explain each exception to the certification statement identified in Item "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

18. There are no exceptions to the certification.