

SUPPORTING STATEMENT
WORK-STUDY PROGRAM OF THE CHILD LABOR REGULATIONS (WSP)
REGULATIONS 29 C.F.R. § 570.35b

1. The Department of Labor (DOL) administers 29 C.F.R. § 570.35b that describes the conditions of employment that allow the employment of 14- and 15-year-olds, pursuant to a school-supervised and school-administered Work-Study Program of the Child Labor Regulations (WSP), under conditions CL Reg. 3 otherwise prohibit. The regulation required the implementation of an information collection with regard to a WSP.

Fair Labor Standards Act (FLSA) section 3(l) establishes a minimum age of 16 years for most nonagricultural employment, but allows the employment of 14- and 15-year-olds in occupations other than manufacturing and mining if the Secretary of Labor determines such employment is confined to (1) periods that will not interfere with the minor's schooling; and (2) conditions that will not interfere with the minor's health and well-being. 29 U.S.C. § 203(l).

FLSA section 11(c) requires all covered employers to make, keep, and preserve records of their employees' wages, hours, and other conditions and practices of employment. 29 U.S.C. § 211(c). Section 11(c) also authorizes the Secretary of Labor to prescribe the recordkeeping and reporting requirements for these records. *Id.*

The regulations at 29 C.F.R. Part 570, Subpart C [Child Labor Regulations, Orders and Statements of Interpretation] (CL Reg. 3) set forth the employment standards for 14- and 15-year-olds.

A. Reporting Requirements:

- (1) **WSP Application:** In order to utilize the CL Reg. 3 WSP provisions, § 570.35b(b)(2) requires a local public or private school system to file with the Wage and Hour Division (WHD) Administrator an application for approval of a WSP as one that does not interfere with the schooling or health and well-being of the minors involved.
- (2) **Written Participation Agreement:** The regulations require preparation of a written participation agreement for each student participating in a WSP and that the teacher-coordinator, employer, and student each sign that agreement. *See* 29 C.F.R. § 570.35b(b)(3)(iv). The regulations also require that the student's parent or guardian sign the training agreement or otherwise give consent to validate the agreement.

- B. Recordkeeping Requirements: The regulations require a school system operating a WSP to keep a copy of the written participation agreement for each student enrolled in the WSP at the student's school. Employers of WSP participants are also required to keep a copy of the written participation agreement for each student employed. These agreements must be maintained for three years from the date of the student's enrollment in the WSP. *See id.* § 570.35b(b)(4)(ii).
2. A. WSP Application: Under the regulations, a local school system must file a letter of application requesting the WHD to approve a WSP that permits the employment of 14- and 15-year-olds under conditions that CL Reg. 3 would otherwise prohibit. The DOL then evaluates the information to determine if the program meets the requirements specified in the regulation.
- B. Written Participation Agreement: The school system administering the WSP and each applicable employer must separately maintain a copy of the written participation agreement for each student. The teacher-coordinator, the employer, and the student must sign the written agreement. In addition, the student's parent or guardian must either sign or otherwise provide consent to validate the participation agreement. The written participation agreement must be structured to ensure that the quality of the student's education, as well as his or her safety and well-being, are not compromised. School systems, employers, and the DOL will use these records to document the validity of the WSP and that the 14- and 15-year-old students are employed in accordance with the special WSP rules.
3. The regulation prescribes no particular form for the application, provided the applicant submits all required information. The DOL also does not intend to require a particular format for the written participation agreement. In accordance with the Government Paperwork Elimination Act, the WHD will accept electronic submission by e-mail or fax. The DOL receives only 30 WSP applications per year. The costs to develop and maintain an on-line application system would not be justified for such a small information collection. The DOL will accept the parties electronically submitting the written participation agreement between each other, provided the copies contain the required information and signatures. As the written participation agreements are third-party disclosures requiring multiple signatures, the development of an on-line submission option is not practical.

The regulations prescribe no particular order or form of records. Under existing regulations, the WHD accepts records preserved in such forms as microfilm or automated word or data processing, provided the school systems and employers make adequate facilities available for their inspection and transcription by DOL representatives. *See* 29 C.F.R. § 516.1.

4. Federal rules regulating youth employment are unique to the WHD. The agency is not aware of any duplicative effort to collect this information. This information is not already collected under existing authorities, such as the general FLSA recordkeeping requirements under 29 C.F.R. Part 516 (See OMB controls 1235-0018) or other sections of the youth employment regulations. The requested information is not available from any other source.
5. This information collection will not have a significant economic impact on a substantial number of small entities. The information required in the application letter is the minimum necessary to determine if the WSP meets the proposed regulatory requirements for approval. The written participation agreement is necessary to document the validity of a WSP. Without this information, small businesses would have no way of documenting their participation in a WSP and that their employment of 14- and 15-year olds complied with the law.
6. Without this information collection, the WHD would have no means to determine whether a WSP meets the regulatory requirements of CL Reg. 3. The regulations allow the WHD to approve a WSP for a period of up to two years. Less frequent application would prevent the WHD from ensuring that approved programs do not interfere with the schooling of the minors or their health and well-being. It would be difficult or impossible for the WHD to determine the legal employment of 14- and 15-year-olds during school hours, were records relating to the participation of minors in a WSP not maintained.
7. There are no special circumstances involved in this information collection request.
8. The DOL published a Notice with respect to the renewal of this information collection on December 13, 2012, and invited comments on the information collection burdens imposed by this collection. See 77 FR 74225. The DOL received no comments on this information collection.
9. The DOL offers no payments or gifts to respondents.
10. The DOL offers no assurances of confidentiality in association with this information collection. As a practical matter, the WHD would only disclose information submitted in connection with an approval request or contained in records a school system or employer must maintain in accordance with the provisions of the Freedom of Information Act, 5 U.S.C § 552; the Privacy Act, 5 U.S.C. § 552a; and their respective regulations, 29 C.F.R. Parts 70, 71.
11. This information collection contains no sensitive information.
12. The DOL bases these burden estimates on experience with the program.
 - A. School burdens:
 - (1) WSP Application: The DOL estimates it will take approximately two hours for a school system to prepare the letter applying for WSP approval and 30 seconds to

file it. The DOL estimates that approximately 30 school systems will apply each year, for an annual burden of 60 hours (rounded).

30 applications x 120 minutes for application preparation = 60 hours.

30 applications x 0.5 minutes for recordkeeping = 0.25 hours.

- (2) Written Participation Agreement: The DOL estimates each written participation agreement between the teacher-coordinator, employer, student, and parent or guardian of the student will take approximately one hour to complete. The DOL also estimates (1) an average of 50 employers will enter into a WSP agreement with each school system—for a total of 1500 employer respondents; (2) 1 student will participate annually under each agreement—for a total of 1500 agreements; and (3) the remaining parties (students, and parents or guardians) will have no paperwork burden because they merely sign the document upon review, for a total burden of 1513 hours (rounded).

1500 agreements x 60 minutes for preparation = 1500 hours.

1500 agreements x 0.5 minutes for recordkeeping = 12.5 hours.

B. Employer burdens:

The DOL estimates employers each will need approximately one-half minute to file each WSP written participation agreement, for a total annual burden of 13 hours (rounded).

1500 written participation agreements x 0.5 minutes = 12.5 hours.

Total Annual Reporting and Recordkeeping Burden—3030 responses, 1586 hours.

Absent any specific data on compensation of respondents in these educational institutions and participating employers, the DOL has used the October 2012, average hourly rate for production or nonsupervisory workers on educational and health services payrolls of \$24.28 to estimate respondent costs. See *The Employment Situation: October 2012*, DOL, Bureau of Labor Statistics, October, Table B-3,

http://www.bls.gov/news.release/archives/empsit_11022012.pdf.

Accordingly, the DOL estimates annual respondent costs will be \$38,508. 1586 hours x \$24.28.

13. The DOL estimates the annual mailing and postage cost for 30 applications will be \$14.70. 30 applications x (\$.46 postage + \$.03 per envelope). Please note that the United States Postal Service increased the cost of first class postage to \$.46 on January 27, 2013 so the once cent increase is reflected in this supporting statement that was not reflected in the supporting statement created at the time of the sixty day notice published December 13, 2012.

14. The DOL estimates it will receive 30 applications per year and processing each application will take approximately two hours of analyst time and one hour of clerical time. The estimate includes analysis of each application and preparation of the letter granting or denying approval.

A. Analyzing-Processing: $\$32.92$ (GS 11/4, Washington, D.C.) x 2 hours x 30 applications = $\$1975$ (Rounded).

B. Clerical: $\$20.02$ (GS 6/4, Washington, D.C.) x 1 hour x 30 applications = $\$601$ (Rounded).

TOTAL ESTIMATED ANNUAL FEDERAL COST—\$2576

15. Reasons for change in burden: The only increase in dollar burden is cost of postage and increase in wage rates reflected in the BLS statistics and OPM salary tables.

16. The DOL will not publish this information.

17. No particular forms accompany this information collection.

18. The DOL does not seek any exceptions to the certification requirements.