

SUPPORTING STATEMENT
WORK-STUDY PROGRAM OF THE CHILD LABOR REGULATIONS (WSP)
REGULATIONS 29 C.F.R. § 570.35b
OMB Control Number 1235-0024

1. Circumstances that make the collection of information necessary.

The Department of Labor (DOL) administers 29 C.F.R. § 570.35(b) 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. § 570.35(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. By whom, how and for what purpose the information is to be used.
- 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. Consideration of the use of improved information technology.

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 10 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. Efforts to identify duplication.

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. Methods to minimize the burden to small businesses if involved.

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. Consequences to federal program if collections were conducted less frequently.

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. Explain any special circumstances that would cause the information collection to be conducted in a manner inconsistent with guidelines.

There are no special circumstances involved in this information collection request.

8. Consultation.

The DOL published a Notice with respect to the renewal of this information collection on August 31, 2018, and invited comments on the information collection burdens imposed by this collection. *See* 83 FR 44673. The DOL received 1 comment on this information collection. The commenter supports the data collection.

9. Explain any decision to provide any payment or gift to respondents.

The DOL offers no payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents.

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. Additional justification for any questions of a sensitive nature.

This information collection contains no sensitive information.

12. Estimates of reporting and recordkeeping hour and cost burdens for the collection of information.

The DOL bases these burden estimates on experience with the program.

A. School burdens:

(1) WSP Application: The DOL estimates it will take approximately 2 hours for a school system to prepare the letter applying for WSP approval and 30 seconds (or 0.5 minutes) to file it. The DOL estimates that approximately 10 school systems will apply each year.

10 applications x 2 hours for application preparation = 20 hours
10 applications x 0.5 minutes for recordkeeping / 60 mins per hour = .08 hours

Therefore, the DOL estimates an annual burden of 20.08 hours for schools regarding WSP applications.

(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 1 hour to complete, and that it will take 30 seconds (or 0.5 minutes) to file it. The DOL also estimates (1) an average of 50 employers will enter into a WSP agreement with each school system—for a total of 500 employer respondents (10 school system applicants per year x 50 employers per school system); (2) 1 student will participate annually under each agreement—for a total of 500 agreements (500 employer respondents x 1 student per agreement); and (3) the remaining parties (students, and parents or guardians) will have no paperwork burden because they merely sign the document upon review.

500 agreements x 1 hour for preparation = 500 hours
500 agreements x 0.5 minutes for recordkeeping / 60 mins per hour = 4.17 hours

Therefore, the DOL estimates an annual burden of 504.17 hours for schools regarding written participation agreements.

B. Employer burdens:

The DOL estimates each employer will need approximately 30 seconds (or 0.5 minutes) to file their own written participation agreement.

$500 \text{ written participation agreements} \times 0.5 \text{ minutes} / 60 \text{ mins per hour} = 4.17 \text{ hours.}$

Therefore, the DOL estimates an annual burden of 4.17 hours for employers.

Total responses: 10 WSP application school responses + 500 written participation agreement school responses + 500 written participation agreement employer responses = 1,010 responses

Total hours: 20.08 hours for schools regarding WSP applications + 504.17 hours for schools regarding written participation agreements + 4.17 hours for employers regarding written participation agreements = 528.42 hours

Total Annual Reporting and Recordkeeping Burden: 1,010 responses and 528.5 hours (rounded)

Absent any specific data on compensation of respondents in these educational institutions and participating employers, the DOL has used the July 2018 average hourly wage rate, for a production or nonsupervisory worker in education and health services, of \$27.24 to estimate respondent costs. See *The Employment Situation: September 2018*, DOL, Bureau of Labor Statistics, September 2018, Table B-3, <https://www.bls.gov/news.release/empsit.toc.htm>.

This is uploaded into ROCIS. To this hourly rate, the Department has added 40% benefit cost and 17% overhead cost for a rate of \$42.77 (\$27.24 + \$4.63 + \$10.90).

Accordingly, the DOL estimates annual respondent costs will be \$22,604 (rounded) (528.5 annual reporting and recordkeeping hours x \$42.77 staff wages per hour).

13. Estimates of annualized capital and start-up costs.

There are no capital or start-up costs associated with this ICR.

14. Estimates of annualized Federal Government costs.

The DOL estimates its national office in Washington, D.C. will receive 10 WSP applications per year, and that processing each application will take approximately 2 hours of analyst time and 1 hour of clerical time. These estimates include analysis of each application and preparation of the letter granting or denying approval. To estimate the cost

of analyst time, the DOL has used the 2018 General Schedule for the Washington, D.C. area, Grade 11- Step 4, which lists an hourly rate of \$35.86 (see *OPM Salary Table 2018 – uploaded into ROCIS*). The Department has added a 40% benefit cost and 17% overhead cost to equal an hourly rate of \$56.29. To estimate the cost of clerical time, the DOL has used the aforementioned schedule, Grade 6- Step 4, which lists an hourly rate of \$21.60. The Department has added to the hourly rate 40% benefit cost and 17% overhead cost for a rate of \$33.94 per hour.

A. Analyzing-processing: 10 applications x 2 hours x \$56.29 per hour = \$1,125.80

B. Clerical: 10 applications x 1 hour x \$33.94 per hour = \$339.40

TOTAL ESTIMATED ANNUAL FEDERAL COST: \$1,465.20 (\$1,125.80 + \$339.40)

15. Reasons for change in burden.

There is no change in burden hours.

16. For collections of information whose results are planned to be published for statistical use, outline plans for tabulation, statistical analysis and publication.

The DOL will not publish this information.

17. Reasons for seeking not to display the expiration date for OMB approval of the information collection.

No particular forms accompany this information collection.

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