

**SUPPORTING STATEMENT**  
**PAID LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE**  
**ACT**  
**29 CFR Part 826**

This ICR is submitted for extension related to the information collected as a result of the Families First Coronavirus Response Act. The ICR was originally submitted in conjunction with the publication of a temporary rule: Paid Leave under the Families First Coronavirus Response Act. The Department requested emergency clearance pursuant to 5 CFR 1320.13. OMB approved the collection through October 2020 to allow the Department time to publish notice of the information collection and provide opportunity for public comments.

**A. Justification**

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

On March 18, 2020, President Trump signed the Families First Coronavirus Response Act (FFCRA) into law (Public Law 116-127). In general, the FFCRA requires covered employers to provide eligible employees up to two weeks of paid sick leave at full pay, up to a specified cap, when the employee is unable to work or telework because the employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, has been advised by a health care provider to self-quarantine due to concerns related to COVID-19, or is experiencing COVID-19 symptoms and seeking a medical diagnosis. The FFCRA also provides up to two weeks of paid sick leave at partial pay, up to a specified cap, when an employee is unable to work or telework because of a need to care for an individual subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; because of a need to care for the employee's son or daughter whose school or place of care is closed, or whose child care provider is unavailable, due to COVID-19 related reasons; or because the employee is experiencing a substantially similar condition, as specified by the Secretary of Health and Human Services. The FFCRA also requires covered employers to provide up to twelve weeks of expanded family and medical leave, up to ten weeks of which must be paid at partial pay, up to a specified cap, when an eligible employee is unable to work or telework because of a need to care for the employee's son or daughter whose school or place of care is closed, or whose child care provider is unavailable, due to COVID-19 related reasons.

The FFCRA covers private employers with fewer than 500 employees and certain public employers. Small employers with fewer than 50 employees may qualify for an exemption from the requirement to provide paid leave due to school, place of care, or childcare provider closings or unavailability, if the leave payments would jeopardize the viability of their business as a going concern.

The FFCRA authorized the Department to promulgate rules to administer the Act. The Department made the temporary rule available on the Department website on April 1, 2020 and submitted the PRA emergency clearance request to OMB on April 1. The Department published regulations in the Federal Register on April 6, 2020 (85 FR 19326). The Department requested emergency processing of the information collections associated with the rulemaking. The OMB approved the Department's information request on April 2, 2020 and assigned OMB control number 1235-0031 to the information collection and an expiration of October 2020. The Department published a notice in the federal register to extend the collection of information on April 14, 2020 (85 FR 20723) and invited public comment.

**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.**

WHD staff will use the records provided by the employer to ascertain the proper use of the provisions. The WHD uses this information to determine whether covered employers have complied with the Act.

Sections 826.150 and 826.151 describes certain acts that are prohibited under the EPSLA and EFMLEA, as well as the enforcement provisions for these statutes, respectively. Section 826.150(a) explains that under the EPSLA, employers are prohibited from discharging, disciplining, or discriminating against any employee because such employee took paid sick leave, initiated a proceeding under or related to paid sick leave, or testified or is about to testify in such a proceeding.

Section 826.150(b) explains that an employer that violates the paid sick leave requirements is considered to have failed to pay the minimum wage required by section 6 of the FLSA, 29 U.S.C. 206, and an employer who violates the prohibition on discharge, discipline, or discrimination described in § 826.150(a) is considered to have violated section 15(a)(3) of the FLSA, 29 U.S.C. 15(a)(3). With respect to such violations, the relevant enforcement provisions of sections 16 and 17 of the FLSA, 29 U.S.C. 216, 217, apply. The regulatory text describes the types of legal actions, and some of the remedies, that are available.

Section 826.151(a) explains that for purposes of EFMLEA, employers are subject to the prohibitions that apply with respect to all FMLA leave, which are set forth at 29 U.S.C. 2615. Specifically, they are prohibited from interfering with, restraining, or denying an employee's exercise of or attempt to exercise any right under the FMLA, including the EFMLEA; discriminating against an employee for opposing any practice made unlawful by the FMLA, including the EFLMEA; or interfering with proceedings under the FMLA, including the EFMLEA.

Section 826.151(b) explains that in general, for purposes of the EFMLEA, employers are subject to the enforcement provisions set forth in section 107 of the FMLA, 29 U.S.C. 2617, and 29 CFR 825.400. The regulatory text describes the types of legal actions, and some of the remedies, that are available. It explains that in general employees may bring private actions regarding alleged violations of the EFMLEA, but an employee may not bring an action against an employer under

the EFMLEA if the employer, although subject to the EFMLEA, is not otherwise subject to the FMLA. In other words, an employer can only bring an action against an employer under the EFMLEA if the employer was already subject to the FMLA.

Section 826.152 provides that employees may file complaints alleging violations of the EPSLA and/or the EFMLEA with the Wage and Hour Division.

**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.**

No particular form of records are prescribed. The Department will examine the records provided by the employer in the format provided.

**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.**

This information collection does not duplicate existing WHD requirements. This is a new statutory program and similar information is not available from any other source. .

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

While this information collection does not have a significant economic impact on a substantial number of small entities, it does frequently involve small businesses. Information requested by this information collection is not available from any other source.

**6. Describe the consequence to 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.**

Respondents are asked to provide information relevant to this information collection only when the WHD seeks to enforce the law it is charged with administering. Complaints provide the basis for the overwhelming majority of WHD compliance actions under the FFCRA.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **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.**

No special circumstances as outlined above exist. The FFCRA expires December 31, 2020. The Department sought emergency clearance due to the unprecedented nature of the national emergency associated with COVID-19.

**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. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

The Department published a notice in the Federal Register (April 14, 2020 (85 FR 20723)) announcing the request to extend the collection and invited public comment on this information collection. The Department received one comment jointly signed by Equal Justice Center (EJC) and Texas RioGrande Legal Aid (TRLA).

The comment urges the Department to update its information collection procedures under the FFCRA to safeguard the leave rights of all workers. EJC/TRLA expresses concern about the collection of written documentation to support IRS tax credits. In § 826.100(f) of the Department's regulations, the employer may request an employee to provide additional material

as needed for the employer to support a request for tax credits pursuant to the FFCRA. According to the regulations, the employer is not required to provide the leave if materials sufficient to support the applicable tax credit have not been provided.

The IRS website at: [https://www.irs.gov/newsroom/covid-19-related-tax-credits-how-to-substantiate-eligibility-and-periods-of-time-for-which-credits-are-available-faqs#substantiate\\_eligibility](https://www.irs.gov/newsroom/covid-19-related-tax-credits-how-to-substantiate-eligibility-and-periods-of-time-for-which-credits-are-available-faqs#substantiate_eligibility), lists FAQ's for COVID-19 tax credits, How to Substantiate Eligibility and Periods of Time for Which Credits are Available FAQs. These FAQs require a written request from the employee and a statement of the COVID-19 related reason the employee is requesting leave and written support for such reason.

The commenter believes that this requirement “contravenes the purpose of the FFCRA.” They state that “the solution is simple,” and suggest that “to the extent the IRS requires written documentation for an employer to subsequently qualify for tax incentives, that documentation may be gathered after the employee returns to work.” The Department does not believe the proposed solution aligns with the Department’s regulations. Section 826.100(f) states that the “Employer is not required to provide leave if materials sufficient to support the applicable tax credit have not been provided.” The commenter’s suggestion to require an employer to provide the leave without the IRS documentation and gather such materials after the employee returns to work would violate the text of the regulations which state that the employer may deny the leave if materials sufficient to support the applicable tax credit have not been provided. However, in response to the comment, the Department has added a separate category of recordkeeping burden specific to the tax credit documentation.

The commenter requests that the Department issue guidance “clarifying that, when an employer denies an apparent request for FFCRA leave, any notice of the denial must clearly and prominently advise the worker of what information she has failed to provide and inform her how she should submit that information.” The issue of “guidance” is beyond the scope of the Paperwork Reduction Act. However, the Department will consider the recommendation in its administration of the regulations issued under Part 826.

The commenter objects to IRS guidance regarding the provision of care for a child older than age fourteen. IRS guidance is not the subject of the information collection, however, the Department will consider the comment with respect to the administration of the regulations.

Finally, the commenter asserts that the Department’s implementation of the small business exemption (section 826.40(b)(1) and (2)) invites fraud and requests that the Department should create a form to remedy the situation. They assert that the form should contain a space for signature under penalty of perjury. Additionally, they suggest a copy of the completed form should be provided to the worker.

The Department considered the commenter’s request to develop a form and declines to develop such a form. Nothing in the statute or regulations requires an employer to complete such a form, make the commenter’s desired attestation, or provide such a form to the worker. The requirements to collect an attestation and provide a form to a worker would require a change to

the regulations and the addition of a form and a requirement to provide copies of the form to workers would increase the paperwork burden and cost to employers.

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

The Department offers no payments or gifts to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a system of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.**

The Department makes no assurances of confidentiality to respondents. As a practical matter, information gathered during the course of an investigation of a complaint is generally disclosed only in accordance with the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. section 552; the Privacy Act, 5 U.S.C. section 552a; and attendant regulations, 29 CFR parts 70 and 71. The FOIA provides an exception from its disclosure requirements for records or information compiled for law enforcement purposes to the extent that release of the information could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution that furnished information on a confidential basis. 5 U.S.C. section 552(b)(7)(D). The FOIA also provides an exemption for business records and trade secrets.

**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.**

While the identification of a health matter may be considered a sensitive question, the regulations specify limits to access with respect to personal health information.

**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 conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**

- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized cost to respondents for hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under ‘Annual Cost to Federal Government’.**

The regulations impose burdens on employers and employees similar to those burdens imposed by the Family and Medical Leave Act (FMLA). As a result, burden estimates for this collection are borrowed from the information collection approved by OMB under control number 1235-0003.

A. In § 826.90, an employer may require an employee to follow reasonable notice procedures after the first workday (or portion thereof) for which an employee receives paid sick leave in order to continue to receive paid sick leave. Under this regulation, it is considered reasonable for an employer to require oral notice and sufficient information for an employer to determine whether the requested leave is covered by the EPSLA. An employer may not require notice to include documentation beyond what is allowed under § 826.100.

The Department has used the same time estimate that is used for the FMLA collection to estimate this requirement and estimates two minutes for the respondent employee to provide notice to the employer.

Based on the rule’s regulatory impact analysis, the Department estimates that 26,950,796 employees are the universe of workers potentially affected by this rulemaking. Not all workers will require leave under EPSLA or EFMLEA.

### **EPSLA Leave**

The Department estimates that one million employees will request and use EPSLA leave. 1 million employees x 2 minutes per employee = 2,000,000 minutes (or 33,333 hours).

Respondents – 1 million

Responses – 1 million

Burden Hours 33,333

This total is comprised of private sector employees and public sector employees. For purposes of ROCIS entry, it is further broken down by first establishing that approximately 90,126 state and local governments exist in the United States (See [www.census.gov/data for 2017](http://www.census.gov/data for 2017)). Based on coverage and eligibility requirements, the Department assumes that 5 percent of respondents will be public sector employees and request the leave. NOTE: public sector burden is further subdivided between State/local/tribal and Federal for EPSLA generally as most federal employees are covered

by Title II of FMLA, which was not amended for the expanded family and medical leave portion of the FFCRA. Therefore, there are minimal estimates for federal workers who are covered by Title I.

This adds employee respondent notice burden described below (using the same 2 minutes allotted under FMLA).

Private sector- Respondents - 950,000  
Private sector Responses - 950,000  
Private sector burden hours - 31,667 burden hours

Public Sector Respondents State/Local/Tribal – 48,000  
Public Sector Responses State/Local/Tribal – 48,000  
Public Sector Burden Hours State/Local/Tribal – 1,600 hours

Public Sector Respondents Federal – 2,000  
Public Sector Responses Federal – 2,000  
Public Sector Burden Hours Federal – 66 hours

Additionally, the notice requirement adds to the employer recordkeeping burden described below (using the same 1.25 minutes as allotted for FMLA).

Private sector- Respondents - 950,000  
Private sector Responses - 950,000  
Private sector burden hours - 19,792 burden hours

Public Sector Respondents State/Local/Tribal – 48,000  
Public Sector Responses State/Local/Tribal – 48,000  
Public Sector Burden Hours State/Local/Tribal – 1,000 hours

Public Sector Respondents Federal – 2,000  
Public Sector Responses Federal – 2,000  
Public Sector Burden Hours Federal – 42 hours

Under § 826.90(a)(1), if an employee fails to give proper notice, the employer should give him or her notice of the failure and opportunity to provide the required documentation. This adds a burden to respondent employers and applies to both EPSLA and EFMLEA. The Department estimates that it will take employers 2 minutes to provide the notice of failure and opportunity to provide documentation for an estimated 100,000 workers. These are subdivided below.

Private Sector respondents – 95,000  
Private Sector responses – 95,000  
Private Sector Burden Hours -3,167 burden hours



Public Sector Respondents State/Local/Tribal –4,800  
Public Sector Responses State/Local/Tribal – 4,800  
Public Sector Burden Hours State/Local/Tribal –160

Public Sector Respondents Federal – 200  
Public Sector Responses Federal – 200  
Public Sector Burden Hours Federal– 7

- B. In § 826.110 (d), notice of any opportunity to change health care coverage plans or benefit plans must be provided to an employee taking paid sick leave or expanded medical leave, and if the employee requests the changed coverage it must be provided by the employer.

The Department has used the same estimate that is used for the FMLA in the IC 1235-0003 when employers are required to notify employees of cancellation of health benefits. As a result, the Department estimates five minutes for the respondent employer to provide the notice. The Department notes that few employers cancel or change health benefits while persons are on leave (as noted in OMB control number 1235-0003). As a result, the Department is using the same percentage of the total number of affected employers as it has used for the FMLA collection (2.85%). Taking the total affected respondent employers (and understanding this is an overestimate as many employers with fewer than 50 employees may be exempt from some of the leave requirements of this rule,  $5,976,761 \times 2.85\% = 170,337$  respondents.  
 $170,337 \text{ responses} \times 5 \text{ minutes} = 851,685 \text{ minutes} (14,195 \text{ hours}).$

Respondents – 170,337  
Responses – 170,337  
Burden Hours 14,195

The Department estimates all changes to health benefits will be within the private sector as most public sector employees are governed by union contract, as a result will be based on contractual agreement.

- C. In § 826.140, the Department issues recordkeeping requirements noting that in section 826.140(a), that an employer is required to retain all documentation provided pursuant to § 826.100. In section 826.140(c), employers are advised to maintain other documents needed to support its request for tax credits pursuant to IRS applicable forms, instructions, and information for the procedures that must be followed to claim the tax credit. The EPSLA requirements are discussed in (A) above generally.

In § 826.100(d), the Department notes that to use paid sick leave for a qualifying COVID-19 related reason under § 826.20(a)(1)(v) or for Expanded Family and Medical Leave, an employee must additionally provide documentation indicating

closure or unavailability of his or her own son or daughter's school, place of care or child care provider. The documentation is not required to be an individualized certification and may be satisfied with a notice of closure or unavailability from his or her own son or daughter's school, place of care, or child care provider.

§ 826.100(f), an employer may request an employee to provide additional material as needed for the employer to support a request for tax credits pursuant to the FFCRA.

In order to estimate the time needed for the respondent employers to maintain the documentation, the Department has used the same 1.25 minutes as used for FMLA employer recordkeeping. This 1.25 minutes is the same estimate as the General Recordkeeping estimate for the FMLA collection found in 1235-0003.

As noted, Title II of the FMLA was not amended and so federal employees generally will not take EPSLA and EFMLEA leave concurrently, however, the Department submits a modest estimate for federal workers who may be covered under Title I and take leave.

#### Respondent employer recordkeeping

For purposes of this calculation, the Department assumes 2,302,123 employer respondents will maintain the records for 3,695,080 employees (1,000,000 EPSLA and 2,695,080 EFMLEA). Each burden will be 1.25 minutes. The Department believes this is an overestimate but has included the requirements for all leave takers as potential records.

Respondents – 2,302,123  
Responses – 3,695,080  
Burden Hours – 76,981

For purposes of ROCIS entry, this is divided into private sector and public sector.

Private Sector respondents – 2,187,017  
Private Sector responses – 3,510,326  
Private Sector burden hours – 73,132 burden hours

Public Sector respondents State/Local/Tribal – 114,876  
Public Sector responses State/Local/Tribal – 184,384  
Public Sector burden hours State/Local/Tribal – 3,841 burden hours

Public Sector Respondents Federal – 230  
Public Sector Responses Federal – 370  
Public Sector Burden Hours Federal – 8

### **EFMLEA Leave**

Under the FMLA, the Department estimates that about 8% of employees use the leave (6.9 million leave takers of 87.2 million eligible). Under the EFMLEA, the Department assumes ten percent will need the leave. As noted in the RIA of this rulemaking, the Department has estimated that 26,950,796 workers are eligible and work for covered employers.

$26,950,796 \times 10\% = 2,695,080$  employees who will request and take EFMLEA leave.

The Department has used the same time estimate that is used for the FMLA to estimate this requirement and estimates two minutes for the respondent employee to provide notice to the employer.

$2,695,080 \times 2 \text{ minutes} / 60 \text{ min per hour} = 89,836$  hours

Respondents- 2,695,080  
Responses- 2,695,080  
Burden Hours – 89,836

For purposes of ROCIS entry, this estimate is divided into public sector versus private sector.

Private Sector respondents – 2,560,326  
Private Sector responses – 2,560,326  
Private Sector burden hours – 85,344 burden hours

Public Sector State/Local/Tribal respondents – 134,454  
Public Sector State/Local/Tribal responses – 134,454  
Public Sector State/Local/Tribal burden hours – 4,482 burden hours

As noted EFMLEA did not amend Title II for federal workers, however, the Department is submitting a modest estimate for the few federal workers who are covered by Title I and may take leave.

Public Sector Respondents Federal – 300  
Public Sector Responses Federal – 300  
Public Sector Burden Hours Federal – 10

The employer is required to maintain the record. In the RIA, the Department estimates that 2,302,123 employers will maintain the record (this number is 1,726,592 employers with fewer than 50 employees + 575,531 employers with between 50-500 workers). The same 75 seconds for record retention is used as described above.

$2,302,123 \times 1.25 \text{ min}/60 \text{ min per hour} = 47,961 \text{ burden hours.}$

Employer Respondent- 2,302,123

Employer Responses – 2,695,080 (note that some employers will have more than one response)

Burden Hours – 56,149

For purposes of ROCIS entry, this item is further divided into public sector and private sector.

Private Sector respondents – 2,187,017

Private Sector responses – 2,560,326

Private Sector burden hours – 53,341 burden hours

Public Sector respondents State/Local/Tribal – 114,876

Public Sector responses State/Local/Tribal – 134,484

Public Sector burden hours State/Local/Tribal – 2,802 burden hours

Public Sector Respondents Federal – 230

Public Sector Responses Federal – 270

Public Sector Burden Hours Federal – 6

### **Small Employer Exemption**

Section 826.40(b) describes the small employer exemption pursuant to the Secretary's regulatory authority to exempt small private employers with fewer than 50 employees from having to provide an employee with leave under EPSLA section 5102(a)(5) and expanded family and medical leave for employers with fewer than fifty employees. The exemption is limited to leave to care for a child due to school/childcare closure or care provider unavailability due to COVID-19.

In § 826.40(b)(2), the regulations require an employer asserting the exemption to document why their business meets these criteria. The regulations require that the employer retain the records. This imposes a burden on such respondent employers. Based on the regulatory impact analysis accompanying this rule, the Department estimates 575,531 employers will document and retain such records. The Department estimates one hour for compiling and maintaining such records in the regulatory impact analysis.

Respondents – 575,531

Responses – 575,531

Burden Hours- 575,531

For purposes of ROCIS entry, this is further divided into public sector and private sector.

Private Sector respondents – 546,755

Private Sector responses – 546,755  
 Private Sector burden hours – 546,755 burden hours

Public Sector respondents – 28,776  
 Public Sector responses – 28,776  
 Public Sector burden hours – 28,776 burden hours

**TOTAL ESTIMATED ANNUALIZED RESPONDENT BURDEN AND COSTS**

Requirement	Respondents	Responses	Burden Hours
EE Notice EPSLA	1,000,000	1,000,000	33,333
ER records EPSLA	1,000,000	1,000,000	20,834
ER Notice fail to provide adequate notice	100,000	100,000	3,334
ER notice of health care change	170,337	170,337	14,195
EE Notice EFMLEA	2,695,080	2,695,080	89,836
ER Record EFMLEA	2,302,123	2,695,080	56,149
ER record tax credit doc	2,302,123	3,695,080	76,981
Small ER Exemption records	575,531	575,531	575,531
<b>TOTALS</b>	<b>10,145,194*</b>	<b>11,931,108</b>	<b>870,193</b>

\*Note that this total shows each action by employer respondents but a single respondent employer may have multiple responses.

To estimate cost the Department used the BLS Employment Situation, Table B-3 and took the average hourly earnings for June 2020 (\$29.37). To this amount we added 46% benefit cost plus 17% overhead cost for a total loaded wage rate of \$47.87.

870,193 burden hours x \$47.87 = \$41,656,139. (rounded)

**13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).**

The Department associates no substantive operation or maintenance costs with these information collections. The Department thinks any annual cost burden will be relatively small as the law expires in December 2020.

**14. Provide estimates of annualized costs to the federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 into a single table.**

The Department will incur costs in training enforcement staff to respond to additional complaints for a new leave entitlement in a new enforcement program. However, the Department does not have data to assess the cost to the Department. The Department thinks the enforcement cost will be relatively small as the law expires in December 2020.

**15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.**

The Department reports an increase in responses and burden hours. The Department revised its estimate to assume that all leave takers may be required to provide documentation to support employer tax credits. The Department deleted burdens associated with health care provider certifications from this ICR as the FFCRA does not require this certification. Employers may require health care provider certifications under the FMLA provisions, which are covered under 1235-0003. As noted in item #8, in response to a comment received, the Department has added a specific recordkeeping category for tax credit documentation.

**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 of information, completion of report, publication dates, and other actions.**

The Department does not publish the results of this information collection.

**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.**

The Department does not seek an exception to the requirement to display the expiration date on this information collection.

**18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”**

The Department is not requesting an exception to any of the certification requirements for this information collection. This request complies with 5 CFR 1320.9.

**B. Employing Statistical Methods**

Not applicable.