

Supporting Statement
Work Experience and Career Exploration Program (WECEP)
Regulations, 29 C.F.R. § 570.35a
OMB Control Number 1215-0121

1. Fair Labor Standards Act (FLSA) section 3(l), 29 U.S.C. § 203(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 or deemed hazardous, 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. *See* 29 C.F.R. § 570.35a.

FLSA section 11(c) requires all employers covered by the FLSA to make, keep, and preserve records of their employees' wages, hours and other conditions and practices of employment. *See* 29 U.S.C. § 211(c). Regulations issued by the Secretary of Labor prescribe the recordkeeping and reporting requirements for these records. *Id.* NOTE: The OMB clears general FLSA recordkeeping requirements applicable to employers under Control Number 1215-0017, and they are not part of this clearance.

Subpart C of Regulations 29 C.F.R. Part 570—Child Labor Regulations, Orders and Statements of Interpretation—sets forth the employment standards for minors between 14 and 16 years of age (Child Labor (CL) Reg. 3). *See* 29 C.F.R. §§ 570.31-.37. Regulations 29 C.F.R. § 570.35a contains the requirements and criteria for the use of 14- and 15- year olds and the occupations permitted for them, and the conditions of employment that allow for the employment of 14- and 15- year olds, pursuant to a school-supervised and school-administered Work Experience and Career Exploration Program (WECEP) under conditions CL Reg. 3 otherwise prohibits. *See* 29 C.F.R. § 570.35a(b)-(d).

Reporting Requirements and Third Party Disclosures

- A. WECEP Application: In order to utilize the CL Reg. 3 WECEP provisions, regulations 29 C.F.R. § 570.35a(b)(2) requires a state educational agency to file an application for approval of a state WECEP program as one not interfering with schooling or with the health and well-being of the minors involved.
- B. Written Training Agreement: Regulations 29 C.F.R. § 570.35a(b)(3)(vi) requires the preparation of a written training agreement for each student participating in a WECEP and that such agreement be signed by the teacher-coordinator, employer, and student. Moreover, the student's parent or guardian must also sign or otherwise consent to the agreement in order for it to be valid. *Id.*

Recordkeeping Requirements

Regulations 29 C.F.R. § 570.35a(b)(4)(ii) requires state educational agencies to keep a record of the names and addresses of each school enrolling WECEP students and the number of enrollees in each unit. The state or local educational agency office must also keep a copy of the written training agreement for each student participating in the WECEP. *Id.* The records and copies must be maintained for three years from the date of each student's enrollment in the program. *Id.*

2. WECEP application: A state educational representative files a letter of application requesting the Administrator of the U.S. Department of Labor (DOL), Wage and Hour Division (WHD), to approve a WECEP that permits the employment of 14- and 15-year olds under conditions that CL Reg. 3 would otherwise prohibit. *See* 29 C.F.R. § 570.35a(b)(2). The WHD evaluates the application to determine if the program meets the criteria specified in the regulations. *See* 29 C.F.R. § 570.35(b)(3). Without this information, the Administrator would have no means for determining whether the proposed program meets the regulatory requirements.

Written Training Agreement: The state educational agency or the local educational agency maintains a written training agreement for each student that the teacher-coordinator, employer, and student have signed. *See* 29 C.F.R. § 570.35a(b)(3)(vi). The agreement must also be signed or otherwise consented to by the student's parents or guardians. *Id.* The written training agreement documents the structured training that the WECEP provides for the student.

List of participating schools and numbers of enrollees: The WHD reviews the required records to determine compliance with the youth employment provisions of the FLSA and its regulations. WHD investigators specifically review this information to determine a minor's enrollment in a WECEP program.

3. Regulations 29 C.F.R. § 570.35a prescribes no particular form for the application, provided the applicant submits all the required information. The DOL also does not require a particular format for the written training agreement. In accordance with the Government Paperwork Elimination Act (GPEA), the WHD accepts electronic submission by e-mail or fax.

The regulations prescribe no particular order or form of records. The WHD accepts records preserved in such forms as microfilm or automated word or data processing, provided the educational agency makes adequate facilities available for their inspection and transcription by DOL representatives. The regulations allow for photocopies of the records.

4. There is no duplicative effort to collect this information. The information requested is not available from any other source. The required records are original state or local educational office records.

5. State and local educational agencies perform these information collections. These information collections do not have a significant economic impact on a substantial number of small entities.
6. WECEP program approvals are valid for two school years from the date of Administrator approval. See 29 C.F.R. § 570.35a(f). A new application is required at the end of that period. *Id.* Less frequent application would not ensure that these programs do not interfere with the minor's schooling or health and well-being.

It would be impossible to determine the legal employment of 14- and 15-year-olds during school hours were records relating to the participation of minors in WECEP programs not maintained or maintained on a less frequent basis.

7. There are no special circumstances involved in these information collections.
8. The DOL published a notice in the *Federal Register* inviting public comments about these information collections on August 6, 2008. 73 Fed. Reg. 45789. In response, the Department received one comment from a person who voiced generalized concerns about the employment of foreign-born youths, unsafe working conditions, and other related issues; however, the comment did not address the WECEP information collections. Regular contacts with state education agencies during the application process have not raised any substantive problems or undue burdens with the application process or the related recordkeeping.
9. The DOL offers no payments or gifts to respondents in connection with these information collections.
10. The DOL makes no assurances of confidentiality to respondents. As a practical matter, the DOL would only disclose information collected under these requests 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 related regulations, 29 C.F.R. parts 70, 71.
11. These applications and records contain no sensitive information.
12. Reporting and Third-Party Disclosure Burdens
 - A. WECEP Application: The DOL estimates it takes approximately two hours for a state educational agency to prepare the letter applying for approval of a WECEP, which is valid for two years from the approval date. On average, seven state educational agencies apply per year for an annual burden of 14 hours. (Total 14 WECEPs at any given time.)
 - B. Written Training Agreement: The DOL estimates each regulatory-required written training agreement between the teacher-coordinator, employer, and student takes approximately one hour to complete. Departmental experience leads us to believe that on average each participating state has about 20 participating schools (total 280 respondents) that each have about students enrolled in a WECEP program: thus, on

average, 1000 students annually participate under each WECEP for an equal number of responses.

1000 written agreements x 1 hour = 1000 hours
1000 hours per WECEP x 14 WECEPs = 14,000 annual burden hours.

14 hours for WECEP applications + 14,000 hours for written training agreements =
14,014 annual reporting burden hours.

Recordkeeping Burdens

The DOL estimates each state educational agency spends an average of one hour per year meeting the requirement to record names and addresses of each school enrolling WECEP students and the number of enrollees in each unit. The total annual burden for the 14 state WECEPs is 14 hours.

DOL estimates it takes approximately one-half minute to file each WECEP record and written training agreement, for a total annual burden of 117 hours. (1000 written agreements x 14 WECEPs) + 14 WECEP records of schools and number of enrollees = 14,014 documents x .5 minutes = 7007 minutes/60 = 117 hours (Rounded).

14 hours for WECEP program records + 117 hours for filing =
131 Total Annual Recordkeeping Burden Hours.

TOTAL ANNUAL REPORTING AND RECORDKEEPING BURDEN—14,145 HOURS.

Absent any specific data on compensation of respondents in these educational institutions, DOL has used the March 2008 average annual hourly rate for production or nonsupervisory workers on educational and health services payrolls of \$18.62 to determine respondent costs. See *Employment Situation, May 2008*, Table B-3, p. 24, DOL, BLS, http://www.bls.gov/news.release/archives/empsit_06062008.pdf. Accordingly, the DOL estimates annual respondent costs to be \$ 263,380, rounded. 14,145 hours x \$18.62.

13. The annual mailing and postage cost for 7 applications is \$3.15 (\$.42 postage + \$.03 per envelope x 7 applications).
14. The WHD receives an average of seven applications per year and estimates the agency spends approximately 3 hours to process an application, including analysis of the application and preparation of the letter granting or denying approval.

Analyzing-Processing: \$31.61 (GS 11/5) x 2 hours = \$63.22.

Clerical: \$19.22 (GS 6/5) x 1 hour = \$19.22.

TOTAL ANNUAL FEDERAL COST – (\$63.22 + \$19.22) x 7 applications = \$577.08

15. There is no material change in the public burden imposed by this information collection. Adjustments have been recorded in the ROCIS database to reflect the three parts covered by the overall WECEP information collection request and the fact that schools would be independent respondents from States. These adjustments result in an increase of two additional information collections being identified and 280 additional respondents. In addition, prior estimates reflected only a single recordkeeping item for each State Education Agency to record each school enrolling students under a WECEP. Identifying each entry as a separate response results in an adjustment reflecting an increase of 273 estimated responses but no additional burden hours, because prior submissions reflected the total time. Finally, the Department has increased the maintenance and operational cost publicly reported via www.reginfo.gov Web site by \$3.00, rounded, because Form OMB-83-I that was previously used to report costs sought entries in \$1000 increments. The ROCIS database reports costs more precisely. The Department has mentioned these costs in prior [supporting statements](#) for this collection of information.
16. The DOL does not publish the results of these information collections.
17. The DOL does not seek an exception to the requirement to display the expiration date on these information collections.
18. The DOL is not requesting an exception to the certification requirements for these information collections.