

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review: Comment Request

August 27, 2009

The Department of Labor has submitted the following (see below) information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (P.L. 104-13, 44 U.S.C. Chapter 35) and 5 C.F.R. § 1320.13. OMB approval has been requested by 9/28/2009. A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov website at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Darrin King on 202-693-4129 (this is not a toll-free number) / email: DOL_PRA_PUBLIC@dol.gov. Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor - ESA, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202-395-7316 / Fax: 202-395-7245 (these are not toll-free numbers), Email: OIRA_submission@omb.eop.gov. Comments and questions about the ICR listed below should be received 5 days prior to the requested OMB approval date.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Agency: Division of Federal Employment Compensation.

Title of Collection: Death Gratuity Benefit.

OMB Control Number: 1215-AB66.

Frequency of Collection: On Occasion.

Affected Public: Individuals or household; Federal Government.

Estimated Time Per Respondent: 15 minutes.

Total Estimated Number of Respondents: 2,635.

Total Estimated Annual Burden Hours: 659.

Total Estimated Annual Costs Burden (excluding hour costs): \$0.

Description: The National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, was enacted on January 28, 2008. Section 1105 of P.L. 110-181 amended the Federal Employees' Compensation Act (FECA) creating a new section 8102a effective upon enactment. This section will establish a new FECA death gratuity benefit for eligible beneficiaries of federal employees and Non-Appropriated Fund Instrumentality (NAFI) employees who die from injuries incurred in connection with service with an Armed Force in a contingency operation. Section 8102a also permits agencies to authorize retroactive payment of the death gratuity for employees who died on or after October 7, 2001, in service with an Armed Force in the theater of operations of Operation Enduring Freedom and Operation Iraqi Freedom. To help it exercise its responsibility to administer this benefit, the Office of Workers' Compensation Programs (OWCP) has promulgated an interim final rule. The statute and regulations allow for employees to vary the statutory order of precedence for beneficiaries and to designate alternative recipients of this benefit. Form CA-40 requests the information necessary from the employee to accomplish this variance. Form CA-41 provides the means for those named beneficiaries and possible recipients to file claims for those benefits and requests information from such claimants so that OWCP may determine their eligibility for payment. Furthermore, the statute and regulations require agencies to notify OWCP immediately upon the death of a covered employee. CA-42 provides the means to accomplish this notification and requests information necessary to administer any claim for benefits resulting from such a death.

Why are we requesting Emergency Processing? In accordance with 5 CFR 1320.13, emergency processing of this collection is essential to the mission of the agency, and the

agency cannot reasonably comply with the normal clearance procedures under this Part because the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory deadline to be missed. The agency has taken all practicable steps to consult with interested agencies and members of the public to minimize the burden of the collection of this information.

Under 5 CFR 1320.13, it is requested that this collection be submitted and approved on an emergency basis. Under the National Defense Authorization Act for FY2008, an amendment to the FECA allows for immediate death gratuity payments to eligible survivors of Federal employees and employees of nonappropriated funded instrumentalities (NAFI) who die of injuries sustained in connection with the employee's service with an Armed Force serving in a contingency operation. While the Public Law became effective January 28, 2008, it also provides a provision in which a death gratuity may also be paid to eligible survivors of employees from certain agencies who died on or after October 7, 2001, due to injuries incurred in connection with the service of an Armed Force in the theatre of operations of Operation Enduring Freedom and Operation Iraqi Freedom.

The OWCP FECA has been delegated the authority to administer the adjudication of claims and payment of the death gratuity under new section 5 U.S.C. 8102a, and has initiated a new collection with 3 distinct forms to meet stature requirements. Because of the immediate and retroactive provisions of this Law, the Agency requests that an immediate review and authorization of this collection be approved for 180 days to

implement section 8102a. The agency will subsequently follow up with normal processing procedures to allow for the routine three-year extension of this collection.

Darrin A. King
Departmental Clearance Officer

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