

Agency: Department of Labor, Bureau of International Labor Affairs.

Title: International Child Labor Study Company Questionnaires.

OMB Number: 1225-0 new.

Frequency: One time.

Affected Public: Business or other profit.

Number of Respondents: 50.

Estimated Time Per Respondent: 3 hours.

Total Burden Hours: 150.

Total Burden Cost (Capital/startup): 0.

Total Burden Cost (Operating and maintenance): 0.

Description: The Department of Labor (DOL) requires the requested information in order to complete a Congressionally-mandated report on international child labor (pursuant to the 1997 Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Bill, P.L. 104-134). Congress has requested that DOL's report include an analysis of efforts by importers to eliminate exploitative child labor in sectors where exploitative child labor is a problem, including through codes of conduct or labeling systems. The industries to be reviewed, hand-knotted carpets, soccer balls, leather footwear, and tea, are based on products identified in earlier DOL child labor reports. In order to fulfill the Congressional mandate, DOL requests that U.S. importers of these goods furnish information regarding any programs in which they participate to eliminate child labor in these industries, particularly labeling efforts to inform consumers that no child labor is used in the production of these products. DOL has requested an emergency review in order to complete the study by July 15, 1997.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97-10423 Filed 4-22-97; 8:45 am]

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DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB review; comment request

April 17, 1997.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (P.L. 104-13, 44 U.S.C. Chapter 35). A copy of each

individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Theresa M. O'Malley ((202) 219-5096 ext. 143). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219-4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316), by May 23, 1997.

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 submission of responses.

Agency: Employment Standards Administration.

Title: Work Experience and Career Exploration Programs (WECEP)—29 CFR Part 570.35A.

OMB Number: 1215-0121 (extension).

Frequency: Biennially.

Affected Public: Individuals or households; State, Local or Tribal Government.

Number of Respondents: 16,016.

Estimated Time Per Respondent: 2 hours per WECEP application; 1 hour per training agreement.

Total Burden Hours: 8,016.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): \$3.00.

Description: Section 570.35a(2) of the Fair Labor Standards Act requires that a letter of application requesting approval of WECEP be filed by a State educational agency with the Administrator, Wage and Hour Division.

Without this information, the Administrator would not have the means to determine whether or not WECEP program meets requirements to permit the employment of minors, 14 and 15 years of age, under conditions and in occupations which are otherwise prohibited by child labor regulations.

Agency: Employment Standards Administration.

Title: Regulations to Implement the Remedial Education Provisions of the Fair Labor Standards Amendments of 1989—29 CFR 516.34.

OMB Number: 1215-0175 (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; Not for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 15,000.

Estimated Time Per Respondent: 10 minutes.

Total Burden Hours: 5,000.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Pursuant to Section 7(g) of the Fair Labor Standards Act (FLSA), as amended, employees who lack a high school diploma or whose reading level or basic skills are at or below the eighth grade level may be required to attend up to ten hours per week of remedial education. The additional hours devoted to such remedial education do not have to be compensated at the time and one-half overtime rate set forth in FLSA Section 7(a). However, employees must receive compensation at their regular rate of pay for time spent receiving such remedial education. The basic recordkeeping requirements for employers of employees subject to the FLSA are contained in 29 CFR Part 516, Records to be Kept by Employers. Failure to require such records to be kept would make it very difficult to determine compliance.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97-10425 Filed 4-22-97; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letters Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal law

requirements pertaining to unemployment compensation as part of its role in the administration of the Federal-State unemployment compensation program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies (SESAs). The UIPL described below is published in the **Federal Register** in order to inform the public.

UIPL 22-97

Several questions have arisen concerning the coverage of certain governmental services performed as a result of natural disasters. These questions have concerned Section 3309(b)(3)(D) of the Federal Unemployment Tax Act, which permits the exclusion from coverage of temporary governmental services performed "in case of * * * emergency". This UIPL is issued to restate the Department's interpretation concerning what services are performed "in case of * * * emergency" and to provide the Department's position on the distinction between emergencies and disasters. This UIPL does not represent a change to the Department's interpretation of Federal law.

Dated: April 17, 1997.

Raymond J. Uhalde,
Acting Assistant Secretary of Labor.

U.S. Department of Labor

Employment and Training Administration,
Washington, DC 20210

Classification, UI

Correspondence Symbol, TEUL

Date, April 14, 1997

Directive: Unemployment Insurance Program
Letter No. 22-97

To: All State Employment Security Agencies

From: Grace A. Kilbane, Director,

Unemployment Insurance Service

Subject: Exclusion of Governmental Services
Performed "In Case of Emergency"

1. *Purpose.* To restate a Departmental interpretation of a Federal law exclusion from unemployment compensation (UC) coverage for governmental services performed in case of emergency and to provide the Department's position on the distinction between emergencies and disasters.

2. *References.* The Federal Unemployment Tax Act (FUTA); *Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976—P.L. 94-566 (1976 Draft Language).*

3. *Background.* In the past year, several questions have arisen concerning the coverage of certain governmental services performed as a result of natural disasters. These questions have concerned Section

3309(b)(3)(D), FUTA, which permits the exclusion from coverage of temporary governmental services performed "in case of * * * emergency". This UIPL is issued to restate the Department's interpretation concerning what services are performed "in case of * * * emergency" and to provide the Department's position on the distinction between emergencies and disasters.

Rescissions, None

Expiration Date, Continuing

4. *Federal Law Requirements.* The Department has long taken the position that, because FUTA is a remedial statute aimed at overcoming the evils of unemployment, it is to be liberally construed to effectuate its purposes and exceptions to its coverage requirements are to be narrowly construed. This rule of construction avoids "difficulties for which the remedy was devised and adroit schemes by some employers and employees to avoid the immediate burdens at the expense of the benefits sought by the legislation."¹ As such, provisions requiring coverage of services are construed broadly, while exceptions to required coverage are construed narrowly.

Among other things, Section 3304(a)(6)(A), FUTA, requires coverage of services performed for certain governmental entities. Specifically, it requires coverage of services to which Section 3309(a)(1) applies. Among these services are those excluded from the term "employment" solely by reason of Section 3306(c)(7). Section 3306(c)(7) applies to services performed for a "State, or any political subdivision thereof" and instrumentalities of these entities. Exceptions to this required coverage are permitted only when specified by Federal law.

Section 3309(b)(3) excludes from required coverage services performed for the above governmental entities if such service is performed by an individual in the exercise of his duties—

(d) as an employee serving on a temporary basis *in case of* fire, storm, snow, earthquake, flood, or similar emergency. * * * [Emphasis added.]

5. *Discussion.* In his remarks on the legislation which created the emergency exclusion, Representative Corman, the acting chairman of the responsible subcommittee, stated that—

A similarly worded exclusion is also contained in the Social Security Act and in the unemployment compensation program for Federal employees. This exclusion has the purpose of excluding only those individuals hired or impressed into service to

¹ This rule of construction was set forth on page 5 of Supplement #5—Questions and Answers Supplementing *Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976—P.L. 94-566*, dated November 13, 1978. Several Federal court decisions, including two involving Federal UC law, *United States v. Silk*, 331 U.S. 704, 712 (1947) and *Farming, Inc. v. Manning*, 219 F.2d 779, 782 (3d Cir., 1955), state this principle. More recently this principle was stated in UIPL 30-96, dated August 8, 1996.

deal directly with an emergency or urgent distress associated with an emergency. [122 Cong. Rec. 35131 (1976). Emphasis added.]

In 1976 the Department quoted the above language and stated that—

[T]he exclusion applies to individuals who are hired or impressed to assist *in emergencies* and includes such tasks as fire-fighting, removal of storm debris, restoration of public facilities, snow removal, road clearance, etc. [1976 Draft Legislation, page 27. Emphasis added.]

The FUTA exclusion applies only to services performed "in case of" fire, storm, snow, earthquake, flood, or similar emergency. "Emergency" is defined in the Second College Edition of the American Heritage Dictionary as "an unexpected situation or sudden occurrence of a serious and urgent nature that demands immediate action." The FUTA language "in case of" indicates that it is the emergency itself—or the urgent distress caused by the emergency—which must directly cause the need for the services to be performed. Therefore, for the services to be performed "in case of * * * emergency," a direct relationship must exist between the services and the emergency, as defined above.

Whether services performed as a result of a disaster are also performed "in case of * * * emergency" must be determined on a case-by-case basis. "Disaster" is defined in the Second College Edition of the American Heritage Dictionary as "an occurrence causing widespread destruction and distress." Since disaster-related services may be performed after the need for immediate action has passed, they are not necessarily performed "in case of * * * emergency." For example, services performed removing hurricane debris to gain access to a hospital are performed "in case of * * * emergency" when there is an immediate need to obtain access to the hospital. However, when the removal of hurricane debris from the roadside does not require immediate action, services are not performed "in case of * * * emergency" and may not be excluded from coverage on that basis.

Conversely, an emergency situation does not always rise to the level of a disaster. For example, an emergency situation need not be widespread. Thus, even in the absence of a disaster, services may be performed "in case of * * * emergency" and the services may be excluded from coverage.

Each State is responsible for obtaining sufficient facts to support a determination under provisions of State law corresponding to the FUTA exclusion that the services were performed "in case of * * * emergency."

6. *Action required.* State agency administrators are requested to provide this UIPL to appropriate staff.

7. *Inquiries.* Direct questions to your Regional Office.

[FR Doc. 97-10466 Filed 4-22-97; 8:45 am]

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