

SUPPORTING STATEMENT
APPLICATIONS TO EMPLOY HOMEWORKERS; PIECE-RATE
MEASUREMENTS; AND HOMEWORKER HANDBOOKS; FULL-TIME
STUDENTS AT SUBMINIMUM WAGES IN RETAIL OR SERVICE
ESTABLISHMENTS, INSTITUTIONS OF HIGHER EDUCATION, AND
AGRICULTURE; APPRENTICES, MESSENGERS, AND LEARNERS
(INCLUDING STUDENT-LEARNERS AND STUDENT-WORKERS).
FORMS WH-2, WH-46, WH-75, WH-200, WH-201, WH-202, WH-205, WH-209,
WH-226, and WH-226A.
OMB CONTROL NUMBER: 1235-0001
(Combining 1235-0019, 1235-0020, 1235-0022)

A Justification

1. Need.

This information collection pertains to the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, *et seq.*, special employment provisions. These provisions relate to restrictions on industrial homework and to the use of special certificates that allow for the employment of categories of workers who may be paid less than the statutory minimum wage to the extent necessary to prevent curtailment of their employment opportunities.

Fair Labor Standards Act (FLSA) section 11(d), 29 U.S.C. § 211(d), authorizes the Secretary of Labor to regulate, restrict, or prohibit industrial homework as necessary or appropriate to prevent the circumvention or evasion of the minimum wage requirements of the Act. The Department of Labor (DOL) restricts homework in seven industries (knitted outerwear, women's apparel, jewelry manufacturing, gloves and mittens, button and buckle manufacturing, handkerchief manufacturing, and embroideries) to those employers who obtain certificates. 29 C.F.R. §§ 530.1-.2. DOL may also issue individual certificates in any industry permitting industrial homework in certain hardship cases. 29 C.F.R. §§ 530.3-.4. Under a certification program that became effective in January 1989, DOL now allows employers to obtain general employer certificates to employ homeworkers in all restricted industries except women's apparel and hazardous jewelry manufacturing operations. 29 C.F.R. § 530.101.

Employers use Form WH-2, when obtaining certificates to employ individual homeworkers in one of the restricted homework industries. Upon application by the homeworker and the employer, DOL may issue a certificate to the employer authorizing employment of an individual homeworker, provided (1) it is shown that the worker is unable to adjust to factory work because of age and physical or mental disability or is unable to leave home because the worker is required to care for an invalid in the home, and (2) the worker has

been engaged in industrial homework in the particular industry prior to certain specified dates as set forth in the regulations.

Employers use Form WH-226 and the supplemental data form, Form WH-226A, when obtaining authorization to employ workers with disabilities in competitive employment, in work centers and in hospitals or institutions at subminimum wages that are commensurate with those paid to workers with no disabilities. The commensurate rate is based upon the prevailing wage paid to experienced workers who do not have disabilities performing essentially the same type, quality, and quantity of work in the vicinity in which the individual under certificate is employed. This form is also used by school officials in requesting authorization for groups of students with disabilities to participate in school work-experience programs and by State vocational rehabilitation counselors and Department of Veterans Affairs officials to grant or extend temporary authorization to employ on-the-job trainees with disabilities. The regulatory requirements concerning the issuance of certificates to employ workers with disabilities under subminimum wages are contained in 29 C.F.R. §§ 525.7, 525.8, 525.9, 525.11, 525.12, and 525.13. Most certificates are valid for two years.

Employers use Form WH-46 to apply for a certificate to employ homeworkers in restricted industries. 29 C.F.R. § 530.101(c). The employer application (WH-46) must contain the information prescribed by the regulations including the names, addresses, and languages (other than English) spoken by the homeworkers (29 C.F.R. § 530.102) and certain written assurances (29 C.F.R. § 530.103). Upon approval of the application, DOL issues a certificate authorizing employment of homeworkers in the restricted industry. Unless suspended or revoked, such certificates are valid for two-year periods. 29 C.F.R. 530.101(b).

The regulations require that employers in the restricted industries under the certification program who pay workers based on piece rates have documentation of the work measurements used to establish such piece rates and the circumstances under which such measurements were conducted. The documentation must be retained for three years and made available to DOL upon request. 29 C.F.R. § 530.202(a).

Pursuant to 29 C.F.R. § 516.31(c), an employer must obtain from WHD a separate Homeworker Handbook (Form WH-75) for each homeworker employed. The employer must ensure that all handbooks contain the proper entries concerning hours of work and is required to maintain the completed handbook for two years.

Fair Labor Standards Act (FLSA) section 14(a) requires that the Secretary of Labor, to the extent necessary to prevent curtailment of employment opportunities, provide by regulations or order for the employment of

categories of workers who, under special certificates may be paid less than the statutory minimum wage. This section also authorizes the Secretary to set limitations on such employment as to time, number, proportion, and length of service. These workers include apprentices, messengers, and learners, including student-learners and student-workers. The regulations at 29 C.F.R. § 520 contain the provisions that implement the section 14(a) requirements.

Form WH-205 is the application an employer uses to obtain a certificate to employ student-learners at wages lower than the federal minimum wage. Form WH-209 is the application an employer uses to request a certificate authorizing the employer to employ learners and/or messengers at subminimum wage rates. Regulations issued by DOL, Office of Apprenticeship, Training, Employer and Labor Services (formerly Bureau of Apprenticeship and Training) no longer permit the payment of subminimum wage rates to apprentices in an approved program (29 C.F.R. § 29.5(b)(5)). As a result, DOL has issued no apprentice certificates since 1987. As explained in item 6, the WHD must maintain the information collection in order for the agency to fulfill its statutory obligation under the FLSA to maintain the program.

The use of learner certificates has declined since the 1960s because wage rates have risen in many industries where certificates were previously issued and an adequate supply of experienced workers now exists in most industries. DOL has received no applications for messengers since 1949, but must maintain the information collection in order for the agency to fulfill its statutory obligation under the FLSA.

Fair Labor Standards Act (FLSA) section 14(b) requires that the Secretary of Labor, to the extent necessary to prevent curtailment of employment opportunities, provide certificates authorizing the employment of full-time students at not less than 85 percent of the applicable minimum wage or less than \$1.60, whichever is higher, in (1) retail or service establishments and agriculture (29 U.S.C. § 214(b)(1); 29 C.F.R. § 519.1(a)); and (2) institutions of higher education (29 U.S.C. § 214(b)(3); 29 C.F.R. § 519.11(a)).

The FLSA and the regulations set forth the application requirements (Forms WH-200, WH-201, and WH-202) as well as the terms and conditions for employment of full-time students at subminimum wages under certificates and the temporary authorization to employ such students at subminimum wages. See 29 U.S.C. § 214(b)(4); 29 C.F.R. §§ 519.3-.6, 519.13-.16. These subminimum wage certificates generally remain valid for one year. 29 C.F.R. §§ 519.4(b), 519.6(a), 519.14(b), 519.16(a). These subminimum wage programs are designed to increase employment opportunities for full-time students; however, they also set limits on such employment and prescribe

safeguards to protect full-time student employees and full-time employment opportunities of other workers. See 29 C.F.R. §§ 519.1(b), 519.11(b).

Forms WH-2, WH-200, WH-201, and WH-202, WH-205 and WH-209 have been slightly altered. The division in the header “Employment Standards Administration” has been deleted. This reflects DOL’s organizational change since the last approval reflecting that Employment Standards Administration has been eliminated.

DOL is proposing to merge information collections previously cleared under OMB Control Numbers 1235-0019, 1235-0020, 1235-0022 with Control Number 1235-0001. Control Number 1235-0001 has only applied to Forms WH-205 and WH-209.

2. Use.

A. Forms WH-200, WH-201, WH-202

Forms WH-200, WH-201, and WH-202 are voluntary-use application forms an employer may prepare and sign to request a certificate authorizing the employment of full-time students at subminimum wages. Both the applicant and DOL maintain a copy of any submitted form. The WHD reviews each form to determine whether to grant or deny subminimum wage authority.

A retail, service, or agricultural employer uses Form WH-200 to request authority to employ more than six full-time students at subminimum wages for up to a monthly number of hours not exceeding: (1) 10 percent of the total monthly hours worked by all employees of the employing establishment; or (2) specific percentages, based on historic employment data, of total employee hours.

An institution of higher education uses form WH-201 to request authority to pay subminimum wages to its full-time student employees. The reverse side of Form WH-201 also serves as a “Notice of Temporary Authority” poster that provides temporary authority for the institution to employ full-time students at subminimum wages for 30 days after forwarding the properly completed application to WHD.

A retail, service, or agricultural employer uses Form WH-202 to request authority to employ up to six full-time students at subminimum wages throughout the employer’s enterprise on any given day. The FLSA specifically requires this information collection. See 29 U.S.C. § 214(b)(4) (D).

B. Forms WH-2, WH-226 and WH-226A

Employers use Form WH-2 to obtain authorization to employ individual industrial homeworkers in the restricted industries. The WHD reviews the forms employers submit, in determining whether to grant homework authorization. The FLSA permits such employment only under certificates issued by DOL. Forms WH-226 and WH-226A are forms that allow employers to obtain authorization to pay individuals with disabilities with impaired productivity at subminimum wages. Exercise of this authority by DOL helps prevent the curtailment of job opportunities for such individuals. Without the information collection, employers would have no means to apply for authorization to pay workers with disabilities at the subminimum wages or employ individual homeworkers in the restricted industries.

C. Form WH-46, piece rate measurements and Form WH-75

Form WH-46 is an application to employ homeworkers. The application process provides WHD with a means of identifying employers of homeworkers and individual homeworkers in the restricted industries who may not be otherwise identified. The application process also provides an early opportunity for WHD to assist employers in complying with homemaker requirements.

The requirement that employers record and retain documentation of the method used to establish piece-rates is necessary so that the WHD can verify that rates were properly determined and resulted in wage payments to homeworkers at a rate at least equal to the FLSA minimum wage for all hours worked in a workweek. *See* 29 C.F.R. § 530.202. Failure to require such documentation would impair the WHD's ability to ensure FLSA compliance.

Form WH-75 Homemaker Handbooks provides a mechanism to ensure that employers fulfill their obligation to obtain and record accurate hours worked information whenever they distribute homework to employees and collect it from them. Homeworkers record the information as they perform the work. *See* 29 C.F.R. §§ 516.31(c), 530.103(d)-(e). Individual homeworkers retain the Handbooks until completely filled-in and then return the Handbooks to the employer. The individual homemaker also provides the Handbook to the employer for transcription at the end of each pay period. *See* 29 C.F.R. § 516.31(c). The WHD examines the information in the Handbooks when conducting homemaker investigations to determine FLSA compliance. Failure to require an employer to collect and retain this information would impair the WHD's ability to ensure FLSA compliance.

D. Form WH-205

Employers use Form WH-205 to obtain certificates to employ student-learners at wages lower than the federal minimum wage. Form WH-209 is the application an employer uses to request a certificate authorizing the employer

to employ learners and/or messengers at subminimum wage rates. Regulations issued by DOL, Bureau of Apprenticeship and Training no longer permit the payment of subminimum wage rates to apprentices in an approved program (29 C.F.R. § 29.5(b)(5)). As a result, DOL has issued no apprentice certificates since 1987. As explained in item 6, the WHD must maintain the information collection in order for the agency to fulfill its statutory obligation under the FLSA to maintain the program. The use of learner certificates has declined since the 1960s because wage rates have risen in many industries where certificates were previously issued and an adequate supply of experienced workers now exists in most industries. DOL has received no applications for messengers since 1949, but must maintain the information collection in order for the agency to fulfill its statutory obligation under the FLSA.

3. Technology.

DOL makes Form WH-2 available in fillable Adobe PDF format for downloading, completing online and printing from our Internet website at: http://www.dol.gov/whd/forms/fts_homeworker.htm. DOL makes Forms WH-226 and WH-226A available in fillable Adobe PDF format for downloading, completing online and printing from our Internet website at: http://www.dol.gov/whd/forms/fts_wh226.htm. In accordance with the Paperwork Reduction Act, DOL continues to explore electronic submission options that will satisfy current regulatory requirements for signatures on the forms. For example, Form WH-2 presents a particular challenge in this regard, as it requires three separate signatures (applicant, witness, physician).

DOL has posted Forms WH-46 and WH-75 and instructions for completing them on the DOL website at: http://www.dol.gov/whd/forms/fts_homeworker.htm. The forms are fillable and printable and may be downloaded from the DOL website. Respondents may mail a completed application to DOL upon completion. In accordance with the Paperwork Reduction Act, DOL has assessed the practicability of developing an on-line submission option for WH-46 and WH-75 and determined it is not practical to do so. The Regulations at 29 C.F.R. § 530.102 require that the initial request for certification or renewal (Form WH-46) shall be signed by the employer. In order to meet this regulatory requirement, the DOL would need to obtain a Public Key Infrastructure (PKI) certificate for each authorized employer at a cost of \$25.00-\$35.00 per certificate compared to the mailing cost of \$0.47 for each mailed submission. Further, the DOL would have to develop the website for employers to submit the information. Development costs would easily exceed the total annual mailing cost of \$11.25 for all employers filing a paper Form WH-46 and would not be justified for an information collection that receives fewer than 100 annual responses. The piece-rate measurement provisions impose a recordkeeping requirement that utilizes Form WH-75. The form is fillable,

printable, and posted at: <http://www.dol.gov/whd/forms/index.htm> in both English and Spanish. The WHD only reviews this information in connection with an investigation under the FLSA. As a result, an on-line submission option is not practicable for these recordkeeping requirements.

The WHD enters information collected on Forms WH-200, WH-201, WH-202 into the WHD Certificate Processing System (CPS). The CPS allows the WHD to send a preprinted application that only requires updates to certain specified information (e.g. changed information, signing and recording total employment hours during the most recent twelve months) to an employer applying to renew an existing authorization. In compliance with the Paperwork Reduction Act, the WHD makes Forms WH-200, WH-201, WH-202 available in PDF fillable format for printing and downloading at: <http://www.dol.gov/whd/forms/fts.htm>.

The DOL also assessed the practicability of developing an on-line submission option for these forms but determined it is not practical to do so. The regulations at 29 C.F.R. §§ 519.3(a) and 519.13(a) require the application (i.e., Forms WH-200, WH-201, and WH-202) to be signed by an authorized representative of the employer. In order to meet this requirement, the DOL would need to obtain a PKI certificate for each authorized employer representative, costing the agency between \$25.00 and \$35.00 for each PKI certificate as compared to the \$0.47 mailing cost for each mailed submission. The DOL would also need to develop the website for employers to submit the information. Development costs would easily exceed the total annual mailing cost for all employers filing a paper Forms WH-200, WH-201 or WH-202 and not be justified for an information collection that receives less than 400 annual responses.

Forms WH-205 and WH-209 are rarely used forms. The DOL accepts fax transmissions of the completed applications associated with this information collection and has posted Form WH-205 and its instructions on the DOL Web site at: http://www.dol.gov/whd/forms/fts_wh205.htm. The DOL has not posted Form WH-209, because the agency does not anticipate receiving any requests under the messenger/learner program. The DOL has assessed the practicability of developing an on-line submission option for this information collection and has determined it is not practical to do so. Form WH-205 must be signed by the employer, the appropriate school official, and the student-learner. See 29 C.F.R. § 520.501(b). The DOL would need to obtain a PKI certificate for each authorized employer in order to meet this regulatory requirement. The WHD has been informed that each PKI certificate would cost the agency between \$25.00 and \$35.00, compared to the mailing cost of \$0.47 for each mailed submission. The DOL would also need to develop the

website for employers to submit the information. Development costs would easily exceed the total annual mailing cost for all employers filing a paper Form WH-205 and not be justified for an information collection that receives less than 1000 annual responses.

4. Duplication.

These information collections do not duplicate existing requirements. No similar information is available from any other source.

5. Minimizing Small Entity Burden.

While these information collections involve small businesses, the collections do not have a significant impact on a substantial number of small entities. The use of Forms WH-200, WH-201, and WH-202 to apply for authority to employ full-time students at subminimum wages is voluntary, and automation of the certificate renewal process reduces burden for more than 75 percent of all respondents. Forms WH-205 and WH-209 are rarely used and currently there are no certificates in effect for these programs but DOL must maintain the information collection to fulfill its statutory obligations under the FLSA. Forms WH-2, WH-226, WH-226A, WH-46 and WH-75 require the minimum necessary information to ensure FLSA compliance with respect to homework.

6. Consequence of Failing to Collect and Obstacles to Reducing Burden.

With respect to Form WH-2, WH-226, and WH-226A the WHD could not effectively administer the subminimum wage program for workers with disabilities or monitor employment in the restricted homework industries if the agency were to collect the information less frequently.

With respect to Forms WH-46 and WH-75, the DOL cannot verify compliance with the FLSA in homework employment with less frequent information collections. The requirement to retain contemporaneous records provides the employer with the information needed to ensure FLSA compliance. *See* 29 C.F.R. § 516.31(c). As a matter of the statutory provisions, the FLSA generally uses the workweek as the basis for determining proper wage payment. *See* 29 U.S.C. § 207(a); 29 C.F.R. §§ 778.103-105.

With respect to Forms WH-200, WH-201, and WH-202, applications for full-time student certificates are annually required as prescribed by the regulations. *See* 29 C.F.R. §§ 519.4(b), 519.6(a), 519.14(b), 519.16(a). Less frequent application would make it difficult for the WHD to ensure employers do not

exceed the allowances for employing full-time students at subminimum wages established under the FLSA. 29 U.S.C. § 214(b)(4). The purpose of the statutory limitation on the employment of full-time students at subminimum wages is to prevent the reduction of employment opportunities for persons other than students employed under full-time student certificates.

With respect to Forms WH-205 and WH-209, the DOL could not meet the requirements of FLSA section 14(a) or effectively administer these subminimum wage programs were this information to be collected less frequently. The Act specifically lists the occupations covered by this information collection.

7. Special Circumstances.

Respondents must forward Forms WH-226 and WH-226A within ten (10) days of certificate expiration to the WHD Midwest Regional Office because the signed application constitutes temporary authority to employ workers with disabilities at subminimum wages. There are no special conditions associated with these information collections on the other forms.

8. Public Comments.

A Federal Register notice inviting public comments was published on June 2, 2010 (75 FR 30861). No comments were received on these information collections.

9. Payment or Gifts to Respondents.

DOL offers no payments or gifts to respondents in connection with these information collections.

10. Assurances of Confidentiality.

DOL makes no assurances of confidentiality to respondents. As a practical matter, DOL would only disclose information collected under these requests in accordance with the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. § 552; the Privacy Act (PA), 5 U.S.C. § 552a; and related regulations, 29 C.F.R. Parts 70-71.

11. Sensitive Questions.

The questions concerning disability on Forms WH-2, WH-226, and WH-226A may be considered sensitive. However, this information is necessary to ensure that the Division only issues certificates for individuals who meet the provisions established by the law. The FOIA and PA protect the information

and regulate the circumstances under which DOL may disclose such information. With respect to Forms WH-46, WH-75, WH-200, WH-201, WH-202, WH-205, and WH-209, the applications and/or records contain no sensitive questions.

12. Estimated Annual Respondent Burden Hours.

A. Form WH-2

DOL has not received any completed WH-2 forms over the past three years. DOL has entered a placeholder of 1 respondent and 1 response to estimate Form WH-2 use. DOL estimates that a respondent requires 30 minutes to complete the form. This results in 1 annual reporting burden hours (rounded). (1 form x 30 minutes = 1 hour.)

BURDEN FOR FORM WH-2: 1 RESPONSE, 1 HOUR.

B. Form WH-226 and WH-226A

DOL estimates 4,500 respondents use Form WH-226 one time annually and an initial respondent requires 45 minutes to complete the form. This results in 3,375 annual reporting burden hours (4,500 forms x 45 minutes = 202,500 minutes).

DOL estimates the 4,500 respondents to Form WH-226 will complete 12,000 copies of Form WH-226A and each initial completion requires 45 minutes. This results in 9,000 annual reporting burden hours (12,000 forms x 45 minutes = 540,000 minutes).

BURDEN FOR FORMS WH-226 AND WH-226A: 16,500 RESPONSES, 12,375 HOURS.

C. Form WH-46

Reporting Requirements Form WH-46: DOL estimates that each employer of homeworkers in the restricted industries will spend approximately 30 minutes preparing an application (WH-46) to employ homeworkers. Approximately 50 employers have applied and received certificates to employ homeworkers in the restricted industries over a two-year period (average of 25 per year). This results in an annual burden of 13 hours (25 applications x 30 minutes = 13 hours).

BURDEN FOR FORM WH-46: 25 RESPONSES, 13 HOURS.

D. Piece rate measurements.

Recordkeeping Requirements: DOL estimates each employer in the restricted industries subject to the certification program will complete documentation on three piece-rate work measurements annually and that each such documentation will take approximately one hour. Total annual burden is 150 hours. (50 employers x 3 measurements x 1 hour). In addition the filing of each piece-rate work measurement will take approximately 30 seconds, for an additional annual burden of approximately 1.25 hours (150 piece-rate work measurements x 30 seconds = 1.25 hours).

BURDEN FOR PIECE RATE MEASUREMENT: 150 RESPONSES, 151 HOURS.

E. Form WH-75

Based on a May 2004, Bureau of Labor Statistics survey (<http://www.bls.gov/news.release/homey.toc.htm>), the DOL estimates there are 302,005 respondents to Form WH-75 information collection. The survey indicated that 3349 out of 136,602 survey participants performed work at home for pay; however, most of these workers appear to be in occupations that are exempt from FLSA, e.g. managers and professionals. (See <http://www.bls.gov/news.release/homey.t03.htm>).

The number of survey participants performing homework for pay in all occupations likely not to be exempt from the FLSA was 448 persons (0.3% of the survey population). This information collection only applies to persons who work at home and are subject to the FLSA wage provisions. A 2004 estimate suggests the FLSA applies to 100,668,482 employees. The number of responses to the information collection is estimated to be 302,005. (100,668,482 x .003 = 302,005).

The DOL estimates an average burden of 30 minutes per Handbook, with each respondent maintaining four handbooks annually. This results in a total annual burden of 604,010 hours. 302,005 respondents x 4 handbooks = 1,208,020 responses. 1,208,020 responses x 30 minutes = 604,010 hours. Moreover, the DOL estimates it takes an average of 30 seconds to file each completed Homeworker Handbook for an additional burden of approximately 10,067 hours (1,208,020 handbooks x 30 seconds).

BURDEN GOT WH-75: 1,208,020 RESPONSES, 614,077 HOURS.

F. Form WH-200, WH-201, WH-202

The DOL estimates 579 employers annually submit applications for authority to employ full-time students at subminimum wages. Approximately 406

retail, service, or agricultural employers seek authority to employ more than six full-time students (Form WH-200); 25 institutions of higher education seek authority to employ their own full-time students (Form WH-201); and 148 retail, service, or agricultural employers seek authority to employ six or fewer full-time students (Form WH-202).

Form WH-200. The WHD receives about 62 initial applications annually. An employer must complete the required information requested on Form WH-200 during the initial application. The DOL estimates it takes 30 minutes to complete this application collection.

62 applications x 30 minutes = 31 hours.

The WHD receives approximately 344 renewal applications annually. A renewal applicant need only make necessary corrections in the pre-printed information, record the total hours of employment under the certificate in the most recent twelve months, and sign the form. The DOL estimates it takes 10 minutes to complete a renewal application.

344 renewal applications x 10 minutes = 57 hours (rounded).

Filing a copy of Form WH-200 takes approximately one minute.

406 applications (initial and renewal) x 1 minute = 7 hours (rounded).

Form WH-201. The WHD annually receives approximately 8 initial applications requiring the employer to complete Form WH-201. The DOL estimates it takes 30 minutes to complete the information collection and post the notice to employees providing temporary authority to pay full-time students at subminimum wages.

8 initial applications x 30 minutes = 4 hours (rounded).

The WHD annually receives approximately 17 renewal applications. The institution makes necessary corrections in the pre-printed information, lists the number of full-time students employed at subminimum wages at that campus during the current and most recent 12-month periods, and signs the form. The DOL estimates it takes 15 minutes to complete the renewal application.

17 renewal applications x 15 minutes = 4 hours (rounded).

Filing each certificate copy of Form Wh-201 takes about one minute.

25 applications (initial and renewal) x 1 minute = 1 hour (rounded).

Form WH-201 Total Annual Reporting and Recordkeeping burden = 9 hours.

Form WH-202. The WHD annually receives approximately 67 initial applications requiring the employer to complete Form WH-202. The DOL estimates it takes 20 minutes to complete an initial Form WH-202.

67 initial applications x 20 minutes = 22 hours (rounded).

The WHD annually receives approximately 81 renewal applications. The employer need only make necessary corrections in the pre-printed information, record the total hours of employment under the certificate in the most recent twelve months, and sign the form. The DOL estimates it takes 10 minutes to complete a renewal application.

81 renewal applications x 10 minutes = 14 hours (rounded).

Filing a copy of Form WH-202 takes approximately one minute.

148 applications (initial and renewal) x 1 minute = 2 hours (rounded).

Form WH-202 Total Annual Burden = 38 hours.

**BURDEN FOR FORMS WH-200, WH-201, AND WH-202: 579
RESPONSES, 142 HOURS.**

G. Form WH-205 and WH-209

Form WH-205, Application to Employ Student Learners at Subminimum Wages. The WHD receives approximately 400 applications annually. The agency estimates it takes 30 minutes for each respondent to complete the form. This results in an annual reporting burden of 200 hours. (400 forms x 30 minutes).

Form WH-209, Application for a Certificate to Employ Learners/Messengers at Subminimum wages.

The DOL estimates it takes approximately 20 minutes to complete a learner/messenger application; however, the agency anticipates the submission of no applications and currently associates no reporting burden or respondent costs with this aspect of the information collection. The FLSA narrowly defines what types of firms are eligible to acquire special certificates for messengers, and the DOL has issued no certificates for messengers since 1949.

Application to Employ Apprentices at Subminimum Wages. The DOL estimates that the submission of a copy of an approved apprenticeship program takes approximately one minute. The DOL currently associates no annual burden and no respondent costs for this component of the information

collection since BAT regulations preclude approving apprenticeship programs employing apprentices at subminimum wage rates.

BURDEN FOR FORMS WH-205, WH-209, AND APPRENTICES: 400 RESPONSES, 200 HOURS.

TOTAL BURDEN 12,257,525 RESPONSES, 626,984 HOURS

The FLSA covers employers with employees engaged in interstate commerce or handling, selling or otherwise working on goods or materials that have moved in or were produced for such commerce by any person. Accordingly, the FLSA covers a wide range of different sizes and types of employers, ranging from small individually owned retail stores to large manufacturing enterprises with plants in several states. Any one of these employers, or a designated employee, may choose to complete the information collections. DOL has used the October 2010 average hourly rate for production or nonsupervisory workers on nonfarm payrolls of \$19.18 to determine respondent costs. (See *The Employment Situation, December 2010*, p. 41, Table B-8, http://www.bls.gov/news.release/archives/empsit_01072011.pdf).

626,984 HOURS X \$19.18 = \$12,025,553.

13. Estimated Annual Respondent Capital/Start-Up/Operation/Maintenance Costs.

Employers use their own existing records to obtain the data necessary to complete these information collections. These information collections require no extraordinary systems or technologies to collect data and thus respondents incur no costs, except the respondent's time (accounted for in Item 12 of this supporting statement) and mailing costs for completed applications.

Forms WH-2, WH-226, and WH-226A: \$2,115, rounded. 4,500 mailings x (\$0.44 postage + \$0.03 per envelope) = \$4499.53.)

WH-46 and WH-75: \$12, rounded. 25 applications x (\$0.44 postage + \$0.03 per envelope = \$11.75).

Forms WH-200, WH-201, and WH-202: \$272, rounded. 579 mailings x (\$0.44 postage + \$0.03 per envelope) = \$272.13.

Form WH-205: \$188. 400 mailings x (\$0.44 postage + \$0.03 per envelope) = \$188.00

Form WH-209, Application for a Certificate to Employ Learners/Messengers at Subminimum Wages.

No estimated costs for the Form WH-209 information collection.

TOTAL START-UP, CAPITAL, MAINTENANCE, AND OPERATIONS COSTS: \$2587.

14. Estimated Annual Federal Costs.

Annual federal costs with respect to Applications to Employ Homeworkers (WH-46). The processing of the application involves the services of a GS-13, Step 4 Analyst at the WHD Chicago, Illinois District Office (\$47.26 per hr.) and requires an estimated average of thirty minutes to review the form for approval or denial. Currently, approximately 50 employers have applied and received certificates to employ homeworkers in the restricted industries for a two-year period, an average of 25 applications per year. Accordingly, the DOL estimates the annual Federal cost for processing the applications to be \$590.75 (25 applications x ½ hour x \$47.26 per hr. = \$590.75).

The DOL associates no federal costs associated with piece-rate measurements.

Based on certification data, there is an average of four homeworkers for each employer subject to this information collection. Taking into account the number of employers in the certification program (50) and estimated number of employers currently requesting Handbooks (Form WH-75) in the unrestricted industries annually (1100), the DOL estimates it will receive 4600 requests for Homeworke Handbooks (1150 employers x 4). Previous experience indicates that annually each homeworke uses an average of four Handbooks. Accordingly, the DOL will annually print and mail an estimated 18,400 Handbooks (4600 homeworkers x 4 = 18,400). The DOL estimates annual Federal costs as follows:

Printing	(18,400 Handbooks)	\$1656.00
Postage	(1150 mailings @ \$1.22)	\$1403.00

TOTAL FEDERAL COSTS FOR APPLICATIONS AND HANDBOOKS: \$3649.75.

Annual federal costs for information collections associated with Form WH-2 are zero.

DOL estimates the annualized federal cost for Forms WH-226 and WH-226A to be \$19,819. This includes the cost of printing, mailing and processing of the forms. DOL estimates 4,500 WH-226 forms (4,200 renewal and 300 initial) per year with a printing cost of \$.03 per page. Mailing costs for the WH-226 are \$.44 per mailing. The 4,200 renewal forms are processed by a

GS-5/Step 4 federal employee who earns \$18.09 per hour in Chicago, Illinois. The 300 initial forms are processed by a GS-11/4 employee who earns \$33.16 per hour in Chicago, Illinois. Renewal forms take approximately 4 minutes to process. Initial application forms take approximately 10 minutes to process.

Printing: 4,500 forms x .03 = \$262

Mailing: 4,500 forms x \$.44 = \$1,980

Processing: 4,200 forms x 4 minutes x \$18.09 = \$5,065
300 forms x 10 minutes x \$33.16 = \$1,658

TOTAL FEDERAL COST FOR FORM WH-226: \$262 + 1,980 + 6,723 = \$8,965

There is no separate mailing cost for Form WH-226A as these forms are included with Form WH-226 as a supplement. The forms may also be printed from the DOL web site. The printing cost associated with the 12,000 Form WH-226A is at a cost of \$.03 per form. The time to process Form WH-226A is three minutes and requires a GS-5/Step 4 employee from the Chicago, Illinois office to process the form.

Printing: 12,000 forms x \$.03 = \$360

Processing: 12,000 forms x 3 minutes x \$18.09 = \$10,854

TOTAL FEDERAL COST FOR FORM WH-226A: \$360 + \$10,854 = \$11,214

TOTAL FEDERAL COST FOR FORMS WH-226 AND WH-226A: \$8,965 + \$11,214 = \$20,179

Annual federal costs for information collections for information collections include printing, mailing, processing and filing approximately 389 applications (WH-200, WH-201, WH-202). Mailing and filing each require about one minute per form. Processing the forms takes approximately 10 minutes per initial application and 5 minutes per renewal application. A GS-9 federal employee in Chicago, Illinois performs this work. A GS-9, Step 4 employee earns \$27.40 per hour.

Printing: 579 Forms x 2 pages x \$.03 per page = \$34.74

Postage: 579 mailings x \$.44 postage + \$.03 per envelope = \$272.13

Mail Processing: 1 minute x 579 forms x \$27.40 = \$264.41

Filing: 1 minute x 579 forms x \$27.40 = \$264.41

Form Processing:

10 minutes x 137 initial applications x 27.40 = \$625.63

5 minutes x 442 renewal applications x \$27.40 = \$1009.23

TOTAL ANNUAL FEDERAL COST (WH-200, 201, 202) = \$ 2470.55

Form WH-205 applications are processed in Chicago, Illinois and the DOL bases federal costs on the services of a GS-12/Step 4 employee (\$39.74 per hour) who analyzes and approves the initial applications for certification. Analysis of each application takes approximately ten minutes.

400 applications x 10 minutes = 67 hours (rounded)

67 hours x \$39.74 (GS 12/Step 4)= \$2663 (rounded)

Form WH-209, Application for a Certificate to Employ Learners/Messengers at Subminimum Wages.

No annual costs to the federal government.

TOTAL ANNUAL FEDERAL COST ALL FORMS THIS IC:

WH-46 and WH-75	\$3649.75
WH-226 and WH-226A	\$20179 (\$8965 + \$11214)
WH-200/201/202	\$2470.55
WH-205	\$2663
Total	\$28962.30

15. Reasons for Program Changes or Adjustments Affecting Public Burdens.

DOL has no significant program changes or adjustments affecting public burdens to report. Discretionary changes in the anticipated burdens for this information collection result from the merger of multiple individual information collections into one consolidated information collection request. The decrease in burden for form WH-205 is based on a decrease in completed forms submitted by employers. The increase in burden for Form WH-2 is not an actual increase. The DOL is required to offer the form for potential applicants but has not received any submissions over the last three years. The indication of a single response is to allow for the system inability to accept a zero.

16. Publishing Data from Information Collection.

The information from these collections is not published.

17. Display of OMB Approval Expiration.

DOL is not requesting an exception to the requirement to display the expiration date on this information collection. This request complies with 5 C.F.R. § 1320.9.

18. Exceptions to Certification Statement.

DOL is not requesting an exception to the certification requirements for these information collections.

B. Employing Statistical Methods:

This information collection does not employ statistical methods.