

## **SUPPORTING STATEMENT**

### **Employer's First Report of Injury or Occupational Disease (LS-202) Employer's Supplementary Report of Accident or Occupational Illness (LS-210)**

**OMB No. 1240-0003**

#### **A. Justification.**

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

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employee in loading, unloading, repairing or building a vessel. In addition, several acts extend coverage to certain other employees.

Under Section 30(a) of the Longshore Act, an employer having knowledge of a disease or injury related to an employee's employment must file a report of the disease or injury to the Secretary of Labor within 10 days after the date of injury or death. See also 20 CFR 702.201. Filing of form LS-202 meets this requirement. By regulation, the form is filed with the district director in the compensation district in which the injury occurred. See 20 CFR 702.201, .203. The form requests information the employer must report regarding the injury. Filing of the report is mandatory, and failure to do so is subject to a civil penalty. See 20 CFR 702.204. Reporting of the employee's Social Security Number is required by regulations section 20 CFR 702.202.

Under Section 30(b) of the Longshore Act, the employer is required to furnish additional necessary reports regarding an employee's injury. Form LS-210 is used as a supplementary report after the employer's first report to report additional periods of lost-time from work.

**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.**

Form LS-202 is used by employers to report injuries that have occurred under the Longshore Act and its related statutes. The form is required pursuant to Section 30 (a) of the Act. The form is filed with OWCP district offices having jurisdiction over where injuries occur. The information contained on the form is needed by the district office to assure that employers are complying with the reporting requirements of the Act and to assure that injured claimants receive all the compensation benefits to which they are entitled. If the information were not collected, the OWCP could not fulfill its statutory obligation to monitor the payment of benefits under the Act.

Form LS-210 is a supplementary report and is used to report additional periods of lost-time from work. The information contained on the form is needed by OWCP district offices to properly monitor the progress of a compensation case and to assure that the injured claimant is paid the proper amount of compensation benefits. The form also attempts to verify that the claimant was treated by his/her choice of physicians, which is required by statute. If the information were not collected, the district office would not be aware of subsequent periods of disability and would therefore not be able to determine if the claimant has been paid proper compensation.

**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.**

We are not aware of any improved information technology that could reduce burden. The LS-202 is currently electronically interactive on the Internet for completion and submission. Form LS-202 has options to print and fill out manually, form fill and print and submit manually or form fill and submit electronically. The electronic submission option for Form LS-202 requires an electronic signature for which approval may be applied for on the website. Since being made available, less than one percent of the Form LS-202's are submitted electronically. Authorized insurance carriers and self-insured employers have been notified that the Form LS-202 is available electronically and of the corresponding website address. The website address is: <http://www.dol.gov/owcp/dlhwc/ls-202.pdf>. Since the form LS-210 is submitted only occasionally, it is not considered feasible to make these documents electronically interactive. However, form LS-210 is currently available on the Internet where it can be form-filled and printed for submission. The website address is: <http://www.dol.gov/owcp/dlhwc/ls-210.pdf>.

**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.**

There is no duplication since the employer completes the form LS-202 only once at the time of the claimant's injury and the form LS-210 only if there are additional periods of lost-time from work. In addition, all forms in the Longshore Program have been carefully reviewed to eliminate all requests for duplicate information.

**5. If the collection information impacts small businesses or other small entities (Item 5 of 014B Form 83-1), describe any methods used to minimize burden.**

Burden has been minimized by requiring only that information relative to an injured claimant's injury which is considered essential in processing a claimant's claim. Periodic contact is maintained with physicians evaluating injuries under the Act by OWCP and insurance industry personnel during which time the type and adequacy of the medical information provided is discussed. Should any complaints be received, or suggestions for improvements be received, they will be properly evaluated and appropriate action taken. This information collection does not have a significant economic impact on a substantial number of small entities.

**6. Describe the consequence of 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.**

All of the forms associated with this clearance are only filed on occasion as the need arises. The information can therefore not be collected less frequently.

**7. Explain any special circumstances.**

Since the forms are completed on occasion and only after an injury occurs, they cannot be completed on a quarterly basis. Also, in accordance with Section 30 of the law, the LS-202 must be submitted within 10 days from the date of injury and the LS-210 as soon as there is additional lost time from work.

**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.**

Consultations are regularly held with the industry representatives during the claim adjudication process. Representatives of self-insurers and insurance carriers meet daily with our District Directors.

A Federal Register Notice inviting public comment was published on July 30, 2010. 75 Fed. Reg. 44991. No comment was received.

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

No payments or gifts are provided to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.**

Records pertaining to compensation cases are covered under the Privacy Act at DOL/ESA-15. The system name is Office of Workers' Compensation Programs, Longshore and Harbor Workers' Compensation Act Case Files.

**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.**

As indicated in item 1, reporting of the employee's Social Security Number is required by regulations section 20 CFR 702.202.

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

The burden estimates for each of the forms associated with the clearance are shown below. The number of responses for the LS-202 was obtained directly from the Longshore Case Management System. All burden estimates which have been assigned for the forms associated with this clearance are considered reasonable in relation to the amount of information which is collected.

<u>Form</u>	<u>Annual Responses</u>	<u>Hours per Responses</u>	<u>Burden</u>
LS-202	20,087	.25	5,022
LS-210	<u>996</u>	.25	<u>249</u>
	Total 21,083	Total Burden	5,271 hrs

The annualized burden cost to the respondents has been estimated to be approximately \$80,699. This estimate is derived from use of the National Average Weekly Wage (NAWW) as computed by the Bureau of Labor Statistics and which is based on the national average earnings of production or non-supervisory workers on private non-agriculture payrolls. Section 6(b) of the Act mandates the use of the NAWW in setting the maximum and minimum compensation rates under the Act and in determining the amount of annual adjustments due to permanent total disability and death beneficiaries. Since it is not possible to determine the specific occupation or wages for each person who will provide the information covered by this clearance, e.g., claims adjusters, claims managers, self-insurance administrators, secretaries, claims clerks, physicians, and other medical and office personnel, and wages can vary considerably from person to person depending on duties and length of service, use of a national average

weekly wage covering all occupations appears reasonable under the circumstances. The current applicable NAWW is \$612.33. The computations are therefore as follows:  $\$612.33 \div 40 \text{ hrs} = \$15.31/\text{hr} \times 5,271 \text{ hrs} = \$80,699.01$  rounded to \$80,699.00 annualized burden cost.

**13. Annual Costs to Respondents (capital/start-up & operation and maintenance).**

This information collection does not require the use of systems or technology for generating, maintaining or disclosing the data above that which would already be kept as a customary business practice. Therefore, a mailing cost of \$.47 per response (\$.44 postage and \$.03 envelope charge) is applied as an operation cost, with a total of \$9,909.00 for the 21,083 responses ( $21,083 \times \$.47 = \$9,909.01$ ). The total operation cost is therefore \$9,909.00.

**14. Provide estimates of annualized cost to the Federal government.**

The cost to the government has been estimated to be approximately \$14,932.13. This estimate was determined by taking into consideration printing, distribution and analysis costs associated with the issuance and review of all forms associated with this clearance. Printing costs were determined by using a cost of \$4.50 per 100 copies. Distribution costs were determined by applying a postage (\$.44) and envelope charge (\$.03) against the number of copies issued. Analysis and handling costs were determined by applying the hourly rate of a GS-12, step 1 claims examiner (FY07 Salary Table - Rest of US) to the total annual hours required for review. The annual review hours were determined by applying an estimate of .02 hours or 1 minute for the review and analysis of each form against the forms which are received each year. It should be noted that Longshore forms are generally printed by the industry; therefore only specimen copies are usually distributed. The computations are therefore as follows:

Printing	\$90.00	(2,000 copies at \$4.50/100 copies)
Distribution	940.00	(2,000 copies x \$.47)
Analysis	<u>13,902.13</u>	(21,083 x .02 hrs = 421.66 hrs x 32.97)

\$14,932.13

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.**

Burden has been decreased by 1,324 hours to reflect an adjustment in the number of injuries reported under the Act.

	<u>Current Responses</u>	<u>Burden Hours</u>	<u>Requested Responses</u>	<u>Hours</u>	<u>Change Responses</u>	<u>Hours</u>
LS-202	25,713	6,428	20,087	5,022	-5,626	-1,406
LS-210	<u>668</u>	<u>167</u>	<u>996</u>	<u>249</u>	<u>+328</u>	<u>+82</u>
Total	26,381	6,595	21,083	5,271	-5,298	-1,324

The operation and maintenance cost has been decreased by \$1699 from \$11,608.00 to \$9,909.00 due to a decrease in reporting under the Act.

DOL has updated Form LS-202 and LS-210 to update the OMB Control Number, reflecting a DOL reorganization that dissolved the former Employment Standards Administration into its constituent programs.

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

The information will not be published for statistical use.

**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.**

We are requesting a continuation of the exemption of the provisions of 5 CFR 1320.8(b) which requires that a current expiration date be affixed on all OMB cleared forms for the forms cleared under this OMB clearance.



The usual OMB clearance is for 3 years. In the Longshore program, users supply and stock most forms. Large insurance carriers and self-insured employers will generally print, or have their own supplies of the forms they use printed. However, small to medium carriers and employers will usually purchase their supplies from large printing companies that stock large quantities of the forms with which to fill small orders. It is difficult to estimate the amount of demand for the forms; therefore, supplies of some forms may stay in stocks for many years before they are all purchased and new supplies are printed. Large carriers and self-insurers also print in large quantities to reduce costs. Since the Longshore program has remained stable for many years, very few, if any, changes are ever required in the forms used. To require that all forms be reprinted every three years to merely change the OMB expiration date on the forms would impose an economic burden on the industry which cannot be justified under the circumstances.

To require reprinting every three years would also impose an additional cost burden on the government. New proofs of the forms would be required, specimens would need to be printed and then distributed to the industry for subsequent printing in large quantities. If there are no substantive changes required in the forms, it is difficult to justify the added cost merely to change an OMB expiration date on the forms.

It should be recognized that to require reprinting of large quantities of forms to update OMB expiration dates, when no other changes are required or justified, clearly violates the spirit of the Paperwork Reduction Act which mandates that burden to the public be reduced-not increased. We, therefore, request a continuation of the exemption from the provisions of 5 CFR 1320.8(b) relative to the expiration date requirement for the Longshore forms associated with this clearance.

**18. Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act".**

There are no exceptions to the certification.

**B. Collections of Information Employing Statistical Methods**

Statistical methods are not used in these collections of information.