

SUPPORTING STATEMENT

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

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; 33 U.S.C. 930. 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 702.407. 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.

Due to some necessary changes to the forms, the 30-day FRN is being updated to reflect a Revision.

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 and is filed with OWCP. The information contained on the form is needed by OWCP 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 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 OWCP 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.

Respondents now have the option to complete and submit both forms in this collection electronically using our new secure

web portal (seaportal.dol-esa.gov) Authorized insurance carriers and self-insured employers have been notified that the Forms LS-202 and LS-210 can now be submitted electronically (www.seaportal.dol-esa.gov). The website address to access the forms is:
<http://www.dol.gov/owcp/dlhwc/ls-202.pdf> and
<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 A.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, 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.

- * Requiring respondents to report information to the agency more often than quarterly;
- * Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- * Requiring respondents to submit more than an original and two copies of any document;
- * Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- * In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- * Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- * That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- * Requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

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.

Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data,

frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years—even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

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

A Federal Register Notice inviting public comment was published on April 8, 2020 at 85 FR 19777. No comments were 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.

While no assurance of confidentiality is provided to respondents (employers), to the extent records pertaining to specific compensation cases are disclosed, they are protected under the Privacy Act. Otherwise, the information collected is not protected under the Privacy Act. The Privacy Act System of Records is DOL/OWCP-3.

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 conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden and explain the reason for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

*** If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**

*** Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under "Annual Cost to Federal Government."**

The burden estimates for each of the forms associated with the clearance are shown below. The number of responses for the LS-202 and LS-210 were obtained directly from the Longshore Case Management System. The forms are Section 508 compliant. 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	23,490	.25	5,873
LS-210	<u>1,141</u>	.25	<u>285</u>

Total 24,631

Total Burden 6,158 hrs

The annualized burden cost to the respondents has been estimated to be approximately \$120,081.00. 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 \$780.04. The computations are therefore as follows: $\$780.04 \div 40 \text{ hrs} = \$19.50/\text{hr} \times 6,158 \text{ hrs} = \$120,081.00$ annualized burden cost.

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

*** The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**

*** If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**

*** Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices**

Since respondents now have the option to submit these forms electronically, the number of forms sent through the mail has decreased thus allowing a significant reduction in cost. The decrease in cost is estimated to be 50%. Therefore, a mailing cost of \$.58 per response (\$.55 postage and \$.03 envelope charge) is applied as an operation cost, with a total of \$7,143.00 for the 24,631 responses ($24,631 \times \$0.58 = \$14,286 - \$7,143.00 (50\%) = \$7,143.00$). The total operation cost is therefore \$7,143.00.

14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The cost to the government has been estimated to be approximately \$90,404.00. This estimate was determined by taking into consideration analysis costs associated with the review of all forms associated with this clearance. Analysis and handling costs were determined by applying the hourly rate of a GS-13, step 5 claims examiner (FY20 Salary Table - Rest of US)

https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/RUS_h.pdf

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 and the annual cost of maintaining the entire SEAPortal website (\$66,000.00). The computations are therefore as follows:

24,631 (responses) x .02 hrs = 492.62 hrs x \$49.54 (grade 13, step 5) = \$24,404.39 rounded to \$24,404.00 + \$66,000.00 = \$90,404.00.

15. Explain the reasons for any program changes or adjustments

Burden has been decreased by 1,050 hours to reflect a decrease 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	28,130	7,033	23,490	5,873	-4,640	-1,160
LS-210	699	175	1,141	285	+442	+110
Total	28,829	7,208	24,631	6,158	-4,198	-1,050

The operation and maintenance cost has been decreased by \$6,983.00 from \$14,126.00 to \$7,143.00 due to a decrease in the number of claims reported under the Act and the recent technology advancements allowing for the option to submit the forms electronically. Additionally, the final rule published 8/18/2015 (80 FR 12917) broadened the acceptable methods by which claimants, employers, and insurers can communicate with OWCP. Instead of mandating the transmission of information by postal mail, the rule allows OWCP and private parties to use electronic and other commonly used communication methods. It also provides flexibility for OWCP to allow submission of information using future technologies.

There were some necessary changes made to the forms:

LS-202

- Added Non-Binary as an option for "sex" in #8 - in order to encompass all employees who may be injured in the course of their employment who do not identify as either male or female
- #24 - Added "city, state and country if outside the US" - eliminates the need for respondent to "see instructions on reverse"
- Changed office room number in Public Burden Statement - office relocated to another floor in the building
- Added expiration date of XX/XX/XXXX - the previous waiver to exclude expiration date is no longer necessary
- Added instructions to include regulatory reference, instructions for physician's treatment and instructions for submission of form - provides clarity on frequently asked questions and informs respondents of the availability of electronic submission

LS-210

- Added instructions for submission of form - informs respondents of the central mailroom address for mailing and of the availability of electronic submission
- Changed office room number in Public Burden Statement - office relocated to another floor in the building
- Added expiration date of XX/XX/XXXX - the previous waiver to exclude expiration date is no longer necessary
- #12 - Removed "Firm Name" from Name of Employer - too restrictive

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.

This information collection request does not seek a waiver from the requirement to display the expiration date.

18. Explain each exception to the certification statement in ROCIS

There are no exceptions to the certification.

B. Collections of Information Employing Statistical Methods

Statistical methods are not used in these collections of information.