

High-wage Components of the Labor Value Content Requirements under the USMCA
OMB Control Number: 1235-0032
OMB Expiration Date: 01/2024

**SUPPORTING STATEMENT FOR
HIGH-WAGE COMPONENTS OF THE LABOR VALUE CONTENT REQUIREMENTS
UNDER THE USMCA**

OMB CONTROL NUMBER: 1235-0032

The U.S. Department of Labor (Department) submits this information collection request (ICR) as an extension without change of a currently approved collection.

Part A: JUSTIFICATION

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

On November 30, 2018, the Governments of the United States of America, the United Mexican States, and Canada signed the Protocol Replacing the North American Free Trade Agreement with the United States-Mexico-Canada Agreement (USMCA), an agreement between the United States of America, the United Mexican States, and Canada. The USMCA replaces the 1994 North American Free Trade Agreement. All three countries ratified the USMCA, with Canada making the final ratification on March 13, 2020. The preamble to the USMCA states that the parties resolved to, among other things, “facilitate trade in goods and services between the Parties by preventing, identifying, and eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting good regulatory practices,” and to “promote the protection and enforcement of labor rights, the improvement of working conditions, the strengthening of cooperation and the parties’ capacity on labor issues.”

The USMCA Implementation Act (the Act) implements the USMCA. Section 202A of the Act in part implements Article 7 of the Appendix to Annex 4-B of the USMCA. This article establishes labor value content (LVC) requirements for passenger vehicles, light trucks, and heavy trucks (collectively, covered vehicles), pursuant to which an importer can obtain preferential tariff treatment for a covered vehicle only if it meets certain minimum percentage benchmarks concerning the portion of the vehicle produced by workers who meet certain wage requirements. Section 202A(c) of the Act requires that to receive preferential tariff treatment, a producer of a covered vehicle must file a certification demonstrating in part that the production of the covered vehicle meets the high-wage components of the LVC requirements. The certification will be filed with U.S. Customs and Border Protection (CBP) and provided to the Wage and Hour Division (WHD) for review. The Act authorizes the Secretary of Labor (Secretary), in conjunction with CBP, to review the LVC certification for omissions or errors and to verify whether a covered vehicle is in compliance with the high-wage components of the LVC requirements. The interim final rule (IFR), *High-Wage Components of the Labor Value Content Requirements Under the United States-Mexico-Canada Agreement Implementation Act*, [85 FR 39782](#), implemented the Act’s requirements and established procedures for producers concerning the high-wage components of the LVC requirements.

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The regulations associated with this information collection were issued in accordance with section 210(b) of the Act and established the rules necessary for the Department to carry out its role in administering the high-wage components of the LVC requirements under section 202A.

The Act also empowers the Secretary, in connection with the Department's role in verifying compliance with the high-wage components of the LVC requirements, to examine records and collect information as may be relevant with respect to that verification. All verifications are based on the producer's ability to substantiate the claims it certified. The evidentiary burden is on the producer to establish its compliance. The Administrator of WHD and the Administrator's designees will perform all of the Secretary's certification and verification functions under sections 202A(c) and 202A(e) of the Act. Article 5.8 of the USMCA requires USMCA countries (the United States, Mexico, and Canada) to require importers, exporters, and producers to maintain records necessary to demonstrate the validity of certifications of origin. Such records include those relating to the production of goods, including covered vehicles. Article 5.9 of the USMCA authorizes USMCA countries to request such documentation during the verification process.

Section 206(b)(4) of the Act requires importers who claim preferential tariff treatment under the USMCA for a good imported into the United States from a USMCA country, and producers whose goods are subject to such a claim, to make, keep, and, pursuant to rules promulgated by the Secretary, render for examination and inspection records and supporting documents related to the LVC requirements. Section 202A(e)(4)(B) of the Act further grants the Secretary authority, which has been delegated to the Administrator, to request and examine any records related to wages, hours, job responsibilities, or any other information in any plant or facility relied on by the producer of covered vehicles to demonstrate that the production of those vehicles meets the high-wage components of the LVC requirements.

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.

This information collection requires certain data to be maintained and/or produced upon request (recordkeeping requirement).

WHD staff will use the records it receives to verify compliance with the high-wage components of the LVC requirements, as set forth in the USMCA.

The recordkeeping obligations of importers, exporters, and producers of covered vehicles are necessary to demonstrate compliance with the high-wage components of the LVC requirements. The regulations specify records that must be preserved and maintained. The records are necessary for the Department to verify that wages for all hours worked in direct production have been appropriately included in the computation of the average hourly base wage rate, and to ensure that benefits, bonuses, premium payments, incentive pay, overtime premium pay, or other similar payments have been properly excluded from that calculation.

As noted above, to receive preferential tariff treatment, a producer must certify that its production of covered vehicles meets the LVC requirements, including the high-wage components of the LVC

requirements that the Department enforces. CBP submits the Paperwork Reduction Act (PRA) package for collection of information related to the certification.

- 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.**

No particular form or order of records is prescribed, provided that the producer can produce the specified records upon request for inspection, copying, and transcription. The Department will examine the records in the format provided. Pursuant to paragraph 3 to Article 5.8 of the USMCA, the records must be in a form or format that allows the records to be promptly retrieved and printed.

- 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.**

This information collection duplicates some existing WHD recordkeeping requirements. Under [29 CFR 516.2](#), employers must keep records of hours worked and other employee information for workers covered by the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA). This collection of information is approved under OMB control number 1235-0018. Most employers are already subject to the FLSA's recordkeeping requirements, and so employers will already keep many of the records required under the USMCA recordkeeping requirements to comply with the FLSA. However, the Department accounts for some additional burden in this collection for any workers who are exempt from the FLSA's recordkeeping requirements, as well as for records required under the Department's USMCA regulations that employers are not required to maintain under the FLSA.

- 5. If the collection of information impacts small businesses or other small entities describe any methods used to minimize burden.**

This information collection does not have a significant economic impact on a substantial number of small entities. Information requested by this information collection is not available from any other source.

- 6. Describe the consequence to 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.**

The Department uses records covered by this information collection request to determine compliance, as the Act requires of the agency. Respondents could lose the ability to claim preferential tariff treatment if they fail to provide records and information to the Department upon request.

7. **Explain any special circumstances that would cause an information collection to be conducted in a manner:**
- **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.**

There are no special circumstances associated with this collection.

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 record-keeping, disclosure, or reporting format (of 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.

On May 22, 2023 the Department published a notice in the *Federal Register* inviting public comment about this information collection ([88 FR 32805](#)). No comments were received.

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

The Department offers no payments or gifts to respondents in connection with this information collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

The Department makes no assurances of confidentiality to respondents. As a practical matter, the Department 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; and the attendant regulations, [29 CFR part 70](#), and the Privacy Act, 5 U.S.C. 552a; and related regulations, [29 CFR part 71](#).

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.

The Department asks no sensitive questions in this information collection.

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 reasons 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.”**

Estimated Annualized Respondent Cost and Hour Burden

Activity	No. of	No. of	Total	Average	Total	Hourly	Total
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	Respondents	Responses per Respondent	Responses	Burden (Hours)	Burden (Hours)	Wage Rate (Loaded)	Burden Cost
29 CFR 810.600(e)(1)–(3)	591	26	15,366	.0333	512	38.65	19,788.80
29 CFR 810.600(e)(4)	264	2	528	.0833	44	38.65	1700.6
29 CFR 810.600(e)(5)	1476	4,042 ¹	5,966,090	.0333	198,870	38.65	7,686,325.5
29 CFR 810.600(e)(6)	5,905	1	5,905	2	11,810	38.65	456,456.5
29 CFR 810.600(f)	264	50	13,200	.0333	440	38.65	17,006
29 CFR 810.600(g)	591	1	591	1	591	38.65	22,842.15
TOTALS	9,091 rounded		6,001,680		212,267		8,204,120 rounded

The regulations at [29 CFR 810.600](#) impose recordkeeping requirements on employers.

A. 29 CFR 810.600(e)(1)–(3) Worker information, time records, and earnings records

As explained in [29 CFR 810.600\(e\)](#), producers must maintain certain records for all workers subject to the FLSA recordkeeping requirements found in [29 CFR 516.2](#). These obligations and burdens are reported and approved under existing collection OMB control number 1235-0018, which covers most workers. However, as explained in [§ 816.600\(e\)](#), producers must maintain these same records for workers who have performed direct production work but who are exempt from FLSA recordkeeping requirements (e.g., an employee who meets the part 541 minimum wage and overtime exemption). The records required are described in [29 CFR 810.600\(e\)\(1\)–\(3\)](#) and include the name of the worker and other worker information, total number of daily and weekly hours worked by each worker, and records of earnings (including payroll records showing the date wages were paid and the time period covered by such wage payments, each worker’s hourly rate of pay and basis of pay, total daily or weekly straight-time earnings, premium pay records, and any deductions from pay).

¹ For ROCIS entry, this amount comes to 4042.066395663957.

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The Department uses [2020 SUSB](#) annual data by establishment industry to estimate the number of respondents to be 5,905, which is the combined number of establishments in NAICS 3361 Motor Vehicle Manufacturing, 326211 Tire Manufacturing (except Retreading), 336211 Motor Vehicle Body Manufacturing, and 3363 Motor Vehicle Parts Manufacturing.

Consistent with the Department's estimate in 1235-0018, the Department estimates that ten percent of affected respondents will have at least one employee who will not otherwise be covered by the above mentioned FLSA recordkeeping requirements.

Respondents: $5,905 \text{ establishments} \times 0.10 = 590.5 \text{ respondents (591 rounded)}$

Responses: $591 \text{ respondents} \times 26 \text{ annual responses} = 15,366 \text{ responses}$

Burden Hours: $(15,366 \times 2 \text{ minutes}) \div 60 \text{ minutes} = 511.69 \text{ burden hours (512 rounded)}$

B. 29 CFR 810.600(e)(4) Certificates, agreements, plans, notices, collective bargaining agreements, etc.

Under [29 CFR 810.600\(e\)\(4\)](#), producers are also required to keep records of any collective bargaining agreements, written agreements or memoranda, individual contracts, trusts, plans, employment contracts, or understandings applicable to any workers who work in direct production. Such agreements will assist the Department in establishing the average hourly base rate.

The Department uses the same estimate it uses in the Service Contract Act collection approved by OMB under OMB control number 1235-0007. This is a total of 5 minutes per agreement. The Department uses [2020 SUSB](#) annual data by establishment industry to estimate the number of respondents to be 264, which is the number of firms in NAICS 3361 Motor Vehicle Manufacturing. As explained in the IFR, the Department estimates that parts suppliers' costs are fully passed on to motor vehicle manufacturers and that all manufacturers import affected vehicles into the United States. See [85 FR 39803](#). The Department further estimates that each respondent will have two of the records contained within the list which they must maintain.

Respondents: 264 respondents

Responses: $264 \text{ respondents} \times 2 \text{ responses each} = 528 \text{ responses}$

Burden Hours: $528 \text{ responses} \times 5 \text{ min} \div 60 \text{ min per hour} = 44 \text{ burden hours}$

C. 29 CFR 810.600(e)(5) Direct production records

Further, [29 CFR 810.600\(e\)\(5\)](#) requires producers to maintain a record of all hours worked in direct production. The record must include each worker's name, type of direct production work performed, hours worked by each worker in direct production, hourly base wage rate paid to each worker for the direct production hours worked, and total wages paid to workers for those direct production hours worked. Where at least 85 percent of a worker's total work hours are hours worked in direct production, a record may be kept merely of those workers' total hours worked

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during the relevant time period used for certification, so long as the producer can show that its recordkeeping system indicates when such workers work hours are not in direct production.

The record of direct production work performed (a subset of hours worked) is not among the existing requirements for those workers subject to the FLSA. For many workers who perform direct production work, all the hours worked are direct production hours and so the employer need only keep the total hours worked as described above. However, for those who spend less than 85 percent of their work hours engaged in direct production work, a new recordkeeping requirement exists. Based on [2020 SUSB](#) data, there are 917,859 workers across 5,905 respondent establishments in NAICS 3361 Motor Vehicle Manufacturing, 326211 Tire Manufacturing (except Retreading), 336211 Motor Vehicle Body Manufacturing, and 3363 Motor Vehicle Parts Manufacturing. The Department estimates that 25 percent of the establishments may need to adhere to the new recordkeeping requirement for a total of 229,464.75 workers (25 percent of workers) and estimates 2 additional minutes per response and 26 times per year.

Respondents: $5,905 \times 0.25 = 1476.25$ respondents (1,476 rounded)

Responses: $917,859 \times 0.25 = 229,464.75$ workers (229,465 rounded)

$229,465$ workers \times 26 times annually = 5,966,090 responses

1,476 respondents will issue 4,042.066395663957 responses annually

Burden Hours: $5,966,090 \times 2$ minutes \div 60 minutes = 198,869.667 burden hours (198,870 rounded)

D. 29 CFR 810.600(e)(6) Records relating to high-wage transportation or related costs for shipping

In [29 CFR 810.600\(e\)\(6\)](#), the Department requires that importers, exporters, and producers maintain records demonstrating the wages their transportation, logistics, or material handling service providers paid to workers directly involved in the transportation of the part or components, such as drivers and loaders. This requirement applies if the importer, exporter, or producer is relying on high-wage transportation or related costs for shipping to meet its LVC requirements. Such records may include, for example, contracts with the shipping provider, collective bargaining agreements entered into by the shipping company, and other similar indications of the wages paid to these workers.

The Department believes that businesses would often keep such records as part of their normal good business practices and for budgeting purposes. However, to account for the requirement that the records be maintained, the Department estimates a unique burden of 2 hours annually per respondent establishment.

Respondents: 5,905

Responses: 5,905 respondents \times 1 response = 5,905 responses

Burden Hours: 5,905 responses \times 2 hours per response = 11,810 burden hours

E. 29 CFR 810.600(f) Records to be preserved to demonstrate eligibility for the high-wage technology expenditures credit

[29 CFR 810.600\(f\)](#) requires any importer, exporter, or producer claiming a credit for high-wage technology expenditures to maintain records demonstrating the wages paid by the producer for research and development or information technology work as defined by the regulations.

The Department believes that these wages paid records are captured above as well as in the approved information collection 1235-0018. However, to account for the wages paid for research and development or for information technology work, the Department estimates an additional unique burden.

Research and development is typically done at the firm level and the Department estimates that CBP will provide WHD approximately five certifications per firm. The Department estimates an additional burden of 2 minutes to process the data for an average of ten workers.

Respondents: 264

Responses: $264 \times 5 \times 10$ workers = 13,200 responses

Burden Hours: $13,200 \times 2$ minutes $\div 60$ = 440 burden hours

F. 29 CFR 810.600(g) Calculations relating to labor value content requirements

As explained in [29 CFR 810.600\(g\)](#), if a producer relied on any additional records not listed in [29 CFR 810.600\(e\)](#) and [\(f\)](#) to support its calculations establishing that the average hourly base wage rate is at least \$16 per hour for each plant or facility the producer relied upon to meet the LVC requirements, then the producer must also maintain those additional records.

The Department estimates that most employers will rely on the records described in [29 CFR 810.600\(e\)](#) and [\(f\)](#). However, the Department estimates that ten percent of producer establishments may keep additional records and that it will take approximately 1 hour to capture and maintain such records.

Respondents: $5,905$ employers $\times 0.10$ = 590.5 respondents (591 rounded)

Responses: 591 respondents $\times 1$ response = 591 responses

Burden Hours: 591 responses $\times 1$ hour = 591 burden hours

G. Total Burden Hours

TOTAL ESTIMATED ANNUALIZED RESPONDENT BURDEN AND COSTS

Citation	Respondents	Responses	Burden Hours
29 CFR 810.600(e)(1)–(3)	591	15,353	512
29 CFR 810.600(e)(4)	264	528	44
29 CFR 810.600(e)(5)	1476	5,966,090	198,870
29 CFR 810.600(e)(6)	5,905	5,905	11,810

29 CFR 810.600(f)	264	13,200	440
29 CFR 810.600(g)	591	591	591
Totals	9,091 rounded	6,001,680	212,267

H. Total Cost Burden

To estimate employer burden costs, the Department uses data for a payroll and timekeeping clerk. To calculate this cost, the median hourly wage for Payroll and Timekeeping Clerks is used (BLS OEWS May 2022, <https://www.bls.gov/oes/current/oes433051.htm>). The median hourly wage is \$23.86, with an additional 45 percent benefits cost (2021 annual civilian averages, <https://www.bls.gov/ncs/data.htm>) and 17 percent overhead cost.

$$\$23.86 + (\$23.86 \times 0.45) + (\$23.86 \times 0.17) = \$38.65 \text{ rounded}$$

$$212,267 \text{ burden hours} \times \$38.65 = \$8,204,120 \text{ (rounded)}$$

$$\text{Total Cost Burden: } \$8,204,119.55 \text{ } (\$8,204,120 \text{ rounded})$$

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.

The Department estimates no capital/start-up/Operation/Maintenance costs.

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.

This information collection does not currently result in annualized costs to the federal government. While the Department may incur costs with a new enforcement program, including training enforcement staff to conduct USMCA verifications and time spent conducting such verifications, the Department does not currently have employees dedicated solely to working on this program.

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

Although the total numbers of firms and establishments have decreased, the burdens reported here have increased because the number of workers employed in the impacted industries have increased.

16. For collections of information whose results are planned to 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 of information, completion of report, publication dates, and other actions.

The Department does not plan to publish results of this information collection.

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.

The Department is not requesting an exception to the requirement to display the expiration date on this information collection.

18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”

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

Part B: EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.