

SUPPORTING STATEMENT

**Pre-Hearing Statement
(LS-18)**

**OMB No. 1240-0036
(Formerly 1215-0085)**

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 employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend the Longshore Act's coverage to certain other employees.

Title 20, CFR 702.317 provides for the referral of claims under the Longshore Act for formal hearings. This Section provides that before a case is transferred to the Office of Administrative Law Judges the district director shall furnish each of the parties or their representatives with a copy of a pre-hearing statement form. Each party shall, within 21 days after receipt of each form, complete it and return it to the district director. Upon receipt of the forms, the district director, after checking them for completeness and after any further conferences that, in his/her opinion, are warranted, shall transmit them to the Office of the Chief Administrative Law Judge with all available evidence which the parties intend to submit at the hearing.

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.

The form LS-18 is used to refer cases for formal hearings under the Act. The information obtained is used to establish and clarify the issues involved. OWCP district offices use the information to prepare cases for formal hearing. If the information were not collected, there would be no way of determining the issues involved that require resolution, and there would not be a uniform method of referring cases for formal hearings.

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.

In accordance with the Government Paperwork Elimination Act (GPEA), the LS-18 is currently available on the Department's website with its use and where it should be mailed. The LS-18 was electronically interactive in October 2003 and is available on the Internet for downloading or electronic submission at: <http://www.dol.gov/owcp/dlhwc/lsforms.htm> and <http://www.dol.gov/owcp/dlhwc/ls-18.pdf> If the respondent intends to submit this form electronically they will need a digital signature. The digital signature software is free to the public which can be accessed on-line and will take about 7 days to receive through the US mail. At this submission DOL has not received any of these forms electronically and can't determine the percentage that is expected to be received electronically.

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.

All forms in the Longshore program have been carefully reviewed to eliminate all requests for duplicate information.

The LS-18 is a unique form in that it is used to refer cases for formal hearings under the Act.

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.

The information is not requested from small businesses or other small entities and 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.

The information is only collected on occasion when a claimant, a carrier or self-insurer requests a formal hearing under the Act. It therefore cannot be collected less frequently.

7. Explain any special circumstances.

The regulations require that the forms be returned within 21 days to ensure timely referral of cases for formal hearing. Other than this there are no special circumstances for the collection of this information.

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.

The LS-18 is a basic claims form, which is used to refer cases for formal hearings. It requests only basic data relating to the case file. Daily contact is maintained with representatives of the insurance carriers and self-insurers by OWCP district office personnel with whom the form is

filed. Should any complaints be received, or suggestions for improvement received, they are carefully evaluated and appropriate action is taken.

A Federal Register Notice inviting public comment was published on November 23, 2010. 75 Fed. Reg 71456. 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.

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.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, 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.

There are no questions of a sensitive nature.

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.

Burden has been estimated to be approximately 884 hours. This was determined by applying a response time of 10 minutes or .17 hours against the estimated responses of 5,200. The estimated responses of 5,200 was determined by a review of OWCP records maintained in the National Office which reflect the number of cases referred for hearing each year. The 10-minute response time is based on actual experience with the form. In many cases only one sentence is entered in the boxes on the form and the form is also handwritten instead of typed on a number of cases. The 10 minute estimate, however, takes into consideration that some forms require more information than others due to the complexity of the issues involved and the 10 minute estimate should therefore be considered as an average time needed to complete the form and provide the required information. Generally, only one or two issues remain for resolution at a formal hearing after the informal adjudication process has been completed.

The annualized burden cost to the respondents has been estimated to be approximately \$13,887.64. 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, 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 \$628.42. The computations are therefore as follows:

$\$628.42 \div 40 \text{ hrs} = \$15.71/\text{hr}$

$\$15.71 \times 884 \text{ hrs} = \$13,887.64$ 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. A mailing cost of \$.47 per response (\$.44 postage and \$.03 envelope charge) is applied as an operation cost, with a total of \$2,444 for the 5,200 responses.

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

The cost to the government has been estimated to be approximately \$15,054.52. This estimate was determined by taking into consideration printing, distribution and analysis costs associated with the issuance and review of Form LS-18. Printing costs were determined by using a cost of \$4.50 per 100 copies. Approximately 2,600 forms LS-18 are provided to the parties each year and an equal number are furnished directly by insurance carriers and self-insurers. Distribution costs were determined by applying a postage and envelope charge of 47 cents (44 cents for postage and 3 cents for envelopes) against the 2,600 cases referred for hearing each year. Analysis and handling costs were determined by applying the hourly rate of GS-12 claims examiner (currently \$32.97/hour using the Salary Table 2011- RUS) to the total annual hours required for review. The annual review hours were determined by applying an estimate of .08 hour or 5 minutes for the review and analysis of each form against the 5,200 forms, which are received each year. The calculations are therefore as follows:

Printing	\$ 117.00	(\$4.50 x 2,600 ÷ 100)
Distribution	1,222.00	(2,600 x .47)

Analysis	<u>13,715.52</u>	(5,200 x .08 = 416/hrs x \$32.97)
Total	<u>\$15,054.52</u>	

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

OWCP is proposing cosmetic changes to the collection instrument that will not affect burden; consequently, this submission has been characterized as a revision.

There is a decrease of 200 burden hours since the last clearance submission due to a decrease in reporting under the Act. There has been a change in the operation and maintenance cost from \$2,376.00 to \$2,444.00 (+68) due to an increase in the cost of postage. DOL has updated Form LS-18 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 collected 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)(1), which requires that a current expiration date be affixed on all OMB cleared forms.

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.

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.