

Supporting Statement

Pre-Hearing Statement (LS-18)

OMB No. 1215-0085

A. Justification.

1. 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. 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. 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/esa/owcp/dlhwc/lsforms.htm> and <http://www.dol.gov/esa/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. 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. 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. 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. 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. 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 October 24, 2007. No comments were received.

9. No payments or gifts are provided to respondents.

10. 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. There are no questions of a sensitive nature.

12. Burden has been estimated to be approximately 918 hours. This was determined by applying a response time of 10 minutes or .17

hours against the estimated responses of 5,400. The estimated responses of 5,400 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 \$13,311.00. 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 nonsupervisory workers on private nonagriculture 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 \$580.18. The computations are therefore as follows: $\$580.18 \div 40 \text{ hrs} = \$14.50/\text{hr} \times 918 \text{ hrs} = \$13,311.00$ annualized burden cost.

13. 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 \$.44 per response (\$.41 postage and \$.03 envelope charge) is applied as an operation cost, with a total of \$2,376 for the 5,400 responses.

14. The cost to the government has been estimated to be

approximately \$14,437.98. 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 for a two-sided form. Approximately 2,700 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 44 cents (41 cents for postage and 3 cents for envelopes) against the 2,700 cases referred for hearing each year. Analysis and handling costs were determined by applying the hourly rate of GS-12 claims examiner (currently \$30.39/hour using the Salary Table 2007-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 5,400 forms, which are received each year. The calculations are therefore as follows:

Printing	\$ 121.50	($\$4.50 \times 2,700 \div 100$)
Distribution	1,188.00	($2,700 \times .44$)
Analysis	13,128.48	($5,400 \times .08 = 432/\text{hrs} \times \30.39)
Total	\$14,437.98	

15. There is no change in burden hours since the last clearance submission. Operation and maintenance costs have increased from \$2,000 to \$2,376 (+376) due to an increase in the cost of postage.

16. The information collected will not be published for statistical use.

17. 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. There are no exceptions to the certification.