

## SUPPORTING STATEMENT

### LS-426 -- Request for Earnings Information OMB No. 1215-0112

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 Program (OWCP) administers the Longshore and Harbor Workers' Compensation Act (LHWCA)(33 USC 901 et seq.) <http://www.dol.gov/esa/regs/compliance/owcp/lhwca.htm#901>, and its extensions the Non-appropriated Fund Instrumentalities Act, <http://www.dol.gov/esa/owcp/dlhwc/nfia.htm>; the Outer Continental Shelf Lands Act, <http://www.dol.gov/esa/owcp/dlhwc/ocsla.htm> and the Defense Base Act <http://www.dol.gov/esa/owcp/dlhwc/dba.htm>. These Acts provide compensation benefits to injured workers. The Secretary of Labor is authorized, under the Act, to make rules and regulations to administer the Act and its extensions.

Pursuant to Section 8 of the LHWCA (33 USC 908), injured employees shall receive compensation in an amount equal to 66-2/3 per centum of their average weekly wage. Form LS-426 is used to verify the average weekly wage of an injured employee to determine if the correct compensation rate is being paid. The website address for (33 USC 908) is <http://www.dol.gov/esa/regs/compliance/owcp/lhwca.htm#908>.

Pursuant to Section 10 of the Act (33 USC 910), the average weekly wage of the injured employee may be determined by using those wages earned in the occupation, which the injury occurred or wages earned in different occupations. Depending on whether similar or other employment is involved, the average weekly wage will be determined under Section 10(a), (b), or (c) of the Act. The website address for (33 USC 910) is <http://www.dol.gov/esa/regs/compliance/owcp/lhwca.htm#910>.

Additionally, pursuant to Public Law 106-113, the Secretary of Labor may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 USC 901 et seq, provide as part of such notice and claim, such identifying information

(including Social Security account number) as such regulations may prescribe.

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-426, Request for Earnings Information is used by district offices to collect wage information from injured workers to assure payment of compensation benefits to injured workers at the proper rate. Utilization of the form benefits the injured worker. It provides a simple method for the injured worker to provide the OWCP with prior earnings information. If the information were not collected, injured workers would not be paid the proper compensation rate in all cases. <http://www.dol.gov/esa/owcp/dlhwc/ls-426.pdf>

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.**

As mandated by the Government Paperwork Elimination Act (GPEA), the form is available via the internet. At the present time, the form cannot be completed or submitted electronically. Electronically submitted forms require an electronic signature. Our experience is that customers have been reluctant to request an electronic signature because of the extensive personal information which is required in

order to obtain such authorization coupled with the knowledge of recent security breaches by some clearing houses. Accordingly, even though the document is electronically available, the bulk of our customers are electing to print the form, sign the hard copy and mail it directly to the district offices. In spite of the customers' reluctance to obtain electronic signature authority, we continue to work to make it electronically interactive and fileable and increase our effort to increase this percentage by having our district offices advise the injured worker of the availability of this option by direct communication as well as by notification on our website. We are unaware of any further technology that could reduce burden. The website address for the form is:  
<http://www.dol.gov/esa/owcp/dlhwc/ls-426.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.**

This information collection does not duplicate existing requirements. No similar information is available from any other source, which information is only available from the injured worker.

- 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.**

Because the injured worker provides this information, small businesses are not involved and thus, the information collection does not have a significant impact on small businesses.

- 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 requested on occasion when the need arises -- when adequate wage information is not otherwise available.

**7. Explain any special circumstance required in the conduct of this information collection.**

There are no special circumstances required in 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.**

No outside consultations have been conducted concerning the use of this form. The form is to be used by injured workers on a one-time basis. We have received no complaints relative to its completion. The form assists the injured worker in obtaining all benefits to which he/she is entitled.

The DOL published a notice in the Federal Register on December 24, 2008 inviting comments about this information. 73 Fed. Reg. 79194. The agency received no comments in response to the notice.

**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 DOL-ESA Notice 15. <http://www.dol.gov/sol/privacy/dol-esa-15.htm>. The Privacy Act Notice is provided on the form.

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.

There is no information of a sensitive nature requested on this form.

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. 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.

It is estimated that approximately 1,600 LS-426 forms will be filed in OWCP district offices each year. An average is

used from the Longshore Case Management System as the number of forms filed each year will vary depending on the number of lost-time injuries that are reported. Each form will be completed by an injured worker. The information requested is readily available from payroll records, income tax returns, or personal knowledge of the injured worker. The form is provided as a convenience to the injured worker for the purpose of qualifying for the highest possible compensation rate. The estimated time to complete the form is based on the time needed to merely transfer the needed information from records already in existence or from the personal knowledge of the claimant onto the back of the form. Entries are only needed for a 12-month period. The estimated time to complete the form is 15 minutes. Total burden is therefore 400 hours ( $1,600 \times .25 = 400$ ).

The annualized burden cost to the respondents has been estimated to be approximately \$6,004.00. 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. 33 USC 908(b) of the Longshore and Harbor Workers' Compensation 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., Longshore workers, shipbuilders, harbor workers, ship repair persons, and other maritime workers, 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 \$600.31\*. The computations are therefore as follows:  $\$600.31 \div 40 \text{ hrs} = \$15.01/\text{hr} \times 400 \text{ hrs} = \$6,004.00$  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. The OWCP sends the form to the injured

claimant for completion. The only cost to the claimant is therefore a mailing and envelope charge. A mailing cost of \$.45 per response (\$.42 postage and \$.03 envelope charge) is applied as an operation cost resulting in a total cost of \$720.00 for the 1,600 responses received ( $$.45 \times 1,600 = \$720.00$ ).

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

The cost to the government has been estimated to be approximately \$5,332. This estimate was determined by taking into consideration printing, distribution and analysis costs associated with the issuance and review of Form LS-426. Printing costs were determined by using a cost of \$4.50 per 100 copies for a two-sided form. Distribution costs were determined by applying a postage (\$.42) and envelope charge (\$.03) against the number of copies issued. Analysis and handling costs were determined by applying the hourly rate of a GS-12/5 claims examiner 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 1,600 forms which are received each year.

The calculations are therefore as follows:

Printing	\$72.00	( $\$4.50 \times 16$ )
Distribution	720.00	( $1,600 \times \$.45$ )
Analysis	4,540.00	( $.08 \text{ hr} \times 1,600 = 128 \times \$35.47^* =$ $\$4,540.16$ rounded to \$4,540)
Total	\$5,332.00	

\*Hourly rate taken from Salary Table 2008 -RUS

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

The cost burden requested is \$720.00. The cost burden requested in the previous collection was \$672.00 which constitutes a current adjustment of \$48.00, due to an increase in postage costs.

**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.**

Approval to not display the expiration date is not sought.

18. **Explain each exception to the certification statement identified in Item "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

There are no exceptions to the certification statement.