

SUPPORTING STATEMENT

Request for Examination and/or Treatment (LS-1) OMB No. 1240-0029 (Formerly 1215-0066)

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 (OWCP) administers the Longshore and Harbor Workers' Compensation Act (LHWCA). 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 7 (33 USC, Chapter 18, Section 907) of the Longshore Act and 20 C.F.R. 702.419, the employer/insurance carrier is responsible for furnishing medical care for the injured employee for such period of time as the injury or recovery period may require. Form LS-1 serves two purposes: it authorizes the medical care, and it provides a vehicle for the treating physician to report the findings, treatment given, and anticipated physical condition of the employee.

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 information collected on Form LS-1 is used by the Longshore Division to verify that proper medical treatment has been authorized by the employer/insurance carrier, and to determine the severity of a claimant's injuries and thus his/her entitlement to compensation benefits. The employers/insurance carriers are responsible by law to

provide these benefits if a claimant is medically unable to work as a result of a work-related injury. If the information were not collected, verification of authorized medical care and entitlement to compensation benefits would not be possible.

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.

We are not aware of any improved information technology that would reduce burden. This form was not considered feasible to be made electronically interactive as mandated by the Government Paperwork Elimination Act (GPEA) because it requires multiple signatures. However, the form is currently available on the internet for on-line completion, printing, signature and submission by regular mail. The Department of Labor website is:
<http://www.dol.gov/owcp/dlhwc/ls-1.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 form has been carefully reviewed to eliminate requests or duplicate information. The LS-1 is a unique form in that it is used by three separate parties. Part A is for the employer/insurance carrier to authorize treatment by the physician selected by the injured worker. The employee must then take the form to the selected physician for treatment. Part B is used by the treating physician to report on the medical diagnosis and prognosis of 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.

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 form is used only for the initial authorization and examination and therefore cannot be used less frequently.

7. Explain any special circumstances.

Since the form is completed only at the time an injury occurs, it is completed on occasion rather than quarterly. In accordance with section 907(e) of the law, the form is to be submitted within 10 days following the first treatment. Other than these circumstances, there are no other 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.

Consultations were held with industry representatives individually and at seminars at the time the Act was amended in 1972. The form was developed as a result of these consultations. The format of the form is basic in that the first part merely authorizes medical treatment by a physician selected by the injured worker, and the second part provides space for the physician to report the findings of the medical treatment provided. Daily contact maintained with representatives of insurance carriers and self-insurers by OWCP district office personnel with whom the form is

filed has not revealed any undue burden. If any complaints or suggestions for improvement are received, they are forwarded to the National Office for review and appropriate action.

A Federal Register Notice inviting public comment on this collection of information was published in the Federal Register on December 15, 2010. 75 Fed. Reg. 78270. 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.

Form LS-1 collects information related to an employee's health condition. The information is limited to that necessary to determine the employee's entitlement to benefits under the Longshore Act and related Act that extend similar benefits to other workers.

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 77,760 hours. It is estimated that approximately 72,000 Forms LS-1 are used each year. Approximately 24,000 employers will complete approximately 3 forms each and 72,000 employees will each be responsible for having their health care professional complete Part B of the form. The number of forms that each respondent will complete is an estimate since some may complete more than 3 forms and some less. The time needed for an employer to complete each form has been estimated to be approximately 5 minutes for each side for a total of 10 minutes or .166 hours. The time estimated for an employee to travel to the physician, undergo the physical examination and have the physician complete the form is 55 minutes or .917 hours. This estimate is considered reasonable since some examinations for very minor injuries such as minor cuts, burns and bruises will take less time while examinations for more serious injuries will take longer. Also, since the injured employee is permitted to choose his/her own physician, the physician will generally be located close to the employee's home. This estimate is an average since some trips may take less and others more time depending on the distance to the physician's office. The combined burden hours for the form are therefore 1.083 hours and the calculation is as follows: $1.083 \times 72,000 = 77,976$ or 78,000 hours.

The annualized burden cost to the respondents is estimated to be approximately \$1,221,609.60. This estimate was derived from the National Average Weekly Wage (NAWW) as computed by the Bureau of Labor Statistics based on the national average earnings of production and non-supervisory workers on private non-agricultural payrolls. Section 6(b)

of the Longshore and Harbor Workers' Compensation Act mandates the use of the NAWW in setting the maximum and minimum compensation rates and in determining the amount of annual adjustments due to permanent total disability and death. 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 locale as well as 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:

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

$$\$15.71 \times 81,000 = \$1,221,609.60 \text{ annualized burden cost}$$

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. The cost of an exam by the physician is approximately \$130.00. It is estimated that the physician takes approximately 15 minutes to perform the exam and another 20 minutes to complete the form. Total cost of the physician's time is approximately \$47.00 per form for a total of \$3,384,000 for the 72,000 forms. This represents a pro rata share of the medical exam as it relates to the time needed to gather information for the completion of this form. A mailing cost of \$.47 per response (\$.44 postage and \$.03 envelope charge) is applied as an operation cost with a total of \$ 33,840 for the 72,000 responses. Total cost for physician's time plus mailing cost is \$3,417,840.

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

The cost to the government is estimated to be approximately \$66,556.80. This estimate was determined by taking into consideration printing, distribution and analysis costs associated with the issuance and review of Form LS-1. Printing costs were determined by using a cost of \$6.00 per 100 copies (or \$0.06 per copy) for a two-sided form.

Approximately ½ of the total forms (i.e. 36,000) will need to be printed. Distribution costs were determined by applying a postage (\$.44) and envelope charge (\$.03) against the number of copies issued annually. Analysis and handling costs were determined by applying the hourly rate of a GS-12 claims examiner (\$32.97) 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 of the 72,000 forms, received each year. The calculations are as follows:

Printing	\$ 2,160.00(36,000 copies at \$0.06/copy)
Distribution	16,920.00(36,000 x \$.47)
Analysis	<u>47,476.80</u> (75,000 x .02 = 1,500 x \$31.30)
Total	\$66,556.80

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

There are no program changes associated with this collection, but we have disaggregated the burden to reflect the burden for the private sector and the burden of individuals. There is a decrease of 3,240 burden hours since the last clearance submission due to a decrease in reporting under the Act. There has been a decrease in the operation and maintenance cost from \$3,558,000 to \$3,417,840 (-\$140,160) due to a decrease in reporting under the Act. DOL has updated Form LS-1 to update the OMB Control Number, reflecting a DOL reorganization that dissolved the former Employment Standards Administration into its constituent programs and to enhance the disclosure of the information collection burden and the public protection notice.

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.

It should be recognized that to require reprinting of large quantities of forms to update OMB expiration dates, when no other changes are required or justified, clearly violates the spirit of the Paperwork Reduction Act which mandates that burden to the public be reduced - not increased. We, therefore, request a continuation of the exemption from the provisions of 5 CFR 1320.8(b)(1) relative to the expiration date requirement for the Longshore form associated with this clearance.

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.