

SUPPORTING STATEMENT
Notice of Final Payment or
Suspension of Compensation Benefits (LS-208)
OMB No. 1240-0041 (Formerly 1215-0024)

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 (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 Longshore Act coverage to certain other employees

Under Section 914(g) of the Longshore Act, the employer or its insurance carrier must file a report of the compensation paid to a claimant at the time final payment is made. The Act requires that the form must be filed within sixteen days of the final payment of compensation with the District Director in the compensation district in which the injury occurred. The form requests information regarding the beginning and ending dates of compensation payments, compensation rates, reason payments were terminated and types and amount of compensation payments. Filing of the report is mandatory as failure to do so is subject to a civil penalty. <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=e94b2dfd6265049fd654439f9f738212&rgn=div5&view=text&node=20:3.0.3.1.2&idno=20#20:3.0.3.1.2.2.72.23>

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 is used to notify OWCP District Offices that

payment of compensation benefits has been stopped or suspended in a case. The report is required by law. If the report were not filed, our offices would have no way to determine whether payments have been suspended in a case and therefore would not be able to effectively manage the case file and verify that the injured worker had received all benefits that he/she is entitled to receive under Act.

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.**

While not affecting the public burden, and after careful consideration of the practicality of the current electronic filing/signing option, this collection is available on the Internet as fillable/printable and not fileable. The public has made very little use of the agency's electronic filing option for OWCP forms (only a total of 75 electronic filings in all of 2010 for all OWCP public-use forms). Due to changes in newer versions of the Adobe software, signing these forms electronically presently no longer works. To upgrade the Adobe infrastructure would require additional investment in software *and* development time from our developers. Additionally, the agency would have to pay about \$50 per submission for the users' electronic signature certificates. Given the comparatively high cost and low public demand, OWCP has determined an electronic filing option is not practicable for this information collection.

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

insurance carrier or self insured employer since there are no other forms or reports that collect this information and the information must be filed on a case-by-case basis soon after compensation payments are terminated in a case.

- 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 collected only from large insurance carriers and large employers who have been authorized to self-insure their liability under the Act. The information is not collected from small businesses or other small entities. As such, this information collection 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 when required by law at the time of final payment on a compensation case. It therefore cannot be collected less frequently without eliminating this method for determining when payment has ended.

- 7. Explain any special circumstances.**

There are no special circumstances for the collection of this information. The Act requires that the employer make payment of compensation within 10 days of notice and that the employer file the form LS-208 within 16 days of the final payment to notify the District Offices that payment has been stopped. The Form LS-208 is used by the District Offices to ensure that compensation has been paid at the correct rate and for the correct dates. See Section 914(g). <http://www.dol.gov/owcp/dlhwc/lhwca.htm#914>

- 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. This form is a simple and basic claim form, which requires the reporting of final payments in a compensation case. This form is used routinely by all insurance carriers and self-insured employers that have been authorized by the Department of Labor to write Longshore Act coverage or to self-insure who make compensation payments under the Act. These insurance carriers and self-insurers are in almost daily contact with our District Directors who manage our district offices and with whom the form is filed. This relationship allows for what amounts to constant self outside evaluation by the affected industry.

A Federal Register notification inviting public comment was published on November 1, 2011 in Vol. 76, No. 211 Page 67481. 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.**

The OWCP gives no confidentiality assurance to respondents of this information collection.

- 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.**

It is estimated from records maintained in the National Office that approximately 21,000 LS-208 forms will be filed each year. There are approximately 600 authorized carriers and self-insurers under the Act. We estimate approximately 35 LS-208 forms will be filed for each. (600 carriers and self-insurers x 35 LS-208 forms for each company = 21,000 estimated total LS-208 forms filed). 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. A lost-time injury is an injury that results in loss of time from work beyond the shift or day of injury. However, the form LS-208 will only be filed in those cases in which disability exceeds 3 days, which requires the payment of compensation benefits. A Form LS-208 will therefore not be filed in every lost-time case; and in certain cases involving intermittent periods of disability, several forms may be filed for one case by an insurance carrier or self-insured employer. Depending on the severity of the injury and the length and types of disability, all or only a part of the form will be completed to reflect the amount of compensation paid in a case. Our best estimate of the time needed to complete the form is 15 minutes or .25 hour. This estimate represents an average time since the form can be completed in less time in cases involving minor injuries and will take longer in cases involving serious injuries. This estimate is also based on the actual time taken by agency personnel to complete the form. It also includes the time needed to review and transfer the information from existing records maintained by the industry. Total burden is therefore 5,250 hours (21,000

responses x .25 hour = 5,250.00 hours).

The annualized burden cost to the respondents has been estimated to be approximately \$87,997.50. 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 non-agriculture payrolls. Section 906(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, e.g., claims adjusters, claims managers, self-insurance administrators, secretaries, claims clerks, and other office personnel, 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 \$647.60. The computations are therefore as follows:
 $\$647.60 \div 40 \text{ hrs} = \$16.19/\text{hr} \times 5,250 \text{ hrs} = \$87,997.50$
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 customary business practice. Therefore, a mailing cost of \$.47 per response (\$.44 postage and \$.03 envelope charge) is applied as an operation cost, with a total of \$9,870.00 for the 21,000 responses ($21,000 \times \$0.47 = \$9,870.00$). A printing cost of \$32.00 per 100 copies is also applied and amounts to \$6,720.00 ($21,000 \text{ responses} \div 100 = 210 \times \$32.00 = \$6,720.00$). The total cost is therefore approximately \$16,590.00 ($\$9,870.00 + \$6,720.00 = \$16,590.00$).

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

The estimated cost to the government has been estimated to

be approximately \$63,571.60. This estimate was determined by taking into consideration printing, distribution and analysis costs associated with the issuance and review of Form LS-208. Printing costs were determined by using a cost of \$32.00 per 100 copies for the form. Distribution costs were determined by applying a postage (\$.44) 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 Step 5 Claims Examiner (\$37.37*) to the total annual hours required for review. The annual review hours were determined by applying an estimate of 5 minutes (.08 hours) for the review of each form against the 21,000 forms, which are reviewed each year. The computations are therefore as follows:

*Salary Table 2011 - RUS

Printing	\$ 320.00	(1,000 copies at \$32 per 100 copies)
Distribution	470.00	(1,000 copies x \$.47)
Analysis	<u>62,781.60</u>	(21,000 x .08 hrs = 1,680.00 hrs x \$37.37 = \$62,781.60)
Total	\$63,571.60	

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

The burden hours for this information collection have increased from the previous submission of 3,750 to 5,250 which is an adjustment of 1,500 burden hours. The increase is due to an increase in the number of authorized insurance carriers and self-insured employers under the Act.

While not affecting the public burden, OWCP intends to make this collection available on the Internet as fillable/printable and not fileable. Item 3 more fully addresses the reasoning for this change.

The DOL has made certain cosmetic changes to Form LS-208, such as replacing a no longer used logo with the DOL seal. These cosmetic changes also are not expected to affect the public burden.

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 OBM 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 stock 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 form 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 form, it is difficult to justify the added cost merely to change an OMB expiration date on the form.

We therefore request a continuation of the exemption from the provisions of 5 CFR 1320.8(b)(1) relative to the expiration date requirements 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.