

**SUPPORTING STATEMENT**  
**Request for Electronic Service of Orders - Waiver of Certified**  
**Mail Requirement**  
**1240-XXXX (LS-801, LS-802)**

This ICR has been submitted to obtain Office of Management and Budget (OMB) approval under the Paperwork Reduction Act (PRA) for an information collection contained in a direct final rule (DFR) that, inter alia, would allow parties to waive their statutory right to receive compensation orders by registered or certified mail and instead to receive them by email. In any given case, the DFR would allow a claimant to waive his or her service rights independent of the Employer/Carrier's waiver. The Department seeks a 6-month approval for the information collections, during which time the OWCP will seek public comment on the information collections (in association with a Notice of Proposed Rulemaking to be published concurrently with the DFR). The Department will consider any public comments received in response to the NPRM. The Department will also publish a Federal Register Notice to announce a 30-day comment period in association with OMB review of an ICR to revise or extend PRA authorization for the ICR.

**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)(33 U.S.C. 901 et seq.), <http://www.dol.gov/owcp/dlhwc/lhwca.htm>; and its extensions; the Non-appropriated Fund Instrumentalities Act, <http://www.dol.gov/owcp/dlhwc/nfia.htm>; the Outer Continental Shelf Lands Act, <http://www.dol.gov/owcp/dlhwc/ocsla.htm> and the Defense Base Act, <http://www.dol.gov/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.

The Longshore and Harbor Workers' Compensation Act (LHWCA), at 33 U.S.C. §919(e), requires that any order rejecting or

making an LHWCA award (the compensation order) be filed in the appropriate district director's office of the Office of Workers' Compensation Programs (OWCP), and that copies be sent by registered or certified mail to the claimant and the employer. The implementing regulations at 20 CFR §702.349 require the district director to serve the compensation order on the parties and their representatives by certified mail. The compensation order notifies Employers/Carriers that payment of LHWCA compensation is due within 10 days of filing. If compensation is not paid within that time frame, an additional 20% in compensation must be paid [see LHWCA §914(f)].

Given the short time frame within which Employers/Carriers must issue payments pursuant to compensation orders and because the more quickly a compensation order is served the more quickly a claimant begins receiving benefits, industry stakeholders seek regulatory amendments allowing for more expedient methods of delivery than certified mail. In response to its stakeholders and to expedite delivery of benefits to injured workers, OWCP is promulgating a direct final rule (DFR) that, inter alia, would allow parties and their representatives to waive their statutory and regulatory rights to receive compensation orders by registered or certified mail and instead to receive them by email. The regulatory provisions will be codified at §702.349(b). Because this waiver is of a statutory and regulatory right, it should be formalized in a uniform manner in a clear writing that reflects a knowing relinquishment of rights.

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 will be used by OWCP to more efficiently serve compensation orders by email instead of by registered or certified mail. Form LS-801 will be completed by the employer/insurance carrier and/or an authorized representative and forwarded to the District Director indicating waiver of service by registered or certified mail and designation of receipt by e-mail instead. The LS-802 will be completed by the claimants and/or an authorized representative and forwarded to the District Director indicating waiver of service by registered or certified mail and designation of receipt by e-mail instead.

- 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), this collection will be available on the internet as fillable and printable. The forms may then be signed and electronically uploaded by any stakeholder directly into our case management system via secure web portal. The forms will be available online at <http://www.dol.gov/owcp/dlhwc/ls-801.pdf> and <http://www.dol.gov/owcp/dlhwc/ls-802.pdf>. This means of collection was adopted to minimize the burden on respondents.

Additionally, the collection itself will enable OWCP to use information technology to serve compensation orders by email in place of current practice which requires registered or certified service of paper orders. The use of this technology will reduce service costs and delays.

- 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.**

There is no similar approved information collection form used by the DLHWC or Federal Government for a party to waive registered or certified mailing of compensation orders.

- 5. If the collection information impacts small businesses or other small entities, describe any methods used to minimize burden.**

Generally, the required information is collected from claimants, employers, large insurance carriers, and representatives. Some of the employers are small businesses. OWCP sought to minimize burden on all respondents regardless of size. To minimize burden, the form collects only the information necessary for identification and delivery and can be scanned and uploaded

electronically via secure portal. Moreover, responding to this collection is voluntary.

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.**

In the absence of this information collection, the LHWCA requires registered or certified service of compensation orders. This information is only collected when a claimant or employer/carrier elects to waive certified service of compensation orders. It, therefore, cannot be collected less frequently. If the collection were not conducted at all, it could result in less efficient service of compensation orders, potentially delay compensation payments, and force the payment of additional compensation pursuant to 33 U.S.C. § 914(f).

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

There are no special circumstances required in the conduct of this information collection.

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 regulatory provisions underpinning this ICR were made in response to public requests. The ICR is being cleared under the emergency clearance procedures outlined in 5 CFR 1320.13, and the Department has not requested prior comment on the information collections or comment outside the rulemaking process. The Department will engage in additional opportunity for public comments on the information collection requirements in the DFR when submitting an ICR to extend authorization for the control number.

9. **Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

Respondents do not receive gifts or payments to furnish the requested information.

10. **Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.**

Minimal identifiable information is being collected. Any such information is protected by the Privacy Act, 5 U.S.C. § 552a. Both forms include a Privacy Act statement explaining the routine uses for any information provided.

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;**

There are no questions of a sensitive nature 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.**

Burden is estimated to be approximately 770 hours. This burden is based on approximately 5 minutes for locating the form on the internet, completing the information required and either mailing or uploading the form via secure portal. There are approximately 14,000 compensation orders served annually including those from District Directors and the Office of Administrative Law Judges. For each claim, a minimum of one copy of the compensation order is served on claimants/representatives and one is served on the employer/carrier. This estimate is derived from the actual

number of orders served annually. We estimate that approximately 66% of the parties receiving orders will submit the form electing to waive the service of compensation order via certified mail.

$$14,000 \times 0.66 \times 5 \text{ minutes} \div 60 = 770 \text{ hours}$$

This estimate is considered reasonable in light of the minimal information required to complete the form.

The annualized value of the burden hours has been estimated to be approximately \$13,251.70. 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. See 33 U.S.C. § 902(19). Also see the DLHWC website where the NAWW is published annually at:

<http://www.dol.gov/owcp/dlhwc/NAWWinfo.htm>

The LHWCA 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. See 33 U.S.C. §§ 906(b), 910(f). 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 and harbor workers, employers and insurance carriers) 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 \$688.51. The computations are therefore as follows:

$$\begin{aligned} \$688.51 \div 40 \text{ hrs} &= \$17.21/\text{hr} \times 770 \text{ hrs} = \$13,251.70 \\ &\text{annualized burden cost.} \end{aligned}$$

**13. Annual Costs to Respondents (capital/start-up & operation and maintenance).**

Annual costs to respondents including capital/start-up, operation, and maintenance will be zero. The forms will be available on the internet and can be submitted by mail or electronically. As an electronic submission option will be available, the cost of mailed responses would only be

incurred when the respondent chooses that option for personal reasons. Because the information collection is optional, we anticipate that parties will only submit the information if doing so is cost-neutral. Moreover, because submission allows parties to receive compensation orders by email, which is more efficient, it will likely increase delivery speed. It will therefore also prevent employers/carriers from incurring obligations to pay additional compensation for failing to make timely payments.

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

The estimated total cost to the Federal Government for processing these 9,240 forms (14,000 X 66%) is approximately \$6,554.24. Work can be performed anywhere in the country; consequently, the agency has used the [2014 Rest of the U.S. pay chart](#) developed by the Office of Personnel Management. The cost is figured as follows:

One data entry clerk (GS-7, step 5) earning \$21.28 per hour spending about 2 minutes reviewing the form and electronically indexing it into the claimant's file.

$$\begin{aligned} 9,240 \text{ forms} \times 2 &= 18,480 \text{ minutes} \div 60 = 308 \text{ hours} \\ 308 \text{ hours} \times \$21.28 &= \$6,554.24 \end{aligned}$$

Upon receipt of an order, the District Directors currently dates, signs, and files the original order by close of business the next day. On the day the order is filed, the District Director sends by certified mail a copy of the order to each of the parties and to the representatives of the parties. This is accompanied by a Certificate of Filing and a letter advising the parties of the formal filing of the order and of their appeal rights.

**15. Explain the reasons for any program changes or adjustments**

These are new forms. Use of the Forms allows parties to receive compensation orders by email, increasing delivery speed and potentially preventing employers/carriers from incurring obligations to pay additional compensation due to untimely timely payments.

**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.**

There are no plans to publish this collection of information.

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.**

This ICR does not seek a waiver from the requirement to display the expiration date.

18. **Explain each exception to the certification statement in ROCIS.**

There are no exceptions to the certification statement.

**B. Collections of Information Employing Statistical Methods**

Statistical methods are not used in these collections of information.