

Request for Electronic Service of Orders –
Waiver of Certified Mail Requirement
1240-0053 (LS-801, LS-802)
Expiration Date: April 30, 2022

SUPPORTING STATEMENT
Request for Electronic Service of Orders – Waiver of Certified Mail Requirement
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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 to make rules and regulations to administer the Act and its extensions. 33 U.S.C. § 939.

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 (a 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 under compensation orders, many industry stakeholders prefer e-mail over certified mail because it is a more expedient method. Thus, the Department's rules 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 e-mail. See 20 C.F.R. § 702.349(b). Because this waiver is of a statutory and regulatory right, it is 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 .

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The information collected will be used by OWCP to more efficiently serve compensation orders by e-mail 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.

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

Additionally, the collection itself enables OWCP to use information technology to serve compensation orders by e-mail in place of former practice, which required registered or certified service of paper orders in all cases. The use of this technology reduces 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 OWCP's secure web portal. Moreover, responding to this collection is voluntary.

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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 required 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 that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

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There are no special circumstances required in the conduct of this information collection. There is no record-keeping requirement. OWCP includes the form in the claimant's case file.

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. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection-of-information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

A Federal Register Notice inviting public comment on this collection of information was published in the Federal Register on November 5, 2021 (86 FR 61323). No comments were received.

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.

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. The Privacy Act System of Records is DOL/OWCP-3.

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.

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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 conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14**

There are approximately 14,000 compensation orders served annually including those from District Directors and the Office of Administrative Law Judges. Of the 14,000, OWCP estimates that approximately 66% of the parties receiving orders will submit the form in this ICR, electing to waive the service of compensation order via certified mail requirement.

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 a secure web portal.

$14,000 \text{ (comp orders)} \times 66\% = 9,240 \times 5 \text{ minutes} = 770 \text{ hours}$

The annualized value of the burden hours has been estimated to be approximately \$16,560.00. 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 non-agriculture payrolls. See 33 U.S.C. § 902(19). Also see the DLHWC website where the NAWW is published annually at:

<https://www.dol.gov/sites/dolgov/files/OWCP/dlhwc/industry notices/industrynotice185.pdf>.

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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 \$863.49. The computations are therefore as follows:

$$\$863.49 \div 40 \text{ hours} = \$21.59/\text{hour} \times 770 \text{ hours} = \$16,624.00 \text{ annualized burden cost.}$$

Activity	Number of Respondents	Frequency	Total Annual Responses	Time Per Response	Total Annual Burden (Hours)	Hourly Rate*	Monetized Value of Respondent Time
LS 801	4,620	1	4,620	5/60	385	\$21.59	8,312.15
LS 802	4,620	1	4,620	5/60	385	\$21.59	8,312.15
Totals	9,240		9,240		770		16,624.30

The total number of respondents in this ICR is 9,240. That number of respondents has been divided equally between the two forms just as an estimate since the actual number per form has not yet been compiled.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of service component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**

- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

The forms in this collection are all submitted electronically. There are no start-up or mailing costs associated with this collection of information.

14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The estimated total cost to the Federal Government for processing these 9,240 forms (14,000 X 66%) is approximately \$11,430. Work can be performed anywhere in the country; consequently, the agency has used the <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/RUS.pdf> developed by the Office of Personnel Management. The cost is figured as follows:

One data entry clerk (GS-7, step 5) earning \$23.72 per hour spending about 2 minutes reviewing the form and electronically indexing it into the claimant's file.

$$\begin{aligned} 9,240 \text{ forms} \times 2 &= 18,480 \text{ minutes} \div 60 = 308 \text{ hours} \\ 308 \text{ hours} \times \$23.72 &= \$7,306. \$7,306 + \$4,125 \text{ (this ICR's portion of the } \$66,000 \\ &\text{ cost to maintain the SEAPortal website)} = \$11,430 \end{aligned}$$

Using these forms reduces the costs for reproduction and certified mail service of paper copies that would otherwise be required to serve compensation orders.

15. Explain the reasons for any program changes or adjustments

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The reduction in the number of respondents was to fix a calculation error from the previous submission. There are no other changes to the ICR.

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.