

**SUPPORTING STATEMENT FOR
PRE-HEARING STATEMENT (LS-18)**

OMB CONTROL NO. 1240-0036

This ICR seeks to extend a currently approved collection.

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). LHWCA 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 employer in loading, unloading, repairing, or building a vessel. In addition, several Acts extend the Longshore Act's coverage to certain other employees.

The Secretary of Labor has authority to make rules and regulations to establish procedures which are necessary or appropriate to carry out the provisions of the Act. 33 U.S.C. §§ 939, 944. The Secretary has delegated that authority to the Director, Office of Workers' Compensation Programs. Secretary's Order 10-2009; Pub. L. 111-5 § 803, 123 Stat. 115, 187 (2009).

Title 20, CFR 702.317 provides for the referral of claims under the Longshore Act for formal hearings. This Section provides that before a case is transferred to the Office of Administrative Law Judges, the district director shall furnish each of the parties or their representatives with a copy of a pre-hearing statement form. Each party shall, within 21 days after receipt of each form, complete it and return it to the district director. Upon receipt of the forms, the district director, after checking them for completeness and after any further conferences that, in his/her opinion, are warranted, shall transmit them to the Office of the Chief Administrative Law Judge with all available evidence which the parties intend to submit at the hearing.

- 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-18 is used to refer cases for formal hearings under the Act. The information obtained is used to establish and clarify the issues involved. OWCP district offices use the information to prepare cases for formal hearing. If the information were not collected,

there would be no way of determining the issues involved that require resolution, and there would not be a uniform method of referring cases for formal hearings.

- 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.**

Respondents have the option of completing and submitting this form electronically using our new secure web portal (www.seaportal.dol.gov). The form itself can be accessed at <https://www.dol.gov/owcp/dlhwc/ls-18.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 A.2 above.**

All forms in the Longshore program have been carefully reviewed to eliminate all requests for duplicate information. The LS-18 is a unique form in that it is used to refer cases for formal hearings under the Act.

- 5. If the collection information impacts small businesses or other small entities, 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 information is only collected on occasion when a claimant, a carrier, or self-insurer requests a formal hearing under the Act. It therefore cannot be collected less frequently.

- 7. Explain any special circumstances.**

- **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 a 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 secrets, 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.**

The regulations require that the forms be returned within 21 days to ensure timely referral of cases for formal hearing. Other than this, there are no 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.**

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 was published on September 5, 2023 (88 FR 60712). No comments were received.

The LS-18 is a basic claims form, which is used to refer cases for formal hearings. It requests only basic data relating to the case file. OWCP district office personnel with whom the form is filed maintain daily contact with representatives of the insurance carriers and self-insurers. Any complaints or suggestions for improvement received are carefully evaluated, and appropriate action is taken.

In addition, OWCP and Longshore leadership invite comment and feedback on processes and forms on a continual basis with regularly scheduled meetings with stakeholders

including, but not limited to: four to five conferences per year during which OWCP makes presentations to stakeholders and fields their questions, comments and concerns; annual Carrier Performance Meetings with OWCP leadership and the largest carriers; special requests for in person and/or virtual meetings with stakeholders throughout the year; outreach efforts at the District Office and National Office levels; and continual communication with all stakeholders.

The Longshore Program consulted with three internal and external representatives to the agency involved in requesting Form LS-18 Pre-Hearing Statement. The consultation asked Longshore industry contacts for their feedback on burden estimates for information collection activities associated with requesting an LS-18 Pre-Hearing Statement. None of the three representatives had any changes or comments on the estimated burden, so the Longshore Program is proceeding with the initial estimates published in the 60-day notice. The individuals/organizations consulted about the information collection are listed in the table below. We have redacted their last names and contact information.

Table 1: List of Internal and External Representatives

Contact	Organization	Email	Phone
Tony XXX	Homeport Insurance Company	xxx	xxx
Lisa XXX	Signal Mutual Indemnity Assn. Ltd.	xxx	xxx
Stephanie XXX	OWCP-Longshore Deputy Director	xxx	xxx

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.

Where records pertain to specific compensation cases, the completed forms will be maintained in the claimant's case file. Thus, the information collected is covered by

[Privacy Act Systems of Records, DOL/OWCP-3](#), published at 81 *Federal Register* 25765 (April 29, 2016), or as updated and republished. 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, 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 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 conduct special surveys to obtain information on which to base burden estimates. Consultation with a sample of fewer than 10 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 reason for the variance. Generally, estimates should not include burden hours for customary and usual business practices.¹**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **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 under “Annual Cost to Federal Government.”**

Burden has been estimated to be 1,432 hours. This was determined by applying a response time of 10 minutes or 0.17 hours against the estimated responses of 8,422. The estimated responses of 8,422 were determined by a review of OWCP records maintained in the National Office, which reflect the average number of cases referred for hearing in the last 3 years. The 10-minute response time is based on actual experience with the form. In many cases, only one sentence is entered in the boxes on the form, and the form is also handwritten instead of typed in a number of cases. The 10-minute estimate takes

¹ The LHWCA retention period for claims is 15 years as noted in the record schedule DAA-0271-2017-0005.

into consideration that some forms require more information than others due to the complexity of the issues involved. The 10-minute estimate should therefore be considered an average time needed to complete the form and provide the required information. Generally, only one or two issues remain for resolution at a formal hearing after the informal adjudication process has been completed.

$$8,422 \times 0.17 = 1,431.74 \text{ or } 1,432 \text{ (rounded) burden hours}$$

The annualized burden cost estimates are calculated using the National Average Weekly Wage (NAWW), as computed by the Bureau of Labor Statistics, <https://www.dol.gov/agencies/owcp/dlhwc/NAWWinfo>, for production or non-supervisory workers on private non-agriculture payrolls in a 40 hour work week. Section 6(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 for permanent total disability and for death benefits. See 33 U.S.C. 906(b). 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 duties and length of service, use of a national average weekly wage covering all occupations is reasonable. The FY2024 applicable NAWW is \$963.29. The average work week is 40 hours. This computes to an average hourly wage of \$24.08 ($\$963.29 / 40 = \24.08). The Annualized Burden Cost was computed using the NAWW divided by 40 hours per week multiplied by the Burden Hours. The computations are therefore as follows:

BURDEN SUMMARY

Activity	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden (Hours) (Rounded)	Total Burden (Hours)	Hourly Wage Rate	Total Burden Cost (Rounded)
LS-18 Pre-Hearing Statement	8,422	1	8,422	.17	1,432	\$24.08	\$34,483
Total	8,422		8,422		1,432		\$34,483

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

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 services 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 collections 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.

There are no start-up costs associated with this collection. All forms may be submitted electronically at no cost.

This information collection does not require the use of systems or technology for generating, maintaining, or disclosing the above data which would be kept as a customary business practice.

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

Estimates of annualized cost to the Federal Government for all of the forms and regulations associated with this clearance are as follows:

The forms are now available online so there are no longer printing and distribution costs associated with them. The estimates now only include the costs of analysis of the completed forms once received.

The cost to the government is estimated to be \$6,706.15. This estimate was determined by taking into consideration analysis costs associated with the review of Form LS-18. Analysis and handling costs were determined by applying the hourly rate of a GS-12/Step 5 workers' compensation claims examiner taken from the [2023 Rest of the U.S. pay chart](#) (\$44.98) to the 5 minutes (0.08 hour) it takes to review each form. The cost is figured as follows:

Form	Grade/Rate	Analysis (Hours)	# of Forms	Federal Cost
LS-18	GS-12s5/\$44.98	.08	8,422	\$30,305.72

Total cost to the government for all forms is \$ (\$30,305.72 + (\$66,000/10)* = \$+ \$6,600 = \$36,905.72

*The cost to maintain SEAPortal is \$66,000 so this has been divided over the total Information Collection Requests (ICRs) that are impacted.

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

There is an increase of 786 (785.74 rounded up) burden hours since the last clearance submission due to an increase in the average number of forms received over the last 3 years which coincides with the increase in number of claims for injury received in general over the last 3 years. Over the last 3 years, the average number of referrals to the OALJ increased from 3,800 to 8,422.

The annualized burden cost for mailing is reduced to zero (from \$1,102) as all respondents now submit their forms electronically via the SEAPortal.

The number of respondents increased from 3,800 to 8,422 due to the increase in average number of claims/forms received over the last 3 years.

There was an increase of \$21,723.72 in the cost to the government since the last clearance submission due to an increase in the average number of forms received over the last 3 years which coincides with the increase in number of claims received in general

over the last 3 years. Over the last 3 years, the average number of referrals to the OALJ increased from 3,800 to 8,422.

- 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 of 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.**

The expiration date will be displayed on the form.

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

There are no exceptions to the certification.

B. Collections of Information Employing Statistical Methods

Statistical methods are not used in these collections of information.