

SUPPORTING STATEMENT
NOTICE OF CONTROVERSION OF RIGHT TO COMPENSATION (LS-207)
OMB No. 1240-0042 (Formerly 1215-0023)

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 Division of Longshore and Harbor Workers' Compensation administers the Longshore and Harbor Workers' Compensation Act. This 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 employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend Longshore Act coverage to certain other employees.

Pursuant to Section 914(d) of the Act, and 20 CFR 702.251, if an employer controverts the right to compensation he/she shall file with the district director in the affected compensation district on or before the fourteenth day after he/she has knowledge of the alleged injury or death, a notice, in accordance with a form prescribed by the Secretary, stating that the right to compensation is controverted. Form LS-207 is used for this purpose.

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 by insurance carriers and self-insured employers to controvert claims under the Act. The information is used by OWCP district offices to determine the basis for not paying benefits in a case. It also informs the injured claimant of the reason(s) for not paying compensation benefits. If the information were not collected, our district offices and claimants would have no way of knowing the reason(s) for controverting the right to compensation.

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.**

All forms in the Longshore program have been carefully reviewed to eliminate all requests for duplicate information. The LS-207 is a unique form in that it is used by insurance carriers and self-insured employers to controvert cases.

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. 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 a carrier or self-insurer controverts the payment of compensation benefits to an injured claimant. It therefore cannot be collected less frequently without eliminating this method used to determine that payment is being denied.

7. **Explain any special circumstances.**

The Longshore Act, as a statutory matter, requires immediate filing of this information with the OWCP. The form is to be submitted only at such time as initial payment is being denied. Other than this exception, there are no other special circumstances.

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 LS-207 is a basic claims form, which is used by insurance carriers and self-insurers to controvert compensation benefits. It requests only basic data relating to the reason(s) that benefits are not paid. Daily contact is maintained with representatives of the insurance carriers and self-insurers by OWCP district office personnel with whom the form is filed. Should any complaints be received, or suggestions for improvement be received, they are carefully evaluated and appropriate action is taken.

A Federal Register Notification inviting public comment was published on October 19, 2011 in Vol. 76, No. 202 Page 64976. 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.**

Burden has been estimated to be approximately 4,375 hours. It is estimated from records maintained in the National Office that about 700 insurance carriers and self-insurers will file approximately 25 forms each for a total annual number of forms filed of 17,500. The time needed to complete the form, including the time needed to obtain the information

required by the form from existing records, has been estimated to be 15 minutes or .25 hour. (17,500 forms x .25 hours = 4,375 hours). This estimate is considered reasonable in light of the information required by the form which is the reason(s) that a carrier or a self-insurer is controverting the right to compensation benefits and usually consists of only one or two single sentence reasons, e.g. lack of jurisdiction, claimant not injured in course of employment, etc.

The annualized burden cost to the respondents has been estimated to be approximately \$70,831.25. 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 nonagriculture 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, 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: $\$647.60 \div 40 \text{ hrs} = \$16.19/\text{hr} \times 4,375 \text{ hrs} = \$70,831.25$ annualized burden cost.

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

x Since the information required by Form LS-207 is maintained by insurance carriers and self-insurers as a usual and customary business practice of processing claims, the only operation and maintenance costs for this information is for printing and mailing. A mailing cost of \$.47 per response (\$.44 postage and \$.03 envelope charge) is applied as an operation cost, with a total of \$8,225 for the 17,500 responses. Printing costs amount to approximately \$787.50 based on a cost of \$4.50 per 100 copies ($17,500 \div 100 = 175$ $\times \$4.50 = \787.50). The total cost is therefore approximately \$9,012.50.

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

The cost to the government has been estimated to be approximately \$57,055.53. This estimate was determined by taking into consideration printing, distribution and analysis costs associated with the issuance and review of Form LS-207. Printing costs were determined by using a cost of \$4.50 per 100 copies. Distribution costs were determined by applying a postage (\$.44) and envelope charge (\$.03) against the number of copies issued. Approximately 200 copies are distributed each year since companies purchase or print and stock their own supplies. Analysis and handling costs were determined by applying the hourly rate of GS-13 claims examiner (the Salary Table 2011-RUS was used to calculate the currently \$39.21/hourly rate) to the total annual hours required for review. The annual review hours were determined by applying an estimate of .083 hour or 5 minutes for the review and analysis of each form against the 17,500 forms that are received each year. The calculations are as follows:

Printing	\$	9.00	(4.50 x 2)
Distribution	\$	94.00	(200 x .47)
Analysis	\$	<u>56,952.53</u>	(17,500 x .083 = 1,452.50 hrs x \$39.21)
Total	\$	57,055.53	

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

There has been an increase in the operation and maintenance cost due to postage increases from the previous submission of \$8,662 to \$9,012.50 which is a difference of +\$350.50.

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-207, such as replacing a no longer used logo with the DOL seal.

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 5CFR 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. 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.