

**SUPPORTING STATEMENT FOR
NOTICE OF CONTROVERSION OF RIGHT TO COMPENSATION – (LS-207)**

OMB CONTROL NO. 1240-0042

This ICR seeks a Revision of a currently approved ICR.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Division of Federal Employees 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.

Respondents can submit the form LS-207 electronically using our secure web portal (https://seaportal.dol.gov/portal/?program_name=LS). The form itself is located on our website at <https://www.dol.gov/sites/dolgov/files/owcp/dlhwc/ls-207.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-207 is a unique form in that it is used by insurance carriers and self-insured employers to controvert cases specifically.

5. If the collection of 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. This information collection does not have a significant economic impact on a substantial number of small entities.

6. Describe the consequence to 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 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.**

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.

<https://www.dol.gov/agencies/owcp/dlhwc/lhwca>

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.

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 April 15, 2021, 86 FR 19905. No comments were received.

9. Explain any decision to provide any payments or gifts 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, regulation, or agency policy.

While no assurance of confidentiality is provided to respondents, 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.

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 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.**

Burden has been estimated to be approximately 4,812.50 hours.

It is estimated from records maintained in the National Office that about 550 insurance carriers and

self-insurers will file approximately 35 forms each for a total annual number of forms filed of 19,250. 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. (19,250 forms x .25 hours = 4,812.50 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 \$98,223.13. 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 \$816.35. The computations are therefore as follows:

$$\$816.35 \times 40 \text{ hrs} = \$20.41/\text{hr} \times 4,812.50 \text{ hrs} = \$98,223.13 \text{ annualized burden cost.}$$

Estimated Annualized Respondent Cost and Hour Burden

Activity	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage Rate	Total Burden Cost
LS-207	550	35	19,250	.25	4,813	20.41	98,223

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.**

There are no start-up costs associated with this collection. Forms are submitted electronically using our Secure Electronic Access Portal (SEAPortal) with no mailing costs associated with the form. It is estimated that 80% of respondents will submit the forms electronically using our Secure Electronic Access Portal (SEAPortal) with no mailing costs associated with the forms. Mailing costs for the remaining 20% of respondents are estimated as follows:

3,850 (20% of 19,250 responses) x \$.55 (postage) = \$2,117.50 mailing costs

14. Provide estimates of the annualized cost 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), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.

The estimated cost to the government has been estimated to be approximately \$64,803.00. This form is now available online so there are no longer printing and distribution costs associated with it. This estimate now only includes the cost of analysis of the completed form once received. Analysis costs were determined by applying the hourly rate of a GS-12 Step 5 Claims Examiner (\$42.08*) 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 19,250 forms, which are

reviewed each year. The computations are therefore as follows:

*Salary Table 2021 – RUS https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/RUS_h.pdf.

$19,250 \times .08 \text{ hrs} = 1,540 \text{ hours} \times \$42.08 = \$64,803.$

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

Time burden has increased due to an increase in the number of claims controverted and subsequent controversion forms filed. Burden cost has been reduced since forms can now be submitted electronically using our Secure Electronic Access Portal (SEAPortal), however, a miscalculation of the cost burden in the previous submission has resulted in an increase in cost burden showing in this submission.

16. For collections of information whose results will be published, outline plans for tabulations, 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.

Since the form is available on-line, this ICR does not seek a waiver from the requirement to display the expiration date.

18. Explain each exception to the certification statement.

There are no exceptions to the certification.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

Statistical methods are not used in these collections of information.