

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

A. Justification.

1. 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. 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. As mandated by the Government Paperwork Elimination Act (GPEA), the form is electronically interactive and available for completion and submission via the internet. At the present time approximately 5 percent of the forms are submitted electronically. We are working to increase this percentage by continuing to advise our customers of the availability of this option by notification on our website and through direct communication with our district office personnel. We are unaware of any further technology that could reduce burden. The form is available at:
<http://www.dol.gov/esa/owcp/dlhwc/lstable.htm>

4. 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. 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. The information is only collected on occasion when a carrier or self-insurer controverts the payment of compensation benefits to an injured claimant. It therefore cannot be collected less frequently.

7. There are no special circumstances for the collection of this information.

8. 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 July 2, 2008 in volume 73 page 37987. No comments were received.

9. No payments or gifts are provided to respondents.

10. Records pertaining to compensation cases are covered under the Privacy Act. The system name is Office of Workers' Compensation Programs, Longshore and Harbor Workers' Compensation Act case files.

11. There are no questions of a sensitive nature.

12. 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. 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 \$63,437.50. 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 \$580.18. The computations are therefore as follows: $\$580.18 \div 40 \text{ hrs} = \$14.50/\text{hr} \times 4,375 \text{ hrs} = \$63,437.50$ annualized burden cost.

13. 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 \$.45 per response (\$.42 postage and \$.03 envelope charge) is applied as an operation cost, with a total of \$7,875.50 for the 17,500 responses. Printing costs amount to approximately \$787.50 based on a cost of \$4.50 per 100 copies for a two-sided form ($17,500 \div 100 = 175 \times \$4.50 = \$787.50$). The total cost is therefore approximately \$8,662.00.

14. The cost to the government has been estimated to be approximately \$45,562.25. 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 for a two-sided form. Distribution costs were determined by applying a

postage (\$.42) 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-12 claims examiner (the Salary Table 2008-RUS was used to calculate the currently \$31.30/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	\$	90.00	(200 x .45)
Analysis	\$	<u>45,463.25</u>	(17,500 x .083 = \$1,452.50 hrs x \$31.30)
Total	\$	45,562.25	

15. There is an adjustment in the burden hours that has increased from the previous submission of 3,938 to 4,375 burden hours which is an increase of +437 hours due to an increase in reporting under the Defense Base extension for the Act. There has also been an increase in the operation and maintenance cost due to postage increases from the previous submission of \$7,000 to \$8,662 which is a difference of +\$1,662.00.

16. The information collected will not be published for statistical use.

17. 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. There are no exceptions to the certification.