

U.S. Department of Labor

Office of Workers' Compensation Programs
Division of Longshore and Harbor Workers'
Compensation
Washington, D.C. 20210



June 12, 2015

INDUSTRY NOTICE No. 152

**TO: INSURANCE CARRIERS, SELF-INSURED EMPLOYERS, LONGSHORE EMPLOYERS,
LONGSHORE CLAIMANTS, AND OTHER INTERESTED PERSONS**

SUBJECT: Waiver of Service by Registered or Certified Mail

To speed delivery of benefits to injured workers covered by the Longshore and Harbor Workers' Compensation Act (LHWCA), and its extensions, the Office of Workers' Compensation Programs (OWCP), Division of Longshore and Harbor Workers' Compensation (DLHWC), now offers an alternative electronic option for service of compensation orders. Any party to a claim or the party's representative may now choose to waive service by certified mail and instead receive service via email.

BACKGROUND: Section 919(e) of the LHWCA provides that parties have a right to service of compensation orders by registered or certified mail. By practice, the Department has elected to use certified mail and has extended this manner of service to the parties' representatives. See 20 C.F.R. 702.349(a). Effective June 10, 2015, a new implementing regulation found at 20 C.F.R. 702.349(b) allows parties and their representatives to waive certified mail service and consent to electronic service instead.

Revised 20 C.F.R. 702.349(b) provides:

All parties and their representatives are entitled to be served with compensation orders via registered or certified mail. Parties and their representatives may waive this right and elect to be served with compensation orders electronically by filing the appropriate waiver form with the district director responsible for administering the claim. To waive service by registered or certified mail, employers, insurance carriers, and their representatives must file form LS-801 (Waiver of Service by Registered or Certified Mail for Employers and/or Insurance Carriers), and claimants and their representatives must file form LS-802 (Waiver of Service by Registered or Certified Mail for Claimants and/or Authorized Representatives). A signature on a waiver form represents a knowing and voluntary waiver of that party's or representative's right to receive compensation orders via registered or certified mail.

- (1) Waiving parties and representatives must provide a valid electronic address on the waiver form.
- (2) Parties and representatives must submit a separate waiver form for each case in which they intend to waive the right to certified or registered mail service.
- (3) A representative may not sign a waiver form on a party's behalf.
- (4) All compensation orders issued in a claim after receipt of the waiver form will be sent to the electronic address provided on the waiver form. Any changes to the

address must be made by submitting another waiver form. Individuals may revoke their service waiver at any time by submitting a new waiver form that specifies that the service waiver is being revoked.

(5) If it appears that service in the manner selected by the individual has not been effective, the district director will serve the individual by certified mail.

The only method of electronic service OWCP is providing at this time is transmission via email. Thus, under section 702.349(b), any party to a claim or their representative may now sign up for email service of compensation orders by waiving certified mail service. This includes claimants, employers, insurance carriers, self-insured employers, and attorneys (or lay representatives) for both claimants and employer/carriers. **Parties and representatives who do not waive certified mail service in accordance with the procedures below will receive compensation orders via certified mail.**

PROCEDURES FOR WAIVING CERTIFIED MAIL SERVICE:

1. If a party wishes to request service via email, the appropriate "Waiver of Service by Registered or Certified Mail" form must be completed and submitted to OWCP for inclusion in the case file. There are two different waiver forms, and they are both available on the DLHWC website (<http://www.dol.gov/owcp/dlhwc/lforms.htm>).

The correct form, based on the party submitting the waiver, must be used or the waiver will be deemed invalid. ***No other request - written or verbal - will be honored.***

- **LS-801** (Waiver of Service by Registered or Certified Mail for Employers and/or Insurance Carriers) is to be used by Employers, Insurance Carriers, and their representatives.
- **LS-802** (Waiver of Service by Registered or Certified Mail for Claimants and Authorized Representatives) is to be used by claimants and their representatives.

2. The waiver form requires the author to identify his/her role in the claims process; name, firm or business name (if applicable); and the email address(es) to which compensation orders should be sent. No more than two (2) email addresses can be listed on the form.

A representative, including an attorney, may not sign a waiver form on a party's behalf.

3. All fields on the form must be completed. It must be signed, dated and submitted to OWCP.

- a. DLHWC's Secure Electronic Access Portal (SEAPortal) may be used to upload the waiver form into the case file. (See Industry Notice No. 148, issued October 31, 2014.) The SEAPortal can be accessed at the following web address: <https://seaportal.dol-esa.gov/>. The document category option to be used during the upload process is "Waiver of Service by Certified Mail (LS-801/802)."
- b. Alternatively, the form may be mailed to the DLHWC Central Mail Receipt site at the following address: U.S. Department of Labor, OWCP/DLHWC, 400 West Bay Street, Suite 63A, Box 28, Jacksonville, FL 32202.

4. If the individual who signs the waiver form wishes to revoke the waiver or change the email address(es) for delivery, he/she must submit a new waiver form and check the appropriate box at the top of the form. **No other request - written or verbal - will be honored.**

5. When a compensation order is served via email, the subject line of the email will be "Compensation Order," with the case number only, and the order will be attached as an Adobe document that is password protected. The password will be the injured worker's date of birth in the following format: MM/DD/YYYY. The actual date of birth will not be provided since any party to the claim (or their representative) should have that information.

6) If the order is sent via email and OWCP receives a notice that it is undeliverable or otherwise appears not to have been transmitted, OWCP will then serve the order via certified mail to that recipient. (An out-of-office reply is not considered to be an "undeliverable" email.) If the order is sent via certified mail in this instance, written notice will be sent to that individual party or representative indicating that the attempt to serve the compensation order via email was unsuccessful. If the individual wishes to receive additional orders via email, he/she must file a new waiver form.

IMPORTANT REMINDER:

Signature on the waiver serves as a knowing and voluntary waiver of the right to receive the compensation order(s) by registered or certified mail. If any party or representative chooses to receive service via email, a hard copy of the order will **not** be sent via certified or registered mail to that party or representative. All other parties and representatives to the claim will receive service in the usual and customary manner (unless they have also waived their right to certified mail service). In light of the availability of email service, the DLHWC will no longer send courtesy copies of compensation orders to certain parties and representatives by fax as it has occasionally done in the past.



Antonio A. Rios
Director, Division of
Longshore and Harbor Workers' Compensation