

U.S. Department of Labor


Office of Workers' Compensation Programs
Washington, D.C. 20210



File Number:

MEMORANDUM FOR: Brenda Aguilar
Office of Management and Budget OIRA

THROUGH: Michel Smyth
Departmental Clearance Officer

FROM: Leonard J. Howie III 
Director
Office of Workers' Compensation Programs

DATE: February 12, 2015

SUBJECT: Request for Emergency PRA Clearance

The Longshore and Harbor Workers' Compensation Act (LHWCA), at 33 U.S.C. §919(e), requires that any order rejecting or making an LHWCA award (the compensation order) be filed in the appropriate district director's office of the Office of Workers' Compensation Programs (OWCP), and that copies be sent by registered or certified mail to the claimant and the employer. The implementing regulations at 20 CFR §702.349 require the district director to serve the compensation order on the parties and their representatives by certified mail. The compensation order notifies Employers/Carriers that payment of LHWCA compensation is due within 10 days of filing. If compensation is not paid within that time frame, an additional 20% in compensation must be paid [see LHWCA §914(f)].

Given the short time frame within which Employers/Carriers must issue payments pursuant to compensation orders and because the more quickly a compensation order is served the more quickly a claimant begins receiving benefits, industry stakeholders seek regulatory amendments allowing for more expedient methods of delivery than certified mail. In response to its stakeholders and to expedite delivery of benefits to injured workers, OWCP is promulgating a direct final rule (DFR) that, inter alia, would allow parties to waive their statutory right to receive compensation orders by registered or certified mail and instead to receive them by email. In any given case, the DFR would allow a claimant to waive his or her service rights independent of the Employer/Carrier's waiver. The DFR will take effect 90 days after its publication.

The waiver procedures outlined in the DFR are completely voluntary but, if invoked, require a new information collection request (ICR) for OWCP Form LS-801, Waiver of Service by Registered or Certified Mail for Claimants and Authorized Representatives, and OWCP Form LS-802, Waiver of Service by Registered or Certified Mail for Employers and/or Insurance Carriers. These waiver forms were created after consultation with OWCP stakeholders and members of the public, were designed to minimize the information collection burden, and only

request submission of the injured worker's name, the OWCP-assigned claim number, the submitter's name, and the submitter's email address.

Normal Paperwork Reduction Act clearance procedures for the ICR, would be precluded by the DFR, since there would be no initial opportunity for public comments. Normal clearance procedures would delay implementation of the DFR and the ability of parties to a LHWCA claim to avail themselves of the waiver process. Information collection would also be disrupted because OWCP would have a rule allowing the collection with no mechanism to do so.

Therefore, in accordance with 5 CFR 1320.13, the Department is hereby requesting emergency clearance from OMB for Forms LS-801 and LS-802 within seven (7) days after the Department submits the information collection request to OMB.

Thank you for your consideration of this request.