

U.S. DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

Office of Workers' Compensation Programs  
Division of Longshore and Harbor Workers' Compensation

Washington, D.C. 20210

September 29, 1978

No. 37



NOTICE TO INSURANCE CARRIERS, SELF-INSURED EMPLOYERS UNDER  
THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT, AND  
OTHER INTERESTED PERSONS

Subject: Maximum and Minimum Compensation Rates Under  
Longshore Act Effective October 1, 1978;  
Adjustments of Permanent Total Disability and  
Death Cases

Section 6(b)(3) of the Longshoremen's and Harbor Workers' Compensation Act provides that prior to October 1 of each year, based on the national average weekly wage for the three calendar quarters ending June 30 of that year, the Secretary of Labor shall determine the national average weekly wage to be applicable for the period beginning October 1 of that year and ending with September 30 of the next year. It has been determined that the applicable national average weekly wage for the period beginning October 1, 1978, and ending September 30, 1979, is \$198.39.

Section 6(b)(1)(D) provides that for the period October 1, 1978 through September 30, 1979 the maximum rate of compensation under this Act shall not exceed 200 percent of the national average weekly wage. The maximum compensation rate for total disability for injuries sustained during this period is \$396.78 (200 percent of \$198.39). Compensation for disability subject to this maximum should be paid at 66-2/3 percent of the employee's average weekly wage as determined under section 10, subject to the foregoing limitation.

The minimum compensation rate payable for disability incurred in the above period is \$99.20 per week, fifty percent of the national average weekly wage. However, if an employee's average weekly wage is less than this amount, he or she receives the employee's entire average weekly wage as compensation for total disability.

In computing death benefits covered by this applicable period, the average weekly wage of the deceased employee shall be considered to have been not less than \$198.39 per week, but total weekly benefits may not exceed the average weekly wage of the deceased.

The foregoing maximum and minimum rates do not apply to employees covered by the Nonappropriated Fund Instrumentalities Act. The maximum and minimum rates for those employees change under a separate schedule, whenever Federal employees' pay rates change.

In accordance with subsections 10(f) and 10(h)(3) of the Act, effective October 1, 1978 the compensation or death benefits payable for cases of permanent total disability or death which occurred prior to October 1, 1978 are to be increased by 8.05 percent, the percentage by which the national average weekly wage of \$198.39 (effective October 1, 1978) exceeds the previous national average weekly wage of \$183.61 (effective October 1, 1977 through September 30, 1978). The weekly compensation after adjustment is fixed at the nearest dollar, and no adjustment of less than \$1 shall be made. In no event is compensation for death benefits reduced. District Offices of the Office of Workers' Compensation Programs will advise beneficiaries receiving payments, and insurance carriers and self-insured employers of the amount of adjustment due in each case.

Field or district offices of insurance carriers or self-insured employers paying benefits under the Longshoremen's and Harbor Workers' Compensation Act and related Acts (the District of Columbia Compensation Act, the Defense Base Act, the Outer Continental Shelf Lands Act and the Nonappropriated Fund Instrumentalities Act) will soon receive specific instructions from the Office of Workers' Compensation Programs (OWCP) District Offices for making the adjustments under section 10(f) in individual cases, and should begin paying at the new benefit levels as soon as possible.

If the section 10(f) increase is to be reimbursed to an insurance carrier or self-insured employer under procedures which have been established by the OWCP National Office, it will be indicated on form Ltr. LS-521 (rev.) for that case with the "Yes" block being marked on the front of the letter. If the "No" block is marked, the Section 10(f) adjustment is not subject to reimbursement by OWCP. In case of questions about implementing these mandatory adjustments, any district office or the OWCP National Office may be contacted. (Phone: Area Code 202 - 523-8721)

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