

U.S. Department of Labor

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



October 1, 1984

No. 57

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

**SUBJECT: Maximum and Minimum Compensation Rates Under
Longshore Act, Effective October 1, 1984;
Adjustments of Permanent Total Disability
and Death Cases**

Section 6(b)(3) of the Longshore 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 the current 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, 1984, and ending September 30, 1985, is \$289.83.

Section 6(b)(1) provides that for the period October 1, 1984 through September 30, 1985, 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 \$579.66 (200 percent of \$289.83). 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 \$144.92 per week, 50 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 not be less than \$289.83 per week, which is the national average weekly wage for the covered period.

In addition, it should be noted that there have been some changes from previous years in the determination of death benefits pursuant to the Longshore and Harbor Workers' Compensation Act Amendments of 1984, which were enacted on September 28, 1984. Previously there was no maximum death benefit rate under the Act, except that benefits could not exceed the average weekly wage of the deceased. Under the provisions of the 1984 Amendments, the total weekly death benefits shall not exceed the lesser of the average weekly wages of the deceased or 200% of the national average weekly wage. During the period October 1, 1984 to September 30, 1985 the 200% maximum benefit amount is \$579.66 per week. This change is applicable to cases in which the death occurs during that period. However, please note that since this amendment took effect on the day after enactment of the 1984 Amendments, i.e. September 29, 1984, the 200% maximum benefit applicable to deaths which occurred on September 29 and 30, 1984, is \$548.34, which is 200% of the national average weekly wage in effect at that time.

Another change brought about by the 1984 Amendments makes the above noted maximum and minimum rates for disability and death applicable to employees covered by the Nonappropriated Fund Instrumentalities (NFI) Act. Previously the maximum and minimum rates for these employees changed under a separate schedule, whenever Federal employees' pay rates changed. Under the 1984 Amendments the following rates are applicable to NFI employees who are injured, disabled or die after September 28, 1984:

<u>Type of Benefit</u>	<u>Applicable During</u>	<u>Weekly Benefit Amount</u>
Disability compensation	9/29 and 30, 1984	Min=\$137.09 ¹ / _{Max=\$548.34}
Disability compensation	10/1/84 to 9/30/85	Min=\$144.92 ¹ / _{Max=\$579.66}
Compensation for death	9/29 and 30, 1984	Benefit shall not exceed lesser of employee's average weekly wage or \$548.34/week
Compensation for death	10/1/84 to 9/30/85	Benefit shall not exceed lesser of employee's average weekly wage or \$579.66/week.

In all cases under the LHWCA and its extensions in which an employee's death occurred on or after September 29, 1984, the maximum reasonable funeral expense payable under Section 9(a) was increased from \$1,000 to \$3,000.

Field or district offices of insurance carriers or self-insured employers paying benefits under the Longshore and Harbor Workers' Compensation Act and related Acts (District of Columbia Compensation Act of 1928², Defense Base Act, Outer Continental Shelf Lands Act and Nonappropriated Fund Instrumentalities Act) will soon receive specific instructions from OWCP District Offices for making the adjustments on Section 10(f) cases, and should begin paying at the new benefit levels as soon as possible.

¹/If employee's average weekly wage is less than this amount, he/she receives entire average weekly wage as compensation for total disability.

²/Applicable only to injuries which occurred prior to July 26, 1982.

In case of questions about implementing these mandatory adjustments, any district office or the OWCP National Office (telephone: 202-523-8721) may be contacted.

A handwritten signature in cursive script, appearing to read "Neil A. Montone".

NEIL A. MONTONE
Associate Director,
Longshore and Harbor
Workers' Compensation