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

SUBJECT: Report Of Injury In No Lost Time Cases

Section 30(a) of the Act, 33 USC 930(a), was amended by the Longshore and Harbor Workers' Compensation Act Amendments of 1984 (Pub. L. 98-426) to provide that a report of injury need not be submitted by the employer where the injury does not result in time lost from work. This change is reflected in the regulations at 20 CFR 702.201(b). Section 30(a) of the Longshore Act requires covered employers to file reports only where the injury "causes loss of one or more shifts of work." Thus, where an injury does not result in lost time, the employer is not under a duty to file a report with the Secretary.

In such cases (e.g., no lost time) the filing of a report cannot cause the time within which a claim must be filed (33 USC 913) to commence. This conclusion is premised on the fact that: 1) Congress recognized that an employee could not be "injured" until he or she suffered an impairment (either presumed or actual) to that person's earning capacity, and 2) Congress deemed that, in the absence of such impairment or loss, no report should be required from the employer. Because no report is required by Section 30(a) in no lost time cases, the filing of such a report cannot be deemed to start the statute of limitations within which the employee must file a claim.

It is the position of the Department of Labor that no report should be filed with the OWCP district office in no lost time cases. Any report filed in connection with a no lost time injury will not be maintained by the district office.

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