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No. 63

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

Reference: Industry Notice No. 61 (February 13, 1986)

This Notice transmits a revision of OWCP policy which was prompted by inquiries from employers covered by the Act.

Our previous policy, following the literal language of the Act, indicated that a notice of injury (Form LS-202) should not be filed unless the injury in question caused loss of one or more shifts of work, 33 USC 930(a). We have now determined that an employer should be permitted to file a notice of injury in cases where the employee suffers a permanent impairment covered by the schedule in 33 USC 908(c)(1) to (20).

This revision is premised on the fact that an employee who sustains, for example, a traumatic amputation or documented hearing loss is, at that time, entitled to benefits under the schedule. Our prior policy indicated that an injury did not occur until the employee suffered an impairment (either presumed or actual) to that person's earning capacity. We now recognize that such impairment is presumed in all cases coming under the schedule. This interpretation is consistent with that given to the employee's duty to file a notice of injury and/or a claim under 33 USC 912 and 913. Where the employee's time for filing a notice or claim begins to run, the employer should be entitled to file a report and thereby comply with the provisions of 33 USC 930. The filing of such a report in these cases, i.e., where the injury results in no loss of time from work but leaves the employee with a permanent impairment compensable under the schedule, would start the time within which a claim should be filed.

Therefore, OWCP policy is hereby modified to allow an employer to

file a notice of injury when the employee suffers a permanent impairment covered by the schedule but does not lose one or more shifts from work. However, the report should not be filed until it has been established that the injured employee has suffered a permanent impairment which would result in an award under 33 USC 908(c)(1) to (20). If such a report is filed with OWCP it will be maintained. Reports filed in connection with other no lost time injuries will not be maintained by OWCP.


JOSEPH F. OLIMPIO
Associate Director,
Longshore and Harbor
Workers' Compensation