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Office of Workers' Compensation Programs X COM-L 9-1  
Division of Longshore and  
Harbor Workers' Compensation  
Washington, D.C. 20210



May 1, 1989

No. 68

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

SUBJECT: Interpretation of "Drydocking" as Used in Section 3(d)  
of the Act

Section 3(d) of the Act, 33 U.S.C. 903(d), provides an exemption from coverage for employees of a facility certified by the Secretary of Labor to be in the business of building, repairing, or dismantling exclusively small vessels (as defined therein). However, this exemption does not apply to injuries suffered by employees "while upon the navigable waters of the United States or while upon any adjoining pier, wharf, dock, facility over land for launching vessels, or facility over land for hauling, lifting, or drydocking vessels." The purpose of this Industry Notice is to provide the Department's interpretation of the term "drydocking."

The legislative history of the 1984 amendments to the Longshore Act, and specifically the amendment to section 3 of the Act, indicate that Congress intended to clarify the term "adjoining" as it applied to the small vessel industry. Thus, Senate Report No. 98-81, 98th Cong., 1st Sess. (May 10, 1983) 21, states:

. . . It is alleged that the extension to "adjoining" areas leaves vague and unclear just what operations on land are covered. The small recreational boatyards, in particular, are in a state of uncertainty as to the status of their employees working at locations which are not geographically adjacent to navigable waters. The small boat and barge builders expressed concern about their employees who may be involved in nonmaritime construction during extensive periods of the year.

See also Statement of Congressman Miller at 130 Cong. Rec. H9731 (daily ed. September 18, 1984); and Statement of Senator Hatch at 130 Cong. Rec. S11623 (daily ed. September 20, 1984).

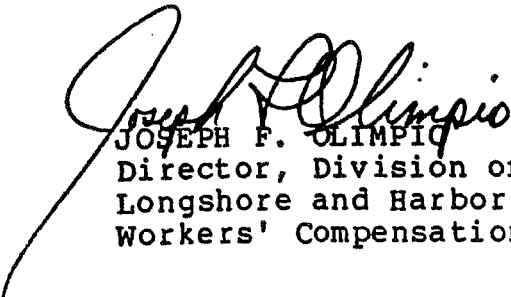
The purpose of section 3(d) of the Act as amended was to permit the Secretary of Labor to certify that certain small vessel facilities were not operating on an "adjoining area" as that term is used in the statute. Expressly included with the term "adjoining area," however, are "any . . . pier, wharf, dock, facility over land for launching vessels, or facility over land for hauling, lifting, or drydocking vessels." Therefore, facilities over land that are used for drydocking vessels are still covered by the Longshore Act so long as the facility is adjoining the navigable water.

In keeping with the intent of Congress, the OWCP has interpreted the term "drydocking" in its functional sense, i.e., an area used by a small vessel facility for placing a vessel on blocks or other structures so that construction or repairs can be performed. The critical factor is the location of the facility and its proximity and access to the water. Generally speaking, a facility for drydocking vessels would be the same as that used by an employer to lift and haul vessels out of the water.

Any questions regarding this Industry Notice should be directed to the Longshore Division National Office at the following address:

U.S. Department of Labor  
Division of Longshore and Harbor  
Workers' Compensation  
ESA/OWCP/DLHWC  
Room C4315  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

202-523-8721

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