



October 20, 1997

Notice No. 84

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

**SUBJECT: Increase In The Maximum Civil Penalties that May
Be Assessed Under The LHWCA**

On July 2, 1997, the Department of Labor published a proposal to amend various provisions of the regulations implementing the Longshore and Harbor Workers' Compensation Act (LHWCA). More specifically, the amendments, which were published in final on October 17, 1997, will increase the maximum civil penalties that may be assessed under the LHWCA as required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), as amended by the Debt Collection Improvement Act of 1996 (DCIA). This Industry Notice calls to your attention these amendments, which become effective on November 17, 1997.

The LHWCA authorizes the assessment of a civil money penalty in three situations: (1) Where an employer fails to file a report within sixteen days of the final payment of compensation, it shall be assessed a \$100 civil penalty (LHWCA, section 14(g)); (2) where an employer, insurance carrier, or self-insured employer knowingly and willfully fails to file any report required by section 30, or knowingly or willfully makes a false statement or misrepresentation in any required report, the employer, insurance carrier, or self-insured employer shall be assessed a civil penalty not to exceed \$10,000 (LHWCA, section 30(e)); and (3) where an employer is found to have discriminated against an employee because the employee had claimed or attempted to claim compensation, or has testified or is about to testify in proceedings under the LHWCA, the employer shall be liable for a civil penalty of not less than \$1,000 or more than \$5,000 (LHWCA, section 49).

The DCIA, amending the FCPIAA, requires each agency to issue regulations adjusting the amount of civil money penalties they may levy. The DCIA requires that the civil money

penalties be adjusted by a cost-of-living increase equal to the percentage, if any, by which the Department of Labor's Consumer Price Index (CPI) for all urban consumers for June of the calendar year preceding the adjustment exceeds the June CPI for the calendar year in which the civil penalty amount was last set or adjusted. Due to inflation since the LHWCA civil money penalties were last set or adjusted, the increase will, in every case, be the maximum 10% initially permitted under the DCIA.

As a result of the amendments the section 14(g) penalty will be \$110; the section 30(e) maximum penalty may not exceed \$11,000; and the section 49 maximum penalty will be not less than \$1,100 or more than 5,500. These adjusted civil penalties apply only to violations occurring on or after November 17, 1997.

The final rule was published in the Federal Register, Vol.62, No. 201; Friday, October 17, 1997.



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