

§ 701.201

20 CFR Ch. VI (4-1-10 Edition)

OFFICE OF WORKERS' COMPENSATION PROGRAMS

§ 701.201 Office of Workers' Compensation Programs.

The Office of Workers' Compensation Programs (OWCP) is responsible for administering the LHWCA and its extensions (*see* 20 CFR 1.2(e)). The regulations in subchapter A of chapter I of this title (20 CFR part 1) describe OWCP's establishment within the Employment Standards Administration, the functions assigned to it by the Assistant Secretary of Labor for Employment Standards, and how those functions were performed before OWCP's establishment.

[70 FR 43232, July 26, 2005]

§§ 701.202-701.203 [Reserved]

TERMS USED IN THIS SUBCHAPTER

§ 701.301 Definitions and use of terms.

(a) As used in this subchapter, except where the context clearly indicates otherwise:

(1) *Act* or *LHWCA* means the Longshore and Harbor Workers' Compensation Act, as amended (33 U.S.C. 901 *et seq.*), and includes the provisions of any statutory extension of such Act (*see* § 701.101(a) and (b)) pursuant to which compensation on account of an injury is sought.

(2) *Secretary* means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(3) *Employment Standards Administration* means the Employment Standards Administration in the United States Department of Labor, headed by the Assistant Secretary of Labor for Employment Standards.

(4) [Reserved]

(5) *Office of Workers' Compensation Programs* or *OWCP* or *the Office* means the Office of Workers' Compensation Programs within the Employment Standards Administration, referred to in § 701.201 and described more fully in part 1 of this title. The term *Office of Workmen's Compensation Programs* shall have the same meaning as *Office of Workers' Compensation Programs* (*see* 20 CFR 1.6(b)).

(6) *Director* means the Director of OWCP, or his or her authorized representative.

(7) *District Director* means a person appointed as provided in sections 39 and 40 of the LHWCA or his or her designee, authorized to perform functions with respect to the processing and determination of claims for compensation under the LHWCA and its extensions as provided therein and under this subchapter. The term *District Director* is substituted for the term *Deputy Commissioner* used in the statute. This substitution is for administrative purposes only and in no way affects the power or authority of the position as established in the statute.

(8) *Administrative Law Judge* means a person appointed as provided in 5 U.S.C. 3105 and subpart B of 5 CFR part 930, who is qualified to preside at hearings under 5 U.S.C. 557 and is empowered by the Secretary to conduct formal hearings whenever necessary in respect of any claim for compensation arising under the LHWCA and its extensions.

(9) *Chief Administrative Law Judge* means the Chief Judge of the Office of Administrative Law Judges, United States Department of Labor, whose office is at the location set forth in 29 CFR 18.3(a).

(10) *Board or Benefits Review Board* means the Benefits Review Board established by section 21 of the LHWCA (33 U.S.C. 921) as amended and constituted and functioning pursuant to the provisions of chapter VII of this title and Secretary of Labor's Order No. 38-72 (38 FR 90), whose office is at the location set forth in 20 CFR 802.204.

(11) *Department* means the United States Department of Labor.

(12)(i) *Employee* means any person engaged in maritime employment, including:

(A) Any longshore worker or other person engaged in longshoring operations;

(B) Any harbor worker, including a ship repairer, shipbuilder and shipbreaker; and

(C) Any other individual to whom an injury may be the basis for a compensation claim under the LHWCA as amended, or any of its extensions;

(ii) The term does not include:

(A) A master or member of a crew of any vessel; or

(B) Any person engaged by a master to load or unload or repair any small vessel under eighteen tons net.

(iii) Nor does this term include the following individuals (whether or not the injury occurs over the navigable waters of the United States) where it is first determined that they are covered by a state workers' compensation act:

(A) Individuals employed exclusively to perform office clerical, secretarial, security, or data processing work (but not longshore cargo checkers and cargo clerks);

(B) Individuals employed by a club (meaning a social or fraternal organization whether profit or nonprofit), camp, recreational operation (meaning any recreational activity, including but not limited to scuba diving, commercial rafting, canoeing or boating activities operated for pleasure of owners, members of a club or organization, or renting, leasing or chartering equipment to another for the latter's pleasure), restaurant, museum or retail outlet;

(C) Individuals employed by a marina, provided they are not engaged in its construction, replacement or expansion, except for routine maintenance such as cleaning, painting, trash removal, housekeeping and small repairs;

(D) Employees of suppliers, vendors and transporters temporarily doing business on the premises of a covered employer, provided they are not performing work normally performed by employees of the covered employer;

(E) Aquaculture workers, meaning those employed by commercial enterprises involved in the controlled cultivation and harvest of aquatic plants and animals, including the cleaning, processing or canning of fish and fish products, the cultivation and harvesting of shellfish, and the controlled growing and harvesting of other aquatic species; or

(F) Individuals engaged in the building, repairing or dismantling of recreational vessels under 65 feet in length. For purposes of this subparagraph *recreational vessel* means a vessel manufactured or operated primarily for pleasure, or rented, leased or chartered by another for the latter's pleas-

ure, and *length* means a straight line measurement of the overall length from the foremost part of the vessel to the aftmost part of the vessel, measured parallel to the center line. The measurement shall be from end to end over the deck, excluding sheer.

(13) *Employer* includes any employer who may be obligated as an employer under the provisions of the LHWCA as amended or any of its extensions to pay and secure compensation as provided therein.

(14) *Carrier* means an insurance carrier or self-insurer meeting the requirements of section 32 of the LHWCA as amended and of this subchapter with respect to authorization to provide insurance fulfilling the obligation of an employer to secure the payment of compensation due his employees under the LHWCA as amended or a statutory extension thereof.

(15) The terms *wages*, *national average weekly wage*, *injury*, *disability*, *death*, and *compensation* shall have the meanings set forth in section 2 of the LHWCA.

(16) *Claimant* includes any person claiming compensation or benefits under the provisions of the LHWCA as amended or a statutory extension thereof on account of the injury or death of an employee.

(b) The definitions contained in paragraph (a) of this section shall not be considered to derogate from any definitions or delimitations of terms in the LHWCA as amended or any of its statutory extensions in any case where such statutory definitions or delimitations would be applicable.

(c) As used in this subchapter, the singular includes plural and the masculine includes the feminine.

[38 FR 26860, Sept. 26, 1973, as amended at 42 FR 3848, Jan. 21, 1977; 50 FR 391, Jan. 3, 1985; 51 FR 4281, Feb. 3, 1986; 55 FR 28606, July 12, 1990; 70 FR 43233, July 26, 2005]

COVERAGE UNDER STATE COMPENSATION PROGRAMS

§ 701.401 Coverage under state compensation programs.

(a) Exclusions from the definition of "employee" under § 701.301(a)(12), and the employees of small vessel facilities otherwise covered which are exempted