Office of Workers’ Compensation Programs, Labor § 701.504

§ 701.504 When does the recreational vessel exclusion in the American Recovery and Reinvestment Act of 2009 apply?

(a) Date of injury. Whether the amended version applies depends on the date of the injury for which compensation is claimed. The following rules apply to determining the date of injury:

(1) Traumatic injury. If the individual claims compensation for a traumatic injury, the date of injury is the date the employee suffered harm. For example, if the individual injures an arm or leg in the course of his or her employment, the date of injury is the date on which the individual was hurt.

(2) Occupational disease or infection. Occupational illnesses and infections generally involve delayed onset of symptoms following exposure to a harmful workplace substance or condition. If the individual claims compensation for an occupational illness or infection, the date of injury is the date the individual was exposed to the substance or condition.

(3) Hearing loss. If the individual claims compensation for hearing loss, the date of injury is the date the individual was exposed to harmful workplace noise or other stimulus that is capable of causing hearing loss.

(4) Death-benefit claims. If the individual claims compensation for an employee’s death, the date of injury is the date of the workplace event or incident that caused, hastened, or contributed to the death.

(5) Cumulative trauma. If the individual claims compensation for cumulative trauma, in which multiple traumas contribute to an overall medical condition, such as a neck condition resulting from repetitive motion, the date of injury is any date on which a workplace trauma worsened the individual’s condition. A workplace event will not be deemed a contributing trauma if a corresponding worsening of the condition is due solely to its natural progression, rather than the workplace event.

(b) If the date of injury is before February 17, 2009, the individual’s entitlement is governed by section 2(5)(F) as it existed prior to the 2009 amendment.
§ 701.505

(c) If the date of injury is on or after February 17, 2009, the individual’s entitlement is governed by the 2009 amendment to section 2(3)(F).

[76 FR 82128, Dec. 30, 2011]

§ 701.505 May an employer stop paying benefits awarded before February 17, 2009 if the employee would now fall within the exclusion?

No. If an individual was awarded compensation for an injury occurring before February 17, 2009, the employer must still pay all benefits awarded, including disability compensation and medical benefits, even if the employee would be excluded from coverage under the amended exclusion.

[76 FR 82129, Dec. 30, 2011]

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