

Dated: May 14, 1982.

Robert P. Nimmo,  
Administrator.

Functional area: Key punch.  
Field station: White River Junction,  
VT. Review date: December 15, 1981.  
Functional area: Centralized  
Transcription Activities.

*Field Station and Review Date*

Albuquerque, NM; December 15, 1981.

Houston, TX; December 15, 1981.

Manchester, NH; December 15, 1981.

Reno, NV; December 15, 1981.

Seattle, WA; December 15, 1981.

Togus, ME; December 15, 1981.

[FR Doc. 82-13962 Filed 5-20-82; 8:45 am]

BILLING CODE 8320-01-M

# Sunshine Act Meetings

Federal Register

Vol. 47, No. 99

Friday, May 21, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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### COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 10 a.m., Tuesday, May 25, 1982.

**PLACE:** 2033 K Street NW., Washington, D.C., fifth floor hearing room.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

Proposed Contract Market Designation of Leaded and Unleaded Gasoline—Chicago Board of Trade  
Foreign Traders Discussion

#### CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-758-82 Filed 5-19-82; 12:41 pm]

**BILLING CODE** 8351-01-M

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### COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:30 a.m., Tuesday, May 25, 1982.

**PLACE:** 2033 K Street NW., Washington, D.C., Fifth floor hearing room.

**STATUS:** Closed.

#### MATTER TO BE CONSIDERED:

Rule Enforcement Review.

#### CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-759-82 Filed 5-19-82; 8:45 am]

**BILLING CODE** 8351-01-M

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### FEDERAL COMMUNICATIONS COMMISSION

Emergency Special Open Meeting, Tuesday, May 18, 1982

The Federal Communications Commission held an Emergency Special Open Meeting on Tuesday, May 18, 1982 on the subject listed below, in Room 856,

at 1919 M Street, N.W., Washington, D.C.

#### Agenda Item No. and Subject

Common Carrier—1—Processing of Pending Space Station Applications in the Domestic Fixed Satellite Service.

The Prompt and orderly conduct of Commission business did not permit announcement of this matter prior to the meeting.

Action by the Commission May 18, 1982. Commissioners Fowler, Chairman; Washburn, Fogarty, Jones, Dawson and Rivera voting to consider this item with less than 7-days notice.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: May 18, 1982.

William J. Tricarico,  
Secretary, Federal Communications Commission.

[S-760-82 Filed 5-19-82; 2:59 pm]

**BILLING CODE** 6712-01-M

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### FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 21676, Wednesday, May 19, 1982.

**PLACE:** Board room, sixth floor, 1700 G Street NW., Washington, D.C.

**STATUS:** Open meeting.

#### CONTACT PERSON FOR MORE INFORMATION:

Mr. Marshall (202-377-6679).

**CHANGE IN THE MEETING:** The following item has been withdrawn from the open portion of the Bank Board meeting scheduled for Thursday, May 20, 1982.

Perfecting of Security Interest in U.S. Government Securities Collateralizing Retail Repurchase Agreements

[No. 35, May 19, 1982.]

[S-757-82 Filed 5-19-82; 10:10 am]

**BILLING CODE** 6720-01-M

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### NUCLEAR REGULATORY COMMISSION

**DATE:** Week of May 10, 1982 (Changes) and Week of May 17, 1982.

**PLACE:** Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

**STATUS:** Open and closed.

**MATTERS TO BE DISCUSSED:** Thursday, May 20 (Additional item):

9:00 a.m.:

Discussion of Management-Organization and Internal Personnel Matters (closed—Exemptions 2, 6)

Tuesday, May 25:

10:00 a.m.:

Briefing on Human Factors Society Report (public meeting)

Wednesday, May 26:

10:00 a.m.:

Analysis of Licensing Board Decision for Susquehanna-1 Operating License (Tentative) (closed—Exemption 10)

1:30 p.m.:

Briefing on Investigatory Matters (closed—Exemption 5)

Thursday, May 27:

10:00 a.m.:

Discussion of Management-Organization and Internal Personnel Matters (closed—Exemptions 2 and 6)

1:30 p.m.:

Analysis of Licensing Board Decision for San Onofre Units 2 and 3 (Seismic) (closed—Exemption 10)

3:00 p.m.:

Affirmation/Discussion Session (public meeting)

Affirmation and/or Discussion and Vote:

- Final Amendment to 10 CFR Part 50 and to Appendix E: Modification to Emergency Preparedness Regulations Relating to Low Power Operation
- Proposed Rulemaking Accreditation of Qualification Testing Organizations

Friday, May 28:

10:00 a.m.:

Discussion of Enforcement Action (closed—Exemption 5) (postponed from May 21)

**AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE:** (202) 634-1498. Those planning to attend a meeting should verify the status on the day of the meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

May 18, 1982.

[S-761-82 Filed 5-19-82; 3:27 pm]

**BILLING CODE** 7590-01-M

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### POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote To Close Meeting

During its May 11, 1982 meeting, the Board of Governors of the United States Postal Service unanimously voted to close to public observation a portion of the meeting. The portion to be closed was to involve a discussion concerning the procurement of services to study Postal Service EEO practices.

The Board determined, pursuant to 5 U.S.C. 552b(c)(9)(B), that the portion of the meeting to be closed was exempt from the open meeting requirement of the Sunshine Act on the grounds that the public interest did not require otherwise and that the portion to be closed was likely to disclose information whose premature disclosure was likely to significantly frustrate the negotiation of the proposed contract.

The members of the Board voting in favor of closing this portion of the meeting were: Messrs. Babcock, Benson, Bolger, Camp, Hardesty, Mrs. Hughes, Messrs. Jenkins, McKean, and Sullivan.

Prior to the May 11 meeting, the Board of Governors gave due notice of its intention to hold the meeting, the notice and the proposed agenda for the meeting having been published in the **Federal Register** on May 4, 1982 (47 FR 19266). On May 11, the Board determined by a unanimous vote that a change in the earlier plan to conduct this portion of the meeting in the open was required and that no earlier announcement of the change was possible.

In accordance with 5 U.S.C. 552b(f)(1), the Acting General Counsel of the

United States Postal Service certified that in his opinion the portion of the meeting to be close might properly be closed to public observation pursuant to 5 U.S.C. 552b(c)(9)(B).

The persons who attended this closed portion of the meeting were Board members Babcock, Benson, Bolger, Camp, Hardesty, Hughes, Jenkins, McKean, and Sullivan; Assistant Secretary to the Board Sanders; and counsels to the Board Califano and Geolot.

**W. Allen Sanders,**

*Assistant Secretary.*

(S-756-82 Filed 5-19-82; 9:57 am)

**BILLING CODE 7710-12-M**

# Federal Register

Friday  
May 21, 1982

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## Part II

## Department of Labor

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### Mine Safety and Health Administration

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#### Criteria and Procedures for Proposed Assessment of Civil Penalties

## DEPARTMENT OF LABOR

## Mine Safety and Health Administration

## 30 CFR Part 100

## Criteria and Procedures for Proposed Assessment of Civil Penalties

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the Mine Safety and Health Administration's (MSHA) existing procedures for proposing civil penalties under the Federal Mine Safety and Health Act of 1977 (Act). These changes restructure the civil penalty system to permit MSHA and the mining community to refocus their safety and health efforts on more serious mine hazards. MSHA believes that these revisions also provide more effective incentives for the prevention of conditions and practices that may result in injury or illness to the Nation's miners.

**EFFECTIVE DATE:** May 21, 1982.

**Effect on prior regulations:** The prior regulations (30 CFR Part 100) remain in effect for the processing of all citations and orders where an initial review under § 100.5(b) has been issued before May 21, 1982.<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:**

Lawrence Beeman, Acting Director, Office of Assessments, MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203, phone (703) 235-1484.

**SUPPLEMENTARY INFORMATION:**

**I. Rulemaking Background**

Under sections 105(a) and 110 of the Federal Mine Safety and Health Act of 1977 (Act), MSHA is required to assess a civil penalty for all violations of the Act and mandatory safety and health standards.

On May 30, 1978 (43 FR 23514), MSHA published a final rule which governed the proposed assessment of civil penalties under the Act. This final rule included a "formula system" for determining most proposed penalties.

At the time of promulgation of the 1978 final rule, MSHA stated that the rule would be reevaluated to determine the need for possible changes. This review process was initiated during July 1979 when MSHA announced the first

phase of its evaluation by soliciting public comments and recommendations. After evaluating the comments, MSHA developed and published on November 7, 1980, a proposed rule to revise 30 CFR Part 100 (45 FR 74444). The proposal represented an effort to provide more effective incentives for the prevention of conditions and practices that may result in injury or illness to miners. Following the publication of the proposed rule, interested persons were given 90 days to submit written comments and objections, and to request public hearings.

On January 15, 1982 (47 FR 2335), MSHA published a notice of public hearing which outlined the major issues raised during the rulemaking. In the notice, MSHA included refinements to the proposed single penalty<sup>2</sup> and good faith provisions to permit the mining community to refocus its resources on the more serious safety and health hazards and to provide increased incentives for mine operators to correct hazardous conditions.

During February 1982, public hearings were held in Pittsburgh, St. Louis, and Salt Lake City. All three hearings were well attended by representatives from all segments of the mining community. Transcripts of the proceedings were taken and made available for public inspection. Following the public hearings, interested persons were allowed to submit supplementary statements or data until March 5, 1982, when the record was closed. During this rulemaking process, MSHA has received and reviewed over two hundred written comments and statements from interested parties.

**II. Discussion and Summary of the Final Rule**

**A. General Discussion**

In the legislative history of the Act, Congress expressed its belief that mandatory civil penalties were one of the mechanisms necessary to obtain maximum inducements for compliance with the Act. The statutory civil penalty system establishes six criteria for consideration in determining appropriate penalties for violations of the Act. They are:

- (1) The appropriateness of the penalty to the size of the business of the operator charged;
- (2) The operator's history of previous violations;
- (3) Whether the operator was negligent;
- (4) The gravity of the violation;

<sup>2</sup>In the proposal, § 100.4 was designated as the "minimum penalty assessment" procedure.

(5) The demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation; and

(6) The effect of the penalty on the operator's ability to continue in business.

A formula system for proposing civil penalties was first established in 1974 for use by MSHA's predecessor agency, the Mining Enforcement and Safety Administration (MESA). For each violation, the formula system assigns specific numerical point values to the statutory criteria which are then converted to a dollar amount, using a prescribed penalty conversion table. The resulting dollar amount constitutes the proposed penalty. In 1978, revisions were made which reflected the expressed intention of Congress in the Act. As a result of those revisions, the formula was adjusted and the assessment procedures were modified to improve the timeliness of administrative decisions.

In the preamble to the 1978 rules, MSHA stated that once experience had been gained under the Act, the rules would be evaluated to determine the need for possible changes. On July 30, 1979, MSHA announced that such an evaluation had begun and solicited public comments and recommendations. Many written comments were received and several informal meetings with interested persons were held to discuss possible revisions to the rules. After carefully considering this public input, a proposal was developed.

In this rulemaking, MSHA has sought to accomplish four basic objectives: Improved fairness in the application of the statutory criteria; increased incentives for operators to comply with the Act; a refocusing of safety and health efforts toward the more serious mine hazards; and a streamlining of the civil penalty process. MSHA believes that the final rule achieves these goals. The major elements of the final rule are:

- (1) The creation of a \$20 single penalty for less serious violations;
- (2) The awarding of greater good faith credit for timely abatement;
- (3) A potential for increased penalties for more serious violations; and
- (4) The establishment of separate formula tables for independent contractors who violate the Act.

MSHA received a broad range of comments on the proposal. While many commenters supported the proposal, others objected. Those who raised objections were primarily concerned that it would result in a lessening of MSHA's commitment to safety and

<sup>1</sup>Section 100.5(b) of the prior rule: "The Office of Assessments shall make an initial review of the citation or order and shall immediately serve, by regular mail, a copy of the results of the initial review, including the formula computations made by the Office, upon the party to be charged and the miners or their representatives at the mine."

health. MSHA has carefully evaluated all of the concerns and objections to the proposal. The Agency's primary purpose will continue to be the reduction of injuries, illnesses and fatalities in the mines, including the prevention and early correction of hazardous conditions. MSHA has refocused safety and health efforts on those hazards which have the greatest impact on the safety and health of miners, and has established more serious consequences for actions associated with noncompliance.

MSHA believes that this final rule is responsive to the commenters' concerns. MSHA has adjusted the proposal to reflect many of those concerns, and has clarified elements of the proposal with respect to the obligations and responsibilities of both MSHA and the mining community. The final rule focuses attention toward more serious violations while still requiring abatement of all violations. MSHA believes that this final rule will result in improved miner safety and health.

In an effort to improve safety and health through cooperative efforts, MSHA is reorganizing its management responsibilities. One aspect of this reorganization is to provide District Managers with all the resources necessary to develop a comprehensive safety and health program. Part of this process involves a safety and health conference which is intended to provide an opportunity for full discussion by all parties on the issues related to the safety and health inspection.

#### *B. Section-By-Section Analysis of the Final Rule*

The following section-by-section analysis discusses the final rule and the major issues raised by the comments and objections.

**Section 100.1 Scope and Purpose.** This section explains that Part 100 sets forth the criteria and procedures used in the proposed assessment of civil penalties. The section also establishes that the purpose of this rule is to provide fair and equitable procedures for the application of the statutory criteria in determining proposed penalties, and to maximize the incentives for mine operators to prevent and correct hazardous conditions. The final rule for this section is consistent with the proposal, while retaining the prior rule's commitment to the prompt and efficient processing and collection of civil penalties.

Commenters questioned whether this reorientation would result in a lessening of safety and health enforcement. MSHA's use of the phrase "fair and equitable" in this section is intended to

convey and approach to enforcement which reflects an appropriate response to the seriousness of the violation.

**Section 100.2 Applicability.** This section outlines the application of the rule. The proposal made a wording change which eliminated unnecessary language. The final rule differs from the prior rule in that editorial changes have been made to conform to the Agency's reorganized management functions.

Several commenters suggested that MSHA include a statement in the final rule which would limit to two years the time MSHA would have to apply the civil penalty regulations to violations. MSHA believes it is unnecessary to incorporate such a limitation provision into the final rule. All citations for violations of the Act will be processed as quickly as possible and without undue delay.

**Section 100.3 Determination of Penalty; Regular Assessment, 100.3(a) General.** This provision establishes the basic elements in the formula for the application of the statutory criteria to those violations which are not processed under the single (minimum) penalty assessment (§ 100.4) or special assessment (§ 100.5) procedures. The formula is an administrative mechanism used by MSHA to determine the appropriate penalty by applying the statutory criteria to the particular facts surrounding a violation. When a proposed penalty is contested, neither the formula nor any other aspect of these regulations applies. If the proposed penalty is contested, the Mine Safety and Health Review Commission exercises independent review, and applies the six statutory criteria without consideration of these regulations.

The proposal made no changes to the prior rule nor were any significant changes suggested by public comments. Therefore, the general provisions of the regular assessment section remain unaltered except for an editorial change in the last paragraph making the good faith criterion (§ 100.3(f)) computation consistent with other changes in the final rule.

**100.3(b) Appropriateness of the Penalty to the Size of the Operator's Business.** The purpose of this criterion is to assure that the size of a business is appropriately considered when determining the amount of a proposed penalty.

The prior rule contained separate size tables for coal mines, metal and nonmetal mines, and controlling companies. Metal and nonmetal mines were measured by annual hours worked, while coal mines were measured by tonnage produced. Up to 10 points could be assigned for individual mine size;

and five points could be assigned based on the size of the controlling entity. MSHA proposed retaining the prior rule's measure of size. However, a separate size table was proposed for independent contractors.

Several commenters opposed the use of controlling entity to determine mine size stating that each operating mine should be considered regardless of ownership control. Further, they stated that this approach would result in a more equitable computation of size since each mine would be considered on its own merit. Other commenters believed that the size of the controlling entity is an appropriate aspect of mine size.

MSHA believes that business judgments affecting health and safety may be made at various levels of a business structure and that civil penalties should encourage management at all levels to respond positively to health and safety concerns. In the legislative history of both the Act and its predecessor statute, Congress expressed an intent to place the responsibility for compliance with the Act on those who control or supervise the operation of mines as well as on those who operate them. S. Rep. No. 91-411, 91st Cong. 1st Sess. 39 (1969); S. Rep. No. 95-181, 95th Cong. 1st Sess. 40 (1977). Upper level management decisions such as those affecting capital expenditures, the basic nature and scope of a corporate safety and health program, the hiring of top mine management officials, and other policy matters have a profound effect upon safety and health conditions at individual mines. MSHA believes that civil penalties should therefore be structured to influence all levels of decisionmaking. Accordingly, the final rule retains the concept of controlling entity as an aspect of the size criterion of the formula.

MSHA has changed the term "controlling company" to "controlling entity" to clarify that this aspect of the size criterion can be applied to anyone who has a substantial interest in a mine, including an individual.

Another issue raised by the comments was whether total hours worked or tonnage produced is a better indicator of coal mine size. Several commenters suggested that the use of hours worked would more accurately measure coal mine size and would be consistent with the method for determining the size of metal and nonmetal mines. Other commenters believed that tonnage produced should continue to be used to determine coal mine size. The principal purpose of the size criterion is to aid in assuring that the amount of the penalty

is an appropriate economic incentive for future compliance by the operator. Over the past several years, the size of coal mining companies has been measured by tonnage produced, and MSHA has found this method to be a reasonable indicator for the size of coal operations. After review of the Agency's experience and public comments, the final rule retains tonnage produced as the method of measuring the size of coal operations.

For metal and nonmetal mining operations, tonnage produced is not usually a useful indicator of size because of the vast differences in the commodities mined within that segment of the mining industry. In some instances, large volumes of material are mined for only a few ounces of a marketable commodity; in others, nearly one hundred percent of the mined material is marketable. In addition, the costs of production and the market prices may vary markedly within the metal and nonmetal industry. MSHA believes that an annual tonnage measurement of metal and nonmetal operations would not enable the Agency to fairly evaluate the economic impact of the proposed penalty on each operator. It is MSHA's experience that annual hours worked is the best guide for measuring the size of metal and nonmetal operations and that this guide can be applied fairly in this segment of the mining industry. Therefore, the final rule retains hours worked as a measure of metal and nonmetal mine size.

Under the prior rule, violations involving independent contractors were handled through the special assessment procedure. The final rule retains the proposed new size table for independent contractors, consistent with MSHA's jurisdiction over independent contractors (30 CFR Part 45). Most commenters favored this aspect of the size criterion, which enables MSHA to more effectively integrate independent contractors into the entire penalty assessment process. The new table measures the size of independent contractors by annual hours worked at all mining operations, regardless of the commodity being mined. MSHA believes that the annual hours worked at mines appropriately reflect the comparative size of independent contractors.

**100.3(c) History of Previous Violations.** This criterion is designed to assure that appropriate consideration is given to an operator's prior safety and health record.

Under the prior rule, up to 15 points could have been assessed based upon the average number of violations assessed at the mine per inspection day during the preceding 24-month period. An additional five points could have

been assigned based upon the average number of violations assessed at the mine per year in the preceding 24 months. The mine operator's history of previous violations consisted of all assessed violations which had not been vacated or dismissed, and included those under appeal.

The proposal established two schedules which assessed a maximum number of 20 points for violation history. For mine operators, the schedule measured a mine's average violations per inspection day during the preceding 24-month period. For independent contractors, a separate schedule measured the average number of violations assessed per year in the preceding 24 months. In addition, the proposal deleted the prior rule's schedule which allocated up to five penalty points for the average number of violations per year. The proposal also provided that only violations which have become final would be included in the computation of history. However, violations which received the single assessment under § 100.4 and were paid in a timely manner would not be included as part of history.

Many commenters agreed that MSHA should not include as part of history those violations which are still in the adjudicatory process and may ultimately be dismissed or vacated. Other commenters stated that all violations including those under appeal should be included in history. MSHA believes that a greater measure of fairness is attained if history points are based only upon those violations which have been finally adjudicated. Some commenters suggested that such a change would cause operators to litigate more citations for the purpose of creating a more favorable history record. The Agency does not expect that this change in the rule will result in an increased number of contested citations. Therefore, under the final rule, only violations which have been paid or finally adjudicated will be considered in determining the operator's history of violations.

Some commenters supported and others objected to the exclusion of single penalty violations from the operator's history. MSHA believes that only violations which involve a reasonable likelihood of reasonably serious injury or illness should be included in an operator's history of violations. This would allow the history criterion to more accurately reflect the frequency of violations which involve greater hazards to miners. Single penalty violations have minimal impact on safety and health and should not be included in the operator's history.

Therefore, the final rule excludes violations which receive the single penalty and which are paid in a timely manner from consideration in determining history of violations.

There are numerous comments with respect to the term "inspection day." Some commenters urged MSHA to base the determination of an inspection day not only on the time spent by the Authorized Representative of the Secretary (AR), but also by all other persons accompanying an AR who may identify violations, such as inspector-trainees or miners' representatives. Since an AR has received the requisite training to conduct inspections and identify violations and is the only individual who may issue citations or orders, it is MSHA's view that it would be inappropriate to consider the time of other persons accompanying an AR. Therefore, MSHA will consider only the time of Authorized Representatives of the Secretary when computing the number of inspection days.

Points assigned under this criterion are based upon a review of the average number of assessed violations at a mine during a preceding 24-month period. Several commenters suggested that in evaluating history of previous violations, MSHA should review a period of 12 months instead of 24 months. These commenters maintained that considering a shorter period of 12 months would better reflect changes in a mine's safety and health performance. MSHA has considered these comments and believes that such an approach would not be appropriate, particularly for mines which are inspected on a less frequent basis. Information accumulated over a shorter period may not provide sufficient data to accurately reflect safety and health trends in many mining operations. Therefore, MSHA has retained 24 months as the period to be reviewed for both history tables.

Some commenters objected to the proposed deletion of the schedule which would allocate five points based on the average number of assessed violations per year when determining history of violations. Others agreed that it should be eliminated, indicating the schedule tended to produce higher penalty points for large mines because of their size without fairly correlating to their relative overall safety. Commenters who suggested that the five point schedule be dropped also recommended that these points be added to the 15-point schedule for the average number of violations per inspection day in the preceding 24 months. The final rule includes a 20-point table for average number of violations per inspection day as the

basis for determining a production operator's history of previous violations. MSHA believes that this change reflects a more accurate picture of a mine's history of violations and represents a more consistent method for determining history points.

Under the proposed schedule for evaluating a mine's average number of violations per inspection day in the preceding 24-month period, the maximum of 20 points would be assigned for an average of over 2.1 violations per inspection day. This average is a statistical extension of the 1.7 violation average used as a maximum in the prior 15 point schedule. Several commenters suggested that 2.1 violations per inspection day is an unrealistically low average and should be increased. MSHA has considered the potential impact of this aspect of the size criterion, and believes that the revised table will be a fair and effective method of evaluating a production operator's history of violations for purposes of civil penalty assessments.

In contrast to production operators, the nature of most services performed by independent contractors at mines does not lend itself to a violations per inspection day table. As a result, this rule establishes a 20-point table based upon the average number of violations assessed per year for independent contractors. There were no significant objections to this aspect of the proposal. Since MSHA inspections often encompass both operations at the same time, the complexities of separating inspection time for purposes of computing days are substantial. While independent contractor activities are often closely integrated into the overall mining operation, they frequently involve only a fraction of the time spent in an inspection day. Therefore, MSHA believes that the violation per inspection day table would not be fair and equitable for independent contractors.

Some commenters believed that an operator's safety and health performance record should also be incorporated as a factor in determining a proposed penalty. While this concept has some merit, MSHA believes that a more complete evaluation is necessary to determine its appropriate role in the assessment of civil penalties. Therefore, this concept is not adopted at this time.

**100.3(d) Negligence.** The negligence criterion is designed to evaluate an operator's actions relative to the existence of a violation. Under the prior rule, a total of up to 25 points could be assessed for negligence; from one to 20 points for ordinary negligence, and from 21 to 25 points for gross negligence.

In the proposed rule, MSHA revised the language of this section to clarify the concept of negligence and identify some of the factors to be considered. The proposed rule also stated that an operator's exercise of care should increase with the risk posed to the miners. Therefore, the negligence of an operator would be evaluated based on the degree of care exercised by the operator and the danger to miners. Both the prior rule and the proposal provided for the assignment of one to 20 penalty points for negligence if the operator failed to take reasonable measures to prevent or correct a condition or practice which was known or should have been known to exist. Extremely serious instances of negligence received from 21 to 25 points.

Some commenters objected to the proposal's consideration of gravity in evaluating the negligence criterion. These commenters stated that the risk posed by a violation was already accounted for under the gravity criterion, and that the proposal unfairly considered the gravity of the violation a second time.

For purposes of evaluating the negligence of an operator, MSHA believes that a general recognition of the risk involved in a violation is relevant to determining the care to be exercised by the operator in preventing the violation and protecting the miners from the hazard posed. MSHA does not believe that further consideration of the gravity involved in a violation is necessary for evaluating negligence. The regular assessment procedure is generally applicable only to violations which involve a reasonable likelihood of a reasonably serious injury or illness. MSHA believes that mine operators must exercise the highest degree of care in preventing these serious violative conditions or practices and in protecting miners from safety and health hazards.

Commenters also desired to see a more even division of the potential 25 penalty points. Other commenters expressed the view that the concept of negligence for purposes of civil penalty assessment needed to be clarified.

The final rule provides five categories for evaluating the degree of negligence involved in a violation. The five categories are: "No negligence," "low negligence," "moderate negligence," "high negligence," and "reckless disregard." In developing these categories, MSHA has responded to the concerns of commenters that further clarification of the allocation of negligence points was necessary and that due consideration be given to all

factors bearing on the operator's negligence.

Each category reflects the operator's efforts with respect to preventing the violation and assigns negligence points on this basis. "No negligence," which contributes no points to a civil penalty assessment, is defined as conduct characterized by diligence, when the operator neither knew nor should have known of the violative condition or practice. "Low negligence" is defined as circumstances where the operator knew or should have known of the violative condition or practice, but there are considerable mitigating circumstances. This category is assigned ten points in recognition of the seriousness of the violation and the absence of diligence. Generally, only violations which are reasonably likely to result in a reasonably serious injury or illness are subject to the regular assessment process and specific application of the negligence criterion. Negligence which is accompanied by some mitigation is classified as "moderate" and would receive 15 points. Negligence without mitigating circumstances is classified as "high" and would receive 20 points. Where an operator recklessly disregards compliance, 25 penalty points would be assigned.

MSHA has developed these categories of negligence, which include mitigating circumstances, to allow the inspector the flexibility to consider all of the facts and circumstances surrounding a violative condition or practice. For example, an inspector may determine that the negligence involved is low or moderate where there is a reasonable likelihood of a reasonably serious injury occurring from the condition or practice because the operator, although negligent, has taken measurable steps to prevent the violation or protect miners from exposure to the hazard. Mitigating circumstances may include, but are not limited to, actions which an operator has taken to prevent, correct or limit exposure to a violative condition or practice. An operator's action could be taken into consideration to the extent that it directly relates to the specific violation cited. In making decisions with respect to the nature or existence of mitigating circumstances, inspectors will exercise independent judgment based on the circumstances surrounding the violation. MSHA believes that this allows flexibility to assess the degree of negligence within the context of the individual facts and circumstances of any particular situation.

The "reckless disregard" category, for which the maximum number of points would be assigned, is characterized by

conduct which exhibits the absence of even the slightest degree of care.

MSHA believes that this approach to the negligence criterion is responsive to the comments recommending more definite criteria for the assignment of penalty points within the prior rule's range of one to 20 points for ordinary negligence. In addition, this aspect of the final rule is consistent with MSHA's overall goal of refocusing safety and health efforts on serious mine hazards and encourages operators to take necessary actions to prevent miners' exposure to such hazards.

**100.3(e) Gravity.** This section of the formula contains three tables which are used to evaluate the gravity of a violation. It is designed to assure that the amount of the penalty takes into consideration the seriousness of a violation. Under the prior rule, the tables measured three aspects of gravity: (1) Probability of occurrence; (2) the seriousness of an injury if it occurred or were to occur; and (3) the number of persons affected. Each table accounted for up to 10 penalty points. A total of 30 penalty points could be assigned under this criterion. These tables were applied to both safety and health violations.

The proposal attempted to refine the formula's ability to measure the gravity associated with a violation by developing additional tables to evaluate the gravity of health violations. The proposed health tables were designed to evaluate employee exposure to toxic substances or harmful physical agents by examining the risk to human health and the magnitude of overexposure. An additional health table was included which was based upon the number of personnel potentially affected.

Commenters to the proposal identified several practical problems with the proposed health tables. The major difficulties pertained to the proposal's absence of a basis for determining whether a risk effect was high, medium, or low and the lack of a distinction between high dosage with short-term exposure situations, and those involving a low dosage with long-term exposure. Commenters were also concerned about the assignment of points for the degree by which the threshold limit value was exceeded, regardless of the relative toxicity of the substance involved. MSHA sought additional comments in the notice of hearings regarding whether the proposed health schedule should be amended to correct these difficulties. Alternatively, MSHA requested comment as to whether the existing gravity schedule, applying to both safety and health violations, should be retained.

Testimony and comments received during the hearings continued to emphasize the difficulties of developing a separate health schedule for gravity which would not be excessively complex or cumbersome. Commenters noted that the task of evaluating each individual health violation is also often complicated by the fact that immediate harm may not be detectable. Further, they stated that exposures to health hazards often affect the health of miners over extended periods of time with the measurable health impact of an isolated incident being difficult to assess.

For these reasons, most commenters favored the retention of the single gravity schedule for both safety and health violations. Although some commenters did suggest that a separate health schedule be included in the final rule, MSHA believes that the issues surrounding the establishment of an independent gravity schedule for health violations would be better addressed through a separate review. Therefore, the final rule retains gravity tables which are very similar to those in the prior rule.

In an attempt to provide additional clarification, the proposal modified the gravity table relating to the likelihood of occurrence. In the proposal, the table measured one aspect of gravity according to whether the occurrence of the event against which a standard is directed poses "no likelihood," is "unlikely," "likely," "highly likely," or "occurred," with assigned penalty points of zero, two, five, seven, and ten, respectively. In the final rule, "reasonably likely" is substituted for "likely" to be consistent with the rule's distinction between serious and less serious violations.

Under the final rule, the classification of "no likelihood" generally refers to technical type violations which pose no risk to miners. An "unlikely" probability of occurrence applies to those situations where the occurrence of injury or illness is remote but possible. Some commenters noted that under the prior rule the term "probable" referred to injuries or illnesses which were likely to occur and received three penalty points, while under the proposed rule the term "likely" in the same gravity table receives five penalty points. Under the final rule, violations processed through the regular formula would be assigned five penalty points where the occurrence of the event is "reasonably likely," compared to three points in the prior rule where the likelihood was "probable." This change was supported by some commenters and is consistent with MSHA's objective to refocus

attention on more serious mine safety and health hazards. The second gravity table, assessing the severity of injury or illness normally expected, describes and allocates penalty points in the same manner as in the prior rule. The third table, measuring the number of persons potentially affected if the event occurred or were to occur, also retains the prior rule's language and point allocation for this aspect of gravity.

A violation involving no reasonable likelihood of a reasonably serious injury or illness occurring may be eligible for the single penalty assessment provided that the violation is abated within the time set by the inspector. A full discussion of this provision follows in § 100.4 (single penalty assessment).

**100.3(f) Demonstrated Good Faith of the Operator.** The purpose of the good faith criterion is to provide credit to operators for timely correction of mine safety and health hazards.

Under the prior rule, negative points from minus one to minus 10 could have been assigned for rapid compliance, zero points for normal compliance, and positive points from one to 10 could have been added for lack of good faith. (Negative points are those which are subtracted from the point total in determining the number of penalty points attributable to a particular violation).

The proposal identified and defined three categories which addressed the timeliness of the operator's actions to abate the violations and would have assigned points ranging from minus 10 to plus 10 penalty points. In the proposal, minus three points would have been assigned for good faith compliance. The proposal retained the prior rule's range for lack of good faith.

In the notice of hearing, MSHA refined the proposal to consider a fixed percentage reduction in the proposed penalty amount for violations processed through the regular formula system which are abated within the time set by the inspector. MSHA specifically requested comments with respect to an appropriate percentage reduction. Some commenters supported the proposal as refined in the public hearing notice, while others objected. Those who supported the fixed percentage reduction generally believed this revision would increase operator incentives to correct violations as quickly as possible. Further, they suggested a range of 20-50% as an appropriate percentage reduction. However, some of these commenters did suggest that an additional 10-20% reduction be awarded for extraordinary abatement efforts. Commenters who

opposed a fixed percentage reduction generally believed that this would not provide incentives for operators to comply with the Act, but would instead encourage operators to let hazardous conditions go unabated until cited.

After full review and evaluation of all comments, MSHA believes that a reduction in the proposed penalty based on operator efforts to abate safety and health hazards promotes the goal of providing increased incentives for operators to comply with the Act. Since the civil penalty system by its very nature addresses existing hazards, timely abatement is most critical to miner safety and health. The good faith criterion is the principal mechanism within the civil penalty formula for recognizing abatement, and MSHA believes that this revision encourages the early correction of hazardous conditions. Therefore this section of the final rule has been revised to provide a fixed 30% reduction in a proposed penalty amount when an operator corrects the hazard within the time set by the inspector, and the assignment of 10 penalty points when there is lack of good faith abatement.

The 30% reduction would apply to all citations processed through the regular formula system where the operator abates the hazard in the time set by the inspector. Under this approach, gravity, negligence, size and history would be assessed points under the formula and a monetary penalty determined. This amount would then be reduced by 30% where the violation is abated within the time set by the inspector. When abatement occurs after the time period allowed has elapsed, 10 points would be added.

**100.3(g) Penalty Conversion Table.** This provision sets out the table to be used to convert the total penalty points to a dollar amount which will comprise the proposed penalty.

The table in the prior rule set out individual dollar amounts from \$2 to \$10,000 corresponding to penalty points of from one to 100. The proposal eliminated dollar values below \$20 in recognition of the single penalty provision. All other values remained the same.

Some commenters suggested that a separate penalty table should exist for small mine operators. MSHA believes that small mine operators are given adequate consideration under the size criterion. However, if an operator believes that a proposed penalty would adversely affect the ability to continue in business, additional information may be submitted which could result in further reduction. See following discussion on § 100.3(h). MSHA believes

that one penalty conversion table will provide adequate consideration of all factors relating to violations which are processed through the regular formula system.

The final rule differs from the table in the proposal in that violations with 15 or fewer points will be assessed \$30 while the proposal provided that violations with 10 or fewer points would have been assessed a \$20 penalty. This adjustment was made to reflect a more appropriate distinction between single penalty and regular assessments. This section applies only to those violations which are processed through the regular formula system and, therefore, does not apply to single penalty violations or those processed through special assessments.

**100.3(h) Effect on Operator's Ability to Remain in Business.** This criterion involves consideration of the effect of the proposed penalty on the operator's ability to continue in business. A penalty may be reduced under this criterion where its imposition will adversely affect an operator's ability to continue in business. The proposed rule retained the language of the prior rule for this section. Commenters did not suggest changes to this criterion and MSHA believes that it is being applied equitably and effectively. Therefore, the prior rule remains unchanged except for editorial changes to conform to the Agency's reorganized management functions.

**Section 100.4 Determination of Penalty; Single Penalty Assessment.** This is a new section. It provides for the assessment of a \$20 single penalty for violations which are not reasonably likely to result in reasonably serious injury or illness. Single penalty violations which are paid in a timely manner will not be included in the operator's history. MSHA developed this provision to permit the mining community to focus its resources on those violations which have the greatest impact on miner safety and health. Under the proposal, this section was designated as the "minimum penalty" assessment procedure. In the final rule, MSHA has substituted the term "single penalty assessment" to clarify that \$20 is the only penalty an operator could receive under this section.

As proposed, this section provided for the assessment of a fixed single penalty of \$20 for violations involving low level gravity and no negligence. In the notice of public hearing, MSHA included a refinement of the proposed single penalty provision which would apply the single penalty to those violations which are not reasonably likely to result in a reasonably serious injury or illness.

Some commenters supported and others objected to the single penalty proposal as refined in the hearing notice. Those who supported this provision stated that it would permit a refocusing of resources on serious safety and health hazards. Specifically, they believed that it would reduce the time and resources associated with processing less serious violations and foster a more cooperative and productive environment for achieving safety and health in the mines. Those who opposed the proposal stated that it would not result in improved efficiency nor would it result in a reallocation of resources toward the most hazardous conditions. Further, they stated that the single penalty provision would not assure maximum operator compliance but would instead encourage operators to violate MSHA regulations.

After consideration of the comments, MSHA believes that the single penalty concept advances the objectives of this rule, and therefore has included this provision in the final rule. This provision permits the assessment of a \$20 penalty for violations which are not reasonably likely to result in reasonably serious injury or illness. A critical element in this provision is a requirement that the hazard be abated within the time set by the inspector. If the hazard is not abated within the time set by the inspector, the violation will not be eligible for the \$20 single penalty and will be processed through the regular assessment provision (§ 100.3) or special assessment provision (§ 100.5), which will result in a higher penalty. In addition, unabated nonserious violations will subject mine operators to more stringent enforcement sanctions, such as closure orders for failure to abate. This new provision will not alter compliance responsibilities of either MSHA or the mine operator. Accordingly, all violations will continue to be cited, all hazards must be abated and all penalties must be paid. MSHA does not believe that this new provision will either encourage operators to violate the Act, or allow hazards, once identified, to remain uncorrected. Abatement remains an integral part of the inspection process. Industry representatives who participated in this rulemaking acknowledged the critical role of abatement, and urged the Agency to continue its efforts to assure that all hazards are abated as quickly as possible.

Some commenters requested clear guidelines for defining the class of violations to which the single penalty will be applied. These commenters further requested that the definition of "significant and substantial" violations

as stated in a decision of the Federal Mine Safety and Health Review Commission, *Secretary of Labor v. Cement Division, National Gypsum Co.*, 3 FMSHRC 822,825; 2 MSHC 1201 (1981), should be incorporated into the final rule. Under the final rule, a \$20 single penalty may be assessed for those violations which "are not reasonably likely to result in a reasonably serious injury or illness." Although this definition is consistent with the Commission's decision on "significant and substantial" violations in the *National Gypsum* case, it is independently established in this rulemaking and represents the Agency's rule with respect to the single penalty provision. MSHA does not believe that further specific language governing the inspector's evaluation of hazardous conditions should be incorporated into the final rule.

Several commenters were concerned about the Agency's existing guidelines for determining "significant and substantial" violations. MSHA will carefully review its policy for uniform application and consistency with this rulemaking.

MSHA inspectors already make a determination as to which violations of the Act are of a serious nature. In making this determination, inspectors first evaluate whether an injury or illness is reasonably likely to occur if the violation is not corrected. Next, the inspector must evaluate whether the injury or illness, were it to occur, would be reasonably serious. In these areas, inspectors use their experience, background and training together with an evaluation of the actual circumstances surrounding the violation to arrive at an independent judgment. Where a violation is not reasonably likely to result in a reasonably serious injury or illness, a summary review and analysis of the condition or practice is conducted. However, when the gravity factor is low and good faith is established through abatement, MSHA does not believe that an individualized analysis of the negligence, size and history criteria is appropriate or necessary. As a result, inspector time would be saved, permitting MSHA to focus additional resources on more serious mine hazards.

Under the proposed single penalty provision, opportunity for a safety and health conference would be preserved, but the scope of the conference would be limited to issues related to the existence or type of violation. In addition, the statutory right to contest a proposed penalty to the Commission would continue to apply to all

assessments under these regulations. The final rule does not alter these concepts.

MSHA believes that the single penalty provision will help achieve improved health and safety for miners by eliminating the need to spend disproportionate amounts of time reviewing and processing violations whose impact on safety and health is minimal. The primary focus of both MSHA and the mining community must be on the prevention and correction of conditions which pose a serious risk to the safety and health of miners. Therefore, the final rule retains the \$20 single penalty concept.

MSHA will carefully review the experience gained in applying this provision to assure that no diminution to miner safety or health results.

**Section 100.5 Determination of Penalty; Special Assessment.** This section will be used for those violations which MSHA believes should not be processed through the regular assessment formula (§ 100.3) or single penalty provision (§ 100.4). Although MSHA will use the single penalty provision in § 100.4 and the formula system to process the great majority of citations and orders, the Agency believes that there will be some circumstances in which these provisions would not provide an appropriate assessment. For this reason, the final rule retains the special assessment provision.

The prior rule set forth certain categories or types of violations which, due to their nature or seriousness, might not be appropriate for regular formula assessment. In the proposed rule, these categories were clarified to specifically notify persons of those classes of violations which may be individually examined to determine whether a special assessment is necessary. MSHA also proposed to delete three categories of special assessments review contained in the prior rule: Discrimination violations under Section 105(c); the failure to abate a violation within the prescribed period; and violations by independent contractors. The Agency proposed this action because it believed that these categories of violations would be adequately assessed under other provisions of this rule.

Several commenters desired to see the special assessment provision eliminated or restricted to situations involving an extraordinarily high degree of negligence. Other commenters believed that the categories, as proposed, were reasonable. After reviewing the comments, MSHA believes that there are certain categories of violations for

which an individual review process is necessary. Where a special assessment is made, it should be noted that it is still based upon the facts and circumstances surrounding the particular violation. Narrative findings are issued in support of the consideration given to the six criteria.

In the final rule, MSHA has deleted the proposed special assessment category for a pattern of violations. If a mine were determined to have a pattern of violations, the Agency believes that an appropriate assessment could be made using one of the remaining special assessment categories. MSHA has also retained discrimination violations under Section 105(c) as a special assessment category because the single penalty and regular assessment provisions would not adequately evaluate these violations. The rule permits certain discrimination violations to be processed under the special assessment provision. The following categories have been adopted in the final rule:

- (1) Violations involving fatalities and serious injuries;
- (2) Violations involving an unwarrantable failure to comply with mandatory health and safety standards;
- (3) Operation of a mine in the face of a closure order;
- (4) Failure to permit an authorized representative of the Secretary to perform an inspection or investigation;
- (5) Violations for which individuals are personally liable under Section 110(c) of the Act;
- (6) Violations involving an imminent danger;
- (7) Discrimination violations under Section 105(c) of the Act; and
- (8) Violations involving an extraordinarily high degree of negligence or gravity or other unique aggravating circumstances.

In making determinations with respect to special assessments, the final rule differs from the prior rule in that neither the nature nor the seriousness of a particular violation will automatically result in a special assessment. When a violation falls within one of the enumerated categories, MSHA will conduct an individual review to determine whether a special assessment is proper. If this review reveals that the violation can be appropriately assessed under another provision of the rule, it will be processed under that provision.

Whenever MSHA elects to waive the use of the formula in § 100.3 on the basis that unique aggravating circumstances are involved, the parties will be fully informed as to the basis for this action.

**Section 100.6 Procedures for Review of Citations and Orders.** The

requirements and administrative procedures for review of citations and orders by MSHA were contained in § 100.5 of the prior rule. Through this process, MSHA evaluated all citations and orders. The review process also provided the parties an opportunity to submit additional information and to request a conference regarding a violation.

The final rule redesignates this Section as 100.6 and makes changes in the administrative procedures of this review process to reflect MSHA's reorganized management functions. A major purpose of this realignment of management responsibilities is to better focus the process for review of citations and orders on the safety and health issues involved. MSHA believes that it will improve safety and health to more directly involve those who issue the citations and orders in the process established for review of these actions. Therefore, mine operators and the miners or their representatives at the mine will be afforded an opportunity to discuss safety and health issues after the inspection. MSHA District Managers will now be fully responsible at all phases of the process for the review of all citations and orders. This transfer of functions will permit the mining community to address in a more effective manner all of the relevant safety and health factors related to a violation. In addition, MSHA intends to make the inspector's evaluation regarding factors bearing on each violation available to mine operators and the miners or their representatives at the mine. These evaluations will be made available at the time of the issuance of the citations and orders.

Some commenters questioned the effect of MSHA's reorganization on the rights and opportunities afforded the parties under the prior rule. The final rule deletes the administrative procedures for review of citations and orders used by the MSHA Office of Assessments which were contained in the prior regulation. This revision permits MSHA District Managers to develop and implement procedures for the review of citations and orders. Neither the final rule nor the Agency's transfer of functions for the review of citations and orders alters the principles of the prior regulation. The final rule retains the requirement for prompt MSHA review of all citations and orders. This initial level of review will be conducted during the inspection closeout conference or at a time reasonably convenient to the parties. The final rule also retains the right of any party to submit additional facts or

to request a safety and health conference within 10 days of notice by MSHA of the right to a conference. As existed under the prior rule, the mine operator and the miners or their representatives at the mine may request a conference. A conference request may also include a request to be notified of, and to participate in, a conference initiated by another party. The safety and health conference request is to be made with the MSHA District Office. Where a request is granted, conferences will be promptly conducted. Therefore, under the final rule there is no change in the substantive rights and opportunities of the parties.

Several commenters objected that the transfer of the citation and order review process to the MSHA District Offices, and the involvement of MSHA inspectors in the process, could result in less time available for conducting inspections. With the transfer of responsibility, MSHA inspectors will participate in the review of the citations and orders issued in the manner considered necessary by the District Manager for the resolution of issues. However, MSHA believes that involvement of inspectors in the review process will lead to better communication and improved cooperation between MSHA and the mining community. In addition, MSHA believes that this final rule together with the realignment of MSHA functions will result in greater efficiency and effectiveness, facilitating MSHA's compliance inspection activities. Under the prior rule, MSHA inspectors, upon request, provided additional information to assessment conference officers with respect to clarification of issues concerning a citation. The reorganization of the conference function should reduce the administrative and paperwork requirements associated with this function and result in a more timely and effective process.

**Section 100.7 Notice of Proposed Penalty; Notice of Contest.** This section sets out the circumstances under which a notice of proposed penalty will be served on the parties, the procedures for contesting a notice of proposed penalty, and when a proposed penalty becomes final.

The prior rule set forth the instances which resulted in the issuance of a proposed penalty. All are retained in the final rule, except the provision for the issuance of a proposed penalty upon the expiration of 33 days from the service of the results of the initial review. This has been deleted to be consistent with the revisions made to the final rule's

procedure for review of citations and orders (§ 100.6). In addition, the final rule makes changes in nomenclature.

**Section 100.8 Service.** This section differs from the prior rule in that a third category is added providing for service of proposed civil penalties upon operators who fail to file under 30 CFR Part 41 (Notification of Legal Identity). Operators within this category will receive service at their last known business address recorded with MSHA. Also, for the reasons outlined in this preamble discussion of §§ 100.6 and 100.7, two nonsubstantive wording changes were necessary to conform the rule to MSHA's reorganized management functions.

### III. Drafting Information

The principal persons responsible for preparing this final rule are: Patricia W. Silvey, Office of Standards, Regulations and Variances, Mine Safety and Health Administration; and M. Peter Garcia and William B. Moran, Office of the Solicitor, Department of Labor.

### IV. Executive Order 12291

This regulation is not a "major rule" under the terms of the Executive Order. The final rule streamlines the civil penalty process and reduces administrative requirements associated with processing violations.

### V. Regulatory Flexibility Act

The final rule is exempt from the requirements of this Act because the proposal was published prior to January 1, 1981. However, MSHA has considered the economic impact of this rule on small businesses and believes that the rule will have a favorable impact on small businesses because it reduces administrative efforts and costs associated with processing violations.

### VI. Paperwork Reduction Act

This regulation does not contain paperwork requirements for mine operators. However, this final rule is expected to reduce internal paperwork requirements for MSHA, through the reduction of administrative efforts where "single penalty" assessments are made.

### List of Subjects in 30 CFR Part 100

Mine safety and health, Penalties.

Dated: April 29, 1982.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

This final rule revises Subchapter P, Part 100 of Chapter I, Title 30 of the Code of Federal Regulations as set forth below:

# SUBCHAPTER P—CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

## PART 100—CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES

### Sec.

100.1 Scope and purpose.

100.2 Applicability.

100.3 Determination of penalty; regular assessment.

100.4 Determination of penalty; single penalty assessment.

100.5 Determination of penalty; special assessment.

100.6 Procedures for review of citations and orders; procedures for assessment of civil penalties and conferences.

100.7 Notice of proposed penalty; notice of contest.

100.8 Service.

**Authority:** Secs. 105, 110, 508 of the Federal Mine Safety and Health Act of 1977 Pub. L. 95-164, as amended by Pub. L. 95-164, 91 Stat. 1303 and 1311, 83 Stat. 803 (30 U.S.C. 815, 820 and 957).

### § 100.1 Scope and purpose.

This part sets forth the criteria and procedures for the proposed assessment of civil penalties under sections 105 and 110 of the Federal Mine Safety and Health Act of 1977 (Act). The purpose of this part is to provide a fair and equitable procedure for the application of the statutory criteria in determining proposed penalties for violations, to maximize the incentives for mine operators to prevent and correct hazardous conditions, and to assure the prompt and efficient processing and collection of penalties.

### § 100.2 Applicability.

The criteria and procedures contained in this part are applicable to all evaluations and proposed assessments of civil penalties for violations of the Act, and the standards and regulations promulgated pursuant to the Act. The Mine Safety and Health Administration (MSHA), United States Department of Labor, shall review each citation and order and shall make proposed assessments of civil penalties.

### § 100.3 Determination of penalty amount; regular assessment.

(a) *General.* The amount of the civil penalty proposed shall be based upon the formula set forth in this section. The formula is based on the general criteria described in sections 105(b) and 110(i) of the Act. These criteria are:

(1) The appropriateness of the penalty to the size of the business of the operator charged;

(2) The operator's history of previous violations;

(3) Whether the operator was negligent;

(4) The gravity of the violation;

(5) The demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation; and

(6) The effect of the penalty on the operator's ability to continue in business.

The penalty amount in a regular case shall be determined by first assigning the appropriate number of penalty points to the violation by using the appropriate criteria and tables set forth in this section. The number of penalty points assigned for all criteria will then be totaled, and the point accumulation converted into a dollar amount by using the penalty conversion table in paragraph (g) of this section. Where appropriate, this penalty amount will be adjusted for demonstrated good faith in accordance with § 100.3(f).

(b) *The appropriateness of the penalty to the size of the operator's business.* The appropriateness of the penalty to the size of the production operator's business is calculated by using both the size of the mine cited and the size of the controlling entity of which the mine is a part. This criterion may account for a maximum of 15 penalty points for production operators. The size of an independent contractor will be measured by the amount of hours worked in all mining activities and may account for a maximum of 10 penalty points. The size will be evaluated by selecting the appropriate number of penalty points from Tables I to V. As used in the Tables below, the terms "annual tonnage" and "annual hours worked" mean tonnage produced and hours worked in the previous calendar year, or, in the case of a mine opened or owned less than one full calendar year, the tonnage and hours worked prorated to an annual basis.

TABLE I.—SIZE OF COAL MINE

| Annual tonnage of mine           | Penalty points |
|----------------------------------|----------------|
| 0 to 15,000.....                 | 0              |
| Over 15,000 to 30,000.....       | 1              |
| Over 30,000 to 50,000.....       | 2              |
| Over 50,000 to 100,000.....      | 3              |
| Over 100,000 to 200,000.....     | 4              |
| Over 200,000 to 300,000.....     | 5              |
| Over 300,000 to 500,000.....     | 6              |
| Over 500,000 to 800,000.....     | 7              |
| Over 800,000 to 1.1 million..... | 8              |
| Over 1.1 to 2 million.....       | 9              |
| Over 2 million.....              | 10             |

TABLE II.—SIZE OF CONTROLLING ENTITY—COAL MINE

| Annual tonnage                     | Penalty points |
|------------------------------------|----------------|
| 0 to 100,000.....                  | 0              |
| Over 100,000 to 700,000.....       | 1              |
| Over 700,000 to 1.5 million.....   | 2              |
| Over 1.5 million to 5 million..... | 3              |
| Over 5 million to 10 million.....  | 4              |
| Over 10 million.....               | 5              |

TABLE III.—SIZE OF METAL/NONMETAL MINE

| Annual hours worked at mine    | Penalty points |
|--------------------------------|----------------|
| 0 to 10,000.....               | 0              |
| Over 10,000 to 20,000.....     | 1              |
| Over 20,000 to 30,000.....     | 2              |
| Over 30,000 to 60,000.....     | 3              |
| Over 60,000 to 100,000.....    | 4              |
| Over 100,000 to 200,000.....   | 5              |
| Over 200,000 to 300,000.....   | 6              |
| Over 300,000 to 500,000.....   | 7              |
| Over 500,000 to 700,000.....   | 8              |
| Over 700,000 to 1 million..... | 9              |
| Over 1 million.....            | 10             |

TABLE IV.—SIZE OF CONTROLLING ENTITY—METAL/NONMETAL MINE

| Annual hours worked              | Penalty points |
|----------------------------------|----------------|
| 0 to 60,000.....                 | 0              |
| Over 60,000 to 400,000.....      | 1              |
| Over 400,000 to 900,000.....     | 2              |
| Over 900,000 to 3 million.....   | 3              |
| Over 3 million to 6 million..... | 4              |
| Over 6 million.....              | 5              |

TABLE V.—SIZE OF INDEPENDENT CONTRACTOR

| Annual hours worked at all mines | Penalty points |
|----------------------------------|----------------|
| 0 to 10,000.....                 | 0              |
| Over 10,000 to 20,000.....       | 1              |
| Over 20,000 to 30,000.....       | 2              |
| Over 30,000 to 60,000.....       | 3              |
| Over 60,000 to 100,000.....      | 4              |
| Over 100,000 to 200,000.....     | 5              |
| Over 200,000 to 300,000.....     | 6              |
| Over 300,000 to 500,000.....     | 7              |
| Over 500,000 to 700,000.....     | 8              |
| Over 700,000 to 1 million.....   | 9              |
| Over 1 million.....              | 10             |

(c) *History of previous violations.* History is based on the number of assessed violations in a preceding 24-month period. Only violations that have been paid or finally adjudicated will be included in determining history. However, violations which receive a single penalty assessment under § 100.4 and are paid in a timely manner will not be included in the computation. The history of previous violations may account for a maximum of 20 penalty points. For mine operators, the penalty points will be calculated on the basis of the average number of assessed violations per inspection day (Table VI). For independent contractors, penalty points will be calculated on the basis of the average number of violations

assessed per year at all mines (Table VII).

TABLE VI.—MINE OPERATORS

| Violations per inspection day | Penalty points |
|-------------------------------|----------------|
| 0 to 0.3                      | 0              |
| Over 0.3 to 0.5               | 2              |
| Over 0.5 to 0.7               | 4              |
| Over 0.7 to 0.9               | 6              |
| Over 0.9 to 1.1               | 8              |
| Over 1.1 to 1.3               | 10             |
| Over 1.3 to 1.5               | 12             |
| Over 1.5 to 1.7               | 14             |
| Over 1.7 to 1.9               | 16             |
| Over 1.9 to 2.1               | 18             |
| Over 2.1                      | 20             |

TABLE VII.—INDEPENDENT CONTRACTORS

| Number of violations | Penalty points |
|----------------------|----------------|
| 1 to 5               | 0              |
| 6 to 10              | 2              |
| 11 to 15             | 4              |
| 16 to 20             | 6              |
| 21 to 25             | 8              |
| 26 to 30             | 10             |
| 31 to 35             | 12             |
| 36 to 40             | 14             |
| 41 to 45             | 16             |
| 46 to 50             | 18             |
| Over 50              | 20             |

(d) *Negligence.* Negligence is committed or omitted conduct which falls below a standard of care established under the Act to protect persons against the risks of harm. The standard of care established under the Act is that the operator of a mine owes a high degree of care to the miners. A mine operator is required to be on the alert for conditions and hazards in the mine which affect the safety or health of the employees and to take the steps necessary to correct or prevent such conditions or practices. For purposes of assessing a penalty under this Part, failure to do so is negligence on the part of the operator. The negligence criterion gives appropriate consideration to the factors relating to an operator's failure to exercise a high degree of care to protect miners from safety or health hazards. When applying this criterion, MSHA considers actions taken by the operator to prevent or correct conditions or practices which caused or allowed the violation to exist. In determining the operator's diligence in protecting miners in any given hazard situation, due recognition is given to mitigating circumstances which explain the operator's conduct in minimizing or eliminating a hazardous condition. Mitigating circumstances may include, but are not limited to, actions which an operator has taken to prevent, correct, or limit exposure to mine hazards. This criterion may contribute a maximum of 25 penalty points, based on conduct evaluated according to Table VIII.

TABLE VIII.—NEGLIGENCE

| Categories                                                                                                                                              | Penalty points |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| No negligence<br>(The operator exercised diligence and could not have known of the violative condition or practice.)                                    | 0              |
| Low negligence<br>(The operator knew or should have known of the violative condition or practice, but there are considerable mitigating circumstances.) | 10             |
| Moderate negligence<br>(The operator knew or should have known of the violative condition or practice, but there are mitigating circumstances.)         | 15             |
| High negligence<br>(The operator knew or should have known of the violative condition or practice, and there are no mitigating circumstances.)          | 20             |
| Reckless disregard<br>(The operator displayed conduct which exhibits the absence of the slightest degree of care.)                                      | 25             |

(e) *Gravity.* Gravity is an evaluation of the seriousness of the violation as measured by the likelihood of the occurrence of the event against which a standard is directed, the severity of the illness or injury if the event occurred or were to occur, and the number of persons potentially affected if the event occurred or were to occur. This criterion may contribute a maximum of 30 penalty points, with up to 10 points derived from each of the following tables (Tables IX to XI):

TABLE IX.—LIKELIHOOD

| Likelihood of occurrence | Penalty points |
|--------------------------|----------------|
| No likelihood            | 0              |
| Unlikely                 | 2              |
| Reasonably likely        | 5              |
| Highly likely            | 7              |
| Occurred                 | 10             |

TABLE X.—SEVERITY

| Severity of injury or illness if the event occurred or were to occur                                                                                                                                                                                | Penalty points |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| No lost work days<br>(All occupational injuries and illnesses as defined in 30 CFR Part 50 except those listed below.)                                                                                                                              | 0              |
| Lost work days or restricted duty<br>(Any injury or illness which would cause the injured or ill person to lose one full day of work or more after the day of the injury or illness, or which would cause one full day or more of restricted duty.) | 3              |
| Permanently disabling<br>(Any injury or illness which would be likely to result in the total or partial loss of the use of any member or function of the body.)                                                                                     | 7              |
| Fatal<br>(Any work-related injury or illness resulting in death, or which has a reasonable potential to cause death.)                                                                                                                               | 10             |

TABLE XI.—PERSONS POTENTIALLY AFFECTED

| Number of persons potentially affected if the event occurred or were to occur | Penalty points |
|-------------------------------------------------------------------------------|----------------|
| 0                                                                             | 0              |
| 1                                                                             | 1              |
| 2                                                                             | 2              |
| 3                                                                             | 4              |

TABLE XI.—PERSONS POTENTIALLY AFFECTED—Continued

| Number of persons potentially affected if the event occurred or were to occur | Penalty points |
|-------------------------------------------------------------------------------|----------------|
| 4 to 5                                                                        | 6              |
| 6 to 9                                                                        | 8              |
| More than 9                                                                   | 10             |

(f) *Demonstrated good faith of the operator in abating the violation.* This criterion provides a 30% reduction in the penalty amount of a regular assessment where the operator abates the violation in the time set by the inspector. Where the operator does not abate within the time set by the inspector, 10 penalty points will be assigned.

(g) *Penalty conversion table.* The penalty conversion table shall be used to convert the accumulation of penalty points to the appropriate proposed monetary assessment.

PENALTY CONVERSION TABLE

| Points      | Penalty |
|-------------|---------|
| 15 or fewer | \$30    |
| 16          | 32      |
| 17          | 34      |
| 18          | 36      |
| 19          | 38      |
| 20          | 40      |
| 21          | 44      |
| 22          | 48      |
| 23          | 52      |
| 24          | 56      |
| 25          | 60      |
| 26          | 66      |
| 27          | 72      |
| 28          | 78      |
| 29          | 84      |
| 30          | 90      |
| 31          | 98      |
| 32          | 106     |
| 33          | 114     |
| 34          | 122     |
| 35          | 130     |
| 36          | 140     |
| 37          | 150     |
| 38          | 160     |
| 39          | 170     |
| 40          | 180     |
| 41          | 195     |
| 42          | 210     |
| 43          | 225     |
| 44          | 240     |
| 45          | 255     |
| 46          | 275     |
| 47          | 295     |
| 48          | 305     |
| 49          | 325     |
| 50          | 345     |
| 51          | 370     |
| 52          | 395     |
| 53          | 420     |
| 54          | 445     |
| 55          | 470     |
| 56          | 500     |
| 57          | 530     |
| 58          | 560     |
| 59          | 590     |
| 60          | 620     |
| 61          | 655     |
| 62          | 690     |
| 63          | 725     |
| 64          | 760     |
| 65          | 800     |
| 66          | 840     |
| 67          | 880     |
| 68          | 920     |
| 69          | 960     |
| 70          | 1,000   |
| 71          | 1,050   |
| 72          | 1,100   |
| 73          | 1,150   |
| 74          | 1,200   |
| 75          | 1,250   |

PENALTY CONVERSION TABLE—Continued

| Points | Penalty |
|--------|---------|
| 76     | 1,300   |
| 77     | 1,400   |
| 78     | 1,500   |
| 79     | 1,600   |
| 80     | 1,700   |
| 81     | 1,900   |
| 82     | 2,100   |
| 83     | 2,300   |
| 84     | 2,500   |
| 85     | 2,700   |
| 86     | 3,000   |
| 87     | 3,400   |
| 88     | 3,800   |
| 89     | 4,200   |
| 90     | 4,600   |
| 91     | 5,000   |
| 92     | 5,500   |
| 93     | 6,000   |
| 94     | 6,500   |
| 95     | 7,000   |
| 96     | 7,500   |
| 97     | 8,000   |
| 98     | 8,500   |
| 99     | 9,000   |
| 100    | 10,000  |

(h) *The effect on the operator's ability to continue in business.* It is initially presumed that the operator's ability to continue in business will not be affected by the assessment of a civil penalty. The operator may submit information to the District Manager concerning the business financial status to show that payment of the penalty will affect the operator's ability to continue in business. If the information provided by the operator indicates that the penalty will adversely affect the ability to continue in business the penalty may be adjusted.

#### § 100.4 Determination of penalty; single penalty assessment.

An assessment of \$20 may be imposed as the civil penalty where the violation is not reasonably likely to result in a reasonably serious injury or illness, and is abated within the time set by the inspector. If the violation is not abated within the time set by the inspector, the violation will not be eligible for the \$20 single penalty and will be processed through either the regular assessment provision (§ 100.3) or special assessment provision (§ 100.5).

#### § 100.5 Determination of penalty; special assessment.

MSHA may elect to waive the regular assessment formula (§ 100.3) or the single assessment provision (§ 100.4) if the Agency determines that conditions surrounding the violation warrant a special assessment. Although an effective penalty can generally be derived by using the regular assessment

formula and the single assessment provision, some types of violations may be of such a nature or seriousness that it is not possible to determine an appropriate penalty under these provisions. Accordingly, the following categories will be individually reviewed to determine whether a special assessment is appropriate:

(a) Violations involving fatalities and serious injuries;

(b) Unwarrantable failure to comply with mandatory health and safety standards;

(c) Operation of a mine in the face of a closure order;

(d) Failure to permit an authorized representative of the Secretary to perform an inspection or investigation;

(e) Violations for which individuals are personally liable under Section 110(c) of the Act;

(f) Violations involving an imminent danger;

(g) Discrimination violations under Section 105(c) of the Act; and

(h) Violations involving an extraordinarily high degree of negligence or gravity or other unique aggravating circumstances.

When MSHA determines that a special assessment is appropriate, such special assessment shall take into account the criteria enumerated in § 100.3(a). All findings shall be in narrative form.

#### § 100.6 Procedures for review of citations and orders; procedures for assessment of civil penalties and conferences.

(a) All parties shall be afforded the opportunity to review with MSHA each citation and order issued during an inspection.

(b) Upon notice by MSHA, all parties shall have 10 days within which to submit additional information or request a safety and health conference with the District Manager or designee. A conference request may include a request to be notified of, and to participate in, a conference initiated by another party.

(c) It is within the sole discretion of MSHA to grant a request for a conference and to determine the nature of the conference.

(d) When a conference is conducted, the parties may submit any additional relevant information relating to the violation, either prior to or at the conference. To expedite the conference, the official assigned to the case may

contact the parties to discuss the issues involved prior to the conference.

(e) MSHA will consider all relevant information submitted in a timely manner by the parties with respect to the violation. When the facts warrant a finding that no violation occurred, the citation or order will be vacated.

(f) All citations which have been abated and all orders will be promptly referred by the District Manager to the Office of Assessments.

(g) The Office of Assessments will use the citations, orders, and inspector's evaluation as the basis for determining the appropriate amount of a proposed penalty.

#### § 100.7 Notice of proposed penalty; notice of contest.

(a) A notice of proposed penalty will be issued and served by certified mail upon the party to be charged and by regular mail to the representative of miners at the mine after the time permitted to request a conference under § 100.6 expires, or upon the completion of a conference, or upon review by MSHA of additional information submitted in a timely manner.

(b) Upon receipt of the notice of proposed penalty, the party charged shall have 30 days to: (1) Pay the proposed assessment (acceptance by MSHA of payment tendered by the party charged will close the case); or, (2) notify MSHA in writing of the intention to contest the proposed penalty. The Office of Assessments shall provide a return mailing card with each notice of proposed penalty to be used by the party charged to request a hearing before the Federal Mine Safety and Health Review Commission under Section 105 of the Act. Such a request must be sent to the address listed on such notification. When MSHA receives the notice of contest, it shall immediately advise the Commission of such notice, and shall promptly forward the case to the Office of the Solicitor. No proposed penalty which has been contested before the Commission, shall be compromised, mitigated or settled except with the approval of the Commission.

(c) The failure to pay or to contest the proposed penalty within 30 days of receipt of notice thereof shall result in the proposed penalty being deemed a final order of the Commission and not subject to review by any court or agency.

**§ 100.8 Service.**

(a) All operators are required by 30 CFR Part 41 (Notification of Legal Identity) to file with MSHA the name and address of record of the operator. All representatives of miners are required by 30 CFR Part 40 (Representative of Miners) to file with MSHA the mailing address of the person or organization acting in a representative capacity. Proposed penalty assessments delivered to those addresses shall constitute service.

(b) If any of the parties choose to have proposed penalty assessments mailed to a different address, the Office of Assessments must be notified in writing of the new address. Delivery to this address shall also constitute service.

(c) Service for operators who fail to file under 30 CFR Part 41 will be upon the last known business address recorded with MSHA.

[FR Doc. 82-12064 Filed 4-29-82; 3:24 pm]

BILLING CODE 4510-43-M

*[The page contains extremely faint, illegible text, likely bleed-through from the reverse side. The text is organized into several columns and paragraphs, but no specific words or phrases can be discerned.]*

# Registered Federal Labor

Friday  
May 21, 1982

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## Part III

## Department of Labor

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Employment Standards Administration,  
Wage and Hour Division

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Minimum Wages for Federal and  
Federally Assisted Construction; General  
Wage Determination Decisions

## DEPARTMENT OF LABOR

Employment Standards  
Administration, Wage and Hour  
DivisionMinimum Wages for Federal and  
Federally Assisted Construction;  
General Wage Determination  
Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of

publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas  
Decisions to General Wage  
Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is

encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage  
Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

|                                 |                |
|---------------------------------|----------------|
| Iowa:                           |                |
| IA81-4088                       | Nov. 13, 1981. |
| IA81-4089                       | Nov. 13, 1981. |
| IA81-4090                       | Dec. 11, 1981. |
| IA81-4091                       | Nov. 13, 1981. |
| IA81-4092                       | Nov. 27, 1981. |
| IA81-4093                       | Nov. 27, 1981. |
| IA81-4094                       | Nov. 27, 1981. |
| IA81-4096                       | Nov. 27, 1981. |
| IA81-4097                       | Nov. 27, 1981. |
| IA81-4098                       | Nov. 27, 1981. |
| IA81-4101                       | Dec. 11, 1981. |
| District of Columbia: DC81-3040 | June 5, 1981.  |
| Maryland: DC81-3040             | June 5, 1981.  |
| Virginia: DC81-3040             | June 5, 1981.  |
| Kansas: KS82-4013               | Apr. 16, 1982. |
| Louisiana: LA82-4020            | May 7, 1982.   |
| LA82-4021                       | May 7, 1982.   |
| LA82-4022                       | May 7, 1982.   |
| Oklahoma: OK81-4056             | July 17, 1981. |
| Texas:                          |                |
| TX80-4088                       | Nov. 7, 1980.  |
| TX81-4008                       | Jan. 6, 1981.  |
| TX81-4044                       | June 26, 1981. |
| TX81-4052                       | July 10, 1981. |
| TX81-4064                       | Aug. 7, 1981.  |
| TX81-4074                       | Oct. 2, 1981.  |
| TX81-4075                       | Oct. 2, 1981.  |
| TX81-4078                       | Oct. 2, 1981.  |
| TX81-4079                       | Oct. 2, 1981.  |
| TX82-4001                       | Jan. 29, 1982. |
| TX82-4005                       | Jan. 29, 1982. |
| TX82-4019                       | May 7, 1982.   |
| Pennsylvania:                   |                |
| PA82-3008                       | Feb. 26, 1982. |
| PA81-3090                       | Dec. 18, 1981. |
| PA82-3007                       | Feb. 26, 1982. |

Supersedeas Decisions to General Wage  
Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

|                                 |                |
|---------------------------------|----------------|
| Illinois: IL81-2028 (IL82-2032) | June 19, 1981. |
| Ohio: OH81-2067 (OH82-2037)     | Dec. 18, 1981. |

Please note that we are changing the format for Federal Register wage decisions to coincide with the provisions

of All Agency Memorandum No. 132 dated January 29, 1980 which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure will be phased in gradually.

Signed at Washington, D.C. this 14th day of May 1982.

**Dorothy P. Come,**

*Assistant Administrator Wage and Hour Division.*

BILLING CODE 4510-30-M

## Modification Page 1

## Modification Page 2

|                                                                                             |                                     |                            |                                                                                                                                                         |                                                                |                                                    |
|---------------------------------------------------------------------------------------------|-------------------------------------|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------|
| DECISION NO. IA81-4088 -<br>MOD. #5<br>(46 FR 56121 - 11/13/81)<br>Black Hawk County, Iowa  | Basic<br>Hourly<br>Rates<br>\$16.47 | Fringe<br>Benefits<br>2.83 | CHANGE:<br>Bldg., water treatment &<br>sewage disposal plants:<br>Sprinkler fitters                                                                     | Basic<br>Hourly<br>Rates<br>\$14.59<br>16.29<br>15.09<br>16.47 | Fringe<br>Benefits<br>1.90<br>2.00<br>1.90<br>2.83 |
| DECISION NO. IA81-4089 -<br>MOD. #6<br>(46 FR 56122 - 11/13/81)<br>Clinton County, Iowa     |                                     |                            | CHANGE:<br>Bldg., water treatment &<br>sewage disposal plants:<br>Sprinkler fitters                                                                     |                                                                |                                                    |
| DECISION NO. IA81-4090 -<br>MOD. #5<br>(46 FR 60752 - 12/11/81)<br>Des Moines County, Iowa  | 16.47                               | 2.83                       | CHANGE:<br>Bldg., water treatment &<br>sewage disposal plants:<br>Sprinkler fitters                                                                     |                                                                |                                                    |
| DECISION NO. IA81-4091 -<br>MOD. #5<br>(46 FR 56123 - 11/13/81)<br>Dubuque County, Iowa     | 16.47                               | 2.83                       | CHANGE:<br>Bldg., water treatment &<br>sewage disposal plants:<br>Sprinkler fitters                                                                     |                                                                |                                                    |
| DECISION NO. IA81-4092 -<br>MOD. #6<br>(46 FR 58025 - 11/27/81)<br>Johnson County, Iowa     | 16.47                               | 2.83                       | CHANGE:<br>Bldg., water treatment &<br>sewage disposal plants:<br>Sprinkler fitters                                                                     |                                                                |                                                    |
| DECISION NO. IA81-4093 -<br>MOD. #6<br>(46 FR 58018 - 11/27/81)<br>Linn County, Iowa        |                                     |                            | CHANGE:<br>Bldg., water treatment &<br>sewage disposal plant:<br>Carpenters:<br>Millwrights<br>Piledrivers<br>Sprinkler fitters                         |                                                                |                                                    |
| DECISION NO. IA81-4094 -<br>MOD. #6<br>(46 FR 58019 - 11/27/81)<br>Polk County, Iowa        |                                     |                            | CHANGE:<br>Bldg., water treatment &<br>sewage disposal plant:<br>Sprinkler fitters                                                                      |                                                                |                                                    |
| DECISION NO. IA81-4096 -<br>MOD. #5<br>(46 FR 58023 - 11/27/81)<br>Woodbury County, Iowa    |                                     |                            | CHANGE:<br>Laborers:<br>Group 1<br>Group 2<br>Sprinkler fitters                                                                                         |                                                                |                                                    |
| DECISION NO. IA81-4097 -<br>MOD. #5<br>(46 FR 58016 - 11/27/81)<br>Cerro Gordo County, Iowa | 16.47                               | 2.83                       | CHANGE:<br>Bldg., water treatment &<br>sewage disposal plant:<br>Sprinkler fitters                                                                      |                                                                |                                                    |
| DECISION NO. IA81-4098 -<br>MOD. #3<br>(46 FR 58021 - 11/27/81)<br>Scott County, Iowa       |                                     |                            | CHANGE:<br>Cement masons<br>Glaziers<br>Painters:<br>Brush, roller<br>Spray structural steel<br>Plumbers & steamfitters<br>Roofers<br>Sprinkler fitters |                                                                |                                                    |

|                                                                                                                                                                                                                                                               |                                              |                                    |                                                                                                                                                          |                                                       |                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|--------------------------------------------|
| DECISION NO. IA81-4101 -<br>MOD. #3<br>(46 FR 60754 - 12/11/81)<br>Pottawattamie Co., Iowa                                                                                                                                                                    | Basic<br>Hourly<br>Rates<br>\$13.99<br>16.47 | Fringe<br>Benefits<br>1.95<br>2.83 | CHANGE:<br>Bricklayers & stonemason<br>Sprinkler fitters                                                                                                 | Basic<br>Hourly<br>Rates<br>\$14.05<br>13.94<br>14.57 | Fringe<br>Benefits<br>2.31<br>3.04<br>2.83 |
| DECISION NO. DC81-3040 -<br>MOD. #8<br>(46 FR 30290 - June 5,<br>1981)<br>District of Columbia;<br>Maryland - Montgomery and<br>Prince Georges; and D.C.<br>Training School; Virginia<br>Independent City of<br>Alexandria; Arlington and<br>Fairfax Counties |                                              |                                    | CHANGE:<br>PAINTERS (EXCLUDING FAIR-<br>FAX COUNTY)<br>Brush, spray, paper-<br>hangers, tapers<br>Steel, sandblasting,<br>swing stage, power<br>brushing |                                                       |                                            |
| DECISION NO. LA82-4021 -<br>MOD. #1<br>(47 FR 19877 - 5/7/82)<br>Bossier & Caddo Parishes,<br>Louisiana                                                                                                                                                       |                                              |                                    | CHANGE:<br>Plumbers & pipefitters<br>Sprinkler fitters                                                                                                   |                                                       |                                            |
| DECISION NO. LA82-4022 -<br>MOD. #1<br>(47 FR 19877 - 5/7/82)<br>Calcasieu Par., Louisiana                                                                                                                                                                    | 15.22                                        | 2.46                               | CHANGE:<br>Sprinkler fitters                                                                                                                             |                                                       |                                            |
| DECISION NO. OK81-4056 -<br>MOD. #10<br>(46 FR 37209 - July 17,<br>1981)<br>Tulsa, Delaware, Creek,<br>Craig, Ottawa, Mayes and<br>Roger Counties, Oklahoma                                                                                                   | 15.72                                        | 2.46                               | CHANGE:<br>Sprinkler fitters                                                                                                                             |                                                       |                                            |
| DECISION #KS82-4013-MOD. #3<br>(47 FR 16519-April 16, 1982)<br>LEAVENWORTH COUNTY, KANSAS                                                                                                                                                                     |                                              |                                    | CHANGE:<br>Roofers                                                                                                                                       |                                                       |                                            |

CHANGE DESCRIPTION OF WORK  
TO READ:  
BUILDING PROJECTS (EX-  
cluding single family  
homes and apartments up  
to and including 4  
stories) and EXCLUSION OF  
Water and Sewer Treatment  
Plants in Tulsa County  
ONLY.

## Modification Page 4

| DECISION NO. TX82-4005 -<br>MOD. #5<br>(47 FR 4465 - 1/29/82)<br>Jefferson & Orange Cos.,<br>Texas                                                                                                     | DECISION NO. PA81-3090<br>MOD. NO. 2<br>(46 FR 61813 - December 18,<br>1981)<br>Lycoming County, Pa.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Basic<br>Hourly<br>Rates                                                                                 | Fringe<br>Benefits                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| CHANGE:<br>Roofers:<br>Composition<br>Slate & tile<br>Kettlemen<br>Sprinkler fitters                                                                                                                   | CHANGE:<br>Cement Masons<br>Bricklayers & Stonemasons<br>LABORERS:<br>General Laborers<br>Operator of jackhammer,<br>paving and other pneumatic<br>electrical and mechanical<br>tools, laying of all clay,<br>terra cotta, ironstone,<br>vitrified concrete or non-<br>metallic pile and the making<br>of joints for same, wagon<br>drill operator, cofferdam<br>(below 10'), tunnel free<br>air, handling and using<br>cutting or burning torches<br>in the wrecking of buildings,<br>blasters, plaster tenders,<br>mason tenders, scaffold<br>builders and removal of<br>power buggies<br>Painters<br>Brush<br>Tapers<br>Hazardous<br>POWER EQUIPMENT OPERATORS:<br>Group 1<br>Group 2<br>Group 3<br>Group 4<br>Group 5<br>Group 6<br>Group 7<br>Group 7-A<br>Group 7-B<br>Sprinkler Fitters<br>Soft Floor Layers<br>Sheet Metal Workers | \$13.86<br>14.61<br>12.90<br>16.17                                                                       | 1.58<br>1.58<br>1.58<br>2.83                                                                                   |
| DECISION NO. TX82-4019 -<br>MOD. #1<br>(47 FR 19935 - 5/7/82)<br>Collin, Dallas, Denton,<br>Ellis, Grayson, Hood,<br>Hunt, Johnson, Kaufman,<br>Palo Pinto, Rockwall,<br>Tarrant & Wise Cos.,<br>Texas |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 14.31<br>14.56<br>14.435<br>14.685<br>16.17                                                              | 1.62<br>1.62<br>1.62<br>1.62<br>2.83                                                                           |
| CHANGE:<br>Painters:<br>Zone 1 - Group 1<br>Group 2<br>Group 3<br>Group 4<br>Sprinkler fitters                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 8.90<br>11.85<br>12.51<br>13.51                                                                          | 1.40<br>1.80<br>1.80<br>1.80                                                                                   |
| DECISION NO. PA82-3003 -<br>MOD. NO. 3<br>(47 FR 8467 - February 26,<br>1982)<br>Bucks, Chester, Delaware,<br>Montgomery & Philadelphia<br>Counties, Pennsylvania                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 14.85<br>14.56<br>13.69<br>12.92<br>12.45<br>11.54<br>15.10<br>15.35<br>15.59<br>16.92<br>11.69<br>14.62 | 25.67a<br>25.67a<br>25.67a<br>25.67a<br>25.67a<br>25.67a<br>25.67a<br>25.67a<br>25.67a<br>2.83<br>1.95<br>1.95 |
| CHANGE:<br>TRUCK DRIVERS:<br>Heavy and Highway Truck<br>Drivers:<br>Including Site Preparation,<br>Paving and Utilities on<br>Building Construction<br>Class 2<br>Class 3                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | \$11.30<br>11.50                                                                                         | 2.5425<br>2.5425                                                                                               |

## Modification Page 3

| DECISION NO. TX80-4088 -<br>MOD. #7<br>(45 FR 74364 - 11/7/80)<br>Harrison County, Texas | DECISION NO. TX81-4075 -<br>MOD. #10<br>(46 FR 48863 - 10/2/81)<br>Galveston & Harris Cos.,<br>Texas                                                                                                                                                                                                                               | Basic<br>Hourly<br>Rates | Fringe<br>Benefits                            |
|------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-----------------------------------------------|
| CHANGE:<br>Sprinkler fitters                                                             | CHANGE:<br>Roofers:<br>Composition<br>Slate & tile<br>Kettlemen<br>Sprinkler fitters                                                                                                                                                                                                                                               | \$16.17<br>2.83          | 1.58<br>1.58<br>1.58<br>2.83                  |
| DECISION NO. TX81-4088 -<br>MOD. #6<br>(46 FR 1550 - 1/6/81)<br>Smith County, Texas      | DECISION NO. TX81-4078 -<br>MOD. #8<br>(46 FR 48865 - 10/2/81)<br>Bexar County, Texas                                                                                                                                                                                                                                              | 16.17<br>2.83            | 1.58<br>1.58<br>1.58<br>2.83                  |
| CHANGE:<br>Sprinkler fitters                                                             | CHANGE:<br>Sprinkler fitters                                                                                                                                                                                                                                                                                                       | 16.17<br>2.83            | 2.83                                          |
| DECISION NO. TX81-4044 -<br>MOD. #6<br>(46 FR 33194 - 6/26/81)<br>Bowie County, Texas    | DECISION NO. TX81-4079 -<br>MOD. #6<br>(46 FR 48867 - 10/2/81)<br>Bell, Bosque, Coryell,<br>Falls, Hill & McLennan<br>Cos., Texas                                                                                                                                                                                                  | 16.17<br>2.83            | 1.58<br>1.58<br>1.58<br>2.83                  |
| CHANGE:<br>Sprinkler fitters                                                             | CHANGE:<br>Building Construction:<br>Plumbers & pipefitters:<br>Zone 1<br>Zone 2<br>Zone 3<br>Incidental Paving & Utilities:<br>Plumbers (Bell & Coryell):<br>Zone 1<br>Zone 2                                                                                                                                                     | 16.17<br>2.83            | .99<br>.99<br>.99<br>.99<br>.99<br>.99<br>.99 |
| DECISION NO. TX81-4064 -<br>MOD. #3<br>(46 FR 40487 - 8/7/81)<br>El Paso County, Texas   | DECISION NO. TX82-4001 -<br>MOD. #2<br>(47 FR 4463 - 1/29/82)<br>Armstrong, Carson, Castro,<br>Childress, Collingsworth,<br>Dallam, Deaf Smith, Don-<br>ley, Gray, Hansford,<br>Hartley, Hemphill,<br>Hutchinson, Lipscomb,<br>Moore, Ochiltree, Oldham,<br>Potter, Randall, Roberts,<br>Sherman, Swisher &<br>Wheeler Cos., Texas | 9.75<br>16.17<br>2.83    | 1.27<br>2.83                                  |
| CHANGE:<br>Bricklayers<br>Sprinkler fitters                                              | CHANGE:<br>Bricklayers & stonemason<br>Sprinkler fitters                                                                                                                                                                                                                                                                           | 13.54<br>16.17<br>2.83   | 2.21<br>2.83                                  |
| DECISION NO. TX81-4074 -<br>MOD. #9<br>(46 FR 48861 - 10/2/81)<br>Travis County, Texas   |                                                                                                                                                                                                                                                                                                                                    |                          |                                               |
| CHANGE:<br>Bricklayers & stonemason<br>Sprinkler fitters                                 |                                                                                                                                                                                                                                                                                                                                    |                          |                                               |

| DECISION NO. PA82-3007 -<br>MOD. NO. 2<br>(1982)                                                                                                                                                                | Basic<br>Hourly<br>Rates | Fringe<br>Benefits |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------|
| 747 FR 8529 - February 26,<br>1982)                                                                                                                                                                             |                          |                    |
| Bucks, Chester, Delaware,<br>Montgomery & Philadelphia<br>Counties, Pennsylvania                                                                                                                                |                          |                    |
| CHANGE:<br>Bricklayers:<br>Under 4 stories                                                                                                                                                                      | \$13.72                  | 2.32               |
| Carpenters:<br>Rehabilitation work to in-<br>clude demolition, repair and<br>alteration, on any existing<br>structure of not more than<br>(4) stories which is intended<br>for predominantly residential<br>use | 12.52                    | 4.41               |
| Residential Under 4 stories<br>Bucks, Delaware and<br>Montgomery Counties                                                                                                                                       | 11.38                    | 2.91               |
| All other work                                                                                                                                                                                                  | 13.52                    | 4.16               |
| Drywall Finishers:<br>All other work                                                                                                                                                                            | 12.03                    | 2.38               |
| Electricians:<br>Zone 1                                                                                                                                                                                         | 17.14                    | 2.40+3%            |
| Commercial<br>Residential up to and<br>including 4 stories                                                                                                                                                      | 16.14                    | .36+3%             |
| Zone 9                                                                                                                                                                                                          | 13.35                    | .64+3%             |
| Ironworkers:<br>All Other Work                                                                                                                                                                                  | 15.00                    | 4.05               |
| Zone 3                                                                                                                                                                                                          | 14.21                    | 4.00               |
| Structural & Ornamental<br>Reinforcing                                                                                                                                                                          |                          |                    |
| LABORERS:<br>*All Other Work:                                                                                                                                                                                   |                          |                    |
| Class 1                                                                                                                                                                                                         | 12.30                    | 2.00               |
| Class 2                                                                                                                                                                                                         | 12.40                    | 2.00               |
| Class 3                                                                                                                                                                                                         | 12.45                    | 2.00               |
| Class 4                                                                                                                                                                                                         | 12.60                    | 2.00               |
| Class 5                                                                                                                                                                                                         | 12.70                    | 2.00               |
| Lathers<br>Zone 1                                                                                                                                                                                               | 13.52                    | 4.41               |

| LINE CONSTRUCTION:<br>ZONE 1                                    | Basic<br>Hourly<br>Rates | Fringe<br>Benefits |
|-----------------------------------------------------------------|--------------------------|--------------------|
| Linenmen                                                        | \$17.60                  | .60+4%             |
| Groundmen                                                       | 10.56                    | .60+4%             |
| Winch truck operator                                            | 12.32                    | .60+4%             |
| Marble Setters                                                  | 13.20                    | 3.12               |
| Marble Finishers                                                | 10.59                    | 3.75               |
| Millwrights                                                     | 14.02                    | 4.41               |
| Painters:<br>All Other Work:                                    |                          |                    |
| Zone 1                                                          | 14.20                    | 2.38               |
| Brush                                                           | 14.65                    | 2.38               |
| Spray, steel & swing                                            | 14.20                    | 2.38               |
| Roller                                                          |                          |                    |
| Zone 2                                                          | 14.08                    | 2.49               |
| Commercial, brush                                               | 14.58                    | 2.49               |
| Commercial, spray                                               |                          |                    |
| Zone 4                                                          | 14.34                    | 3.10               |
| Steel                                                           | 15.09                    | 3.10               |
| Plumbers:<br>All Other Work:                                    |                          |                    |
| Zone 1                                                          | 18.73                    | 2.64               |
| Roofers:<br>Residential structure of not<br>more than 4 stories |                          |                    |
| re-roofing                                                      | 12.10                    | 1.90               |
| Zone 1                                                          | 18.28                    | 2.94               |
| Sheet metal workers                                             |                          |                    |
| Zone 1 (Commercial)                                             | 12.63                    | 3.56               |
| Soft Floor Layers:<br>All Other Work                            | 16.92                    | 2.83               |
| Sprinkler Fitters                                               | 17.81                    | 3.56               |
| Zone 1                                                          |                          |                    |
| Steam Fitters                                                   | 13.20                    | 2.48               |
| Zone 1                                                          |                          |                    |
| Stone Masons                                                    |                          |                    |
| Zone 1                                                          | 15.16                    | 25.6%              |
| POWER EQUIPMENT OPERATORS:                                      |                          |                    |
| Group 1                                                         | 14.90                    | 25.6%              |
| Group 2                                                         | 14.03                    | 25.6%              |
| Group 3                                                         | 13.82                    | 25.6%              |
| Group 4                                                         | 13.51                    | 25.6%              |
| Group 5                                                         | 13.34                    | 25.6%              |
| Group 6                                                         | 12.83                    | 25.6%              |
| Group 7                                                         | 12.09                    | 25.6%              |
| Group 8                                                         |                          |                    |

DECISION NO. PA82-3007  
MOD. NO. 2, CONT'D

| Terrazzo Workers                                                                                                       | Basic<br>Hourly<br>Rates | Fringe<br>Benefits |
|------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------|
| Terrazzo Finishers                                                                                                     | \$12.86                  | 3.12               |
| Tile Setters:                                                                                                          | 10.57                    | 3.75               |
| All Other Work                                                                                                         | 11.50                    | 3.89               |
| Tile Setters Finishers                                                                                                 | 10.36                    | 3.75               |
| TRUCK DRIVERS:                                                                                                         |                          |                    |
| BUILDING CONSTRUCTION                                                                                                  |                          |                    |
| Class I                                                                                                                | 11.35                    | 2.5425             |
| Class II                                                                                                               | 11.45                    | 2.5425             |
| Class III                                                                                                              | 11.65                    | 2.5425             |
| HEAVY & HIGHWAY INCLUDING SITE<br>PREPARATION, PAVING & UTILITIES<br>ON BUILDING CONSTRUCTION                          |                          |                    |
| Class 1                                                                                                                | 11.20                    | 2.5425             |
| Class 2                                                                                                                | 11.30                    | 2.5425             |
| Class 3                                                                                                                | 11.50                    | 2.5425             |
| OMIT:                                                                                                                  |                          |                    |
| Roofers:                                                                                                               |                          |                    |
| All Other Work:                                                                                                        |                          |                    |
| Zone 1                                                                                                                 | 7.75                     | 2.38+e             |
| Commercial                                                                                                             |                          |                    |
| Roofers Assistant                                                                                                      |                          |                    |
| ADD:                                                                                                                   |                          |                    |
| Roofers:                                                                                                               |                          |                    |
| All Other Work                                                                                                         |                          |                    |
| Zone 1                                                                                                                 |                          |                    |
| Commercial (To read<br>Mechanic II (Handle and<br>transport all materials<br>tools, and equipment;<br>clean-up debris) | 7.75                     | 2.38+e             |
| CHANGE:                                                                                                                |                          |                    |
| LABORERS:                                                                                                              |                          |                    |
| *All Other Work                                                                                                        | 12.24                    | 2.00               |
| Class 6                                                                                                                |                          |                    |

## SUPERSEDES DECISION

STATE: ILLINOIS  
 DECISION NUMBER: IL82-2032  
 SUPERSEDES DECISION No. IL81-2028 dated June 19, 1981 in 46 FR 32183  
 DESCRIPTION OF WORK: Heavy & Highway Construction Projects

COUNTIES: \*See Below  
 DATE: Date of Publication  
 \*Boone, DeKalb, DuPage, Kane, Kendall, Lake, McHenry & Will

| CARPENTERS; Piledriversmen:                                                                                                                      | Basic Hourly Rates | Fringe Benefits |
|--------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-----------------|
| Boone & DeKalb Cos.                                                                                                                              | 15.58              | 2.52            |
| DuPage & Lake Cos.                                                                                                                               | 15.50              | 2.61            |
| Kane, Kendall, & McHenry Cos.                                                                                                                    | 14.00              | 2.35            |
| Will Co.                                                                                                                                         | 15.88              | 2.35            |
| CEMENT MASONS:                                                                                                                                   |                    |                 |
| Boone Co.                                                                                                                                        | 11.78              | 1.55            |
| DeKalb, Kane (S. Part), & Kendall Cos.                                                                                                           | 15.75              | 2.56            |
| DuPage Co.                                                                                                                                       | 15.40              | 2.92            |
| Kane (N. Part) & McHenry Cos.                                                                                                                    | 16.45              | 1.86            |
| Lake Co.                                                                                                                                         | 15.00              | 3.30            |
| Will Co.                                                                                                                                         | 15.55              | 3.11            |
| ELECTRICIANS:                                                                                                                                    |                    |                 |
| Boone & DeKalb (Except Sandwich Twp.) Cos.                                                                                                       | 15.63              | 2.10            |
| DeKalb (Sandwich Twp.), Kane (Aurora, Sugar Grove, Big Rock, Kaneville, Blackberry, Batavia, Geneva Twp., & City of St. Charles), & Kendall Cos. | 17.95              | 3.50            |
| DuPage Co.                                                                                                                                       | 17.65              | 4.06            |
| Kane (Rem. of Co.) & McHenry Cos.                                                                                                                | 18.10              | 3.42            |
| Lake Co.                                                                                                                                         | 16.75              | 3.85            |
| Will Co.                                                                                                                                         | 17.68              | 2.72            |
| IRONWORKERS:                                                                                                                                     |                    |                 |
| Boone, DeKalb (Except S.E. 2/3 of Co.), & McHenry (N.W. 1/4 of Co.) Cos.                                                                         | 15.85              | 2.775           |
| DeKalb (Rem. of Co.), DuPage (Except Argonne & Vic.), Kane, Kendall (N. Part), & McHenry (S.E. 1/4 of Co.) Cos.                                  | 18.40              | 1.705           |
| DuPage (Argonne & Vic.), Kendall (S. Part), & Will Cos.                                                                                          | 14.77              | 4.955           |
| Lake & McHenry (Hebron, Woodstock & E. Thereof) Cos.                                                                                             | 16.80              | 3.71            |

## LINE CONSTRUCTION:

Boone, DeKalb, DuPage, Kane, Kendall, Lake, & McHenry Cos.:  
 Linemen; Digger Op.; & Crane (15 Tons or above)

Equipment Op.; Semi-Truck Drivers

Groundmen Truck Drivers

Groundmen

Will Co.:  
 Linemen; Digger Op.; & Crane (15 Tons or above)

Equipment Op.; Semi-Truck Drivers

Groundmen Truck Drivers

Groundmen

Will Co.:  
 Linemen; Equipment Ops.

Groundmen

PAINTERS:

Boone Co.:  
 Brush; Roller

Open Structural Steel

Spray

Sandblasting

DeKalb, DuPage, Kane, Kendall, & McHenry Cos.:  
 Brush; Spray; Sand-

Blasting

Lake Co.:  
 Brush

Will Co.:  
 Brush

Bridges with:

rails

W/Superstructures

WO/Superstructures

TRUCK DRIVERS:

Boone Co.:  
 2-3 Axles

4 Axles

5 Axles

6 Axles

Remainder of Counties:

2-3 Axles

4 Axles

5 Axles

6 Axles

## DECISION NO. IL82-2032

LABORERS:  
 Boone, Kane, Kendall, & McHenry Cos.:  
 Class 1: Common Laborers; Asphalt Plant Laborers; Stripping Laborers; Concrete Saw; Self-Propelled Saw; & Laser Beam

Class 2: Air Tampers & Vibrators

Class 3: Mortar Concrete Mixers

Class 4: Stringline & Form Setters; Torchmen; Sheet piling; Cribbing

Men; Black Top Packers; Lutemen; & Machine Screwmens

Class 5: Chain Saw Men; Jackhammers; Drilling; Concrete Breaker; & Air Spade

Class 6: Tunnel Men; Tile Layers & Bottom Men

Class 7: Caisson Diggers; & Dynamiters

LABORERS:  
 DuPage and Will Cos.:  
 Common; Plasterer Tenders; DuPage and Will Cos.; Pumps for Dewatering & other unclassified Laborers

Cement Gun Laborers

Scaffold Laborers & Chimney Laborers over 40 ft.

Windlass & Cement Gun

Nozzle Laborers - Gun-

nite

Stone Handlers & Derrickmen

Jackhammers

Concrete Vibrator; Plumb-

ers' Tenders; & Chain Saw

Operators

Firebrick & Boiler Setters

Tenders

Chimney Tenders on Fire-

Brick; Caisson Diggers & Well Point System Men

Boiler Setter Plastic Tent

Jackhammer on Firebrick only

## Page 2

LANDSCAPE WORK (DuPage, Kane, Lake, McHenry & Will Cos.)

Plantmen

Truck Driver; Tractor

Trailer (3 Axles or more) and Equipment

Operator

Truck Drivers - Single Axle

LABORERS: Lake County

SEWER & WATER MAIN EXTENSIONS

Class 1: General Laborers & Top Laborers

Class 2: Second Bottom Men

Class 3: Well Point System-Jackhammer Men (Tampers & Vibrators); Bottom Men; Pipelayer on Drains & Pipelayer Men; all Tunnel Work

STREET PAVING & GRADE SEPARATION

Class 1: General, Asphalt Plant Laborers

Class 2: Laborers on Apsco, Birch Overman & Similar Spreader Equipment, Machine Screwmens

Class 2: Form Setters; Well Point; Jackhammer (Tampers & Vibrators); Bottom Men; Pipelayers on Drains; Catch Basin Diggers & Manhole; Power Driven Concrete Saw

LABORERS: DeKalb County:

Class I

Class II

Class III

POWER EQUIPMENT OPERATORS:

Class 1

Class 2

Class 3

Class 4

Class 5

- a. 4 Paid Holidays: Memorial Day; July 4th; Labor Day; & Thanksgiving Day
- b. Per Week Per Employee
- c. Six Paid Holidays: New Year's Day; Memorial Day; July 4th; Labor Day; Thanksgiving Day; & Christmas Day
- d. 1 year service - 1 week paid vacation - 2 or more years service - 2 weeks paid vacation

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

**CLASSIFICATION DEFINITIONS - LABORERS:**  
DeKalb County

**CLASS I - Common Laborers; Carpenters' Tenders; Tool, Cribmen, Firemen, or Salamander Tenders; Gravel Box Men; Dumpmen & Spotters; Form Handlers; Material Handlers; Fencing Laborers; Cleaning Lumber; Pit Men; Dispatchers; Landscapers; Unloading Explosives; Laying of Sod; Planting of Trees; Removal of Trees; Asphalt Plant Laborers; Working Laborers; Fireproofing Laborers; Drilling of Stakes; Stringlines for all Machinery; Asphalt Workers with Machines and Layers; Grade Checker; Signal Man on Crane; Coring Machine Operator; Concrete Workers (wet), on Concrete Paving; Placing, Cutting and Typing of Reinforcing Steel Form Settings-Street and Highway**

**CLASS II - Scaffold Workers; Handling of Materials Treated with any Foreign Matter Harmful to Skin or Clothing; Bulk Cement Handlers; Unloading of Bags; Tunnel Tenders in Free Air; Batch Dumpers; Mason Tenders; Kettle and Tank Men; Tank Cleaners; Plastic Installers; Motorized Buggies or Motorized Unit Used for Wet Concrete or Handling of Building Materials; Vibrator Operators; Mortar Mixer Operators; Cement Silica; Clay Fly Ash; Lime and Plaster Handlers (Bulk or Bag); Deck Hand; Dredge Hand and Shore Laborers; Bankmen on Floating Plant; Power Tools; Material Selector (Firebrick or Castable Material); Chain Saw Operators; Air Tamping Hammerman; Concrete Saw Operator; Front End Man on Chip Spreader; Luteman; Asphalt Raker**

**CLASS III - Jackhammer and Drill Operator; Laborers with De-Watering Systems; Bottom Sewer Workers Plus Depth; Cofferdam Workers Plus Depth; Caisson Workers Plus Depth; Gunnite Nozzle Men; Leadman on Sewer Work; Welders, Cutters, Burners, & Torchmen; Layout Man and/or Tile Layer; Screenman on Asphalt Pavers; Laborers Tending Masons with Hot Material; Multiple Concrete Duct-Leadman; Curb Asphalt Machine Operator; Ready-Mix Scalemen; Permanent, or Temporary Plant; Laser Beam Operator; Concrete Burning Machine Operators; Underpinning and Shoring of Building; Pump Men**

**CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:**  
Sewer, Heavy & Highway Construction:

**CLASS 1 - Asphalt Plant; Asphalt Heater & Planer Combination; Asphalt Spreader; Autograder; Belt Loader; Caisson Rigs; Car Dumper; Central Redi-Mix Plant; Combination Backhoe Front End Loader Machine (1 cu. yd. Backhoe Bucket or over with Attachment); Concrete Breaker (Truck Mounted); Concrete Conveyor; Concrete Paver over 27E cu. ft.; Concrete Placer; Concrete Tube Float; Cranes, all attachments; Cranes, Hammerhead, Linden, Peco & Machines of a like nature; Creter Crane; Crusher, Stone, etc.; Derricks; Derrick Boats; Derricks, traveling; Dragages; Field Mechanic-Welder; Formless Curb & Gutter Machine; Gradall & Machines of a like nature Grader, Elevating; Grader, Motor Grader, Motor Patrol, Auto Patrol, Form**

**DECISION NO. IL82-2032**

**CLASSIFICATION DEFINITIONS (CONT'D)**

**Grader, Pull Grader, Subgrader; Guard Rail Post Driver Mounted; Hoists, 1, 2, & 3 Drum; Hydraulic Backhoes; Locomotives; Mucking Machine; Piledriver or Skid Rig; Pre-stress Machine; Pump Cretes Dual Ram; Rock Drill - Crawler Roto Mill Grinder (less than 36"); Slip Form Paver; Soil Test Drill Rig (Truck Mounted); Straddle Buggies; Hydraulic Telescoping Form (Tunnel); Tractor Drawn Belt Loader with or w/o attach. Pusher; Tractor with Boom; Tractaire with attachments; Trenching Machine; Truck mounted Concrete Pump with Boom; Underground Boring and/or Mining Machines under 5 ft.; Wheel Excavator; & Widener (Apsco)**

**CLASS 2 - Batch Plant; Bituminous Mixer; Bobcats (Over 3/4 cu. yd.); Boiler & Throttle Valve; Bulldozers; Car Loader Trailing Conveyors; Combination Backhoe Front End Loader Machine (less than 1 cu. yd. Backhoe Bucket or over with attachments); Compressor & Throttle Valve; Compressor, Common receiver (3); Concrete Breaker or Hydrohammer; Concrete Grinding Machine; Concrete Mixer or Paver 75 series to & incl. 27 cu. ft.; Concrete Spreader; Concrete Curing Machine, Burlap Machine, Belting Machine & Sealing Machine; Conveyor Muck Cars (Haglund or Similar type); Finishing Machine - Concrete; Greaser Engineer; Hilti Shovels or Front End Loader; Hoist - Sewer Draggings Machine; Hydraulic Boom Trucks (all attachments); Locomotives, Dinkey; Pump-cretes; Squeeze Cretes - Screw type pumps, Gypsum Bulker & Pump; Roller, Asphalt; Rotary Snow Plows; Rototiller, Seaman, etc.; Self-propelled; Scoops - Tractor drawn; Self-propelled Compactor Spreader - Chip - Stone, etc.; Scraper - Prime mover in Tandem (regardless of size); Tank Car Heater; Tractors, Push, Pulling Sheep's Foot, Disc, Compactor, etc.; & Tug Boats**

**CLASS 3 - Boilers; Brooms, All Power Propelled; Cement Supply Tender; Compressor, Common Receiver (2); Concrete Mixer (2 Bag & Over); Conveyor, Portable; Farm-type Tractors used for mowing, seeding, etc.; Firemen on Boilers; Forklift Trucks; Grouting Machine; Hoists, Automatic; Hoists, all Elevators; Hoists, Tugger Single Drum; Jeep Diggers; Pipe Jacking Machines; Post Hole Digger; Power Saw, Concrete, Power Driven; Pug Mills; Rollers, other than Asphalt; Seed & Straw Blower; Steam Generators; Stump Machine; Winch Trucks with "A" Frame; Work Boats; & Tamper - Form-Motor Driven**

**CLASS 4 - Air Compressor - Small 170 & Under (1 to 5 not to exceed a total of 300 Ft.); Air Compressor - Large over 170; Asphalt Spreader Backend Man; Combination - Small Equipment Operator; Generators - Small 50KW & Under; Generators - Large over 50KW; Heaters, Mechanical; Hydraulic Power Unit (Piledriving or extracting); Light Plants, (1 through 5); Pumps, Over 3" (1 to 3 not to exceed a total of 300 ft.); Pumps, Well Points; Tractaires; Welding Machines (2 through 5); Winches, 4-small Electric Drill Winches; & Bobcats (up to & incl. 3/4 cu. yd.)**

**CLASS 5 - Oilers**

## SUPERSEDES DECISION

STATE: Ohio

COUNTIES: Ashtabula, Cuyahoga  
Lake, Lorain, Portage, Stark,  
and SummitDECISION NUMBER: OH82-2037  
Supersedes Decision No.: OH81-2067, dated December 18, 1981 in 46 FR 61807  
DESCRIPTION OF WORK: Building and Residential Construction Projects

| ASBESTOS WORKERS:                                                      | Basic Hourly Rates | Fringe Benefits | CEMENT MASONS (CONT'D)                           | Basic Hourly Rates | Fringe Benefits |
|------------------------------------------------------------------------|--------------------|-----------------|--------------------------------------------------|--------------------|-----------------|
| Ashtabula (Cities of Ashtabula & Geneva), Cuyahoga, Lake & Lorain Cos. | \$16.29            | 2.24            | Lorain Co. Portage, Stark, & Summit Cos.:        | 18.05              | .81+b           |
| Ashtabula (Rem. of Co.) Remaining Cos.                                 | 15.64              | 2.42            | Commercial Construction Residential Construction | 15.19              | 1.72            |
| BOILERMAKERS                                                           | 16.10              | 2.04            | tion                                             | 14.22              | 1.72            |
| BRICKLAYERS; Stonemasons:                                              | 15.755             | 2.805           | ELECTRICIANS:                                    |                    |                 |
| Ashtabula Co.                                                          | 16.42              | 2.45            | Cuyahoga & Lorain (Twp. of Columbia) Cos.        | 16.84              | 3+              |
| Cuyahoga Co.                                                           | 15.57              | 2.74            | Lake Co.:                                        | 1.75               | 3+              |
| Lake Co.                                                               | 16.72              | 2.05+a          | Commercial Construction                          | 18.73              | 3.2+            |
| Lorain Co.                                                             | 18.05              | .81+b           | Residential Construction                         | 9.15               | 4+              |
| Portage and Summit Cos.:                                               | 15.52              | 2.22            | tion                                             | .85                |                 |
| Commercial Construction                                                | 13.92              | 1.82            | Lorain (Except Columbia                          | 16.75              | 3.1+            |
| Stark Co.                                                              | 15.74              | 2.57            | Twp.): Commercial Construction                   | 9.98               | 3.1+            |
| CARPENTERS; Millwrights; Piledrivermen; Soft Floor Layers:             |                    |                 | Residential Construc-                            |                    | 3.1+            |
| Ashtabula, Cuyahoga, & Lake Cos.:                                      | 15.67              | 3.14            | tion                                             |                    | 3.1+            |
| Carpenters; Soft Floor Layers                                          | 15.20              | 3.61            | Commercial Construction                          |                    | 3.1+            |
| Millwrights                                                            | 15.50              | 3.31            | tion                                             |                    | 3.1+            |
| Piledrivermen                                                          | 15.35              | 2.29            | Portage (Twps. of At-                            |                    |                 |
| Soft Floor Layers                                                      | 15.50              | 3.61            | water, Aurora, Brim-                             |                    |                 |
| Residential:                                                           | 14.50              | 2.70+c          | field, Franklin,                                 |                    |                 |
| Carpenters:                                                            | 11.31              | 1.27            | Mantus, Randolph, Raven-                         |                    |                 |
| Stark Co.:                                                             | 15.93              | 1.77            | na, Rootstown, Shelby-                           |                    |                 |
| Millwrights; Pile-                                                     | 16.41              | 1.77            | ville, Streetsboro, &                            |                    |                 |
| drivermen                                                              | 15.76              | 1.77            | Suffield), & Summit                              |                    |                 |
| Soft Floor Layers                                                      |                    |                 | Cos.:                                            |                    |                 |
| Lorain Co.:                                                            | 15.37              | 2.23+d          | Commercial Construction                          | 16.67              | 3.2+            |
| Carpenters; Soft Floor Layers                                          | 15.20              | 3.61            | tion                                             |                    | 3.2+            |
| Millwrights                                                            | 15.50              | 3.31            | Residential Construc-                            | 10.78              | 3.2+            |
| Piledrivermen                                                          |                    |                 | tion                                             |                    | 3.2+            |
| CEMENT MASONS:                                                         |                    |                 | Stark County:                                    | 15.70              | 3.3+            |
| Ashtabula Co.                                                          | 16.42              | 2.45            | Commercial Construction                          | 10.94              | 3.3+            |
| Cuyahoga Co.                                                           | 16.72              | 1.62            | tion                                             |                    | 3.3+            |
| Lake Co.                                                               | 16.72              | 2.05+a          | Residential Construc-                            |                    | 3.3+            |
|                                                                        |                    |                 | tion                                             |                    | 3.3+            |
|                                                                        |                    |                 | Ashtabula Co. (Twps. of                          |                    |                 |
|                                                                        |                    |                 | Colebrook, Wayne,                                |                    |                 |
|                                                                        |                    |                 | Williamsfield, Orwell, &                         |                    |                 |
|                                                                        |                    |                 | Windsor) & Portage (Re-                          |                    |                 |
|                                                                        |                    |                 | mainder of Co.) Co.                              |                    |                 |
|                                                                        |                    |                 |                                                  | 16.62              | 9.702+          |
|                                                                        |                    |                 |                                                  |                    | +1.00           |

## DECISION NO. OH82-2037

## ELECTRICIANS (CONT'D)

Ashtabula Co. (Rem of  
Co.): Commercial Construction

| RESIDENTIAL CONSTRUCTION  | Basic Hourly Rates | Fringe Benefits | LINE CONSTRUCTION (CONT'D)                         | Basic Hourly Rates | Fringe Benefits |
|---------------------------|--------------------|-----------------|----------------------------------------------------|--------------------|-----------------|
| ELEVATOR CONSTRUCTORS:    | 17.25              | 3.5%            | Freedom, Hiram, Nelson,<br>Palmvra, Paris, & Wind- | 17.08              | 8%              |
| Ashtabula Co.:            | 8.10               | +2.75<br>+1.00  | ham): Cable Splicing Op.; Line-                    | 13.66              | +70<br>8%       |
| Mechanic                  |                    |                 | men; Pole Digging Equip-                           |                    | +70             |
| Helpers                   | 14.88              | 2.465           | ment Op.                                           |                    |                 |
| Helpers (Prob.)           | 70%JR              | +e+f            | Groundmen                                          |                    |                 |
| Cos.:                     | 50%JR              | 2.465           | Ashtabula Co. (Rem. of                             | 13.05              | 3%              |
| Cuyahoga, Lake, & Lorain  |                    | +e+f            | Co.): Cable Splicing; Equip-                       | 9.80               | +1.75<br>3%     |
| Mechanic                  | 16.13              | 2.33+           | ment Op.; Line Truck                               |                    | +1.75           |
| Helpers                   | 70%JR              | 2.33+           | Driver; Linemen                                    |                    |                 |
| Helpers (Prob.)           | 50%JR              | 2.33+           | Groundmen                                          |                    |                 |
| Portage, Stark, & Summit  |                    | e+f             | Cuyahoga & Lorain (Co-                             |                    |                 |
| Cos.:                     | 15.645             | 2.33+           | lumbia Twp.) Cos.:                                 |                    |                 |
| Mechanic                  | 70%JR              | 2.33+           | Cable Splicers; Equip-                             | 17.93              | 3%              |
| Helpers                   | 50%JR              | 2.33+           | ment Ops.; Linemen                                 |                    |                 |
| Helpers (Prob.)           |                    | e+f             | Truck Drivers (winch)                              |                    |                 |
| Cos.:                     |                    | e+f             | Groundmen                                          | 11.65              | 3%              |
| GUAZIERS:                 |                    |                 | Lorain (Rem. of Co.)                               |                    | +60             |
| Ashtabula, Cuyahoga,      |                    |                 | Co.:                                               |                    |                 |
| Lake, & Lorain Cos.       | 16.28              | 2.36            | Cable Splicers; Equip-                             | 16.75              | 3%              |
| Portage, Stark & Summit   |                    |                 | ment Ops.; & Linemen                               |                    |                 |
| Cos.:                     | 14.08              | 2.66            | Groundmen                                          | 10.89              | 3%              |
| Commercial                | 8.62               | 1.91            | Lake Co.:                                          |                    | +1.75           |
| Residential               |                    |                 | Cable Splicers; Equip-                             |                    |                 |
| IRONWORKERS:              |                    |                 | ment Operators; Line-                              | 18.73              | 3%              |
| Ashtabula (NE & of Co.)   |                    |                 | men                                                |                    | +1.55           |
| Co.                       | 14.50              | 3.52            | Groundmen                                          | 12.17              | 3%              |
| Ashtabula (NW & Cuyahoga, |                    |                 | Portage (Twps. of At-                              |                    |                 |
| Lake, Lorain, Portage     |                    |                 | water, Aurora, Brim-                               |                    |                 |
| (excl. Ravenna Ordnance   |                    |                 | field, Deerfield, Frank-                           |                    |                 |
| Depot), & Summit cos.     | 16.22              | 2.58            | lin, Mantus, Randolph,                             |                    |                 |
| Ashtabula (S & of Co.) &  |                    |                 | Ravenna, Rootstown,                                |                    |                 |
| Portage (Ravenna Ordnance |                    |                 | Shalersville, Streets-                             |                    |                 |
| Depot) Cos.               | 15.26              | 2.39            | boro, Suffield, & Summit                           |                    |                 |
| Stark Co.                 | 14.43              | 2.92            | Cos.:                                              |                    |                 |
| LATHERS:                  |                    |                 | Linemen                                            | 16.67              | 3%              |
| Lorain (Western &)        | 16.30              |                 | Cable Splicers                                     | 17.72              | 3%              |
| LINE CONSTRUCTION:        |                    |                 | Groundmen; Truck Drivers                           | 8.34               | 1.58            |
| Ashtabula Co. (Twps. of   |                    |                 | Equipment Operators                                | 12.50              | 3%              |
| Colebrook, Orwell, Wayne, |                    |                 | Stark Co.:                                         |                    | +1.58           |
| Williamsfield & Windsor), |                    |                 | Cable Splicers                                     | 14.59              | 3.3%            |
| Portage Co. (Twps. of     |                    |                 |                                                    |                    | +2.00           |
| Charleston, Edinburg,     |                    |                 |                                                    |                    |                 |

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| Basic Hourly Rates | Fringe Benefits | Basic Hourly Rates | Fringe Benefits | Basic Hourly Rates | Fringe Benefits |
|--------------------|-----------------|--------------------|-----------------|--------------------|-----------------|
| 16.03              | 2.62            | 16.03              | 2.62            | 16.03              | 2.62            |
| 17.78              | .80             | 17.78              | .80             | 17.78              | .80             |
| 14.89              | 2.46            | 14.89              | 2.46            | 14.89              | 2.46            |
| 14.69              | 2.64            | 14.69              | 2.64            | 14.69              | 2.64            |
| 13.91              | 2.11            | 13.91              | 2.11            | 13.91              | 2.11            |
| 15.17              | 2.14+           | 15.17              | 2.14+           | 15.17              | 2.14+           |
| 9.55               | 2.14+           | 9.55               | 2.14+           | 9.55               | 2.14+           |
| 13.64              | 3.55            | 13.64              | 3.55            | 13.64              | 3.55            |
| 13.69              | 3.55            | 13.69              | 3.55            | 13.69              | 3.55            |
| 13.74              | 3.55            | 13.74              | 3.55            | 13.74              | 3.55            |
| 13.97              | 3.55            | 13.97              | 3.55            | 13.97              | 3.55            |
| 14.14              | 3.55            | 14.14              | 3.55            | 14.14              | 3.55            |
| 13.15              | 2.30            | 13.15              | 2.30            | 13.15              | 2.30            |
| 13.40              | 2.30            | 13.40              | 2.30            | 13.40              | 2.30            |

## DECISION NO. OH82-2037

| Basic Hourly Rates | Fringe Benefits | Basic Hourly Rates | Fringe Benefits | Basic Hourly Rates | Fringe Benefits |
|--------------------|-----------------|--------------------|-----------------|--------------------|-----------------|
| 15.70              | 3.3%            | 15.70              | 3.3%            | 15.70              | 3.3%            |
| 9.84               | 3.3%            | 9.84               | 3.3%            | 9.84               | 3.3%            |
| 13.44              | 3.3%            | 13.44              | 3.3%            | 13.44              | 3.3%            |
| 16.42              | 2.45            | 16.42              | 2.45            | 16.42              | 2.45            |
| 15.97              | 2.74            | 15.97              | 2.74            | 15.97              | 2.74            |
| 15.905             | 2.25            | 15.905             | 2.25            | 15.905             | 2.25            |
| 16.72              | 2.05+a          | 16.72              | 2.05+a          | 16.72              | 2.05+a          |
| 18.05              | .81+b           | 18.05              | .81+b           | 18.05              | .81+b           |
| 14.77              | 1.81            | 14.77              | 1.81            | 14.77              | 1.81            |
| 13.52              | 2.10            | 13.52              | 2.10            | 13.52              | 2.10            |
| 13.44              | 2.10            | 13.44              | 2.10            | 13.44              | 2.10            |
| 13.35              | 2.10            | 13.35              | 2.10            | 13.35              | 2.10            |
| 14.405             | 2.50            | 14.405             | 2.50            | 14.405             | 2.50            |
| 14.51              | 1.81            | 14.51              | 1.81            | 14.51              | 1.81            |
| 14.27              | 2.62            | 14.27              | 2.62            | 14.27              | 2.62            |
| 15.06              | 2.62            | 15.06              | 2.62            | 15.06              | 2.62            |
| 15.46              | 2.62            | 15.46              | 2.62            | 15.46              | 2.62            |
| 15.76              | 2.62            | 15.76              | 2.62            | 15.76              | 2.62            |
| 12.25              | 2.05+g          | 12.25              | 2.05+g          | 12.25              | 2.05+g          |
| 12.75              | 2.05+g          | 12.75              | 2.05+g          | 12.75              | 2.05+g          |
| 13.00              | 2.05+g          | 13.00              | 2.05+g          | 13.00              | 2.05+g          |
| 11.60              | 2.05+g          | 11.60              | 2.05+g          | 11.60              | 2.05+g          |
| 12.35              | 2.05+g          | 12.35              | 2.05+g          | 12.35              | 2.05+g          |
| 14.45              | 2.25            | 14.45              | 2.25            | 14.45              | 2.25            |
| 14.95              | 2.25            | 14.95              | 2.25            | 14.95              | 2.25            |

| Basic Hourly Rates | Fringe Benefits | Basic Hourly Rates | Fringe Benefits | Basic Hourly Rates | Fringe Benefits |
|--------------------|-----------------|--------------------|-----------------|--------------------|-----------------|
| 15.70              | 3.3%            | 15.70              | 3.3%            | 15.70              | 3.3%            |
| 9.84               | 3.3%            | 9.84               | 3.3%            | 9.84               | 3.3%            |
| 13.44              | 3.3%            | 13.44              | 3.3%            | 13.44              | 3.3%            |
| 16.42              | 2.45            | 16.42              | 2.45            | 16.42              | 2.45            |
| 15.97              | 2.74            | 15.97              | 2.74            | 15.97              | 2.74            |
| 15.905             | 2.25            | 15.905             | 2.25            | 15.905             | 2.25            |
| 16.72              | 2.05+a          | 16.72              | 2.05+a          | 16.72              | 2.05+a          |
| 18.05              | .81+b           | 18.05              | .81+b           | 18.05              | .81+b           |
| 14.77              | 1.81            | 14.77              | 1.81            | 14.77              | 1.81            |
| 13.52              | 2.10            | 13.52              | 2.10            | 13.52              | 2.10            |
| 13.44              | 2.10            | 13.44              | 2.10            | 13.44              | 2.10            |
| 13.35              | 2.10            | 13.35              | 2.10            | 13.35              | 2.10            |
| 14.405             | 2.50            | 14.405             | 2.50            | 14.405             | 2.50            |
| 14.51              | 1.81            | 14.51              | 1.81            | 14.51              | 1.81            |
| 14.27              | 2.62            | 14.27              | 2.62            | 14.27              | 2.62            |
| 15.06              | 2.62            | 15.06              | 2.62            | 15.06              | 2.62            |
| 15.46              | 2.62            | 15.46              | 2.62            | 15.46              | 2.62            |
| 15.76              | 2.62            | 15.76              | 2.62            | 15.76              | 2.62            |
| 12.25              | 2.05+g          | 12.25              | 2.05+g          | 12.25              | 2.05+g          |
| 12.75              | 2.05+g          | 12.75              | 2.05+g          | 12.75              | 2.05+g          |
| 13.00              | 2.05+g          | 13.00              | 2.05+g          | 13.00              | 2.05+g          |
| 11.60              | 2.05+g          | 11.60              | 2.05+g          | 11.60              | 2.05+g          |
| 12.35              | 2.05+g          | 12.35              | 2.05+g          | 12.35              | 2.05+g          |
| 14.45              | 2.25            | 14.45              | 2.25            | 14.45              | 2.25            |
| 14.95              | 2.25            | 14.95              | 2.25            | 14.95              | 2.25            |

| Basic Hourly Rates | Fringe Benefits | Basic Hourly Rates | Fringe Benefits | Basic Hourly Rates | Fringe Benefits |
|--------------------|-----------------|--------------------|-----------------|--------------------|-----------------|
| 15.70              | 3.3%            | 15.70              | 3.3%            | 15.70              | 3.3%            |
| 9.84               | 3.3%            | 9.84               | 3.3%            | 9.84               | 3.3%            |
| 13.44              | 3.3%            | 13.44              | 3.3%            | 13.44              | 3.3%            |
| 16.42              | 2.45            | 16.42              | 2.45            | 16.42              | 2.45            |
| 15.97              | 2.74            | 15.97              | 2.74            | 15.97              | 2.74            |
| 15.905             | 2.25            | 15.905             | 2.25            | 15.905             | 2.25            |
| 16.72              | 2.05+a          | 16.72              | 2.05+a          | 16.72              | 2.05+a          |
| 18.05              | .81+b           | 18.05              | .81+b           | 18.05              | .81+b           |
| 14.77              | 1.81            | 14.77              | 1.81            | 14.77              | 1.81            |
| 13.52              | 2.10            | 13.52              | 2.10            | 13.52              | 2.10            |
| 13.44              | 2.10            | 13.44              | 2.10            | 13.44              | 2.10            |
| 13.35              | 2.10            | 13.35              | 2.10            | 13.35              | 2.10            |
| 14.405             | 2.50            | 14.405             | 2.50            | 14.405             | 2.50            |
| 14.51              | 1.81            | 14.51              | 1.81            | 14.51              | 1.81            |
| 14.27              | 2.62            | 14.27              | 2.62            | 14.27              | 2.62            |
| 15.06              | 2.62            | 15.06              | 2.62            | 15.06              | 2.62            |
| 15.46              | 2.62            | 15.46              | 2.62            | 15.46              | 2.62            |
| 15.76              | 2.62            | 15.76              | 2.62            | 15.76              | 2.62            |
| 12.25              | 2.05+g          | 12.25              | 2.05+g          | 12.25              | 2.05+g          |
| 12.75              | 2.05+g          | 12.75              | 2.05+g          | 12.75              | 2.05+g          |
| 13.00              | 2.05+g          | 13.00              | 2.05+g          | 13.00              | 2.05+g          |
| 11.60              | 2.05+g          | 11.60              | 2.05+g          | 11.60              | 2.05+g          |
| 12.35              | 2.05+g          | 12.35              | 2.05+g          | 12.35              | 2.05+g          |
| 14.45              | 2.25            | 14.45              | 2.25            | 14.45              | 2.25            |
| 14.95              | 2.25            | 14.95              | 2.25            | 14.95              | 2.25            |

## DECISION NO. OH82-2037

## CLASSIFICATION DEFINITIONS FOR POWER EQUIPMENT OPERATORS:

GROUP A - A-Frames; All Rotary Drills used on Caisson Work for Foundations & Sub-structure Work; Boiler Op. when Compressor or Boiler is mounted on Crane (piggyback operation); Boom Trucks; Cableways; Cherry Pickers; Combination Concrete Mixer & Tower; Concrete Pumps; Cranes; Derricks; Draglines; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Op. (hoisting builders materials); Helicopter Winch Op. (hoisting builders materials); Hoses; Hoisting Engines (two or more drums); Lift Slab or Panel Jack Op.; Locomotives; Maintenance Engineer (mechanic or welder); Mixer Paving (multiple drum); Mobile Concrete Pumps with Boom; Panelboard (all types on site); Pile Driver; Power Shovels; Side Booms; Slip Form Pavers; Straddle Carriers (building construction site); Tower Derricks; Trench Machines (over 24" wide)

GROUP B - Asphalt Paver; Bulldozer; CMI Type Equipment; Endloaders; Kohlman Type Loaders (dirt loading); Mucking Machines; Power Graders; Power Scoops; Power Scrapers; Push Cats

GROUP C - Air Compressor (pressurizing shafts or tunnels); All Asphalt Rollers; Fork Lifts; Hoist (one drum); House Elevators; Man Lift; Power Boiler (over 15 lbs., pressure); Pump Op. Installing or Operating Well Points or other Types of Dewatering System; Pumps (4" & over discharge); Submersible Pumps (4" & over discharge); Trenchers (24" & under)

GROUP D - Compressors on Building Construction; Conveyors (building material); Gunnite Machines; Mixers (cap., more than on bag); Mixers (one bag cap., side loader); Post Driver; Post Hole Digger; Pavement Breaker (hydraulic or cable); Road Widening Trencher; Rollers; Welder Operator

GROUP E - Backfillers and Tampers; Batch Plant; Bar & Joint Installing Machines; Bull Floats; Burlap & Curing Machines; Cielplanes; Concrete Spreading Machines; Crushers; Drum Fireman (asphalt); Farm Type Tractors (pulling attachments); Finishing Machines; Form Trenchers; High Pressure Pumps (over 1/2" discharge); Hydro-Sealers; Self-propelled Power Spreader; Self-propelled Subgrader; Tractors (pulling sheep foot roller or grader); Tire Repairmen; Vibratory Compactors (with integral power)

GROUP F - Oiler; Light Plant Op.; Power Driven Heaters (oil fired); Power Boilers (less than 15 lbs. pressure); Submersible Pumps (under 4" discharge); Pumps (under 4" discharge); Tenders

| Basic Hourly Rates | Fringe Benefits | Basic Hourly Rates | Fringe Benefits |
|--------------------|-----------------|--------------------|-----------------|
| 13.01              | 2.50            | 13.11              | 2.50            |
| 13.41              | 2.50            | 13.41              | 2.50            |
| 13.10              | .61+a+b         | 13.74              | 3.02            |
| 17.52              | 3.02            | 17.37              | 3.02            |
| 17.02              | 3.02            | 16.24              | 3.02            |
| 15.92              | 3.02            | 13.74              | 3.02            |
| 17.24              | 3.02            | 17.08              | 3.02            |
| 16.73              | 3.02            | 15.92              | 3.02            |
| 15.59              | 3.02            | 13.38              | 3.02            |

## DECISION NO. OH82-2037

## LABORERS (CONT'D)

Air & Power Driven Tools; Burner on Demolition Work; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blasters; Creosote Workers; Mortar Mixers; Form Setter; Mason Tenders; Plasterers' Tenders; Hod Carriers; Laser Beam Set Up Man

Gunnite Operator

Portage & Summit Cos.: Residential Construction

Common Laborers; Welders' Tenders; Landscapers' Tenders; Mason Tender; Concrete Bucket Tender

Air Driven Boring Machine; Tamping Ops.; Asphalt Raker; Paving Bed Maker; Material Mixer; Wire Mesh Handler; Hook-up Man on Demolition Work; Scaffold Erector; Structural Precast Erector; Power Tools, Air, Gas, or Electric

Pipe Layers; Rock Drillers; Muckers-Tunnelers; Burners; Form Setters; Power Saws; Jackhammer; Barco Type Tampers; Bottom Man; Hod Carrier; Power Buggy or Power Wheelbarrow

Gunnite Nozzlemen; Tunnel Miners; Water Line Caulkers; Dynamite Men; Pump Hose Nozzlemen

Stark Co.

Building & Construction; Tool Cribman; Carpenters' Tenders; Finishers' Tenders; Concrete Handler; Utility Construction Laborer; Guard Rail Erector

Bottom Men; Scaffold Builder; Tunnel Laborers; Pipe Layers; Air & Power Driven Tools; Burner on Demolition; Swinging Scaffold; Mucker; Caisson Worker;

DECISION NO. OH82-2037PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;  
E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

- a. \$75.00 per year
- b. 2 paid holidays: C & D
- c. \$150.00 per year
- d. 2 paid holidays: C & D
- e. 7 paid holidays: A through F, & Day after Thanksgiving
- f. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
- g. 2 paid holidays: C & D
- h. 1 paid holiday: D providing the employee has worked 5 consecutive days before and after the holiday.
- i. 3% of gross earnings to SASMI

FOOTNOTES FOR POWER EQUIPMENT OPERATORS:

- a. 9 Paid Holidays: New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; Christmas Eve Day; & Christmas Day
- B. Employees who have been in continuous employment of the company for less than 1 year as of January 1 will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year - 2 wks' paid vacation; 11th continuous calendar year - 3 wks' paid vacation.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

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