

All workers of Sequa Corporation, Men's Apparel Group, Athens, Georgia (NAFTA-5190) and Sequa Corporation, Men's Apparel Group, Corporate Office, Hackensack, New Jersey (NAFTA-5190A) who became totally or partially separated from employment on or after August 10, 2000, through September 25, 2003, are eligible to apply for NAFTA-TAA under section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of January, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02-2696 Filed 2-4-02; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA-05163]

Tyco Electronics Fiber Optics Division, Glen Rock, Pennsylvania; Notice of Negative Determination Regarding Application for Reconsideration

By application dated October 12, 2001, a former employee requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for North American Free Trade Agreement—Transitional Adjustment Assistance (NAFTA-TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on September 28, 2001, and was published in the **Federal Register** on October 19, 2001 (66 FR 53252).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

- (1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The denial of NAFTA-TAA for workers engaged in activities related to the production of fiber optic connectors at Tyco Electronics, Fiber Optics Division, Glen Rock, Pennsylvania was based on the finding that criteria (3) and (4) of that group eligibility requirement of paragraph (a)(1) of section 250 of the Trade Act, as amended, were not met. There were no company imports of fiber-optic connectors from Mexico or Canada, nor did the company shift plant

production from the Glen Rock, Pennsylvania plant to Mexico or Canada. The preponderance in the declines in employment at the subject firm was related to a shift in plant production to another affiliated domestic plant.

The petitioner alleges that plant production was shifted to an affiliated plant located in Mexico.

Information provided by the company shows that a negligible portion of the plant production was shifted to Mexico during the relevant period of the investigation. The overwhelming (over 98%) portion of subject plant production was transferred to Harrisburg, Pennsylvania. No plant machinery was transferred to Mexico during the relevant period.

The petitioners supplied a list of products that they indicated were transferred to Mexico. The overwhelming majority of these products were transferred prior to the relevant time frame of the investigation. Some of these products were produced at the subject firm only when orders required quick turn around time. The majority of these products were procured at a sister facility located in Harrisburg, Pennsylvania when quick turn around times were required. The quick turn around products equivalent to what the Mexican plant produced account for a relatively small portion of products that were produced at the subject plant.

The petitioner also claims that plant workers trained workers from an affiliated Mexican plant.

The workers did train workers from the Mexican plant during the relevant time frame. However, the training relates to only a negligible portion of production performed at the subject plant.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error of misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC, this 22nd day of January 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02-2694 Filed 2-4-02; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL95-F-1]

Nationally Recognized Testing Laboratories, Revised Fee Schedule

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice provides the revised schedule of fees to be charged by the Occupational Safety and Health Administration (OSHA) to Nationally Recognized Testing Laboratories (NRTLs). As provided under 29 CFR 1910.7, OSHA charges fees for specific types of services it provides to NRTLs. These services are: Processing applications for the initial recognition of an organization as an NRTL, or for expansion or renewal of an existing NRTL's recognition, and performing audits (post-recognition reviews) of NRTLs to determine whether they continue to meet the requirements for recognition. Annually, OSHA reviews the costs to the Government of providing the services to determine whether any changes to the fees are warranted. If change is warranted, we publish a notice to detail the projected costs of providing those services during the upcoming calendar year and solicit public comment on the revised fees.

The notice to propose the revised fees was published in the **Federal Register** on December 12, 2001 (66 FR 64274), and one comment was received. As stated in that notice, the revised fees would, and in fact did, go into effect on January 1, 2002. The revised fees will remain in effect until superseded by a later fee schedule.

DATES: The Fees Schedule shown in this notice went into effect on January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities at the above address, or phone (202) 693-2110. Our Web page includes information about the NRTL Program (see <http://www.osha-slc.gov/dts/otpc/nrtl/index.html> or see <http://www.osha.gov> and select "Programs").

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice that it has revised the fees that the Agency charges to Nationally Recognized Testing Laboratories (NRTLs). OSHA has taken this action as

a result of its annual review of the fees, as provided under 29 CFR 1910.7(f). This review showed that the costs of providing the services covered by the fees had changed sufficiently to warrant revisions to the Fee Schedule.

The notice to propose the revised fees was published in the **Federal Register** on December 12, 2001 (66 FR 64274). The notice requested submission of comments by December 27, 2001 (see correction of due date; 66 FR 65026, 12/17/01). One comment was received, which supported the rationale behind the changes to the fees. For those unfamiliar with OSHA's NRTL Program, we provide a brief overview below.

Many of OSHA's safety standards require equipment or products that are going to be used in the workplace be tested and certified to help ensure they can be used safely. Products or equipment that have been tested and certified must have a certification mark on them. An employer may rely on the certification mark, which shows the equipment or product has been tested and certified in accordance with OSHA requirements. In order to ensure that the testing and certification is done appropriately, OSHA implemented the NRTL Program. The NRTL Program establishes the criteria that an organization must meet in order to be and remain recognized as an NRTL.

The NRTL Program requirements are set forth under 29 CFR 1910.7, "Definition and requirements for a nationally recognized testing laboratory." To be recognized by OSHA, an organization must: (1) Have the appropriate capability to test, evaluate, and approve products to assure their safe use in the workplace; (2) be completely independent of the manufacturers, vendors, and major users of the products for which OSHA

requires certification; (3) have internal programs that ensure proper control of the testing and certification process; and (4) have effective reporting and complaint handling procedures.

OSHA requires NRTL applicants (*i.e.*, organizations seeking initial recognition as an NRTL) to provide detailed information about their programs, processes, and procedures in writing when they apply for initial recognition. OSHA reviews the written information and conducts an on-site assessment to determine whether the organization meets the requirements of 29 CFR 1910.7. OSHA uses a similar process when an NRTL (*i.e.*, an organization already recognized) applies for expansion or renewal of its recognition. In addition, the Agency conducts annual audits to ensure that the recognized laboratories maintain their programs and continue to meet the recognition requirements.

OSHA promulgated the rule that established the fees on July 31, 2000 (65 FR 46797-46819). The first Fee Schedule, *i.e.*, the fees, went into effect on October 1, 2000. Currently, there are 18 NRTLs operating more than 45 recognized sites in the U.S., Canada, Europe, and the Far East.

Program Costs

In preparing the fee schedule presented in this notice, OSHA evaluated the total resources that it has committed to the NRTL Program overall and then estimated the costs that are involved solely with the application approval and the periodic review (*i.e.*, audit) functions. It is these costs alone that OSHA intends to recover through its fees. Personnel costs are the wages, salary, and fringe benefit costs of the staff positions involved and the number of full time equivalent (FTE) personnel

devoted to the NRTL approval and review activities. These estimates also include travel and other costs of these activities. The Agency believes these estimates are fair and reasonable.

Based on the total estimated costs and the total estimated FTE, OSHA calculated an estimated equivalent cost per hour (excluding travel). This equivalent cost per hour includes both the direct and indirect costs per hour for "direct staff" members, who are the staff that perform the application, on-site, and legal reviews and the other activities involved in application processing and audits. In Figure 1, direct costs are expenses for direct staff members, and indirect costs are expenses for support and management staff, equipment, and other costs that are involved in the operation of the program. Support and management staff consists of program management and secretarial staff. Equipment and other costs are intended to cover items such as computers, telephones, building space, utilities, and supplies, that are necessary or used in performing the services covered by the proposed fees. Although essential to the services provided, these indirect costs are not readily linked to the specific activities involved in application processing and audits and, as explained later, are therefore allocated to the activities based on direct staff costs.

Figure 1 is an itemization of the estimated costs and the equivalent cost per hour calculated. OSHA believes that the costs shown fairly reflect the full cost of providing services to NRTLs and conducting other program activities. This figure shows how we calculated the estimated equivalent cost per hour (excluding travel).

FIGURE 1.—CURRENT ESTIMATED ANNUAL COSTS OF NRTL PROGRAM

Cost description	Est. FTE	Aver. cost per FTE (including fringe)	Total est. costs
Direct Staff Costs	4.7	\$97,830	\$459,800
Travel	Na	Na	50,000
Indirect Staff & Other Costs	Na	Na	*73,050
Total Est. Program Costs	582,850
Avg. direct staff cost/hr (\$459,800 ÷ 4.7 FTE × 2,080 hours)			47
Equivalent avg. direct staff cost/hr (\$532,850 ÷ 4.7 FTE × 2,080 hours) (includes direct & indirect costs)			54.50

*This amount consists of \$34,800 of indirect staff costs and \$38,250 for equipment and other costs.

The use of an "equivalent average direct staff cost per hour" measure is a convenient method of allocating indirect costs to each of the services for which OSHA will charge fees. The same result is obtained if direct staff costs are first calculated and then indirect costs

are allocated based on the value, *i.e.*, dollar amount, of the direct staff costs, which is an approach that is consistent with Federal accounting standards. To illustrate, assume a direct staff member spends 10 hours on an activity; the

direct staff costs would then be calculated as follows:

$$\text{Direct staff costs} = 10 \text{ hours} \times \$47/\text{hour} = \$470$$

The \$47/hour is the direct staff cost/hour amount shown in Figure 1. The

indirect costs would be allocated by first calculating the ratio of indirect costs to direct staff costs, again using the costs shown in Figure 1. This ratio would be as follows:

Indirect costs/direct staff costs = \$73,050/\$459,800 = 0.159

Next, the indirect costs would be calculated based on the \$470 estimate of direct staff costs:

Indirect costs = \$470 × 0.159 = \$75

Finally, the total costs of the activity are calculated:

Total costs = direct staff costs + indirect costs = \$470 + \$75 = \$545

Alternatively, the \$545 can be derived by multiplying the \$54.50 equivalent staff cost per hour rate by the 10 hours, i.e., \$54.50 × 10 hours = \$545.

After estimating program costs, the Agency estimated the time it spends on specific activities or functions. These estimates reflect the Agency's actual experience in performing the services covered by the fees. OSHA calculated time estimates for each major service category. These categories are: Initial

applications, expansion and renewal applications, and audits. OSHA further divided some categories into the major activities performed and estimated the staff time and travel costs for each of these activities. The Agency then calculated the cost of each major activity using the time estimates, the equivalent cost per hour, and the estimate of travel costs. These costs serve as the basis for the fees later shown in the revised fee schedule. Examples of the calculations are shown in Figures 2, 3, 4, and 5.

FIGURE 2.—ESTIMATED COSTS FOR INITIAL APPLICATION

Major activity	Average hours	Average cost*
Initial Application Review		
Staff time: (includes review by office and field staff)	80	\$4,360
On-Site Assessment—first day		
Staff time: (includes 16 hours preparation, 4 hours travel, 8 hours at site)	28	1,526
Travel:		670
Total (per site, per assessor)		2,196
On-Site Assessment—addnl. day		
Staff time	8	436
Travel amount: (to cover per diem)		70
Total (per site, per assessor)		506
Final Report & Federal Register notice		
Staff time: (includes work performed by field staff and office staff)	120	6,540

*Average cost for staff time equal average hours × equivalent average direct staff cost/hr (\$54.50).

FIGURE 3.—ESTIMATED COSTS FOR EXPANSION APPLICATION (ADDITIONAL SITE)

Major activity	Average hours	Average cost*
Application Review (expansion for site)		
Staff time: (includes review by office and field staff)	16	\$870
On-Site Assessment—first day		
Staff time: (includes 8 hours preparation, 4 hours travel, 8 hours at site)	20	1,090
Travel		670
Total (per site, per assessor)		1,760
On-Site Assessment—addnl. day		
Staff time	8	436
Travel amount: (to cover per diem)		70
Total (per site, per assessor)		506
Final Report & Federal Register notice		
Staff time: (includes work performed by field staff and office staff)	48	2,616

*Average cost for staff time equal average hours × equivalent average direct staff cost/hr (\$54.50).

FIGURE 4.—ESTIMATED COSTS FOR RENEWAL OR EXPANSION (OTHER THAN ADDITIONAL SITE) APPLICATION

Major activity	Average hours	Average cost*
Application Review (renewal or expansion other than additional site)		
Staff time: (includes review by office and field staff)	2	\$109
On-Site Assessment—first day		
Staff time: (includes 8 hours preparation, 4 hours travel, 8 hours at site)	20	1,090
Travel		670
Total (per site, per assessor)		1,760
On-Site Assessment—addnl. day		
Staff time	8	436
Travel amount: (to cover per diem)		70
Total (per site, per assessor)		506

FIGURE 4.—ESTIMATED COSTS FOR RENEWAL OR EXPANSION (OTHER THAN ADDITIONAL SITE) APPLICATION—Continued

Major activity	Average hours	Average cost*
Final Report & Federal Register notice Staff time: (includes work performed by field staff and office staff, if there is an on-site assessment)	48	2,616
Final Report & Federal Register notice Staff time: (includes work performed by field staff and office staff, if there is NO on-site assessment)	28	1,526

*Average cost for staff time equal average hours × equivalent average direct staff cost/hr (\$54.50).

FIGURE 5.—ESTIMATED COSTS FOR ON-SITE AUDIT

Major activity	Average hours	Average cost*
Pre-site Review Staff time: (field staff only)	8	\$436
On-Site Audit—first day Staff time: (includes 4 hours travel)	12	654
Travel		670
Total (per site, per assessor)		1,324
Final report Staff time: (includes work performed by field staff)	16	872
Total costs		**2,632

*Average cost for staff time equal average hours × equivalent average direct staff cost/hr (\$54.50).

**Based on a one day audit. The costs for any additional days are the same as the per-day costs for an assessment.

In deriving the fee amounts shown in the fee schedule, OSHA has generally rounded the costs shown in Figures 2, 3, 4, and 5, up or down, to the nearest \$50 or \$100 amount.

OSHA believes that the amounts shown in the fee schedule reflect the Agency's current reasonable estimation

of the costs involved for the services rendered to NRTLs. As previously mentioned, OSHA is not attempting to recover the entire cost of the NRTL Program through the fees but only the costs of providing these services.

What Has Changed

The following table shows the major changes that we have made to the fee schedule, comparing the fee amount in the previous fee schedule to the "revised" fee in the fee schedule shown later in this notice. Following the table, we explain the major changes.

TABLE OF MAJOR CHANGES TO FEES SCHEDULE

Description of fee	Previous fee amount	Revised fee amount	Change in fee amount (previous minus revised)
Initial Application Fee	\$3,900	\$4,400	\$3,900 – \$4,400 = \$500 (increase).
Expansion Application Fee (additional site)	\$1,550	\$850	\$1,550 – \$850 = \$700 (reduction).
Expansion Application Fee (additional test standards)	\$1,550	\$110	\$1,550 – \$110 = \$1,440 (reduction).
Assessment—Initial Application (per site—SUBMIT WITH APPLICATION)	\$5,900	\$6,500	\$5,900 – \$6,500 = \$600 (increase).
Review & Evaluation Fee (per 10 standards) (for standards already recognized for NRTLs or not requiring on-site review).	\$50 per standard.	\$10 per ten standards.	\$500 – \$10 = \$490 per ten standards (reduction).
Final Report/Register Notice Fee—Renewal or Expansion Application (if OSHA performs on-site assessment).	\$4,300	\$2,600	\$4,300 – \$2,600 = \$1,700 (reduction).
Final Report/Register Notice Fee—Renewal or Expansion Application (if OSHA performs NO on-site assessment).	\$4,300	\$1,500	\$4,300 – \$1,500 = \$2,800 (reduction).

The previous Expansion Application Fee was based upon an NRTL submitting an application that included adding a site and a set of standards to its recognition. Many past expansion applications that we had received were so structured, and the fees were estimated on the basis of receiving similar such applications. However, more recently, NRTLs have submitted

an expansion application covering a limited number of test standards and did not couple this request with an expansion for an additional site. In addition, the previous Expansion Application Fee was estimated on the basis of the NRTL submitting documentation to justify its capabilities for performing testing in an area outside its present scope of recognition.

However, if the testing falls within its current capabilities, the application consists of a letter listing the test standards for which it is seeking recognition. The review of this letter is similar to the review we perform for a renewal request. If OSHA must review substantial documentation, e.g., if a standard falls outside the NRTL's current testing capabilities, or if OSHA

has not previously recognized a particular test standard for any NRTL, the previous standard fee of \$50, which has now changed to \$55, covered the necessary staff work to grant the expansion request for that test standard. If on the other hand OSHA must perform minimal review in determining whether to grant the expansion request for a standard, the rate is \$10 for every ten or fewer standards. As a result, we have split the expansion application fee

essentially into two fees and adjusted the review and evaluation fee to reflect the work involved for the scenarios just described.

As shown in Figure 1 and later in the proposed fee schedule, the hourly cost charged for staff time is now \$54.50, or about 11% higher than the hourly rate of \$49 in our previous fee schedule, which is available on our web site. The \$49 was based upon staff salary and fringe and other program costs during 1999, whereas the \$54.50 is based upon

projected costs during 2002. Therefore, the 11% increase reflects changes that have accumulated over a three year period, or about 3.6% compounded annually, which is consistent with annual salary adjustments provided to Federal employees.

Fee Schedule and Description of Fees

OSHA establishes the following fee schedule, which will remain in effect until superseded by a later fee schedule:

TABLE A—FEE SCHEDULE

Nationally Recognized Testing Laboratory Program—(NRTL Program)—Fee Schedule (Effective January 1, 2002) ¹⁰

Type of service	Activity or category (fee charged per application unless noted otherwise)	Fee amount
Application Processing	Initial Application Review ¹	\$4,400
	Expansion Application Fee (per additional site) ¹	\$850
	Renewal Application Fee or Expansion (other) Application Fee ¹	\$110
	Assessment—Initial Application (per site—SUBMIT WITH APPLICATION) ^{2,4}	\$6,500
	Assessment—Initial Application (per person, per site—first day—BILLED AFTER ASSESSMENT) ^{2,7,8}	\$1,500 + travel expenses.
	Assessment—Expansion or Renewal Application (per person, per site—first day) ^{3,8}	\$1,100 + expenses.
	Assessment—each addnl. day (per person, per site) ^{2,3,8}	\$440 + travel expenses.
	Review & Evaluation Fee ⁵ (\$10 per 10 standards if standards already recognized for NRTLs or require minimal review; else \$55 per standard).	\$10 per 10 standards or \$55 per standard.
	Final Report/Register Notice—Initial Application ⁵	\$6,550
	Final Report/Register Notice Fee—Renewal or Expansion Application (if OSHA performs on-site assessment) ⁵	\$2,600
Audits	Final Report/Register Notice Fee—Renewal or Expansion Application (if OSHA performs NO on-site assessment) ⁵	\$1,500
	On-site Audit (per person, per site—first day) ⁶	\$1,950 + travel expenses.
Miscellaneous	On-site Audit (per person, per site—each addnl. day) ⁶	\$440 + travel expenses.
	Office Audit (per site) ⁶	\$440
	Supplemental Travel (per site—for sites located outside the 48 contiguous States, including the District of Columbia) ⁴	\$1,000
	Late Payment ⁹	\$55

Notes to OSHA Fee Schedule for NRTLs:

1. Who must pay the Application Review fees, and when must they be paid?

If you are applying for initial recognition as an NRTL, you must pay the Initial Application Review fee and include this fee with your initial application. If you are an NRTL and applying for an expansion or renewal of recognition, you must pay the Expansion Application Review fee or Renewal Application Review fee, as appropriate, and include the fee with your expansion or renewal application.

2. What assessment fees do you submit for an initial application, and when must they be paid?

If you are applying for initial recognition as an NRTL, you must pay \$6,500 for each site for which you wish to obtain recognition, and you must include this amount with your initial application. We base this amount on two assessors performing a three day assessment at each site. After we have completed the assessment work, we will calculate our assessment fee based on the actual staff time and travel costs incurred in performing the assessment. We will calculate this fee at the rate of \$1,500 for the first day and \$440 for each additional day, plus actual travel expenses, for each assessor. Actual travel expenses are based on government per diem and travel fares. We will bill or refund the difference between the amount you pre-paid, \$6,500/site, and this fee. We will reflect this difference in the final bill that we will send to you at the time we publish the preliminary **Federal Register** notice announcing the application.

3. What assessment fees do you submit for an expansion or renewal application, and when must they be paid?

If you are an NRTL and applying solely for an expansion or renewal of recognition, you do not submit any assessment fee with your application. If we need to perform an assessment for the expansion or renewal request, we will bill you for the fee after we perform the assessment for the actual staff time and travel costs we incurred in performing the assessment. We will assess this fee at the rate of \$1,100 for the first day and \$440 for each additional day, plus actual travel expenses, for each assessor. Actual travel expenses are based on government per diem and travel fares.

4. When do I pay the Supplemental Travel fee?

You must include this fee when you submit an initial application for recognition and the site you wish to be recognized is located outside the 48 contiguous U.S. states (including the District of Columbia). The current supplemental travel fee is \$1,000. We will factor in this prepayment when we bill for the actual costs of the assessment, as described in our note #2 above. See note 7 for possible refund of Assessment fees.

5. When do I pay the Review and Evaluation and the appropriate Final Report/Register Notice fees?

We will bill an applicant or an NRTL for the appropriate fees at the time we publish the preliminary **Federal Register** notice to announce the application. We will bill at the rate of \$10 per 10 standards reviewed, or fraction thereof, for those standards that OSHA has previously recognized for any NRTLs and/or that require minimal review in determining whether to grant recognition for the additional test standards. Otherwise, we will bill at the rate of \$55 per standard and provide appropriate explanation.

6. When do I pay the Audit fee?

We will bill the NRTL for this fee (on-site or office, as deemed necessary) after completion of the audit. We will calculate our fee based on actual staff time and travel costs incurred in performing the audit. We will calculate this fee at the rate of \$1,950 for the first day and \$440 for each additional day, plus actual travel expenses for each auditor. Actual travel expenses are based on government per diem and travel fares.

7. When and how can I obtain a refund for the fees that I paid?

If you are applying for initial recognition as an NRTL, we will refund the assessment fees that we have collected if you withdraw your application before we have traveled to your site to perform the on-site assessment. We will also credit your account for any amount we owe you if the assessment fees we have collected are greater than the actual costs of the assessment. Other than these two cases, we will not refund or grant credit for any other fees that are due or that we have collected.

8. What rate does OSHA use to charge for staff time?

OSHA has estimated an equivalent staff cost per hour that it uses for determining the fees that are shown in the Fee Schedule. This hourly rate takes into account the costs for salary, fringe benefits, equipment, supervision and support for each "direct staff" member, that is, the staff that perform the main activities identified in the Fee Schedule. The rate is an average of these amounts for each of these direct staff members. The current estimated equivalent staff costs per hour = \$54.50.

9. What happens if I do not pay the fees that I am billed?

As explained above, if you are an applicant, we will send you a final bill for the fees at the time we publish the preliminary **Federal Register** notice. If you do not pay the bill by the due date, we will assess the Late Payment fee shown in the Fee Schedule. This late payment fee represents one hour of staff time at the equivalent staff cost per hour (see note 8). If we do not receive payment within 60 days of the bill date, we will cancel your application. As also explained above, if you are an NRTL, we will send you a bill for the audit fee after completion of the audit. If you do not pay the fee by the due date, we will assess the Late Payment Fee shown in the Fee Schedule. If we do not receive payment within 60 days of the bill date, we will publish a **Federal Register** notice stating our intent to revoke recognition.

10. How do I know whether this is the most Current Fee Schedule?

You should contact OSHA's NRTL Program (202-693-2110) or visit the program's web site to determine the effective date of the most current Fee Schedule. Access the site by selecting "Subject Index" or "Programs" at www.osha.gov. Any application processing fees are those in effect on the date you submit your application. Audit fees are those in effect on the date we begin our audit. Any pending application (i.e., an application that OSHA has not yet completed processing) will be subject only to the fees for the activities that OSHA begins on or after the effective date of the initial fee schedule.

The fee schedule shows the current activities for which OSHA charges fees. In evaluating the changes to the fee schedule, OSHA considered the following: (1) Actual expenditures of the 2001 fiscal year, and (2) estimated costs of the 2002 fiscal year.

The following is a description of the tasks and functions currently covered by each type of fee category, e.g., application fees, and the basis used to charge each fee.

Application Fees

This fee reflects the technical work performed by office and field staff in reviewing application documents to determine whether an applicant submitted complete and adequate information. The application review does not include a review of the test standards requested, which is reflected in the review and evaluation fee. Application fees would be based on average costs per type of application. OSHA uses average costs since the amount of time spent on the application review does not vary greatly by type of application. This is based on the premise that the number and type of documents submitted will generally be the same for a given type of application. Experience has shown that most applicants follow the application guide that OSHA provides to them.

Assessment Fees

This fee is different for initial and for expansion or renewal applications. It is based on the number of days for staff preparatory and on-site work and related travel. Three types of fees are shown, and each one would be charged per site and per person. The two fees for the first day reflect time for office preparation, time at the applicant's

facility, and an amount to cover travel in the 48 contiguous states. A supplemental travel amount is assessed for travel outside this area. These travel amounts are only estimates for purposes of submitting the initial fees. The applicant or NRTL is billed actual expenses, based on government per diem and travel fares. Any difference between actual travel expenses and the travel amounts in the fee schedule are reflected in the final bill or refund sent to the applicant or NRTL.

Similar to the application fee, the office preparation time generally involves the same types of activities. Actual time at the facility may vary, but the staff devote at least a full day for traveling and for performing the on-site work. The fee for the additional day reflects time spent at the facility and an amount for one day's room and board.

Review and Evaluation Fee: This fee is charged per test standard (which is part of an applicant's proposed scope of recognition). The fee reflects the fact that staff time spent in the office review of an application varies mainly in accordance with the number of test standards requested by the applicant. In general, the fee is based on the estimated time necessary to review test standards to determine whether each one is "appropriate," as defined in 29 CFR 1910.7, and covers equipment for which OSHA mandates certification by an NRTL. The fee also covers time to determine the current designation and status (i.e., active or withdrawn) of a test standard by reviewing current directories of the applicable test standard organization. Furthermore, it includes time spent discussing the results of the application review with the applicant. The actual time spent will vary depending on whether an applicant

requests test standards that have previously been approved for other NRTLs. When the review is minimal, these activities take approximately 2 hours for every 10 or fewer standards. When the review is more substantial, the estimated average review time per standard is one hour for each standard, which translates to \$55 per standard. Substantial review will occur when the standard has not been previously recognized for any NRTL or when the NRTL is proposing to do testing outside its current scope of recognition.

Final Report/Register Notice Fees

Each of these fees is charged per application. The fee reflects the staff time to prepare the report of the on-site review (i.e., assessment) of an applicant's or an NRTL's facility. The fee also reflects the time spent making the final evaluation of an application, preparing the required **Federal Register** notices, and responding to comments received due to the preliminary finding notice. These fees are based on average costs per type of application, since the type and content of documents prepared are generally the same for each type of applicant. There is a separate fee when OSHA performs no on-site assessment. In these cases, the NRTL Program staff perform an office assessment and prepare a memo to recommend the expansion or renewal.

Audit (Post-Recognition Review) Fees

These fees reflect the time for office preparation, time at the facility and travel, and time to prepare the audit report of the on-site audit. A separate fee is shown for an office audit conducted in lieu of an actual visit. Each fee is per site and does not generally vary for the same reasons

described for the assessment fee and because the audit is generally limited to one day. As previously described, the audit fee would include amounts for travel, and, similar to assessments, OSHA will bill the NRTL for actual travel expenses.

Miscellaneous Fees

The sample fee schedule only shows the average cost for one full day of staff time. OSHA would use this fee primarily in cases of refunding the assessment fee. OSHA will also charge a fee for late payment of the annual audit fee. The amount for the late fee is based on 1 hour of staff time.

Final Decision

OSHA performed its annual review of the fees it currently charges to Nationally Recognized Testing Laboratories, as provided under 29 CFR 1910.7(f). Based on this review, OSHA determined that certain fees warranted change, as detailed in this notice. As a result, OSHA now establishes the revised fees by adopting the Nationally Recognized Testing Laboratory Program Fees Schedule shown as Table A above, which was effective as of January 1, 2002, as provided in the preliminary notice published on December 12, 2001 (66 FR 64274). This fee schedule will remain in effect until superseded by a later fee schedule. OSHA will provide the public an opportunity to comment on any future changes to the fees.

Signed at Washington, DC, this 17 day of January, 2002.

John L. Henshaw,

Assistant Secretary.

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D-10891, et al.]

Proposed Exemptions; Connecticut Plumbers and Pipefitters Pension Fund (the Pension Fund), Connecticut Pipe Trades Local No. 777 Annuity Fund (the Annuity Fund); Connecticut Pipe Trades Health Fund (the Health Fund) (Collectively the Funds)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the

Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration (PWBA), Office of Exemption Determinations, Room N-5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to PWBA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to: "moffittb@pwba.dol.gov", or by FAX to (202) 219-0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-1513, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section

4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Connecticut Plumbers and Pipefitters Pension Fund (the Pension Fund), Connecticut Pipe Trades Local No. 777 Annuity Fund (the Annuity Fund); Connecticut Pipe Trades Health Fund (the Health Fund) (Collectively the Funds), Located in Manchester, Massachusetts

[Exemption Application Nos. D-10891; D-10892 and L-10893]

Proposed Exemption

The Department of Labor (the Department) is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the purchase on September 1, 1999 (the Purchase) by the Health Fund of the common stock of Employee Benefit Administrators, Inc. (EBPA Stock) from Michael W. Daly and Virginia S. Daly (the Dalys), parties in interest with respect to the Health Fund, and the subsequent reallocation of the purchase price (the Reallocation) among the Funds, including "makewhole" payments (Makewhole Payments) representing lost earnings in connection with the Purchase, provided that the following conditions are satisfied:

(a) The Purchase was a one-time transaction for a lump sum cash payment;

(b) The Purchase price was no more than the fair market value of EBPA Stock as of the date of the Purchase;