

UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
WASHINGTON, D. C.

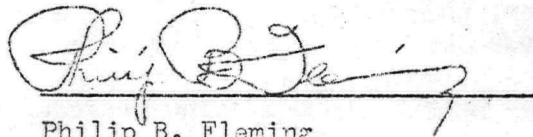
TITLE 29 - LABOR

CHAPTER V - WAGE AND HOUR DIVISION

PART 531 -- REGULATIONS DETERMINING THE
REASONABLE COST OF BOARD, LODGING, AND
OTHER FACILITIES PURSUANT TO SECTION 3(m)
OF THE FAIR LABOR STANDARDS ACT OF 1938

The following amended Regulations - Part 531
(Regulations Determining the Reasonable Cost of Board,
Lodging, and Other Facilities Pursuant to Section 3 (m)
of the Fair Labor Standards Act of 1938) are hereby
issued. These regulations shall become effective upon
my signing the original and upon the publication thereof
in the Federal Register, and shall be in force and effect
until repealed or modified by regulations hereafter made
and published.

Signed at Washington, D. C., this 1st. day of
October, 1940.



Philip B. Fleming
Administrator
Wage and Hour Division
Department of Labor.

Section 531.1 -- Reasonable cost under section 3(m) of the act.

The term "reasonable cost" in section 3(m) of the act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(a) Reasonable cost does not include a profit to the employer or to any affiliated person.

(b) The reasonable cost to the employer of furnishing the employee board, lodging or other facilities (including housing) is hereby determined to be the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than $5\frac{1}{2}$ percent) for interest on the depreciated amount of capital invested by the employer; provided that if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices.

(c) The term "good accounting practices" shall not include accounting practices which have been rejected by the Bureau of Internal Revenue for income tax purposes. The term "depreciation" shall include obsolescence.

(d) The cost of furnishing "facilities" which are primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

The following list of facilities found by the Administrator to be primarily for the benefit or convenience of the employer is meant as illustrative rather than exclusive: (1) Tools of the trade and other materials and services incidental to carrying on the employer's business; (2) the cost of any construction by and for the employer; (3) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

531.2 -- Hearing to determine reasonable cost.

The Administrator or his duly authorized representative may at any time, upon motion of the Administrator, or upon application of an employer, or upon application of an employee or group of employees, or an agent or representative thereof, hold a hearing to determine the reasonable cost to an employer of the board, lodging, or other facilities and customarily furnished to his employees.

An employee's application shall state (1) the name and location of his employer, (2) the nature of the board, lodging, or other facilities furnished and whether or not these facilities are customarily furnished by the employer, (3) the charges or deductions made therefor by the employer, (4) the cash wages paid and (5) the

reason why the hearing is requested.

An employer's application shall state (1) the name and location of his place or places of business; (2) a detailed description of the board, lodging, or other facilities customarily furnished to the employees and asserted by the employer to constitute wages; (3) an itemized statement of the actual cost to the employer of board, lodging or other facilities furnished; (4) an itemized statement of the cash wages paid; and (5) the reason why the hearing is requested.

The hearing will be held by the Administrator or his duly authorized representative at a place as close to the employer's place of business as is practicable.

A notice of the time, place, and scope of the hearing will be published in the Federal Register and made public by a general press release at least five days before the date of such hearing. The determination of the Administrator or his duly authorized representative shall likewise be published in the Federal Register and made public by a general press release.

The employer shall notify his employees of the place, time, and purpose of the hearing by posting notices thereof, in a form prescribed by the Wage and Hour Division, in conspicuous places on his premises. In the event that the determination is made by an authorized representative of the Administrator, the employer shall in like manner notify his employees of the opportunity for reconsideration and review of the determination pursuant to Section 531.3.

Section 531.3 -- Application for reconsideration and petition for review.

Any person aggrieved by the determination of an authorized representative made pursuant to Section 531.2:

(1) may, within fifteen days after publication of the determination (a) make application for reconsideration thereof by the authorized representative of the Administrator who made the determination in the first instance if it can be shown that there is additional evidence which may materially affect the determination and that there were reasonable grounds for failure to adduce such evidence in the original proceedings, or (b) file a petition for review of the determination by the Administrator or an authorized representative who has taken no part in the action which is the subject of review. Such petition must set forth grounds for the requested review. The petition will be examined by the Administrator or an authorized representative who has taken no part in the determination which is sought to be reviewed.

(2) If an application for reconsideration is denied any person aggrieved by such action may, within fifteen days after publication thereof, file a petition for review.

(3) If an application for reconsideration is granted, all interested parties will be afforded an opportunity to present their views either in support of or in opposition to the matters prayed for in the application

for reconsideration. Upon publication of the reconsidered determination, all interested persons may, within fifteen days thereafter, file a petition for review.

(4) If a petition for review is granted, all interested persons will be afforded an opportunity to present their views either in support of or in opposition to the matters prayed for in such petition. Action taken upon a petition for review shall be final.

Section 531.4 -- Petition for amendment of regulations.

Any person wishing a revision of any of the terms of the foregoing regulations may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them. If, upon inspection of the petition, the Administrator believes that reasonable cause for amendment of the Regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties, or will make other provision for affording interested parties an opportunity to present their views, either in support of or in opposition to the proposed changes. In determining such future regulations, separate treatment for industries and for different classes of employees may be given consideration.

#