

LABOR-MANAGEMENT AGREEMENT

between

MARITIME ADMINISTRATION  
CENTRAL REGION  
BEAUMONT RESERVE FLEET  
Beaumont, Texas

and

American Federation of Government Employees  
Union Local 2413  
AFL-CIO

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## **PREAMBLE**

Pursuant to Title VII, P.L. 95-454, and subject to all applicable statutes and regulations, this agreement is made and entered into by and between the Beaumont Reserve Fleet Superintendent, representing the Central Region Director, Maritime Administration, U.S. Department of Transportation hereinafter referred to as the EMPLOYER; and the American Federation of Government Employees, AFL-CIO, Local 2413, hereinafter referred to as the UNION; and collectively known as the PARTIES.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

## **ARTICLE I**

### **EXCLUSIVE RECOGNITION AND COVERAGE OF AGREEMENT**

#### **Section 1**

The EMPLOYER recognizes the UNION as the exclusive bargaining representative for all employees included within the bargaining unit as defined in Section 2 below.

#### **Section 2**

The recognized bargaining unit (hereinafter referred to as the UNION) and this Agreement apply to and cover all non-supervisory employees of the Beaumont Reserve Fleet except employees serving under temporary appointments with a time limitation. Excluded from the UNION are all management officials, supervisors, confidential employees and any employee engaged in personnel work in other than a purely clerical capacity.

#### **Section 3**

For all purposes in this Agreement and in accordance with P.L. 95-454, management officials, supervisors, confidential employees and personnel employees will be defined as follows:

- a. **Supervisor** means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgement, except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority.
- b. **Management Official** means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency.
- c. **Confidential Employee** means an employee who acts in a confidential capacity with respect to an individual who formulates for effectuates management policies in the field of labor-management relations.
- d. **Personnel Employee** means an employee engaged in personnel work in other than a purely clerical capacity. Therefore, the parties agree to work together in partnership and through this Labor-Management Agreement to identify problems and craft solutions, enhance productivity, and to promote and improve the efficient administration of the federal service and to provide for amicable discussion of matters of mutual interest and adjustments of disputes regarding personnel policies, practices, procedures and working conditions.

## **ARTICLE II**

### **PURPOSE**

#### **Section 1**

The Parties desire to enter into a Labor-Management agreement, which will have for its purposes, among others, the following:

- a. To promote fair and reasonable working conditions;
- b. To promote improved programs designed to aid employees in achieving their acknowledged and recognized objectives;
- c. To promote the highest degree of moral and responsibility in the project work areas;
- d. To adjust promptly all differences arising between them related to matters covered by this agreement;
- e. To promote systematic employee-management cooperation between the EMPLOYER and its employees, and
- f. To provide a safe and healthful work environment.

## Section 2

- a. Collective bargaining means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession.
- b. Conditions of employment means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—
  - (1) relating to political activities prohibited under subchapter III of chapter 73 of title 5, U.S. Code;
  - (2) relating to the classification of any position; or
  - (3) To the extent such matters are specifically provided for by Federal statute.

## Section 3

In all Articles and Sections of this Agreement, unless otherwise specifically indicated, the term “day(s)” is defined as meaning working day(s).

# **ARTICLE III**

## **MANAGEMENT RIGHTS AND RESPONSIBILITIES**

### Section 1

In the administration of all matters covered by the agreement, officials and employees are governed by existing or future laws and the regulations of appropriate authorities,

including policies set forth in the Federal Personnel Manual; by published agency policies and regulation in existence at the time the agreement was approved and by subsequently published agency, policies and regulations required by law or be a controlling agreement at a higher agency level as provided by P.L. 95-454.

## Section 2

The EMPLOYER retains the right in accordance with applicable laws and regulations, and nothing in this negotiated agreement shall affect the right

- a. To determine the mission, budget, organization, number of employees, and internal security practices; and
- b. To hire, assign, direct, layoff, and retain employees, or to suspend, remove, reduce in grade or pay, or take other disciplinary actions against such employees;
- c. To assign work, to make determination with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
- d. With respect to filling positions, to make selections for appointments from among properly ranked and certified candidates for promotion, or any other appropriated source; and
- e. To take whatever actions may be necessary to carry out the EMPLOYER mission during emergencies.

## Section 3

Nothing in this article shall preclude the EMPLOYER and UNION from negotiating

- (a) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to an organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;
- (b) procedures which management officials of the agency will observe in exercising any authority under this article; or
- (c) appropriate arrangements for employees adversely affected by the exercise of any authority under this article by such management officials.

## Section 4

An emergency will be declared only for good cause. When emergency procedures are invoked, the UNION will be notified as soon as conditions permit, and the EMPLOYER will inform the UNION of the circumstances causing the emergency and its expected duration. In an emergency, the EMPLOYER will give due regard to the welfare of the employees, and to the maximum extent possible will abide by the terms of this agreement.

## **ARTICLE IV**

### **RIGHTS AND OBLIGATIONS OF THE EMPLOYEES**

#### **Section 1**

The parties agree that unit employees shall have and shall be protected in the exercise of, the right, freely and without fear of penalty or reprisal, to form, join, and assist Local 2413. The freedom of employees to assist the UNION shall be recognized as extending to participation in the management of and acting for the UNION in the capacity of an organization representative, including presentation of his views to officials of the Executive Branch, the Congress, or other appropriated authority. The EMPLOYER shall take such action, consistent with law or with directives from higher authority, as may be required in order to assure that employees are apprised of the rights described in this article, and that no interference, restraint, coercion, or discrimination is practiced within the Beaumont Reserve Fleet to encourage or discourage membership in the UNION.

#### **Section 2**

The terms of this agreement do not preclude any employee from bringing matters of personal concern to the attention of appropriate officials of the Beaumont Reserve Fleet in accordance with applicable laws and regulations, with or without the presence of a UNION representative.

#### **Section 3**

The management rights listed in Article III will not limit an employee's right to express dissatisfaction concerning procedures employed by management in the exercise of their rights. It is also understood that the exercise of such management rights shall be subject to agency appeal or grievance procedures where applicable as prescribed in laws, regulations and policies and the negotiated grievance procedures.

#### **Section 4**

Nothing in this agreement shall require an employee to become or to remain a member of a labor organization, or to pay money to the organization except pursuant to a voluntary written authorization by a member for the payment of dues through payroll deductions.

## **ARTICLE V**

### **RIGHTS AND OBLIGATIONS OF THE UNION**

#### **Section 1**

The UNION has the exclusive right and obligation to represent the interest of all employees in the unit as outlined in ARTICLE I of this agreement without discrimination and without regard to UNION membership as provided by P.L. 95-454.

## Section 2

Subject to appropriate laws and regulations, the UNION will be given the opportunity to be present as an observer for the UNION during formal hearings regarding grievances or appeals through the negotiated procedure, even though it is not representing the employee involved in such hearing. The UNION observer may attend such hearings on official time.

## Section 3

Solicitation of membership, the collection of dues, or other internal business of the UNION shall be conducted during the non-duty hours of the employees and solicitors concerned. The UNION may be discussed during duty hours as a matter of free speech and as a matter of normal conversation not to interfere with the conduct of normal work operations. Official working hours for these purposes include rest periods but do not include lunch periods.

## Section 4

When the UNION elects one or more non-employee officers, such officers shall, upon making an appointment in advance, be permitted to visit the Fleet office during working hours to meet with the EMPLOYER.

## Section 5

The UNION shall have an opportunity to brief all employees, both temporary and permanent, of their rights and obligations under this agreement. Such briefings shall be conducted in a joint session with the EMPLOYER at a mutually agreeable time during normal duty hours.

## Section 6

As provided by P.L. 95-454, the UNION is prohibited from calling or engaging in a strike, work stoppage or slowdown in a labor-management dispute or condoning any such activity by failing to take affirmative action to prevent or stop it.

## Section 7

P.L. 95-454 provides that the UNION has the right to engage in informational picketing.

## **ARTICLE VI**

### **UNION REPRESENTATION**

#### Section 1

The EMPLOYER agrees to recognize AFGE officials, local officials of the UNION, UNION Stewards, and other authorized representatives designated by the UNION. Such representatives will be recognized by the EMPLOYER upon written notification by the UNION.

## Section 2

The UNION agrees to furnish and maintain with the EMPLOYER a current list of UNION officials designated to serve as points of contact.

## Section 3

UNION representatives of the bargaining unit may receive complaints and grievances on official time and on EMPLOYER premises.

## Section 4

UNION representative of the bargaining unit, and employees requesting to speak to UNION officials or representatives will be permitted to use reasonable amounts of official duty time without charge to leave for representational purposes, and while in the exercise of this official time will adhere to the following procedures:

- a. A designated UNION representative or employee(s) who wishes to use time under this Article will notify his/her immediate supervisor.
- b. A Union representative or employee(s) who wishes to use time under this Article and is not under the direction of his/her own supervisor will notify the supervisor in his/her immediate work area.
- c. Permission under paragraphs a. and b. above will be granted unless mission requirements require the presence of the UNION representative or the employee(s) involved at agency tasks which he/she is then performing. If such permission is delayed, the manager or supervisor will immediately give the reasons for the delay. In such a situation which would delay the UNION representative's or the employee's use of time as contained in this Article, all time limits and actions will be automatically extended for a time equal to the length of this delay.
- d. The UNION representative or employee(s) will report his/her return to work to his/her immediate supervisor upon conclusion of use of time under this Article.

## Section 5

- a. The EMPLOYER may grant up to eight hours of administrative time without charge to leave during each leave year to an officer of the UNION for attendance at UNION-sponsored seminars or training sessions. Such UNION-sponsored functions must cover subject matters within the scope of Title VII of the Civil Service Reform Act and must be of mutual interest and beneficial to the EMPLOYER. Excused absence shall be at the discretion of management and may only be granted for those portions of the UNION-sponsored seminars or training sessions which meet the foregoing criteria.

- b. The UNION will give the EMPLOYER at least 30 days advance notice for each request for excused absence, providing a copy of the agenda or statement of coverage and an explanation of how the seminar or training session meets the criterial described in Section 1 a. above. Upon return, the UNION officer will provide the actual agenda to His/her immediate supervisor for use in determining the amount of time which will be excused.

#### Section 6

If an employee desires to pursue a grievance under the provision of this Agreement, he/she must be represented by the UNION or an individual approved by the UNION, or the employee may choose not to have any representative. However, the employee may choose his/her own representative including the UNION in an appeal or grievance presented through Agency procedures.

#### Section 7

The UNION will be given the opportunity to be represented at any formal discussion between one or more representatives of the EMPLOYER and one or more employee in the unit or their representative concerning any grievance of personnel policy or practice or other general condition of employment, or any examination of an employee in the unit by a representative of the EMPLOYER in connection with an investigation if the employee believes that the examination may result in disciplinary action against the employee and if the employee requests representation. This right to be present does not extend to informal discussions nor to discussions of personal problems of an employee when the employee does not desire a representative; however, if such discussions involve proposed changes in personnel policies, practices, or other matters affecting general working conditions, the UNION has the right to be present.

#### Section 8

Reasonable time is defined as that time which is appropriate for the task to be performed depending on the issues and complexities involved.

### **ARTICLE VII**

#### **MATTERS APPROPRIATE FOR NEGOTIATIONS AND CONSULTATION**

##### Section 1

The UNION and the EMPLOYER agree that they will negotiate with each other on appropriate matters as required by P.L. 95-454 and the terms of this Agreement.

##### Section 2

The UNION and the EMPLOYER agree to meet and confer at a mutually agreed upon time and place on any changes to or the impact of personnel policies, practices and other matters affecting working conditions. These meetings will be limited to the Fleet Superintendent and/or a second EMPLOYER official and the UNION President and/or a second UNION official unless there is mutual agreement to exceptions.

Section 3

When the UNION and the EMPLOYER mutually agree to any change in this agreement, they shall execute a joint document which will be approved and executed in the same manner as the original agreement.

Section 4

If the UNION and the EMPLOYER do not mutually agree on a proposed change submitted by either party, the matter will only be considered for formal negotiations as outlined under Article XXII, Duration of Agreement.

Section 5

The Employer agrees that the UNION shall

- (a) be informed of any substantive change in conditions of employment proposed by the agency, and
- (b) shall be permitted reasonable time to present its views and recommendations regarding the changes.

**ARTICLE VIII**

**DISCIPLINE AND ADVERSE ACTION**

Section 1

The UNION agrees to encourage employees to adhere to rules, regulations and Agency policies, practices and procedures and to conduct themselves in a manner which will promote the efficiency of the service.

Section 2

The parties recognize that employees are subject to disciplinary and adverse action. Disciplinary actions are written reprimands, written admonishments and oral admonishments. Adverse actions are removals, suspension, reductions in grade or pay, furlough for 30 days or less.

Section 3

Supervisory guidance, counseling, additional training and reassignment of duties are not considered disciplinary actions. In addition, discussions with an employee or employees in the attempt to ascertain the facts are not considered disciplinary actions. If it is the supervisor's intent to discipline an employee, that intent should be made clear to the employee.

#### Section 4

Oral admonitions are warnings are informal disciplinary actions and when administered consist of corrective oral direction to the employee. Such admonitions and warnings will be given privately by the supervisor to the employee, however, the employee will be advised of his/her right to have a UNION representative for the purpose of observing only, should he/she so desire. The employee will be given every opportunity to explain his/her conduct or act of commission or omission. No written record of any informal disciplinary action will be placed in the employee's official personnel folder.

#### Section 5

The EMPLOYER agrees that if within the EMPLOYER'S control prior to the taking of a written or sworn statement from an employee or when an employee is going to be questioned on matters which may lead to disciplinary or adverse action against him/her, her/she will be advised at that time of his/her right to be represented by the UNION. If the employee requests representation, no question will take place until the representative is present.

#### Section 6

A supervisor will informally discuss with the employee the basis for any proposed disciplinary or adverse action prior to its being reduced to writing. The EMPLOYER will carefully consider the employee's views and inform the employee of its decision before instituting any formal action.

#### Section 7

Oral admonitions are warnings are informal disciplinary actions and when administered consist of corrective oral direction to the employee. Such admonitions and warnings will be given privately by the supervisor to the employee, however, the employee will be advised of his/her right to have a UNION representative for the purpose of observing only, should he/she so desire. The employee will be given every opportunity to explain his/her conduct or act of commission or omission. No written record of any informal disciplinary action will be placed in the employee's official personnel folder.

#### Section 8

When the employee does not elect to have the UNION represent him/her, the UNION will be permitted to have an observer present at an adverse action hearing, without charge to leave, when such action is taken through the negotiation grievance procedures. If the employee who requested the hearing objects to the attendance of an observer on grounds of privacy, the examiner will determine the validity of the objection and make the decision on the quest of attendance.

#### Section 9

If within the EMPLOYER'S control, subpoenas will be served in private without knowledge of other employees.

#### Section 10

Disciplinary or adverse actions will be initiated only for just cause and effected by management in keeping with applicable laws and regulations. Once the EMPLOYER becomes aware of an offense, disciplinary or adverse action, if taken will be initiated in a timely manner.

### Section 11

Only one disciplinary or adverse action will be taken for any offense, i.e., no double jeopardy.

### Section 12

In cases of adverse action appeals through the Agency procedures, the employee may have a representative of his/her choosing.

### Section 13

An employee and his/her representative will be given a reasonable number of days to review the materials on which a disciplinary or adverse action is based and to prepare and present a defense to the charges, in compliance with the applicable regulations and policies not to exceed 15 days.

### Section 14

In the event a disciplinary or adverse action is ruled unjustified, all appropriate formal records will be taken from the employee's official personnel folder and the supervisor's file.

## **ARTICLE IX**

### **GRIEVANCE PROCEDURE**

#### Section 1 - Purpose

The purpose of this Article is to provide a mutually acceptable method for prompt and equitable settlement of grievances. This negotiated procedure shall be the exclusive procedure available to the UNION and the employees in the bargaining unit for resolving such grievances except as provided in Section 3 of the Article.

#### Section 2 - Scope

- A. grievance means any complaint:
  - a. By an employee concerning any matter relating to the employment of the employee;
  - b. By the UNION concerning any matter relating to the employment of any employee; or

- c. By any employee, the UNION, or the EMPLOYER concerning
  - (1) The effect of interpretation or a claim of breach of a collective bargaining agreement;
  - (2) Actions relating to retirement, life insurance or health insurance.
- d. Except that it shall not include a grievance concerning:
  - (1) Any claimed violation relating to prohibited political activities.
  - (2) Actions relating to retirement, life insurance or health insurance.
  - (3) A suspension or removal accomplished in the interest of National Security under Section 7532 of P.L. 95-454.
  - (4) Any examination, certification, or appointment.
  - (5) The classification of any position which does not result in the reduction in grade or pay of an employee.
  - (6) Any matter involving the termination of temporary employees.
  - (7) Any matter which has been raised as an unfair labor practice charge.

### Section 3

An aggrieved employee affected by discrimination, a removal or reduction in grade based on unacceptable performance, or adverse action may at his/her option raise the matter under a statutory appellate procedure of the negotiated grievance procedure, but not both. For the purposes of this section and pursuant to Section 7121 (1) of P.L. 95-454, and employee shall be deemed to have exercised his option only when the employee files a timely notice of appeal under the applicable appellate procedure or files a timely grievance in writing under the negotiated procedure, whichever event occurs first.

### Section 4 – Question of Grievability

In the event either party should declare a grievance nongrievable or nonarbitrable, the original grievance shall be considered amended to include this issue. All disputes of grievability or arbitrability shall be referred to arbitration as a threshold issue in the related grievance.

### Section 5

Most grievances arise from misunderstandings or disputes which can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. The PARTIES agree that every effort will be made to settle grievances at the lowest possible level. Inasmuch as dissatisfactions and disagreements arise occasionally among people in any work situation,

the filing of a grievance shall not be construed as reflecting unfavorably on an employee's good standing, his/her performance, or his/her loyalty or desirability to the organization. Reasonable time during working hours will be allowed for employees and UNION Representative to discuss, prepare for any present grievances, including attendance at meetings with EMPLOYER officials in accordance with Article VI, UNION Representation. Not more than four hours of official time will be allowed for discussion and preparation of a grievance.

#### Section 6

When an employee states that he has a grievance to present under the provisions of this Article, he/she will be afforded the opportunity to have a UNION Representative.

#### Section 7 – Filing a Grievance

Step 1. The grievance will first be taken up orally by the concerned employee, or UNION Representative, if any, in the presence of the employee, with the employee's immediate supervisor in an attempt to settle the matter. Grievances must be presented within fifteen (15) calendar days from the date the employee or the UNION became aware of the incident giving rise to the grievance. The UNION Representative, if any, must be present if the employee so desires. If an employee(s), without UNION representative, presents a grievance directly to the EMPLOYER for adjustment consistent with the terms of this agreement, the UNION shall be provided with opportunity to have an observer present on official time. The supervisor shall have five working days to render an oral decision.

Step 2. If the matter is not satisfactorily settled at Step 1, the grievant and/or the UNION Representative may, within five (5) working days, submit the matter in writing to the Fleet Superintendent. The grievance must contain the issues, being grieved, the specific contract or P.L. 95-454 provision that were allegedly violated, the relief sought and the grievant's name. The Fleet Superintendent will meet with the UNION Representative and the aggrieved employee(s) and the UNION Representative his written answer within five (5) working days after the meeting.

Step 3. If the grievance is not satisfactorily settled at Step 2, the grievant and/or the UNION Representative may, within five (5) working days, submit the matter in writing to the Fleet Superintendent. The grievance must contain the issues, being grieved, the specific contract or P.L. 95-454 provision that were allegedly violated, the relief sought and the grievant's name. The Fleet Superintendent will meet with the UNION Representative and the aggrieved employee(s) and the UNION Representative his written answer within five (5) working days after the meeting.

Step 4. If the grievance is not satisfactorily settled at Step 3, the UNION or the EMPLOYER may refer the matter to arbitration.

## Section 8

Complaints arising over the interpretation or application of this agreement may be submitted by the UNION within fifteen (15) calendar days after the UNION becomes aware of the grievance under the procedures outlined above (Section 7). A grievance concerning continuing practices may be submitted at any time.

## Section 9

Complaints arising over the interpretation or the application of this agreement may be submitted by the Fleet Superintendent to the UNION President within fifteen (15) calendar days after the Fleet Superintendent becomes aware of the violation. The UNION President or his designee will meet within ten (10) working days after receipt of the notice of violation. The UNION President shall give the Fleet Superintendent his written answer within ten (10) working days after the meeting. If the violation is not settled by this method, the EMPLOYER may refer the matter to arbitration.

## Section 10

Grievances involving more than one employee will be processed as one grievance under the same procedure set forth above.

## Section 11

- a. The grievant (s), and
- b. His/her UNION Representative, or
- c. UNION observer, and
- d. One appropriate Management Official with the authority to resolve the grievance.
- e. One appropriate Management Official may attend as needed to furnish information or advice.

## Section 12

The time limits in this Article may be extended by mutual agreement.

## Section 13

If at any stage of processing an employee grievance under this Article the employee elects to withdraw his grievance, he may do so by written notification to his supervisor and UNION Representative. The UNION may pursue processing of a grievance so withdrawn on complaints arising from interpretation or the application of this agreement.

## Section 14

The time limits in this Article may be extended by mutual consent of the EMPLOYER and the grievant. Failure by the EMPLOYER to observe the time limits for any step in the grievance procedure shall entitle the grievant to advance the grievance to the next step. Failure by the employee or his/her representative to observe the time limits provided in this Article shall result in termination of the grievance by the EMPLOYER.

## **ARTICLE X**

### **ARBITRATION**

#### Section 1

In the event a grievance is not resolved under the procedures set forth in Article IX the EMPLOYER or the UNION may invoke binding arbitration. The party desiring arbitration shall provide written notice to Federal Mediation and Conciliation SERVICES (FMCS) and to the other party within twenty (20) calendar days from the date of the final decision made under Article 9. The written notice shall be submitted to the Fleet Superintendent or the UNION President, as appropriate, and shall specify the issue, the reasons for referring the grievance to arbitration, the contract provisions that were violated, and the specific remedy sought.

#### Section 2

Within ten (10) calendar days after receipt of the notice, the parties shall meet to request a list of five arbitrators from the FMCS. The parties shall meet within ten (10) days from receipt of the list. If they cannot agree on one of the listed arbitrators, then the UNION and the EMPLOYER will each strike one name from the list and will repeat this process until only one name remains. The name remaining shall be the duly selected arbitrator. A flip of a coin will determine which party strikes the first name from the list. After selection of an arbitrator, the parties will meet to determine a joint submission of the issue to be arbitrated. If the parties cannot reach agreement, each party shall make a separate submission to the arbitrator, and the arbitrator will determine the issue to be decided. Only those issues properly raised in the grievance procedure may be raised in arbitration. If there is a dispute as to whether an issue is arbitrable or not, the question of arbitrability will be decided as a threshold issue by the arbitrator.

#### Section 3

The fees and expenses of the arbitrator, including transcript cost shall be borne equally by the EMPLOYER and the UNION. A transcript of the arbitration hearing will be required if requested by either party.

#### Section 4

The arbitration hearing will normally be scheduled between 8:30 a.m. and 4:00 p.m. on a weekday, i.e., Monday through Friday, and held on the premises of the EMPLOYER.

### Section 5

The arbitrator shall not have the authority to change, alter, amend, modify, add to or delete from this Agreement. The arbitrator will be requested to render his/her decision as quickly as possible, but in any event not later than thirty days after the conclusion of the hearing. Either party may file exceptions to the arbitrator's award with the Federal Labor Relations Authority (Authority) under the Authority's regulations.

### Section 6

Employees who are called as witnesses shall be in a duty status while testifying at an arbitration hearing. To insure this, the EMPLOYER may change the hours of work of such employees for the day(s) that they will be a witness without regard to other provisions of this Agreement.

## **ARTICLE XI**

### **POSITION CLASSIFICATION**

#### Section 1

Employee shall receive a copy of their position description when they are initially appointed and when changes to their position description occur.

#### Section 2

If an employee questions the accuracy of his/her position classification, the matter shall be discussed with the employee's supervisor. The employee may elect to be represented by a UNION representative in such discussion. If an employee is not satisfied with the results of the discussion with the supervisor and continues to believe that his/her position is incorrectly classified, the employee may file and appeal in accordance with the procedures contained in appropriate regulations. The employee will be furnished information on appeal rights and procedures and may elect to be represented by a UNION representative in presenting an appeal or grievance. The classification of any position which does not result in the reduction in grade or pay of an employee is not grievable.

#### Section 3

The parties agree that it is the right and responsibility of management to determine job content, the skills required, and assignment of duties.

#### Section 4

The EMPLOYER agrees that employees will be assigned work which is appropriate to their position description taking into account work requirements of the organization. Other duties shall not mean duties of a higher graded position performed for an extended period of time without the EMPLOYER taking appropriate

personnel action to formalized the detail. Other duties inconsistent with the position description will not be regularly assigned without being reflected by appropriate changes in the position description.

#### Section 5

The UNION will be notified when a position classification action (s) is to be taken which will have an adverse effect on the pay or status of employees in the unit.

#### Section 6

Employees shall be given the opportunity at least once each year to review their job description and to discuss it with their supervisor or other appropriate management official. If, after reviewing the job description, an employee believes that something should be added or deleted, a written request may be submitted by the employee to the immediate supervisor who shall concur or non-concur with the change requested by the employee and forward it to the personnel office for action.

#### Section 7

The parties agree that the phrases, “and other related duties” or “other duties as assigned” as used on a position description shall be defined as those duties and responsibilities reasonably related to the duties, skills, or abilities of the employee.

## **ARTICLE XII**

### **PERFORMANCE APPRAISAL**

#### Section 1

Each employee shall receive an annual performance appraisal in accordance with the Maritime Administration Performance Appraisal System for the General workforce. Employees shall receive a copy of their appraisal form.

#### Section 2

Supervisors will annually, by the beginning of each appraisal period, provide each employee with a written performance plan which contains critical elements, other performance elements, and performance standards related to the employee’s specific duties, responsibilities, and expected level of performance.

#### Section 3

Critical and other performance elements must be identified for each employee. Performance elements must include only those aspects of the work over which the employee has control, and must be consistent with the duties and responsibilities covered in the employee’s position description. These performance elements and performance standards shall be identified through a documented analytical approach which will assure the job relatedness of elements and performance standards.

#### Section 4.

Performance standards must be established for each performance element. Standards should define performance in terms of products (what is to be accomplished) and/or process (how it is to be accomplished). Standards should be as specific and as measurable as possible, and expressed in terms of quality, quantity, and timeliness, or other relevant indices. In the rare instance where an applicable classification standard uses a quantitative or qualitative performance criterion to distinguish among grade levels, the performance standards established should reflect this distinction.

#### Section 5

If the performance of General Workforce employees who are covered by this performance appraisal system fails to meet the criteria for Satisfactory or higher (i.e., fails to meet the requirements for all critical elements and most other elements), appropriate action will be taken. Ratings of Marginal or Unsatisfactory shall be considered as not meeting acceptable level of competence criteria and shall result in the denial of a within grade increase. An unsatisfactory performance rating may result in an employee being reassigned, reduced in grade, or removed. Such action may be taken before the end of the appraisal period. However, before initiating a proposal to reduce in grade or remove, a rating official shall inform the employee of his/her performance deficiencies and provide the employee an opportunity to demonstrate acceptable performance at least 30 days before initiating action. When a supervisor notes that a covered employee's performance is less than Satisfactory, he/she will then conduct and document a formal progress review with the employee during which the specific performance deficiencies will be discussed and a plan to correct them will be (mutually) developed by both parties. (The supervisor retains the right to make the final decision on the plan.)

#### Section 6

At any investigatory interview with an employee, which the employee reasonably believes may result in a disciplinary action because of his/her performance, the employee has the right to request representation by his/her UNION Representative.

### **ARTICLE XIII**

#### **EQUAL EMPLOYEE OPPORTUNITY**

The EMPLOYER agrees to provide equal opportunity in employment for all persons, to prohibit discrimination because of race, color, religion, sex, age, national origin, or handicapping conditions, and to promote the full realization of equal employment opportunity through a continuing affirmative program. The EMPLOYER agrees to abide by the provisions of Chapter 713 of the Federal Personnel Manual and P.L. 95-454. The Union agrees to cooperate fully in this endeavor.

## **ARTICLE XIV**

### **SICK LEAVE**

#### **Section 1**

The UNION joins the EMPLOYER in recognizing the insurance value of sick leave and agrees to encourage employees to conserve sick leave so it will be available to them in case of extended illness. Sick leave, if accrued, shall be granted to employees when they are incapacitated for the performance of their duties for reasons of sickness, injury, or other reasons as provided by leave regulations. Employees not reporting for work for reasons as stated above shall furnish notice to the EMPLOYER by telephone as soon as possible but no later than 10:00 a. m. of the normal workday, on each day that they are absent. The EMPLOYER may excuse the call-in requirement, when, because of special or unique circumstances, as determined by the EMPLOYER, the employee is unable to meet this requirement. Unless excused by the EMPLOYER, failure to call in on each day may result in a charge of absence without leave (AWOL) and the initiation of disciplinary or adverse action.

#### **Section 2**

It is agreed that employees with medical, dental, or optical appointments for examination or treatment, who cannot arrange appointments outside work hours, may be granted sick leave normally not to exceed 4 hours for this purpose. Employee shall submit requests for such leave as far in advance as possible and shall specify the date and time of the appointment, and the name and address of the doctor or other practitioner involved.

#### **Section 3**

Periods of absence on sick leave in excess of three (3) workdays of continuous duration must ordinarily be supported by a medical certificate to be filed within three (3) working days after return of duty. In lieu of a medical certificate, a signed statement from the employee indicating the nature of the illness and the reason why a medical certificate is not furnished may be acceptable whenever it is unreasonable to obtain such certificate, and it is recognized that the employee is not an abuser of sick leave.

#### **Section 4**

In individual cases, a medical certificate may be required with the supervisor has reason to believe the employee is abusing sick leave privileges. The employee will be advised in writing that all future requests for sick leave must be supported by a medical certificate.

#### **Section 5**

Cases requiring a medical certificate pursuant to Section 4 shall be reviewed upon request of the employee after six (6) months time, for the purpose of determining whether such requirements can be eliminated.

## Section 6

The EMPLOYER agrees to give consideration to individual requests by employees for advance sick leave in an amount not to exceed thirty (30) days in the aggregate, after the first year of Federal employment, in cases of serious illness or disability, in keeping with the provisions of applicable regulations. Employee requests must be supported by a medical certificate signed by a physician or other practitioner.

## **ARTICLE XV**

### **OTHER LEAVE PROVISIONS**

#### Section 1

Supervisors may excuse without charge to leave, brief periods of tardiness which occur infrequently for unavoidable reasons. Employees are expected to report for work on time and the UNION agrees to stress the importance of doing so to all members of the unit. Employees who do not adhere to the scheduled hours of duty are subject to disciplinary action. It is agreed that the minimum charge for leave is one hour and additional charge shall be in multiples thereof.

#### Section 2

When an employee is charged with leave for an unauthorized absence or tardiness, the EMPLOYER may not require him/her to perform work for any part of the leave period charged.

#### Section 3

If an employee is tardy, he/she must notify his/her supervisor immediately upon reporting for work. If the supervisor fails to tell the employee at the time he/she reports for work, of his/her status as outlined in Section 1, then it is understood and agreed that the employee is excused without charge to leave.

#### Section 4

The EMPLOYER agrees that an employee's first offense of unexcused absence for less than one hour may be charged to the employee's annual leave.

#### Section 5

Nothing in this Article will preclude the employee, his/her representative, or the UNION from filing a grievance or other charges as may be adequate, if there is a disagreement over "unavoidable reason" for the employee being late or tardy.

**ARTICLE XVI**

**PAY PRACTICES**

**Section 1**

Shift differential, premium and holiday pay will be authorized and paid in accordance with applicable regulations.

**Section 2**

Environmental differential pay for high work will be paid when the requirements of FPM Supplement 532-1, Appendix J are met.

**Section 3**

All wage grade employees at the Beaumont Reserve Fleet, protected or unprotected, shall receive environment differential pay as authorized by FPM Supplement 532-1, Appendix J, Part II, Category 16, "Asbestos" on a full-time basis.

**ARTICLE XVII**

**PAYROLL ALLOTMENT FOR WITHHOLDING DUES**

Introduction

The EMPLOYER agrees to a system of payroll allotment for withholding UNION dues for employees who (1) voluntarily completed Standard Form 1187, Request and Authorization for Voluntary Allotment of Compensation for Payment of Employees Organization Dues, (2) receive compensation sufficient to cover the total amount of the allotment and (3) are not suspended or expelled from UNION membership.

The UNION and the EMPLOYER agree the provisions of this Article are subject to, and will be governed by P.L. 95-454.

Section 1 UNION Responsibilities

The UNION agrees to assume the responsibilities for:

- a. Informing and educating its members on the voluntary nature of the system for the allotment of employee organization dues, including the conditions under which the allotment may be revoked.
- b. Providing and distributing to its members Standard Form 1187.
- c. Completing the following items (1) through (3) and forwarding to the Fleet Superintendent, in writing, any changes in this information.

(1) Until further noticed, the following UNION Officers are authorized to make the necessary certification of Standards Form 1187: President, Vice P-President and Secretary-Treasurer.

(2) Until further notice remittance checks should be made payable as follows:

AFGE, Local 2413  
Title of Local

(3) Until further notice, remittance checks will be mailed as follows:

President  
(Title of Local Officer)  
AFGE Local No. 2413

\_\_\_\_\_  
(City, State and Zip Code)

- d. Forwarding properly executed and certified Standard Form 1187 to the Fleet Superintendent on a timely basis.

- e. Promptly forwarding an employee's revocation (memorandum or Standard Form 1188, Revocation of Voluntary Authorization for Allotment of Compensation for Payment of Employee Organization Dues) to the servicing payroll office when such revocation is submitted to the UNION.
- f. Informing the employee's servicing payroll office of the name of any participating employee who has been expelled or ceases to be a member in good standing in the UNION within 10 days of the date of such final determination.
- g. Informing the employee's servicing payroll office, through the Fleet Superintendent to the Office of Personnel, of any change in the amount of membership dues.

Section 2      EMPLOYER Responsibilities

The EMPLOYER agrees that it is responsible for:

- a. Permitting and processing voluntary allotment of dues in accordance with this Agreement.
- b. Withholding dues on a bi-weekly basis.
- c. Withholding new amounts of dues upon certification from the authorized UNION officials.
- d. Transmitting remittance checks to the allottee designated by the UNION together with a listing of employees for whom deductions were made and a copy of all revocation notices received in the payroll office.
- e. Providing a remittance listing to the UNION containing the following information:
  - (1) The name of each employee for whom deduction is being made during the current pay period.
  - (2) Identification of the AFGE Local.
  - (3) Amount withheld for each employee.
  - (4) The total gross amount deducted.

Section 3      Joint Stipulation

The UNION and the EMPLOYER agree that:

Administrative errors in remittance checks will be corrected and adjusted in the next remittance check to be issued to the UNION. If the UNION is not scheduled to receive a remittance check after discovery of the error, the UNION agrees to promptly refund the amount of erroneous remittance.

#### Section 4 Effective Dates for Actions

The effective dates for actions under this Article are as follows:

<u>Action</u>	<u>Effective Date</u>
a. Starting dues withholding.	Beginning of first pay period after date of receipt of properly executed and certified Standard Form 1187 in Payroll Office.
b. Change in amount of dues.	Beginning of first pay period after receipt of certification in Payroll Office.
c. Revocation by employee:	Beginning of first pay period after receipt in payroll office of revocation notice.* (See Note 1)
d. Termination due to loss Of membership of good standing	Beginning of first pay period after date of receipt receipt of notification in payroll office.

\*Note (1) Employee may not revoke dues withholding for a period of one year

- a. The agreement between the Agency and the exclusive representative involved ceases to be applicable to the employee; or
- b. The employee is suspended or expelled from membership in the exclusive representative.

### **ARTICLE XVIII**

#### **IMPASSE IN NEGOTIATION**

##### Section 1

If impasse is reached during negotiations the parties agree to utilize the Federal Mediation and Conciliation Service and/or the Federal Service Impasses Panel.

### **ARTICLE XIX**

#### **WORKING CONDITIONS**

##### Section 1

It is agreed that preservation employees will be provided 15 minutes before the end of the work shift for the purpose of personal cleanup. More time may be granted when the employee and EMPLOYER determine it to be needed. The service personnel will be granted a reasonable amount of time, not to exceed 15 minutes, before the end of the work shift for personal cleanup when the employee and EMPLOYER determine it to be needed.

Section 2

The EMPLOYER shall furnish a clean, enclosed area for the purpose of lunch and rest periods. The area shall be located away from the immediate work area of the employees. The EMPLOYER agrees that the area will be lighted and that the employees will not be required to use battery operated lights for this purpose. This area will be heated during cold weather.

Section 3

It is agreed that employees will be allowed to make coffee during lunch and rest breaks. Electricity will be furnished by the EMPLOYER in the designated break areas for this purpose.

Section 4

The EMPLOYER agrees to provide incinolets near all work areas.

Section 5

The EMPLOYER will notify employees not previously painting of their assignment to the paint gang one (1) day in advance.

Section 6

The EMPLOYER will furnish a heater to be used during cold weather on the LCM transporting personnel to and from work.

Section 7

When severe weather conditions requiring foul weather gear arise in the course of the work day, employees lacking such gear may be assigned inside work except for those employees needed to continue necessary operations despite the severe weather conditions.

Section 8

It is agreed that towels and soap will be furnished for the shower room. Rags, soap and/or solvents will be furnished to personnel engaged in painting, working in bilges, spraying oil or varnish or similar work to remove dirt, oil, paint or filth as necessary from their tools or their person.

**ARTICLE XX**

**OCCUPATIONAL SAFETY AND HEALTH**

Section 1     General

The EMPLOYER shall, consistent with the provision contained in Section 19 of the Occupational Safety and Health Act, Executive Order 12196, and 29 CFR 1960, furnish to and maintain for its

employee's places and conditions of employment that are free of hazards that are causing or are likely to cause an accident, injury, or illness to the employee. The EMPLOYER and the UNION agree to cooperate in a continuing effort to eliminate accident producing conditions and health hazards.

## Section 2 Protective Clothing, Equipment and Tools

The EMPLOYER shall, in accordance with Executive Order 12196 and the Basic Program Elements for Federal Employee Occupational Safety and Health, and other applicable directives acquire, maintain and require the use of approved safety equipment, approved personal protective equipment, and other devices necessary to provide protection of employees from hazardous conditions encountered during the performance of official duties.

## Section 3 Training

a. The EMPLOYER agrees that wherever and whenever employees are required to perform duties which involve real or potential hazards they will be provided adequate on the job training to perform the job safely. An employee will not be required to work on a job or machine with which he or she is unfamiliar until the EMPLOYER has provided adequate training and instructions to safely perform the job. Such training shall include instruction, proper work methods to be used and proper use of protective equipment.

b. The EMPLOYER agrees that consistent with Executive Order 12196 and Basic Program Elements for Federal Employee Occupational Safety and Health Programs (29 CFR 1960) it shall provide appropriate safety and health training for employees responsible for conducting safety and health inspections, and other unit employees as necessary.

## Section 4 Imminent Danger Situations

a. When an employee or group of employees during the course of performing their official duties believe they are being required to work under conditions which are unsafe or unhealthful and present an imminent danger which may cause death, injury, occupational illness, loss of a faculty or major property damage shall cease the activity and notify the nearest available supervisor of the alleged hazard. The supervisor shall make an evaluation of the situation and shall make a determination as to whether work may proceed. If a determination is made that an imminent danger situation does exist, work shall not resume until abatement is made.

b. When the EMPLOYER determines that a dangerous or potentially dangerous condition arises or is present at a worksite, employees shall be notified immediately as to precautionary steps to be taken.

c. The EMPLOYER agrees to post notice of hazardous conditions discovered in a workplace as

required by the Basic Program Elements for Federal Employee Occupational Safety and Health Programs (29 CFR 1960). This notice shall be posted until the cited condition has been corrected. Such notices shall contain a warning and description of the unsafe or unhealthful dc=working conditions and any required precautions required by applicable regulations.

Section 5 Work in Remote Areas or Enclosed

- a. No employee shall be allowed to work in an areas beyond the visibility of others, without Periodic checks being made by the supervisor, other employees, or security guards. Where employees are required to work in confined or remote space which present a known hazard employees shall be assigned in teams of at least two. If the space is so restricted as to prevent two employees then a communication system shall be utilized to assure the maintenance of constant communication with the employee.
- b. No employee shall be allowed to work in confined or enclosed spaces without having someone posted outside equipped with all necessary equipment to effect a rescue safely.
- c. When work is required to be performed in areas where flammable or toxic vapors exist all such areas shall be maintained so that vapor levels remain within acceptable safety parameters as determined by OSHA safety standards.

Section 6 Repairs and Adjustments to Operating Equipment

No employee, other than qualified maintenance personnel shall be required to repair or adjust moving or operating machinery.

Section 7 Fleet Accident Investigation Committees

The UNION will be permitted to designate in writing one member to the Fleet Accident Investigation Committee appointed to investigate an accident involving a unit employee. The designated member will sign the report to the Superintendent as a member of the Committee.

Section 8 Abatement of Unsafe and Unhealthful Working Conditions

- a. The EMPLOYER agrees to assure prompt abatement of unsafe or unhealthful working conditions. When this cannot be accomplished the EMPLOYER agrees to develop an abatement plan setting forth a timetable for abatement and a summary of interim steps. Employees exposed to such conditions shall be informed of the abatement plan.
- b. The EMPLOYER agrees to assure response to employee reports of unsafe or unhealthful working conditions and require an inspection within 24 hours for imminent danger conditions; 3 working days for potential serious conditions and 20 workdays for other conditions. Any employee or steward is authorized to request an inspection of the workplace when he/she believes an unsafe or unhealthful condition exists. ng someone
- c. The EMPLOYER shall assure the right of anonymity for those employees or stewards who report an unsafe or unhealthful working conditions.

Section 9 Reporting Unsafe or Unhealthful Working Conditions

The EMPLOYER shall establish procedures to assure that no employee is subjected to restraint, interference, coercion, discrimination, or reprisal for filing a report of an unsafe or unhealthy working condition, or other participation in an agency occupational safety and health program.

Section 10 Reporting Unsafe or Unhealthful Working Conditions

Safety and health inspections or surveys shall be conducted by the EMPLOYER as required to maintain a safe and healthful workplace. They shall be in accordance with all applicable regulations.

Section 11 Medical Surveillance Program

- a. Initial Medical Examinations – all employees shall have an initial medical examination which shall include:
- (1) A comprehensive occupational history, detailing prior exposure to potentially harmful chemical hazards, particularly asbestos. Any adverse effects related to these exposures should be recorded. A respiratory history with emphasis on the presence of respiratory symptoms and smoking should also be recorded.
  - (2) A physical examination with special emphasis on the chest, particularly the presence of persistent “dry rales” or “crackles” at the lunge base. In addition, the presence or absence of “clubbing” of the fingers should be noted.
  - (3) A 14” or 17” posterior-anterior chest roentgenogram. These films should be locally screened and interpreted in accordance with current radiological practices. In addition, these films should also be independently interpreted in accordance with ILO-U/C International Classification of Radiographs of Pneumoconiosis (1971).
  - (4) Pulmonary function tests including forced expiratory volume in one second (FEV1) and forced vital capacity (FVC). Such tests should be performed, calculated, and interpreted in accordance with the Navy Environmental Health Center Technical Manual 77-1, May 1977. Pneumoconiosis (1971).
  - (5) A judgment of the worker’s ability to use respiratory protective equipment.
  - (6) The findings of severe respiratory impairment from any cause, e.g., FEV1.FVC less than 45 percent or FVC less than 70 percent of predicted, or the presence of documented actual or probable pulmonary asbestosis, should be considered disqualifying for initial assignment. Any other abnormalities discovered in the course of the pre-employment evaluation should be investigated to determine if they could substantially increase the risk of asbestos-induced disease.

- b. Annual Medical Examinations – annual medical examinations will be given to employees in the following categories:
- (1) Exposure at any time during the calendar year to airborne asbestos concentrations exceeding above 5f/cc greater than 5 micrometers in length.
  - (2) Exposure on 3 separate days per calendar quarter to airborne asbestos concentrations exceeding 0.5f/cc greater than 5 micrometers in length, averaged over the 8 hour workday.
  - (3) Exposure on 15 separate days per calendar quarter to airborne asbestos concentrations exceeding 0.1f/cc greater than 5 micrometers in length, average over the 8 hours workday.
  - (4) Where initial medical examinations show evidence of an asbestos-related disorder.
  - (5) Where an asbestos-related disorder is discovered at any time after an initial medical examination.
  - (6) Where an employee has 5 years of accumulated exposure to asbestos.
  - (7) Where an employee regularly smokes one or more cigarettes a day.
  - (8) In addition to the above, any employee who requests an annual examination and has been exposed to asbestos shall receive an annual examination on a voluntary basis.
- c. Employee Participation – employee participation in the medical surveillance program, i.e., initial medical examination and, if eligible, annual medical examination, is mandatory.
- d. Medical Records – the exterior of medical records for employees in the medical surveillance program should be prominently marked “ASBESTOS.”
- (1) Each individual medical record should include the following identifying information:
    - Name.
    - Social Security Number.
    - Date of birth.
    - Dates of examinations.
    - Job titles, job codes, and if applicable, rank or rate.
  - (2) All records of examination, possible asbestos-related conditions, related X-ray interpretations, and all forms and correspondence related to the employee’s medical history should become a

permanent part of the health record and be retained for a period of fifty (50) years following termination of service/employment. X-ray films should be retained for a period of five (5) years following termination of employment.

- (3) The judgment of the occupational health physician concerning the adequacy of the diagnostic information to support the impression of asbestos-related disease should be entered in the medical record. Lacking definitive criteria, the evaluating physician must exercise his/her best medical judgment on each individual case.
  - (4) Copies of a summary of any examinations, X-rays reports, or special studies in an individual's health record or compensation folder should be made available to a physician of the individual's choice after execution of a proper release of information.
- e. Training – employees included in the medical surveillance program should receive detailed indoctrination and periodic refresher instruction concerning asbestos exposure. The initial indoctrination should include all of the following:
- (1) Hazards of asbestos.
  - (2) Safe handling and disposal procedures.
  - (3) Proper use of protective equipment.
  - (4) Association of cigarette smoking and asbestos-related disease.
  - (5) Procedures for reporting actual or suspected exposure.

## Section 12 Medical Surveillance Program

- a. Working Environment Asbestos Exposure Limits
  - (1) Unprotected personnel working in a Fleet facility or vessel shall not be exposed to airborne asbestos fiber concentrations: (a) in excess of 0.5 fibers, longer than 5 micrometers, per cubic centimeter of air (0.5 f/cc) averaged over eight working hours per day and (b) for any length of time in excess of 5 fibers, longer than 5 micrometers, per cubic centimeter of air (5 f/cc).
  - (2) Whenever possible, however, the working environment exposure limit for unprotected personnel should not exceed 0.1 fibers, longer than 5 micrometers, per cubic centimeter of air averaged over an eight-hour workday.

- (3) These limitations shall be achieved, when necessary, by using the appropriate control method prescribed under ARTICLE XX, Section 13, 14 and 15.
- b. Asbestos Presence and Condition Assessment
- (1) The Beaumont Reserve Fleet Superintendent shall be responsible for determining the presence and condition (i.e., friability, damage or deterioration) of asbestos in the working environment.
  - (3) Employees shall report to their immediate supervisor the presence and condition of suspected asbestos that they observe in their working environment during the performance of their regular duties. PROVIDED, employees need not report the presence of encapsulated suspected asbestos.
- c. Initial Survey
- An initial determination of asbestos conditions on each Fleet vessel and facility shall be made by physical survey, conducted by persons qualified through asbestos training. The evaluative guidelines used will comply with NIOSH/OSHA standards.
- d. Air Sampling
- (1) In vessels and facilities where friable asbestos exists, air sampling will be conducted with such frequency and patten to represent with reasonable accuracy the actual airborne concentration. Sampling intervals for these locations will not exceed twelve months.
  - (2) Air samples, to determine the peak or ceiling limit, will be taken at the time work is in progress involving the direct manipulation of asbestos, including the removal, installation, or repair of asbestos insulation, and the operation and cleaning of open brakes and closed brakes that must be opened. If such air samples have not been conducted, those tasks will be considered to expose employees i9nvolved to airborne concentrations of asbestos in excess of 0.5 fibers, longer than 5 micrometers, per cubic centimeter of air (0.5 f/cc) average over an eight-hour workday.
- e. Confirmation of Asbestos Material
- Since visual recognition is unreliable, all suspect material shall be considered to contain asbestos unless shown to be otherwise. Suspect materials that are damaged, deteriorated, or scheduled for removal by Fleet employees may be analyzed by an analytical technique approved by the Environmental Protection Agency (specified in 40 CFR Part 763) or approved by another Federal Agency.

- f. Employee Participation  
Employees or their representatives shall be afforded the opportunity to observe physical surveys and air samples taken at the Fleet.
- g. Physical Survey and Air Sampling Records  
Physical survey and air sampling records will be maintained by the Fleet Superintendent. Employees, or their representatives at their request, may review or receive one copy of each record.
- h. Stipulations
  - (1) The Employer may, at its option, accomplish the requirements, either jointly or separately, of the initial survey (para. C.) and air sampling (para. D. (1)) on a month to month basis. The program will start no later than sixty days from the date this Agreement is approved by the Department of Transportation and be divided into no more than twelve (12) monthly segments. If this option is exercised, then the air sampling required by paragraph d. (2) will normally be accomplished at this time.
  - (2) Air sampling conducted under paragraph d. (1) and (2) of this section shall be performed by trained personnel in accordance with procedures established in Attachment 5, Action Plan for the Control of Asbestos Exposure in MARAD Programs (Sept. 1982), which is made a part hereof and incorporated herein as APPENDIX 1.

### Section 13 Personnel Protective Controls

- a. Respirators – respirators for asbestos work shall be selected and worn in accordance with the following:
  - (1) During significant rip-out of asbestos, including the disturbance of extensive amounts of intact asbestos associated with the repair or maintenance of major machinery, equipment or piping, a NIOSH approve type “C” continuous flow or pressure demand supplied air respirator shall be used by every person engaged in the rip-out and associated clean-up.
  - (2) For the below noted asbestos handling operations, a NIOSH approved air purifying (dust filter) respirator or a NIOSH approved powered air purifying respirator shall be used by every person engaged in the operation and associated clean-up. Although not required, a Type “C” continuous flow respirator may be used instead. The operations include:
    - minor rip-out or removal of asbestos,
    - repair of asbestos insulation and lagging,

- repair of small machinery or piping involving the disturbance of intact asbestos,
  - cleaning of brakes and clutches,
  - operation of non-enclosed brakes and clutches,
  - welding, and
  - joiner panel cutting and sanding.
- (3) A person should not be assigned to tasks requiring the use of respirators if, based upon his/her most recent medical examination, and examining physician determines that the person will be unable to function normally wearing a respirator, or that the safety or health of the person or other personnel will be impaired by his/her use of a respirator.
- (4) NIOSH approved respirator masks shall be worn by all employees who work in areas where the airborne asbestos concentrations reach or exceed 0.5 f/cc greater than 5 micrometers in length.
- b. Special Clothing – special clothing for asbestos work shall be selected and worn on the following basis:
- (1) During vessel and facility operations involving significant asbestos rip-out, the following special clothing shall be worn by every person engaged in the rip-out or associated clean-up disposable impermeable coveralls, hoods, gloves, and foot covering.
- (2) For all other asbestos handling operations, an arrangement of full-body work clothing, separate from a person's street clothing, shall be worn by every person engaged in the operations or associated clean-up. Although not required, the disposable clothing items noted above may be worn for these other operations as well.
- c. Change Areas – in situations where special clothing is required, a change area should be provided as close as practical to but physically separate from the asbestos work area so that workers may change into and out of the special clothing.
- d. Lockers and Laundering – in situations where special clothing is required, two separate lockers or storage facilities should be provided every exposed employee so as to prevent cross contamination of street clothing. Laundering of contaminated re-usable clothing shall be provided. The launderer shall be informed as to the asbestos contamination and the requirement to satisfy the occupational safety and health standards of 29 CFR Part 1910.1001.

- e. Shower Facilities – in situations where personnel are engaged in significant rip-out or associated clean-up, shower facilities should be provided as close as practical to the change area, so that showers may be taken prior to changing into street clothes. If showers are made available, workers shall be required to take a shower. If showers are not practicable, workers shall be vacuumed with a vacuum equipped with a High Efficiency Particulate Absolute (HEPA) filter prior to changing into street clothes.

#### Section 14 Work Practice Controls

- a. Isolation of Area – the work area or location where airborne concentrations of asbestos fibers are likely to exceed 0.5 f/cc shall be isolated from the general use of the rest of the room, compartment, facility, or ship, in order to prevent the inadvertent exposure of unprotected personnel. The perimeter of the isolated area shall be defined by ropes, partitions, or other obvious barriers. Warning signs required by 29 CFR Part 1910.1001 shall be posted along the perimeter.
- b. Containment of Contamination – in order to prevent the spread of asbestos fibers beyond the work area, impermeable drop cloths and dust partitions shall be used to contain asbestos debris.
- c. Wet Methods – asbestos should not be handled in the dry state. Prior to any cutting, removing, or other handling of any asbestos containing material, the material should be thoroughly wetted with water and, if necessary, a wetting agent or surfactant.
- d. Asbestos Removal - cutting is preferable to ripping or tearing the asbestos. Additionally, cutting with a knife or “Stryker Cutter” is preferable to using a toothed saw.
- e. Vacuuming or Wet Sweeping – areas that become contaminated by asbestos insulation scrap and debris should be vacuum cleaned or should be wet down before sweeping to assist in the control of asbestos dust. Vacuum cleaners should be equipped with HEPA filters. DRY SWEEPING ASBESTOS DEBRIS AND DUST SHOULD NEVER BE PERFORMED.
- f. Waste Handling and Disposal – asbestos waste, scrap, debris, equipment, and contaminated clothing consigned for disposal should be collected, wetted, and disposed of in sealed, impermeable bags. A warning label should be affixed to such bags as required by 29 CFR Part 1910.1001. Waste asbestos material should be retained in sealed bags in a secure location or receptacle until disposed of by burial under a minimum of two feet of earth at a public landfill operated in accordance with 40 CFR Part 241. Waste disposal should be coordinated with state and local authorities.

## Section 15 Ventilation Controls

- a. General Ventilation – all general ventilation systems in areas where asbestos rip-out, removal, or repair operations will be conducted should be secured prior to the commencement of operations and should not be restarted until after clean-up operations have been completed. If necessary, temporary general exhaust ventilation to reduce airborne asbestos concentrations can be provided to these areas by exhausting the air through approved ventilation air filters.
- b. Local Exhaust Ventilation – power operated tools used in asbestos work operations should be provided with a local exhaust ventilation system. Local exhaust ventilation should also be provided at the point of airborne fiber generation. All local exhaust ventilation should exhaust through approved ventilation air filters.
- c. Design, Construction, and Operation – all asbestos ventilation systems should be designed, constructed, installed, and maintained in accordance with the American National Standards Institute Fundamental Governing the Design and Operation of Local Exhaust Systems or equivalent. Routine periodic testing and maintenance should be conducted on all such equipment to assure efficient and dependable performance.

## Section 16 Additional Agreement

- a. The EMPLOYER agrees that no personnel will be transported from the dock to their job in the Fleet under conditions of limited visibility unless the East Bank of the Neches River is visible from the transporting craft when such craft is at the access entrance.
- b. The EMPLOYER agrees that no employee will be required to ride in small boats less than 16 feet and powered by outboard motors during hazardous weather.
- c. The he EMPLOYER agrees that a safe smoking area away from the tankers will be designated by the EMPLOYER for employees working on or near the tankers.

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\*/ Approved Ventilation Air Filter – A ventilation air filter having a minimum efficiency of 95 percent for removing particles as small as one micrometer in size.

## **ARTICLE XXI**

### **DISTRIBUTION AND PUBLICATION OF AGREEMENT**

#### **Section 1**

Two original counterpart copies of the Agreement shall be executed, one copy thereof going to the EMPLOYER and the other going to the UNION.

#### **Section 2**

The EMPLOYER agrees to furnish 40 copies of this Agreement for delivery to the UNION for distribution to members of the unit.

## **ARTICLE XXII**

### **DISTRIBUTION AND PUBLICATION OF AGREEMENT**

#### **Section 1**

This agreement will remain in full force and effect for two years from the date of approval by the approving official of the Maritime Administration. There-after, the Agreement shall be automatically renewed until either party gives a written 90-day notice to the other of its intention to negotiate a new Agreement. The present Agreement will remain in full force and effect during the negotiation of said Agreement and until such time as a new Agreement is approved.

#### **Section 2**

During the duration of this Agreement, either party may notify the other in writing of its intention to negotiate supplemental Agreements. Supplements will be limited to changes in applicable laws and regulations from higher authority which could affect bargaining unit employees, including court decisions and decisions of the Federal Labor Relations Authority, the Federal Service Impasses Panel and the Assistant Secretary of Labor for Labor-Management Relations. Any supplements will remain in effect in accordance with the provisions of this Article.

#### **Section 3**

Any notice given under the provisions of this Article shall be accompanied by a copy of the proposed new Agreement of amendment and acknowledged immediately by the recipient. The recipient of a notice may deliver a counter proposal within 30 days of receipt of such notice. In all cases, negotiations under this Article will start not later than 90 days after receipt of notice, unless mutually agreed upon by the Parties.

## APPENDIX 1

### ATTACHMENT

#### AIR SAMPLE TESTING AND ANALYSIS FOR CONCENTRATIONS OF AIRBORNE ASBESTOS FIBERS\*

Collecting Samples – Samples shall be collected from within the worker’s breathing zone on a 37-mm Millipore type AA filter of 0.8 micrometer porosity or equivalent mounted in an open face holder. When collecting personnel samples, air shall be drawn through the filter by means of a battery powered personnel sampling pump. To yield a uniform distribution of sample deposit, the filter holder face-cup shall be removed. Sample flow should be set to approximately 2 liters per minute. Eight-hour time-weighted average (TWA) exposure concentrations should be determined. The peak or ceiling limit should be evaluated from the results of several 15 minute samples taken throughout the work shift. Living environment airborne concentrations should be evaluated from the results of at least one 8-hour sample.

Pump Calibration – Prior to sample collection, the pump to be used should be calibrated by the NIOSH approved soap bubble calibration technique using a one-liter calibrated buret. To assure accuracy, the calibration instrument must be connected to the pump following the same sequence of equipment which will be used in the actual sampling procedures.

Sample Analysis – Samples shall be analyzed using phase contrast microscopy by a laboratory which is a current successful participant in the National Institute for Occupational Safety and Health (NIOSH) Proficiency Analytical Testing (PAT) Program for Asbestos. All determinations of airborne concentrations of asbestos fibers shall be made by the membrane filter method at 400-450 x (magnification) (4-millimeter objective) with phase contrast illumination.

Unscheduled overtime is that overtime caused by unforeseen or emergency factors that preclude the supervisor from giving at least four (4) hours’ notice to employees. The supervisor will make a reasonable attempt to notify employees as soon as possible and to select employees to perform the task(s) on a fair and equitable basis. The Academy mission must come first, and the more readily available personnel possessing the skills needed may be contacted first.

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\*The analytical procedure described here was originally devised for the asbestos industry and does not distinguish between asbestos and non-asbestos fibers.

