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to the conformance procedures provided in §4.6(b).

§4.154 Employees covered by sections 2(a)(3) and (4).

The safety and health standards of section 2(a)(3) and the notice requirements of section 2(a)(4) of the Act (see §4.183) are applicable, in the absence of a specific exemption, to every service employee engaged by a contractor or subcontractor to furnish services under a contract subject to section 2(a) of the Act.

§4.155 Employee coverage does not depend on form of employment contract.

The Act, in section 8(b), makes it plain that the coverage of service employees depends on whether their work for the contractor or subcontractor on a covered contract is that of a service employee as defined in section 8(b) and not on any contractual relationship that may be alleged to exist between the contractor or subcontractor and such persons. In other words, any person, except those discussed in §4.156 below, who performs work called for by a contract or that portion of a contract subject to the Act is, per se, a service employee. Thus, for example, a person's status as an ''owner-operator'' or an ''independent contractor'' is immaterial in determining coverage under the Act and all such persons performing the work of service employees must be compensated in accordance with the Act's requirements.

§4.156 Employees in bona fide executive, administrative, or professional capacity.

The term *service employee* as defined in section 8(b) of the Act does not include persons employed in a bona fide executive, administrative, or professional capacity as those terms are defined in 29 CFR part 541. Employees within the definition of service employee who are employed in an executive, administrative, or professional capacity are not excluded from coverage, however, even though they are highly paid, if they fail to meet the tests set forth in 29 CFR part 541. Thus, such employees as laboratory technicians, draftsmen, and air ambulance pilots, though they require a high level of skill to perform their duties and may meet the salary requirements of the regulations in part 541 of this title, are ordinarily covered by the Act's provisions because they do not typically meet the other requirements of those regulations.

§§4.157–4.158 [Reserved]

Subpart D—Compensation Standards

§4.159 General minimum wage.

The Act, in section 2(b)(1), provides generally that no contractor or subcontractor under any Federal contract subject to the Act shall pay any employee engaged in performing work on such a contract less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act. Section 2(a)(1) provides that the minimum monetary wage specified in any such contract exceeding $2,500 shall in no case be lower than this Fair Labor Standards Act minimum wage. Section 2(b)(1) is a statutory provision which applies to the contractor or subcontractor without regard to whether it is incorporated in the contract; however, §§4.6 and 4.7 provide for inclusion of its requirements in covered contracts and subcontracts. Because this statutory requirement specifies no fixed monetary wage rate and refers only to the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act, and because its application does not depend on provisions of the contract, any increase in such Fair Labor Standards Act minimum wage during the life of the contract is, on its effective date, also effective to increase the minimum wage payable under section 2(b)(1) to employees engaged in performing work on the contract. The minimum wage rate under section 6(a)(1) of the Fair Labor Standards Act is $3.10 per hour beginning January 1, 1980, and $3.35 per hour after December 31, 1980.

§4.160 Effect of section 6(e) of the Fair Labor Standards Act.

Contractors and subcontractors performing work on contracts subject to the Service Contract Act are required to pay all employees, including those