

*Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes*

\* \* \* Special rules apply to accounts with tiered and stepped interest rates, and to certain time accounts with a stated maturity greater than one year.

**A. General Rules**

Except as provided in Part I.E. of this appendix, the annual percentage yield shall be calculated by the formula shown below.\* \* \*

\* \* \* \* \*

**E. Time Accounts with a Stated Maturity Greater than One Year that Pay Interest At Least Annually**

1. For time accounts with a stated maturity greater than one year that do not compound interest on an annual or more frequent basis, and that require the consumer to withdraw interest at least annually, the annual percentage yield may be disclosed as equal to the interest rate.

*Example*

(1) If an institution offers a \$1,000 two-year certificate of deposit that does not compound and that pays out interest semi-annually solely by check or transfer, at a 6.00% interest rate the annual percentage yield may be disclosed as 6.00%.

2. For time accounts covered by this paragraph that are also stepped-rate accounts, the annual percentage yield may be disclosed as equal to the composite interest rate.

*Example*

(1) If an institution offers a \$1,000 three-year certificate of deposit that does not compound and that pays out interest annually solely by check or transfer, at a 5.00% interest rate for the first year, 6.00% interest rate for the second year, and 7.00% interest rate for the third year, the institution may compute the composite interest rate and APY as follows:

- (a) Multiply each interest rate by the number of days it will be in effect;
- (b) Add these figures together; and
- (c) Divide by the total number of days in the term.

(2) Applied to the example, the products of the interest rates and days the rates are in effect are (5.00%×365 days) 1825, (6.00%×365 days) 2190, and (7.00%×365 days) 2555 days, respectively. The sum of these products, 6570 days, is divided by 1095, the total number of days in the term. The composite interest rate and APY are both 6.00%.

\* \* \* \* \*

5. In Part 230, Appendix B, under B-1 Model Clauses For Account Disclosures, a new paragraph (h)(v) is added to read as follows:

**Appendix B to Part 230—Model Clauses and Sample Forms**

\* \* \* \* \*

**B-1—Model Clauses for Account Disclosures**

\* \* \* \* \*

(h) \* \* \*

(v) Required interest distribution.

This account requires the distribution of interest and does not allow interest to remain in the account.

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, January 18, 1995.

**William W. Wiles,**  
*Secretary of the Board.*

[FR Doc. 95-1785 Filed 1-25-95; 8:45am]

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Parts 74 and 201**

[Docket No. 92C-0293]

**Listing of Color Additives Subject to Certification; FD&C Yellow No. 5; Confirmation of Effective Date**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; confirmation of effective date.

**SUMMARY:** The Food and Drug Administration (FDA) is confirming the effective date of December 30, 1994, of the final rule that appeared in the **Federal Register** of November 29, 1994 (59 FR 60893) (effective date corrected in the **Federal Register** of December 2, 1994 (59 FR 61929)), and amended the color additive regulations to provide for the safe use of FD&C Yellow No. 5 and FD&C Yellow No. 5 Aluminum Lake for coloring drugs and cosmetics intended for use in the area of the eye.

**DATES:** Effective date confirmed: December 30, 1994.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS-217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204-0001, 202-418-3074.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of November 29, 1994 (59 FR 60893) (effective date corrected in the **Federal Register** of December 2, 1994 (59 FR 61929)), FDA amended 21 CFR 74.1705 and 74.2705 to provide for the safe use of FD&C Yellow No. 5 and FD&C Yellow No. 5 Aluminum Lake for coloring drugs and cosmetics intended for use in the area of the eye.

FDA gave interested persons until December 29, 1994, to file objections or requests for a hearing. The agency received no objections or requests for a hearing on the final rule. Therefore, FDA finds that the final rule published in the **Federal Register** of November 29, 1994, should be confirmed as corrected on December 2, 1994.

**List of Subjects**

*21 CFR Part 74*

Color additives, Cosmetics, Drugs.

*21 CFR Part 201*

Drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 401, 402, 403, 409, 501, 502, 505, 601, 602, 701, 721 (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the November 29, 1994, final rule. Accordingly, the amendments promulgated thereby became effective December 30, 1994.

Dated: January 19, 1995.

**William K. Hubbard,**

*Interim Deputy Commissioner for Policy.*

[FR Doc. 95-2005 Filed 1-25-95; 8:45 am]

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**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**29 CFR Part 1926**

[Docket No. S-206]

**Safety Standards for Fall Protection in the Construction Industry**

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

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) issued a final rule on Fall Protection in the Construction Industry (59 FR 40672, August 9, 1994), which is scheduled to become effective on February 6, 1995. The Agency has determined that interested persons did not receive adequate notice that subpart M would apply to non-building steel erection activities. Accordingly, OSHA is delaying the application of the final rule to steel erection activities, as well as the effectiveness of certain items in the final rule, until August 6, 1995. OSHA intends to reopen the subpart M rulemaking record in a subsequent **Federal Register** notice for comment regarding the appropriate fall protection measures to be taken to protect employees engaged in non-building steel erection activities from fall hazards.

**EFFECTIVE DATE:** As of February 6, 1995, the effective date for items 4, 5, 6, and 7, in the **Federal Register** document of August 9, 1994, (59 FR 40729) is delayed until August 6, 1995. In addition, OSHA is not applying subpart M to the non-building steel erection industry until August 6, 1995.

**FOR FURTHER INFORMATION CONTACT:** Anne C. Cyr, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 219-8148.

**SUPPLEMENTARY INFORMATION:**

**I. Why OSHA Is Delaying the Effective Date of Subpart M to the Extent the Standard Applies to Steel Erection Activities**

On November 25, 1986, OSHA proposed to revise fall protection requirements for the construction industry and to consolidate those requirements in subpart M of Part 1926. (51 FR 43718, November 26, 1986). At that time, the agency stated that it intended to apply subpart M to all steel erection activities, but noted that "[a]dditional requirements to have fall protection for connectors and for workers on derrick and erection floors during steel erection would remain in subpart R—Steel Erection." 51 FR 43720.

Steel erection involves a wide variety of structures, roughly grouped into building and non-building structures. The term "building" includes single-story and multi-story buildings, such as mill buildings, warehouses, gymnasiums, stadiums, power plants, and theaters as well as metal floor decking and metal roof decking installed during the erection process. The term "non-building structures" refers to the erection of steel members during the construction of bridges (including viaducts and overpasses), towers, tanks, antennae and similar structures.

After reviewing comments on the proposed revisions to subpart M, OSHA decided that fall hazards for workers engaged in the erection of steel framed buildings would be better addressed in a rulemaking to revise Subpart R, "Steel Erection." Subpart R applies to steel frame buildings and contains a variety of safety requirements, of which fall protection is only one part.

OSHA announced this decision in the **Federal Register** on January 26, 1988:

The comments received to date have convinced the Agency to develop a separate proposed rule which will provide

comprehensive coverage for fall protection in steel erection. OSHA intends, therefore, that the consolidation and revision of fall protection provisions in Subpart M not apply to steel erection and that the current fall protection requirements of Part 1926 continue to cover steel erection until the steel erection rulemaking is completed.

53 FR 2053.

OSHA also requested information on issues it believed would assist the agency in developing a proposal to revise subpart R. In discussing the request for information, OSHA stated that the revised subpart R would apply to "the steel erection industry" and would provide fall protection for "steel erection workers." 54 FR 2053.

On March 22-23, 1988, OSHA held a hearing for the purpose of taking testimony relevant to: (a) the subpart M proposal (as revised in scope to exclude steel frame buildings), and (b) the January 1988 request for information concerning "fall protection in steel erection."

When OSHA stated in the January 26, 1988, **Federal Register** notice and at the March 1988 hearing that "steel erection" fall hazards would be addressed in a rulemaking to revise subpart R rather than in the subpart M rulemaking, it meant "steel erection fall hazards covered by the existing subpart R." Since existing subpart R related only to buildings, these statements, OSHA believed, conveyed its intention that steel erection of buildings was being eliminated from subpart M rulemaking but not non-building steel erection.

The final Subpart M standard was issued August 9, 1994. It imposes the duty to provide fall protection for all construction activities and workplaces except designated activities for which other subparts of part 1926 specify fall protection requirements. See § 1926.501(a)(2). With respect to steel erection, § 1926.500(a)(2)(iii) provides:

(2) Section 1926.501 sets forth those workplaces, conditions, operations, and circumstances for which fall protection shall be provided except as follows: \* \* \*

(iii) Requirements relating to fall protection for employees performing steel erection work in buildings are provided in subpart R of this part.

59 FR 40730.

Steel erection of non-building structures is not exempt from coverage because no other subpart of part 1926 specifies fall protection requirements for those activities and because the existing rulemaking record contains substantial evidence of the feasibility and efficacy of subpart M requirements in non-building steel erection work.

On October 7, 1994, five steel erection companies petitioned OSHA for an

administrative stay of final subpart M to the extent the standard applies to steel erection activities, regardless of the type of steel erection being performed. They asserted that they had understood OSHA's January 26, 1988, and March 22-23, 1988, statements to mean that subpart M would not apply to any steel erection activities. They argued that OSHA had not given fair notice that subpart M would apply to the steel erection industry at all and, in consequence, petitioners were deprived of an opportunity to comment on this issue.

OSHA has reviewed the rulemaking record in light of petitioner's fair notice claims. In retrospect, OSHA agrees that the January 26, 1988, **Federal Register** notice and March 22-23, 1988, hearing statements did not clearly communicate OSHA's intention that non-building steel erection would continue to be included in the subpart M revision.

Because OSHA has determined that petitioners and other interested persons did not receive adequate notice that subpart M would apply to non-building steel erection activities, OSHA is not applying the standard steel erection until August 6, 1995. The delay of application will begin on February 6, 1995 and continue for 6 months, through August 6, 1995. OSHA is also delaying for 6 months the effective date of supporting amendments to subpart E (items 4, 5, 6 and 7) of the August 9, 1994, **Federal Register** notice). The purpose of the delay is to maintain the fall protection requirements for steel erection that were in effect before issuance of revised subpart M and to permit OSHA to reopen the subpart M record for supplemental comments concerning subpart M coverage of non-building steel erection work.

Subpart M and supporting amendments to subparts R, H, N, P, Q, and V will become effective for all construction activity other than steel erection on February 6, 1995.

**II. Authority**

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

It is issued under section 6(b) of the Occupational Safety and Health Act (29 U.S.C. 655), section 107 of the Construction Safety Act (40 U.S.C. 333), and 29 CFR part 1911.

Signed at Washington, DC, this 20th day of January 1995.

**Jospeh A. Dear,**

*Assistant Secretary of Labor.*

[FR Doc. 95-1973 Filed 1-25-95; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Department of the Army

#### Corps of Engineers

#### 33 CFR Part 241

#### Flood Control Cost-Sharing Requirements Under the Ability To Pay Provision

**AGENCY:** U.S. Army Corps of Engineers, DOD.

**ACTION:** Final amended rule.

**SUMMARY:** This document presents the final rule partially implementing section 103(m) of Public Law 99-662, 33 U.S.C. 2213, which directs the Secretary of the Army to reduce the non-Federal cost-share of flood control and agricultural water supply projects under an "ability to pay" determination. This amended rule applies only to flood control projects. Guidelines for agricultural water supply projects have not been promulgated.

**EFFECTIVE DATE:** January 26, 1995.

**ADDRESSES:** Headquarters, U.S. Army Corps of Engineers, Washington, DC 20314-1000.

**FOR FURTHER INFORMATION CONTACT:** Donald L. Barnes (202) 272-0120.

**SUPPLEMENTARY INFORMATION:** A final rule for flood control projects implementing Section 103(m) of Public Law 99-662, 33 U.S.C., was published in the *Federal Register* (54 FR 40578), October 2, 1989. A proposed amended rule was published in the *Federal Register* (59 FR 32670), June 24, 1994, allowing 60 days for review and comment. The proposed amended rule was in accord with the discretionary language contained in Section 201 of Public Law 102-580. The single response to the request for comments indicated support for an amended rule.

The final amended rule modifies the ability to pay determination for flood control projects to establish an eligibility for reductions in the non-Federal cost share using high cost criteria. Under this amended rule, when the normal non-Federal share is high (i.e., exceeding 35 percent) and when the normal per capita non-Federal cost of construction exceeds \$300, adjustments can be made to the standard non-Federal share based on

these high cost considerations. Specifically, when both criteria are exceeded, the non-Federal share under the ability to pay provision will be either the requirement for lands, easements, rights-of-way, relocations, and disposal areas (LERRD's, i.e., no cash requirement) or 35 percent of the total project cost, whichever is greater. If LERRD's exceed 50 percent, the non-Federal share remains at 50 percent. This additional procedure does not change the benefits and income tests of the existing rule. Projects which would qualify for a reduction under the existing final rule, will receive a reduction from the high cost criteria, only if it provides a greater reduction than available under the benefits and income tests.

Periodic updating of the non-Federal per capita cost of construction will be accomplished and distributed to HQUSACE and to the field as soon as new data are available.

#### Background

In accordance with direction prescribed by Section 201 of the Water Resources Development Act of 1992, the Department of the Army conducted a study of the current ability to pay regulations for flood control projects. This study found, that while non-Federal cost shares for most structural flood control projects were less than 35 percent, in some cases (16 percent of the projects in a sample group studied), the non-Federal shares exceeded 35 percent, due to the high cost for LERRD. In addition, while for a majority of projects the non-Federal per capita cost of construction (total non-Federal share of construction costs divided by the population included within the geographic jurisdiction of the non-Federal project sponsor) was less than \$300, a significant number (34 percent of the sample studies) had per capita non-Federal costs that exceeded that amount. Given these circumstances, we concluded that there should be an adjustment in the normal non-Federal cost share based upon the high cost criteria.

The single response to the proposed amended rule was fully supportive of the recommended procedure for projects with high non-Federal cost shares.

#### Executive Order 12866 and Regulatory Flexibility Act

This rule is not a major rule within the meaning of Executive Order 12866, because it is not likely to result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries,

Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

Pursuant to 5 U.S.C. Section 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. Furthermore, the number of entities affected by this rule is small, and it imposes few, if any, administrative burdens of any sort on small entities.

#### List of Subjects in 33 CFR Part 241

Community facilities, Flood control, Intergovernmental relations, Water resources.

For purposes set out in the preamble, 33 CFR Part 241 is amended as follows:

#### PART 241—FLOOD CONTROL AND COST SHARING REQUIREMENTS UNDER THE ABILITY TO PAY PROVISION

1. The authority for part 241 is revised to read as follows:

**Authority:** Sec. 103(m), Pub. L. 99-662, 100 Stat. 4082 (33 U.S.C. 2201 et seq.), as amended by Sec. 201, Pub. L. 102-580, 106 Stat. 4797 (33 U.S.C. 2201 et seq.)

2. Sections 241.1 through 241.3 are revised to read as follows:

##### § 241.1 Purpose.

This rule gives general instructions on the implementation of section 103(m) of the Water Resources Development Act of 1986, Public Law 99-662, as amended by section 201 of the Water Resources Development Act of 1992, Public Law 102-588, for application to flood control projects.

##### § 241.2 Applicability.

This rule applies to all U.S. Army Corps of Engineers Headquarters (HQUSACE), elements and Major Subordinate Commands and District Commands of the Corps of Engineers having Civil Works Responsibilities.

##### § 241.3 References.

References cited in paragraphs (f) thru (i) may be obtained from USACE Pub. Depot, CEIM-SP-D, 2803, 52d Avenue, Hyattsville, MD 20781-1102. References cited in paragraphs (d) and (e) may be obtained from the National Information Services, 5285 Port Royal Road, Springfield, VA 22161. References (a), (b) and (c) may be reviewed in your local library or by writing your local Congressman.