

**FIXING WAGES AND SALARIES
OF NAVY CIVILIAN EMPLOYEES
IN SHORE ESTABLISHMENTS
1862 - 1945**



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DISCARD

FIXING WAGES AND SALARIES
OF NAVY CIVILIAN EMPLOYEES
IN SHORE ESTABLISHMENTS
1862-1945

* * * *

I. FIXING OF WAGES OF POSITIONS IN GROUPS I, II, III, AND IVa
BY WAGE BOARD PROCEDURE

The rate of wages of civil employees at navy yards, naval stations and other shore establishments in classification Group I (laborers and others engaged upon manual work which requires no mechanical skill or other trade knowledge;) Group II (helpers and others engaged upon work which requires some mechanical skill or trade knowledge;) Group III (artisans;) and Group IVa supervisors of Group I, II, and III employees, and native and alien employees performing similar service at shore establishments outside the continental limits of the United States, is fixed by the Secretary of the Navy, under authority of the act of Congress, approved July 16, 1862 (12 Stat. 587-34 USC 505), which provides as follows:

"That section eight of an act to further promote the efficiency of the Navy, approved December twenty-first, eighteen hundred and sixty-one, be amended so as to read as follows: That the hours of labor and the rate of wages of the employees in the navy yards shall conform, as nearly as is consistent with the public interest, with those of private establishments in the immediate vicinity of the respective yards, to be determined by the commandants of the navy yards, subject to the approval and revision of the Secretary of the Navy."

The Secretary of the Navy is, by the above quoted statute, charged with the responsibility for fixing the rate of wages of civilian employees at navy yards, naval stations and other shore establishments. Prior to the enactment of this amendatory statute, the "commandant of the navy-yard" was charged with the responsibility for fixing the rate of wage of civilian employees, by the act of Congress of December 21, 1861.

The act of July 16, 1862, does not prescribe that the rate of wages of civil employees at navy yards shall be "set by wage boards", the manner in which wage boards shall function when convened, the times at which rates of wages shall be adjusted or the time during which wages once fixed shall be applicable. Wage boards of the Navy Department are not creations of statute or "Navy Regulations" but are appointed and convened, when directed by the Secretary of the Navy and at such times as he deems necessary, by the commandant or commanding officer of designated navy yards and naval stations to investigate existing wage conditions in private establishments in the vicinity of the yards and stations and recommend rates of wages for civilian employees of naval shore establishments within the purview of the board. The wage board of review which considers the reports and recommendations of the local wage boards and other evidence and recommends to the Secretary of the Navy rates of wages for all shore establishments is appointed and convened by the Secretary of the Navy.

Wage board procedure has been used by the Navy Department since May 20, 1864. The existing wage board procedure, which was established January 8, 1940, has generally been the same for many years. Usually, once a year, wage boards are appointed and convened at the principal navy yards and naval stations to investigate existing wage conditions and recommend the rate of wages for the ensuing calendar year. The members are commissioned officers of the Navy and the recorder is a civilian employee. The employees in each trade name a trade committee

to collect wage data and present the case of their trade to the wage board. The wage board prepares a list of all private establishments from which wage data will be obtained. The list is published and the trade committees permitted to recommend changes in the list. Finally, a mutually satisfactory list of private establishments is agreed upon. The wage board then proceeds to personally visit each private establishment to ascertain the rate of wage they are actually paying. The trade committees, if they so desire, accompany the board on these visits. After both sides have studied and tabulated the information thus obtained, the trade committees appear before the board and ask for the rate of wage they feel should be established. Local representatives of labor organizations are permitted to present their cases to the board. The local wage boards' reports and recommendations are sent to Washington, where they are reviewed by the Wage Board of Review, consisting of one commissioned Naval officer, two civil employees of the Navy Department, and one or two national representatives of labor. This Board examines the local reports and recommendations of the local boards and reconciles any inconsistencies. Hearings are granted by the board to employee trade committees and representatives of labor and other persons who desire a hearing. Finally, the Wage Board of Review makes its report and recommendation to the Secretary of the Navy. The Secretary of the Navy, after such modification of the recommendation of the Wage Board of Review, as he deems necessary, fixes the rate of wages of employees in Groups I, II, III, IV(a) for the ensuing calendar year.

A chronological history of the use of wage board procedure by the Navy Department in fixing the rate of wages of civil employees at navy yards, naval stations and other naval shore establishments since July 16, 1862, follows:

The Secretary of the Navy, by circular letter dated June 10, 1863, to the commandants of the navy yards, promulgated the Act of July 16, 1862 and directed them to ascertain from outside establishments in the vicinity of the yards "by the best means in their power, the rates of pay and hours of labor of classes similarly employed as those in the yards, with the number of men in each class". He also directed that "the number in each class in the yard should be in the same proportion to the whole number of workmen employed, that they do in private yards, and the compensation should be the same in each case", and "particular care should be taken to see that the number of workmen in classes receiving the highest pay is not relatively greater than in private yards".

Because of "continuous applications to the Department for changes in the pay of workmen in the navy yards," the Secretary of the Navy, by circular letter dated May 20, 1864, ordered the commandants of each navy yard to appoint "a Board to be composed of one line officer, one head of Division and one master workman to make diligent inquiry at the principal private mechanical establishments in the vicinity of the yard and ascertain the established rule for working hours at each establishment, the number of men employed, the number of classes of workmen, the number in each class, and the rate of wages paid each class of workmen." He further directed that the Board report the result of its inquiry to the Commandant who would cause to be posted the reported scale of wages "that the workmen may examine it and state their views on its merits to the commandant;" that "the scale then fixed upon will be submitted to the Department and if approved, the rate established will remain in force for two months without change;" and "this order to take effect on the 1st of June next and on the 15th day of every second month thereafter a similar investigation will be made and the result reported as before."

On March 29, 1869, Vice Admiral David D. Porter, acting for the Secretary of the Navy, by circular letter, directed commandants of navy yards to prepare a separate schedule of wages for each department of the navy yard and submit it to the appropriate bureaus of the Navy Department, which would refer the schedule to the Secretary of the Navy for his revision and approval. Under the same date, the Secretary of the Navy, in circular letter to commandants of navy yards, cited the act of Congress, approved June 25, 1868, which fixed eight hours as a day's work for all laborers, workmen, and mechanics who may be employed by or in behalf of the Government at eight hours, and the act of Congress of July 16, 1862, and directed that in their contracts for labor they be governed by the rule that "navy yard wages per day should bear the same proportion to the wages per day of outside establishments that the navy yard working-day bears to a working day of outside establishments."

The Secretary of the Navy on April 19, 1869, in circular letter to commandants of navy yards, advised that under the eight-hour law of June 25, 1868, "the Department has no authority to extend the hours of labor by making more than eight hours a day's work, but it has the right to employ mechanics, workmen, and laborers extra hours and to pay them pro rata for such extra labor" and advised the commandants that "while, therefore, necessity exists for extra labor you are at liberty to exercise your discretion in the matter, so as to assist the working classes and at the same time do justice to the Government."

On May 24, 1869, the Secretary of the Navy, in circular letter to commandants of navy yards, directed that they be governed by the proclamation of the President of May 19, 1869, that "from and after that date no reduction should be made in the wages paid by the Government, by the day, to laborers, workmen, and mechanics on account of the reduction of the hours of labor by the act of June 25, 1868, constituting eight hours a day's work".

On October 25, 1877, the Department, by circular letter to navy yards, established the working hours of the navy yards as follows: From March 21 to September 21, 7:00 a.m. to 6:00 p.m.; from September 22 to March 20, 7:40 a.m. to 4:30 p.m.; with the usual intermission of one hour for dinner, and that "this regulation is not designed to carry with it any present reduction of pay".

On March 21, 1878, the Secretary of the Navy, by circular letter, substituted the following for the circular of October 25, 1877: From March 21 to September 21, from 7:00 a.m. to 6:00 p.m.; from September 22 to March 20, from 7:40 a.m. to 4:30 p.m., with the usual intermission of one hour for dinner, and stated that "the Department will contract for the labor of mechanics, foremen, leading-men, and laborers on the basis of eight hours a day", and that, "all workmen electing to labor ten hours a day will receive a proportionate increase of their wages".

On September 21, 1878, the Acting Secretary of the Navy, by circular letter, advised that "the change in the working hours which goes into effect on the 22nd instant will not involve any reduction in pay", and that "the employees will be paid the same as if they could work the full length of time that the working hours in the spring and summer permit them to do."

New regulations for wage boards were issued by the Secretary of the Navy in Article 1675, "Navy Regulations 1893". These regulations directed that "the commandant of each navy yard shall appoint a board of officers who shall make diligent inquiry at the principal private mechanical establishments in the vicinity of the yard as to the rate of daily wages paid to workmen of different classes in each trade included in the trade schedule of the yard and shall report quarterly to the commandant the result of such inquiries, and recommend rates for the payment of workmen of corresponding classes of trades at the yard. The commandant shall then forward to each bureau a quarterly schedule of wages under that bureau, in duplicate, as approved by himself, and when approved by the bureau and the Navy Department the schedule shall remain in force during the ensuing quarter."

Article 1670 "Navy Regulations 1896" continued the 1893 regulations, except a provision that the schedule of wages approved by the commandant be forwarded direct to the Navy Department for its revision and approval, instead of via the bureau concerned. Article 1720, "Navy Regulations 1900" continued the 1896 regulations, except a provision that the rate of wage be determined semi-annually and be a multiple of eight, and a provision that inquiry at private establishments as to the rate of wages paid workmen in trades and occupations carried in the yard schedule of wages be confined to those who do work of the same character in that trade as that done in the yard, or resembling it as nearly as possible. Article 1720, "Navy Regulations 1905," continued the 1900 regulations except a provision that the rate of wage be determined annually. Article 1585, "Navy Regulations 1909" continued the 1900 regulations. Article 371, Naval Instructions, 1913 continued the 1909 regulations, except a provision that, when practicable, the membership of the board shall include the heads of divisions of the manufacturing department and the public works department, and that the maximum number of rates of pay for any yard rating shall be five.

New regulations for wage boards were issued by the Secretary of the Navy, in circular letter of April 14, 1923. These regulations incorporated the 1913 regulations, and instructions to wage boards contained in directives of the Secretary of the Navy in circular letters of May 10, 1921 and September 21, 1922, to commandants of naval districts; to appoint and convene wage boards for the purposes of the act of July 16, 1862, and the 1913 wage regulations. The primary changes were in the membership of the board to three commissioned officers attached to the yard divisions employing the largest number of employees, and a civilian recorder; the senior member to be of the rank of Commander or above, if possible; designation of wage boards and sphere of application of rates of wages established for specified navy yards and naval stations; interpretation of clause "as nearly as is consistent with the public interest" in the act of July 16, 1862, as "the interests of all the public of which the employees of the Naval Establishment constitute a part, and does not exclude the taxpayers of the country who must furnish the funds from which wages are to be paid;" specific instructions regarding selection and listing of representative private establishments and participation of employees therein; sphere of wage inquiry; formula for determination of wage data obtained from private establishments having hours of work different from those of navy yards by local wage boards to conform with proclamation of the President of the United States of May 24, 1869, that from and after that date no reduction should be made in the wages paid by the Government, by the day, to laborers, workmen, and

mechanics on account of the reduction of the hours of labor by the act of June 25, 1868, constituting eight hours a day's work; exclusion of overtime paid by private establishments from "normal work periods" of such establishments in determination of wage data; method of computing weighted average pay per hour in the maximum, intermediate and minimum rates and of all data obtained for each trade and occupation from private establishments; participation of employees in wage determination; justification for recommending change in navy yard wage rate -- that standard of wages in private establishments is different from the wages paid for the same character of work in the navy yard; exclusion from direct consideration wage paid specially skilled, special compensation or single purpose men, and wages of men working under piecework, task or bonus systems.

These regulations were modified September 18, 1923 by including rate of wages paid employees in the "Hospital Service (excepted group)" in wage survey and recommendation. New regulations for wage boards were issued by the Secretary of the Navy, in circular letter of July 27, 1926. These regulations made no material change in the 1923 regulations.

New regulations for wage boards were issued by the Secretary of the Navy, in circular letter of June 15, 1929. These regulations were not used in the fixing of rates of wages. On November 27, 1929, the Secretary of the Navy dissolved the Wage Board of Review, in Washington, then in session considering wage data and recommendations submitted by local wage boards and commandants of navy yards under such regulations for the calendar year 1930, and directed that the schedule of wages for 1929 be continued through the calendar year 1930 for reasons hereafter stated. For other reasons, hereafter stated, wage boards were not appointed or convened until February 14, 1940.

New regulations for wage boards were issued by the Secretary of the Navy in circular letter of January 8, 1940. The primary change made in the 1926 regulations was the following statement regarding the responsibilities for the fixing of wages:

"The Secretary of the Navy, in accordance with the Act of July 18, 1862 (34 USC 505), is charged with the responsibility for fixing wages of civilian employees of Groups I, II, III, and IV(a) in the field services of the Navy Department and the Marine Corps within the continental limits of the United States and the Fourteenth Naval District. In fixing such wages, the action of the Secretary of the Navy is based on information respecting wages paid in the vicinity of the various field establishments determined for him by the commanding officers, and on their recommendations which are subject to his approval and revision."

Also a formula for determination of wage data obtained from private establishments on a forty-hour work week basis instead of a forty-eight hour work week basis, in view of section 23 of the act of March 28, 1934 (5 USC 673c), and a provision for the appointment of a wage board of review to consider the reports and recommendations of the local wage boards, together with such other evidence as it may obtain, and recommend rate of pay for each trade and occupation in Groups I, II, III, and IV(a) in the field services of the Navy Department and the Marine Corps. (Wage boards of review had been appointed and convened by the Secretary of the Navy for this purpose since 1917.)

II. FIXING OF WAGES OF POSITIONS IN GROUPS I, II, III, AND IVa BY ADMINISTRATIVE PROCEDURE

Wage board procedure was not used during the period of the first world war and up to May 10, 1921. The rate of wages of employees at naval shore establishments during this period were based upon the award of the Shipbuilding Labor Adjustment Board, of the Emergency Fleet Corporation.

During the period of January 1, 1930, to February 14, 1940, wage board procedure was not used because of the downward trend of industrial wages; and statutory prohibitions against reduction in compensation and administrative promotions in the acts of Congress of June 30, 1932 (Public No. 212 - 72d Congress - First Economy Act); March 3, 1933 (Public No. 428 - 72d Congress - Second Economy Act), and March 20, 1933 (Public No. 2 - 73d Congress) also necessitated the continuance of the 1929 schedule. Section 23 of the Act of Congress of March 28, 1934 (5 U.S.C. 673c) relating to rate of wages and hours of labor had the effect of giving for 40 hours' work, the 48 hours' pay formerly given for 44 hours' work and the fixing of the rate of wages on the level of the wage schedule in effect on June 1, 1932, viz., the 1929 schedule. Wage boards have not been appointed or convened since November 18, 1940, because of the following conditions:

In August and October 1941, and January 1942, the rates of wages of civil employees in Groups

I, II, III and IV(a) at naval shore establishments were fixed in consideration of the shipbuilding wage agreements, resulting from the East Coast, West Coast, Gulf Zone and Great Lakes Area Stabilization Conferences.

On December 2, 1942, the National War Labor Board by General Order No. 18 delegated to the Secretary of the Navy power to rule upon all applications for wage and salary adjustments (insofar as approval thereof has been made a function of the National War Labor Board), covering civilian employees within the continental limits of the United States, and Alaska, employed directly by the Navy Department, in accordance with the terms of the Executive Order 9250, dated October 3, 1942, and all general orders and policies of the National War Labor Board announced thereunder. This order was amended on August 27, 1943, and August 26, 1944 by requiring compliance also with Executive Order 9328, dated April 8, 1943, and the supplementary directive of May 12, 1943 of the Economic Stabilization Director, and extending the authority of the Secretary of the Navy to include the Territory of Hawaii.

The fixing of the rate of wages in accordance with the Inflation Control Act, approved October 2, 1942 (56 Stat. 765) and General Order No. 18 of the National War Labor Board does not conflict with the authority of the Secretary of the Navy to fix the rate of wages of employees under the act of July 16, 1862. The "public interest" clause in the 1862 statute requires conformity with the 1942 statute and the policies of the National War Labor Board. General Order No. 18, the Executive Orders, Supplementary Directive of the Economic Stabilization Director, the operating agreement of the Navy Department and the National War Labor Board, and procedural instructions governing the fixing of wages of employees in Groups I, II, III, IV(a), are contained in the revised schedules of wages of November 30, 1943 and October 16, 1944.

III. SCHEDULE OF WAGES

Separate schedules of wages have been established by administrative action for each navy yard under order of the Secretary of the Navy of June 10, 1863, and through wage board procedure, on the 1st day of June 1864, and the 15th day of every second month thereafter, and quarterly from 1893 to and including 1897. Separate schedules of wages were established through wage board procedure for each navy yard semi-annually from January 1, 1898, to December 31, 1908, and annually, from January 1, 1909, to December 31, 1916. Also from January 1 to September 23, 1917, September 24 to October 31, 1917, November 1, 1917 to April 30, 1918 and May 1, 1918 to October 31, 1918. Separate schedules of wages were established by administrative procedure for the East Coast and for the West Coast for the period November 1, 1918, to September 15, 1920, and September 16, 1920, to September 15, 1921. Separate schedules of wages were established through wage board procedure for each navy yard for periods September 16, 1921 to April 30, 1923; May 1, 1923 to June 30, 1923; July 1, 1923 to July 15, 1923, and July 16, 1923 to December 31, 1923, annually from January 1, 1924 to December 31, 1929, and for the period November 18, 1940 to August 26, 1943. From August 27, 1943 to date the rate of wages was established under National Wage Board procedure.

Wage boards appointed and convened by or at the direction of the Secretary of the Navy are dissolved after making their report to the convening authority. Therefore, all new rates of wages and changes in the rate of wages in the interim between wage board actions are made by the Secretary of the Navy through administrative procedure. Revised schedules of wages are issued when the administrative action is of such volume or nature as to require the issue of revision of the basic schedule. Revised schedules were issued on May 12, 1927, July 23, 1931, March 1, 1936, November 30, 1943, and October 16, 1944. The 1931 revision of the 1929 schedule includes the rates of pay established by the Classification Act of 1923, as amended, which were applied to all Group IV(b) employees, except native and alien employees at shore establishments outside the continental limits of the United States, as directed by section 2, of the act of Congress of July 3, 1930 (Public - No. 523-71st Congress - Brookhart Salary Act) and interpreted by the Comptroller General of the United States (November 13, 1930, A-33146 and January 23, 1931, A-34464 and A-34882). The 1936 revision of the 1929 schedule includes changes in rates of wages incident to the establishment of the 40-hour work week, with consequent increase of 20 per cent in per diem and per hour rates of compensation under section 23 of the Independent Office Appropriation Act, of March 28, 1934, (5 U.S.C. 673c). The 1943 and 1944 revision of the 1940 schedule was issued because of the many administrative changes in the rates of wages, and the delegation to the Secretary of the Navy by the National War Labor Board, of authority to fix wages in accordance with the terms of pertinent Executive Orders, the directive of the Economic Stabilization Director of May 12, 1943, and general orders and policies of the board.

The original and revised schedules of wages from May 1, 1923 to and including October 16, 1944 were issued in printed form as "Schedule of Wages for Civil Employees in the Field Service of the Navy Department and Marine Corps." "Coast Guard" schedules were included in the November 30, 1943 and October 16, 1944 schedule of wages. (Rates of wages for all employees other

than Group IV(b) are not published in the November 30, 1943 and October 16, 1944 schedules of wages but are kept on file in the Wage Administration Branch of the Shore Establishments and Civilian Personnel Division because separate and distinct rates of wages are fixed for each and every individual field activity of the Navy, Marine Corps and Coast Guard.)

IV. FIXING OF SALARIES OF POSITIONS IN GROUP IVb

Wage board procedure has been used by the Navy Department in fixing the rate of wages of civil employees at navy yards, naval stations and other naval shore establishments in classification Groups I, II, III and IV(a) since May 20, 1864, except during periods of national emergency when the "public interest" necessitated the fixing of a uniform rate of wages for larger geographic areas for the purpose of stabilizing industry. Wage board procedure has not been used in fixing the salary rates of civil employees in Group IV(b) at navy yards, naval stations and other naval shore establishments, except during the period of the first world war and shortly thereafter, and in 1920 when a decided upward trend of the salary rates for employees in private establishments performing work similar to that performed by employees in Group IV(b) due to the first world war, required a general investigation by the Labor Wage Adjustment Board of commercial rates. A uniform classification of the work of Group IV(b) employees and a uniform salary rate for each classification in all navy yards, naval stations and other naval shore establishments, without regard to geographical location was established by the Secretary of the Navy as a result of this investigation. Thereafter, salary rates of Group IV(b) employees continued to be on a national basis. Another investigation of commercial salary rates was made by boards on wages under wage board regulations of 1921.

The salary rate of Group IV(b) employees prior to 1864 was fixed by Congress in annual appropriations for "Civil Establishment". From 1864 to 1909, the "Civil Establishment" salary rates were in effect, and also, per diem salary rates for special employments of a Group IV(b) character, established by the Secretary of the Navy, through administrative procedure, under the Act of July 16, 1862.

In the Naval appropriation act for the fiscal year 1910, approved March 3, 1909 (35 Stat. 755), Congress provided a new system of payment for Group IV(b) employees, as follows:

"That hereafter the rates of pay of the clerical, drafting, inspection, and messenger force at navy yards and naval stations and other stations and offices under the Navy Department shall be paid from lump appropriations and shall be fixed by the Secretary of the Navy on a per annum or per diem basis as he may elect; that the number may be increased or decreased at his option and shall be distributed at the various navy yards and naval stations by the Secretary of the Navy to meet the needs of the naval service."

(The appropriation for "Civil Establishment" at specific salary rates was discontinued. The fixing of per diem salary rates of "special employments" by the Secretary of the Navy was also discontinued.)

Under authority of the above quoted statute and the act of August 29, 1916 (39 Stat. 558) hereafter quoted, the Secretary of the Navy, through administrative procedure (except as above stated) fixed the salary rate of Group IV(b) employees on a national per annum and per diem basis, including employees formerly in "Civil Establishment" and "special employments", from July 1, 1909 to December 31, 1930.

"Hereafter, such amount may be expended annually for pay of drafting, technical, and inspection force from the several lump appropriations in which specific authority for such expenditure is given, as the Secretary of the Navy may deem necessary within the limitation of appropriation provided for such service in said lump sum appropriations at such rates of compensation as the Secretary of the Navy may prescribe; and the Secretary of the Navy shall each year, in the annual estimates, report to Congress the number of persons so employed, their duties, and the amount paid to each." (Act of August 29, 1916 - 39 Stat. 558).

Prior to the enactment of the act of March 3, 1909, all rates of wages and salaries of employees in Groups I, II, III, IV(a) and IV(b) were fixed by the Secretary of the Navy on a per diem basis, in view of the act of Congress of July 14, 1862, (Sec. 1545 Rev. Stat.) that "salaries shall not be paid to any employee in any of the navy-yards, except those who are not designated in the estimates", and "all other persons shall receive a per diem compensation for the time during which they may be actually employed." This section was expressly repealed by the act of March 3, 1909.

Since January 1, 1931, the salary rates of employees in Group IV(b) within the continental limits of the United States and American citizen employees (including native American citizen employees) outside the continental limits of the United States have been fixed in accordance with the "Classification Act of 1923", approved March 4, 1923 (5 USC 673) as amended under authority of section 2 of the Brookhart Salary Act, approved July 3, 1930 (46 Stat. 1005, 5 USC 678a), which authorizes and directs the Secretary of the Navy "to adjust the compensation" of "employees carried under Group 4-B, including the drafting groups, in the Schedule of Wages for Civil Employees under the Naval Establishments", "to correspond, so far as may be practicable, to the rates established by the Welch Salary Act of May 28, 1928 (5 USC, Supp. 3, 673)."

The Comptroller General of the United States, in decision to the Secretary of the Navy, dated November 13, 1930 (10 Comp. Gen. 216, A-33146) held that "the Brookhart Salary Act is now the only statutory authority for fixing the salary rates of employees under the Naval Establishment therein mentioned, and, with respect to these employees, supersede the act of July 16, 1862, (12 Stat. 587), and so much of the act of March 3, 1909, (35 Stat. 754), as grants an election to the Secretary of the Navy to fix rates of pay on a per diem basis for those employees in the clerical, drafting, inspection, and messenger force as are included in Group IV(b)." The salary rates of native employees (not citizens of the United States) and alien employees at shore establishments outside the continental limits of the United States, performing service similar to that performed by employees in Group IV(b), are still fixed by the Secretary of the Navy on a per diem or per annum basis, under the act of March 3, 1909, in accordance with the decision of the Comptroller General of the United States to the Secretary of the Navy of January 23, 1931, (10 Comp. Gen. 322, A-34464, A-34882) in which it is held, quoting from the syllabus,

"The provision of section 2 of the Brookhart Salary Act of July 3, 1930, 46 Stat. 1005, extending the principles of classification through administrative action to employees coming under Group 4-B, including drafting groups in the Schedule of Wages for Civil Employees under the Naval Establishment, is not applicable to employees under the Naval Establishment in the Philippine Islands, Guam, Samoa, Virgin Islands, Panama Canal Zone, and other naval activities beyond the continental limits of the United States who are paid on native or alien schedules."

The general types of positions in classification Groups I, II, III, IV(a) and IV(b) are stated in the first paragraph above. The specific title of each position in each of the classification groups is contained in the enclosed schedules of wages.

The Navy Department has not found it necessary, except as stated above, to use wage board procedure in fixing salary rates for the various types of positions in Group IV(b).

These salary rates have been fixed by the Secretary of the Navy on a national basis, under the authority vested in him by statute, and are now fixed on that basis by statute, under "Classification Act of 1923", as amended. There has not appeared to be any justification for establishing a different level of pay for similar positions in this group in different localities.

It is noted that the pertinent statutes do not require that the salary rate of Group IV(b) employees must conform with those in private establishments in the vicinity of the respective navy yard, as is required by the act of July 16, 1862 in fixing the rate of wages of employees in Groups I, II, III, and IV(a).

The requirements of the act of July 16, 1862, have necessitated the decentralization of investigation of wage conditions in private establishments in the "immediate vicinity of the respective navy yards" and the determination of the rate of wages of Groups I, II, III and IV(a) employees by the commanders of specified navy yards and naval stations, subject to the revision and approval of the Secretary of the Navy. In contradistinction to Group IV(b) positions, the establishment, in normal times, of different levels of pay for similar positions in Groups I, II, III and in IV(a) in different localities, is justified.

V. "PUBLIC INTEREST" CLAUSE

The act of July 16, 1862, was enacted to prevent the Navy Department from fixing a rate of wages which would have a tendency to unbalance wage conditions in the labor market areas in which navy yards are located. There were the interests of private employers and the public as well as the interests of the Government to be considered. The "public interest" clause in the Act was no doubt inserted to give discretionary power to the Secretary of the Navy in fixing the rate of wages in navy yards in order to protect such interests.

VI. ANNUAL AND SICK LEAVE

At the present time, there is no line of demarcation between employees in Group IV(b) and those in Groups I, II, III and IV(a) with respect to annual and sick leave privileges. The annual and sick leave acts of March 14, 1936 (49 Stat. 1161 and 49 Stat. 1162), as amended by the acts of March 2, 1940 (54 Stat. 38) and December 17, 1942 (56 Stat. 1052) apply alike to all employees at navy yards, naval stations and other naval shore establishments. These statutes grant twenty-six days annual leave with pay each calendar year and cumulative sick leave at the rate of one and one-quarter day per month. Prior to 1936, the leave privileges of such employees were governed by different statutes which granted different leave privileges. The act of February 1, 1901, (31 Stat. 746) granted all per diem employees, including those in Group IV(b), as well as those in Groups I, II, III and IV(a), fifteen days leave of absence with pay each calendar year. Prior to the enactment of this statute per diem employees at navy yards were not granted leave of absence with pay, in view of the provision in section 1545 of the Revised Statutes that all persons except those who are designated in the estimates "shall receive a per diem compensation for the time during which they may be actually employed."

In the absence of restrictive legislation in regard to per annum employees in Group IV(b), such employees were granted leave with pay under the same conditions as employees in the Navy Department at Washington, under section 7 of the act of March 15, 1898, which granted thirty days annual leave and an extension of thirty days in case of illness of an employee. The act of March 3, 1909 (35 Stat. 755) granted to per diem employees in Group IV(b) fifteen days leave of absence each calendar year and an extension thereof in each calendar year of fifteen days in case of illness of an employee. The act of August 29, 1916 (39 Stat. 617) granted to all employees at navy yards and naval stations and other naval shore establishments thirty days' leave of absence each year. Under a proviso in this act continuing sick leave privileges under existing law, Group IV(b) per diem employees continued to receive sick leave privileges under the act of March 3, 1909, and per annum Group IV(b) employees sick leave under the same conditions as employees in the Navy Department granted by the 1898 statute.

It will be noted that per diem employees in Groups I, II, III, and IV(a) were not entitled to sick leave privileges until the enactment of the act of March 14, 1936, and per annum employees in Group IV(b) were not entitled to sick leave by specific act of Congress until the enactment of such act.

VII. HOURS OF WORK AND OVERTIME PAY

Prior to the enactment of the act of June 28, 1940, (54 Stat. 678), Group IV(b) employees paid on a per annum basis were not paid at overtime rates of compensation, in the absence of statutory authority therefor, in view of decisions of the Comptroller of the Treasury and the Comptroller General that, in the absence of statutory authority, such employees are not entitled to additional compensation for overtime.

The act of June 28, 1940, in section 5(a), fixed regular working hours of the Navy Department, the Coast Guard and their field services at eight hours per day or forty hours per week during the national emergency, and provided that these hours might be exceeded at the discretion of the Secretary of the Navy. This same section also provided for payment of overtime compensation for employment in excess of forty hours per week to certain classes of per annum employees enumerated therein, on the basis of one and one-half times one three-hundred-and-sixtieth of their per annum rate. Under a directive issued by the Secretary of the Navy, Group IV(b) employees were entitled to overtime pay for such employment in excess of forty hours per week as was ordered and approved by proper authority.

The act of June 3, 1941 (55 Stat. 241) extended authority to pay overtime rates of compensation to certain other per annum employees. This authority to pay overtime expired by limitation on June 30, 1942, but was continued in effect to September 30, 1942, and then to November 30, 1942, by acts of Congress. The above laws were superseded by the act of December 22, 1942, (56 Stat. 1068), effective December 1, 1942. This act, Executive Order 9289, and the departmental regulations, placed practically all per annum employees on a forty-eight hour work week, except those whose services could not be effectively utilized a full forty-eight hours, with overtime pay for employment in excess of forty hours. This statute expired on April 30, 1943, and was superseded by the act of May 7, 1943, (57 Stat. 75) which is primarily the same as the act of December 22, 1942.

Native employees (not citizens of the United States) and alien employees at shore establishments outside the continental limits of the United States performing service similar to that performed by employees in Group IV(b) are paid at the rate of time and one-half for work performed in excess of forty hours per week. Prior to January 1, 1931, when the pay of all Group IV(b) employees

within and without the continental limits of the United States, except those specifically appropriated for on an annual basis, were paid on a per diem basis, and were paid at straight rate or, at the rate time and one half for work performed in excess of their regular work day. The statutes fixing the hours of labor for "laborers, workmen, and mechanics" do not apply to Group IV(b) employees.

Prior to the enactment of the act of March 28, 1934, per diem employees in Groups I, II, III, and IV(a) were paid for work in excess of eight hours a day, at straight rate or at the rate of time and one half. The Secretary of the Navy, in circular letter of April 19, 1869, to commandants of navy yards, stated that until the act of Congress of June 25, 1868, (eight-hour law) and the act of Congress of July 16, 1862 (wage law) are repealed the Department "must abide by them" and that "the Department has no authority to extend the hours of labor by making more than eight hours a day's work, but it has the right to employ mechanics, workmen, and laborers extra hours and to pay them pro rata for such extra labor" and directed that "while, therefore, necessity exists for extra labor you are at liberty to exercise your discretion in the matter, so as to assist the working classes and at the same time do justice to the Government." On May 24, 1869, the Secretary of the Navy directed that the commandants govern themselves according to the proclamation of the President of May 19, 1869, that from and after that date no reduction should be made in the wages paid by the Government, by the day, to laborers, workmen, and mechanics on account of the reduction of the hours of labor by the act of June 25, 1868. On October 25, 1877, the Secretary of the Navy in establishing working hours in excess of eight directed "this regulation is not designed to carry with it any present reduction of pay." In General Order No. 227 of June 30, 1877, the Secretary of the Navy stated that under the construction of the eight hour law of June 25, 1868 (15 Stat. 77) by the Supreme Court of the United States (No. 401 -- October Term, 1876) "the Department has fixed the rate of labor for mechanics, foremen, leading-men, and laborers on the basis of ten hours a day" and that "all workmen electing to labor only eight-hours per day will receive a proportionate reduction of their wages." On March 21, 1878, the Secretary of the Navy in establishing working hours in excess of eight directed that contracts for labor of mechanics, foremen, leading-men, and laborers will be on a basis of eight hours a day and that "all workmen electing to labor ten hours a day will receive a proportionate increase in their wages."

The "Navy Regulations 1896", Article 1574, provide that laborers, workmen and mechanics, whose compensation has been fixed upon a basis of eight hours per day, shall receive for work performed by reason of emergency, between the hours of 6:00 a.m. and 8:00 p.m. in excess of eight hours, the same rate of pay as for eight hours work; and that men who have rendered service during the day, and who by reason of emergency are required to work in excess of eight hours shall be paid for all such extra work performed after 8:00 p.m. and before 6:00 a.m. at the same rate per hour as for day work, with fifty per cent additional. The "Navy Regulations 1900", Article 1600, and "Navy Regulations 1905", Article 1600, provide that laborers, workmen, and mechanics, for work performed in excess of eight hours per day, "by reason of extraordinary emergency", shall be allowed the ordinary rate of pay, with fifty per cent additional. The "Naval Instructions 1913", Article 382, similarly provides. This basis for overtime was continued until the enactment by Congress of the act of March 28, 1934, which provides compensation for overtime in excess of forty hours per week "at the rate of not less than time and one half."

VIII. HOLIDAY AND SUNDAY PAY

Prior to the enactment by Congress of Public Resolution No. 127, on June 29, 1938, gratuity pay for legal holidays was, under the act of Congress of January 6, 1885 (23 Stat. 516), a vested right of per diem employees. Therefore, a per diem employee was paid gratuity pay for holidays whether or not he worked on the holidays, and if he worked on the holidays he was paid for the work performed in addition to gratuity pay. Under Public Resolution No. 127, gratuity pay is granted for a holiday only to those employees who are relieved or prevented from working solely because of the occurrence of the holiday. If a per diem employee works on a holiday he receives pay only for the work performed. Under the administrative regulations, for work performed on a holiday outside of the employees regular tour of duty he is paid at the rate of time and one half during the first eight hours and for work in excess of eight hours, by reason of an extraordinary emergency, fifty per cent additional to the holiday rate of pay, or one hundred and twenty-five per cent additional to the basic rate of pay is allowed. Per diem employees are not entitled to pay for Sundays, except for work performed on that day -- at straight pay, if within the employees regular tour of duty, and at the rate of time and one-half during the first eight hours, and for work in excess of eight hours, by reason of an extraordinary emergency, fifty per cent additional to the Sunday rate of pay, or one hundred and twenty-five per cent additional to the basic rate of pay. Per annum employees receive pay for every day in the year, consequently they are regarded as being available for work every day in the year, and are entitled to their regular pay for a holiday or a Sunday whether or not work is performed. Detailed regulations regarding overtime, a Sunday and holiday pay is contained in the schedules of wages, and Navy Civilian Personnel Instructions No. 85, "Hours of Work and Overtime", and No. 250, "Wage Administration".

IX. FACTORS EXCLUDED IN FIXING WAGES

Under the act of July 16, 1862, the Department cannot take such factors as annual and sick leave privileges, pay for overtime (either at a straight rate or time and one-half), and working on Sundays and holidays or payment of premiums or bonus into direct consideration in fixing the "rate of wages" of employees in Naval shore establishments. The payment of premiums or bonus to employees has been specifically prohibited by statute in the Naval Appropriation Acts, since the act of March 3, 1915, (38 Stat. 953) -- current provision in the "Naval Appropriation Act, 1945" (56 Stat. 322).

X. SPHERE OF APPLICATION OF "THOMAS AMENDMENT" (Act of March 28, 1934)

The provisions of section 23 of the act of March 28, 1934 were applied to all employees in Groups I, II, III, IV(a) and IV(b) at Naval shore establishments (including native (not American citizens) and alien employees outside the continental limits of the United States performing similar service), except those paid on a per annum or per month basis. This included all employees paid on a per hour or per diem basis, in Groups I, II, III, and IV(a) whose rate of wages was fixed through wage board procedure under authority of the act of July 16, 1862, and employees in Group IV(b) (native and alien employees (not American citizens) outside the continental limits of the United States) paid on a per diem basis whose salary rate was fixed under authority of the act of March 3, 1909.

The employees paid on a per annum or per month basis whose salary rates were fixed through wage board and administrative procedure and to whom the act was considered to be inapplicable are listed in the following table:

Within the continental limits of the United States

(Wage board procedure)

Maritime Service	All Group II, III and IV(a)
Clothing Workers Service	Group IV(a) (Per annum only)
Hospital Service	All Excepted Groups (now in "Commissary Service" and "Laundry Service," Groups II and III)
Naval Academy Service	Groups I, II, and III, IV(a), and Excepted (per annum only)
Naval Home Service	Groups I, II, III, and IV(a) and Excepted
Supervisory Mechanical Service	Group IV(a) (per annum and all IV(a) employees at Naval Hospitals)

Employees in Groups I, II, and III serving at Naval hospitals whose wages were fixed on a monthly basis by conversion of the hourly rates in the schedule of wages to the monthly rates.

Outside the continental limits of the United States

[Native (not American citizens) alien employees and Americans]

(Wage board procedure)

Laborer, Helper and Mechanical Service	(Employees paid on a per month or per annum basis.)
Supervisory Mechanical Service	
Hospital Service	
Hospital and Leper Colony Service	
Maritime Service	

(Administrative procedure)

Miscellaneous Stations	(Employees paid on a per month or per annum basis.)
Naval Attaches' Offices	
Marine Corps Posts	

A list of titles of all employees in the above groups are contained in the "Schedule of Wages for Civil Employees in the Field Service of the Navy Department and the Marine Corps", revised to July 23, 1931 (on pages 24 to 32, inclusive, and 42 to 57, inclusive). Classification groups and titles of positions of employees in similar categories are contained in later schedules of wages.

XI. CHANGES IN HOURS OF WORK AND OVERTIME PAY UNDER "THOMAS AMENDMENT"

At the time of the enactment of the act of Congress of March 28, 1934, the regular tours of duty of civil employees at Naval shore establishments were Monday to Saturday (half holiday), (six-day-forty-four-hour work week, forty-eight hours' pay;) and Tuesday to Saturday (half-holiday), (five-day-thirty-six-hour work week forty hours' pay). Every alternate Monday was a non-work day. To carry out the provisions of the statute, all naval shore establishments were closed on Saturday, and a five-day-forty-hour work week, Monday to Friday, was established. In order that the normal amount of work theretofore performed by Group IV(b) employees be accomplished, a work week of eight hours per day, Mondays to Thursdays and seven hours or eight hours a day on Friday was established (these hours were later changed to those established for employees in other groups). It was specifically directed in the order establishing these hours that "no exemption shall be made from this order (ALNAVSTA 0612-1700 April 1934) without approval of the Department obtained in advance, unless to meet an extraordinary emergency, except in the case of employees in various inspection offices, offices of superintending constructors and public works inspectors when it is necessary for them to work on Saturdays because contractors work on that day".

The employees included in the specific exceptions were Group IV(b) employees whose compensation was fixed by the Classification Act of 1923, as amended, and who therefore, did not come within the purview of section 23 of the act of March 28, 1934.

The extent to which the per annum and per month employees, listed above, performed work in excess of forty hours per week "to meet an extraordinary emergency", for which they did not receive additional compensation, is not on record in the Navy Department.

In view of the following construction of the term "extraordinary emergency" by the Attorney General, which was applied by the Navy Department to all civil employees in Naval shore establishments, employment in excess of forty hours per week was not extensive under these unusual conditions:

The emergency provision in the law is considered to cover any extraordinary emergencies which cannot be foreseen, such as might be necessary for saving life or property of the United States, and not cases which depend for their emergency solely upon economical methods of work or importance of rapid construction. An "extraordinary emergency" under the act is one not to be foreseen in time to avoid the necessity of exceeding the limit of the fixed daily hours of labor by the employment of more men or more shifts of men. More economical considerations do not affect the question at all. It is to be assumed that in making the requirement Congress knew that under many conditions the law would impose great expense upon the Government.

Comparatively little work in excess of forty hours per week was performed by the month and per annum employees listed above, from March 28, 1934 to December 10, 1941 when, because of the national emergency, all civil employees were directed to work "not less than one full eight-hour day in excess of the basic five-day-forty-hour week." The largest group of employees of those listed above, who were required to work in excess of forty hours per week because of the unusual conditions of their employment, is the "Hospital Service". Employees in Groups I, II, III and IV(a) serving at Naval Hospitals, whose rates of wages on a per month basis were established by conversion of per hour rates in the schedule of wages were required to work extra hours to meet emergencies. Employees at Naval Hospitals in the "Hospital Service" and in Groups I, II, III, IV(a) have been paid overtime compensation from June 28, 1940, under the provisions of section 5(a) of the act of Congress of June 28, 1940, and the acts of June 3, 1941, December 22, 1942, and May 7, 1943.

The next largest group were employees in the "Maritime Service". Because of the nature of their employment it was necessary to work employees in this service over forty hours per week. These employees generally were paid overtime compensation under the acts of June 3, 1941, December 22, 1942, and May 7, 1943. Other per month and per annum employees listed above were likewise paid overtime compensation under these statutes.

Prior to March 28, 1934, the average hours worked in a two-week cycle was forty, for which employees were paid an average of forty-four hours pay. Therefore, the effect of the statute was to increase the average weekly compensation of such employees in a two-week period by four hours' pay for an average of forty hours' work, or, on a weekly basis, four hours' additional compensation for four hours' less work in one week and eight hours' additional compensation for four hours' additional work in the alternate week. The aggregate basic hours worked before and after March 28, 1934 are the same.

XII. ARCHIVAL SOURCES

LIST OF REFERENCES RELATING TO WAGES AND CIVIL EMPLOYEES AT NAVY YARDS, NAVAL STATIONS AND OTHER SHORE ESTABLISHMENTS, 1863-1945.

SUBJECT	DATE	FILE NUMBER
Circular letter regarding hours of work and rates of wages of employees in Navy Yards.	Jun 10 1863	
Circular letter relative to appointment of Wage Boards at Navy Yards.	May 20 1864	
Letter from Commandant, Navy Yard, Boston, transmitting proposed Schedule of Wages for October and November, 1864, for approval of the Department.	Sep 29 1864	
Circular letter instructing Yards to submit proposed schedules to cognizant Bureaus.	Mar 29 1869	
Circular letter establishing hours of work in accordance with Eight-Hour Law of 1868.	Mar 29 1869	
Circular letter relative to work in excess of eight hours per day at Navy Yards.	Apr 19 1869	
Circular letter stating that no reduction in wages should be made because of reduction of hours of work.	May 24 1869	
Navy Department General Order No. 227.	Jun 30 1877	
Circular letter informing of change in hours of work without reduction in pay.	Oct 25 1877	
Circular No. 8 superseding letter of Oct. 25, 1877.	Mar 21 1878	
Circular letter stating that change in working hours would result in no reduction in pay.	Sep 21 1878	
U.S. Navy Regulations, Article 1675, on Wage Board procedure.	1893	
U.S. Navy Regulations, Article 1574 (2), on overtime and holiday pay.	1896	
U.S. Navy Regulations, Article 1670, on Wage Board procedure.	1896	
U.S. Navy Regulations, Article 1600, on overtime and holiday pay.	1900	
U.S. Navy Regulations, Article 1720, on Wage Board procedure.	1900	
U.S. Navy Regulations, Article 1600, on overtime and holiday pay.	1905	
U.S. Navy Regulations, Article 1720 on Wage Board procedure.	1905	
U.S. Navy Regulations, Article 1585, on Wage Board procedure.	1909	

SUBJECT	DATE	FILE NUMBER
U.S. Navy Regulations and Naval Instructions, Section 17, Article 371, Board on Wages and Rates of Pay.	1913	
U.S. Navy Regulations and Naval Instructions, Section 18, Articles 381 and 382, Overtime and Holiday Work and Pay.	1913	
Boards on Wages.	May 10 1921	Bg-Vr
Boards on Wages.	Sep 21 1922	SONYD-7-VR
Regulations for Boards on Wages.	Apr 14 1923	SONYD-7-VR
Boards on Wages.	Sep 18 1923	SONYD-7-Do
Regulations for Boards on Wages.	Jul 27 1926	SONYD-7-Jn
Regulations for Boards on Wages.	Jun 15 1929	SONYD-7-Gn
ALNAVSTA in regard to hours of work.	Apr 12 1934	SONYD-4-Md
Regulations governing the determination of wages of civilian employees in Groups I, II, III and IV(a).	Jan 8 1940	SOSED-4-Ch
Navy Civilian Personnel Instruction 85, Hours of Work and Overtime.	Mar 17 1945	SECP:400:Si SECP:510:Si
Navy Civilian Personnel Instruction 250, Wage Administration.	Apr 13 1945	SECP:400:Si
Schedule of wages for civil employees under the Naval Establishment.	1929	
Schedule of wages for civil employees in the field service of the Navy Department and the Marine Corps.	1931	
Schedule of wages for civil employees in the field service of the Navy Department and the Marine Corps.	1936	
Schedule of wages for civil employees in the field service of the Navy Department and the Marine Corps.	1940	
Schedule of wages for civil employees in the field service of the Navy Department, the Marine Corps and the Coast Guard within the continental limits of the United States.	1943	
Schedule of wages for civil employees in the field service of the Navy Department, Marine Corps, Coast Guard within the continental limits of the United States.	1944	

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