

incremental increase in hourly fees proposed in the rulemaking.¹

The Administrator has not replied.

All of the involved fees accrued in 1991. The difference between the prior \$75 cap and the \$112.38 cap for 1991 calculated under our new formula is an additional possible recovery of \$37.38 per hour. Applicant has provided the information needed to make the requisite affirmative findings under 49 C.F.R. 826.6(c). Therefore, based on the 87 hours of attorney time previously authorized, an added \$3,252.06 is due.

ACCORDINGLY, IT IS ORDERED THAT:

1. Applicant's supplemental petition is granted; and
2. Applicant is entitled to an additional award of attorneys' fees in the amount of \$3,252.06.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above opinion and order.

¹Applicant was authorized to do so, as his appeal to the law judge's initial EAJA decision was pending at the time our NPR was issued.