



SHEET METAL WORKERS' NATIONAL PENSION FUND
601 NORTH FAIRFAX STREET, SUITE 500
ALEXANDRIA, VIRGINIA 22314
www.smwnpf.org
TEL. 703.739.7000 FAX 703.683.0932

January 31, 2008

To all Contributing Employers in the National Pension Fund

Dear Contributing Employer:

As you know, the National Pension Fund ("NPF") expects its actuary to certify that the NPF is in Critical Status under the Pension Protection Act of 2006 ("PPA") on February 1, 2008. On March 1, 2008, NPF will issue a Notice of Critical Status and a 2008 Rehabilitation Plan. The Rehabilitation Plan will have two Schedules – the 2008 Alternative Schedule and the 2008 Default Schedule. The 2008 Alternative Schedule requires contribution increases and changes some benefits. The 2008 Default Schedule does not require contribution increases but makes more benefit changes. The enclosed Matrix summarizes the proposed Schedules. If you are a SMACNA member, you may already have similar information. Nevertheless, we commend this letter to your attention. For more information on the PPA's effect on the NPF, go to the NPF's website www.smwnpf.org and click on the "Pension Protection Act" link on the home page.

PPA REQUIRES THAT YOUR COLLECTIVE BARGAINING AGREEMENT ("CBA") REFLECT THE TERMS OF ONE OF THE SCHEDULES TO AVOID SURCHARGES.

The CBA must be modified absolutely no later than March 31, 2008 to avoid the imposition of surcharges. The CBA may be changed by negotiation, or by allocation, *if the Local Union has the allocation authority*. **If you do not modify your CBA by the deadline, surcharges will start April 1, 2008.** The 2008 surcharges equal 5% of contributions and are automatically imposed, if no Schedule has been adopted. No benefit is earned on the 5%. For example, suppose your CBA requires that you contribute \$1 per hour of work to NPF. If no schedule is adopted by April 1, 2008, the amount you will be required to pay for April hours will be the \$1 rate plus a separate 5% PPA-required surcharge. No benefit is earned on the additional 5%. If neither Schedule is adopted in 2008, the surcharge will increase to 10% in 2009. We respectfully note that PPA requires the Fund to treat the failure to pay a surcharge as a contribution delinquency.

PLEASE ADOPT A SCHEDULE INTO YOUR CBA OR YOUR CONTRIBUTIONS WILL BE SURCHARGED.

Here are some common scenarios in which an Employer could face surcharges.

- A. Suppose a Local has broad allocation authority written into its CBA. The Local could allocate money to adopt one of the Schedules, but does not do so by March 31, 2008. Surcharges will be imposed.

- B. The Employer and its Local cannot agree on either Schedule. Surcharges will be imposed even if you are still negotiating or going to arbitration. This is also true even if the CBA is not subject to reopener or there is no anniversary or expiration before March 31, 2008. Note that some Locals and Employers negotiated a reopener or addenda developed locally or by the SMWIA and SMACNA. If you and your Local Union did so, send us a copy. We will need to confirm that it meets PPA's requirements.
- C. The Employer and the Local decide that they do NOT wish to make any contribution increase, but they do NOT adopt the Default Schedule. Surcharges will be imposed even though the 2008 Default Schedule does not require any contribution increases.
- D. A Local agreement already has increases scheduled under the old NPF recovery program. For example, the CBA says that the NPF contribution rate will increase 10% in each of the next three years. This may be inadequate unless there is adoption of a Schedule. Surcharges may be imposed.

PLEASE SEND NPF THE ADOPTION PAPERWORK BY MARCH 31, 2008.

Once action has been taken to adopt a Schedule, *please send documentation as soon as possible* to Aileen Pierson, at the address on the letterhead. **We must receive satisfactory documentation by March 31, 2008, or we must adjust our billing records to reflect the surcharge.**

SOME LOCALS AND EMPLOYERS HAVE ASKED FOR SAMPLE CBA ADDENDA.

Enclosed is a sample addendum to adopt the Alternative Schedule.* The sample specifies that the 2008 Alternative Schedule has been incorporated into your CBA and that all the required increases will be made. The sample addendum references "Exhibit A." This is a list of contract strings/job classifications and their contribution rate increases. The Fund office is supplying the rate information to your Local Union. If you would like the sample addendum for the 2008 Default Schedule, contact the Fund Office (e-mail info@smwnpf.org).

* Whether the increases required in the 2008 Alternative Schedule are taken out of the existing wage and fringe package, or added to it, is a matter left up to the bargaining parties. The National SMACNA office has prepared the enclosed "Memorandum Concerning the Sample Addendum Collective Bargaining Agreement Language from the Sheet Metal Workers National Pension Fund." With SMACNA's memo is a model letter of understanding about the terms of an addendum adopting the Alternative Schedule. **We caution that using the letter of understanding does not mean you have adopted a Schedule, it only establishes conditions for adoption of a Schedule.**

SOME LOCALS HAVE, OR CAN ADOPT, THE ALTERNATIVE SCHEDULE BY ALLOCATION.

First, this depends on whether and to what extent the Local Union has allocation authority. Second, the Local Union needs to take whatever steps are necessary, as required by the CBA or Union rules, to exercise that authority. Most Locals allocate by membership vote, but some may follow a different process.

TO ADOPT THE 2008 DEFAULT SCHEDULE, THE LOCAL UNION AND EMPLOYERS MUST TAKE AFFIRMATIVE ACTION.

Because the 2008 Default Schedule does not require contribution increases, Locals and Employers may feel that they need do nothing. We respectfully urge you to act. If the Employer and Local Union want to follow the provisions of the 2008 Default Schedule, the parties must negotiate an addendum for this. If you would like a sample addendum for the 2008 Default Schedule, contact us (e-mail info@smwnpf.org).

IF YOU HAVE OR WILL ADOPT THE 2008 ALTERNATIVE SCHEDULE, SPECIFY THE DATE ON WHICH CONTRIBUTION INCREASES WILL BE PAID.

The 2008 Alternative Schedule requires annual contribution increases for the years 2008 through 2017 in the percentages shown in the last box on the bottom right of the Matrix. Although you and your Local Union should adopt a schedule before April 1, 2008, the 2008 Contribution Increase may be paid after that, but not later than the very next allocation, reopener, or anniversary date in 2008. For example, suppose the Local and Employer agree to adopt the 2008 Alternative Schedule and execute an Addendum on February 1, 2008. The next allocation, reopener or anniversary date is May 1, 2008. The 2008 increase should be paid starting May 1, 2008 and on May 1st of each succeeding year.

SOME LOCALS HAVE ALREADY SENT IN MATERIALS RELATED TO ADOPTION OF SCHEDULES.

We appreciate your cooperation. We are reviewing those submissions. We may request additional information from Local Unions and Employers.

Thank you for your attention to this very important matter. If you have questions, please contact Aileen Pierson, Marc LeBlanc, Ken Colombo, John Holback or Walter Shaw at the Fund Office or at info@smwnpf.org.

Enclosures

2008 Rehabilitation Plan Matrix
Sample addendum to CBA for the 2008 Alternative Schedule
SMACNA Memorandum Concerning the Sample Addendum CBA Language from the SMWNPF

cc: NPF Trustees
SMWIA
SMACNA
Local Unions

2008 Rehab Plan Matrix – if Schedule is adopted in 2008

This is a summary. Details will be found in the actual schedules.

Major Points	2008 Default Schedule	2008 Alternative Schedule
Adjustable benefits modified or eliminated	<ul style="list-style-type: none"> • NO COLA for new/recent retirees • COLA rolled back 60 months to 2002 level and frozen at that level • NO 55/30 pension • NO Special Early Retirement • Standard Early Retirement (reduction factors modified) • Full Disability equal to Standard Early • No 120 month option [CHANGE], other optional forms preserved 	<ul style="list-style-type: none"> • NO COLA for new/recent retirees • COLA rolled back 60 months to 2002 level and frozen at that level • Standard Early Retirement (reduction factors modified) • Special Early Retirement (reduction factors modified under age 62) • Full Disability reduced with best ER factor • No 120 month option [CHANGE], other optional forms preserved
Takes into account benefits eliminated in 2007	<ul style="list-style-type: none"> • No new Industry-Related Disability Benefit • No new Full Disability equal to Normal Retirement • Now new Lump Sum Death Benefit 	<ul style="list-style-type: none"> • No Industry-Related Disability Benefit • No Full Disability equal to Normal Retirement • No Lump Sum Death Benefit
Rate of Accrual	1% on the entire contribution	<ul style="list-style-type: none"> • 1.5% on 1200 hrs/0.7% over 1200 (entire contribution, non 55/30) • 70% of full rate for 55/30 strings
Contribution increases	None slated after 2007	On the entire rate... 2008 – 10%; 2009, 2010 – 7%; 2011, 2012 - 5%; 2013, 2014 – 4%; 2015-2017 – 3%

(12/07) Sample Addendum to CBA Adopting 2008 Alternative Schedule

The Parties, after due negotiation, hereby adopt the following Addendum to the *[insert full and complete collective bargaining agreement title and the effective dates of the collective bargaining agreement to which this is an addendum]* (the "Agreement"):

This Addendum relates to the Employer's obligation to contribute to the Sheet Metal Workers' National Pension Fund ("NPF") in the event that the NPF is certified to be in Critical Status for 2008 by its actuary.

This Addendum is effective as of the date that the NPF sends a notice to the Parties that the NPF's actuary has certified the NPF is in Critical Status for 2008 (the "Critical Status Notice"), and will remain in effect for so long as the Agreement remains in effect.

Upon receipt of the Critical Status Notice, the Parties adopt the **2008 Alternative Schedule** as distributed by the NPF in conjunction with the Critical Status Notice; provided that the Contribution Rate requirements in the **2008 Alternative Schedule** are consistent with the Contribution Rate increases set forth in Exhibit A of this Addendum. The **2008 Alternative Schedule** adopted by the Parties is incorporated into this Addendum and is an integral part of the Agreement. The Employer's Contribution Rate to the NPF will be increased by the date and in the amount required in the **2008 Alternative Schedule**, no later than the first (1st) day of _____, 2008 (insert allocation, reopener or anniversary date) and the first (1st) day of such month in each succeeding calendar year. In no event may this date, notwithstanding any other term of the Agreement, be later than the date specified in the **2008 Alternative Schedule**.

The Agreement's remaining terms continue in effect to the extent they are consistent with the **2008 Alternative Schedule**.

This Addendum is entered into this ____ day of _____, 200__

Employer Association/Employer *[insert name]*

DRAFT _____ Date: _____

For Sheet Metal Workers' International Association,
Local Union No. ____

DRAFT _____ Date: _____

After signing, please send a copy to the Sheet Metal Workers' National Pension Fund, 601 No. Fairfax Street, Suite 500, Alexandria, VA 22314
Attn: CBA Department, or by e-mail to apierson@smwnpf.org.

Memorandum Concerning the Sample Addendum Collective Bargaining Agreement Language from the Sheet Metal Workers National Pension Fund

You may have already received the attached copy of the broadcast fax from the Sheet Metal Workers National Pension Fund, concerning a sample addendum providing for the adoption of the Alternative Schedule of Benefits. The suggested addendum will satisfy the requirements of the trustees concerning the adoption of a Schedule of Benefits, and will avoid the imposition of a surcharge, if it is adopted in a timely manner. The suggested addendum provides that the employer's contribution will be increased in an amount that will make the total contribution equivalent to what is required by the alternative schedule. In view of the recently adopted amendments to the Standard Form of Union Agreement, it is important to remember that, while pension contributions are always expressed as an employer contribution, the increase cost of those contributions may either be borne (1) by the employees, through an allocation out of the wage/fringe package, or (2) by the employer, if the employer agrees to assume the increased cost during negotiations under the Standard Form.

Many areas in the United States negotiate an overall wage/fringe benefit package, with a clear understanding that the local union will allocate any additional amount that is needed by a fringe benefit fund during the term of the contract. In such an area, the suggested Letter of Understanding on the following page may be a useful addition to the suggested addendum. The Letter of Understanding makes it clear that, while the parties are agreeable to adopting the Alternative Schedule of Benefits, any additional pension contributions will be allocated out of the wage/fringe benefit package then provided for in the existing collective bargaining agreement. The attached Letter of Understanding should be executed by both parties at the same time that the sample addendum furnished by the NPF is signed.

If you have any questions regarding this issue, please do not hesitate to contact the Labor Department at SMACNA National.

**Letter of Understanding
Regarding Increased Pension Fund Contributions**

The parties intend to execute an addendum to the collective bargaining agreement, adopting the 2008 Alternative Schedule of Benefits for the National Pension Fund for the Sheet Metal Industry. Under the terms of that addendum, there is an increase in the pension contributions paid to the National Pension Fund by the employer.

The purpose of this Letter of Understanding is to reflect the agreement of the parties that any increase in pension contributions that are required by the terms of such addendum shall be allocated from the existing wage/fringe benefit package then established, under the terms of the collective bargaining agreement then in effect between the parties.

This Letter of Understanding is entered into this _____ day of _____, 200__.

EMPLOYER ASSOCIATION/EMPLOYER

Dated: _____

By _____
Its _____

SHEET METAL WORKERS INTERNATIONAL
ASSOCIATION, LOCAL UNION NO. _____

Dated: _____

By _____
Its _____