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TENNESSEE VALLEY AUTHORITY

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 184 (September 23, 1986).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m. (EDT), Thursday, September 25, 1986.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTERS: The following items are added to the previously announced agenda:

C. Power Items

4. Letter Agreement covering arrangements for establishement of temporary 13-kV emergency connection between TVA and East Kentucky Power Cooperative.

F. Unclassified

9. Supplement to Interagency Agreement No. TV–69546A with the U.S. Forest Service, Department of Agriculture, providing for assistance with mapping activities in connection with pilot test being conducted by the Forest Service in the George Washington National Forest in Virginia.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional items shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below:

Dated: September 24, 1986.

Approved.

C.H. Dean, Jr.,

Director and Chairman.

John B. Waters,

Director.

[FR Doc. 86–22056 Filed 9–25–86; 12:47 pm]

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federal register

Monday
September 29, 1986

Part II

Environmental Protection Agency

40 CFR Parts 117 and 302

Superfund Programs; Reportable Quantity Adjustments; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 117 and 302

[SW H-FRL 3032-9]

Superfund Programs; Reportable Quantity Adjustments

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Sections 103(a) and 103(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") require that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities ("RQs") immediately notify the National Response Center ("NRC") of the release. Section 102(b) of CERCLA establishes RQs for releases of designated hazardous substances at one pound, unless other reportable quantities were established pursuant to section 311(b)(4) of the Clean Water Act ("CWA").

Section 102(a) authorizes the Administrator of the U.S. Environmental Protection Agency ("EPA") to adjust these RQs, and to designate as hazardous substances, substances which when released into the environment may present substantial danger to the public health or welfare or the environment. A final rule published on April 4, 1985 (50 FR 13456) adjusted RQs for 340 hazardous substances. In a Notice of Proposed Rulemaking ("NPRM") also published on April 4, 1985, the Agency proposed adjusted RQs for 105 additional hazardous substances (50 FR 13514). This rule finalizes the RQ adjustments proposed in the April 4, 1985 NPRM.[1] By making these adjustments, the Agency will be able to focus its resources on those releases which are most likely to pose potential threats to public health, welfare, and the environment. In addition, these adjustments will relieve the regulated community of the burden of reporting releases which are unlikely to pose such threats. Today's rule adjusts not only the statutory one-pound RQs, but also the RQs established pursuant to section 311(b)(4) of the CWA.

When there is a release of a hazardous substance in a quantity equal to or greater than its RQ as listed in 40 CFR 302.4 (as amended by today's final rule), the person in charge of the vessel or facility must immediately notify the NRC. The toll-free number of the NRC is listed below under "**ADDRESSES.**"

EFFECTIVE DATE: December 29, 1986.

ADDRESSES: The toll-free telephone number of the National Response Center is 1–800/424–8802; in the Washington, DC metropolitan area, the number is 1–202/426–2675.

Docket

Copies of materials relevant to this rulemaking are contained in Room LG at the U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The docket is available for inspection between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Dr. K. Jack Kooyoomjian, Senior Project Officer, Response Standards and Criteria Branch, Emergency Response Division (WH–548B), U. S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or the RCRA/Superfund Hotline at 1–800/424–9346, in Washington, DC, at 1–202/382–3000.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Introduction
  A. Statutory Authority
  B. Background of This Rulemaking
II. Key Issues Not Addressed in This Rule
  A. Continuous Releases
  B. Federally Permitted Releases
  C. Radionuclide RQs
  D. Potential Carcinogen RQs
III. Reportable Quantity Adjustments
  A. Introduction
  B. Summary of the Methodology Underlying the Reportable Quantity Adjustments
  C. Substances for Which RQs Are Adjusted
  D. ICR Substances
IV. Reportable Quantity Adjustments Under Section 311 of the Clean Water Act
V. Summary of Supporting Analyses

I. Introduction

A. Statutory Authority

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Pub. L. 96–510), 42 U.S.C. 9601 et seq. ("Superfund," "CERCLA," or "the Act"), enacted on December 11, 1980, establishes broad federal authority to deal with releases or threats of releases of hazardous substances from vessels and facilities. The Act defines a set of "hazardous substances" chiefly by reference to other environmental statutes (see section 101(14)); currently, there are 717 CERCLA hazardous substances. The Administrator of the U.S. Environmental Protection Agency ("EPA") may designate additional hazardous substances pursuant to section 102 of CERCLA.

The Act requires that the person in charge of a vessel or facility immediately notify the National Response Center ("NRC") as soon as that person has knowledge of a release of a hazardous substance in an amount equal to or greater than the reportable quantity ("RQ") for that substance (sections 103 (a) and (b)).[2] In certain limited situations, when direct reporting to the NRC is not practicable, the releaser may report to the nearest Coast Guard- or EPA-predesignated On-Scene Coordinator ("OSC"). If it is not possible to notify the NRC or predesignated OSC immediately, reports may be made immediately to the nearest Coast Guard unit, provided that the releaser notifies the NRC as soon as possible (40 CFR 300.63(b)). Section 102(b) of CERCLA establishes RQs for releases of designated hazardous substances at one pound, unless other reportable quantities were assigned under section 311 of the Clean Water Act ("CWA"). Section 102(a) authorizes EPA to adjust all of these reportable quantities by regulation.

A major purpose of the section 103(a) and (b) notification requirements is to alert the appropriate government officials to releases of hazardous substances that may require a federal response action to protect public health and welfare and the environment. Under CERCLA section 104, the federal government may respond whenever there is a release or a substantial threat of a release into the environment of a hazardous substance. Response activities are to be taken, to the extent practicable, in accordance with the National Contingency Plan (40 CFR Part 300), which was originally developed under the CWA, and which has been revised pursuant to section 105 to reflect the responsibilities and authority created by CERCLA. EPA emphasizes that a hazardous substance release notification is merely a trigger for informing the government of a release so

[1] The Agency has decided to retain the statutory one-pound RQs for lead, pentachloroethane, and methyl chloride, pending analysis of their potential carcinogenicity. Therefore, today's rule adjusts RQs for 102 of the 105 hazardous substances for which the April 4, 1985 NPRM proposed adjusted RQs. For further discussion of this issue, see Section III.C. of this preamble.

[2] A release into the environment of a substance which is not listed as a CERCLA hazardous substance but which rapidly forms a CERCLA hazardous substance upon release, is subject to the notification requirements of section 103. If the amount of the hazardous substance formed as such a reaction product equals or exceeds the RQ for that substance, the release must be reported to the NRC.

that the need for a federal removal or remedial action can be evaluated by the appropriate federal personnel and any necessary action undertaken in a timely fashion. Federal personnel will evaluate all reported releases, but will not necessarily initiate a removal or remedial action in response to all reported releases, because the release of a reportable quantity of a hazardous substance will not necessarily pose a hazard to public health or welfare or the environment.

Section 103(b) authorizes penalties, including criminal sanctions, for persons in charge of vessels or facilities who fail to report releases of hazardous substances which equal or exceed reportable quantities. Any person in charge of a vessel or facility who, as soon as that person has knowledge of a reportable release, fails to report the release pursuant to section 103(a) or (b) shall, upon conviction, be fined no more than $10,000 or imprisoned for not more than one year, or both. Notifications received under section 103(a) or information obtained by such notice cannot be used against any reporting person in any criminal case, except a prosecution for perjury or for giving a false statement.

B. Background of this Rulemaking

On May 25, 1983, EPA proposed a rule (48 FR 23552) to clarify procedures for reporting releases of CERCLA hazardous substances and to adjust reportable quantities for 387 of the then 696 CERCLA hazardous substances.[3] The May 25, 1983 NPRM also listed, for the first time, the "hazardous substances" identified under section 101(14) of CERCLA. In the NPRM, EPA discussed in detail the CERCLA notification provisions (including the persons required to notify the NRC of a release, the hazardous substances for which notification is required, the types of releases subject to the notification requirements, and the exemptions from these requirements), the methodology and criteria used to adjust the RQ levels, and the RQ adjustments proposed under section 102 of CERCLA and under section 311 of the CWA. On April 4, 1985, EPA promulgated a final rule (50 FR 13456), that clarified reporting procedures and finalized RQ adjustments for 340 hazardous substances, including 21 waste streams.

The April 4, 1985 **Federal Register** also contained an NPRM proposing RQ adjustments for 105 additional CERCLA hazardous substances, including seven waste streams (50 FR 13514). In addition, the April 4, 1985 NPRM clarified reporting requirements for substances exhibiting the RCRA characteristics of ignitability, corrosivity, and reactivity ("ICR") (40 CFR 261.21–261.23).[4] The adjusted RQ for ICR substances, discussed below in Section III.D., becomes effective with today's rule. In preparing today's final rule, the Agency has considered carefully the comments received in response to the April 4, 1985 NPRM.

In finalizing these RQ adjustments, today's rule amends Table 302.4 of 40 CFR 302.4 and, consistent with 40 CFR 117.3, applies not only to CERCLA RQs, but also to the RQs established for hazardous substances under section 311(b)(4) of the CWA. Both Table 302.4 and Table 117.3 are revised and published as a part of this rule. Section II of this preamble discusses key issues relating to RQ adjustments and CERCLA notification requirements that are not resolved in today's final rule. Section III discusses the RQ adjustments and the methodology used in making these adjustments. Section IV addresses RQ adjustments under section 311 of the Clean Water Act. Section V provides a summary of the analyses supporting this rule.

It is important to note that other provisions of CERCLA may apply even where the statute does not require notification. Therefore, nothing in this rulemaking should be interpreted as reflecting Agency policy or the applicable law with respect to other provisions of the Act. For example, a party responsible for a release (except federally permitted releases and specifically exempted substances or entities), is liable for the costs of cleaning up that release and for any natural resource damages caused by the release, even if the release is not subject to the notification requirements of sections 103 (a) and (b). Similarly, proper reporting of a release in accordance with sections 103 (a) and (b) does not preclude liability for cleanup costs. The fact that a release of a hazardous substance is properly reported or that it is not subject to the notification requirements of sections 103(a) and (b) will not prevent EPA or other government agencies from taking response actions under section 104, seeking reimbursement from responsible parties under section 107, or pursuing an enforcement action against responsible parties under section 106. Note also that this rule does not affect hazardous substance reporting requirements imposed by other regulations and statutes (except the CWA—see Section IV below).

Neither today's final rule nor the April 4, 1985 final rule addresses the designation of hazardous substances which are not designated under the statutes listed in CERCLA section 101(14). The Agency has conducted several preliminary economic and technical analyses on this subject (see 48 FR 23603), and in an Advance Notice of Proposed Rulemaking (ANPRM), also published on May 25, 1983, invited public comment. EPA has carefully reviewed the comments received. The Agency's designation policy may be the subject of a future rulemaking.

II. Key Issues Not Addressed in this Rule

A. Continuous Releases

Under sections 103 (a) and (b) of CERCLA, no distinction is made between episodic and continuous releases. Section 103(f)(2), however, provides reduced reporting requirements for certain "continuous" releases. Releases may be reported less frequently than under sections 103 (a) and (b) if they are "continuous," "stable in quantity and rate," and notification has been given under sections 103 (a) and (b) "for a period sufficient to establish the continuity, quantity, and regularity" of the release. Notification must still be given "annually, or at such time as there is any statistically significant increase" in the quantity of the hazardous substance being released. Thus, instead of reporting every release as it occurs, certain continuous releases may be reported less often.

In the May 25, 1983 proposal, EPA noted that enforcement efforts would be focused on episodic rather than continuous releases. The Agency presented alternative interpretations of

[3] Since the May 25, 1983 NPRM, 21 additional hazardous substances have been identified pursuant to listings under RCRA and the CAA: Waste stream F024 under section 3001 of the Resource Conservation and Recovery Act (RCRA) (49 FR 5308); coke oven emissions under section 112 of the Clean Air Act (CAA) (49 FR 36560); waste streams F020, F021, F022, F023, F026, F027, and F028 under section 3001 of RCRA (50 FR 1978); waste streams K111, K112, K113, K114, K115, and K116 under section 3001 of RCRA (50 FR 42936); o-toluidine and p-toluidine under section 3001 of RCRA (50 FR 42936); waste streams K117, K118, and K136 under section 3001 of RCRA (51 FR 5327); and 2-ethoxyethanol under section 3001 of RCRA (51 FR 6537). None of the above-listed substances, with the exception of two (waste stream F024 and coke oven emissions), have been previously listed in Table 302.4. These 19 substances are therefore listed in the table in today's rule. The RQs for these substances, however, are not adjusted by today's rule and will retain their statutory one-pound RQs until adjusted in future rulemakings.

[4] Substances exhibiting the characteristic of extraction procedure (EP) toxicity were not at issue because the chemicals for which the EP toxicity test is designed are all assigned specific RQs under 40 CFR 302.4.

which releases could be included within the continuous release definition, and discussed a possible notification scheme for releases determined to be within the definition.

The Agency received more than 40 comments in response to the discussion of continuous releases in the May 25, 1983 NPRM. EPA is in the process of developing continuous release reporting regulations to clarify this reduced reporting requirement.

Although the continuous release reporting issue was not within the scope of the April 4, 1985 NPRM, the Agency received one additional comment on this issue. The commenter argued that because the scope of the definition for continuous releases relates directly to whether certain RQs are appropriate, the comment period for RQ adjustments in the April 4, 1985 NPRM should be reopened when the continuous release reporting issue is finally resolved. EPA has rejected this argument, however, because the Agency considers the issues of appropriate RQ levels and the scope of the reduced reporting requirement for continuous releases to be unrelated. Whether a given release qualifies as "continuous" has no bearing on the appropriate RQ for a hazardous substance determined according to a specific set of scientific criteria.

B. Federally Permitted Releases

One of the exemptions from section 103(a) reporting requirements is for "federally permitted releases." The definition of "federally permitted release" in CERCLA section 101(10) specifically identifies releases permitted under certain other state or federal programs.

In the May 25, 1983 NPRM, EPA explained its interpretation of each type of release exempted by the definition of "federally permitted release." The Agency received many comments on the scope of the federally permitted release exemption, most of which urged a broad interpretation of one or more of the federally permitted releases. Due to the complexity of the issues involved, the Agency decided to examine further the scope of the federally permitted release exemption.

Although the April 4, 1985 NPRM did not address the issue of federally permitted releases, we received a comment on this issue which was analogous to the comment received on continuous releases. The commenter argued that the comment period for RQ adjustments proposed in the April 4, 1985 NPRM should be reopened when the issue of federally permitted releases is finally resolved. The Agency has rejected this argument for the same reason it rejected the commenter's argument as it applied to continuous releases. Whether the release of a hazardous substance that exceeds an RQ will, under certain prescribed circumstances, be exempt from reporting requirements because it is "federally permitted," has no bearing on the objective determination of the appropriate RQ level for the substance.

The Agency is evaluating the federally permitted release definition and intends to address the issue in a future rulemaking.

C. Radionuclide RQs

Radionuclides are hazardous substances under CERCLA because they are designated as a hazardous air pollutant under section 112 of the CAA. The preambles to the May 25, 1983 NPRM and the April 4, 1985 final rule recognize that the statutory RQ of one pound may not be appropriate for radionuclides. Radionuclides are also not addressed in today's final rule. The Agency will address the comments received in response to the earlier rulemaking efforts, as well as other radionuclide RQ issues, in a future rulemaking when our analysis, now ongoing, is completed.

D. Potential Carcinogen RQs

As discussed in Section III below, today's final rule proposes no RQ adjustments for substances with one-pound statutory RQs which will be ranked for the primary criterion of potential carcinogenicity. The ranking methodology for such substances will be discussed in detail in an upcoming NPRM in which the Agency will propose to adjust RQs for potentially carcinogenic substances.

III. Reportable Quantity Adjustments

A. Introduction

Until adjusted by regulation under section 102(a), CERCLA section 102(b) establishes a reportable quantity of one pound for hazardous substances other than those hazardous substances with RQs established under section 311 of the Clean Water Act (CWA); for these latter substances, section 102(b) adopts the established CWA RQs. This rulemaking adjusts the statutory RQs based upon specific scientific and technical criteria that relate to the possibility of harm from the release of a hazardous substance in a reportable quantity. These RQ adjustments, therefore, enable the Agency to focus its resources on those releases which are most likely to pose potential threats to public health and welfare and the environment. Such RQ adjustments will also relieve the regulated community and emergency response personnel from the burden of making and responding to reports of releases which are unlikely to pose such threats.

In this rule, RQs for 102 hazardous substances are adjusted, including seven of the waste streams that were not assigned adjusted RQs in the April 4, 1985 final rule. In today's rule, EPA raises the RQs of 31 specific hazardous substances, lowers the RQs of 30 specific hazardous substances, and leaves the RQs of 34 specific hazardous substances at the levels originally established by CERCLA (or by CWA section 311). This rule also raises the RQs of the seven waste streams. In addition, today's final rule adjusts to 100 pounds the RQ for releases of RCRA unlisted solid wastes (as defined in 40 CFR 261.2), which exhibit the RCRA characteristics of ignitability, corrosivity, or reactivity but which are not "wastes" (and thus not CERCLA hazardous substances) until after they are released and are not cleaned up for repackaging, reprocessing, recycling, or reuse (see 40 CFR 302.4(b)). The remaining 275 hazardous substances not addressed by today's final rule are being evaluated for potential carcinogenicity and/or chronic toxicity. Analyses of these hazardous substances are nearly complete and adjusted RQs based on potential carcinogenicity and/or chronic toxicity will be proposed in an NPRM in the near future.

The primary purpose of notification is to ensure that releasers notify the federal government so that federal personnel can assess the need to respond to the release. The different RQ levels do not reflect a determination that a release of a CERCLA substance will be hazardous at the RQ level and not hazardous below that level. EPA has not made such a determination because the Agency has found that the actual hazard will vary with the unique circumstances of the release, and extensive scientific data and analysis would be necessary to determine the hazard presented by each substance under a number of possible circumstances. Instead, the RQs are designed to be a trigger for notification and reflect the Agency's judgment that the federal government should be notified of certain releases to which a federal response might be necessary. The reportable quantities represent a determination only of possible or potential harm, not that releases of a particular amount of a hazardous substance necessarily will be harmful to public health or welfare or the environment.

Because CERCLA's RQ adjustment methodology differs from that used pursuant to section 311 of the Clean Water Act, some of the RQs set today are not the same as those initially promulgated under the CWA. The April 4, 1985 final rule (50 FR 13456) amended 40 CFR 117.3 (see 44 FR 50776, August 29, 1979), to make RQs adjusted under CERCLA the applicable RQs for purposes of CWA section 311. Today's rule therefore adjusts not only CERCLA RQs, but, where applicable, CWA RQs as well. A person in charge need not report a single release twice in order to satisfy CERCLA and CWA reporting requirements; one report to the NRC suffices.

B. Summary of the Methodology Underlying the Reportable Quantity Adjustments

The Agency has wide discretion in adjusting the statutory RQs for hazardous substances under CERCLA.[5] Administrative feasibility and practicality are important considerations. The Agency's selected methodology for adjusting RQs begins with an evaluation of the intrinsic physical, chemical, and toxicological properties of each designated hazardous substance. The intrinsic properties examined—called "primary criteria"—are aquatic toxicity, mammalian toxicity (oral, dermal, and inhalation), ignitability, reactivity, chronic toxicity, and potential carcinogenicity. (For the purposes of this rule, chronic toxicity—referred to as "other toxic effects" in the May 25, 1983 NPRM—is defined as toxicity resulting from repeated or continuous exposure to either a single dose or multiple doses of a hazardous substance.)

The Agency ranks each intrinsic property on a five-tier scale, associating a specific range of values on each scale with a particular RQ value. This five-tier scale uses the five RQ levels of 1, 10, 100, 1000, and 5000 pounds originally established pursuant to CWA section 311 (see 40 CFR Part 117 and 44 FR 50776). Each substance receives several tentative RQ values based on its particular properties.[6] The lowest of all of the tentative RQs becomes the "primary criteria RQ" for that substance.

The Agency received several comments on its general RQ adjustment methodology. One commenter supported the Agency's decision to continue to use the five-tier system for setting RQs developed under CWA section 311. Other commenters objected to EPA's use of the primary criteria of chronic toxicity and potential carcinogenicity to adjust RQs. One of these commenters suggested that the methodology used to evaluate and assign chronic toxicity rankings should employ data based on routes of exposure and pharmacokinetic parameters when converting animal doses to human doses. The current approach assumes 50 percent absorption from inhalation exposures and 100 percent absorption from oral exposures. The Agency decided to use these assumptions instead of reviewing absorption and pharmacokinetic data because the purpose of RQ adjustments is to establish levels at which the federal government should be notified of releases, not to develop lengthy and complex risk assessment scenarios. The Agency has previously considered and rejected the use of risk assessment scenarios to adjust RQs (see the April 4, 1985 final rule at 50 FR 13456).

The same commenter also requested an explanation of the Agency's decision to estimate chronic exposure by reducing subchronic effect levels by a factor of 10 or less. The Agency believes that this approach is well supported by experimental evidence which shows that the ratio of subchronic levels to levels derived after chronic exposure is 2.0 or less for more than half of the chemicals studied. Approximately 96 percent of these ratios are below a value of 10. This empirically derived relationship between chronic and subchronic effect levels indicates that it is reasonable to employ a 10-fold uncertainty factor to account for differences between subchronic and chronic effect levels. For a detailed discussion of the chronic toxicity methodology, see the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 1, (Appendix B), March 1985, available for inspection at Room LG, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Another commenter opposed adjusting RQs upwards because many of the 105 substances for which adjusted RQs were proposed in the April 4, 1985 NPRM had not been evaluated adequately for potential carcinogenic or chronically toxic effects. This commenter suggested that statutory RQs be retained until it is proven that a designated hazardous substance does not exhibit either chronic toxicity or potential carcinogenicity, as applicable. Although the Agency retains the statutory RQs if it has evidence indicating chronic toxicity or potential carcinogenicity pending more detailed analysis, the Agency does not delay RQ adjustment until it has evidence which affirmatively proves the absence of such characteristics. To attempt to affirmatively prove the absence of chronic toxicity or potential carcinogenicity, even if technically possible, would greatly strain Agency resources with little added benefit to human health and environmental protection. The data available to the Agency provide no clear evidence of chronic toxicity or potential carcinogenicity for any of the substances referred to by the commenter. However, the Agency will readjust RQs as necessary in the future to take into account new information concerning the hazard of designated substances.

For a more detailed discussion of the primary criteria, including chronic toxicity, see the preamble of the May 25, 1983 NPRM (48 FR 23562–23565), the preamble of the April 4, 1985 final rule adjusting reportable quantities (50 FR 13456, section V.D.1), and the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 1, March 1985, available for inspection at Room LG, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

After the primary criteria RQs are assigned, substances are further evaluated for their susceptibility to certain degradative processes. These natural degradative processes are biodegradation, hydrolysis, and photolysis, or "BHP." These processes tend to reduce the relative potential for harm to public health and welfare and the environment of many hazardous substance releases. If hazardous substances have primary criteria RQs

[5] As Senate Report No. 848, 96th Congress, Second Session (1980) notes at page 29: "In determining reportable quantities under this paragraph [section 3(a)(2) of S.1480], the President may consider any factors deemed relevant to administering the reporting requirements or the President's other responsibilities under this Act."

[6] If available evidence shows that a hazardous substance hydrolyzes into a reaction product that is more hazardous than the original substance, the primary criteria are applied to the more hazardous product rather than to the original substance to determine the tentative RQ values for the original substance. For example, substances known to generate hydrogen sulfide or phosphine upon hydrolysis are assigned primary criteria RQs on the basis of these degradation products. In the April 4, 1985 NPRM, the primary criteria RQs of four substances (ammonium bifluoride, lead sulfide, sodium bifluoride, and zinc phosphide) were based on the application of the primary criteria to the more hazardous reaction products rather than to the original substances. In today's final rule, lead sulfide has been removed from the group of substances whose RQs are based on application of the primary criteria to reaction products. For a discussion of the reasons the Agency removed lead sulfide from this group, see Section III. C.

already at the maximum assignable level of 5000 pounds or are found to be bioaccumulative, environmentally persistent, highly reactive (or otherwise unusually hazardous), or degradable to more hazardous products, they are not eligible for a one-level RQ increase on the basis of BHP. On the other hand, if analysis indicates that an eligible hazardous substance degrades relatively rapidly to a less harmful substance or compound through one or more of these processes when it is released into the environment, the primary criteria RQ is raised one level on the basis of BHP. The single RQ assigned to each hazardous substance on the basis of the primary criteria and BHP becomes the adjusted RQ for the substance. Under no circumstances may the RQ for a substance be raised more than one level based on BHP.

For a more detailed discussion of the BHP criteria and their use in combination with the primary criteria, see the preamble of the May 25, 1983 NPRM (48 FR 23565), the preamble of the April 4, 1985 final rule adjusting reportable quantities (50 FR 13456, sections V.C.1. and V.D.2.) and the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 1, March 1985, available for inspection at Room LG, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

C. Substances for Which RQs Are Adjusted

This section describes the process EPA used to select the 102 substances for which today's rule adjusts RQs. As described below, these 102 substances have been assigned adjusted RQs on the basis of the five primary criteria other than potential carcinogenicity. The adjustments are as follows: 28 hazardous substances were adjusted on the basis of chronic toxicity only, 13 hazardous substances on the basis of chronic toxicity and at least one other primary criterion, and 61 hazardous substances on the basis of primary criteria other than chronic toxicity.

Prior to the May 25, 1983 NPRM, the Agency identified a number of CERCLA hazardous substances that exhibited chronic toxicity or potential carcinogenicity (or both). EPA identified the chronically toxic substances using a variety of EPA background documents, reports prepared by state agencies, and other sources. EPA identified the potential carcinogens using the Monographs of the International Agency for Research on Cancer, the First, Second, and Third Annual Reports on Carcinogens of the National Toxicology Program, U.S. Department of Health and Human Services, final Agency determinations published in the **Federal Register** identifying a substance as a potential carcinogen, and determinations by the Agency's Office of Health and Environmental Assessment that a substance may be a potential carcinogen based on either published or unpublished data. Lists of these substances were submitted to EPA's Environmental Criteria and Assessment Office (ECAO) for further chronic toxicity analysis and to EPA's Carcinogen Assessment Group (CAG) for further carcinogenicity analysis.

For further information concerning the selection of hazardous substances for ECAO and CAG review, see the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 1, March 1985, available for inspection at Room LG, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Of the 102 hazardous substances whose RQs are adjusted by today's rule, 95 were evaluated for chronic toxicity by ECAO. In addition, the Agency initially identified twelve of the 102 hazardous substances for evaluation as potential carcinogens.[7] CAG's subsequent evaluation of these twelve hazardous substances found no substantive evidence that any of the twelve are potential carcinogens. Therefore, the RQs of these twelve substances have been adjusted using available data on the other five primary criteria. Of the 105 hazardous substances for which adjusted RQs were proposed in the April 4, 1985 NPRM, the Agency subsequently identified twelve additional hazardous substances which may be potential carcinogens.[8] Seven of these substances (lead chloride, lead nitrate, tetraethyl lead, cresols, 1,3-dichloropropene, dichloropropane-dichloropropene (mixture), and captan) currently have statutory RQs established under the CWA which will be adjusted downwards or remain the same as a result of today's rule. The RQs for another two of these twelve substances, waste stream K052 and waste stream F004, are based on their respective constituents, tetraethyl lead and cresols. The RQs for waste stream K052 and waste stream F004 will be adjusted today to correspond to the RQs for tetraethyl lead and cresols, respectively. The one-pound statutory RQs for the three remaining substances—lead, pentachloroethane, and methyl chloride—will be retained, pending the outcome of their evaluation for potential carcinogenicity. The Agency will evaluate lead chloride, lead nitrate, tetraethyl lead, waste stream K052, cresols, waste stream F004, 1,3-dichloropropene, dichloropropane-dichloropropene (mixture), and captan for potential carcinogenicity and, if necessary, readjust their final RQs based on potential carcinogenicity, in a future rulemaking action.

The portion of Table 302.4 printed in this rule provides a list of all CERCLA hazardous substances for which adjusted RQs are established by this rule. The table indicates both the RQ level originally established by statute and the adjusted RQ for each substance. In addition, the table includes nineteen hazardous substances not previously published in the table (see note 3 above).

Several commenters requested that the RQs of various hazardous substances be increased from the levels proposed in the April 4, 1985 NPRM. The Agency agrees with three commenters who suggested that the proposed RQ of 100 pounds for lead sulfide be raised to 5000 pounds on the grounds that lead sulfide is very insoluble and its aquatic toxicity is low. The proposed 100-pound RQ for lead sulfide was based in part on the generalization that soluble sulfides hydrolyze in water to form hydrogen sulfide whose RQ is 100 pounds. The commenters objected to the use of this methodology for setting the RQ for lead sulfide on the basis that lead sulfide is highly insoluble. The Agency agrees that lead sulfide is too insoluble to produce significant amounts of hydrogen sulfide, even in highly acidic solutions. Accordingly, the RQ of lead sulfide in the final rule will be raised from its proposed value of 100 pounds in the April 4, 1985 NPRM to 5000 pounds, based on its aquatic toxicity, the same value it had under section 311 of the Clean Water Act.

One commenter suggested that the RQ of chloroethane be increased to 5000 pounds from the proposed level of 100 pounds because "it is the least toxic of all the chlorinated hydrocarbons." Although the quoted statement is true, the Agency proposed a 100-pound RQ for chloroethane, not because of its

[7] The twelve substances are: acenaphthene, acenaphthylene, anthracene, benzo(ghi)perylene, delta-BHC, chromic acetate, chromic sulfate, ferric dextran, fluoranthene, fluorene, phenanthrene, and pyrene. (The Agency has proposed in an NPRM published November 8, 1985, to delist ferric dextran as a hazardous waste under RCRA and to delete it from the list of CERCLA hazardous substances under section 102(a) (see 50 FR 46468)).

[8] These twelve substances are lead, lead chloride, lead nitrate, tetraethyl lead, waste stream K052, pentachloroethane, methyl chloride, cresols, waste stream F004, 1,3-dichloropropene, dichloropropane-dichloropropene (mixture), and captan.

toxicity, but because of its ignitability (low flash point of −58 °F and low boiling point of 54 °F). Therefore, the proposed RQ of 100 pounds for chloroethane will be retained in the final rule.

Other commenters also requested increases in the RQs of various hazardous substances. But as was the case with the suggested increase for chloroethane, these other increases would be inconsistent with the overall RQ adjustment methodology and characteristics of the respective substances.

One commenter recommended that the RQs of thirteen hazardous substances proposed in the April 4, 1985 NPRM be lowered on the basis of aquatic toxicity data provided by the commenter. Some of the data are based on aquatic toxicity tests that used species and test procedures which deviate from the standard species and procedures used by the Agency for RQ adjustment purposes. For the most part, the suggested RQ adjustments were based on such non-standard species and procedures and therefore are not accepted by the Agency.

For two substances (pentachlorobenzene and phorate), however, the commenter used data based on the standard 96-hour LC50 aquatic toxicity test and a standard species, the bluegill. The new aquatic toxicity data for pentachlorobenzene justify lowering the RQ of that substance from the proposed level of 1000 pounds to 10 pounds. The new aquatic toxicity data for phorate support a one-pound RQ which should be raised one RQ level to 10 pounds based on BHP. The Agency based the proposed 1000-pound RQ for phorate on mammalian toxicity data which supported a 100-pound RQ. Because phorate is hydrolyzed readily, the RQ previously was raised one level to 1000 pounds. In sum, the RQs for both pentachlorobenzene and phorate will be set at 10 pounds in today's final rule, instead of 1000 pounds, as they were in the April 4, 1985 NPRM.

Although not specifically requested by the commenter, the RQ of a third hazardous substance, waste stream K039, is also being lowered in the final rule. K039 is a filter cake resulting from the production of phorate and thus contains phorate as a constituent. Because the RQ of a waste stream is based upon the lowest RQ of any of its hazardous constituents, the appropriate RQ for K039 should also be 10 pounds in light of the new aquatic toxicity data on phorate. Accordingly, the RQ for K039 will be lowered from its 100-pound level in the April 4, 1985 NPRM to 10 pounds to make its RQ consistent with the new RQ for its constituent, phorate.

D. ICR Substances

As was stated in the April 4, 1985 NPRM, the obligation to report releases into the environment of substances exhibiting the Resource Conservation and Recovery Act (RCRA) characteristics of ignitability, corrosivity, or reactivity (ICR) had been the subject of some confusion. Under section 103(a) of CERCLA, the person in charge of a vessel or facility must notify the NRC of the release of a "hazardous substance." The term "hazardous substance," as defined by section 101(14) of CERCLA, includes substances designated pursuant to section 102 of CERCLA as well as substances designated by other federal environmental legislation, including RCRA. CERCLA section 101(14)(C) designates as a CERCLA hazardous substance "any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of [RCRA]." The "characteristics identified" under RCRA include ignitability, corrosivity, and reactivity. Therefore, the release of a non-designated substance exhibiting an ICR characteristic is the release of a hazardous substance if the substance is a waste.[9]

The April 4, 1985 final rule established a 100-pound RQ for ICR substances which are wastes prior to release. However, due to confusion with respect to reporting requirements for ICR substances which become wastes only after release, the Agency proposed in the NPRM, published concurrently with the April 4, 1985 final rule, to apply the same RQ to the latter type of ICR substances. The reportable quantity adjustment of 100 pounds for releases of ICR substances which become wastes only after release becomes effective with today's final rule.

In the April 4, 1985 NRPM, the Agency acknowledged that CERCLA criminal penalties attach only if the person in charge knew or should have known that the released material was a hazardous substance, and recognized that transporters may not be aware that substances they are carrying exhibit ICR characteristics. Several commenters suggested that this lack of knowledge may extend to others in the industrial chain such as manufacturers, marketers, and "other handlers" of these materials. However, regardless of the general likelihood that any class of persons may or may not have the required level of knowledge, enforcement decisions will be made on a case-by-case basis upon the facts present in a particular situation.

With respect to ICR substances which are not wastes prior to release, the April 4, 1985 NPRM makes a distinction between those substances which upon release are spilled and not cleaned up or are cleaned up only for eventual disposal, and those which are released and immediately cleaned up for repackaging, reprocessing, recycling, or reuse. Because the former substances are wastes, their release must be reported if it equals or exceeds an RQ of 100 pounds. The latter substances are not wastes and therefore their release need not be reported pursuant to CERCLA section 103. For purposes of clarification, if an ICR substance which is not a waste prior to release is released and only partially cleaned up, the release need be reported only if the amount not recovered equals or exceeds an RQ (i.e., 100 pounds). If the amount spilled and not recovered (or recovered only for eventual disposal) is less than 100 pounds, there has been no release of an RQ or more of a hazardous substance and the reporting requirements of section 103, therefore, are not triggered.

Several commenters questioned the legality and practicality of requiring reporting of non-designated ICR substances which become wastes only after their initial release. However, as stated above, CERCLA defines the term "hazardous substance" to include hazardous wastes that exhibit ICR characteristics and thus requires reporting of releases of such wastes. To the extent an ICR substance enters the environment and is not recovered for repackaging, reprocessing, recycling, or reuse, that substance becomes a waste and thus is subject to the reporting requirements of section 103. Moreover, because the environmental impact upon release of such a substance does not depend upon its status as a waste *prior* to release, the Agency believes that, in the interest of protecting human health and the environment, the federal government must be notified of such releases. This notification requirement is consistent with the statutory purpose of section 103(a) because it allows the predesignated On-Scene Coordinator to evaluate the need for a federal response action to the release of a non-designated substance which, due to its ICR characteristics, may be harmful to the

[9] Because CERCLA regulates these unlisted substances by virtue of their classification as RCRA hazardous wastes, the non-designated substance must, of course, also be a solid waste, as defined in 40 CFR 261.2 and not excluded from regulation as a hazardous waste under 40 CFR 261.4(b), for the notification requirements based on ICR characteristics to apply. See 40 CFR 302.4(b).

environment if released in an amount equal to or greater than the 100-pound RQ.

One commenter objected to a 100-pound RQ for non-designated ICR substances which only become wastes after their initial release. The commenter believed that a 100-pound RQ for such substances is unnecessarily stringent and suggested instead a 1000-pound RQ. EPA proposed a 100-pound RQ for these non-designated substances because substances which are wastes *prior* to their initial release and exhibit ICR characteristics have an RQ of 100 pounds. An RQ of 100 pounds was originally proposed for the latter group of substances in the May 25, 1983 NPRM (48 FR 23552). The Agency's rationale for this RQ was that since the constituents of unlisted wastes generally are unknown, it is very difficult to apply the RQ adjustment criteria to such wastes. It is reasonable to assume that, on the average, these wastes will fall within the middle of the five RQ levels (i.e., 100 pounds). The same rationale is equally applicable to ICR substances that become wastes after release. Because the environmental impact of a release of a substance exhibiting an ICR characteristic does not depend on whether that substance was a waste prior to its initial release, the RQ for either type of ICR waste should logically be the same. In addition, the Agency believes that setting the same RQ for both types of releases will ease the reporting burden on the regulated community. For these reasons, EPA will retain a 100-pound RQ for non-designated ICR substances which are not wastes prior to their initial release.

Another commenter believed that adopting an RQ for non-designated ICR substances that do not become wastes until after their release would result in unnecessary reporting of releases associated with bulk liquid tank venting. The Agency notes that, as a general rule, releases from tank venting are in the form of uncontained gases. However, because uncontained gases are not RCRA solid wastes, they are not unlisted hazardous substances under 40 CFR 302.4(b). Therefore, emissions of gases that are not wastes prior to their release and that are associated with bulk liquid tank venting are not subject to the 100-pound RQ for non-designated ICR substances. The release of a *listed* hazardous substance under 40 CFR 302.4(b), however, is subject to notification requirements regardless of the form of the released substance.

IV. Reportable Quantity Adjustments Under Section 311 of the Clean Water Act

The April 4, 1985 final rule (50 FR 13456) amended 40 CFR 117.3 to make reportable quantities adjusted under CERCLA the applicable reportable quantities for notification of discharges of hazardous substances pursuant to Clean Water Act section 311. Thus, the RQ adjustments in this rule apply to both CERCLA and CWA section 311 RQs. Although the April 4, 1985 final rule amended 40 CFR 117.3, Table 117.3, containing adjusted RQs for CWA section 311 substances, was not published at that time. To eliminate discrepancies in adjusted RQs as listed in Table 302.4 (CERCLA) and Table 117.3 (CWA), Table 117.3 is published in today's rule. Reportable quantities under both CERCLA and the CWA are set forth in Table 302.4. Where there is a release of a hazardous substance in a reportable quantity into navigable waters, a single report to the National Response Center by the person in charge will satisfy the notification requirements of both statutes. The one commenter who addressed this issue favored equalizing RQs under CERCLA and CWA. For further discussion of the relationship between CERCLA RQs and CWA section 311 RQs, see the May 25, 1983 NPRM preamble at 48 FR 23569 and the April 4, 1985 final rule preamble at 50 FR 13456.

V. Summary of Supporting Analyses

Executive Order 12291 requires that regulations be classified as major or non-major for purposes of review by the Office of Management and Budget (OMB). According to E.O. 12291, major rules are regulations that are likely to result in:

(1) An annual effect on the economy of $100 million or more; or

(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.

An economic analysis performed by the Agency, available for inspection at Room LG, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, shows that today's final rule is non-major, because the rule will result in savings of approximately $1 million annually. Of this amount, about $200,000 annually will be saved by the regulated community (the remainder to be saved by government).

The Regulatory Flexibility Act of 1980 requires that a Regulatory Flexibility Analysis be performed for all rules that are likely to have a "significant impact on a substantial number of small entities." This rule adjusts RQs for substances that have a substantially lower total production volume than the substances that received adjusted RQs in the April 4, 1985 final rule. EPA's analysis estimates that the economic effects of both the April 4, 1985 final rule and today's final rule are directly proportional to total production volume. Thus, the impact of today's rule on small entities will be substantially less than the impact of the April 4, 1985 final rule. The analysis of the April 4, 1985 final rule demonstrated that the rule would not have a significant impact on small entities. See the Regulatory Impact Analysis of Reportable Quantity Adjustments Under Sections 102 and 103 of CERCLA, available for inspection at Room LG, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Therefore, as with the April 4, 1985 final rule, EPA certifies that no Regulatory Flexibility Analysis is necessary for today's rule.

The Information Impact Analysis performed for the April 4, 1985 final rule indicated that that final rule would decrease the paperwork burden imposed on parties other than EPA by about 50,000 hours. Today's RQ adjustments will provide a small additional reduction in the paperwork burden imposed on the regulated community for information collection associated with reporting releases. Because the effect of this rule on the paperwork burden is not only minimal, but also a reduction, EPA has determined that no further Information Impact Analysis need be performed for this final rule.

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. section 3501 et seq., and has assigned OMB control number 2050–0046.

List of Subjects

40 CFR Part 302

Air pollution control, Chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Nuclear materials, Pesticides and pests, Radioactive materials, Reporting and recordkeeping requirements, Superfund, Waste

treatment and disposal, Water pollution control.

40 CFR Part 117

Hazardous substances, Penalties, Reporting and recordkeeping requirements, Water pollution control.

Dated: August 20, 1986.

Lee M. Thomas,

Administrator.

40 CFR Part 302 is amended as follows:

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

1. The authority citation for Part 302 continues to read as follows:

Authority: Sec. 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9602; secs. 311 and 501(a) of the Federal Water Pollution Control Act, 33 U.S.C. 1321 and 1361.

2. Section 302.4 is amended by revising Table 302.4 to read as follows:

§ 302.4 Designation of hazardous substances.

* * * * *

Table 302.4—List of Hazardous Substances and Reportable Quantities

Note—The numbers under the column headed "CASRN" are the Chemical Abstracts Service Registry Numbers for each hazardous substance. Other names by which each hazardous substance is identified in other statutes and their implementing regulations are provided in the "Regulatory Synonyms" column. The "Statutory RQ" column lists the RQs for hazardous substances established by section 102 of CERCLA. The "Statutory Code" column indicates the statutory source for designating each substance as a CERCLA hazardous substance: "1" indicates that the statutory source is section 311(b)(4) of the Clean Water Act, "2" indicates that the source is section 307(a) of the Clean Water Act, "3" indicates that the source is section 112 of the Clean Air Act, and "4" indicates that the source is RCRA section 3001. The "RCRA Waste Number" column provides the waste identification numbers assigned to various substances by RCRA regulations. The column headed "Category" lists the code letters "X", "A", "B", "C", and "D", which are associated with reportable quantities of 1, 10, 100, 1000, and 5000 pounds, respectively. The "Pounds (kg)" column provides the reportable quantity for each hazardous substance in pounds and kilograms.

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Acenaphthene	83329		1*	2		B	100 (45.4)
Acenaphthylene	208968		1*	2		D	5000 (2270)
Acetic acid, thallium(I) salt	563688	Thallium(I) acetate	1*	4	U214	B	100 (45.4)
2-Amino-1-methyl benzene	95534	o-Toluidine	1*	4	U328	X	1# (0.454)
4-Amino-1-methyl benzene	106490	p-Toluidine	1*	4	U353	X	1# (0.454)
Ammonia	7664417		100	1		B	100 (45.4)
Ammonium bifluoride	1341497		5000	1		B	100 (45.4)
Anthracene	120127		1*	2		D	5000 (2270)
Antimony ††	7440360		1*	2		D	5000 (2270)
Benzene, hydroxy-	108952	Phenol	1000	1,2,4	U188	C	1000 (454)
Benzene, pentachloro-	608935	Pentachlorobenzene	1*	4	U183	A	10 (4.54)
Benzene, 1,3,5-trinitro-	99354	sym-Trinitrobenzene	1*	4	U234	A	10 (4.54)
Benzo[j,k]fluorene	206440	Fluoranthene	1*	2,4	U120	B	100 (45.4)
Benzo[ghi]perylene	191242		1*	2		D	5000 (2270)
p-Benzoquinone	106514	1,4-Cyclohexadienedione	1*	4	U197	A	10 (4.54)
delta - BHC	319868		1*	2		X	1 (0.454)
Captan	133062		10	1		A	10# (4.54)
Carbamimidoselenoic acid	630104	Selenourea	1*	4	P103	C	1000 (454)
Carbon bisulfide	75150	Carbon disulfide	5000	1,4	P022	B	100 (45.4)
Carbon disulfide	75150	Carbon bisulfide	5000	1,4	P022	B	100 (45.4)
Carbonic acid, dithallium(I) salt	6533739	Thallium(I) carbonate	1*	4	U215	B	100 (45.4)
Chloroethane	75003		1*	2		B	100 (45.4)
Chromic acetate	1066304		1000	1		C	1000 (454)
Chromic sulfate	10101538		1000	1		C	1000 (454)
Chromous chloride	10049055		1000	1		C	1000 (454)
Copper ††	7440508		1*	2		D	5000 (2270)
Cresol(s)	1319773	Cresylic acid	1000	1,4	U052	C	1000# (454)
m-	108394						
o-	95487						

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
p-	106445						
Cresylic acid	1319773	Cresol(s)	1000	1,4	U052	C	1000# (454)
m-	108394						
o-	95487						
p-	106445						
Cupric chloride	7447394		10	1		A	10 (4.54)
Cupric sulfate	7758987		10	1		A	10 (4.54)
Cupric tartrate	815827		100	1		B	100 (45.4)
1,4-Cyclohexadienedione	106514	p-Benzoquinone	1*	4	U197	A	10 (4.54)
Dichloropropane - Dichloropropene (mixture)	8003198		5000	1		B	100# (45.4)
Dichloropropene(s)	26952238		5000	1		B	100 (45.4)
2,3-Dichloropropene (isomer)	78886						
1,3-Dichloropropene	542756	Propene, 1,3-dichloro-	5000	1,2,4	U084	B	100# (45.4)
Diethylamine	109897		1000	1		B	100 (45.4)
Dimethylamine	124403	Methanamine, N-methyl-	1000	1,4	U092	C	1000 (454)
O,O-Dimethyl O-p-nitrophenyl phosphorothioate	298000	Methyl parathion	100	1,4	P071	B	100 (45.4)
Ethane, pentachloro-	76017	Pentachloroethane	1*	4	U184	X	1# (0.454)
Ethion	563122		10	1		A	10 (4.54)
2-Ethoxyethanol	110805	Ethylene glycol monoethyl ether	1*	4	U359	X	1# (0.454)
Ethylene glycol monoethyl ether	110805	2-Ethoxyethanol	1*	4	U359	X	1# (0.454)
Ferric dextran ***	9004664	Iron dextran ***	1*	4	U139	D	5000 (2270)
Fluoranthene	206440	Benzo[j,k]fluorene	1*	2,4	U120	B	100 (45.4)
Fluorene	86737		1*	2		D	5000 (2270)
Fulminic acid, mercury(II) salt	628864	Mercury fulminate	1*	4	P065	A	10 (4.54)
Hexachlorophene	70304	2,2'-Methylenebis(3,4,6-trichlorophenol)	1*	4	U132	B	100 (45.4)
Hydrogen sulfide	7783064	Hydrosulfuric acid Sulfur hydride	100	1,4	U135	B	100 (45.4)
Hydrosulfuric acid	7783064	Hydrogen sulfide Sulfur hydride	100	1,4	U135	B	100 (45.4)
Iron dextran ***	9004664	Ferric dextran ***	1*	4	U139	D	5000 (2270)
Isoprene	78795		1000	1		B	100 (45.4)
Lead ††	7439921		1*	2		X	1# (0.454)
Lead chloride	7758954		5000	1		B	100# (45.4)
Lead fluoborate	13814965		5000	1		B	100 (45.4)
Lead fluoride	7783462		1000	1		B	100 (45.4)
Lead iodide	10101630		5000	1		B	100 (45.4)
Lead nitrate	10099748		5000	1		B	100# (45.4)
Lead stearate	7428480 1072351 52652592 56189094		5000	1		D	5000 (2270)
Lead sulfate	15739807		5000	1		B	100 (45.4)
Lead sulfide	7446142 1314870		5000	1		D	5000 (2270)
Lead thiocyanate	592870		5000	1		B	100 (45.4)
Mercuric nitrate	10045940		10	1		A	10 (4.54)
Mercuric sulfate	7783359		10	1		A	10 (4.54)
Mercuric thiocyanate	592858		10	1		A	10 (4.54)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Mercurous nitrate	10415755		10	1		A	10 (4.54)
Mercury fulminate	628864	Fulminic acid, mercury(II) salt	1*	4	P065	A	10 (4.54)
Mercury, (acetato-O)phenyl-	62384	Phenylmercuric acetate	1*	4	P092	B	100 (45.4)
Methanamine, N-methyl-	124403	Dimethylamine	1000	1,4	U092	C	1000 (454)
Methane, chloro-	74873	Methyl chloride	1*	2,4	U045	X	1# (0.454)
Methyl chloride	74873	Methane, chloro-	1*	2,4	U045	X	1# (0.454)
Methyl parathion	298000	O,O-Dimethyl O-p-nitrophenyl phosphorothioate	100	1,4	P071	B	100 (45.4)
2,2'-Methylenebis(3,4,6-trichlorophenol)	70304	Hexachlorophene	1*	4	U132	B	100 (45.4)
Monoethylamine	75047		1000	1		B	100 (45.4)
Pentachlorobenzene	608935	Benzene, pentachloro-	1*	4	U183	A	10 (4.54)
Pentachloroethane	76017	Ethane, pentachloro-	1*	4	U184	X	1# (0.454)
Phenanthrene	85018		1*	2		D	5000 (2270)
Phenol	108952	Benzene, hydroxy-	1000	1,2,4	U188	C	1000 (454)
Phenylmercuric acetate	62384	Mercury, (acetato-O)phenyl-	1*	4	P092	B	100 (45.4)
Phorate	298022	Phosphorodithioic acid, O,O-diethyl S-(ethylthio) methyl ester	1*	4	P094	A	10 (4.54)
Phosphorodithioic acid, O,O-diethyl S-(ethylthio) methyl ester.	298022	Phorate	1*	4	P094	A	10 (4.54)
Plumbane, tetraethyl-	78002	Tetraethyl lead	100	1,4	P110	A	10# (4.54)
Propene, 1,3-dichloro-	542756	1,3-Dichloropropene	5000	1,2,4	U084	B	100# (45.4)
Pyrene	129000		1*	2		D	5000 (2270)
Pyridine	110861		1*	4	U196	C	1000 (454)
Pyrophosphoric acid, tetraethyl ester	107493	Tetraethyl pyrophosphate	100	1,4	P111	A	10 (4.54)
Selenious acid	7783008		1*	4	U204	A	10 (4.54)
Selenium ††	7782492		1*	2		B	100 (45.4)
Selenium dioxide	7446084	Selenium oxide	1000	1,4	U204	A	10 (4.54)
Selenium oxide	7446084	Selenium dioxide	1000	1,4	U204	A	10 (4.54)
Selenourea	630104	Carbamimidoselenoic acid	1*	4	P103	C	1000 (454)
Sodium bifluoride	1333831		5000	1		B	100 (45.4)
Sodium nitrite	7632000		100	1		B	100 (45.4)
Sodium selenite	10102188		1000	1		B	100 (45.4)
Sulfur hydride	7783064	Hydrogen sulfide Hydrosulfuric acid	100	1,4	U135	B	100 (45.4)
Sulfuric acid, thallium(I) salt	7446186 10031591	Thallium(I) sulfate	1000	1,4	P115	B	100 (45.4)
Tetraethyl lead	78002	Plumbane, tetraethyl-	100	1,4	P110	A	10# (4.54)
Tetraethyl pyrophosphate	107493	Pyrophosphoric acid, tetraethyl ester	100	1,4	P111	A	10 (4.54)
Thallic oxide	1314325	Thallium(III) oxide	1*	4	P113	B	100 (45.4)
Thallium ††	7440280		1*	2		C	1000 (454)
Thallium(I) acetate	563688	Acetic acid, thallium(I) salt	1*	4	U214	B	100 (45.4)
Thallium(I) carbonate	6533739	Carbonic acid, dithallium(I) salt	1*	4	U215	B	100 (45.4)
Thallium(I) chloride	7791120		1*	4	U216	B	100 (45.4)
Thallium(I) nitrate	10102451		1*	4	U217	B	100 (45.4)
Thallium(III) oxide	1314325	Thallic oxide	1*	4	P113	B	100 (45.4)
Thallium(I) selenide	12039520		1*	4	P114	C	1000 (454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
Thallium(I) sulfate	7446186 10031591	Sulfuric acid, thallium(I) salt	1000	1,4	P115	B	100 (45.4)
o-Toluidine	95534	2-Amino-1-methyl benzene	1*	4	U328	X	1# (0.454)
p-Toluidine	106490	4-Amino-1-methyl benzene	1*	4	U353	X	1# (0.454)
Trichlorfon	52686		1000	1		B	100 (45.4)
Trimethylamine	75503		1000	1		B	100 (45.4)
sym-Trinitrobenzene	99354	Benzene, 1,3,5-trinitro-	1*	4	U234	A	10 (4.54)
Unlisted Hazardous Wastes Characteristic of EP Toxicity	N.A.						
Selenium D010	N.A.		1*	4	D010	A	10 (4.54)
Uranyl acetate ****	541093		5000	1		B	100 (45.4)
Uranyl nitrate ****	10102064		5000	1		B	100 (45.4)
Vanadium(V) oxide	1314621	Vanadium pentoxide	1000	1,4	P120	C	1000 (454)
Vanadium pentoxide	1314621	Vanadium(V) oxide	1000	1,4	P120	C	1000 (454)
Vanadyl sulfate	27774136		1000	1		C	1000 (454)
Zinc ††	7440666		1*	2		C	1000 (454)
Zinc acetate	557346		1000	1		C	1000 (454)
Zinc ammonium chloride	52628258		5000	1		C	1000 (454)
Zinc borate	1332076		1000	1		C	1000 (454)
Zinc bromide	7699458		5000	1		C	1000 (454)
Zinc carbonate	3486359		1000	1		C	1000 (454)
Zinc chloride	7646857		5000	1		C	1000 (454)
Zinc cyanide	557211		10	1,4	P121	A	10 (4.54)
Zinc fluoride	7783495		1000	1		C	1000 (454)
Zinc formate	557415		1000	1		C	1000 (454)
Zinc hydrosulfite	7779864		1000	1		C	1000 (454)
Zinc nitrate	7779886		5000	1		C	1000 (454)
Zinc phenolsulfonate	127822		5000	1		D	5000 (2270)
Zinc phosphide	1314847		1000	1,4	P122	B	100 (45.4)
Zinc silicofluoride	16871719		5000	1		D	5000 (2270)
Zinc sulfate	7733020		1000	1		C	1000 (454)
F004 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents: (a) Cresols/Cresylic acid (b) Nitrobenzene			1*	4	F004	C	1000# (454)
F005 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents: (a) Toluene (b) Methyl ethyl ketone (c) Carbon disulfide (d) Isobutanol (e) Pyridine			1*	4	F005	B	100 (45.4)
F020 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachloropehnol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of hexachlorophene from highly purified 2,4,5-trichlorophenol.)			1*	4	F020	X	1# (0.454)

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
F021			1*	4	F021	X	1# (0.454)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives.							
F022			1*	4	F022	X	1# (0.454)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions.							
F023			1*	4	F023	X	1# (0.454)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5- trichlorophenol.)							
F026			1*	4	F026	X	1# (0.454)
Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions.							
F027			1*	4	F027	X	1# (0.454)
Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.)							
F028			1*	4	F028	X	1# (0.454)
Residues resulting from the incineration or thermal treatment of soil contaminated with EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027.							
K026			1*	4	K026	C	1000 (454)
Stripping still tails from the production of methyl ethyl pyridines							
K039			1*	4	K039	A	10 (4.54)
Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate							
K046			1*	4	K046	B	100 (45.4)
Wastewater treatment sludges from the manufacturing , formulation and loading of lead-based initiating compounds							
K052			1*	4	K052	A	10# (4.54)
Tank bottoms (leaded) from the petroleum refining industry							
K087			1*	4	K087	B	100 (45.4)
Decanter tank tar sludge from coking operations							
K111			1*	4	K111	X	1# (0.454)
Product washwaters from the production of dinitrotoluene via nitration of toluene.							
K112			1*	4	K112	X	1# (0.454)
Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.							
K113			1*	4	K113	X	1# (0.454)
Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.							

TABLE 302.4 - LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

Hazardous Substance	CASRN	Regulatory Synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA Waste Number	Category	Pounds(Kg)
K114 Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.			1*	4	K114	X	1# (0.454)
K115 Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.			1*	4	K115	X	1# (0.454)
K116 Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine.			1*	4	K116	X	1# (0.454)
K117 Wastewater from the reaction vent gas scrubber in the production of ethylene bromide via bromination of ethene.			1*	4	K117	X	1# (0.454)
K118 Spent absorbent solids from purification of ethylene dibromide in the production of ethylene dibromide.			1*	4	K118	X	1# (0.454)
K136 Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.			1*	4	K136	X	1# (0.454)

† - indicates the statutory source as defined by 1, 2, 3, or 4 below
†† - no reporting of releases of this hazardous substance is required if the diameter of the pieces of the solid metal released is equal to or exceeds 100 micrometers (0.004 inches)
1 - indicates that the statutory source for designation of this hazardous substance under CERCLA is CWA Section 311(b)(4)
2 - indicates that the statutory source for designation of this hazardous substance under CERCLA is CWA Section 307(a)
3 - indicates that the statutory source for designation of this hazardous substance under CERCLA is CAA Section 112
4 - indicates that the statutory source for designation of this hazardous substance under CERCLA is RCRA Section 3001
1* - indicates that the 1-pound RQ is a CERCLA statutory RQ
*** - Iron dextran was designated as a hazardous substance under CERCLA solely because of its listing as a hazardous waste under Section 3001 of RCRA. The Agency recently proposed to delist iron dextran under RCRA(50 FR 46468-46470, November 8,1985). The Agency has also proposed to delist iron dextran from Table 302.4 of 40 CFR 302.4 and thereby remove its designation as a CERCLA hazardous substance.
**** - Uranyl acetate and uranyl nitrate currently are being evaluated for their radioactive properties. Their RQs may be further adjusted in a future rulemaking adjusting the RQ of radionuclides.
# - indicates that the RQ is subject to change when the assessment of potential carcinogenicity and/or chronic toxicity is completed

APPENDIX A - SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES

CASRN	Hazardous Substance
52686	Trichlorfon
62384	Mercury, (acetato-O)phenyl- Phenylmercuric acetate
70304	Hexachlorophene 2,2'-Methylenebis(3,4,6-trichlorophenol)
74873	Methane, chloro- Methyl chloride
75003	Chloroethane
75047	Monoethylamine
75150	Carbon bisulfide Carbon disulfide
75503	Trimethylamine
76017	Ethane, pentachloro- Pentachloroethane
78002	Plumbane, tetraethyl- Tetraethyl lead
78795	Isoprene
78886	2,3-Dichloropropene (isomer)

APPENDIX A - SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous Substance
83329	Acenaphthene
85018	Phenanthrene
86737	Fluorene
95487	o-Cresol o-Cresylic acid
95534	o-Toluidine 2-Amino-1-methyl benzene
99354	Benzene, 1,3,5-trinitro- sym-Trinitrobenzene
106445	p-Cresol p-Cresylic acid
106490	p-Toluidine 4-Amino-1-methyl benzene
106514	p-Benzoquinone 1,4-Cyclohexadienedione
107493	Pyrophosphoric acid, tetraethyl ester Tetraethyl pyrophosphate
108394	m-Cresol m-Cresylic acid

APPENDIX A - SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous Substance
108952	Benzene, hydroxy- Phenol
109897	Diethylamine
110805	Ethylene glycol monoethyl ether 2-Ethoxyethanol
110861	Pyridine
120127	Anthracene
124403	Dimethylamine Methanamine, N-methyl-
127822	Zinc phenolsulfonate
129000	Pyrene
133062	Captan
191242	Benzo[ghi]perylene
206440	Benzo[j,k]fluorene Fluoranthene
208968	Acenaphthylene
298000	Methyl parathion O,O-Dimethyl O-p-nitrophenyl phosphorothioate

APPENDIX A - SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous Substance
298022	Phorate Phosphorodithioic acid, O,O-diethyl S-(ethylthio) methyl ester
319868	delta - BHC
541093	Uranyl acetate
542756	Propene, 1,3-dichloro- 1,3-Dichloropropene
557211	Zinc cyanide
557346	Zinc acetate
557415	Zinc formate
563122	Ethion
563688	Acetic acid, thallium(I) salt Thallium(I) acetate
592858	Mercuric thiocyanate
592870	Lead thiocyanate
608935	Benzene, pentachloro- Pentachlorobenzene
628864	Fulminic acid, mercury(II) salt Mercury fulminate
630104	Carbamimidoselenoic acid Selenourea
815827	Cupric tartrate
1066304	Chromic acetate
1072351	Lead stearate
1314325	Thallic oxide Thallium(III) oxide
1314621	Vanadium pentoxide Vanadium(V) oxide
1314847	Zinc phosphide
1314870	Lead sulfide
1319773	Cresol(s) Cresylic acid
1332076	Zinc borate
1333831	Sodium bifluoride
1341497	Ammonium bifluoride
3486359	Zinc carbonate
6533739	Carbonic acid, dithallium(I) salt Thallium(I) carbonate
7428480	Lead stearate
7439921	Lead
7440280	Thallium
7440360	Antimony
7440508	Copper
7440666	Zinc
7446084	Selenium dioxide Selenium oxide
7446142	Lead sulfate
7446186	Sulfuric acid, thallium(I) salt Thallium(I) sulfate

APPENDIX A - SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous Substance
7447394	Cupric chloride
7632000	Sodium nitrite
7646857	Zinc chloride
7664417	Ammonia
7699458	Zinc bromide
7733020	Zinc sulfate
7758954	Lead chloride
7758987	Cupric sulfate
7779864	Zinc hydrosulfite
7779886	Zinc nitrate
7782492	Selenium
7783008	Selenious acid
7783064	Hydrogen sulfide Hydrosulfuric acid Sulfur hydride
7783359	Mercuric sulfate
7783462	Lead fluoride
7783495	Zinc fluoride
7791120	Thallium(I) chloride
8003198	Dichloropropane - Dichloropropene (mixture)
9004664	Ferric dextran Iron dextran
10031591	Sulfuric acid, thallium(I) salt Thallium(I) sulfate
10045940	Mercuric nitrate
10049055	Chromous chloride
10099748	Lead nitrate
10101538	Chromic sulfate
10101630	Lead iodide
10102064	Uranyl nitrate
10102188	Sodium selenite
10102451	Thallium(I) nitrate
10415755	Mercurous nitrate
12039520	Thallium(I) selenide
13814965	Lead fluoborate
15739807	Lead sulfate
16871719	Zinc silicofluoride
26952238	Dichloropropene(s)
27774136	Vanadyl sulfate
52628258	Zinc ammonium chloride
52652592	Lead stearate
56189094	Lead stearate

3. Section 302.5 is revised to read as follows:

§ 302.5 Determination of reportable quantities.

(a) *Listed hazardous substances.* The quantity listed in the column "Final RQ" for each substance in Table 302.4 is the reportable quantity for that substance.

(b) *Unlisted hazardous substances.* Unlisted hazardous substances designated by 40 CFR 302.4(b) have the reportable quantity of 100 pounds, except for those unlisted hazardous wastes which exhibit extraction procedure (EP) toxicity identified in 40 CFR 261.24. Unlisted hazardous wastes which exhibit EP toxicity have the reportable quantities listed in Table 302.4 for the contaminant on which the characteristic of EP toxicity is based. The reportable quantity applies to the waste itself, not merely to the toxic contaminant. If an unlisted hazardous waste exhibits EP toxicity on the basis of more than one contaminant, the reportable quantity for that waste shall be the lowest of the reportable quantities listed in Table 302.4 for those contaminants. If an unlisted hazardous waste exhibits the characteristic of EP toxicity and one or more of the other characteristics referenced in 40 CFR 302.4(b), the reportable quantity for that waste shall be the lowest of the applicable reportable quantities.

40 CFR Part 117 is amended as follows:

PART 117—DETERMINATION OF REPORTABLE QUANTITIES FOR HAZARDOUS SUBSTANCES

4. The authority citation for Part 117 continues to read as follows:

Authority: Secs 311 and 501(a), Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and Executive Order 11735.

5. Section 117.3 is amended by revising Table 117.3 to read as follows:

§ 117.3 Determination of reportable quantities.

* * * * *

Table 117.3—Reportable Quantities of Hazardous Substances

Note—The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities 1, 10, 100, 1000, and 5000 pounds, respectively.

TABLE 117.3 - REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES

NOTE: The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

Material	Category	RQ in pounds (Kilograms)
Acetaldehyde	C	1,000 (454)
Acetic acid	D	5,000 (2,270)
Acetic anhydride	D	5,000 (2,270)
Acetone cyanohydrin	A	10 (4.54)
Acetyl bromide	D	5,000 (2,270)
Acetyl chloride	D	5,000 (2,270)
Acrolein	X	1 (0.454)
Acrylonitrile	B	100 (45.4)
Adipic acid	D	5,000 (2,270)
Aldrin	X	1 (0.454)
Allyl alcohol	B	100 (45.4)
Allyl chloride	C	1,000 (454)
Aluminum sulfate	D	5,000 (2,270)
Ammonia	B	100 (45.4)
Ammonium acetate	D	5,000 (2,270)
Ammonium benzoate	D	5,000 (2,270)
Ammonium bicarbonate	D	5,000 (2,270)
Ammonium bichromate	C	1,000 (454)
Ammonium bifluoride	B	100 (45.4)
Ammonium bisulfite	D	5,000 (2,270)
Ammonium carbamate	D	5,000 (2,270)
Ammonium carbonate	D	5,000 (2,270)
Ammonium chloride	D	5,000 (2,270)
Ammonium chromate	C	1,000 (454)
Ammonium citrate	D	5,000 (2,270)
Ammonium fluoborate	D	5,000 (2,270)
Ammonium fluoride	B	100 (45.4)
Ammonium hydroxide	C	1,000 (454)
Ammonium oxalate	D	5,000 (2,270)
Ammonium silicofluoride	C	1,000 (454)
Ammonium sulfamate	D	5,000 (2,270)
Ammonium sulfide	B	100 (45.4)
Ammonium sulfite	D	5,000 (2,270)
Ammonium tartrate	D	5,000 (2,270)
Ammonium thiocyanate	D	5,000 (2,270)
Ammonium thiosulfate	D	5,000 (2,270)
Amyl acetate	D	5,000 (2,270)
Aniline	D	5,000 (2,270)
Antimony pentachloride	C	1,000 (454)
Antimony potassium tartrate	B	100 (45.4)
Antimony tribromide	C	1,000 (454)
Antimony trichloride	C	1,000 (454)
Antimony trifluoride	C	1,000 (454)
Antimony trioxide	C	1,000 (454)
Arsenic disulfide	D	5,000 (2,270)
Arsenic pentoxide	D	5,000 (2,270)
Arsenic trichloride	D	5,000 (2,270)
Arsenic trioxide	D	5,000 (2,270)
Arsenic trisulfide	D	5,000 (2,270)
Barium cyanide	A	10 (4.54)
Benzene	C	1,000 (454)
Benzoic acid	D	5,000 (2,270)
Benzonitrile	D	5,000 (2,270)
Benzoyl chloride	C	1,000 (454)
Benzyl chloride	B	100 (45.4)
Beryllium chloride	D	5,000 (2,270)
Beryllium fluoride	D	5,000 (2,270)
Beryllium nitrate	D	5,000 (2,270)
Butyl acetate	D	5,000 (2,270)
Butylamine	C	1,000 (454)
n-Butyl phthalate	A	10 (4.54)
Butyric acid	D	5,000 (2,270)
Cadmium acetate	B	100 (45.4)
Cadmium bromide	B	100 (45.4)
Cadmium chloride	B	100 (45.4)
Calcium arsenate	C	1,000 (454)
Calcium arsenite	C	1,000 (454)
Calcium carbide	A	10 (4.54)
Calcium chromate	C	1,000 (454)
Calcium cyanide	A	10 (4.54)
Calcium dodecylbenzenesulfonate.	C	1,000 (454)
Calcium hypochlorite	A	10 (4.54)
Captan	A	10 (4.54)
Carbaryl	B	100 (45.4)
Carbofuran	A	10 (4.54)
Carbon disulfide	B	100 (45.4)
Carbon tetrachloride	D	5,000 (2,270)
Chlordane	X	1 (0.454)
Chlorine	A	10 (4.54)
Chlorobenzene	B	100 (45.4)
Chloroform	D	5,000 (2,270)
Chlorosulfonic acid	C	1,000 (454)

TABLE 117.3 - REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

NOTE: The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

Material	Category	RQ in pounds (Kilograms)
Chlorpyrifos	X	1 (0.454)
Chromic acetate	C	1,000 (454)
Chromic acid	C	1,000 (454)
Chromic sulfate	C	1,000 (454)
Chromous chloride	C	1,000 (454)
Cobaltous bromide	C	1,000 (454)
Cobaltous formate	C	1,000 (454)
Cobaltous sulfamate	C	1,000 (454)
Coumaphos	A	10 (4.54)
Cresol	C	1,000 (454)
Crotonaldehyde	B	100 (45.4)
Cupric acetate	B	100 (45.4)
Cupric acetoarsenite	B	100 (45.4)
Cupric chloride	A	10 (4.54)
Cupric nitrate	B	100 (45.4)
Cupric oxalate	B	100 (45.4)
Cupric sulfate	A	10 (4.54)
Cupric sulfate ammoniated	B	100 (45.4)
Cupric tartrate	B	100 (45.4)
Cyanogen chloride	A	10 (4.54)
Cyclohexane	C	1,000 (454)
2,4-D Acid	B	100 (45.4)
2,4-D Esters	B	100 (45.4)
DDT	X	1 (0.454)
Diazinon	X	1 (0.454)
Dicamba	C	1,000 (454)
Dichlobenil	B	100 (45.4)
Dichlone	X	1 (0.454)
Dichlorobenzene	B	100 (45.4)
Dichloropropane	C	1,000 (454)
Dichloropropene	B	100 (45.4)
Dichloropropene-Dichloropropane Mixture.	B	100 (45.4)
2,2-Dichloropropionic acid	D	5,000 (2,270)
Dichlorvos	A	10 (4.54)
Dieldrin	X	1 (0.454)
Diethylamine	B	100 (45.4)
Dimethylamine	C	1,000 (454)
Dinitrobenzene	B	100 (45.4)
Dinitrophenol	A	10 (4.54)
Dinitrotoluene	C	1,000 (454)
Diquat	C	1,000 (454)
Disulfoton	X	1 (0.454)
Diuron	B	100 (45.4)
Dodecylbenzenesulfonic acid	C	1,000 (454)
Endosulfan	X	1 (0.454)
Endrin	X	1 (0.454)
Epichlorohydrin	C	1,000 (454)
Ethion	A	10 (4.54)
Ethylbenzene	C	1,000 (454)
Ethylenediamine	D	5,000 (2,270)
Ethylene dibromide	C	1,000 (454)
Ethylene dichloride	D	5,000 (2,270)
EDTA	D	5,000 (2,270)
Ferric ammonium citrate	C	1,000 (454)
Ferric ammonium oxalate	C	1,000 (454)
Ferric chloride	C	1,000 (454)
Ferric fluoride	B	100 (45.4)
Ferric nitrate	C	1,000 (454)
Ferric sulfate	C	1,000 (454)
Ferrous ammonium sulfate	C	1,000 (454)
Ferrous chloride	B	100 (45.4)
Ferrous sulfate	C	1,000 (454)
Formaldehyde	C	1,000 (454)
Formic acid	D	5,000 (2,270)
Fumaric acid	D	5,000 (2,270)
Furfural	D	5,000 (2,270)
Guthion	X	1 (0.454)
Heptachlor	X	1 (0.454)
Hexachlorocyclopentadiene	X	1 (0.454)
Hydrochloric acid	D	5,000 (2,270)
Hydrofluoric acid	B	100 (45.4)
Hydrogen cyanide	A	10 (4.54)
Hydrogen sulfide	B	100 (45.4)
Isoprene	B	100 (45.4)
Isopropanolamine dodecylbenzenesulfonate.	C	1,000 (454)
Kelthane	A	10 (4.54)
Kepone	X	1 (0.454)
Lead acetate	D	5,000 (2,270)
Lead arsenate	D	5,000 (2,270)
Lead chloride	B	100 (45.4)
Lead fluoborate	B	100 (45.4)

TABLE 117.3 - REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

NOTE: The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

Material	Category	RQ in pounds (Kilograms)
Lead fluoride	B	100 (45.4)
Lead iodide	B	100 (45.4)
Lead nitrate	B	100 (45.4)
Lead stearate	D	5,000 (2,270)
Lead sulfate	B	100 (45.4)
Lead sulfide	D	5,000 (2,270)
Lead thiocyanate	B	100 (45.4)
Lindane	X	1 (0.454)
Lithium chromate	C	1,000 (454)
Malathion	B	100 (45.4)
Maleic acid	D	5,000 (2,270)
Maleic anhydride	D	5,000 (2,270)
Mercaptodimethur	A	10 (4.54)
Mercuric cyanide	X	1 (0.454)
Mercuric nitrate	A	10 (4.54)
Mercuric sulfate	A	10 (4.54)
Mercuric thiocyanate	A	10 (4.54)
Mercurous nitrate	A	10 (4.54)
Methoxychlor	X	1 (0.454)
Methyl mercaptan	B	100 (45.4)
Methyl methacrylate	C	1,000 (454)
Methyl parathion	B	100 (45.4)
Mevinphos	A	10 (4.54)
Mexacarbate	C	1,000 (454)
Monoethylamine	B	100 (45.4)
Monomethylamine	B	100 (45.4)
Naled	A	10 (4.54)
Naphthalene	B	100 (45.4)
Naphthenic acid	B	100 (45.4)
Nickel ammonium sulfate	D	5,000 (2,270)
Nickel chloride	D	5,000 (2,270)
Nickel hydroxide	C	1,000 (454)
Nickel nitrate	D	5,000 (2,270)
Nickel sulfate	D	5,000 (2,270)
Nitric acid	C	1,000 (454)
Nitrobenzene	C	1,000 (454)
Nitrogen dioxide	A	10 (4.54)
Nitrophenol	B	100 (45.4)
Nitrotoluene	C	1,000 (454)
Paraformaldehyde	C	1,000 (454)
Parathion	X	1 (0.454)
Pentachlorophenol	A	10 (4.54)
Phenol	C	1,000 (454)
Phosgene	A	10 (4.54)
Phosphoric acid	D	5,000 (2,270)
Phosphorus	X	1 (0.454)
Phosphorus oxychloride	C	1,000 (454)
Phosphorus pentasulfide	B	100 (45.4)
Phosphorus trichloride	C	1,000 (454)
Polychlorinated biphenyls	A	10 (4.54)
Potassium arsenate	C	1,000 (454)
Potassium arsenite	C	1,000 (454)
Potassium bichromate	C	1,000 (454)
Potassium chromate	C	1,000 (454)
Potassium cyanide	A	10 (4.54)
Potassium hydroxide	C	1,000 (454)
Potassium permanganate	B	100 (45.4)
Propargite	A	10 (4.54)
Propionic acid	D	5,000 (2,270)
Propionic anhydride	D	5,000 (2,270)
Propylene oxide	B	100 (45.4)
Pyrethrins	X	1 (0.454)
Quinoline	D	5,000 (2,270)
Resorcinol	D	5,000 (2,270)
Selenium oxide	A	10 (4.54)
Silver nitrate	X	1 (0.454)
Sodium	A	10 (4.54)
Sodium arsenate	C	1,000 (454)
Sodium arsenite	C	1,000 (454)
Sodium bichromate	C	1,000 (454)
Sodium bifluoride	B	100 (45.4)
Sodium bisulfite	D	5,000 (2,270)
Sodium chromate	C	1,000 (454)
Sodium cyanide	A	10 (4.54)
Sodium dodecylbenzenesulfonate.	C	1,000 (454)
Sodium fluoride	C	1,000 (454)
Sodium hydrosulfide	D	5,000 (2,270)
Sodium hydroxide	C	1,000 (454)
Sodium hypochlorite	B	100 (45.4)
Sodium methylate	C	1,000 (454)
Sodium nitrite	B	100 (45.4)
Sodium phosphate, dibasic	D	5,000 (2,270)

TABLE 117.3 - REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

NOTE: The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

Material	Category	RQ in pounds (Kilograms)
Sodium phosphate, tribasic	D	5,000 (2,270)
Sodium selenite	B	100 (45.4)
Strontium chromate	C	1,000 (454)
Strychnine	A	10 (4.54)
Styrene	C	1,000 (454)
Sulfuric acid	C	1,000 (454)
Sulfur monochloride	C	1,000 (454)
2,4,5-T acid	C	1,000 (454)
2,4,5-T amines	D	5,000 (2,270)
2,4,5-T esters	C	1,000 (454)
2,4,5-T salts	C	1,000 (454)
TDE	X	1 (0.454)
2,4,5-TP acid	B	100 (45.4)
2,4,5-TP acid esters	B	100 (45.4)
Tetraethyl lead	A	10 (4.54)
Tetraethyl pyrophosphate	A	10 (4.54)
Thallium sulfate	B	100 (45.4)
Toluene	C	1,000 (454)
Toxaphene	X	1 (0.454)
Trichlorfon	B	100 (45.4)

TABLE 117.3 - REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

NOTE: The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

Material	Category	RQ in pounds (Kilograms)
Trichloroethylene	C	1,000 (454)
Trichlorophenol	A	10 (4.54)
Triethanolamine dodecylbenzenesulfonate.	C	1,000 (454)
Triethylamine	D	5,000 (2,270)
Trimethylamine	B	100 (45.4)
Uranyl acetate	B	100 (45.4)
Uranyl nitrate	B	100 (45.4)
Vanadium pentoxide	C	1,000 (454)
Vanadyl sulfate	C	1,000 (454)
Vinyl acetate	D	5,000 (2,270)
Vinylidene chloride	D	5,000 (2,270)
Xylene	C	1,000 (454)
Xylenol	C	1,000 (454)
Zinc acetate	C	1,000 (454)
Zinc ammonium chloride	C	1,000 (454)
Zinc borate	C	1,000 (454)
Zinc bromide	C	1,000 (454)
Zinc carbonate	C	1,000 (454)
Zinc chloride	C	1,000 (454)

TABLE 117.3 - REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES—Continued

NOTE: The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C", and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

Material	Category	RQ in pounds (Kilograms)
Zinc cyanide	A	10 (4.54)
Zinc fluoride	C	1,000 (454)
Zinc formate	C	1,000 (454)
Zinc hydrosulfite	C	1,000 (454)
Zinc nitrate	C	1,000 (454)
Zinc phenolsulfonate	D	5,000 (2,270)
Zinc phosphide	B	100 (45.4)
Zinc silicofluoride	D	5,000 (2,270)
Zinc sulfate	C	1,000 (454)
Zirconium nitrate	D	5,000 (2,270)
Zirconium potassium fluoride	C	1,000 (454)
Zirconium sulfate	D	5,000 (2,270)
Zirconium tetrachloride	D	5,000 (2,270)

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Part III

Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1915

Recordkeeping Requirements for Tests, Inspections, and Maintenance Checks; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1915

[Docket No. S-020]

Recordkeeping Requirements for Tests, Inspections, and Maintenance Checks

AGENCY: Occupational Safety and Health Administration (OSHA).

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) hereby revises certain recordkeeping requirements to minimize the paperwork burdens imposed on employers. This final rule eliminates certain requirements under which an employer must prepare and maintain detailed records. The revised provisions require, instead, that the employer simply prepare a certification record, at the time the required work is done, which includes the date the test, inspection, or maintenance check was performed; the signature of the person who performed the work; and the identity of the equipment or machinery that was inspected or tested. In addition, OSHA is revoking two recordkeeping requirements. OSHA has determined that the implementation of this final rule will minimize the paperwork burden on employers, as required by the Paperwork Reduction Act of 1980, without reducing the protection of employee safety or health.

DATE: These revisions will become effective October 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3637, 200 Constitution Ave., NW., Washington, DC 20210, (202) 523-8148.

SUPPLEMENTARY INFORMATION:

I. Background

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) was enacted to minimize the Federal paperwork burden and maximize the efficiency and usefulness of Federal information gathering activities. That Act set goals for the phased reduction of Federal information gathering burdens. The Paperwork Reduction Act also required the Office of Management and Budget (OMB) to promulgate regulations which would guide Federal agencies in their compliance efforts. OMB has published implementing regulations at 5 CFR Part 1320 and has issued supplement directives.

In addition, section 8(d) of the Occupational Safety and Health Act (the OSH Act) states, "any information obtained by the Secretary . . . under this Act shall be obtained with a minimum burden upon employers . . . ."

In an effort to meet these statutory goals, OSHA reviewed its safety standards to identify all recordkeeping requirements. OSHA then analyzed each of the 38 requirements identified to determine which recordkeeping burdens could be reduced.

Each requirement was reviewed to determine:

—What kind of information was required;
—How this information would be used;
—Whether this information was collected by other authorities (e.g. pursuant to state and local law or regulation);
—Whether this record would provide information that a compliance officer would not otherwise ascertain at the time of inspection; and,
—Which requirements contributed directly to employee safety and health.

On the basis of this careful review and analysis, OSHA identified 22 provisions in 29 CFR Parts 1910, 1915, and 1926 that, it believed, did not directly contribute to worker safety and health and, therefore, unnecessarily burdened employers with requirements that they prepare and maintain records of their tests, inspections, and maintenance checks.

In particular, OSHA determined that the recordkeeping requirements in question were adopted because the Agency wanted the employer to provide evidence that the required tests and inspections had been performed. Having made that determination, OSHA compared the purposes for the recordkeeping requirements with their language and found that they required more information than OSHA needed. Therefore, OSHA determined that the proposed revisions were appropriate.

OSHA also identified a duplicative recordkeeping provision and another which dealt with concerns outside OSHA's jurisdiction as appropriate for deletion.

In addition to its concern for reduction of paperwork burdens, OSHA has been concerned that many of the requirements proposed for revision were so vaguely written and ambiguous that employers may be keeping records which are much more detailed than either required by OSHA or needed for their own purposes. This vagueness and ambiguity make it difficult for employers to determine what information OSHA wants recorded or included in an inspection report. For example, the current provisions of §§ 1910.179(j)(2)(iii), 1910.179(j)(2)(iv) and 1910.180(d)(6) require the preparation of signed reports, while §§ 1910.218(a)(2)(i), 1910.252(c)(6) and 1915.172(d) require employers to maintain records. Employers might, therefore, conclude that a report would contain details while a record would involve less information, perhaps simply noting the date the required work was done. The final rule corrects this ambiguity and makes it very clear what information is required.

On January 3, 1986, OSHA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (51 FR 312) to revise the 22 provisions in question and revoke the other 2 provisions. OSHA proposed to eliminate certain requirements for written, detailed records and reports and replace them with provisions under which employers would certify in writing, upon request of OSHA, that they had complied with the pertinent test or inspection provisions. Under this approach, OSHA anticipated that an employer operating a workplace visited by an OSHA compliance officer would be able to certify, in a signed and dated statement, that the required work had been done. The Agency believed, based on its experience with the standards in question, that the proposed certification statement would provide "evidence of compliance which is equivalent to preparing and maintaining records to be presented to OSHA upon request." [51 FR at 313].

The NPRM established a 60-day period, which ended March 4, 1986, for submission of written comments and hearing requests. The 32 comments received focused on several issues, particularly whether there was a need to retain the recordkeeping requirements, the likelihood that the proposed revisions would reduce employers' recordkeeping burdens and whether certification upon request would provide adequate assurance that an employer had complied with the testing or inspection requirements. In addition, OSHA received four hearing requests.

During this period, OSHA determined that it had not formally consulted with the Advisory Committee on Construction Safety and Health regarding the three recordkeeping requirements proposed for revision which are contained in the Construction Safety and Health Standards located in 29 CFR Part 1926. The three recordkeeping requirements in question

are found in § 1926.550(b)(2)—Cranes and derricks; § 1926.552(c)(15)—Material hoists, personnel hoists and elevators; and § 1926.903(e)—Underground transportation of explosives.

OSHA, therefore, withdrew those three recordkeeping provisions from consideration for revision in the Notice of Informal Public Hearing which it published on March 14, 1986 [51 FR 8844]. Any revision of those three construction provisions will take place as part of a separate rulemaking.

In the hearing notice, OSHA also responded to NPRM comments which stated that the proposed "certification upon request" would raise unacceptable risks of employer error or dishonesty. Several of the commenters suggested that "contemporaneous certification" would provide the necessary assurance of compliance. The Agency provided notice, through "Issue 5" of the hearing notice, that it was considering the adoption of a contemporaneous certification requirement in place of certification upon request. Under the alternative approach, the employer ensured that the employee who actually performed the pertinent test or inspection certified, at that time, that the required work has been done. The contemporaneous certification would contain the following three pieces of information: The date the inspection or test was done, the signature of the person who performed the work, and the identity of the equipment that was tested or inspected. OSHA requested that interested parties comment on the "three data point" certification approach in their notices of intention to appear and in their hearing testimony.

The public hearing was held on April 15, 1986, in Washington, DC, with Administrative Law Judge Ellin O'Shea presiding. At the close of the hearing, Judge O'Shea set a period, which ended May 30, 1986, for the submission of additional comments and information. Four post-hearing submissions were received. On August 15, 1986, Judge O'Shea certified the hearing transcript and related submissions, closing the record for this proceeding. A wide range of labor unions, businesses, trade associations, state governments, and other interested parties contributed to the development of this record. OSHA appreciates the efforts interested parties have made to help develop a rulemaking record which provides a sound basis for agency decisionmaking. The issues raised in written comments and hearing testimony will be discussed below.

II. Discussion of Issues Raised in the Comments, Testimony and Posthearing Submissions

A. General Comments

There were 32 comments in response to the Notice of Proposed Rulemaking and four post-hearing submissions. As mentioned above, OSHA requested that commenters on the NPRM and participants in the public hearing submit information to support their comments and suggestions. The supporters and opponents of the proposed revisions, however, have generally expressed their positions by invoking general principles rather than by providing evidence that a particular provision did or did not contribute to the protection of employee safety and health. Therefore, insofar as additional information has not been forthcoming, OSHA bases its decision making on its careful review of the pertinent provisions.

Eight commenters supported the proposed rule as written [Exs. 4–1, 4–3, 4–8, 4–17, 4–19, 4–23, 4–25 and 4–31]. Two of these commenters, The American Paper Institute [Ex. 4–3] and Owens-Illinois (Ex. 4–19], specifically stated that no loss in worker safety would occur as result of the contemplated reduction of recordkeeping burdens. As the American Paper Institute put it, "The Completion of burdensome paperwork that fails to enhance safety of employees in any way is simply unnecessasry. . . ."

Three of these commenters [Exs. 4–1, 4–17, and 4–31] also stated that OSHA should further reduce recordkeeping burdens by revising additional provisions. The Associated General Contractors of America and the Small Business Administration [Exs. 4–17 and 4–31] provided lists of additional provisions that they felt should be considered for revision. While these additional provisions, most of which dealt with construction standards, have not been included in the Final Rule, OSHA will continue its efforts to identify provisions where the recordkeeping burdens could be reduced without reducing worker protection.

Commenters who opposed the proposal, such as the United Brotherhood of Carpenters and Joiners of America [Exs. 4–4, 4–7, and 14 and Tr. 55–56] and the International Union of Operating Engineers [Exs. 4–12 and 16 and Tr. 69–70 and 73–77], have stated that the retention of currently required records, is essential, or at least beneficial, to employee protection. The opponents stated that access to records enables workers to verify compliance with the substantive requirements of the standards. They, however, did not document a single instance where a hazardous situation was detected and cited or abated because an employee examined records.

The International Union of Operating Engineers, for example, testified [Tr. 121–124] that having the record of a previous inspection would be beneficial to a crane operator who was inspecting equipment. However, the union witness added that, even without the record, a good inspection would be done.

As OSHA has already noted, the recordkeeping requirements in the current or revised form are intended to provide assurance that employers have complied with the pertinent requirements for tests and inspections. OSHA has determined, based on its 15 years of experience enforcing these requirements, that requiring the employer to maintain the inspection record of a piece of equipment does not add to or detract from compliance with the requirements for tests and inspections. Indeed, the Operating Engineers presented testimony at the hearing [Tr. 92–93] which indicated that a crane operator provided with inspection record information would inspect the crane anyway and not rely on the inspection record when deciding whether or not the equipment was in safe condition. Also, the Operating Engineers provided examples of "bogus" recordkeeping to explain why a written record of a test or inspection would not provide assurance that the equipment in question was safe.

The Operating Engineers testified that in at least two cases violations of recordkeeping requirements led to serious violations [Tr. 73–74 and 93], but neither their testimony nor their post-hearing submission [Ex. 16] substantiated the existence of a causal link. In any event, OSHA is aware that employers occasionally violate the provisions of the the pertinent standards which require tests or inspections, whether or not they have complied with the recordkeeping provisions. The Operating Engineers, indeed, have mistakenly characterize all violations of the pertinent standards as recordkeeping violations [Ex. 16].

OSHA has issued very few citations where the employer has only violated the recordkeeping requirements. Most of the citations which have been issued for violations of standards that contain recordkeeping provisions were issued because the employer had violated the requirements to preform tests or inspections and remove unsafe equipment from service. Indeed, OSHA does not generally cite a recodkeeping

violation if it is not already citing a violation of the requirements for tests or inspections. Based on this experience, OSHA has determined that its enforcement efforts will not be affected by the shift to certification.

In addition, the United Steelworkers of America testified that the required records are needed to establish preventive maintenance programs [Tr. 80–81]. OSHA agrees that the information generated through the work required by the pertinent standards may facilitate the operation of preventive maintenance programs, but the Agency notes, again, that it has determined that OSHA was interested solely in obtaining evidence of compliance with the work requirements when it adopted the recordkeeping provisions in question. The Agency further notes that there are only three provisions affected by this proposal which mention maintenance work, § 1910.217 (e)(1)(i), (e)(1)(ii) and § 1910.252(c)(6). Section 1910.217 (e)(1)(i) and (e)(1)(ii) require simply that the employer maintain "records of inspections and maintenance work performed." Section 1910.252(c)(6) requires that employers maintain records of periodic inspections performed by maintenance personnel. The language in those provisions is consistent with OSHA's determination that employers are only required to provide evidence that they have complied with the pertinent inspections, testing and maintenance requirements. OSHA has also determined that, aside from the provisions discussed above, any requirements for the operation of preventive maintenance programs are covered by separate regulatory provisions which are not affected by this rulemaking.

Furthermore, OSHA notes that the ANSI B11.1 Subcommittee on Safety Requirements for the Construction, Care and Use of Mechanical Power Presses, which produces the national consensus standard for power presses, has endorsed [Ex. 4–11] OSHA's proposed shift to certification of compliance with the U.S.C.requirements of § 1910.217 (e)(1)(i) and (e)(1)(ii). The B11.1 Subcommittee stated:

> We appreciate the reduction in preparing and maintaining the extensive and oftentimes burdensome records of information.

Finally, as OSHA stated at the public hearing, "Just because a particular piece of equipment was in safe condition 29 days ago does not mean it is in safe condition today." [Tr. 18]. Regardless of any record of a previous inspection test or maintenance check, OSHA requires the employer to conduct each scheduled test, inspection or maintenance check with such thoroughness that it would disclose any deficiency in the equipment. The pertinent requirements that employers remove from use equipment found to be unsafe at that time or likely to pose a danger between that time and the time of the next scheduled test, inspection or maintenance check are not affected by this rulemaking. Therefore, the protection provided by maintenance programs will not be diminished.

Critics of the proposed revisions have defended the existing requirements by noting that they impose light burdens, and have not evoked complaints from the affected employers [Exs. 4–4, 4–16, Tr. 56 and 69]. They have also stated that employers will keep the pertinent records despite revisions in the requirements in order to protect themselves from lawsuits arising out of equipment accidents, to document their compliance certifications and to schedule maintenance. OSHA appreciates these concerns but notes that they do not reflect the purposes for which the recordkeeping requirements were originally promulgated. These revisions should make it clear that employers who continue to prepare and maintain detailed records are doing so for their own reasons and not to comply with OSHA requirements.

The process by which OSHA decided to revise each of the provisions covered by this rulemaking is discussed in the Summary and Explanation (see Section IV, below).

B. Contemporaneous "Three Data Point" Certification as an Alternative to Certification Upon Request

As has already been discussed in the Background section (see Section I, above), the contemporaneous "three data point" certification approach came to OSHA's attention through comments on the NPRM which pointed out the difficulty and temptation an employer would face in properly certifying, after the fact, that the required work had been done [Exs. 4–4, 4–5, 4–16 and 4–22].

Four commenters wrote that they supported the concept behind paperwork reduction [Exs. 4–2, 4–5, 4–22 and 4–30], but expressed concern that some employers would take advantage of the proposed revisions to relax or discontinue their compliance efforts. Those employers would then certify that they had complied, confident that OSHA would not discover their false certifications. For example, the Engineered Products Division of Acme Electric Corporation [Ex. 4–2] wrote, "Human behavior being what it is will create the temptation, and in many cases the actual neglect of inspection and repair of equipment."

In addition to asserting that the proposed revision would reduce compliance and the protection of employees, as discussed above, four commenters [Exs. 4–4, 4–10, 4–16 and 4–30] who opposed the proposal also mentioned the risk of false certification as a basis for OSHA withdrawing the proposed revisions.

Four commenters [Exs. 4–15, 4–22, 4–28, and 4–29] suggested that employers be given the option to choose between maintaining detailed records as they do now and preparing certifications upon request. The American Petroleum Institute (API) [Ex. 4–22], for example, commented that the certification option would "be of greatest value to the small employer, where the certifying person would have first hand knowledge . . . that the required tests, etc., were performed." API also noted that "an interesting hybrid of the options would involve having an authorized employer representative . . . sign a certification that particular tests were done, as they were completed."

Also, five commenters [Exs. 4–6, 4–10, 4–12, 4–14, and 4–23] stated that the proposed certification upon request requirement would increase paperwork burdens for many employers. They stated that employers would continue to prepare detailed records and that, under the proposed standard, the certification statement prepared at the time of an OSHA inspection would be an additional paperwork burden because their detailed records would not be acceptable as evidence of compliance.

As stated above, under the final rule, if employers elect to continue to maintain detailed records for their own purposes, OSHA would be satisfied if the three data elements were included in their detailed records.

Three data point certification was discussed in the hearing notice as "Issue 5" and received a considerable amount of attention at the Apil 15, 1986, hearing [Tr. 20–21, 43–46 and 125–127] as well as in post hearing submissions [Exs. 14 and 15]. While the union comments and testimony on three data point certification echoed their general opposition to this rulemaking, OSHA notes that the United Brotherhood of Carpenters and Joiners of America has stated that contemporaneous certification would be superior to the "certification upon request" proposed in the NPRM. [Exs. 4–4, 8, and Tr. 59].

Parties who favor certification, such as the American Waterways Shipyard Conference (AWSC) and its members, responded favorably to the three data

point approach [Ex. 15]. The AWSC observed, when referring to the contemporaneous certification record, that "The proposed alternative also follows the current format being developed for the industry by OSHA in the shipyard vertical standards."

OSHA notes that this three data point approach, like the approach proposed in the NPRM, qualifies as a form of certification which, under the terms of 5 CFR 1320.7(k)(1), is excluded from the definition of "information," for the purposes of the Paperwork Reduction Act. Therefore, OSHA has determined that the certification record requirement, as promulgated, is consistent with the purposes and provisions of the Paperwork Reduction Act.

OSHA has decided, based on the comments, testimony, and other materials in the record, to reduce the paperwork burdens in question by requiring that employers prepare their certifications of compliance at the time they perform the required work, rather than by permitting employers to produce them after the fact. The Agency agrees with the commenters who expressed concern that certification upon request would create too many opportunities for error or deception. OSHA will use the term "certification record" to distinguish this new form of documentation from the detailed records previously required.

As discussed in the Background section, above, the certification record must contain the date the work was performed, the signature of the person who performed the work, and an indentifier for the equipment which was tested or inspected. Employers must maintain the contemporaneous certification record and make it available for review at the time of an OSHA inspection.

The contemporaneous certification record may be kept in any way that identifies each piece of equipment inspected or tested and that contains the signature of the person who performed the work and the date the work was performed. For example, a list of the pieces of equipment which were inspected would only have to be signed and dated once if the same person performed all of the inspections and/or tests on the same date. With such a list, the person performing the inspections or tests would not have to sign and date a separate record identifying each piece of equipment.

If the employer tracks inspections and/or tests with automated data processing, then compliance could be achieved by signing and dating a printout of equipment identifiers, if, as above, the same person performed all of the inspections on the same date. The computer printout would, of course, have to be maintained and made available for review at the time of an OSHA inspection.

Employers can comply with this certification requirement in the manner which least disrupts their operations. They may find that they need to place a tag on the equipment in question or they may find that addition of an entry to a checklist or log they already maintain will suffice. Some employers may even find that they do not need to change their recordkeeping methods to comply with these revised requirements. The certification record will be prepared and signed by the person who actually performs the test or inspection and will be completed at the time of the test or inspection.

OSHA has retained the original language of the revised paragraphs except where changes are necessary to clearly indicate the revision of the recordkeeping requirements.

C. Consistency with National Consensus Standards

Several participants in this rulemaking stated that the revised recordkeeping requirements proposed by OSHA deviate from the parallel national consensus standards. Under the terms of section 6(b)(8) of the OSH Act, the Agency must explain why an OSHA standard which differs substantially from a national consensus standard effectuates the purposes of the OSH Act better than the national consensus standard does.

The BCTD, AFL–CIO, [Ex. 4–16] commented that national consensus standards committees have retained the pertinent recordkeeping provisions in their standards and that these standards represent industry practice for the protection of employee safety and health. The BCTD further noted that employers are represented on the committees which produce national consensus standards. Therefore, given the broad basis for the consensus standards, the BCTD stated that OSHA's standards should follow the consensus standards.

In addition, the United Steelworkers of America [Ex. 4–24] stated, ". . . if there was no need to maintain these records, it would be reflected in the national consensus standards.

In its hearing testimony, the United Brotherhood of Carpenters and Joiners of America [Tr. 54–55] cited the requirements of section 6(b)(8) and stated, "In this case, all of the recordkeeping requirements derived from national consensus standards—ANSI, NFPA, etc.—are retained by the current version of those consensus standards."

OSHA has determined, based on its review of the applicable national consensus standards, that the revised recordkeeping requirements adopted in this rulemaking are either consistent with the requirements imposed by the national consensus standards, or, in any event, not substantially different from them. Therefore, the section 6(b)(8) requirement that OSHA explain divergence from national consensus standards does not apply to this rulemaking. In addition, OSHA has determined that the pertinent recordkeeping provisions, as revised, effectuate the purposes of the OSH Act better than do the parallel national consensus standards, insofar as they may substantially differ, because the Agency has determined that the existing recordkeeping requirements do not directly contribute to worker safety and health and, therefore, unnecessarily burden employers.

In particular, OSHA has determined that the ANSI committees which are responsible for updating the pertinent consensus standards have, generally, eliminated the recordkeeping requirements upon which the pertinent OSHA recordkeeping requirements were based. For example, the ANSI committees covering crane and derrick operations have changed their recordkeeping requirements so that inspections performed at least every 30 days are considered "frequent" and do not carry any recordkeeping burdens. OSHA has determined that the crane and derrick equipment inspections required under the provisions proposed for revision are "frequent." Therefore, OSHA's revised recordkeeping requirements are consistent with the provisions of the parallel ANSI standards. A more detailed discussion of the actions taken by the relevant ANSI committees to reduce recordkeeping burdens follows.

The source standard for §§ 1910.179(j)(2) (iii) and (iv) is the ANSI B30.2.0–1967 Standard for Overhead and Gantry Cranes. This standard, in section 2–2.1.2 under items 4 and 5, requires monthly inspection with signed reports for both hooks and chains. This is identical to the language used by OSHA in its standard. ANSI B30.2.0 was last revised in 1983. Section 2–2.1.2 of the revised ANSI standard continues the inspection requirements, but has dropped the requirements to maintain records on these frequently inspected items. The revised ANSI B30.2.0–1983 standard retains recordkeeping provisions only for quarterly and yearly

inspections, which are referred to as periodic inspections in section 2–2.1.3.

ANSI B30.2.0–1967 is also the source standard for §§ 1910.179(m) (1) and (2), which cover running ropes and other ropes on overhead and gantry cranes. The OSHA standard, like the original ANSI standard, currently requires that a monthly full written, dated, and signed report of rope condition (for running ropes) be kept on file where readily available to appointed personnel and that rope which has been idle for a month or more be inspected and that a written and dated report of rope condition be available.

In 1976, this ANSI standard was revised, eliminating the monthly report of rope condition for running ropes and requiring a report on rope condition of idle rope only when the rope has been idle for six months or more.

ANSI B30.2.0 was last revised in 1983. The current edition contains no recordkeeping requirements for frequently (daily to monthly) inspected items. Records are only required for periodic (quarterly to yearly) inspections. In those cases, the ANSI standard calls for "dated inspection reports or comparable records shall be made on critical items such as . . . ropes . . ."

The source for § 1910.180(d)(6) which requires written, dated, and signed inspection reports and records to be made monthly on critical components is section 5–2.1.5 of the ANSI B30.5–1968, Standard for Crawler, Locomotive and Truck Cranes.

The 1982 revision of the ANSI standard changes the language in section 5–2.1.5 to read "Dated records for periodic inspections shall be made . . ."

Again, OSHA notes, the ANSI standard, as revised, reflects the same concern for paperwork reduction which motivated OSHA to initiate this rulemaking.

The ANSI B30.5–1968 is also the source standard for §§ 1910.180 (g)(1) and (g)(2)(ii), which regulate running and idle ropes for crawler and locomotive cranes. Section 1910.180(g)(1), like section 5–2.4.1 of the B30.5–1968 standard, currently requires that the employer keep a monthly, full written, dated, and signed report of rope condition on file. Section 1910.180(g)(2)(ii), like the source standard, requires a written and dated report of rope condition for rope which has been idle for a month or more.

ANSI B30.5–1982, in section 5–2.4.3, paragraph (e), Inspection Records, reads as follows:

(1) *Frequent Inspection.* No record required.

(2) *Periodic Inspection.* In order to establish data as a basis *for judging the proper time for replacement,* a dated report of rope condition for each *periodic inspection* shall be kept on file . . . If the rope is replaced, only that part need be recorded.

ANSI defines frequent inspection to mean daily to monthly intervals. OSHA has determined that the inspection requirements of §§ 1910.180 (g)(1) and (g)(2)(ii) involve "frequent" inspection. Therefore, the current ANSI standard, once again, reflects the concern for reducing paperwork burdens which led OSHA to initiate this rulemaking.

The ANSI B30.6–1969 Standard for Derricks, section 6–2.4 is the source for §§ 1910.181 (g)(1) and (g)(3), which cover running and idle ropes on derricks. These paragraphs, like the crane provisions discussed above, currently require employers to prepare a full written, dated, and signed report of rope condition monthly for running ropes and a written and dated report of rope condition for ropes which have been idle a month or more.

ANSI B30.6 was last revised in 1984. Section 6–2.4 of ANSI B30.6–1984, under paragraph (e) *Inspection Records* for ropes, states that there are "no records required" for frequent inspection (daily to monthly). Records for preventive maintenance, however, are recommended "in order to establish data as a basis for judging the proper time for replacement . . ."

ANSI B11.1–1971 is the source standard for §§ 1910.217(e)(1) (i) and (ii) on mechanical power presses. As mentioned earlier, OSHA received a comment from the ANSI B11.1 Subcommittee on Mechanical Power Presses which endorsed the changes regarding recordkeeping for mechanical power presses [Ex. 4–11].

ANSI B24.1–1971, section 6.1, is the source for the provisions of §§ 1910.218(a)(2) (i) and (ii) which are covered by this rulemaking. Section 6.1 states that employers are responsible for "(1) Establishing periodic and regular maintenance safety checks and *keeping records* of these inspections. (2) Scheduling *and recording* inspection of guards and point-of-operation protection devices at frequent and regular intervals."

The 1985 edition of the B24.1, section 6.1, states that employers are responsible for "(1) Establishing periodic and regular maintenance safety checks, (2) inspecting the guards snd point-of-operation protection devices regularly."

ANSI has evidently dropped the recordkeeping requirements from both of these provisions. OSHA notes that ANSI considers it good practice to keep records, while at the same time, ANSI has eliminated the recordkeeping provision from its standard.

ANSI Z49.1–1967, Safety in Welding and Cutting, is the source for § 1910.252(c)(6), another recordkeeping requirement covered by this rulemaking. This standard, in section 5.6.1 states "Periodic inspection shall be made by qualified personnel, and *records* of the same maintained . . ." The latest edition of this standard is the Z49.1–1983 which states in section 12.7 that "Periodic inspections and necessary repairs shall be made by authorized personnel." Again, ANSI has eliminated the recordkeeping requirement.

D. Cost Savings

Several parties [Exs. 4–4, 4–12, 4–24, 16 and Tr. 69] disputed OSHA's calculation of the time and money saved by converting from recordkeeping to certification. The United Steelworkers of America [Ex. 4–24] commented, "The actual transcription of information to a prepared form, which is only what would be eliminated, takes only a matter of seconds per piece of equipment." In addition, the International Union of Operating Engineers [Ex. 16] stated that an employer could comply with the recordkeeping requirements related to the inspection of a manlift, § 1910.68(e)(3), "in less than a minute."

OSHA notes that its calculations for each recordkeeping requirement have been available for examination in the public docket so that any deficiencies could be brought to OSHA's attention. The critics of the proposed revisions have provided alternative calculations for only two of the 23 provisions originally proposed for revision.

As OSHA has already noted, some of these recordkeeping requirements do not necessarily impose large burdens. On the other hand, some of the recordkeeping requirements, especially when the cumulative burden is calculated, impose large burdens. OSHA has determined that the recordkeeping burdens imposed by the provisions subject to this rulemaking are unnecessary, given the purposes for which they were adopted and OSHA's responsibility under the Paperwork Reduction Act and section 8(d) of the OSHA Act to minimize recordkeeping burdens. The existence of divergent views regarding the size of the burdens does not affect OSHA's determination that the burdens in question do not directly contribute to employee safety and health and are, therefore, unnecessary.

OSHA concedes that the calculation of time and money costs for recordkeeping requirements is not an exact science, but the Agency believes that there are substantial real world bases for its conclusions. Therefore, OSHA relies on its calculations of the savings to employers in promulgating this final rule. The SF–83 forms which were submitted to OMB, in order to quantify and justify the burdens imposed by the pertinent recordkeeping requirements, are part of the record for this proceeding [Ex. 3].

A number of other commenters, who supported a shift to certification, asserted that the proposed revisions would lead to cost savings. For example, the Air Transport Association [Ex. 4–23] commented that the revisions "to some extent, would reduce the paperwork involved." In addition, the ANSI B11.1 Committee [Ex. 4–11] stated, "We appreciate the reduction in preparing and maintaining the extensive and oftentimes burdensome records of information."

Therefore, OSHA is confident that the revisions to the recordkeeping requirements covered by this rulemaking will reduce the expense and the time required for employers to comply with those requirements to a level where the necessary information is "obtained with a minimum burden upon employers" [section 8(d) of the OSHA Act].

IV. Summary and Explanation

Section 1910.68(e)(3)—Inspection of Manlifts. The existing standard requires the employer to keep a written record of the findings from each manlift inspection. It also requires that the employer make the inspection record available to the Assistant Secretary of Labor or his duly authorized representative.

The revised standard eliminates the need to record the findings and requires instead that the record provide the date of inspection, the signature of the person who performed the inspection, and the identity of the manlift that was inspected. OSHA has determined that there will be no reduction in the protection of worker safety because §1910.68(e)(1) still requires that manlifts be inspected by a competent, designated person at intervals of not more than 30 days and that "Manlifts found to be unsafe shall not be operated until properly repaired."

In addition, §1910.68(e)(2) lists 22 components of a manlift system that are covered by this inspection requirement and also provides that other items not in the list might also require inspection to ensure the safe operation of the manlift.

OSHA believes that the requirements of §1910.68(e) as revised are stated very clearly. If an employer determines, that the manlift, while not yet unsafe, should be inspected again before 30 days have passed, the employer is responsible to have another inspection performed within the 30 day period. Therefore, if the manlift failed between inspections, it would be because the employer did not act on the results of an inspection, not because the employer failed to record that a condition requiring attention has been found.

OSHA notes that paragraph (e)(3), even before revision, did not require the employer to record what action, if any, was taken in response to the inspection findings.

Section 1910.106(g)(1)(i)(g)—Inventory of Service Station Storage Tanks. OSHA proposed to revoke this provision for service station employers to maintain and reconcile accurate inventory records on all Class I liquid storage tanks because it is designed to provide general public protection and is not directed at protection of employees. As such, OSHA believes that a requirement such as this is most appropriately imposed by local and state authorities, not by OSHA. [See Ex. 4–6.]

OSHA received two comments supporting the proposed revocation [Exs. 4–15 and 4–19] and three comments opposing revocation [Exs. 4–4, 4–16, and 4–24].

In Issue #2 of the public hearing notice, OSHA asked for information regarding the contention that the purpose of §1910.106(g)(1)(i)(g) was to protect employees from fire and explosion hazards. OSHA specifically requested information regarding any service station fires or explosions related to this recordkeeping requirement or any other information documenting the need for the requirement and appropriateness of OSHA's continuing to regulate in this area.

No information was submitted on this issue, either in the responses to the NRPM or the hearing notice, at the hearing or in the post-hearing submissions. As far as OSHA can determine, there have been no service station fires or explosions due to leaking underground tanks. In addition, OSHA notes that this is an area where state and local regulations already cover virtually all underground gasoline storage tanks. Therefore, based on its review of the record, OSHA is revoking paragraph (g)(1)(i)(g) of § 1910.106.

Section 1910.157—Hydrostatic Testing of Fire Extinguishers. The revised standard differs from the original standard by eliminating the requirement that the employer record the pressure used when fire extinguishers are hydrostatically tested. Fire extinguisher manufacturers include the test pressure information on the label which is affixed to the fire extinguisher when distributed. Thus, the employer already has the test pressure information needed to test the extinguisher, so there is no need to prepare or maintain a separate record. Therefore, the requirement to record the test pressure unnecessarily burdens the employer.

The revised standard requires that, after the periodic hydrostatic test has been performed, the employer prepare a certification record which contains the date of the test, the signature of the person who performed the test and the identity of the fire extinguisher which was tested. The requirement in § 1910.157(f) that employers ensure that portable fire extinguishers are hydrostatically tested at the specified intervals remains in effect, so there will be no reduction in the protection of worker safety.

Section 1910.179(j)(2)(iii)—Inspection of Hooks on Overhead and Gantry Cranes. The existing standard requires the employer to prepare a signed report of the monthy inspection of crane hooks. The requirement is silent on what constitutes a signed report. Employers might conclude that a signed notation indicating the inspection has been performed is a signed report. Or, employers might conclude that a signed report is a detailed discussion of the condition of the equipment inspected.

The revised standard eliminates the word "report" and instead requires a certification record of the inspection which includes the date of inspection, the signature of the person who performed the inspection and the identity of the hook that was inspected. The revised standard clarifies what information is required, eliminating any burden that might previously have been imposed due to ambiguity. There will be no reduction in the protection of worker safety because the criteria for determining when to remove or replace hooks provided in paragragh (1)(3)(iii)(*a*) ("Crane hooks showing defects described in paragraph (j)(2)(iii) of this section shall be discarded") remain in effect.

OSHA is also correcting a typographical error in this paragraph. The reference to paragraph (j)(1)(3)(iii)(*a*) printed in the current standard is corrected to read paragraph (1)(3)(iii)(*a*).

Section 1910.179(j)(2)(iv)—Inspection of Hoist Chains on Overhead and Gantry Cranes. The existing standard

requires a monthly inspection of hoist chains with signed report. As with (j)(2)(iii), just discussed, it does not describe or explain what information is to be included in the "report." Thus, an employer may reach either of the two above mentioned conclusions in preparing the report required by this provision.

The revised standard will eliminate the "report" and require instead that a certification record be prepared which includes the date of inspection, the signature of the person who conducted the inspection and the identity of the chain inspected. As with the preceding paragraph, OSHA clearly states what the record must contain, removing uncertainty. There will be no reduction in the protection of worker safety because the requirement in paragraph (1)(3)(iii)(*b*) to repair or replace hoist chains which show defects described in paragraph (j)(2)(iv) remains in effect.

Sections 1910.179(m)(1); 1910.180(g)(1) and 1910.181(g)(1)—Inspection of Running Ropes on Cranes and Derricks. In the existing standards covering different types of cranes and derricks, these identical provisions require the employer to inspect running ropes monthly and prepare a full written, dated, and signed report of rope condition.

The revised standards have been rewritten for clarity and to eliminate the requirement to prepare full written, signed reports of rope condition and instead require that, after the inspection, the employer prepare a certification record which includes the date of the inspection, the signature of the person who performed the inspection and the identity of the crane or derrick which was inspected. The requirements contained in each of these provisions that the employer determine "whether further use of the rope would constitute a safety hazard" remains in effect. Therefore, OSHA has determined that the protection of employee safety will not be adversely affected by these revisions.

Sections 1910.179(m)(2); 1910.180(g)(2); and 1910.181(g)(3)—Inspection of Idle Ropes on Cranes and Derricks. In the existing standards, these three provisions require the employer to inspect ropes which have been idle for a month or more before they are placed in service and to prepare a written and dated report of rope condition.

The revised standards will eliminate the requirement to prepare reports of rope condition and instead require that after the inspections have been made, the employer prepare a certification record which includes the date of the inspection, the signature of the person who performed the inspection and the identity of the crane or derrick which was inspected. The requirement contained in each of these provisions that the inspection be performed by an appointed or authorized person whose approval shall be required for further use of the rope has not changed, thus there will be no reduction in worker safety.

Additionally, the words "placed in service" have been replaced with "used" to clarify that the ropes are to be inspected before actual usage, whether or not the ropes had ever been used before.

Section 1910.180(d)(6)—Inspection of Critical Items on Crawler, Locomotive, and Truck Cranes. The existing standard requires the employer to prepare written, dated, and signed inspection reports and records on a monthly basis on critical items in use such as brakes, hooks and ropes. This provision could be interpreted to mean a written statement, signed and dated to verify the inspection has been performed, or it could mean a complete description of the findings of the items inspected.

The revised standard will clarify that provision by changing the language "written, dated, and signed inspection reports and records . . . " to a requirement that a monthly certification record which includes the date of inspection, the signature of the person who performed the inspection and the identity of the crane that was inspected be prepared.

The requirement in § 1910.180(d)(3) to perform inspections for defects at intervals defined or as specifically indicated including observation during operation for any defects which might appear between regular inspections has not been changed. There has also been no change in the requirement in paragraph (d)(3) that any deficiencies such as listed shall be carefully examined and determination made as to whether they constitute a safety hazard. Thus, there will be no reduction in worker safety.

Section 1910.217(e)(1)(i)—Inspection of Power Presses. The existing standard requires the employer to establish a program of periodic and regular inspections and maintain records of these inspections and the maintenance work performed.

The revised standard will eliminate the requirement to prepare a record of the maintenance work performed and require only that a certification record be maintained which includes the date of inspection, the signature of the person who made the inspection and the identity of the power press that was inspected. Section 1910.217(e) also requires that all parts, auxilliary equipment, and safeguards are in a safe operating condition and adjustment. Compliance with this portion of the provision will ensure that no loss in safety occurs.

Section 1910.217(e)(1)(ii)—Inspection and Test of Power Press Components. The existing standard requires the employer to conduct a weekly inspection and test of certain functions on power presses and to maintain records of the inspections and the maintenance work performed.

The revised standard will eliminate the requirement to prepare a record of the maintenance work performed and instead require the employer to maintain a certification record which includes the date of inspection or maintenance, the signature of the person performing the inspection or maintenance, and the identity of the power press inspected or maintained. There will be no reduction of worker safety because the requirement that necessary maintenance or repair or both shall be performed and completed before the press is operated will remain in effect.

Section 1910.218(a)(2)(i)—Inspection of Forging Machines. The existing standard requires employers to establish periodic and regular maintenance safety checks of forging machines and to keep records of those inspections. The standard is silent regarding what constitutes a record. Employers could interpret this requirement as requiring either very little information or a considerable amount of information.

The revised standard will clarify this provision by clearly stating that the employer shall maintain a certification record which includes the date the machine was inspected, the signature of the person who inspected the machine and the identity of the forging machine that was inspected. There will be no reduction in protection of worker safety because § 1910.218(a)(2) still requires that employers "maintain" forge shop equipment in a condition which will insure continued safe operation.

Section 1910.218(a)(2)(ii)—Inspection of Guards and Point of Operation Devices on Forging Machines. The existing standard requires the employer to schedule and record inspections of guards and point of operation protection devices. Here again, the provision is silent regarding what constitutes a record or how to record an inspection. Employers could also interpret this requirement as requiring either very little information or a considerable amount of information.

The revised standard will clarify this provision and clearly state that the employer shall maintain a certification record of the date of inspection, the signature of the person who performed the inspection and the identity of the machine that was inspected. There will be no reduction in protection of worker safety because § 1910.218(a)(2) still requires that employers "maintain" forge shop equipment in a condition which will insure continued safe operation.

Section 1910.252(c)(6)—Inspection of Welding Equipment. The existing standard requires that employers periodically inspect their welding equipment and maintain records of those inspections. Again, the paragraph does not specify what information must be included in the record.

The revised standard will clarify this requirement and clearly state that the employer shall maintain a certification record of the date of inspection, the signature of the person who performed the inspection and the identity of the welding equipment. There will be no reduction of worker safety because the requirement in § 1910.252(d)(6) that "the operator shall be instructed to report any equipment defects to his supervisor and the use of the equipment shall be discontinued until safety repairs have been completed," remains in effect.

Section 1910.440(a)(1)—Diving Records. OSHA proposed to revoke this provision in the diving standard because it simply reiterates the employer's obligation to comply with the recordkeeping requirements of 29 CFR Part 1904 of the OSHA regulations and the requirements outlined in § 1910.440(a)(2). This is the only standard in 29 CFR Part 1910 that contains such cross referencing.

Section 1910.440(a)(1) was adopted in 1977 when OSHA promulgated the diving standards. The diving standard, as proposed, contained numerous recordkeeping requirements, so OSHA was concerned that some employers might conclude that their obligations under Part 1904 were being changed.

Because of this, OSHA added a provision referencing Part 1904 and explained in the preamble to the final diving standard that OSHA was adding this provision to remind employers that they must comply with both Part 1904 and § 1910.440(a)(2).

On December 28, 1982, (47 FR 57699) OSHA amended Part 1904 by adding, among other things, a new § 1904.16. This new section excluded certain employers, depending on their Standard Industrial Classification (SIC) codes, from some of the recordkeeping requirements of Part 1904. There are some employers of divers in the excluded SIC codes.

The United Brotherhood of Carpenters and Joiners of America as well as the United Steelworkers of America [Exs. 4–4, 4–7 and 4–24] maintain that OSHA's cross reference to Part 1904 in §1910.440(a)(1) requires employers to comply with all of Part 1904 notwithstanding the exemption provided by § 1904.16. OSHA notes that there is no basis for this contention. The reference to Part 1904 in § 1910.440(a)(1) was merely intended as a reminder to employers that, in addition to the particular recordkeeping requirements in the diving standard, they were also subject to the general recordkeeping requirements applicable to all employers contained in Part 1904. When Part 1904 was amended in December 1982, the amendment was effective for all employers covered by Part 1904, including diving industry employers. If the Carpenters and Steelworkers unions objected to the proposed amendments to Part 1904, the time for them to have raised their concerns was when OSHA was considering its revision of Part 1904.

Therefore, OSHA is revoking paragraph (a)(1) of § 1910.440.

Section 1915.113(b)(1)—Testing of hooks. The existing standard requires shipyard employers to test certain hooks (those for which the manufacturer has not specified a safe working load) and maintain a record of the test. The current standard is unclear as to what information should be included in the record of the test.

The revised standard will clarify this requirement by requiring the employer to maintain a certification record of the date of the test, the signature of the person who performed the test and the identity of the hook tested. There will be no reduction of worker safety because the requirement that the employer test the hook at twice its intended safe working load before putting it to use remains in effect. In addition § 1915.113(b)(3) requires that "Hooks shall be inspected periodically to see that they have not been bent by overloading. Bent or sprung hooks shall not be used."

Section 1915.172(d)—Inspection and Tests of Unfired Pressure Vessels. The existing standard requires shipyard employers to perform a hydrostatic test of portable unfired pressure vessels yearly and to maintain records of those tests. The existing standard also requires employers to examine certain pressure vessels quarterly. The employer is required to maintain a record of this examination. Again, OSHA has not specified what information should be included in this record.

The revised standard will clarify that the employer must maintain a certification record of the date of the examination or test, the signature of the person who performed the test or examination, and the identity of the pressure vessel that was examined or tested. OSHA notes that the requirement to conduct the tests and examinations remains in effect. Furthermore, § 1915.172(c) still requires that relief valves on the pressure vessels be set to the safe working pressure of the vessels, or set to the lowest safe working pressure of the system, whichever is lower. Therefore, OSHA has determined that worker safety will not be diminished through the promulgation of the revised recordkeeping requirements.

V. Regulatory Impact Assessment

OSHA has determined that this rule is not a "major rule" under Executive Order 12291 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. Therefore, no regulatory impact analysis is required.

VI. Regulatory Flexibility Analysis

One commenter, the Chief Counsel for Advocacy of the Small Business Administration, questioned whether OSHA should prepare a regulatory flexibility analysis of this rule under sections 603 and 605 of the Regulatory Flexibility Act (5 U.S.C. 603, 605) which require that such an analysis be performed unless the agency certifies that the rule will not "have a significant economic impact on a substantial number of small entities." [Ex. 4–31].

After further review of the relevant information, OSHA concludes that a regulatory flexibility analysis is not necessary. OSHA estimates that general industry (including shipyards) expends approximately 20 million dollars annually in complying with those recordkeeping provisions which will be revised by this rule. OSHA also estimates that compliance costs after this rule is promulgated will be approximately 3.5 million dollars annually, for a total economic impact differential of 16.5 million dollars

annually. As this total economic impact will generally be distributed over a variety of numerous nonconstruction workplaces, it can be concluded that this rule will not have a significant economic impact on a substantial number of small entities.

VII. OMB Approval Under the Paperwork Reduction Act

The revisions are not subject to the Paperwork Reduction Act because they are certifications as defined in 5 CFR 1320.7(k)(1) and, therefore, are not covered by the Paperwork Reduction Act or the implementing regulations. Hence, OMB approval under the Paperwork Reduction Act is not required.

VIII. State Plan States

The 25 States and territories with their own OSHA-approved occupational safety and health plans must revise their existing standards within six months of the publication date of the final standard or show OSHA why there is no need for action, e.g., because an existing State standard covering this area is already "at least as effective" as the revised Federal standard. These 25 States and territories are: Alaska, Arizona, California, Connecticut [1], Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York [1], North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

Authority

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

Accordingly, pursuant to sections 6(b), 8(c), 8(d) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657), Section 41 of the Longshoremen's and Harbor Workers Compensation Act, (33 U.S.C. 941), Secretary of Labor's Order No. 9–83 (48 FR 35736) and 29 CFR Part 1911, OSHA is amending 29 CFR Parts 1910 and 1915 as set forth below.

Signed at Washington, DC, this 23rd day of September 1986.

John A. Pendergrass,

Assistant Secretary of Labor.

[1] Plan covers only State and local government employees.

List of Subjects in 29 CFR Parts 1910 and 1915

Certification, Occupational safety and health, Recordkeeping, Safety.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

1. The authority citation for Subpart F of Part 1910 continues to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059) or 9–83 (48 FR 35736), as applicable.

Sections 1910.66, 1910.67, 1910.68 and 1910.70 also issued under 29 CFR Part 1911.

2. In § 1910.68, paragraph (e)(3) is revised to read as follows:

§ 1910.68 Manlifts.

* * * * *

(e) * * *

(3) *Inspection record.* A certification record shall be kept of each inspection which includes the date of the inspection, the signature of the person who performed the inspection and the serial number, or other identifier, of the manlift which was inspected. This record of inspection shall be made available to the Assistant Secretary of Labor or a duly authorized representative.

3. The authority citation for Subpart H of Part 1910 continues to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059) or 9–83 (48 FR 35736), as applicable.

Sections 1910.106, 1910.107, 1910.108 and 1910.109 also issued under 29 CFR Part 1911.

§ 1910.106 [Amended]

4. In § 1910.106, paragraph (g)(1)(i)(*g*) is removed and reserved.

5. The authority citation for Subpart L of Part 1910 is revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059) or 9–83 (48 FR 35736), as applicable.

Sections 1910.157, 1910.158, 1910.159, 1910.160 and 1910.161 also issued under 29 CFR Part 1911.

6. In § 1910.157, paragraph (f)(16) is revised to read as follows:

§ 1910.157 Portable fire extinguishers.

* * * * *

(f) * * *

(16) The employer shall maintain and provide upon request to the Assistant Secretary evidence that the required hydrostatic testing of fire extinguishers has been performed at the time intervals shown in Table L–1. Such evidence shall be in the form of a certification record which includes the date of the test, the signature of the person who performed the test and the serial number, or other identifier, of the fire extinguisher that was tested. Such records shall be kept until the extinguisher is hydrostatically retested at the time interval specified in Table L–1 or until the extinguisher is taken out of service, whichever comes first.

* * * * *

7. The authority citation for Subpart N of Part 1910 is revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059) or 9–83 (48 FR 35736), as applicable.

Sections 1910.177 1910.178, 1910.180, 1910.181, 1910.183, 1910.184, 1910.189 and 1910.190 also issued under 29 CFR Part 1911.

8. In § 1910.179, paragraphs (j)(2)(iii), (j)(2)(iv), (m)(1) introductory text and (m)(2) are revised and the italicized heading of paragraph (m) is republished to read as follows:

§ 1910.179 Overhead and gantry cranes.

* * * * *

(j) * * *

(2) * * *

(iii) Hooks with deformation or cracks. Visual inspection daily; monthly inspection with a certification record which includes the date of inspection, the signature of the person who performed the inspection and the serial number, or other identifier, of the hook inspected. For hooks with cracks or having more than 15 percent in excess of normal throat opening or more than 10° twist from the plane of the unbent hook refer to paragraph (1)(3)(iii)(*a*) of this section.

(iv) Hoist chains, including end connections, for excessive wear, twist, distorted links interfering with proper function, or stretch beyond manufacturer's recommendations. Visual inspection daily; monthly inspection with a certification record which includes the date of inspection, the signature of the person who performed the inspection and an identifier of the chain which was inspected.

* * * * *

(m) *Rope inspection.*—(1) *Running ropes.* A thorough inspection of all ropes shall be made at least once a month and a certification record which includes the

date of inspection, the signature of the person who performed the inspection and an identifier for the ropes which were inspected shall be kept on file where readily available to appointed personnel. Any deterioration, resulting in appreciable loss of original strength, shall be carefully observed and determination made as to whether further use of the rope would constitute a safety hazard. Some of the conditions that could result in an appreciable loss of strength are the following:

* * * * *

(2) *Other ropes.* All rope which has been idle for a period of a month or more due to shutdown or storage of a crane on which it is installed shall be given a thorough inspection before it is used. This inspection shall be for all types of deterioration and shall be performed by an appointed person whose approval shall be required for further use of the rope. A certification record shall be available for inspection which includes the date of inspection, the signature of the person who performed the inspection and an identifier for the rope which was inspected.

* * * * *

9. In § 1910.180, paragraphs (d)(6), (g)(1) introductory text and (g)(2)(ii) are revised and the italicized heading of paragraph (g) is republished to read as follows:

§ 1910.180 Crawler, locomotive and truck cranes.

* * * * *

(d) * * *

(6) *Inspection records.* Certification records which include the date of inspection, the signature of the person who performed the inspection and the serial number, or other identifier, of the crane which was inspected shall be made monthly on critical items in use such as brakes, crane hooks, and ropes. This certification record shall be kept readily available.

* * * * *

(g) *Rope inspection.*—(1) *Running ropes.* A thorough inspection of all ropes in use shall be made at least once a month and a certification record which includes the date of inspection, the signature of the person who performed the inspection and an identifier for the ropes shall be prepared and kept on file where readily available. All inspections shall be performed by an appointed or authorized person. Any deterioration, resulting in appreciable loss of original strength shall be carefully observed and detemination made as to whether further use of the rope would constitute a safety hazard. Some of the conditions that could result in an appreciable loss of strength are the following:

* * * * *

(2) * * *

(ii) All rope which has been idle for a period of a month or more due to shutdown or storage of a crane on which it is installed shall be given a thorough inspection before it is used. This inspection shall be for all types of deterioration and shall be performed by an appointed or authorized person whose approval shall be required for further use of the rope. A certification record which includes the date of inspection, the signature of the person who performed the inspection, and an identifier for the rope which was inspected shall be prepared and kept readily available.

* * * * *

10. In § 1910.181, paragraphs (g)(1) introductory text and (g)(3) are revised and the italicized heading of paragraph (g) is republished to read as follows:

§ 1910.181 Derricks.

* * * * *

(g) *Rope inspection.*—(1) *Running ropes.* A thorough inspection of all ropes in use shall be made at least once a month and a certification record which includes the date of inspection, the signature of the person who performed the inspection, and an identifier for the ropes which were inspected shall be prepared and kept on file where readily available. Any deterioration, resulting in appreciable loss of original strength shall be carefully observed and determination made as to whether further use of the rope would constitute a safety hazard. Some of the conditions that could result in an appreciable loss of strength are the following:

* * * * *

(3) *Idle ropes.* All rope which has been idle for a period of a month or more due to shutdown or storage of a derrick on which it is installed shall be given a thorough inspection before it is used. This inspection shall be for all types of deterioration. A certification record shall be prepared and kept readily available which includes the date of inspection, the signature of the person who performed the inspection, and an identifier for the ropes which were inspected.

* * * * *

11. The authority citation for Subpart O of Part 1910 is revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059) or 9–83 (48 FR 35736), as applicable.

Sections 1910.217 and 1910.218 also issued under 29 CFR Part 1911.

12. In § 1910.217, paragraphs (e)(1) (i) and (ii) are revised to read as follows:

§ 1910.217 Mechanical power presses.

* * * * *

(e) * * *

(1) * * *

(i) It shall be the responsibility of the employer to establish and follow a program of periodic and regular inspections of his power presses to ensure that all their parts, auxiliary equipment, and safeguards are in a safe operating condition and adjustment. The employer shall maintain a certification record of inspections which includes the date of inspection, the signature of the person who performed the inspection and the serial number, or other identifier, of the power press that was inspected.

(ii) Each press shall be inspected and tested no less than weekly to determine the condition of the clutch/brake mechanism, antirepeat feature and single stroke mechanism. Necessary maintenance or repair or both shall be performed and completed before the press is operated. These requirements do not apply to those presses which comply with paragraphs (b) (13) and (14) of this section. The employer shall maintain a certification record of inspections, tests and maintenance work which includes the date of the inspection, test or maintenance; the signature of the person who performed the inspection, test, or maintenance; and the serial number or other identifier of the press that was inspected, tested or maintained.

* * * * *

13. In § 1910.218, paragraphs (a)(2) (i) and (ii) are revised to read as follows:

§ 1910.218 Forging machines.

(a) * * *

(2) * * *

(i) Establishing periodic and regular maintenance safety checks and keeping certification records of these inspections which include the date of inspection, the signature of the person who performed the inspection and the serial number, or other identifier, for the forging machine which was inspected.

(ii) Scheduling and recording the inspection of guards and point of operation protection devices at frequent and regular intervals. Recording of inspections shall be in the form of a certification record which includes the date the inspection was performed, the signature of the person who performed the inspection and the serial number, or

other identifier, of the equipment inspected.

* * * * *

14. The authority citation for Subpart Q of Part 1910 is revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059) or 9–83 (48 FR 35736), as applicable.

Section 1910.252 also issued under 29 CFR Part 1911.

15. In § 1910.252, paragraph (c)(6) is revised to read as follows:

§ 1910.252 Welding, cutting and brazing.

* * * * *

(c) * * *

(6) *Maintenance.* Periodic inspection shall be made by qualified maintenance personnel, and a certification record maintained. The certification record shall include the date of inspection, the signature of the person who performed the inspection and the serial number, or other identifier, for the equipment inspected. The operator shall be instructed to report any equipment defects to his supervisor and the use of the equipment shall be discontinued until safety repairs have been completed.

* * * * *

16. The authority citation for Subpart T of Part 1910 is revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Sec. 41, Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941); Secretary of Labor's Order No. 8–76 (41 FR 25059) or 9–83 (48 FR 35736), as applicable; 29 CFR Part 1911.

§ 1910.440 [Amended]

17. In § 1910.440, paragraph (a)(1) is removed and reserved.

PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT

18. The authority citation for Part 1915 continues to read as follows:

Authority: Sec. 41, Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059) or 9–83 (48 FR 35736), as applicable; 29 CFR Part 1911.

19. In § 1915.113, paragraph (b)(1) is revised to read as follows:

§ 1915.113 Shackles and hooks.

* * * * *

(b) * * *

(1) The manufacturer's recommendations shall be followed in determining the safe working loads of the various sizes and types of specific and identifiable hooks. All hooks for which no applicable manufacturer's recommendations are available shall be tested to twice the intended safe working load before they are initially put into use. The employer shall maintain and keep readily available a certification record which includes the date of such tests, the signature of the person who performed the test and an identifier for the hook which was tested.

* * * * *

20. In § 1915.172, paragraph (d) is revised to read as follows:

§ 1915.172 Portable air receivers and other unfired pressure vessels.

* * * * *

(d) A certification record of such examinations and tests made in compliance with the requirements of paragraphs (a) and (b) of this section shall be maintained. The certification record shall include the date of examinations and tests, the signature of the person who performed the examinations or tests and the serial number, or other identifier, of the equipment examined and tested.

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