percent of the highest bracket in both schedules. This may be illustrated as follows:

Salary	Basic schedule	Reduced coverage at age 70
$6,000	$2,000	$2,000
7,500	5,000	2,500
10,000	10,000	5,000
20,000	20,000	10,000

Under the combined schedule no bracket exceeds 2½ times the next lower bracket and the lowest bracket is 10 percent of the highest bracket. The provisions for reduction after age 65 are in accordance with (*d*)(5) of this subdivision.

* * * * *

[FR Doc.72-22239 Filed 12-27-72;8:45 am]

[T.D. 7237]

PART 12—TEMPORARY INCOME TAX REGULATIONS UNDER THE REVENUE ACT OF 1971

Temporary Regulations Relating to the Requirements of a Domestic International Sales Corporation (DISC)

In order to prescribe temporary regulations, relating to an election by a corporation to be treated as a domestic international sales corporation (DISC) pursuant to section 992(b) of the Internal Revenue Code of 1954, as added by section 501 of the Revenue Act of 1971 (Public Law 92-178, 85 Stat. 535), the following temporary regulations are hereby adopted:

§ 12.7 Election to be treated as a DISC.

(a) *Manner and time of election*—(1) *Manner*—(i) *In general.* A corporation can elect to be treated as a DISC under section 992 (b) for a taxable year beginning after December 31, 1971. Except as provided in subdivision (ii) of this subparagraph, the election is made by the corporation filing Form 4876 with the service center with which it would file its income tax return if it were subject for such taxable year to all the taxes imposed by subtitle A of the Internal Revenue Code of 1954, and a copy of the completed Form 4876 with the Commissioner of Internal Revenue (attention: ACTS:A:AO), Washington, D.C. 20224. The form shall be signed by any person authorized to sign a corporation return under section 6062, and shall contain the information required by such form. Except as provided in paragraphs (b)(3) and (c) of this section, such election to be treated as a DISC shall be valid only if the consent of every person who is a shareholder of the corporation as of the beginning of the first taxable year for which such election is effective is on or attached to such Form 4876 when filed with the service center.

(ii) *Transitional rule for corporations electing during 1972.* If the first taxable year for which an election by a corporation to be treated as a DISC is a taxable year beginning after December 31, 1971, and on or before December 31, 1972, such election may be made either in the manner prescribed in subdivision (i) of this subparagraph or by filing, at the place prescribed in subdivision (i) of this subparagraph, a statement captioned "Election to be Treated as a DISC". Such statement of election shall be valid only if the consent of each shareholder is filed with the service center in the form, and at the time, prescribed in paragraph (b) of this section. Such statement shall be signed by any person authorized to sign a corporation return under section 6062 and shall include the name, address, and employer identification number (if known) of the corporation, the beginning date of the first taxable year for which the election is effective, the number of shares of stock of the corporation issued and outstanding as of the earlier of the beginning of the first taxable year for which the election is effective or the time the statement is filed, the number of shares held by each shareholder as of the earlier of such dates, and the date and place of incorporation. As a condition of the election being effective, a corporation which elects to become a DISC by filing a statement in accordance with this subdivision must furnish (to the service center with which the statement was filed) such additional information as is required by Form 4876 by March 31, 1973.

(2) *Time of making election*—(i) *In general.* In the case of a corporation making an election to be treated as a DISC for its first taxable year, such election shall be made within 90 days after the beginning of such taxable year. In the case of a corporation which makes an election to be treated as a DISC for any taxable year beginning after March 31, 1972 (other than the first taxable year of such corporation), the election shall be made during the 90-day period immediately preceding the first day of such taxable year.

(ii) *Transitional rules for certain corporations electing during 1972.* In the case of a corporation which makes an election to be treated as a DISC for a taxable year beginning after December 31, 1971, and on or before March 31, 1972 (other than its first taxable year), the election shall be made within 90 days after the beginning of such taxable year.

(b) *Consent by shareholders*—(1) *In general*—(i) *Time and manner of consent.* Under paragraph (a)(1)(i) of this section, subject to certain exceptions, the election to be treated as a DISC is not valid unless each person who is a shareholder as of the beginning of the first taxable year for which the election is effective signs either the statement of consent on Form 4876 or a separate statement of consent attached to such form. A shareholder's consent is binding on such shareholder and all transferees of his shares and may not be withdrawn after a valid election is made by the corporation. In the case of a corporation which files an election to become a DISC for a taxable year beginning after December 31, 1972, if a person who is a shareholder as of the beginning of the first taxable year for which the election is effective does not consent by signing the statement of consent set forth on Form 4876, such election shall be valid (except in the case of an extension of the time for filing granted under the provisions of subparagraph (3) of this paragraph or paragraph (c) of this section) only if the consent of such shareholder is attached to the Form 4876 upon which such election is made.

(ii) *Form of consent.* A consent other than the statement of consent set forth on Form 4876 shall be in the form of a statement which is signed by the shareholder and which sets forth (*a*) the name and address of the corporation and of the shareholder and (*b*) the number of shares held by each such shareholder as of the time the consent is made and (if the consent is made after the beginning of the corporation's taxable year for which the election is effective) as of the beginning of such year. If the consent is made by a recipient of transferred shares pursuant to paragraph (c) of this section, the statement of consent shall also set forth the name and address of the person who held such shares as of the beginning of such taxable year and the number of such shares. Consent shall be made in the following form: "I (insert name of shareholder), a shareholder of (insert name of corporation seeking to make the election) consent to the election of (insert name of corporation seeking to make the election) to be treated as a DISC under section 992(b) of the Internal Revenue Code. The consent so made by me is irrevocable and is binding upon all transferees of my shares in (insert name of corporation seeking to make the election)." The consents of all shareholders may be incorporated in one statement.

(iii) *Who may consent.* Where stock of the corporation is owned by a husband and wife as community property (or the income from such stock is community property), or is owned by tenants in common, joint tenants, or tenants by the entirety, each person having a community interest in such stock or the income therefrom and each tenant in common, joint tenant, and tenant by the entirety must consent to the election. The consent of a minor shall be made by his legal guardian or by his natural guardian if no legal guardian has been appointed. The consent of an estate shall be made by the executor or administrator thereof. The consent of a trust shall be made by the trustee thereof. The consent of an estate or trust having more than one executor, administrator, or trustee may be made by any executor, administrator, or trustee authorized to make a return of such estate or trust pursuant to section 6012(b)(5). The consent of a corporation or partnership shall be made by an officer or partner authorized pursuant to section 6062 or 6063, as the case may be, to sign the return of such corporation or partnership. In the case of a foreign person, the consent may be signed by any individual (whether or not a U.S. person) who would be authorized under sections 6061 through 6063 to sign the return of such foreign person if he were a U.S. person.

(2) *Transitional rule for corporations electing during 1972.* In the case of a corporation which files an election to be

treated as a DISC for a taxable year beginning after December 31, 1971, and on or before December 31, 1972, such election shall be valid only if the consent of each person who is a shareholder as of the beginning of the first taxable year for which such election is effective is filed with the service center with which the election was filed within 90 days after the first day of such taxable year or within the time granted for an extension of time for filing such consent. The form of such consent shall be the same as that prescribed in subparagraph (1) of this paragraph. Such consent shall be attached to the statement of election or shall be filed separately (with such service center) with a copy of the statement of election. An extension of time for filing a consent may be granted in the manner, and subject to the conditions, described in subparagraph (3) of this paragraph.

(3) *Extension of time to consent.* An election which is timely filed and would be valid except for the failure to attach the consent of any shareholder to the Form 4876 upon which the election was made or to comply with the 90-day requirement in subparagraph (2) of this paragraph or paragraph (c)(1) of this section, as the case may be, will not be invalid for such reason if it is shown to the satisfaction of the service center that there was reasonable cause for the failure to file such consent, and if such shareholder files a proper consent to the election within such extended period of time as may be granted by the Internal Revenue Service. In the case of a late filing of a consent, a copy of the Form 4876 or statement of election shall be attached to such consent and shall be filed with the same service center as the election. The form of such consent shall be the same as that set forth in paragraph (b)(1)(ii) of this section. In no event can any consent be made pursuant to this paragraph on or after the last day of the first taxable year for which a corporation elects to be treated as a DISC.

(c) *Consent by holder of transferred shares*—(1) *In general.* If a shareholder of a corporation transfers—

(i) Prior to the first day of the first taxable year for which such corporation elects to be treated as a DISC, some or all of the shares held by him without having consented to such election, or

(ii) On or before the 90th day after the first day of the first taxable year for which such corporation elects to be treated as a DISC, some or all of the shares held by him as of the first day of such year (or if later, held by him as of the time such shares are issued), without having consented to such election, then consent may be made by any recipient of such shares on or before the 90th day after the first day of such first taxable year. If such recipient fails to file his consent on or before such 90th day, an extension of time for filing such consent may be granted in the manner, and subject to the conditions, described in paragraph (b)(3) of this section. In addition, if the transfer occurs more than 90 days after the first day of such taxable year, an extension of time for filing such consent may be granted to such recipient only if it is determined under paragraph (b)(3) of this section that an extension of time would have been granted the transferor for the filing of such consent if the transfer had not occurred. A consent which is not attached to the original Form 4876 or statement of election (as the case may be) shall be filed with the same service center as the original Form 4876 or statement of election and shall have attached a copy of such original form or statement of election. The form of such consent shall be the same as that set forth in paragraph (b)(1)(ii) of this section. For the purposes of this paragraph, a transfer of shares includes any sale, exchange, or other disposition, including a transfer by gift or at death.

(2) *Requirement for the filing of an amended form 4876 or statement of election.* In any case in which a consent to a corporation's election to be treated as a DISC is made pursuant to subparagraph (1) of this paragraph, such corporation must file an amended form 4876 or statement of election (as the case may be) reflecting all changes in ownership of shares. Such form must be filed with the same service center with which the original form 4876 or statement of election was filed by such corporation.

(d) *Effect of election*—(1) *Effect on corporation.* A valid election to be treated as a DISC remains in effect (without regard to whether the electing corporation qualifies as a DISC for a particular year) until terminated by any of the methods provided in paragraph (e) of this section. While such election is in effect, the electing corporation is subject to sections 991 through 997 and other provisions of the code applicable to DISC's for any taxable year for which it qualifies as a DISC (or is treated as qualifying as a DISC pursuant to section 992(a)(2)). Such corporation is also subject to such provisions for any taxable year for which it is treated as a former DISC as a result of qualifying or being treated as a DISC for any taxable year for which such election was in effect.

(2) *Effect on shareholders.* A valid election by a corporation to be treated as a DISC subjects the shareholders of such corporation to the provisions of section 995 (relating to the taxation of the shareholders of a DISC or former DISC) and to all other provisions of the code relating to the shareholders of a DISC or former DISC. Such provisions of the code apply to any person who is a shareholder of a DISC or former DISC whether or not such person was a shareholder at the time the corporation elected to become a DISC.

(e) *Termination of election*—(1) *In general.* An election to be treated as a DISC is terminated only as provided in subparagraph (2) or (3) of this paragraph.

(2) *Revocation of election*—(i) *Manner of revocation.* An election by a corporation to be treated as a DISC may be revoked by the corporation for any taxable year of the corporation after the first taxable year for which the election is effective. Such revocation shall be made by the corporation filing a statement that the corporation revokes its election under section 992(b) to be treated as a DISC. Such statement shall indicate the corporation's name, address, employer identification number, and the first taxable year of the corporation for which the revocation is to be effective. The statement shall be signed by any person authorized to sign a corporation return under section 6062. Such revocation shall be filed with the service center with which the corporation filed its election, except that, if it filed an annual information return under section 6011(e)(2), the revocation shall be filed with the service center with which it filed its last such return.

(ii) *Years for which revocation is effective.* If a corporation files a statement revoking its election to be treated as a DISC during the first 90 days of a taxable year (other than the first taxable year for which such election is effective), such revocation will be effective for such taxable year and all taxable years thereafter. If the corporation files a statement revoking its election to be treated as a DISC after the first 90 days of a taxable year, the revocation will be effective for all taxable years following such taxable year.

(3) *Continued failure to be a DISC.* If a corporation which has elected to be treated as a DISC does not qualify as a DISC (and is not treated as a DISC pursuant to section 992(a)(2)) for each of any 5 consecutive taxable years, such election terminates and will not be effective for any taxable year after such 5th taxable year. Such termination will be effective automatically, without notice to such corporation or to the Internal Revenue Service. If, during any 5-year period for which an election is effective, the corporation should qualify as a DISC (or be treated as a DISC pursuant to section 992(a)(2)) for a taxable year, a new 5-year period shall automatically start at the beginning of the following taxable year.

(4) *Election after termination.* If a corporation has made a valid election to be treated as a DISC and such election terminates in either manner described in subparagraph (2) or (3) of this paragraph, such corporation is eligible to reelect to be treated as a DISC at any time by following the procedures described in paragraphs (a) through (c) of this section. If a corporation terminates its election and subsequently reelects to be treated as a DISC, the corporation and its shareholders continue to be subject to sections 995 and 996 with respect to the period during which its first election was in effect. Thus, for example, distributions upon disqualification includible in the gross incomes of shareholders of a corporation pursuant to section 995(b)(2) continue to be so includible for taxable years for which a second election of such corporation is in effect without regard to the second election.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is

found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: December 19, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72-22237 Filed 12-27-72;8:50 am]

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7239]

PART 301—PROCEDURE AND ADMINISTRATION

Repeal of Personnel Bond Requirements

In order to conform to the regulations on procedure and administration (26 CFR Part 301), relating to personnel bonds, to the Act of June 6, 1972 (Public Law 92-310, 86 Stat. 209), such regulations are amended as follows:

PARAGRAPH 1. Section 301.6803 is amended by striking out subsection (a) of section 6803 and by adding a historical note. The amended and added provisions read as follows:

§ 301.6803 Statutory provisions; accounting and safeguarding.

SEC. 6803. *Accounting and safeguarding*—
(a) [repealed]
* * * * *

[Sec. 6803 as amended by sec. 230(a), Act of June 6, 1972 (Public Law 92-310, 86 Stat. 209)]

PAR. 2. Section 301.7101 is amended by revising that part of section 7101 which precedes section 7101(a) and by adding a historical note. The amended and added provisions read as follows:

§ 301.7101 Statutory provisions; form of bonds.

SEC. 7101. *Form of bonds.* Whenever, pursuant to the provisions of this title (other than section 7485), or rules or regulations prescribed under authority of this title, a person is required to furnish a bond or security— * * *

[Sec. 7101 as amended by sec. 230(b), Act of June 6, 1972 (Public Law 92-310, 86 Stat. 209)]

PAR. 3. The portion of paragraph (a) of § 301.7101-1 that precedes subparagraph (1) is amended to read as follows:

§ 301.7101-1 Form of bond and security required.

(a) *In general.* Any person required to furnish a bond under the provisions of the Code (other than section 6803(a)(1), relating to bonds required of certain postmasters before June 6, 1972, and section 7485, relating to bonds to stay assessment and collection of a deficiency pending review of a Tax Court decision), or under any rules or regulations prescribed under the Code, shall (except as provided in paragraph (d) of this section) execute such bond—

* * * * *

PAR. 4. Section 301.7103 is amended by striking out subsection (e) of section 7103 and by adding a historical note. The amended and added provisions read as follows:

§ 301.7103 Statutory provision; cross-references—other provisions for bonds.

SEC. 7103 *Cross-references—other provisions for bonds*—* * *
(e) [Repealed]

[Sec. 7103 as amended by sec. 230(c), Act of June 6, 1972 (Public Law 92-310, 86 Stat. 209)]

PAR. 5. Section 301.7402 is amended by striking out subsection (d) of section 7402 and by adding a historical note. The amended and added provisions read as follows:

§ 301.7402 Statutory provisions; jurisdiction of district courts.

SEC. 7402 *Jurisdiction of district courts*—* * *
(d) [Repealed]

* * * * *

[Sec. 7402 as amended by sec. 230(d), Act of June 6, 1972 (Public Law 92-310, 86 Stat. 209)]

PAR. 6. Section 301.7803 is amended by striking out subsection (c) of section 7803 and by revising the historical note. The amended provisions read as follows:

§ 301.7803 Statutory provisions; other personnel.

Sec. 7803 *Other personnel*—* * *
(c) [repealed].

* * * * *

[Sec. 7803 as amended by sec. 230(e), Act of June 6, 1972 (Public Law 92-310, 86 Stat. 209)]

PAR. 7. Section 301.7803-1 is amended to read as follows:

§ 301.7803-1 Security bonds covering personnel of the Internal Revenue Service.

For regulations relating to the procurement of security bonds covering designated personnel of the Internal Revenue Service between January 1, 1956, and June 6, 1972, see 31 CFR Part 226.

Because this Treasury decision simply reflects the repeal of statutory provisions it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: December 22, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72-22290 Filed 12-27-72;8:50 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Oregon Plan

1. *Background.* The Oregon State plan was submitted to the Assistant Secretary June 16, 1972. Notice of receipt of the plan was published in the FEDERAL REGISTER July 20, 1972 (37 F.R. 14446). An amended notice on requests for informal hearings was published August 18, 1972 (37 F.R. 16686). The American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) requested a public hearing, which was held September 27, 1972, in Portland, Oreg. Comments on the plan were received from the AFL-CIO, the National Electrical Contractors, and the Oregon Construction Industry Council, Inc.

The plan identifies the Oregon Workmen's Compensation Board as the State agency designated to administer the plan. It adopts the definition of occupational safety and health issues expressed in section 1902.2(c)(1) of chapter XVII, Title 29, Code of Federal Regulations. The plan further includes proposed draft legislation to be considered by the Oregon Legislature during its 1973 session amending chapter 654 of the Oregon Revised Code, and related provisions, to bring them into conformity with the requirements of part 1902. The proposed legislation is accompanied by a statement of the Governor's support for it and an opinion from the State attorney general that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the constitution and other laws of the State. The plan sets out goals for bringing it into full conformity with part 1902 upon enactment of the proposed legislation by the State legislature.

2. *Issues.* The public comments and our review of the plan raise several significant issues which are addressed by Oregon in supplementary letters of clarification submitted to the Assistant Secretary, September 5, 1972, and December 4, 1972, and incorporated as part of the plan.

The first issue is whether the standards as submitted by Oregon are at least as effective as Federal standards. Based on an analysis of Oregon's standard comparison, subparts F, I (as amended October 6, 1972), K, M, and N have been determined to be at least as effective. Subpart P is considered developmental pending submission of State code revisions comparable to 29 CFR 1910.242, 1910.243, and 1910.244 within 1 year of approval. The remaining subparts were withdrawn by Oregon, and in accordance with 1902.20(b)(1)(ii) Oregon will submit these subparts as developmental codes which will be as effective as those in 29 CFR part 1910 subparts B, D, E, G,

H, J, L, O, Q, R, and S by June 1, 1973. In addition, any standards contained in appendix L of the plan dealing with health regulations will be submitted in appropriate standard comparison format within 1 year of plan approval.

A second issue noted in the Oregon plan is the existence of five "product" standards in the subparts considered at least as effective. While Oregon described "compelling local conditions" regarding two of these standards (Oregon safety code 8–2–5 overhead guards on industrial trucks; Oregon electrical safety code 479.510 grounding pendent pushbutton switches), no information was provided for the others when they were identified during our review. We understand that Oregon will submit information on "compelling local conditions" for these "product" standards (Oregon safety code 12–1–2 through 12–1–4 explosive actuated fastening tools: Oregon safety code 6–2–20 circular saws; Oregon safety code 12–4–5 requirements for loads and fasteners), and any subsequently identified "product" standards within the 1-year post-approval developmental period.

Both the public comments and our review raise questions regarding the effectiveness of the variance procedures and Oregon's requirements for meeting the following indices of effectiveness: § 1902.4(b)(2)(vi), (vii), and § 1902.4(c)(2)(vi). In a letter of clarification submitted December 4, 1972, and incorporated as part of the plan, Oregon proposes to promulgate several regulations on these issues within 1 year of plan approval. These regulations will insure that variance procedures for the Health Division and the State workmen's compensation board will be the same as those provided in 29 CFR 1905; that the board will promulgate regulations that standards, where appropriate, shall prescribe the use of labels and posting of information in situations not limited to extreme hazards, which will include information relating to symptoms, precautions, and emergency treatment; that such regulations will contain assurances that the results of any required medical examinations will be available at least to the personal physician of an employee; that regulations will be issued to insure that monitoring or measuring of hazards will be in addition to any requirements in standards for suitable protective equipment, control, or technological procedures; and finally, the board will issue regulations requiring employers to maintain accurate records of employee exposure to potentially toxic materials or harmful physical agents. These regulations shall provide employees or their representatives with the opportunity to observe such monitoring or measuring and to have access to the records. The board, in promulgating these regulations, will also insure that employees will be promptly notified by the employer of such exposure and also of the corrective action being taken. These latter protections were included in Appendix L as the means for meeting § 1902.4(c)(2)(vi) and it is our understanding that they will be included in the new regulations as outlined in the letter of December 4, 1972.

Several issues concerning the legislation proposed by Oregon were raised during our review. In the letters of clarification, Oregon has indicated the following additions and deletions. The workmen's compensation board will submit to the legislature a bill seeking repeal of the criminal penalty in ORS 654.990(3) relating to standards set out in the employer's liability law ORS 654.305–335 because its standards conflict with the standards established by the new safety and health law. By repealing the criminal penalty while retaining civil damage lawsuits against employers, any possible use of the less effective criminal penalty as a substitute for the civil penalties under the new Oregon safety and health legislation will be eliminated. In addition, bills for repeal will be recommended with respect to ORS 654.405–430; 654.990(4) Proper Lighting in Places of Employment, and ORS 654.605–610; 654.990(5) Safety and Sanitation in Theater Projection Booths, because the State already has lighting, safety, and sanitation regulations which exceed those in the cited statutes.

In order to provide at least as effective protection for employees filing complaints and requesting inspections, the workmen's compensation board will propose that the following provision be incorporated in the Oregon Revised Statutes: "Neither a written complaint from an employee nor a written memorandum nor an oral complaint shall be construed as a public writing or a public record under ORS Ch. 192."

Because of the separations of functions between the Health Division and the workmen's compensation board, including independent standard-setting authority in the Health Division, it is necessary to have assurances that the designated agency will have sole responsibility to see that the State's commitments are met. This is provided in ORS 654.025 which Oregon interprets as reserving to the workmen's compensation board the right to promulgate its own standard when another agency's standard is considered not at least as effective.

Finally, existing Oregon legislation contains two provisions which may possibly result in sanctions against an employee. The first is ORS 654.050(3) providing for a civil penalty of up to $1,000 for operating any machine or device contrary to a "red-tag" notice, or for defacing such "red-tag" notice. Under the terms of program directive No. 72–19, issued July 27, 1972, this type of sanction, applicable to "any person," is not considered an employee sanction, because it is not aimed at obtaining compliance with standards, which remains the primary responsibility of employers. It is permissible for Oregon to include a sanction such as this in order to support its authority to abate imminent danger and in some cases, serious violations.

In addition, ORS 654.050(4) contains a civil penalty of up to $1,000 which may possibly result in a sanction against an employee for violation of a standard. This provision is to the effect that every person who, after notice by the board, knowingly violates any safety provision or any lawful order, rule, or regulation cited in such notice, or where such violation results in serious injury or death regardless of any notice, that person shall be subject to a civil penalty of up to $1,000. This potential employee sanction is not fatal to approval of the Oregon plan. It is applicable only in clearly defined situations and does not relieve the employer of his primary responsibility for job safety and health. Oregon's plan provides that if a person other than an employer is cited under this provision, the employer would also be cited under the other applicable provisions which reflect penalties similar to those in the Occupational Safety and Health Act of 1970. Oregon has provided a limited employee sanction which does not on its face have the effect of undermining the effectiveness of the State program.

The operation of both of these sanction provisions will be subject to review during continuing evaluation of the Oregon plan. In particular, attention will be directed not only to situations where the sanctions may be invoked, but also to the establishment of procedures for contesting any penalties issued under these provisions, which procedures should be available to any person, including employees, under the Oregon Administrative Procedure Act.

3. *Decision.* After careful consideration of the Oregon plan and comments submitted regarding the plan, the plan is hereby approved under section 18 of the Act and 29 CFR Part 1902.

This decision incorporates requirements of the Act and implementing regulations applicable to State plans generally. It also incorporates our intentions as to continued Federal enforcement of Federal standards in areas covered by the plan and the State's developmental schedule as set out below.

Pursuant to § 1902.20(b)(iii) of Title 29 of the Code of Federal Regulations, the present level of Federal enforcement in Oregon will not be diminished. Among other things, the U.S. Department of Labor will continue to inspect catastrophes and fatalities, investigate valid complaints under section 8(f), continue its Target Safety and Target Health programs, and inspect a cross-section of all industries on a random basis.

Within 6 months following this approval, an evaluation of the State plan as implemented will be made to assess the appropriate level of Federal enforcement activity. Federal enforcement activity will continue to be exercised to the degree necessary to assure occupational safety and health protection to employees in the State of Oregon.

The Oregon plan is developmental. The following is the schedule of the developmental steps provided by the plan:

(a) Introduction of the legislative amendments in the legislative session following approval of the plan.

(b) Complete revision of all occupational safety and health codes as proposed within 1 year after the proposed

standards are found to be at least as effective by the Secretary of Labor.

(c) Development of administrative rules and procedures including rights and responsibilities of employers, employees and the workmen's compensation board including regulations on variances, exposure to hazards and access to information on exposure to hazards. This goal will be met within 1 year following legislative approval.

(d) Training of present inspection personnel of the accident prevention division and the occupational health section by July 1, 1973, or the effective date of the legislation, whichever is later. Selection and training of additional inspectors within 1 year of effective date of the 1973–75 budget.

(e) Establishment of specific occupational safety and health goals within 1 year of plan approval. These goals will be reviewed and revised biennially.

(f) Development and implementation of an affirmative action program by July 1, 1973.

(g) Development and implementation of administrative rules relative to an on-site voluntary compliance consultation program within 1 year after legislative approval.

Pursuant to section 18 of the Occupational Safety and Health Act (29 U.S.C. 667), Part 1952 is hereby amended by adding thereto a new Subpart D as follows:

Subpart D—Oregon

Sec.
1952.105 Description of the plan.
1952.106 Where the plan may be inspected.
1952.107 Level of Federal enforcement.
1952.108 Developmental schedule.

AUTHORITY: The provisions of this Subpart D issued under sec. 18, Occupational Safety and Health Act (29 U.S.C. 667).

Subpart D—Oregon

§ 1925.105 Description of the plan.

(a) (1) The plan identifies the Oregon Workmen's Compensation Board as the State agency designated to administer the plan. It adopts the definition of occupational safety and health issues expressed in § 1902.2(c) (1) of this chapter. The plan contains a standards comparison of existing and proposed State standards with Federal standards. All proposed standards except those found in §§ 1910.13, 1910.14, 1910.15, and 1910.16 (ship repairing, shipbuilding, ship breaking and longshoring) will be adopted and enforced after public hearings within 1 year lollowing approval of the plan.

(2) The plan provides a description of personnel employed under a merit system; the coverage of employees of political subdivisions; procedures for the development and promulgation of standards; procedures for prompt and effective standards setting action for the protection of employees against new and unforeseen hazards; and procedures for the prompt restraint of imminent danger situations.

(b) (1) The plan includes proposed draft legislation to be considered by the Oregon Legislature during its 1973 session amending chapter 654 of Oregon Revised Statutes to bring it into conformity with the requirements of Part 1902 of this chapter. Under the proposed legislation, the workmen's compensation board will have full authority to enforce and administer all laws and rules protecting employee health and safety in all places of employment in the State. The legislation further proposes to bring the State into conformity in areas such as variances and protection of employees from hazards.

(2) The legislation is also intended to insure inspections in response to complaints; employer and employee representatives' opportunity to accompany inspectors and to call attention to possible violations before, during and after inspections; notification of employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protections; protection of employees against discharge or discrimination in terms and conditions of employment; adequate safeguards to protect trade secrets; provision for prompt notice to employers and employees of alleged violations of standards and abatement requirements; effective sanctions against employers for violations of standards and orders; employer right of review of alleged violations, abatement periods and proposed penalties to the workmen's compensation board and employee participation in review proceedings. The plan also proposes to develop a program to encourage voluntary compliance by employers and employees.

(c) The plan includes a statement of the Governor's support for the legislative amendments and legal opinion that the draft legislation will meet the requirements of the Occupational Safety and Health Act of 1970 and is consistent with the constitution and laws of Oregon. The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 upon enactment of the proposed legislation.

(d) The Oregon plan includes the following documents as of the date of approval:

(1) The plan description document with appendices.

(2) Appendix G, the standards comparison.

(3) Letter from M. Keith Wilson, chairman, workmen's compensation board to the Assistant Secretary, June 30, 1972, on product standards.

(4) Letter from M. Keith Wilson to James Lake, regional administrator, June 30, 1972, clarifying employee sanction provisions.

(5) Letter with attachments from M. Keith Wilson to the Assistant Secretary, September 5, 1972, clarifying several issues raised during the review process.

(6) Letter from the commissioners of the workmen's compensation board to the Assistant Secretary, December 4, 1972, clarifying the remaining issues raised during the review process.

(e) Also available for inspection and copying with the plan documents will be the public comments received and a transcript of the public hearing held September 27, 1972.

§ 1952.106 Where the plan may be inspected.

A copy of the complete plan may be inspected and copied during normal business hours at the following locations: Office of Federal and State Operations, Occupational Safety and Health Administration, Room 305, 400 First Street NW., Washington, DC 20210; Regional Administrator, Occupational Safety and Health Administration, Room 1813, Smith Tower Building, 506 Second Avenue, Seattle, WA 98104; Workmen's Compensation Board, Labor and Industries Building, Room 204, Salem, Oreg. 97310; and the Office of the Occupational Health Section, State Health Division, Room 840, State Office Building, 1400 Southwest Fifth Avenue, Portland, OR.

§ 1952.107 Level of Federal enforcement.

Pursuant to § 1902.20(b) (iii) of Title 29 of the Code of Federal Regulations, the present level of Federal enforcement in Oregon will not be diminished. Among other things, the U.S. Department of Labor will continue to inspect catastrophes and fatalities, investigate valid complaints under section 8(f), continue its Target Safety and Target Health programs, and inspect a cross-section of all industries on a random basis.

§ 1952.108 Developmental schedule.

The Oregon plan is developmental. The following is the schedule of the developmental steps provided by the plan:

(a) Introduction of the legislative amendments in the legislative session following approval of the plan.

(b) Complete revision of all occupational safety and health codes as proposed within 1 year after the proposed standards are found to be at least as effective by the Secretary of Labor.

(c) Development of administrative rules and procedures including rights and responsibilities of employers, employees and the workmen's compensation board including regulations on variances, exposure to hazards and access to information on exposure to hazards. This goal will be met within 1 year following legislative approval.

(d) Training of present inspection personnel of the accident prevention division and the occupational health section by July 1, 1973, or the effective date of the legislation, whichever is later. Selection and training of additional inspectors within 1 year of effective date of the 1973–75 budget.

(e) Establishment of specific occupational safety and health goals within 1 year of plan approval. These goals will be reviewed and revised biannually.

(f) Development and implementation of an affirmative action program by July 1, 1973.

(g) Development and implementation of administrative rules relative to an on-site voluntary compliance consultation program within 1 year after legislative

approval. (Sec. 18, Public Law 91-596, 84 Stat. 1608 (29 U.S.C.).)

Signed at Washington, D.C. this 22d day of December, 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-22308 Filed 12-27-72;8:47 am]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 70—MANDATORY HEALTH STANDARDS — UNDERGROUND COAL MINES

Revisions in Respirable Dust Sampling Procedures Relating to Reduction of Respirable Dust Standards

Section 202(b)(2) of the Federal Coal Mine Health and Safety Act of 1969, as amended (30 U.S.C. 842(b)(2)), requires that on and after December 30, 1972, each operator of an underground coal mine shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of such mine is exposed at or below 2 milligrams of respirable dust per cubic meter of air (2 mg./m.^{3}). The interim compliance panel, established by section 5 of the Act, is authorized, under section 202, to issue permits for noncompliance with the 2 mg./m.^{3} standard, which entitle permittees, during a specified period, to continuously maintain the average concentration of respirable dust in the mine atmosphere, during each shift in the working places of such mine to which the permit applies, at a level specified by the panel. The level specified by the panel shall be the lowest level which can be maintained at the mine, as shown in the application for a permit by evidence of the conditions and technology applicable to such mine, and other available and effective control techniques and methods; but in no event shall the dust level exceed 3 milligrams of respirable dust per cubic meter of air. In addition to the change of standard required by section 202(b)(2) of the Act, 30 CFR 70.100(e) provides that effective December 30, 1972, the respirable dust standard for intake air will be reduced from 2 mg./m.^{3} to 1 mg./m.^{3}.

Since the 3 mg./m.^{3} standard and the 2 mg./m.^{3} intake air standard will no longer be in effect on and after December 30, 1972, and compliance thereafter will be required in conformity with the new standards, all outstanding notices of violation and orders of withdrawal issued under the authority of the Federal Coal Mine Health and Safety Act of 1969 for failure to comply with the 3 mg./m.^{3} and the 2 mg./m.^{3} intake air standard will be terminated on December 29, 1972, as authorized by section 104(g) of the Act. Termination of such notices and orders will not relieve the operator of liability for the assessment of a civil penalty in accordance with section 109(a) of the Act, or the criminal provisions of section 109(b) of the Act. Furthermore any outstanding notices or orders based on violations of 30 CFR Part 70 unrelated to compliance with the respirable dust standards will remain in effect, and will not be terminated. For example, notices of violation issued for failure to sample individual miners, as required by 30 CFR 70.250, will remain effective.

When the Secretary of the Interior and the Secretary of Health, Education, and Welfare published their determination in the FEDERAL REGISTER for February 23, 1972 (37 F.R. 3833), that a single shift measurement of respirable dust will not accurately represent atmospheric conditions during such shift, it was also stated that both Departments intend to revise 30 CFR Part 70 to improve dust measurement procedures in order to ascertain more precisely the dust exposure of miners. Work on such improved procedures is nearing completion, and it is anticipated that they will be published as proposed rulemaking in the near future. In the interim period, however, it is necessary to revise several provisions of 30 CFR Part 70 to reconcile the procedures for the sampling of respirable dust with the aforementioned statutory mandate of section 202 of the Act for the reduction of respirable dust standards.

The main thrust of these revisions is to require all operators to initiate an original sampling cycle in order to rapidly establish whether there is compliance with the new 2 mg./m.^{3} standard, or those dust concentrations specified in permits for noncompliance issued by the interim compliance panel, and the new 1 mg./m.^{3} intake air standard. Therefore, commencing on the first normal production shift on or after December 30, 1972, a new basic sample (consisting of 10 samples and one intake air sample) must be established as described in 30 CFR 70.210 and 70.246 for each active working section. At least one valid respirable dust sample must be received by the Bureau of Mines for each active working section not later than January 25, 1973. All samples comprising the basic sample must be received by the Bureau of Mines no later than February 15, 1973. Failure to submit samples within this time frame will result in a notice of violation.

The purpose of other revisions is: (1) To make clear that a notice of violation shall be issued for a violation of the 2 milligrams of respirable dust per cubic meter of air standard; and (2) to provide that a basic sample which establishes a cumulative concentration in excess of 20 milligrams of respirable dust will trigger such notice of violation.

Since these revisions are made to conform with the statutory requirements of section 202 of the Act and as they do not otherwise make any substantive changes in the regulations, it would be impractical and contrary to the public interest to delay the revised sampling requirements which are necessary to comply with the mandate of the statute. Accordingly, notice of proposed rule making, opportunity for public participation therein, and delay in effective date have been dispensed with in the issuance of these regulations.

Pursuant to the authority vested in the Secretary of the Interior and the Secretary of Health, Education, and Welfare under sections 202 and 508 of the Federal Coal Mine Health and Safety Act of 1969, as amended (30 U.S.C. 842, 957), Part 70 of Subchapter O, Chapter I of Title 30, Code of Federal Regulations is hereby amended as set forth below.

JOHN B. RIGG,
Deputy Assistant Secretary of the Interior.

DECEMBER 15, 1972.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

DECEMBER 21, 1972.

§ 70.210 [Amended]

1. In paragraphs (a) and (b) of § 70.210 the date "June 30, 1970" is changed to "December 30, 1972."

2. Section 70.211 is revised to read as follows:

§ 70.211 Violation of dust standard; original sampling cycle.

(a) If the data recorded pursuant to § 70.261 for an original sampling cycle with respect to a working section of a coal mine establish a cumulative concentration of respirable dust in excess of the cumulative concentration stated in paragraph (b) of this section with respect to the particular applicable limit, without regard to the number of samples analyzed, the Secretary shall issue a notice to the operator that he is in violation of paragraph (b) or paragraph (c) of § 70.100 of this Part 70. Paragraph (b) of § 70.100 prescribes a limit of 2.0 milligrams of respirable dust per cubic meter of air. Paragraph (c) of § 70.100 covers permits for noncompliance issued by the Interim Compliance Panel established by the Act. Such a permit may establish a limit in excess of 2.0 milligrams but not in excess of 3.0 milligrams.

(b) The cumulative concentration of respirable dust recorded from samples which establish noncompliance with a particular applicable limit may be as follows:

(1) When a limit of 3.0 milligrams per cubic meter of air is in effect, the cumulative concentration shall not exceed 30 milligrams of respirable dust;

(2) When a limit of 2.5 milligrams per cubic meter of air is in effect, the cumulative concentration shall not exceed 25 milligrams of respirable dust;

(3) When a limit of 2.0 milligrams per cubic meter of air is in effect, the cumulative concentration shall not exceed 20 milligrams of respirable dust; and,

(4) When any other limit is in effect under a standard based on the presence of quartz or under a permit for noncom-

pliance, the cumulative concentration shall not exceed 10 times the specified limit of respirable dust per cubic meter of air.

§ 70.220 [Amended]

3. In § 70.220(a)(3) the phrase "paragraph (a) or (c) of § 70.100" is changed to read "paragraph (b) or (c) of § 70.-100."

4. In paragraph (b) of § 70.221, the phrase "paragraph (a) or paragraph (c) of § 70.100" is changed to read "paragraph (b) or (c) of § 70.100"; and the second sentence of § 70.221(b) is deleted. As amended paragraph (b) of § 70.221 reads as follows:

§ 70.221 **Daily determination of average respirable dust concentration; notice of violation.**

* * * * *

(b) If the data recorded pursuant to § 70.261 for a current basic sample with respect to a working section of a coal mine establish an average concentration of respirable dust in excess of the average concentration stated in paragraph (b) of § 70.211, as applicable, the Secretary shall issue a notice to the operator that he has exceeded the applicable limit and is in violation of paragraph (b) or (c) of § 70.100 of this Part 70, as the case may be.

§§ 70.222 and 70.223 [Amended]

5. In §§ 70.222 and 70.223 the phrase "30 milligrams" is changed to "20 milligrams" wherever it appears.

§ 70.230 [Amended]

6. In § 70.230(d) the phrase "paragraph (a) or paragraph (c) of § 70.100" is changed to read "paragraph (b) or (c) of § 70.100."

(Sec. 202(b), 508, Federal Coal Mine Health and Safety Act of 1969; 30 U.S.C. 842(b), 957; 83 Stat. 760, 803)

[FR Doc.72-22280 Filed 12-27-72;8:47 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter X—Office of Oil and Gas, Department of the Interior

[Oil Import Reg. 1 (Rev. 5), Amdt. 49]

OI REG. 1

Oil Import Appeals Board and Imports of Canadian Crude and Unfinished Oils

In order to provide the Oil Import Appeals Board the means more promptly to implement its decisions during the balance of this calendar year and for the first 2 months of 1973, the following changes are made in section 21 of Oil Import Regulation 1 (Revision 5):

1. Paragraph (c)(1) is modified to eliminate the requirement that the Board notify the Director of the granting of an award 30 days prior to the beginning of the succeeding allocation period during which the award will become effective.

2. A new paragraph (c)(4) is added to permit the Board to make allocations for the period January 1, 1973, through February 28, 1973, when no specific quantity of oil has been made available to the Board.

It is deemed desirable also to extend access to Canadian imports in order to meet urgent feedstock requirements. Accordingly, the provision in paragraph (1) of section 29 of the Oil Import Regulation 1 (Revision 5) which requires that in order for a person to obtain a license to import Canadian imports to be charged against an allocation pursuant to section 9, 10, or 25, the person must also hold an allocation under section 29 is suspended effective January 1, 1973, and this provision will not be operative for the period January 1, 1973, through April 30, 1973.

Because of the urgent requirement to alleviate any existing supply dislocations during the first quarter of 1973, and these changes are merely technical in nature, it is not considered necessary to give notice of proposed rule making respecting this amendment, and it shall become effective upon publication in the FEDERAL REGISTER (12-28-72).

HOLLIS M. DOLE,
Assistant Secretary
Mineral Resources.

DECEMBER 22, 1972.

I concur:
G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

1. Paragraph (c)(1) of section 21 of Oil Import Regulation 1 (Revision 5) is amended to read as set forth below.

2. A new subparagraph (c)(4) is added to section 21 of Oil Import Regulaton 1 (Revision 5) which reads as set forth below.

Sec. 21 Appeals.

* * * * *

(c)(1) Except as provided in subparagraphs (2), (3), and (4) of this paragraph, the modification or grant of an allocation by the Appeals Board shall become effective in the allocation period, as provided in section 3 of this regulation, which succeeds the allocation period during which the Board's decision is made.

* * * * *

(4) The Board may make effective in the allocation period commencing January 1, 1973, a grant or modification pursuant to paragraph (b) of this section provided that the Director is notified on or before February 28, 1973.

* * * * *

[FR Doc.72-22350 Filed 12-26-72;10:22 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGD 72-223R]

PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS

Great Lakes Exemptions

The Coast Guard is amending Part 26 of Title 33 of the Code of Federal Regulations to reflect an exemption to the requirements of the Vessel Bridge-to-Bridge Radiotelephone Act for vessels operating on the waters of the Great Lakes.

A notice of proposed rule making was published in the FEDERAL REGISTER on November 11, 1972 (CGD 72-223P; 37 F.R. 24043) announcing a public hearing in Cleveland, Ohio, on December 4, 1972, and soliciting comments on the proposal from interested persons.

As pointed out in the notice of proposed rule making, vessels on the Great Lakes have for many years used radiotelephone for the exchange of navigational information.

There is presently in effect a United States-Canadian agreement for the promotion of safety on the Great Lakes by means of radio, which requires among other things, maintenance of a continuous listening watch on the voice radiotelephone frequency 2182 kHz. This requirement for a continuous voice radio guard and the ability of these vessels to communicate information directly connected with the safe navigation of vessels meets the intent of the Vessel Bridge-to-Bridge Radiotelephone Act. An amendment to this agreement, with provision for the use of VHF radiotelephone by Great Lakes vessels has been prepared and is presently awaiting final approval by the United States and Canada. The amended agreement is expected to become effective sometime in 1975.

At the public hearing conducted in Cleveland, Ohio on December 4, 1972 strong support for exemption of Great Lakes vessels from the requirements of the Act was expressed. Written comments generally supported the proposed exemption. There were, however, two comments which recommended against the exemption because it was felt the call-up-and-shift procedure inherent in such an exemption would not satisfy the intent of the Act. However, in light of the legislative history in Congress which supports the granting of an exemption for Great Lakes vessels and the excellent safety record attributable to the use of voice radio by vessels operating in those waters, these objections are considered unfounded.

The Coast Guard, upon review of all comments received, believes that the voice radiotelephone system now in use