

Executive Order 12291. Any comments from OMB to EPA, and any EPA responses to those comments, are available for public inspection in Room S-212 at EPA.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The hazardous wastes listed here are not generated by small entities (as defined by the Regulatory Flexibility Act), and the Agency does not believe that small entities will dispose of them in significant quantities. Accordingly, I hereby certify that this amendment is unlikely to have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

VI. List of Subjects in 40 CFR Part 261

Hazardous materials; Waste treatment and disposal, Recycling.

Dated: February 6, 1984.

Alvin L. Alm,

Acting Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In § 261.31 add the following waste streams:

§ 261.31 Hazardous waste from non-specific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
F024	Wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes. (This listing does not include light ends, spent filters and filter aids, spent desiccants, wastewater, wastewater treatment sludges, spent catalysts, and wastes listed in § 261.32.)	(T)

3. Add the following entry in numerical order to Appendix VII of Part 261:

Appendix VII—Basis for Listing Hazardous Wastes

EPA hazardous waste	Hazardous constituents for which listed
F024	Chloromethane, dichloromethane, trichloromethane, carbon tetrachloride, chloroethylene, 1,1-dichloroethane, 1,2-dichloroethane, trans-1,2-dichloroethylene, 1,1-dichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, trichloroethylene, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, tetrachloroethylene, pentachloroethane, hexachloroethane, allyl chloride (3-chloropropene), dichloropropane, dichloropropene, 2-chloro-1,3-butadiene, hexachloro-1,3-butadiene, hexachlorocyclopentadiene, hexachlorocyclohexane, benzene, chlorobenzene, dichlorobenzenes, 1,2,4-trichlorobenzene, tetrachlorobenzene, pentachlorobenzene, hexachlorobenzene, toluene, naphthalene

4. Add the following constituents in alphabetical order to Appendix VIII of Part 261.

3-Chloropropene (allyl chloride)
2-Chloro-1, 3-butadiene (chloroprene)

[FR Doc. 84-3086 Filed 2-9-84; 8:45 am]

BILLING CODE 6580-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

(SWH-FRL 2442-3(b))

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing a regulation under the Resource Conservation and Recovery Act (RCRA) that will list as hazardous a group of wastes of a generic category generated during the manufacture of chlorinated aliphatic hydrocarbons utilizing free radical catalyzed processes, having a carbon content ranging from one to five, with varying amounts and positions of chlorine substitution. The effect of this proposed regulation will be that all of these wastes will be subject to the hazardous waste management standards contained in 40 CFR Parts 262-266 and the permitting requirements of Parts 270, 271, and 124.

DATE: EPA will accept public comment on this proposal until April 10, 1984.

ADDRESSES: Comments should be sent to the Docket Clerk [Docket 261-83-2], Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Communications should identify the regulatory docket "Section 3001/Generic Chlorinated Aliphatic."

Public Docket: The public docket containing the Background Document and all other supporting documentation for this regulation is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday thru Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346 or at (202) 382-3000. For technical information contact Dr. Cate Jenkins, Office of Solid Waste (WH-565B), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382-4788.

SUPPLEMENTARY INFORMATION:

I. Background

As part of its regulations implementing Section 3001 of RCRA, EPA published a list of hazardous wastes which include hazardous wastes generated from non-specific sources.

This list has been amended several times, and is published in § 261.31 of Title 40 of the Code of the Federal Regulations. In this notice, EPA is proposing to amend this section to add a particular generic category of residual wastes generated during the manufacture of chlorinated aliphatic hydrocarbons by free radical catalyzed processes having carbon chain lengths ranging from one to five ("C₁-C₅"). These wastes are light ends, spent filters and filter aids, and dessicants from the manufacture of C₁-C₅ chlorinated aliphatic hydrocarbons.

In addition, in another section of today's Federal Register, EPA is promulgating, as an interim final rule, hazardous waste listings for distillation residues, heavy ends, tars, and reactor clean-out wastes from this same generic category of manufacturing processes. Neither this proposed nor the interim final listing, however, include process wastewaters, wastewater treatment sludges, or spent catalysts.

The hazardous constituents in the wastes in this proposed listing include the same wide range of carcinogenic and other toxic chlorinated and non-chlorinated organic compounds as in the wastes listed in the accompanying interim final rule. One or more of these toxicants typically are present in high concentrations in each waste (although each waste does not contain all of the individual toxic constituents of concern). These wastes consequently are of particular environmental concern. EPA has evaluated these wastes against the criteria for listing hazardous wastes (40 CFR 261.11(a)(3)), and has determined that they typically contain high concentrations of toxicants, the toxicants are mobile and persistent, the wastes are generated in large volumes and have been mismanaged in the past, and many of the toxicants in the wastes are regulated by other EPA regulations as well as under regulations of other governmental agencies. The Agency believes, therefore, that these wastes are capable of posing a substantial present or potential threat to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed, and thus are hazardous wastes.

II. Summary of the Proposed Regulation

As stated, the proposed regulation would list as hazardous light ends, spent filters and filter aids, and spent dessicants generated during free radical catalyzed manufacturing processes of chlorinated aliphatic hydrocarbons having carbon chain lengths ranging from one to five. Available information in the Section 3007 RCRA Industry

Studies data base indicates that approximately 63 million pounds (29,000 metric tons) per year of wastes would be covered by this proposed regulation.

Our proposal to list these wastes by means of generic process, rather than by individual processes, is based on the similarity of chemical reaction and by-product formation within the C₁-C₅ production processes, as described in the accompanying interim final listing and listing Background Document. The wastes covered by both this proposal and the interim final rule typically will contain significant aggregate concentration of one or more of the following contaminations of concern:

Carbon tetrachloride*
Vinyl chloride (Chloroethene)*
1,1-Dichloroethane (Ethylidene dichloride)*
1,2-Dichloroethane (Ethylene dichloride)*
trans-1, 2-Dichloropentene
1,1-Dichloroethene (Vinylidene chloride)*
1,1, 1-Trichloroethane**
1, 1, 2-Trichloroethane*
Trichloroethene (Trichloroethylene)*
1,1,1, 2-Tetrachloroethane
1,1,2, 2-Tetrachloroethane*
Tetrachloroethene (Perchloroethylene)*
Pentachloroethane
Hexachloroethane*
3-Chloropropene (Allyl chloride)
Epichlorohydrin (1-Chloro-2,3-epoxypropane)*
Dichloropropane
Dichloropropene**
2-Chloro-1,3-butadiene*
Hexachloro-1,3-butadiene*
Hexachlorocyclopentadiene**
alpha-Hexachlorocyclohexane*
beta-Hexachlorocyclohexane*
gamma-Hexachlorocyclohexane*
delta-Hexachlorocyclohexane**
Benzene*
Chlorobenzene**
Dichlorobenzenes**
1,2,4-Trichlorobenzene
Tetrachlorobenzene**
Pentachlorobenzene**
Hexachlorobenzene*
Toluene**
Naphthalene
Chloromethane (Methyl chloride)**
Dichloromethane (Methylene chloride)**
Trichloromethane (Chloroform)*

* Indicates compounds that have been determined by the U.S. EPA's Carcinogen Assessment Group (CAG) as having evidence of carcinogenicity. The weight of evidence for carcinogenicity varies. Some of the chemicals have human evidence (epidemiology data) while others have only animal evidence. Depending on the amount and quality of the data, the evidence could be classified as limited or sufficient using criteria developed by the International Agency for Research on Cancer. The EPA has established Ambient Water Quality Criteria Levels based on their potentially carcinogenic effects.

** Indicates compounds for which Ambient Water Quality Criteria Levels have been determined by the Agency for chronic human health risk other than carcinogenicity.

The contaminants include chlorinated aliphatic hydrocarbons as well as aromatic compounds and chlorinated aromatic compounds that are currently identified in Appendix VIII of Part 261. The potential of all of these contaminants to cause harm to human health and the environment is described in the accompanying interim final listing notice, the listing Background Document, and the Health and Environmental Effects Profiles.

The wastes covered by these regulations are formed as residuals at several points in an integrated series of reactors and associated purification units utilizing one or more free radical catalyzed chemical conversion steps to produce a range of desired chlorinated aliphatic hydrocarbons. This proposed listing covers wastes from all sources within an integrated process utilizing free radical catalyzed conversions, whether or not the integrated process utilizes free radical catalyzed conversions solely or in conjunction with other types of chemically catalyzed conversions.

The usual plant sources of the light ends derive from the hot, gaseous overhead streams from reactor vessels and/or associated purification and distillation equipment. The light ends component of these overheads is in fact liquids at standard temperature and pressure, but because of elevated temperature and admixture with gases (e.g., hydrogen, methane) they require some form of physical condensation to be isolated as liquids. For example, freon condensers coupled with water condensers are currently used by industry to recover light ends, products, unreacted feedstock, or wastes from the overheads. Incineration, flaring, or release to the atmosphere of light ends, without either partial or complete condensation to ambient temperature, is also practiced.

The Agency considers these light ends to be solid wastes within the meaning of section 1004(28) of RCRA. Although these wastes are generated as gases, they are liquids at standard temperature and pressure, and can feasibly be condensed to the liquid phase after generation.

The exclusion from RCRA of "gaseous materials" that are not contained (section 1004(28)), in the Agency's view, applies only to true gases, namely those which are not capable of being condensed and which remain gases at standard temperature and pressure (for example, the hydrogen and methane admixed with the light ends). The Agency, of course, is not requiring that these light ends be condensed; however, as a RCRA hazardous wastes, these

light ends remain subject to the applicable regulations even if left in the gaseous state. Otherwise, one could evade regulation under RCRA simply by heating every waste to the gaseous state.¹

The spent filters and filter aids, and spent dessicants are generated as residuals during product intermediate and feedstock purification. These wastes are currently managed by landfilling, incineration, or regeneration and recycling.

As shown in the Background Document, the hazardous constituents generally are present in these waste in significant concentrations, typically in concentrations many orders or magnitude above the levels related to human health concerns. For example, an analysis of one manufacturer's chlorinated propane distillation light ends (Table 1) shows the hazardous constituents at concentrations typically found in these wastes.² Chemical analyses obtained by the Agency and company supplied information in the Section 3007 RCRA Industry Studies data base demonstrate similar high concentrations of toxicants in all these wastes.³ Although there were many differences between these wastes, both qualitatively and quantitatively, in all cases, there were one or more of the toxicants of concern present at levels which could present a substantial environmental hazard if the wastes are mismanaged.

TABLE 1.—CHLORINATED PROPANE DISTILLATION LIGHT ENDS

Constituent	Percent
dichloromethane and isopropyl alcohol *	10.7
chloroform, acetonitrile and dichloropropane	4.0
ethyl chloride * and 2-chloropropanes/propenes	17.0
1,1-dichloroethane	4.0
1,2-dichloroethane	0.2
chloropropane *	22.0
chloropropane	18.0
chlorodihydroxypropanes *	0.2
dichloropropanes	12.0
dichloropropanes	14.4
dichloropropanols *	0.2
epichlorohydrin	0.4

¹ The Agency has previously listed distillation light ends from the production of phthalic anhydride from naphthalene and orthoxylene as hazardous wastes KO23 and KO93 (40 CFR 261.32), thus establishing a precedent for regulating a waste which originates from a gaseous overhead process stream. No comments were received questioning the Agency's authority to regulate these wastes.

² U.S. EPA. Disposal of Organochlorine Wastes by Incineration at Sea. EPA Publication No. 430/9-75-041 (1975).

³ The results of these analyses have been claimed by the individual companies to be confidential business information, and therefore are not presented here. The Background Document and supporting information for this action provides aggregate toxicant concentration ranges for the C₁ through C₆ process wastes sampled.

TABLE 1.—CHLORINATED PROPANE DISTILLATION LIGHT ENDS—Continued

Constituent	Percent
benzene	0.7

* At the present time, the Agency does not have adequate information to classify these constituents as toxicants of concern.

¹ (i.e., 7,000 parts per million).

The Agency has calculated that persons face a 1 per million increase risk of cancer or other adverse health effects as a result of lifetime ingestion of water when the water is contaminated at levels above the Ambient Water Quality Criteria Levels (AWOCL). As an indication of how high toxicant concentrations in these wastes are, the benzene alone in the light ends waste approaches ten million times the AWOCL. The other toxic constituents likewise are frequently present in concentrations orders of magnitude greater than the AWOCL.

In all cases, the solubilities of the toxicants of concern are many orders of magnitude greater than the AWOCL. Thus, only a small fraction of the toxicants present in these wastes need migrate and reach environmental receptors to pose the potential for substantial harm if these wastes are landfilled improperly. Improper incineration is another exposure pathway of concern.

In summary, and as detailed in the listing Background Document, these wastes typically contain toxicants at concentrations that are of concern, these toxicants are capable of migration and persistence in hazardous concentration, and therefore these wastes are capable of causing substantial harm if mismanaged.

IV. Economic, Environmental and Regulatory Impacts

A. Regulatory Impact Analysis

Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The effect of the present amendment is judged to be minor.

The total combined cost for disposal of the wastes as hazardous, assuming that all of these wastes would be managed for the first time as hazardous, and making conservative assumptions as to costs, is approximately \$15 million per year. This figure also overstates costs because information available from the Section 3007 RCRA Industry Studies data base indicates that over one fourth of these wastes are *already* being managed as hazardous waste at RCRA facilities. For these wastes, listing

will not add appreciably to the current cost of disposal except for the minimal additional cost of record keeping. It will also have very little additional cost impact on the permitting of these facilities since they are already handling hazardous wastes. Based on this reasoning, the estimated impact of this rule will be well under the \$100 million that constitutes a major regulation.

In addition, we do not expect that there will be adverse impacts on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, since this proposed amendment is not a major regulation, a Regulatory Impact Analysis is not being conducted.

This proposed amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA, and any EPA responses to those comments, are available for public inspection in Room S-212 at EPA.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the

head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The hazardous wastes listed here are not generated by small entities (as defined by the Regulatory Flexibility Act), and the Agency does not believe that small entities will dispose of them in significant quantities. Accordingly, I hereby certify that this amendment is unlikely to have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

VII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: February 6, 1984.

Alvin L. Alm,
Acting Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

2. In § 261.31 add the following waste streams:

§ 261.31 Hazardous waste from non-specific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
F025.....	Light ends, spent filters and filter aids, and spent desiccant wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes.	(T).

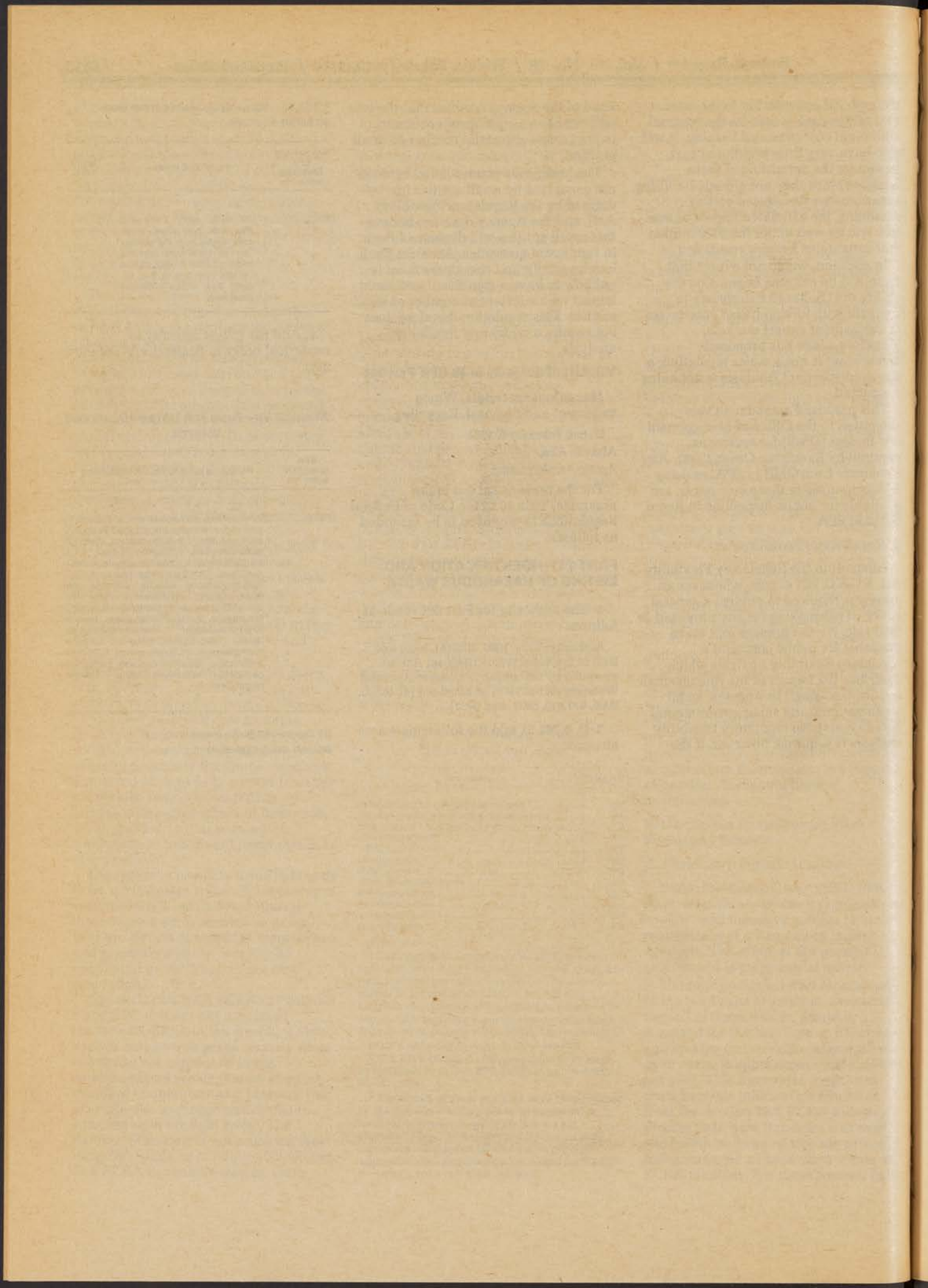
3. Add the following entry in numerical order to Appendix VII of Part 261:

APPENDIX VII—BASIS FOR LISTING HAZARDOUS WASTES

EPA hazardous waste No.	Hazardous constituents for which listed
F025.....	Chloromethane, dichloromethane, trichloromethane, carbon tetrachloride, chloroethylene, 1,1-dichloroethane, 1,2-dichloroethane, trans-1,2-dichloroethylene, 1,1-dichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, trichloroethylene, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, tetrachloroethylene, pentachloroethane, hexachloroethane, allyl chloride (3-chloropropene), dichloropropene, dichloropropene, 2-chloro-1,3-butadiene, hexachloro-1,3-butadiene, hexachlorocyclopentadiene, hexachlorocyclohexane, benzene, chlorobenzene, dichlorobenzenes, 1,2,4-trichlorobenzene, tetrachlorobenzene, pentachlorobenzene, hexachlorobenzene, toluene, naphthalene.

[FR Doc. 84-3687 Filed 2-9-84; 6:45 am]

BILLING CODE 5560-50-M



Test Report Federal Register

Friday
February 10, 1984

Part VI

Department of Labor

Occupational Safety and Health
Administration

29 CFR Part 1910

Revocation of Advisory and Repetitive
Standards; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-600]

Revocation of Advisory and Repetitive Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: This final rule revokes 153 of the 194 provisions of the General Industry Standards (29 CFR Part 1910) which were proposed for revocation on May 28, 1982 (47 FR 23477). These provisions use the word "should," or other advisory language instead of the mandatory "shall." Also revoked are three sections whose requirements are repeated elsewhere in Part 1910, and one advisory paragraph which was improperly adopted by OSHA as a mandatory provision.

Forty-one provisions originally proposed for revocation are being retained. Public comment and evidence in the record indicates that some of these provisions provide valuable guidance to employers in addressing significant workplace hazards, while the others are tied to or are part of mandatory provisions and are critical to the application or understanding of those provisions.

In addition, OSHA is amending § 1910.6 to clarify that only mandatory provisions of standards incorporated by reference are adopted as OSHA standards.

The removal of these advisory and repetitive provisions from the standards will facilitate OSHA's enforcement responsibilities regarding these provisions, and will assist employers by improving the clarity of the standards.

EFFECTIVE DATE: This final rule becomes effective on February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3637, 200 Constitution Avenue NW., Washington, D.C. 20210, (202) 523-8151.

SUPPLEMENTARY INFORMATION:**I. Background**

On May 28, 1982, OSHA published (47 FR 23477) a proposed revocation of nearly 200 provisions of the General Industry Standards (Part 1910). Notices of corrections to the proposal were published on June 8, 1982, (47 FR 24751)

and June 15, 1982, (47 FR 25743). The purpose of the proposal was to correct problems that OSHA had encountered in enforcing some of the provisions in the initial package of Occupational Safety and Health Standards adopted under Section 6(a) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 29 U.S.C. 655).

Many of the standards adopted under Section 6(a) were national consensus standards originally developed by the American National Standards Institute (ANSI) and the National Fire Protection Association (NFPA). Some of these standards contained advisory provisions which were adopted verbatim by OSHA. The advisory provisions generally provided that an employer "should" undertake specified safety or health obligations. For example, the third sentence of 29 CFR 1910.107(e)(7) provides that agitators, if used, "should" preferably be driven by compressed air, water, or low pressure steam.

In other instances, ANSI standards which contained "should" provisions were changed by OSHA to "shall" when the regulations were promulgated under Section 6(a). The sole remaining standard of this type is 29 CFR 1910.28(a)(3), which provides that guardrails *shall* be installed on platforms more than 10 feet in height. This regulation's ANSI precursor merely advised that guardrails *should* be provided.

In still other instances, OSHA incorporated by reference certain ANSI or NFPA consensus standards which contained advisory provisions. It is clear that the problems associated with the "should" standards and other advisory provisions which are actually published in Part 1910, are also present wherever such advisory provisions are found in standards incorporated by reference.

In the past, OSHA maintained that all standards, regardless of whether the term "should" or "shall" is used, created mandatory compliance responsibilities. Employers have consistently challenged this position on the basis that Section 6(a) of the Act only gave OSHA the authority to adopt ANSI standards verbatim. In ANSI standards, use of the term "should" means that the provision is only advisory. Therefore, employers maintained that ANSI "should" standards could only be advisory when adopted by OSHA under Section 6(a).

Enforcement of "should" standards has been denied by the Occupational Safety and Health Review Commission, and by most of the appellate courts in which contested cases have been heard. For example, in *Marshall v. Pittsburgh-Des Moines Steel Company*, 584 F.2d 638, 643-44 (1978), the Third Circuit

Court of Appeals determined that "should" standards were merely advisory because the consensus organization had reached "substantial agreement" that these provisions be viewed only as *recommendations*, and not as mandatory standards.

The courts have also ruled that failure to adopt an ANSI standard verbatim (in this case by changing a "should" to a "shall" in § 1910.28(a)(3)) renders the resulting OSHA Section 6(a) standard invalid and unenforceable [see *Usery v. Kennecott Copper Corporation*, 577 F.2d 1113, 1117 (10th Cir. 1977)].

Although the "should" standards have not been enforceable in and of themselves, OSHA has also employed the "should" provisions to demonstrate the existence of "recognized hazards" under the general duty clause [Section 5(a)(1)] of the Act. However, the Review Commission has ruled that, as long as the "should" standard remains in effect, even though it is not enforceable, OSHA may not issue a general duty clause citation for the hazard addressed by that "should" standard (see *A. Prokosch & Sons Sheet Metal and Mid Hudson Automatic Sprinkler*, 1980 CCH OSHO ¶24,840). This decision was of great concern to the Agency, since some of the "should" and other advisory provisions cover hazards which may be serious or potentially serious under certain conditions. The fact that OSHA cannot enforce these provisions either directly or indirectly leaves gaps in coverage, resulting in decreased safety and health protection for the nation's employees. Where these provisions cover hazards which may cause death or serious physical harm to employees, the revocation of such provisions will enable OSHA to issue citations for these hazards under the general duty clause.

Many of the "should" provisions in the OSHA standards have little direct or immediate relationship to employee safety and health. The removal of these advisory provisions will serve to simplify and streamline the existing Part 1910.

The standards contained in §§ 1910.166-168 are not "shoulds" or other advisory provisions. Rather, they are repetitions of requirements concerning compressed gas cylinders and compressed gas equipment which are also found in § 1910.101 of Subpart H. Their removal will not lessen employee protection in any way. Elimination of these repetitive sections will, however, serve to shorten and streamline Part 1910.

At its meeting on December 18, 1981, the National Advisory Committee on Occupational Safety and Health

(NACOSH) recommended that OSHA not proceed with deletion of advisory provisions at this time. Instead, the committee recommended that OSHA wait until the Agency could simultaneously propose mandatory rules under Section 6(b) of the Act to take the place of the advisory provisions wherever necessary. OSHA agreed with NACOSH that rulemaking action might be warranted in the future to provide specific coverage for certain hazards which are currently addressed only by advisory provisions. The need for future promulgation of mandatory provisions is discussed more fully below.

Based on OSHA's review of the comments, the Agency has determined that some of the "should" provisions proposed for revocation in May 1982 are not totally advisory, in that they are an essential part of, or otherwise tied to, a mandatory provision. For example, the note to Table G-16 of § 1910.95, Occupational Noise Exposure, is necessary for the proper interpretation and use of the Table. There are other provisions which, though advisory on their face, are relied upon for valuable guidance in insuring a safe workplace when dealing with potentially serious hazards, while still others are used by other federal agencies, such as the Federal Communications Commission (FCC), in exercising its own statutory obligations. OSHA believes that revocation of these provisions would have deleterious effects and would not accomplish the purposes of the revocation as expressed in the proposal. A discussion of the provisions being revoked and of those being retained is found in the summary and explanation of the final rule.

In this preamble, OSHA identifies exhibits submitted to Docket S-600 with parentheses (Ex. 5). Comment numbers follow the exhibit in which they are contained (Ex. 5: 24). If more than one comment within an exhibit is cited, the comment numbers are separated by semicolons (Ex. 5: 24; 102).

II. Public Response to the Proposal

The comment period, originally scheduled to be closed on July 27, 1982, was later extended to September 10, 1982 (47 FR 34577). A total of 58 comments were received.

Twenty two (22) commenters (e.g., Ex. 2: 1; 2: 2; 2: 4; 2: 5; 2: 8) were generally supportive of the proposed revocation, and for the most part did not discuss any of the specific provisions. For example, Mr. James McKarns, (Ex. 2: 4) an industrial hygienist, stated " * * * I agree with the proposal to revoke the 194 advisory statements and standards enumerated."

Eighteen (18) commenters (e.g., Ex. 2: 8; 2: 7; 2: 9; 2: 11; and 2: 13) generally opposed the proposed revocations because they felt that even though the advisory provisions were not enforceable, a reduction in employee safety and health would result from their removal. For example, the Hoist Manufacturers Institute (Ex. 2: 13), in its comment stated, " * * * we believe the proposed revocation of advisory OSHA standards would be both unwise and in violation of OSHA's primary obligation to assure * * * safe and healthful working conditions." The National Society to Prevent Blindness stated, "While we recognize the legal difficulties presented to OSHA by the use of the word 'should' in many standards adopted by the Agency, revoking them would have an effect exactly opposite as to the Agency's goal—reducing workplace injuries."

Twelve (12) of the 18 commenters (e.g., Ex. 2: 19; 2: 35; 2: 40; and 2: 50), in addition to objecting generally to the proposal, suggested that OSHA convert all the "shoulds" to "shalls" in accordance with the procedure recommended by NACOSH. For example, the Phillips Petroleum Company (Ex. 2: 19) stated, "If it is determined that advisory standards should be revoked, we believe that OSHA should follow the recommendation of the National Advisory Committee on Occupational Safety and Health (NACOSH)."

The State of California (Ex. 2: 58) stated, " * * * although we do not have access to the details of the arguments presented at the NACOSH meeting in December 1981, we agree with the Committee's recommendation that OSHA not proceed to delete rules until replacement rules are in effect."

Three commenters (Ex. 2: 7; 2: 39; and 2: 52) addressed the issue of the proposed revocation of the three repetitive sections (§§ 1910.166–1910.168), while only two commenters (Ex. 2: 7; and 2: 20) addressed the issue of the proposed amendment to § 1910.6.

Only one request (Ex. 2: 6) for an informal public hearing was received, but was later withdrawn (Ex. 2: 59). Therefore, no public hearing was held on the proposal.

III. Summary and Explanation of the Final Rule

OSHA has determined that most of the proposed revocations will not reduce the safety and health of employees. However, where OSHA believes that revocation of a given provision might diminish employee protection, the provision in question is being retained in Part 1910. OSHA would like to point out,

in addition, that 78 of the 194 provisions originally proposed for revocation are contained in standards already scheduled for revision by section 6(b) rulemaking in the future. These provisions include those contained in Subparts D and H, and in § 1910.66, § 1910.95, § 1910.97, and § 1910.134. It is expected that mandatory provisions will be proposed in these revisions where necessary to replace the advisory provisions currently contained in those sections.

After consideration of the evidence and public comment, OSHA has decided to revoke 153 of the 194 provisions originally proposed for revocation, and to amend § 1910.6 in the manner proposed. These 153 items, including the improperly promulgated "shall" in § 1910.28(a)(3), are being revoked (as discussed in the proposal, and again in the *Background* section of this document) because they have been determined to be unenforceable, and it is the OSHA's conclusion that their elimination will not adversely affect the safety and health of the employees covered by the OSHA standards. Revocation of the repetitive sections (§§ 1910.166–168) will simplify and streamline the existing OSHA General Industry Standards.

However, after reviewing the record, OSHA has determined that 41 of the provisions which were proposed for revocation should, in fact, be retained in OSHA standards. Each of these 41 provisions is being retained for one, or both, of two reasons: (1) The provision provides valuable guidance for employers and employees in achieving a safe and healthful workplace; or (2) Its retention is necessary for the application or understanding of an existing mandatory provision of the OSHA standards. A discussion of each of these areas follows.

A. The record reflects that some of the provisions originally proposed for revocation are valuable even though they are unenforceable, because they are relied upon in many situations for guidance in providing and maintaining a safe and healthful workplace. OSHA, in reviewing the record, has determined that the benefits to employee safety and health are sufficient to justify leaving these provisions in place until they can be replaced by mandatory provisions.

For example, the FCC (Ex. 2: 29) recognizes that § 1910.97 is only advisory, but recommends that the standard be retained until a replacement is promulgated because " * * * the lack of any standard will leave a vacuum that may create serious problems for Federal and state agencies

with an interest in the use of RF energy."

The Atlantic Richfield Company (Ex. 2: 31) in expressing its concerns regarding proposed revocations of parts of the respiratory protection standard (§ 1910.134) stated, "This action may materially affect the level of protection afforded employees who must utilize respiratory protective devices." Atlantic Richfield went on to recommend that OSHA not revoke these provisions, but leave them until a section 6(b) rulemaking can be initiated to revise § 1910.134.

The Bakery, Confectionary and Tobacco Workers International Union (Ex. 2: 11), in opposing the proposed revocation of § 1910.263(i)(11) and § 1910.263(j)(1)(vii)(c), stated that "... [the two provisions] have proved indispensable in ensuring safer working conditions in the baking industry."

The American Petroleum Institute (Ex. 2: 27), while generally sympathetic to OSHA's position on the "should" provisions, nevertheless believes

"... That certain of the advisory provisions in question provide useful guidance to employers in implementing employee protection programs and believes that deletion of such provisions may work to the detriment of near term employee welfare."

The United Steelworkers of America (Ex. 2: 24), in opposing the OSHA proposal, stated "I have listed below several examples of 'should' standards which you propose to delete that cover serious safety and health standards. This is only a partial list. There are many others that at least inform an employer that a serious hazard exists ... The provisions listed by the Steelworkers include two from § 1910.25, one from § 1910.134, three from § 1910.252 and one from § 1910.265."

It is evident that although there is not complete agreement on which provisions should be retained because of their valuable guidance, there is sufficient justification for retention of a significant number of these provisions. A list of provisions being retained for their guidance value appears later in this summary and explanation section.

B. Secondly, OSHA recognizes that some of the proposed revocations involve provisions which, although advisory on their face, are actually either tied to or part of mandatory provisions, and are critical for the application and understanding of these provisions.

For example, numerous objections to revoking the footnote to Table G-16, § 1910.95 (Occupational Noise Exposure), were received. Alice Suter

(Ex. 2: 30), an industrial audiologist, commented that "To delete the footnote to Table G-16 would give employers the impression that these provisions are unnecessary to protect the hearing and health of their employees." The DuPont Company (Ex. 2: 32) stated in its comment that "To effectively carry out the intent of Table G-16, the footnote should be part of the Table." The Shell Oil Company (Ex. 2: 42) felt that the deletion of the footnote "... may substantially reduce employee protection from noise exposure. It would eliminate the combined effect of noise exposure periods and delete the peak impulsive or impact noise restriction of 140 db."

Another example of a provision tied to or part of a mandatory provision, and necessary for the application or understanding of the mandatory provision is § 1910.66(d)(8)(ii), which states that fastening devices for safety belts "should" be of the self-closing type. Safety belts are mandated in § 1910.66(d)(8)(i). Since adequate fastening devices are essential in the use of safety belts, the "should" provision is necessary for the application of the total safety belt provision.

Table I presents a complete listing of the provisions being retained because of their guidance value. Those provisions included in standards for which revisions are planned in the future are denoted by an asterisk.

Table I.—Provisions Which Provide Guidance

- * 1. The phrase "and false floors, platforms, mats, or other dry standing places should be provided where practicable" in the second sentence of paragraph (a)(2) of § 1910.22.
- * 2. The third sentence of paragraph (e)(5)(i) of § 1910.23.
- * 3. Paragraph (c)(5) of § 1910.25.
- * 4. Paragraph (d)(1)(xi) of § 1910.25.
- * 5. Paragraph (d)(2)(ii) of § 1910.25.
- * 6. Paragraph (d)(2)(xv) of § 1910.25.
- * 7. Paragraph (d)(2)(xvii) of § 1910.25.
- * 8. The first sentence of paragraph (d)(2)(xix) of § 1910.25.
- * 9. Paragraph (c)(2)(vi)(d) of § 1910.26.
- * 10. Paragraph (c)(3)(vii) of § 1910.26.
- * 11. Paragraph (d)(8)(ii) of § 1910.66.
12. Paragraph (c)(6)(iii)(a) of § 1910.94.
- * 13. § 1910.97.
14. Paragraph (a)(2)(vii) of § 1910.133.
- * 15. Paragraph (b)(10) of § 1910.134.
- * 16. The second and third sentences of paragraph (e)(1) of § 1910.134.
- * 17. The second, third and fifth sentences of paragraph (f)(5) (i) of § 1910.134.
- * 18. Paragraph (f)(5)(ii) of § 1910.134.
19. Paragraph (e)(2) of § 1910.145.
20. Paragraph (i)(3)(vi) of § 1910.181.
21. Paragraph (i)(4)(ii) of § 1910.181.
22. Paragraph (b)(4) of § 1910.213.
23. Paragraph (l)(2) of § 1910.213.
24. Paragraph (m)(1)(ii) of § 1910.219.

25. The second sentence of paragraph (b)(4)(viii) of § 1910.252.

26. The first sentence of paragraph (b)(4)(ix)(a) of § 1910.252.

27. The second sentence of paragraph (f)(11)(ii) of § 1910.252.

28. The third sentence of paragraph (l)(9) (i) of § 1910.261.

29. The phrases "and should not be operated at a speed greater than" and "which," in the first sentence of paragraph (y)(1)(iv) of § 1910.262.

30. Paragraph (c)(12)(i) of § 1910.265.

31. Paragraph (c)(20)(i) of § 1910.265.

Table II presents a complete listing of the provisions being retained because they are tied to, or part of, mandatory provisions. Those provisions included in standards for which revisions are planned in the future are denoted by an asterisk.

Table II.—Provisions Which Are Tied to, or Part of, Mandatory Provisions

- * 1. Paragraph (d)(8)(ii) of § 1910.66.
 - * 2. The entire footnote at the end of Table G-16 of § 1910.95.
 - * 3. The phrase "in addition, they should be separated from each other by not less than the distances shown for a 'Separation of Magazines,' except that the quantity of explosives contained in cap magazines shall govern in regard to the spacing of said cap magazines" in note 4 of Table H-21, § 1910.109.
 - * 4. The third sentence (including the entire formula for determining maximum volume of LP Gas) and notes at the end of paragraph (b)(19)(v)(a) of § 1910.110.
 - * 5. The second and third sentences of paragraph (e)(1) of § 1910.134.
 - * 6. The second, third and fifth sentences of paragraph (f)(5)(i) of § 1910.134.
 7. The third sentence of paragraph (p)(1) of § 1910.213.
 8. The phrase "should not exceed 90° or one-fourth of the periphery" in the first sentence, and the phrase "This exposure" in the second sentence of paragraph (b)(3) of § 1910.215.
 9. The second sentence of paragraph (a)(3)(iv) of § 1910.218.
 10. The first and second sentences of paragraph (b)(2)(iv)(d) of § 1910.252.
 11. The phrase "those on the unloading side should be partially cut through first, and then the binder wires cut on the opposite side. Wire cutters equipped with long extension handles shall be used." In the first and second sentences of paragraph (c)(4)(iii) of § 1910.261.
 12. The third sentence of paragraph (1)(9)(i) of § 1910.261.
 13. The second sentence of paragraph (i)(11) of § 1910.263.
 14. The second and third sentences of paragraph (j)(1)(vii)(c) of § 1910.263.
- The remaining 22 (unasterisked) of these retained provisions in Tables I and II are contained in standards for which early rulemaking is not currently contemplated. However, OSHA plans to incorporate proposed amendments of

these provisions into its review and revision of the various subparts of Part 1910 when it updates these subparts in the future.

In summary, OSHA has determined that the 41 provisions being retained are too important for the establishment and maintenance of a safe and healthful workplace to be removed without simultaneous replacement by a mandatory requirement. However, the problems with enforcement of these provisions remains as long as they are left in place. It is anticipated, therefore, that all of the topics addressed by these 41 provisions will be the subject of 6(b) rulemaking in the future to develop provisions which are mandatory and fully enforceable.

IV. Regulatory Assessment

The revocation of "should" and other advisory or repetitive provisions of the General Industry Safety and Health Standards is not a "major" action as defined by Executive Order Number 12291 (46 FR 13193, February 19, 1981) as it does not have an annual effect on the economy of \$100 million or more; cause major increases in costs or prices; or have other significant adverse effects. Revocation of these provisions does not constitute a "major rule" primarily because few, if any, additional requirements are imposed on industry. Revocation relieves current regulatory burdens created by the uncertainty regarding the enforceability of these provisions.

For the same reason, it is certified that pursuant to the provisions of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601) these revocations do not have a significant economic impact on a substantial number of small entities.

V. List of Subjects in 29 CFR Part 1910

Explosives, Flammable materials, Gases, Hazardous materials, Health, Industrial trucks, Ladders and scaffolds, Machinery, Occupational safety and health, Protective equipment, Respiratory protection, Safety, Signs and symbols, Tools, Welding.

VI. Effective Date

Because this regulatory action involves deletion of unenforceable standards, OSHA has determined that there is good cause to make this final rule effective immediately, pursuant to 5 U.S.C. 553(d). Therefore the revocations listed herein are effective on February 10, 1984. The 24 States with their own OSHA approved occupational safety and health plans must adopt comparable standards within six months of this publication date. These are: Alaska,

Arizona, California, Connecticut (for state and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

VII. Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1600; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 9-83 (48 FR 35736) and 29 CFR Part 1911, 29 CFR Part 1910 is amended as set forth below.

Signed at Washington, D.C., this 7th day of February 1984.

Thorne G. Auchter,
Assistant Secretary of Labor.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Part 1910 of Title 29 of the Code of Federal Regulations is amended as follows:

A. Paragraph (a) of § 1910.6 is revised to read as follows:

§ 1910.6 Incorporation by reference.

(a) The standards of agencies of the U.S. Government, and organizations which are not agencies of the U.S. Government which are incorporated by reference in this Part, have the same force and effect as other standards in this Part. Only the mandatory provisions (i.e., provisions containing the word "shall" or other mandatory language) of standards incorporated by reference are adopted as standards under the Occupational Safety and Health Act.

* * *

§ 1910.24 [Amended]

B. The heading of paragraph (g) of § 1910.24 is revised to read "Stairway platforms."

C. 29 CFR Part 1910 is further amended as follows:

Subpart D—Walking-Working Surfaces

§ 1910.23 Guarding floor and wall openings and holes. [Amended]

1. The phrase, "and should preferably be hinged or otherwise mounted so as to be conveniently replaceable," in the second sentence of paragraph (a)(3)(ii) of § 1910.23 is removed.

2. The phrase, "which should be hinged in place," in the first sentence of paragraph (a)(5) of § 1910.23 is removed.

3. The phrase, "that should be hinged in place," in the first sentence of paragraph (a)(8)(ii) of § 1910.23 is removed.

4. The second sentence of paragraph (b)(1)(i) of § 1910.23 is removed.

§ 1910.24 Fixed industrial stairs. [Amended]

5. The first two sentences of paragraph (f) of § 1910.24 are removed.

6. The first two sentences of paragraph (g) of § 1910.24 are removed.

7. Paragraph (j) of § 1910.24 is removed.

§ 1910.25 Portable wood ladders. [Amended]

8. Paragraph (d)(2)(vi) of § 1910.25 is removed.

9. Paragraph (d)(2)(vii) of § 1910.25 is removed.

10. The second sentence of paragraph (d)(2)(xiv) of § 1910.25 is removed.

11. Paragraph (d)(2)(xvi) of § 1910.25 is removed.

12. Paragraph (d)(2)(xviii) of § 1910.25 is removed.

§ 1910.26 Portable metal ladders. [Amended]

13. The second sentence of paragraph (c)(2)(iv) of § 1910.26 is removed.

14. Paragraph (c)(2)(v) of § 1910.26 is removed.

15. The first sentence of the introductory text of paragraph (c)(2)(vi) of § 1910.26 is removed.

16. Paragraph (c)(2)(vi)(b) of § 1910.26 is removed.

17. Paragraph (c)(2)(vi)(c) of § 1910.26 is removed.

18. The first sentence of paragraph (c)(3)(i) of § 1910.26 is removed.

19. The second and third sentences of paragraph (c)(3)(iii) of § 1910.26 are removed.

20. The second sentence of paragraph (c)(3)(iv) of § 1910.26 is removed.

§ 1910.28 Safety requirements for scaffolding. [Amended]

21. Paragraph (a)(3) of § 1910.28 is removed.

22. Paragraph (p)(1) of § 1910.28 is removed.

23. The words "they should be arranged so as to provide four ends which are to be securely fastened to an overhead support" in the third sentence of paragraph (u)(5) of § 1910.28 are removed and the remainder of the third sentence is combined with the fourth sentence.

§ 1910.30 Other working surfaces. [Amended]

24. The phrase, "and should be defined by marking," in the second sentence of paragraph (b)(2) of § 1910.30 is removed.

Subpart F—Powered Platforms, Manlifts and Vehicle-Mounted Work Platforms

§ 1910.66 Powered Platforms for exterior building maintenance. [Amended]

25. The first sentence of paragraph (c)(20)(viii) of § 1910.66 is removed.

Subpart G—Occupational Health and Environmental Control

§ 1910.94 Ventilation. [Amended]

26. The phrase, "periodically, thereafter, the air flow should be remeasured, and," in the fourth sentence of paragraph (d)(8)(iii) of § 1910.94 is removed.

Subpart H—Hazardous Materials

§ 1910.107 Spray finishing using flammable and combustible materials. [Amended]

27. The fourth, fifth and sixth sentences of paragraph (b)(5)(i) of § 1910.107 are removed.

28. Paragraph (c)(9)(ii) of § 1910.107 is removed.

29. The third sentence of paragraph (e)(7) of § 1910.107 is removed.

30. The second sentence of paragraph (i)(3) of § 1910.107 is removed.

§ 1910.108 Dip tanks containing flammable or combustible liquids. [Amended]

31. The second sentence of paragraph (c)(1) of § 1910.108 is removed.

32. The second, third and fourth sentences of paragraph (c)(2)(i) of § 1910.108 are removed.

33. The second sentence of paragraph (g)(3)(ii)(a) of § 1910.108 is removed.

34. The phrase, "and should be at least five feet from processing equipment," in the second sentence of paragraph (h)(3)(x) of § 1910.108 is removed.

§ 1910.110 Storage and handling of liquefied petroleum gases. [Amended]

35. The fourth sentence of paragraph (b)(10)(xii) of § 1910.110 is removed.

36. The note, "Fixed electrical equipment should preferably not be installed" in the fourth column, Table H-28 of § 1910.110, is removed.

37. The second sentence of paragraph (d)(7)(vi)(b) of § 1910.110 is removed.

38. The words, "pits and," in the heading and the first sentence of paragraph (d)(11) of § 1910.110 are removed.

39. The first sentence of paragraph (e)(5)(iv)(e) of § 1910.110 is removed.

40. The words "should preferably be stored in the open" and "they" in paragraph (f)(2)(v) of § 1910.110 are removed and the two sentences are combined into one.

41. Paragraph (h)(4)(iii)(b) of § 1910.110 is removed.

§ 1910.111 Storage and handling of anhydrous ammonia. [Amended]

42. Paragraph (b)(10)(i) of § 1910.111 is removed.

43. Paragraph (b)(15) of § 1910.111 is removed.

Subpart I—Personal Protective Equipment

§ 1910.134 Respiratory protection. [Amended]

44. Paragraph (b)(4) of § 1910.134 is removed.

45. The second sentence of paragraph (b)(5) of § 1910.134 is removed.

46. The fourth, fifth, and sixth sentences of paragraph (e)(2) of § 1910.134 are removed.

47. The second and third sentences of paragraph (f)(3) of § 1910.134 are removed.

Subpart J—General Environmental Controls

§ 1910.144 Safety color code for marking physical hazards. [Amended]

48. The second sentence of paragraph (a)(3) of § 1910.144 is removed.

§ 1910.145 Specifications for accident prevention signs and tags. [Amended]

49. The first sentence of paragraph (c)(1)(i) of § 1910.145 is removed.

50. The phrase, "but should be used until a positive means can be employed to eliminate the hazard," in the second sentence of paragraph (f)(1)(i) of § 1910.145 is removed.

51. Paragraph (f)(4)(i) of § 1910.145 is removed.

52. Paragraph (f)(4)(iii) of § 1910.145 is removed.

53. Paragraph (f)(5)(i) of § 1910.145 is removed.

54. Paragraph (f)(5)(ii) of § 1910.145 is removed.

55. Paragraph (f)(6) of § 1910.145 is removed.

Subpart M—Compressed Gas and Compressed Air Equipment

§ 1910.166 Inspection of compressed gas cylinders. [Removed]

56. The heading and text of § 1910.166 is removed. The section number is reserved.

§ 1910.167 Safety relief devices for compressed gas cylinders. [Removed]

57. The heading and text of § 1910.167 is removed. The section number is reserved.

§ 1910.168 Safety relief devices for cargo and portable tanks storing compressed gases. [Removed]

58. The heading and text of § 1910.168 is removed. The section number is reserved.

§ 1910.169 Air receivers. [Amended]

59. The second and fourth sentences of paragraph (b)(1) of § 1910.169 are removed.

Subpart N—Materials Handling and Storage

§ 1910.178 Powered industrial trucks. [Amended]

60. Paragraph (g)(3) of § 1910.178 is removed.

61. The first sentence of paragraph (g)(9) of § 1910.178 is removed.

62. Paragraph (h)(1) of § 1910.178 is removed.

63. Paragraph (i)(2) of § 1910.178 is removed.

64. Paragraph (n)(7)(ii) of § 1910.178 is removed.

65. The first sentence of paragraph (o)(4) of § 1910.178 is removed.

§ 1910.179 Overhead and gantry cranes. [Amended]

66. The second sentence of paragraph (b)(2) of § 1910.179 is removed.

67. Paragraph (c)(1)(iii) of § 1910.179 is removed.

68. The first sentence of paragraph (c)(3) of § 1910.179 is removed.

69. The second sentence of paragraph (d)(1)(i) of § 1910.179 is removed.

70. The first and third sentences of paragraph (d)(1)(ii) of § 1910.179 are removed. The second sentence of that paragraph is revised to read as follows: "Where footwalks are located in no case shall less than 48 inches of headroom be provided."

71. Paragraph (d)(2)(iii) of § 1910.179 is removed.

72. The first sentence of paragraph (d)(2)(iv) of § 1910.179 is removed.

73. Paragraph (j)(3)(ix) of § 1910.179 is removed.

74. The second sentence of paragraph (j)(4)(iii) of § 1910.179 is removed.

75. The first two sentences of paragraph (k)(2) of § 1910.179 are removed.

76. Paragraph (l)(2)(i)(f) of § 1910.179 is removed.

§ 1910.180 Crawler locomotive and truck cranes. [Amended]

77. Paragraph (h)(3)(ii)(d) of § 1910.180 is removed.

§ 1910.181 Derricks. [Amended]

78. The second sentence of paragraph (b)(2) of § 1910.181 is removed.

79. All of paragraph (d)(3)(i)(f) except the word "Hooks" is removed.

80. The second sentence of paragraph (d)(4)(iii) of § 1910.181 is removed.

81. Paragraph (i)(3)(ii)(d) of § 1910.181 is removed.

Subpart O—Machinery and Machine Guarding**§ 1910.213 Woodworking machinery requirements. [Amended]**

82. The fifth sentence of paragraph (c)(1) of § 1910.213 is removed.

83. The phrase, "and should be placed so that there is not more than 1/2-inch space between the spreader and the back of the saw when the largest saw is mounted in the machine" in the fourth sentence of paragraph (c)(2) of § 1910.213, is removed.

84. Paragraph (d)(2) of § 1910.213 is removed.

85. The fourth sentence of paragraph (h)(5) of § 1910.213 is removed.

86. The phrase, "and the top member of the guard should have at least a 2-inch clearance outside the saw and be lined with smooth material, preferably metal," in the ninth sentence of paragraph (i)(1) of § 1910.213, is removed.

87. The tenth sentence of paragraph (i)(1) of § 1910.213 is removed.

88. Paragraph (m)(2) of § 1910.213 is removed.

89. The phrase, "which should be hinged to the machines so that they can be thrown back for making adjustments," in paragraph (o)(2) of § 1910.213, is removed.

§ 1910.215 Abrasive wheel machinery. [Amended]

90. The phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(i) of § 1910.215 is removed.

91. The phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(ii) of § 1910.215, is removed.

92. The phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(iii) of § 1910.215, is removed.

93. The second and third sentences of paragraph (d)(5) of § 1910.215, is removed.

94. Paragraph (d)(7) of § 1910.215 is removed.

§ 1910.216 Mills and calendars in the rubber and plastics industries. [Amended]

95. The third sentence of paragraph (b)(1)(i) of § 1910.216 is removed.

96. Paragraph (b)(2) of § 1910.216 is removed.

97. The second and third sentences of paragraph (c)(2) of § 1910.216 are removed.

98. Paragraph (g) of § 1910.216 is removed.

§ 1910.218 Forging machines. [Amended]

99. The second, third and fourth sentences of paragraph (a)(3)(v) of § 1910.218 are removed.

100. The phrase, "and should not project more than 2 inches in front and 4 inches in back of ram or die," in paragraph (b)(1) of § 1910.218, is removed.

101. The phrase, "and should be conveniently located and distinctly marked for ease of identification" in paragraph (e)(1)(ii) of § 1910.218 is removed.

102. The second, third and fourth sentences of paragraph (h)(4) of § 1910.218 are removed.

103. The second and third sentences of paragraph (j)(2) of § 1910.218 are removed.

§ 1910.219 Mechanical power transmission apparatus. [Amended]

104. Paragraph (d)(2)(ii) of § 1910.219 is removed.

105. Paragraph (l)(1)(iii) of § 1910.219 is removed.

106. The second sentence of paragraph (l)(3) of § 1910.219 is removed.

107. The seventh sentence of paragraph (o)(5)(ii) of § 1910.219 is removed.

108. The second sentence of paragraph (o)(5)(iii) of § 1910.219 is removed.

109. Paragraph (p)(5)(ii) of § 1910.219 is removed.

110. Paragraph (p)(5)(iii) of § 1910.219 is removed.

111. Paragraph (p)(5)(iv) of § 1910.219 is removed.

112. Paragraph (p)(6)(iii) of § 1910.219 is removed.

113. The phrase, "and should use cans with long spouts to keep their hands out of danger," in the first sentence of paragraph (p)(7) of § 1910.219 is removed.

Subpart P—Hand and Portable Tools and Other Hand-Held Equipment**§ 1910.243 Guarding of portable powered tools. [Amended]**

114. The phrase, "and hands should be kept clear of the open barrel end," in the

second sentence of paragraph (d)(4)(iii) of § 1910.243, is removed.

115. The fourth sentence of paragraph (d)(4)(v) of § 1910.243 is removed.

§ 1910.244 Other portable tools and equipment. [Amended]

116. The second sentence of paragraph (a)(2)(v) of § 1910.244 is removed.

Subpart Q—Welding, Cutting, and Brazing**§ 1910.252 Welding, cutting, and brazing. [Amended]**

117. The fourth sentence of paragraph (a)(2)(iii)(a) of § 1910.252 is removed.

118. Paragraph (a)(3)(v)(e) of § 1910.252 is removed.

119. The second sentence of paragraph (a)(4)(iii)(e) of § 1910.252 is removed.

120. The second sentence of paragraph (a)(6)(vii)(f) of § 1910.252 is removed.

121. The first sentence of paragraph (b)(2)(iii) of § 1910.252 is removed.

122. The second sentence of paragraph (b)(2)(iv)(a) of § 1910.252 is removed.

123. The phrase, "and appropriate periodic inspections should be conducted as to ascertain that no condition of electrolysis or shock, or fire hazard exists by virtue of such use," in paragraph (b)(3)(ii)(d) of § 1910.252 is removed.

124. The first sentence of paragraph (b)(4)(ix)(c) of § 1910.252 is removed.

125. The third and fourth sentences of paragraph (d)(2)(vii) of § 1910.252 are removed.

126. The second and third sentences of paragraph (d)(2)(xv) of § 1910.252 are removed.

127. The second and third sentences of paragraph (e)(2)(i)(a) of § 1910.252 are removed.

128. Paragraph (e)(2)(ii)(f) of § 1910.252 is removed.

129. Paragraph (f)(1)(ii) of § 1910.252 is removed.

130. The second sentence of paragraph (f)(13) of § 1910.252 is removed.

Subpart R—Special Industries**§ 1910.261 Pulp, paper, and paperboard mills. [Amended]**

131. Paragraph (d)(4)(i) of § 1910.261 is removed.

132. The second sentence of paragraph (d)(4)(ii) of § 1910.261 is removed.

133. Paragraph (d)(4)(iv) of § 1910.261 is removed.

134. The second sentence of paragraph (e)(17) of § 1910.261 is removed.

135. The third sentence of paragraph (e)(18) of § 1910.261 is removed.

136. Paragraph (f)(6)(iii) of § 1910.261 is removed.

137. The phrase, "and buildings should be designed with explosion relief," in paragraph (g)(1)(iii) of § 1910.261, is removed.

138. The phrase, "and should be replaced when necessary," in the second sentence of paragraph (g)(12)(iii) of § 1910.261 is removed.

139. Paragraph (g)(14)(iv) of § 1910.261 is removed.

140. Paragraph (g)(19)(i) of § 1910.261 is removed.

141. Paragraph (g)(19)(ii) of § 1910.261 is removed.

142. The second sentence of paragraph (h)(1) of § 1910.261 is removed.

143. The second sentence of paragraph (h)(3)(v) of § 1910.261 is removed.

144. Paragraph (j)(4)(v) of § 1910.261 is removed.

145. Paragraph (k)(5) of § 1910.261 is removed.

146. The second and third sentences of paragraph (k)(18) of § 1910.261 are removed.

147. Paragraph (k)(19)(i) of § 1910.261 is removed.

148. Paragraph (k)(19)(ii) of § 1910.261 is removed.

149. The first sentence of paragraph (k)(22) of § 1910.261 is removed.

150. Paragraph (k)(26)(ii) of § 1910.261 is removed.

151. The first and third sentences of paragraph (k)(29) of § 1910.261 are removed.

152. The second sentence of paragraph (k)(30) of § 1910.261 is removed.

§ 1910.262 Textiles. [Amended]

153. The second sentence of paragraph (cc)(1) of § 1910.262 is removed.

(Secs. 6, 8, 84 Stat. 1593, 1600 (29 U.S.C. 855, 657), Secretary of Labor's Order No. 9-83 (48 FR 35736), 29 CFR Part 1911)

[FR Doc. 84-3771 Filed 2-9-84; 3:45 am]

BILLING CODE 4510-26-M