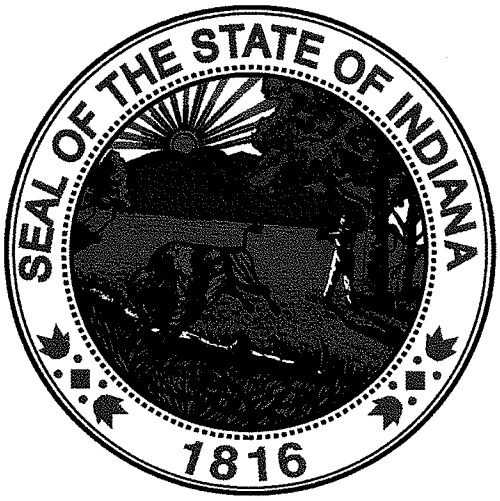

Jeffry Carter
Department of Labor

Standards Improvement Project
OSHA Final Rule
76 FR 33590

Indiana OSHA believes the Standards Improvement project will clarify certain standards and remove duplication and inconsistent references in a wide array of regulations. The OSHA final rule becomes effective in Indiana 90 days after publishing in the Federal Register. The rule was published on June 8, 2011.

Jeffry Carter
Deputy Commissioner of Labor

SEPT 5, 2011
Date signed

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, 1918, 1919, 1926, and 1928

[Docket No. OSHA–2006–0049]

RIN 1218–AC19

Standards Improvement Project—Phase III

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

ACTION: Final rule.

SUMMARY: Phase III of the Standards Improvement Project (SIP–III) is the third in a series of rulemaking actions to improve and streamline OSHA standards. The Standards Improvement Project removes or revises individual requirements within rules that are confusing, outdated, duplicative, or inconsistent. OSHA identified several requirements for SIP–III (e.g., rigging, NIOSH records, and training certifications) for improvement based on the Agency's review of its standards, suggestions and comments from the public, or recommendations from the Office of Management and Budget (OMB). OSHA believes that improving these standards will help employers to better understand their obligations, promote safety and health for employees, lead to increased compliance, and reduce compliance costs. OSHA estimates that these changes will result in annualized savings for employers of over $45 million, and will reduce paperwork burden by 1.85 million hours annually.

DATES: This final rule becomes effective on July 8, 2011. As this rule imposes no new burdens on employers, employers may comply with the revised provisions prior to the effective date, which is 30 days after publication of this final rule. The Director of the Federal Register approved the incorporation by reference of specific publications listed in this final rule under 5 U.S.C. 552(a) and 1 CFR 51 as of July 8, 2011

ADDRESSES: In compliance with 28 U.S.C. 2112(a)(2), OSHA designates the Associate Solicitor of Labor for Occupational Safety and Health, Office of the Solicitor, Room S–4004, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, to receive petitions for review of the final rule.

FOR FURTHER INFORMATION CONTACT: Camilla McArthur, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

SUPPLEMENTARY INFORMATION:

A. Exhibits Referenced in This Rule

The exhibits referenced by OSHA in this rule are in Docket No. OSHA–2006–0049, which is the docket for this rulemaking. The docket is available at *http://www.regulations.gov,* the Federal eRulemaking Portal. In this notice, OSHA designates exhibits as "ID." The digit(s) following this designation refer to the full document number at *http://www.regulations.gov.* For example, the exhibit number referenced as ID 0151.1 in this notice is document number OSHA–2006–0049–0151.1 under the column labeled "ID" at *http://www.regulations.gov;* this document happens to be a comment submitted by the National fire Protection Association.

Most exhibits, including public comments, supporting materials, meeting transcripts, and other documents, are available at *http://www.regulations.gov;* some exhibits (e.g., copyrighted material) are not available to read or download from that Web page. However, all materials in the docket are available for inspection and copying at the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350.

B. Table of Contents

The following table of contents identifies the major sections of the preamble to the Standards Improvement Project—Phase III (SIP–III) final rule:

I. Background
  A. Introduction
  B. Regulatory History
II. Legal Considerations
III. Summary and Explanation of the Final Rule
IV. Final Economic Analysis and Regulatory Flexibility Analysis
V. Federalism
VI. Unfunded Mandates
VII. Office of Management and Budget Review Under the Paperwork Reduction Act of 1995
VIII. State Plans
IX. Authority and Signature
X. The Final Standard

I. Background

A. Introduction

Phase III of the Standards Improvement Project (SIP–III) is the third in a series of rulemaking actions to improve and streamline OSHA standards. Historically, the Standards Improvement Project removes or revises individual requirements within rules that are confusing, outdated, duplicative or inconsistent. OSHA believes that improving these standards helps employers to better understand their obligations, promotes safety and health for employees, and leads to increased compliance and reduced compliance costs. OSHA summarizes the revised standards and revisions below, and describes them in detail in section III, Summary and Explanation of the Final Rule.

First, OSHA is revising the title of 29 CFR part 1910, subpart E, of the general industry standard, and is revising § 1910.35 to incorporate by reference the most current version of the National Fire Protection Association's (NFPA) *Life Safety Code.* To provide greater flexibility, OSHA also added a second compliance alternative. OSHA made several minor revisions to other sections in this subpart to correspond to the new language in § 1910.35.

In subpart I, OSHA is deleting requirements that employers prepare and maintain written training certification records. OSHA does not believe that the training certification records required by the four standards provide a safety or health benefit to employees, nor are the burden hours and cost to employers justified. These standards are the general industry Personal Protective Equipment (PPE) standard (§ 1910.132); the shipyard employment PPE standard (§ 1915.152); and the general industry and construction Cadmium standards (§§ 1910.1027 and 1926.1127).

There are seven revisions to the Respiratory Protection standard at § 1910.134. One revision clarifies which breathing-gas containers employers must provide pursuant to the standard (§ 1910.134(i)(9)). To provide additional clarification, OSHA is revising language in Appendix C of § 1910.134, and updating the language of the DOT regulations referenced in § 1910.134(i)(4)(i). OSHA also deleted duplicative and inconsistent statements in Appendix D of § 1910.134, and also in the Asbestos standard for shipyards (§ 1915.1001) and construction (§ 1926.1101). OSHA revised paragraph (c)(4)(iv) of § 1910.1003 to correct an inadvertent omission from the respiratory-protection requirements for four of the 13 carcinogen standards. Lastly, OSHA also removed the requirement to keep fit-test records from the 1,3–Butadiene standard (§ 1910.1051 (m)(3)).

There are two revisions under subpart J. First, OSHA is revising and updating the definition of the term "potable water" in the Sanitation standards for general industry and construction (§ 1910.141(a)(2); § 1926.51(a)(6)), and

the Field Sanitation standard for agriculture (§ 1928.110(b)). Second, OSHA is revising the Bloodborne Pathogens standard by removing the word "hot" from the definition of "handwashing facilities" at § 1910.1030(b) in the phrase "hot air drying machines," which permits employers to use new technologies (e.g., high-velocity air blowers) in the workplace. This revision also applies to sanitation standards for general industry (§ 1910.141(d)(2)(iv)), marine terminals (§ 1917.127(a)(1)(iii)), longshoring (§ 1918.95(a)(1)(iii)), and construction (§ 1926.51(f)(3)(iv)).

OSHA is updating its standards regulating slings for general industry (§ 1910.184); shipyard employment (§§ 1915.112, 1915.113, and 1915.118), and construction (§ 1926.251). Modifications to these standards include removing previous load-capacity tables (§ 1910.184, tables N–184–1, N–184–3 through N–184–22; and G–1 through G–5, G–7, G–8, and G–10) and references to these tables (§ 1915.112; § 1915.113; and § 1926.251; tables H–1 and H–3 through H–19). Employers now must use slings with permanently affixed identification markings that depict the maximum load capacity. The final rule provides similar protection for shackles in §§ 1915.113 and 1926.251.

In subpart T, OSHA is removing two obsolete recordkeeping requirements from the Commercial Diving Operations standard (§ 1910.440 (b)(3)(i) and (b)(5)), and correcting a typographical error (§ 1910.440 (b)(4)).

In subpart Z, OSHA also is removing the requirement for employers to transfer specific records to the National Institute for Occupational Safety and Health (NIOSH) (for example, § 1910.1020). Finally, OSHA is making several other miscellaneous revisions. For example, OSHA is removing duplicative respiratory-protection requirements, and is amending the trigger levels in the Lead standards for general industry and construction (§§ 1910.25 and 1926.62).

Additional revisions to maritime standards include adding a clarification to the definition of "hot work," adding a definition for "ship's stores," and updating gear-certification requirements to conform to the International Labor Organization (ILO) Convention.

OSHA discusses all of these revisions in detail in the Summary and Explanation section of this notice. The revisions above, when considered together, will reduce compliance costs, eliminate paperwork burdens, and clarify requirements without diminishing worker protections.

B. Regulatory History

The Standards Improvement Project (SIP) began in response to a 1996 *Presidential Memorandum on Improving Government Regulations.* SIP–I, published on July 22, 1996 (61 FR 37849) effected several changes to the general industry and construction standards, including the removal of obsolete medical tests and the elimination of unnecessary cross-references. After the success of SIP–I, OSHA completed SIP–II, which it published on January 5, 2005 (70 FR 1111). SIP–II focused on revising health standards to reduce regulatory burden, facilitate compliance, eliminate unnecessary paperwork, and revise employee-notification requirements.

SIP–III builds on the success of SIP–I and SIP–II, and continues with the removal or revision of out-of-date and inconsistent rules. OSHA selected the regulations for improvement in SIP–III based on the Agency's review of its standards, suggestions and comments from public and private entities either to OSHA directly or in the OMB report, Regulatory Reform of the U.S. Manufacturing Sector (2005).

SIP–III received support from several stakeholders who provided comments to both an Advanced Notice of Proposed Rulemaking (ANPR) published on December 21, 2006 (71 FR 76623), and the proposal published on July 2, 2010 (75 FR 38646). SIP–III is consistent with the current goals and objectives of this Administration, as evidenced by Executive Order 13563 (76 FR 3821), titled "Improving Regulation and Regulatory Review," issued on January 18, 2011, by President Obama. Specifically, the Executive Order requests that agencies review existing and proposed standards and regulations to ensure they effectively protect "public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation." The Executive Order continues:

> [Our regulatory system] must allow for public participation and an open exchange of ideas. It must promote predictability and reduce uncertainty. It must identify and use the best, most innovative and least burdensome tools for achieving regulatory ends. It must take into account benefits and costs, both quantitative and qualitative. It must ensure that regulations are accessible, consistent, written in plain language, and easy to understand. It must measure, and seek to improve, the actual results of regulatory requirements.

The Executive Order sets forth requirements for agencies to follow when promulgating standards. The requirements detail several principles for agencies to observe during the rulemaking process, including public participation, integration and innovation, flexible approaches, and retrospective analysis of existing rules. Specifically, the Executive Order provides the following direction to agencies regarding retrospective analysis:

> To facilitate the periodic review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.

As previously discussed, the SIP process is a proven and successful means to review, update, and revise regulations. SIP–III, in particular, embodies the goals and objectives specified in the Executive Order because it ensures that OSHA's standards are understandable, relevant, do not overly burden employers, and, most importantly, provide regulations that are effective in keeping America's workers safe.

II. Legal Considerations

The purpose of the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C. 651 *et al.*) is "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources * * *." (See 29 U.S.C. 651(b).) To achieve this goal, Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards, authorizing summary adoption of existing national consensus and established Federal standards within two years of the effective date of the OSH Act (29 U.S.C. 655(a)); authorizing promulgation of standards pursuant to notice-and-comment (29 U.S.C. 655(b)); and requiring employers to comply with OSHA standards (29 U.S.C. 654(b)).

An occupational safety or health standard is a standard "which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment" (29 U.S.C. 652(8)). A standard is reasonably necessary or appropriate within the meaning of Section 652(8) if it substantially reduces or eliminates significant risk. In addition, it must be technologically and economically feasible, cost effective, and consistent with prior Agency action, or a justified departure from that action. Substantial evidence must support the standard, and the standard

must effectuate the OSH Act's purposes better than any national consensus standard it supersedes. (See 58 FR 16612–16616, March 30, 1993.)

A standard is technologically feasible when the protective measures it requires already exist, when available technology can bring the protective measures into existence, or when that technology is reasonably likely to develop. (See *American Textile Mfrs. Institute* v. *OSHA,* 452 U.S. 490, 513 (1981) (*ATMI*); *American Iron and Steel Institute* v. *OSHA,* 939 F.2d 975, 980 (DC Cir. 1991) (*AISI*)). A standard is economically feasible if industry can absorb or pass on the costs of compliance without threatening its long-term profitability or competitive structure. See *ATMI,* 452 U.S. at 530 n. 55; *AISI,* 939 F.2d at 980. A standard is cost effective if the protective measures it requires are the least costly of the available alternatives that achieve the same level of protection. *ATMI,* 452 U.S. at 514 n. 32; *International Union, UAW* v. *OSHA,* 37 F.3d 665, 668 (DC Cir.1994) (*LOTO II*).

Section 6(b)(7) of the OSH Act authorizes OSHA to include in its standards requirements for labeling, monitoring, medical testing, and other information-gathering and transmittal provisions (29 U.S.C. 655(b)(7)). OSHA safety standards also must be highly protective. (See 58 FR at 16614–16615; *LOTO II,* 37 F.3d at 668–669.) Finally, whenever practical, standards shall "be expressed in terms of objective criteria and of the performance desired" (29 U.S.C. 655(b)(5)).

III. Summary and Explanation of Final Rule

OSHA proposed a number of actions to amend its standards, including revisions to the Agency's general industry, maritime, construction, and agricultural standards. A detailed description and the Agency's rational for each revision follows. Also discussed are the comments the Agency received in response to the changes it proposed. OSHA made some of the revisions in more than one industry. For example, the revisions to the general industry Slings standard also are made in shipyard employment and the construction industry. When revisions in a general industry standard are also made in additional industries, OSHA will discuss the revisions fully in the general industry section, and then reference the provisions affected in the sections covering the other industries.

A. Revisions in General Industry Standards (29 CFR 1910)

1. Subpart E

OSHA is making several revisions to subpart E. First, the title of subpart E changes from "Means of Egress" to "Exit Routes and Emergency Planning." OSHA previously changed the title in 2002 when the Agency updated subpart E in its entirety (67 FR 67949); the new title was "Exit Routes, Emergency Action Plans, and Fire Prevention Plans." However, due to a printing error, the change was not made. In the SIP–III NPRM, OSHA proposed changing the title of subpart E to the more concise "Exit Routes and Emergency Planning."

In response to the NPRM, the National Fire Protection Association (NFPA) (ID 0151.1) noted that the NFPA Life Safety Code (NFPA 101) and the International Code Council (ICC) codes use the term "means of egress," and claimed, "Fire marshals, code officials, architects, engineers, and safety managers are familiar with the term 'means of egress' and understand what components constitute the means of egress * * *." There were no other comments submitted to the docket on this issue.

While the term "means of egress" as used by the NFPA may be familiar to many in the fire-regulation community, OSHA's requirements of subpart E consistently use the term "exit routes" throughout, including in the "Coverage and Definitions" section. Therefore, OSHA is revising the title of subpart E to "Exit Routes and Emergency Planning," as proposed.

OSHA's requirements for exit routes at §§ 1910.36, and 1910.37 of subpart E are general, performance-oriented, and do not address every situation that may arise. Section 1910.35 provides employers with a compliance alternative to §§ 1910.36, and 1910.37 that they can use to cover a variety of situations. Specifically, it permits employers to demonstrate compliance with the exit-route provisions of NFPA 101 instead of the requirements in § 1910.36 or 1910.37. Existing § 1910.35 refers to the 2000 edition of the NFPA 101 as the alternative means of compliance. OSHA proposed to update this provision to permit employers to comply with Chapter 7 of the 2009 edition of NFPA 101, which covers means of egress, or exit routes. OSHA believed that Chapter 7 of the later edition of NFPA 101 would provide a level of employee safety equivalent to, or higher than, the requirements of §§ 1910.34, 1910.36, and 1910.37.

OSHA also proposed to revise § 1910.35 to add a second compliance alternative that would deem employers to be in compliance with the corresponding requirements in §§ 1910.34, 1910.36, and 1910.37, provided that employers can demonstrate compliance with the exit route provisions contained in Chapter 10 of the of the ICC International Fire Code (IFC).

NFPA commented (ID 0151.1) that using only Chapter 7 of NFPA 101 for the compliance alternative as proposed in the NPRM is inadequate, noting that "a broader reference to the 2009 edition of NFPA 101 is in order as those who enforce the OSHA rules understand that supplemental egress rules in the occupancy chapters have application." After considering the NFPA's comment, OSHA agrees that all of the provisions contained in the full standard related to exit routes are necessary for proper application because other chapters in the NFPA 101 also include provisions for means of egress. For example, administrative provisions such as scope, applicability, and equivalency are in Chapter 1, while definitions for terms used in Chapter 7 are in Chapter 3. Chapter 8 contains provisions for fire barriers, smoke barriers, and smoke partitions that are necessary to achieve the compartmentation features (such as stair enclosures) for means of egress. Chapter 11 contains provisions for high-rise buildings and other special structures. Chapters 12 through 42 have provisions that apply to exit routes for buildings of specific occupancy types. Chapters 11 through 42 adapted, as appropriate, the basic provisions of the core chapters (1 through 10) when addressing specific occupancies, differing occupant capabilities, and various building types. Some examples of these adaptations include sprinkler system trade-offs, conditions where a single exit would be acceptable, lengthened or shortened travel distance to exits, and wider or narrower aisles based on occupant load. Referencing the corresponding portions of the entire 2009 NFPA 101 standard that relate to exit routes, rather than a single chapter, is consistent with the previously existing compliance alternative in § 1910.35 that referenced the exit-route provisions of the entire 2000 edition of NFPA 101.

Similarly, § 1910.35 of the final rule references the entire IFC standard, rather than only Chapter 10, as initially proposed. OSHA determined that the full IFC standard is necessary for proper application of the exit-route requirements. OSHA believes that these additional compliance options will benefit employers because they will provide employers with flexibility to use the compliance option that best

serves their needs, while maintaining the same level of protection as OSHA's subpart E rules. OSHA also is revising the Table of Contents in § 1910.33, the definition for "occupant load" in § 1910.34, and two notes in § 1910.36, consistent with the new language in § 1910.35.

In the NPRM, OSHA explained the suitability of allowing the IFC to serve as an equivalent compliance option. Comments received in response to the NPRM from ICC (ID 0157.1) and several construction code-enforcement agencies supported the change to add the IFC compliance alternative. The Jefferson County, CO, Division of Building Safety (ID 0152.1) indicated that this compliance option "streamlines the design and construction process while providing safety for all occupants including workers." The New York Department of State, Division of Code Enforcement and Administration (ID 0158.1), states that this compliance option would "assist in streamlining our regulatory process" and "result in the potential for reduced construction costs without reducing the state's established standards for safety." As it did in response to the ANPR, the City of Hampton (ID 0159.1) agrees that this additional compliance option would be beneficial.

The only opposition to the addition of the IFC compliance option came from the NFPA (ID 0151.1 and 0162.3). Similar to its response to the ANPR, NFPA did not address whether the IFC provides a level of safety equivalent to subpart E, but rather whether the IFC provides a level of safety equivalent to the NFPA 101. OSHA finds that the information provided by NFPA does not address whether the IFC serves as an effective compliance option to subpart E; therefore, OSHA determined that compliance with the exit-route provisions of either the NFPA 101 or the IFC provides protection at least equivalent to the requirements of subpart E.

Another concern raised by NFPA (ID 0151.1 and 0162.3) was that the IFC developed the ICC codes under consensus principles that differ from those used to develop NFPA codes. OSHA again maintains that the issue of concern is whether the ICC codes provide a level of employee protection equal to that provided by subpart E, regardless of the method of development. While it is true that OSHA must consider consensus standards in developing its mandatory standards, in conformance with section 6(b)(8) of the OSH Act, the National Technology Transfer and Advancement Act of 1995 (NTTAA), and OMB Circular A–119, these documents do not restrict OSHA to using only consensus standards. OSHA is not using the ICC codes to promulgate a government-unique standard, but rather to allow compliance alternatives that provide workers with an equivalent level of safety to that which OSHA provides in the existing subpart E requirements.

NFPA (ID 0151.1) also stated that Section 3(9) of the OSH Act has "long established the use of ANSI and NFPA documents as the source of OSHA's regulations." This provision of the Act, however, does not restrict the Agency from using additional standards. OSHA previously considered a national consensus standard (NFPA 101), and determined the standard was an acceptable compliance alternative. OSHA in this rulemaking, however, also determined that the IFC provides at least the same level of employee protection as the existing requirement and, thus, OSHA has the authority to use the IFC standard, regardless of whether it meets the OSH Act's definition of a "national consensus standard" (as defined in Section 3(9) of the OSH Act).

The last concern raised by NFPA (ID 0151.1 and 0162.2) is the suitability of the IFC codes for existing buildings. IFC Section 1026, "Means of Egress for Existing Buildings" and Section 1027, "Maintenance of the Means of Egress," address specifically this issue. OSHA notes that subpart E does not differentiate between new and existing buildings, thus allowing employers to determine the egress features needed for employee safety in existing buildings. OSHA further notes that paragraph 4.6.5 in the 2009 edition of NFPA 101, allows for the modification of any requirements in existing buildings "where it is evident that a reasonable degree of safety is provided." OSHA, therefore, concludes that both the NFPA 101 and the IFC independently provide a degree of flexibility for existing buildings comparable to subpart E.

The ICC (ID 0157.1) raised the issue of whether future editions of the IFC would serve as acceptable compliance alternatives to § 1910.35. The Agency notes that it cannot incorporate by reference the latest editions of consensus standards without undertaking new rulemaking because such action would delegate the government's regulatory authority to consensus standards developing organizations, as well as deprive the public of the notice-and-comment period required by law. Therefore, each compliance option must specify the edition of the corresponding standard, in this case NFPA 101–2009 and the IFC–2009. OSHA only proposed and evaluated those particular editions for equivalency in terms of employee protection.

Most of the information received in response to both the ANPR and the NPRM supports the incorporation of the 2009 editions of the NFPA 101 and IFC standards in § 1910.35 as compliance alternatives for §§ 1910.34, 1910.36, and 1910.37. The Agency believes these changes will increase compliance flexibility, achieve greater compatibility with many State and local jurisdictions, while maintaining employee protection.

2. Subpart I

a. Training Certification Records

The Cadmium and Personal Protective Equipment (PPE) standards require employers to verify that affected workers received training through a written certification record that includes, at a minimum, the name(s) of the workers trained, the date(s) of training, and the types of training the workers received. In the NPRM, OSHA proposed removing paragraph (f)(4) of the general industry PPE standard, § 1910.132; paragraph (e)(4) of the shipyard employment PPE standard § 1915.152; and paragraph (n)(4) of the general industry and construction Cadmium standards, §§ 1910.1027 and 1926.1127, respectively, all of which require employers to prepare and maintain a written record certifying compliance with the training requirements of these sections. For the NPRM, the Agency estimated that it takes over 1.8 million hours annually for employers to develop and maintain the training-certification records mandated by the PPE standards in §§ 1910.132 and 1915.152, and more than 3,000 hours annually for employers to develop and maintain the training-certification records provision required by the Cadmium standards for general industry (§ 1910.1027) and construction (§ 1926.1127). In the NPRM, OSHA stated that it believed that the training-certification records required by the four standards do not provide a safety or health benefit sufficient to justify the burden hours and cost to employers, and that employers ensure that work practices and use of PPE are consistent with the training received by observing employees as they work, not through maintaining training-certification records.

Three commenters opposed the removal of these written training-record requirements. The BCTD, AFL–CIO (ID 0156.1) stated that "the importance of the written certification [is] to reinforce the requirement that employers satisfy

themselves that their employees are appropriately trained." Similarly, the AFL–CIO (ID 0160.1) said that "documentation of training is an important element of the training process. It not only serves to provide written assurance that the training was, in fact, provided but also serves to reinforce and remind the employer that training is required to be provided in the first place." 3M (ID 0154.1) expressed concern that eliminating the requirement to document training may convey to employers that OSHA is loosening employer obligations for providing PPE and training for employees.

OSHA does not believe that removal of training-certification record requirements indicates a weakening of PPE training requirements as suggested by these commenters. First, OSHA believes that worker training on the proper use of PPE is essential to ensure its effectiveness, and OSHA is not deleting any requirements that employers train workers appropriately in the use of PPE. However, OSHA believes that the workers can demonstrate knowledge of the proper use of PPE, and employers can observe easily such use in the workplace, without the need for paper certifications. If a worker is not using the PPE properly, the employer can retrain the worker as necessary, thereby ensuring that the employee obtains the maximum benefit for the PPE.

OSHA also notes that, of all of OSHA's substance-specific health standards, only the Cadmium standards for general industry and construction require written certification to document training. Furthermore, OSHA's Respiratory Protection standard, § 1910.134, requires in paragraph (k) that employers ensure workers "can demonstrate knowledge" of the capabilities, limitations, and use of respiratory protective equipment, and there is no requirement for written certification of training. Thus, for all of these health standards, with the exception of the Cadmium standards, OSHA relies on demonstration of worker knowledge as evidence that employers provided workers with adequate training in the use of PPE.

OSHA considered the above arguments and does not agree with the commenters. While OSHA believes that training workers in the proper wear and use of PPE and the hazards associated with exposure to Cadmium, as well as other hazardous substances, is essential, it is not persuaded by the arguments that written certification improves the overall effectiveness of the training. Effective training ensures that workers understand the proper work practices, and can reduce rates of injuries and illnesses. Removing the certification requirements of these standards will not change the requirements for employers to provide effective training.

Therefore, OSHA is removing paragraph (f)(4) of the general industry PPE standard (§ 1910.132), paragraph (e)(4) of the shipyard employment PPE standard, § 1915.152, and paragraph (n)(4) of the general industry and construction Cadmium standards, §§ 1910.1027 and 1926.1127, which required employers to prepare and maintain a written record certifying compliance with the training requirements of these sections.

In the SIP–III proposal, OSHA also requested comment on 12 other standards in general industry, construction, and shipyard employment that require employers to prepare written records or documents to certify that they complied with training requirements. OSHA received no comments in support of revoking these additional (12) requirements.

The BCTD, AFL–CIO (ID 0156.1) stated that OSHA should consider this question in the context of a comprehensive examination of its training requirements. 3M (ID 0154.1) suggested that OSHA modify all training sections in all OSHA standards to include a training documentation section that is consistent with section 7.2.2 of the ANSI/ASSE Z490.1–2009 standard, *Criteria for Accepted Practices in Safety, Health, and Environmental Training,* which prescribes that employers record specific information related to the training workers receive (i.e., date, location, instructor credentials). In the future, OSHA may consider consolidating all of its requirements in a comprehensive standard; however, for now, OSHA is not removing the existing training certification recording requirements for those 12 standards.

b. Respiratory Protection

OSHA is making seven revisions related to the Respiratory Protection standard in § 1910.134. The following paragraphs discuss each of these revisions.

(1) Updating DOT Regulations Referenced in § 1910.134(i)(4)(i)

This provision of the Respiratory Protection standard references the Department of Transportation (DOT) regulations in 49 CFR 173 and 178 for retesting air cylinders such as cylinders used with self-contained breathing apparatus (SCBAs). In August 2002, DOT revised its standard, which resulted in the reorganization and renumbering of its regulations for testing air cylinders. New subpart C of 49 CFR 180 now specifies the general DOT requirements for requalifying air cylinders; these requirements replicate the requirements in former 49 CFR parts 173 and 178 for requalifying air cylinders. In their comments supporting this revision, 3M (ID 0154.1) agreed "that the proposed wording will clarify the requirements of the Respiratory Protection standard by accurately referring to the appropriate DOT standard." OSHA did not receive comments opposing this update and, therefore, is revising the language in § 1910.134(i)(4)(i) by referencing the new DOT standard for cylinder testing at 49 CFR 180 and, accordingly, will update this reference as proposed.

(2) Updating the NIOSH Respirator-Certification Requirement in § 1910.134(i)(9)

Paragraph (i)(9) of OSHA's Respiratory Protection standard, § 1910.134, required the employer to use breathing-gas containers marked in accordance with the NIOSH respirator-certification standard at 42 CFR 84. NIOSH reported to OSHA that there is confusion in the regulated community as to how this provision applied to after-market cylinders, and in its comments to OSHA's Advisory Committee on Construction Safety and Health (ACCSH) (Ex. 12.2, 12/11/2009) requested that OSHA revise the provision. The purpose of this modification is to clarify that after-market cylinders not manufactured under the quality-assurance program incorporated as part of the NIOSH approval process for SCBA are not acceptable for use. OSHA's proposed revision read, "The employer shall use only the respirator manufacturer's NIOSH-approved breathing-gas containers, marked and maintained in accordance with the Quality Assurance provisions of the NIOSH approval for the SCBA as issued in accordance with the NIOSH respirator-certification standard at 42 CFR part 84."

Dräger (ID 0150.1) supported the revision, stating that there are "many aftermarket components that * * * when used either cause the NIOSH certification to become void until the respirator is returned to its approved configuration or that can cause the respirator to function improperly." Dräger (ID 0150.1) also listed a series of cylinder assembly problems that may arise as a result of the use of unapproved components.

3M (ID 0154.1) stated that this issue is a concern for all after-market

respirator parts (e.g., breathing hoses) and does not involve only air cylinders, but also is relevant to other types of respirators (not just SCBAs). However, 3M (ID 0154.1) also believed that other paragraphs of the Respiratory standard already address this subject adequately and, therefore, the revised language was duplicative and unnecessary. Specifically, 3M noted that § 1910.134(d)(1)(ii) addresses this issue adequately; this provision states: "The employer shall select a NIOSH-certified respirator. The respirator shall be used in compliance with the conditions of its certification." 3M believes that "used in compliance with the conditions of its certification" addresses the issue of using parts manufactured, marked and maintained in accordance with the quality-assurance provisions of NIOSH approval for all respirators, including SCBAs, in 42 CFR 84. Furthermore, 3M believes that § 1910.134(h)(4)(i) and (ii) provide adequate control over use of after-market cylinders. These provisions state: "Repairs or adjustments to respirators are to be made only by persons appropriately trained to perform such operations and shall use only the respirator manufacturer's NIOSH-approved parts designed for the respirator," and "Repairs shall be made according to the manufacturer's recommendations and specifications for the type and extent of repairs to be performed;"

OSHA agrees with 3M that the current language in paragraphs (d) and (h) of the Respiratory Protection standard adequately covers after-market SCBA cylinders not manufactured in accordance with the quality-assurance program required for NIOSH approval. OSHA also found the current language sufficient for compliance purposes. Nevertheless, OSHA notes that neither paragraph (d) nor (h) specifically refers to after-market SCBA cylinders and, despite the language in the existing requirements, users still have questions with respect to the use of after-market SCBA cylinders. Therefore, OSHA believes that adding clarification by means of one additional sentence may alleviate any confusion and enhance worker protection by making clear that, when employers use after-market SCBA cylinders, they must use cylinders manufactured in accordance with NIOSH requirements. Accordingly, OSHA is revising § 1910.134(i)(9) to read: "The employer shall use only the respirator manufacturer's NIOSH-approved breathing-gas containers, marked and maintained in accordance with the Quality Assurance provisions of the NIOSH approval for the SCBA as issued in accordance with the NIOSH respirator-certification standard at 42 CFR 84."

(3) Appendix C to § 1910.134

OSHA is revising question #2a in the OSHA Medical Evaluation Questionnaire, Appendix C, Part A, Section 2, of its Respiratory Protection standard, § 1910.134, which describes a particular medical condition. OSHA believes that the use of the term "fits" is outdated, unnecessary, and offensive. OSHA determined that this revision to the questionnaire will have no effect on administration of, or responses to, the questionnaire. OSHA received no comments opposing this revision. Therefore, OSHA is deleting the word "fits," leaving only the word "seizures" to describe the medical condition.

(4) Appendix D to § 1910.134

To clarify that Appendix D of the Respiratory Protection standard (§ 1910.34) is mandatory, OSHA is removing paragraph (o)(2) from the standard, and revising paragraph (o)(1) of the standard to include Appendix D among the mandatory appendices. As discussed in the ANPR and the proposal, this revision to paragraph (o)(1) will reduce public confusion by clarifying the Agency's purpose regarding Appendix D when it published the Respiratory Protection standard on January 8, 1998 (63 FR 1152): Namely that Appendix D is mandatory. In this regard, paragraph (c)(2)(i), the introductory text to paragraph (k), and paragraph (k)(6) of the Respiratory standard provided evidence of this purpose. These provisions mandate that employers provide voluntary respirator users with the information contained in Appendix D. Additionally, the title of Appendix D states that it is mandatory.

In the proposal, OSHA solicited comments from stakeholders regarding whether employers understood these provisions, if the information was appropriate, and whether clarifying that Appendix D was mandatory would increase the burden on employers. The BCTD, AFL–CIO (ID 0156.1) supported these revisions stating that:

> The proposed changes, which would clearly list Appendix D as a mandatory appendix and eliminate regulatory language that suggests otherwise, will not impose any new obligations on employers, but will instead simply remove a source of confusion and thereby ensure that employees are provided with the information they need to use respirators properly.

The AFL–CIO (ID 0160.1) also supported the revision, and stated that the changes would ensure:

> [T]hat the information contained in Appendix D is required to be provided to an employee whenever they voluntarily wear respirators. By making it clear that Appendix D is mandatory, doing so now makes it conform with paragraph (k)(6) which requires that the information in the appendix shall be provided by the employer to workers who wear respirators when their use is not required by the respirator standard or by the employer. This proposed change eliminates any confusion that may occur about the mandatory nature of Appendix D in these circumstances and further enhances worker protection with the information contained in the appendix.

3M (ID 0154.1) also supported the removal of paragraph (o)(2) from the standard. However, 3M expressed concern regarding:

> [W]hether the general reader will note that the title of the appendix, "Appendix D to Sec. 1910.134 (Mandatory) Information for Employees Using Respirators When Not Required Under the Standard" is referring to voluntary use of respirators. Voluntary use of respirators is a term understood by most readers of the standard. 'Information for Employees Using Respirators When Not Required Under the Standard' may not be clear to the general reader that the title refers only to voluntary use. In other words, we believe 'voluntary use' to be plain English compared to 'Information for Employees Using Respirators When Not Required Under the Standard.'

3M also suggests that OSHA modify the title of the appendix to "Mandatory When Voluntary Use Is Allowed," claiming that the term "voluntary use" is clearer to an employer than the phrase "When Not Required Under the Standard."

OSHA decided to delete the confusing and inconsistent language in paragraph (o)(2), and revised the language in paragraph (o) of § 1910.134 to state, "Compliance with Appendix A, Appendix B–1, Appendix B–2, Appendix C, and Appendix D to this section is mandatory." Regarding 3M's recommendation to change the title of Appendix D, OSHA disagrees with 3M that the title proposed by 3M is clearer than the current title because the current title makes clear that the appendix refers to use of respirators when the standard does not require employers to use them. Therefore, OSHA is retaining the current title of Appendix D in § 1910.134, which is "(Mandatory) Information for Employees Using Respirators When Not Required Under the Standard."

(5) Asbestos (§ 1915.1001)

SIP–III addresses several outdated and inconsistent provisions contained in the Agency's Asbestos standards covering general industry (29 CFR 1910), shipyards (29 CFR 1915), and

construction (29 CFR 1926). Each of these standards include a section entitled "Respirator Program," which specifies the requirements for using respiratory protection to protect workers from exposure to asbestos. In the final rulemaking to revise OSHA's Respiratory Protection standard (§ 1910.134), the Agency updated the Asbestos standards for general industry and construction so that the program requirements would be consistent with the provisions of the revised Respiratory Protection standard (see 63 FR 1285 and 1298). However, the Agency inadvertently omitted revising the respirator-program requirements specified in paragraph (h)(3)(i) of the Asbestos standard for shipyards. OSHA is revising the respirator-program requirements specified in paragraph (h)(3)(i) of the Asbestos standard for shipyards, § 1915.1001, to read the same as paragraphs (g)(2)(i) of the Asbestos standard for general industry, § 1910.1001, and (h)(2)(i) of the Asbestos standard for construction, § 1926.1101, both of which state, "The employer must implement a respiratory protection program in accordance with § 1910.134(b) through (d) (except (d)(1)(iii)), and (f) through (m)." These paragraphs specify the requirements for an employer's respirator program with respect to asbestos exposure.

OSHA received no comments in opposition to this revision. 3M (ID 0154.1) supported making § 1915.001(h)(3)(i) consistent with the other asbestos standards, and did not believe it would "create additional compliance requirements."

Similarly, OSHA is removing paragraphs (h)(3)(ii), (h)(3)(iii), and (h)(4) from the shipyard Asbestos standard at § 1915.1001, which address filter changes, washing faces and facepieces to prevent skin irritation, and fit testing, respectively. OSHA determined that this action is appropriate because paragraphs (h)(3)(ii) and (h)(3)(iii) of the Asbestos standard for shipyards duplicate of the continuing-use provisions specified in paragraph § 1910.134(g)(2)(ii).

In addition, the fit-testing requirements provided in paragraph (f) of the Respiratory Protection standard either meet or exceed the provisions specified in (h)(4) of the shipyard Asbestos standard, except that the frequency of fit-testing is different. The shipyard-employment Asbestos standard at § 1915.1001(h)(4)(ii) previously required employers to perform quantitative and qualitative fit testing "at the time of initial fitting and at least every 6 months thereafter for each employee wearing a negative-pressure respirator." The Respiratory Protection standard at § 1910.134(f)(2) requires employers to fit test employees using a tight-fitting respirator "prior to initial use of the respirator, whenever a different facepiece * * * is used, and at least annually thereafter."

By adding the reference to the § 1910.134 Respiratory Protection standard to § 1915.1001(h)(3)(i) of the shipyard Asbestos standard, OSHA incorporates the fit-testing requirements of § 1910.134(f), which include the requirement to use the OSHA-accepted qualitative fit-testing and quantitative fit-testing protocols and procedures contained in Appendix A of § 1910.134. Accordingly, the-fit testing requirements specified in Appendix C of § 1915.1001 would be redundant; therefore, OSHA is revising Appendix C from § 1915.1001 to refer to § 1910.134(f). OSHA received no comments in response to these proposed changes.

The Agency determined that these revisions will not increase employers' compliance burden, but instead will reduce the burden by providing consistency between the shipyard employment Asbestos standard and the requirements of the Asbestos standards for general industry and construction.

(6) 13 Carcinogens (4-Nitrobiphenyl, etc.) (§ 1910.1003)

In 1996, OSHA combined the 13 separate carcinogen standards into a single standard (61 FR 9242, March 7, 1996). As part of this regulatory action, the Agency replaced the requirement for use of full-facepiece, supplied-air respirators with a requirement to use half-mask particulate-filter respirators for the 13 carcinogens. However, four of these chemicals (i.e., methyl chloromethyl ether, bis-chloromethyl ether, ethyleneimine, and beta-propiolactone) are liquids, not particulates, and, therefore, the use of particulate-filter respirators is not appropriate to ensure the protection of workers exposed to these chemicals

Based on a recommendation by the National Institute for Occupational Safety and Health (NIOSH), OSHA proposed to revise the 13 Carcinogens standard to require the use of the most protective supplied-air respirators available, either a pressure-demand SCBA or a full facepiece supplied-air respirator with auxiliary self-contained air supply, for these four liquid carcinogens (75 FR 38652). However, OSHA invited comment on whether it "should allow the use of chemical cartridges with NIOSH-certified air-purifying half-mask respirators for these four liquid carcinogens [on condition that] employers provid[e] that the cartridges used to absorb the vapors emitted from these chemicals would have an adequate service life." (*Id.*)

In responding to the SIP–III proposal, 3M recommended that OSHA permit the use of organic-vapor chemical cartridges for the four liquid carcinogens, provided that employers implement change schedules required by paragraph (d)(3)(iii) of OSHA's Respiratory Protection standard at § 1910.134 (ID 0154.1). To support this recommendation, 3M provided information that software models are available that can determine the service life of the chemical cartridges used for each of the four carcinogens (*Id.*). Based on this information, 3M concluded that "[t]hese service life estimates and the wide availability of organic vapor cartridges indicate organic vapor cartridges are feasible options for these four chemicals" and that "[t]o require supplied air respirators based on old approval criteria appears unnecessary and burdensome for employers." (Id.)

However, 3M also acknowledged that no PELs exist for these carcinogens that could provide a basis for using the assigned protection factors (APFs) listed in § 1910.134 to determine the maximum-use concentrations for these chemicals below which employers could use half-mask negative-pressure respirators. Therefore, 3M believed that it would be "necessary for OSHA to stipulate either the minimum respirator to be used or the minimum respirator assigned protection factor required."

After reviewing 3M's submission, OSHA determined that the Agency does not have sufficient information on the performance of organic-vapor chemical cartridges with these four substances to include it as an alternative. Furthermore, as 3M acknowledged, there are no PELs available that would permit employers to determine maximum-use concentrations for the purpose of selecting the appropriate type of organic-vapor cartridge respirator, nor was sufficient information available in the rulemaking record for OSHA to provide guidance on how to select the appropriate level of negative-pressure respirator to protect employees exposed to these four carcinogens. Given these considerations, OSHA concludes that workers would only receive the requisite level of protection from a pressure-demand SCBA or a full facepiece supplied-air respirator with auxiliary self-contained air supply. Therefore, OSHA is revising § 1910.1003(c)(4)(iv) accordingly.

(7) 1, 3-Butadiene (§ 1910.1051)

OSHA is removing paragraph (m)(3) from the 1,3-Butadiene standard

§ 1910.1051, which required that employers keep fit-test records for employees who use respirators to reduce toxic exposures. The Butadiene standard is the only substance-specific standard that includes this requirement, and the provision duplicates the requirement in OSHA's Respiratory Protection standard (§ 1910.134) to maintain fit test records. Both the American Society of Safety Engineers (ID 0021.1) and 3M (ID 0154.1) supported OSHA's proposal to remove the paragraph and rely instead on the fit-testing recordkeeping requirements in § 1910.134. OSHA received no comments in opposition to this revision.

3. Subpart J

a. Definition of "Potable Water" (§ 1910.141(a)(2))

OSHA is revising the definition of the term "potable water" in the Sanitation standards for general industry at § 1910.141(a)(2), and construction at § 1926.51(a)(6), and the Field Sanitation standard for agriculture at § 1928.110(b). As explained in the NPRM, OSHA adopted the previous definition from a Public Health Service code that no longer exists. The final rule now defines potable water as "water that meets the standards for drinking purposes of the state or local authority having jurisdiction, or water that meets the quality standards prescribed by the U.S. Environmental Protection Agency's National Primary Water Regulations (40 CFR 141)." The new definition will both update, and make consistent, all of the requirements for employers to provide potable water to workers.

In their comment, the AFL–CIO (ID 0160.1) stated, "We're pleased that the agency is revising this requirement to eliminate an outdated definition." A–Z Safety (ID 0149.1) asked OSHA to update all of § 1926.51 consistent with the current ANSI A10.25 Construction Sanitation standard, which addresses hand washing, water use, Portland cements, sanitary washrooms, and other sanitation requirements. Although OSHA may consider a full update of § 1926.51 in the future, the Agency did not propose such an update and, therefore, cannot update § 1926.51 in this final rulemaking. OSHA received no comments opposing these proposed revisions.

b. Washing Facilities (§ 1910.141(d))

OSHA is revising the Bloodborne Pathogens standard by removing the word "hot" from the phrase "hot air drying machines" in the definition of "handwashing facilities" at § 1910.1030(b), as proposed. This revision will permit employers to use high-velocity air blowers in the workplace. The definition previously read: "*Handwashing Facilities* means a facility providing an adequate supply of running potable water, soap, and single use towels or hot air drying machines."

When OSHA published the Bloodborne Pathogens standard, adequate non-heated, high velocity air blowers were not available. Since then, OSHA received information that current technology uses high-velocity, non-heated air, rather than hot or warm air, to dry hands. (Dyson B2B Inc; Dyson; ID 0015) Employers may still use hot-/warm-air drying machines, as well as non-heated air blowers or other air-drying machines that may become available as technology advances. OSHA is similarly revising three other Sanitation standards: The Sanitation standards for marine terminals at § 1917.127(a)(1)(iii), longshoring at § 1918.95(a)(1)(iii), and construction at § 1926.51(f)(3)(iv). OSHA received no comments in response to the proposal opposing these revisions.

4. Slings (§ 1910.184)

In 1996, the National Association of Chain Manufacturers (NACM) petitioned OSHA to adopt requirements of the then-current ANSI B30.9 standard, as it believed that the existing OSHA standard was not as safe as the ANSI standard. Based on the record developed during the SIP–III rulemaking, OSHA is updating its standards regulating the use of slings at § 1910.184 in general industry, §§ 1915.112, 1915.113, and 1915.118 in shipyard employment, and § 1926.251 in construction by removing outdated tables that specify safe working loads, and revising other provisions (e.g., §§ 1910.184(e)(6) and 1915.112) that reference the outdated tables. The load-capacity tables previously designated in these standards, based on the 1971 ANSI B30.9 standard, are now obsolete and no longer conform to the load-capacity tables of the updated ANSI B30.9 standard. The outdated tables are being replaced with a requirement that prohibits employers from loading slings in excess of the recommended safe working load as prescribed on permanently affixed identification markings. The revisions also prohibit the use of slings that do not have permanently affixed identification markings. The revisions are the same as those proposed, and no comments were received opposing these revisions.

The BCTD, AFL–CIO (ID 0156.1) supported the revisions, stating:

> [W]orker safety will be enhanced by removing from the sling standard references to outdated working-load tables and by strengthening the existing requirements that employers comply with the rated capacities specified by the slings' manufacturers. In this regard, we agree that employers must ensure that the identification markings provided by the manufacturers are affixed to the slings whenever they are in use; that in loading slings, employers must be prohibited from exceeding the load capacity indicated on the identification markings; and that any sling from which the markings have become detached must be taken out of service until new labels are obtained and affixed.

In response to OSHA's request for information regarding the use of slings (see 75 FR 38654), the BCTD, AFL–CIO stresses the following four points:

> (1) It is standard practice for manufacturers in this country to produce slings in accordance with the specifications prescribed by the ASME/ANSI B30.9 slings standard.
>
> (2) In accordance with B30.9, manufacturers affix labels to slings either by wires or chains or, in the case of synthetic slings, by sewing them into the fabric.
>
> (3) The labels provided by sling manufacturers generally list their names or trademarks, the safe load capacity, and the type of material, which is what Subpart H currently requires for slings made of alloy steel chains and synthetic webbing. *See* 29 CFR 1926.251(b)(1) and (e)(1)(i)–(iii).
>
> (4) With use, the tags and markings can become detached or damaged. However, just as employers are required to ensure that the slings themselves retain their integrity, it is important that they be required to replace tags that become detached or otherwise unreadable, so the workers loading the slings have readily accessible information about the limits of the load capacity.

OSHA determined that these revisions will eliminate duplicative, inconsistent, and outdated information, thus minimizing confusion regarding the rated capacity of any type of sling used by the employers, and also increasing worker safety. Reliance on the information marked on the sling simplifies compliance for the employers by ensuring that employers use slings with readily available, up-to-date load ratings. Consequently, OSHA is removing the previous load-capacity tables for slings from the following standards: § 1910.184 (general industry; tables N–184–1, and N–184–3 through N–184–22); § 1915.118 (shipyard employment; tables G–1 through G–5, G–7, G–8, and G–10), including references to these tables in § 1915.112 and § 1915.113; and § 1926.251 (construction; tables H–1 and H–3 through H–19). In their place, OSHA is adding identical requirements for identification markings on wire-, natural-, and synthetic-fiber rope slings in §§ 1910.184 and 1926.251, as well as for manila rope and manila-rope slings, wire rope and wire-rope slings, and

chain and chain slings in § 1915.112. The final rule provides similar requirements for shackles in § 1915.113 and § 1926.251.

In addition, OSHA is requiring that, in using the sling, employers follow the safe working-load capacity information on the identification markings affixed to slings by the sling manufacturer. Further, if the sling is missing its identification marking, consistent with the latest ASME/ANSI B30.9 standard, employers must remove the sling from service until they reaffix the identification markings.

5. Subpart T

OSHA is removing two unnecessary requirements from paragraphs (b)(3)(i) and (b)(5) of its Commercial Diving Operations standard at § 1910.440. Paragraph (b)(3)(i) required employers to retain dive-team member medical records for five years, even though the standard contains no requirement for diver medical examinations. A 1979 court decision resulted in the removal of the requirement to provide diver medical examinations (formerly located at § 1910.411). This revision will merely remove the corresponding medical recordkeeping requirement from the standard. Paragraph (b)(5) consists of two provisions—paragraphs (5)(i) and (ii). Paragraph (5)(i) requires successor employers to receive and retain all diving and medical records specified by the standard, while paragraph (5)(ii) requires employers to forward these diving and medical records to the National Institute for Occupational Safety and Health (NIOSH) in the absence of a successor employer. Neither of these requirements is necessary. The requirement in paragraph (5)(i) is unnecessary because § 1910.1020(h), referenced in paragraph (b)(4) of § 1910.440, specifies the same requirement. OSHA proposed to remove paragraph (5)(ii) as part of its effort to remove provisions from its standard that require employers to transfer records to NIOSH (see the discussion under section A.6.a below). OSHA also is correcting a typographical error in paragraph (b)(4) that refers to § 1910.20 instead of § 1910.1020.

These revisions duplicate the revisions included in the proposed rule. OSHA received no comments on any of these proposed changes.

6. Subpart Z

OSHA is deleting the requirements to transfer records to the National Institute for Occupational Safety and Health (NIOSH) for 15 substance-specific standards in subpart Z, as well as from the standard that regulates access to employee exposure and medical records (§ 1910.1020). The following paragraphs also describe changes to OSHA's general industry and construction Lead standards, and to OSHA's Laboratories standard. OSHA received no comments in opposition to these proposed changes.

a. Transfer of Exposure and Medical Records to NIOSH

OSHA proposed removing provisions in its substance-specific standards that require employers to transfer exposure and medical records to NIOSH. Most of OSHA's existing substance-specific standards, as well as the Access to Employee Exposure and Medical Records standard at § 1910.1020, required employers to transfer specified medical and exposure records to NIOSH when an employer ceased to do business and left no successor, when the required period for retaining the records expired, or when the employer terminates a worker's employment (including retirement or death).

NIOSH provided the following testimony at an ACCSH meeting in December, 2009:

> NIOSH believes that at the time the records transfer requirements were incorporated into the OSHA standards, it was somewhat naively believed that the records would provide a valuable research resource. Clearly, however, this has not been the case for a number of reasons. Based on our experience over the past 30 years, NIOSH believes that the significant costs associated with the records transfer requirements cannot be justified in light of the complete lack of scientific utility of the records. (OSHA Docket No.: OSHA–2009–0030; ID 0025.)

As a result, OSHA is removing or revising the record-transfer requirements, as appropriate, from the following standards:

- Asbestos—§§ 1910.1001(m)(6)(ii), 1915.1001(n)(8)(ii), and 1926.1101(n)(8)(ii);
- 13 Carcinogens (4–Nitrobiphenyl, etc.)—§ 1910.1003(g)(2)(i);
- Vinyl Chloride—§ 1910.1017 (m)(3);
- Inorganic Arsenic—§ 1910.1018 (q)(4)(ii) and (iii);
- Access to Employee Exposure and Medical Records—§ 1910.1020(h)(3) and (h)(4);
- Lead—§§ 1910.1025(n)(5)(ii) and (iii) and 1926.62(n)(6)(ii) and (iii);
- Benzene—§ 1910.1028(k)(4)(ii);
- Coke Oven Emissions—§ 1910.1029(m)(4)(ii) and (iii);
- Bloodborne Pathogens—§ 1910.1030(h)(4)(ii);
- Cotton Dust—§ 1910.1043(k)(4)(ii) and (iii);
- 1,2 Dibromo-3-Chloropropane—§ 1910.1044(p)(4)(ii) and (iii);
- Acrylonitrile—§ 1910.1045(q)(5)(ii) and (iii);
- Ethylene Oxide—§ 1910.1047(k)(5)(ii);
- Methylenedianiline—§§ 1910.1050(n)(7)(ii) and 1926.60(o)(8)(ii); and
- 1,3-Butadiene—§ 1910.1051(m)(6)(i).

In addition, OSHA is removing paragraph (b)(5)(ii) from § 1910.440 (Recordkeeping requirements) of its standards for Commercial Diving Operations; this provision required employers to transfer diving medical records to NIOSH in the event that no successor employer was available.

b. Trigger Levels in the Lead Standards at §§ 1910.1025 and 1926.62

OSHA's Lead standards for general industry and construction at §§ 1910.25 and 1926.62, respectively, require the employer to initiate specific actions when employee exposures to airborne lead levels or workers' blood-lead levels reach defined thresholds. For airborne exposure, the permissible exposure limit (PEL) and action level for lead serve as triggers for determining the minimum frequency of exposure monitoring. The blood-lead level serves as a trigger for additional blood-lead testing, as well as for medical-removal protection and return to work after medical removal.

In the NPRM, OSHA proposed to modify the language in several provisions that rely on the use of airborne exposure and blood-lead triggers to rectify inconsistencies both within and between the general industry and construction rules. Previously, these rules triggered various requirements when airborne exposures or blood-lead levels *exceeded* an action level. For example, paragraph (j)(1)(i) of the general industry rule (§ 1910.1025) previously required the employer to institute a medical-surveillance program "for all employees who are or may be exposed *above* the action level * * *." [Emphasis added.] OSHA proposed to change the language in this and other provisions to make clear that exposures or blood-lead levels *at or above* the applicable action level trigger the requirements. Similarly, both the general industry and construction rules previously permitted the employer to return an employee to work following medical removal when two consecutive blood-lead tests show blood-lead levels *at or below* the action level of 40 µg/dl. OSHA proposed to change this language to permit return to work when blood-lead levels are *below* the action level.

In the final rule, OSHA is, with one exception, revising the provisions in the

lead standard as proposed, and Table 1 below shows these changes for the general industry rule, and Table 2 below shows them for the construction rule. These revisions make consistent parallel requirements in the general industry and construction lead standards, thus reducing potential confusion. In addition, triggering exposure monitoring when airborne exposures are at or above the action level is consistent with use of the action level in most other substance-specific standards to establish monitoring requirements.

The one exception to the proposed changes involves paragraph (d)(6)(iii) of the general industry rule, which requires employers to conduct exposure monitoring at least quarterly when initial monitoring reveals worker exposures *above* the PEL. OSHA proposed to change the provision to require quarterly monitoring when exposures were *at or above* the PEL. However, since issuing the proposed rule, OSHA determined that this change would result in paragraph (d)(6)(iii) being inconsistent with the same provision of the lead in construction rule (at § 1926.62(d)(6)(iii)), as well as with several other substance-specific standards (see, for example, Chromium (VI) at § 1910.1026(d)(2)(iv); Benzene at § 1910.1028(e)(3)(ii); Asbestos at § 1910.1001(d)(3)).

Stakeholders supported the proposed revisions. The BCTD, AFL–CIO (ID 0156.1) stated, "The language changes set forth in Tables 1 and 2 (Fed. Reg. at 28655–56)—which will set all triggers 'at or above' a specified level—will eliminate confusion about when employers must act." Similarly, the AFL–CIO (ID 0160.1) indicated these revisions "will not only eliminate confusing inconsistencies but will also properly initiate certain protective actions at the appropriate triggering level of airborne concentration of lead without adding any additional obligations on employers." Furthermore, the State of California Department of Public Health (ID 0161.1–.5) submitted a series of additional documents in support of the change to this language. OSHA received no comments opposing these revisions.

TABLE 1—§ 1910.1025 GENERAL INDUSTRY

Previous language	Final rule language
§ 1910.1025(d)(6)(iii)	
If the initial monitoring reveals that employee exposure is **above** the permissible exposure limit the employer shall repeat monitoring quarterly. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least 7 days apart, are below the PEL but at or above the action level at which time the employer shall repeat monitoring for that employee at the frequency specified in paragraph (d)(6)(ii), except as otherwise provided in paragraph (d)(7) of this section.	No change.
§ 1910.1025(j)(1)(i)	
The employer shall institute a medical surveillance program for all employees who are or may be exposed **above** the action level for more than 30 days per year.	The employer shall institute a medical surveillance program for all employees who are or may be exposed **at or above** the action level for more than 30 days per year.
§ 1910.1025(j)(2)(ii)	
Follow-up blood sampling tests. Whenever the results of a blood lead level test indicate that an employee's blood lead level **exceeds** the numerical criterion for medical removal under paragraph (k)(1)(i)(A), of this section, the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.	*Follow-up blood sampling tests.* Whenever the results of a blood lead level test indicate that an employee's blood lead level is **at or above** the numerical criterion for medical removal under paragraph (k)(1)(i)(A), of this section, the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.
§ 1910.1025(k)(1)(i)(B)	
The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests conducted pursuant to this section (or the average of all blood sampling tests conducted over the previous six (6) months, whichever is longer) indicates that the employee's blood lead level is at or above 50 ug/100 g of whole blood; provided, however, that an employee need not be removed if the last blood sampling test indicates a blood lead level **at or below** 40 ug/100 g of whole blood.	The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests conducted pursuant to this section (or the average of all blood sampling tests conducted over the previous six (6) months, whichever is longer) indicates that the employee's blood lead level is at or above 50 ug/100 g of whole blood; provided, however, that an employee need not be removed if the last blood sampling test indicates a blood lead level **below** 40 ug/100 g of whole blood.
§ 1910.1025(k)(1)(iii)(A)(1)	
For an employee removed due to a blood lead level at or above 60 ug/100 g, or due to an average blood lead level at or above 50 ug/100 g, when two consecutive blood sampling tests indicate that the employee's blood lead level is **at or below** 40 ug/100 g of whole blood.	For an employee removed due to a blood lead level at or above 60 ug/100 g, or due to an average blood lead level at or above 50 ug/100 g, when two consecutive blood sampling tests indicate that the employee's blood lead level is **below** 40 ug/100 g of whole blood.

TABLE 2—§ 1926.62 CONSTRUCTION

Previous language	Final rule language
§ 1926.62(j)(2)(ii)	
Follow-up blood sampling tests. Whenever the results of a blood lead level test indicate that an employee's blood lead level **exceeds** the numerical criterion for medical removal under paragraph (k)(1)(i) of this section, the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.	*Follow-up blood sampling tests.* Whenever the results of a blood lead level test indicate that an employee's blood lead level is **at or above** the numerical criterion for medical removal under paragraph (k)(1)(i) of this section, the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.
§ 1926.62(j)(2)(iv)(B)	

TABLE 2—§ 1926.62 CONSTRUCTION—Continued

Previous language	Final rule language
The employer shall notify each employee whose blood lead level **exceeds** 40 ug/dl that the standard requires temporary medical removal with Medical Removal Protection benefits when an employee's blood lead level exceeds the numerical criterion for medical removal under paragraph (k)(1)(i) of this section.	The employer shall notify each employee whose blood lead level is **at or above** 40 ug/dl that the standard requires temporary medical removal with Medical Removal Protection benefits when an employee's blood lead level exceeds the numerical criterion for medical removal under paragraph (k)(1)(i) of this section.
§ 1926.62(k)(1)(iii)(A)(1)	
For an employee removed due to a blood lead level at or above 50 ug/dl when two consecutive blood sampling tests indicate that the employee's blood lead level is **at or below** 40 ug/dl.	For an employee removed due to a blood lead level at or above 50 ug/dl when two consecutive blood sampling tests indicate that the employee's blood lead level is below 40 ug/dl.

c. Occupational Exposure to Hazardous Chemicals in Laboratories (§ 1910.1450)

OSHA is revising a statement in the non-mandatory Appendix A of the standard that regulates occupational exposure to hazardous chemicals in laboratories at § 1910.1450. Specifically, OSHA is revising the warning statement regarding what action employers should take in the event an employee ingests hazardous chemicals. The purpose of the statement is to provide guidance to employers on developing a chemical-hygiene plan. The previous text recommended that when an employee ingests a hazardous chemical, responders to the incident should "[e]ncourage the victim to drink large amounts of water."

As explained in the NPRM, OSHA recognizes that, in some poisoning instances, consuming large amounts is contraindicated. Additionally, OSHA acknowledges that some labels on chemical products provide warning language such as "Do not give anything by mouth—Contact medical advice immediately." Based on these conflicting warnings, OSHA is revising the language of Appendix A to read, "This is the one route of entry for which treatment depends on the type and amount of chemical involved. Seek medical attention immediately." OSHA received no comments in response to this proposed change.

B. Revisions to the Standards for Shipyard Employment (29 CFR 1915)

This section identifies and describes the revisions that apply to Shipyard Employment (29 CFR part 1915).

1. Appendix A of Subpart B

OSHA's subpart B of 29 CFR 1915, which covers confined and enclosed spaces and other dangerous atmospheres, includes a definition of "hot work" at § 1915.11 that reads as follows:

> [A]ny activity involving riveting, welding, burning, and the use of power-activated tools or similar fire-producing operations. Grinding, drilling, abrasive blasting, or similar spark-producing operations are also considered hot work except when such operations are isolated physically from any atmosphere containing more than 10 percent of the lower explosive limit [LEL] of a flammable or combustible substance.

Subpart B also includes a non-mandatory Appendix A titled "Compliance Assistance Guidelines for Confined and Enclosed Spaces and Other Dangerous Atmospheres" that provides an example of an operation that OSHA does not consider to be hot work as defined by § 1915.11. This example reads as follows: "Abrasive blasting of the hull for paint preparation does not necessitate pumping and cleaning the tanks of a vessel." OSHA proposed to add the word "external" to this example such that it only refers to abrasive blasting of an "external hull." OSHA proposed this change to indicate that the example applies only to abrasive-blasting work performed on the outside of a vessel. To ensure that the regulated community fully understands this exception, OSHA is making a minor revision to the proposed language. With this minor revision, the exception reads, "Abrasive blasting of the external surface of the vessel (the hull) for paint preparation does not necessitate pumping and cleaning the tanks of the vessel." By implication, the definition of hot work under § 1915.11 generally would cover only abrasive blasting performed on the interior of the hull. Therefore, OSHA is amending Appendix A as proposed, with the minor, non-substantive revision noted above. OSHA received no comments in response to the proposed change.

2. §§ 1915.112, 1915.113, and 1915.118

As discussed above in section A.4, OSHA is revising and updating the slings provisions of § 1915.112 (Ropes, chains and slings), paragraph (a) of § 1915.113 (Shackles and hooks), and § 1915.118 (Tables).

3. § 1915.154—Respiratory Protection

As discussed in section A.2.b(2) above, the revision to Appendix C of the Respiratory Protection standard at § 1910.134, regarding removal of training certification record requirements, will also affect shipyard employment through the Respiratory Protection standard at § 1915.154.

4. § 1915.1001—Asbestos

As discussed above in section A.2.b(5), the revision to § 1915.1001, Asbestos, requires employers to institute a respiratory-protection program in accordance with § 1910.134, to be consistent with changes made to the construction and general industry Asbestos standards in the 1998 revision of the Respiratory Protection standard.

C. Revisions to the Standards for Marine Terminals (29 CFR 1917)

1. § 1917.2—Definitions

OSHA is adding a definition for the term "ship's stores" in § 1917.2. Five provisions in 29 CFR 1910, 1917, and 1918 use the term "ship's stores." However, OSHA has no definition of the term in any of these parts. OSHA uses the term in the definition of "longshoring operation" in §§ 1910.16(c)(1) and 1918.2; in the definition of "vessel cargo handling gear" in § 1918.2; in the scope and application section of the Marine Terminal standard at § 1917.1(a); and in § 1917.50(j)(3) (exceptions to the gear-certification requirements).

In a directive published on May 23, 2006 (CPL 02–00–139), OSHA defined the term as "materials which are on board a vessel for the upkeep, maintenance, safety, operation, or navigation of the vessel; or for the safety or comfort of the vessel's passengers or crew." The definition in the directive is similar to the U.S. Coast Guard definition at 46 CFR 147. OSHA determined that the definition used in the directive is appropriate, and, therefore, incorporated it in the definitions section of § 1917.2, which will clarify the provisions that use the term "ships stores." OSHA received no comments on this proposed revision.

2. § 1917.127—Sanitation

As discussed above in section A.3.b, OSHA is revising and updating the sanitation provisions in paragraph (a)(1)(iii) of § 1917.127 by removing the word "warm" from the phrase "warm air blowers." This revision will allow employers to use a variety of non-heated air-drying devices as technology advances and improves.

D. Revisions to the Standards for Longshoring (29 CFR 1918)

1. § 1918.2—Definitions

As discussed in section C.1 above, OSHA is adding a definition in § 1918.2 for the term "ship's stores" because several provisions of this part use the term without any clear definition of what it means. OSHA received no comments on this proposed revision.

2. § 1918.95—Sanitation

As discussed above in section A.3.b, OSHA revised and updated the sanitation provisions in paragraph (a)(1)(iii) of § 1918.95 by removing the word "warm" from the phrase "warm air blowers." This revision will allow employers to use a variety of mechanical hand-drying techniques as technology advances and improves.

E. Revisions to the Standards for Gear Certification (29 CFR 1919)

1. §§ 1919.6, 1919.11, 1919.12, 1919.15, and 1919.18

OSHA is updating §§ 1919.6(a)(1), 1919.11(d), 1919.12(f), 1919.15(a), and 1919.18(b) to require employers to inspect a vessel's cargo-handling gear as recommended by International Labor Organization (ILO) Convention 152. This revision requires employers to test and thoroughly examine gear before initial use; thoroughly examine gear every 12 months thereafter; and retest and thoroughly examine the gear every five years. This revision is consistent with current ILO Convention 152. The previous standards, based on outdated ILO Convention 32, required testing and examination every four years. OSHA believes these revisions represent the usual and customary practice of the maritime industry and will reduce employers' compliance burden. These revisions also make 29 CFR 1919 standards for gear certification consistent with the existing requirements of the Longshoring standard at § 1918.11(a). OSHA received no comments on the proposed revisions.

F. Revisions to the Construction Standards (29 CFR 1926)

1. Subpart D

a. § 1926.51(a)(6)

As discussed above in section A.3.a, OSHA revised § 1926.51, Sanitation, by updating the definition of the term "potable water." OSHA adopted the previous definition from a Public Health Service code that no longer exists. The new definition will update and eliminate an outdated provision, as well as promote consistency among the OSHA sanitation standards.

b. § 1926.51(f)(3)

As discussed in section A.3.b above, OSHA revised the sanitation provisions in paragraph (f)(3)(iv) of § 1926.51 by removing the word "warm" from the term "warm air blowers." This revision will allow employers to use a variety of mechanical hand-drying techniques as technology advances.

c. § 1926.60

As discussed above in section A.6.a, OSHA removed paragraph (o)(8)(ii) from § 1926.60 (Methylenedianiline (MDA)), which required employers to transfer certain employee medical and exposure records to NIOSH. In addition, OSHA is amending paragraph (o)(8) to replace the existing cross-reference to § 1926.33(h) with a more direct cross-reference to § 1910.1020(h), Access to Employee Exposure and Medical Records.

d. § 1926.62

(1) As discussed in section A.6.b above, OSHA revised the trigger levels provided in various paragraphs of § 1926.62 at which employers must initiate specific actions to protect workers exposed to lead. These revisions to the trigger level change the terms "exceeds" and "above" to "at or above," and, similarly, change the term "at or below" to "below." The consistent use of these terms across OSHA's various substance-specific standards will improve compliance and result in a clear understanding of these requirements.

(2) As discussed above in section A.6.a, OSHA removed paragraphs (n)(6)(ii) and (iii) from § 1926.62, which required employers to transfer certain employee medical and exposure records to NIOSH. In addition, OSHA is amending paragraph (n)(6)(ii) to replace the existing cross-reference to § 1926.33(h) with a more direct cross-reference to § 1910.1020(h), Access to Employee Exposure and Medical Records.

2. Subpart H

As discussed in section A.4 above, OSHA revised and updated the slings requirements at § 1926.251 (Rigging equipment for material handling). OSHA added the requirement that employers use only slings that have identification markings. The final rule provides similar protection for shackles.

3. Subpart Z

a. Asbestos (§ 1926.1101)

OSHA is revising (n)(7)(ii) and (n)(7)(iii) and (n)(8)(ii) in the following manner:

(1) OSHA is revising the references to § 1926.33 in paragraphs (n)(7)(ii), (n)(7)(iii), and (n)(8) of § 1926.1101 to more directly refer to § 1910.1020, Employee Access to Exposure and Medical Records. OSHA originally proposed to only correct errors in these paragraphs and cross-reference to § 1926.33, which is a note requiring employers to comply with § 1910.1020. OSHA received no comments on the proposed correction; however, OSHA believes that including a direct reference to § 1910.1020 will further clarify these provisions.

(2) As discussed in section A.6.a above, OSHA is removing paragraph (n)(8)(ii), from § 1926.1101, which specifies that employers must transfer employee medical and exposure records to NIOSH.

b. Cadmium (§ 1926.1127)

(1) As discussed above in section A.2.a, OSHA is removing and reserving paragraph (n)(4) of § 1926.1127, which requires employers to certify training records. OSHA does not believe that the training-certification records required by this provision provide a safety or health benefit sufficient to justify the burden and cost to employers.

(2) OSHA is revising the reference to § 1926.33 in paragraph (n)(6) of § 1926.1127 to more directly refer to § 1910.1020, Employee Access to Exposure and Medical Records. OSHA originally proposed to only correct an incorrect reference to § 1926.33(h) in this paragraph and cross-reference to § 1926.33, which is a note requiring employers to comply with § 1910.1020. OSHA received no comments on the proposed correction; however, OSHA believes that including a direct reference to § 1910.1020 will further clarify this provision.

G. Revisions to the Agriculture Standards (29 CFR 1928)

Subpart I (General Environmental Controls)

As discussed above in section A.3.a, OSHA revised § 1928.110(b) by updating the definition of the term "potable water." OSHA adopted the previous definition from a Public Health Service code that no longer exists. The new definition will update and eliminate an outdated provision, as well as promote consistency among the OSHA sanitation standards.

IV. Final Economic Analysis and Regulatory Flexibility Act Certification

Overview

OSHA determined that the final standard is not an economically significant regulatory action under Executive Order (E.O.) 12866. E.O.12866 requires regulatory agencies to conduct an economic analysis of rules that meet certain criteria. The most frequently used criterion under E.O.12866 is whether the rule will impose on the economy an annual cost in excess of $100 million. This rule has no costs and will lead to $45 million per year in cost savings to regulated entities. Thus, neither the benefits nor the costs of this rule exceed $100 million. OSHA provides OMB's Office of Information and Regulatory Affairs with this assessment of the costs and benefits to conform with the emphasis in both E.O. 13563 and E.O. 12866 on the importance of quantifying both costs and benefits.

OSHA also determined that the final standard is not a major rule under the Congressional Review Act (a part of the SBREFA Act of 1996) (5 U.S.C. 801 *et seq.*), and that the rule does not have a significant impact on a substantial number of small entities and, thus, this final rule requires no regulatory flexibility analysis.

The final rule, like the proposed rule, deletes and revises a number of provisions in existing OSHA standards. OSHA believes that the final rule is technologically feasible because it reduces or removes current requirements on employers.

The Agency considered both regulatory and non-regulatory alternatives to the final revisions. Non-regulatory alternatives are not an appropriate remedy to effect these revisions because the final provisions reduce requirements or provide flexibility to employers by revising existing standards. As discussed in the Summary and Explanation section above, the Agency considered alternatives for amending several provisions. In most instances, the Agency chose to revise outdated provisions to improve clarity, as well as consistency with standards more recently promulgated by the Agency. In some instances, the final rule provides more flexibility in communicating information to employees or the Agency. The purpose of the final provisions was to reduce burden on employers, or provide employers with compliance flexibility, while maintaining the same level of protection for employees.

B. Costs and Cost Savings

1. Removing Requirements To Transfer Records to NIOSH

The Agency is deleting provisions from §§ 1910.1020(h)(3) and (4) of its standard regulating access to employee medical and exposure records that will end employers' responsibility to send specific exposure and medical records to the National Institute for Occupational Safety and Health (NIOSH). Under existing paragraph § 1910.1020(h)(3), if an employer ceases business operations without a successor, the employer must send employee exposure and medical records to NIOSH, if required to do so by a substance-specific standard. For records associated with other substances, the employer must notify the Director of NIOSH in writing three months before disposing of them. Under paragraph § 1910.1020(h)(4), an employer who regularly disposes of employee records more than 30 years old must notify the Director of NIOSH at least three months prior to disposing of records planned for disposal in the coming year.

Deleting these requirements from OSHA standards provides several sources of savings to NIOSH. In a comment to the rulemaking record (ID 0135.1), NIOSH reported that it catalogued about 170,000 employee medical and exposure records during the past 30 years. NIOSH noted that the records were of no use for research purposes, and estimated that removing the duty to collect the records would result in a savings of $2 million for long-term storage of the catalogued data. In this regard, NIOSH stated that long-term storage costs are currently $0.30/record/year, which "represents a total lifetime storage costs of more than $2,000,000." In addition, NIOSH episodically receives data from employers who are terminating business operations. These employers often fail to contact NIOSH in advance regarding the appropriateness of the records they are sending to NIOSH. NIOSH protocol requires it to keep records, even inappropriate records, until it reviews the records; NIOSH keeps unreviewed records in temporary storage. Removal of the records-transfer requirement would relieve NIOSH of receiving and temporarily storing these records.

The final rule also would save NIOSH the resources it expends on processing received data on an on-going basis. NIOSH noted that the cost of processing records range from $1.35 to $4.00 per record, but the agency did not provide comment on how many records are typically processed annually. In its analyses of the paperwork burden associated with this records-transfer requirement, OSHA estimated that employers expend 688 hours at a cost of $12,576 annually (see section VII "OMB Review Under the Paperwork Reduction Act of 1995" below). This savings also constitutes a benefit of the final rule.

2. Removing Training-Certification and Other Requirements

A second source of cost savings is removing the certification requirement for employee training under the Personal Protective Equipment (PPE) and Cadmium standards. The Agency estimates that this action will save employers, across a wide range of industries, about 1.86 million hours annually, with an estimated value of about $42.9 million (see OSHA's estimate of paperwork costs below in section VII).

The final provisions on slings require employers to use only equipment (i.e., slings and shackles) marked with safe working loads (SWL) and other rigging information. OSHA's current standards require this information for three of the five types of slings, and the Agency believes that it is industry practice for manufacturers to permanently mark or tag all slings with the requisite information. Thus, the Agency concludes that these provisions will not impose any new cost burden on affected employers. OSHA believes that having the SWL information marked on slings (instead of located in tables) would provide employers with readily available and up-to-date sling information. Even if the Agency has no information to quantify this effect to employers, OSHA believes that it will provide benefits to employers by permitting readily available and up-to-date sling information.

The final rule also relaxes the frequency of maritime rigging inspections under 29 CFR 1919 from every four years to every five years. This provision will provide a cost saving to employers. There are 1,504 quadrennial inspections per year, and each

inspection costs $560 to employers. With the new requirement of rigging inspections every five years, the total number of rigging inspections per year will be reduced by 20 percent (or by 301 inspections). This reduction will result in a cost savings of $168,560 to employers annually.

C. Summary

OSHA concludes that the final provisions of the SIP–III rulemaking do not impose any new costs on employers. Since the final rule does not impose costs of any significance on any employer, the Agency concludes that the final rule is economically feasible. The table below provides a summary of the cost savings OSHA estimates will result from the final rule.

Item	Cost savings (in millions)
NIOSH record storage (one-time savings)	$2.0
Removing requirements that employers transfer records to NIOSH (annual savings)	0.013
Removing requirements for written certification of training (annual savings)	42.90
Changing rigging inspections from every four years to every five years	0.17
Total	45.2

D. Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (as amended), OSHA examined the regulatory requirements of the final rule to determine whether these final requirements would have a significant economic impact on a substantial number of small entities. Since no employer of any size will have new costs, the Agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

V. Federalism

OSHA reviewed this final rule in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999), which requires that Federal agencies, to the extent possible, refrain from limiting State policy options, consult with States prior to taking any actions that would restrict State policy options, and take such actions only when clear constitutional authority exists and the problem is national in scope. Executive Order 13132 provides for preemption of State law only with the expressed consent of Congress. Agencies must limit any such preemption to the extent possible.

Under Section 18 of the Occupational Safety and Health Act of 1970 (OSH Act; U.S.C. 651 *et seq.*), Congress expressly provides that States may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards; States that obtain Federal approval for such a plan are referred to as "State-Plan States." (29 U.S.C. 667). Occupational safety and health standards developed by State-Plan States must be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Subject to these requirements, State-Plan States are free to develop and enforce their own requirements for occupational safety and health standards. While this final rule affects employees in every State, Section 18(c)(2) of the OSH Act permits State-Plan States and Territories to develop and enforce their own standards, provided the requirements in these standards are at least as safe and healthful as the requirements specified in this final rule.

In summary, this final rule complies with Executive Order 13132. In States without OSHA-approved State Plans, any standard developed from this final rule would limit State policy options in the same manner as every standard promulgated by OSHA. In States with OSHA-approved State Plans, this rulemaking does not significantly limit State policy options.

VI. Unfunded Mandates

OSHA reviewed this final rule in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA; 2 U.S.C. 1501 *et seq.*) and Executive Order 12875 (56 FR 58093). As discussed in section IV ("Preliminary Economic Analysis and Regulatory Flexibility Act Certification") of this notice, the Agency determined that this final rule will not impose additional costs on any private- or public-sector entity. Accordingly, this final rule requires no additional expenditures by either public or private employers.

As noted under section VIII ("State Plans") of this notice, the Agency's standards do not apply to State and local governments except in States that elect voluntarily to adopt a State Plan approved by the Agency. Consequently, this final rule does not meet the definition of a "Federal intergovernmental mandate" (see Section 421(5) of the UMRA (2 U.S.C. 658(5)). Therefore, for the purposes of the UMRA, the Agency certifies that this final rule does not mandate that State, local, or tribal governments adopt new, unfunded regulatory obligations, or increase expenditures by the private sector of more than $100 million in any year.

VII. Office of Management and Budget Review under the Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA–95), agencies must obtain Office of Management and Budget (OMB) approval for all collection of information requirements (paperwork). As a part of the approval process, agencies must solicit comment from affected parties with regard to the collection of information requirements, including the financial and time burdens estimated by the agencies for the collection of information requirement. The paperwork burden-hour estimate and cost analysis that an Agency submits to OMB is termed an "Information Collection Request" (ICR).

The Standards Improvement Project–Phase III (SIP–III) final rule removes collection of information requirements contained in 27 separate ICRs currently approved by OMB. In accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)), the SIP–III proposal solicited public comments on the proposed burden-hour and cost reduction. In conjunction with the publication of the SIP–III Notice of Proposed Rulemaking (NPRM), OSHA submitted one ICR titled "Standards Improvement Project—Phase III Notice of Proposed Rulemaking." The NPRM ICR identified each ICR, the associated OMB Control Number, ICR reference number, and the proposed reduction in burden hours, costs, and number of responses.

To better account for the burden-hour and cost reductions associated with the SIP–III final rule, the Department of Labor submitted 27 separate revised ICRs to OMB for approval. Copies of these ICRs are available at *http://www.reginfo.gov.* OSHA will publish a separate notice in the **Federal Register** that will announce the result of OMB's reviews. The Department of Labor notes that a Federal agency cannot conduct or sponsor a collection of information unless OMB approves it under the PRA–95, and the agency displays a currently valid OMB control number. Also, notwithstanding any other provision of law, no employer shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number.

The SIP–III final rule removes provisions in OSHA's substance-specific

standards that require employers to transfer worker exposure-monitoring and medical records to the National Institute for Occupational Safety and Health (NIOSH) (see Table 3 below for a list of these provisions). Many OSHA standards, including its substance-specific standards in 29 CFR part 1910, subpart Z, and 29 CFR 1910.1020 (Access to Employee Exposure and Medical Records), require employers to transfer to NIOSH medical and exposure records when: an employer ceases to do business and leaves no successor; the period for retaining the records expires; or a worker terminates employment (including retirement or death). OSHA removed these record-transfer provisions because evidence in this rulemaking record submitted by NIOSH indicates that the records serve no useful occupational safety and health research purpose (which is NIOSH's principle mission).

In addition, the final rule removes provisions requiring employers to prepare and maintain written records certifying training compliance in the following sections: (f)(4) of the general industry Personal Protective Equipment (PPE) standard (29 CFR 1910.132), paragraph (e)(4) of the shipyard employment PPE standard (29 CFR 1915.152), and paragraph (n)(4) of the general industry and construction Cadmium standards (29 CFR 1910.1027 and 29 CFR 1926.1127) (see Table 4). These provisions required employers to verify that affected workers received training as required by the standards through a written certification record that included, at a minimum, the name(s) of the workers trained, the date(s) of training, and the types of training the workers received. The Cadmium standards for general industry and construction were the only substance-specific standards that required this training documentation. OSHA removed the training requirements to reduce burden hours and costs on the employers. Effective training ensures that workers understand proper work practices, which will reduce rates of injuries and illnesses. Removing the certification requirements of these standards will not change the requirements for employers to provide effective PPE and safety training.

TABLE 3—BURDEN-HOUR AND COST REDUCTIONS FROM REMOVING REQUIREMENTS TO TRANSFER RECORDS TO NIOSH

Standard and provision	OMB control No.	ICR reference No.	Existing burden hours	Burden-hour reduction	Requested burden hours	Cost reduction *
Commercial Diving Operations—29 CFR 1910.440(b)(5)(ii)	1218–0069	200804–1218–002	205,397	−301	205,096	$5,764
Asbestos—29 CFR 1910.1001(m)(6)(ii)	1218–0133	201006–1218–003	11,933	−1	11,932	21
Asbestos—29 CFR 1915.1001(n)(8)(ii)	1218–0195	200902–1218–008	1,624	−1	1,623	22
Asbestos—29 CFR 1926.1101(n)(8)(ii)	1218–0134	200811–1218–002	4,957,808	−4	4,957,804	101
13 Carcinogens (4-Nitrobiphenyl, etc.)—29 CFR 1910.1003(g)(2)(i) and (ii)	1218–0085	200811–1218–001	1,604	−6	1,598	139
Vinyl Chloride—29 CFR 1910.1017 (m)(3)	1218–0010	200809–1218–003	712	−1	711	20
Inorganic Arsenic—29 CFR 1910.1018 (q)(4)(ii) and (iii)	1218–0104	200811–1218–003	385	−1	384	23
Access to Employee Exposure and Medical Records—29 CFR 1910.1020(h)(3)(i),(ii) and (h)(4)	1218–0065	201007–1218–004	665,009	−16	664,993	331
Lead—29 CFR 1910.1025(n)(5)(ii) and (iii)	1218–0092	200907–1218–001	1,225,255	−2	1,225,253	42
Lead—29 CFR 1926.62(n)(6)(ii) and (iii)	1218–0189	200907–1218–002	1,363,803	−1	1,363,802	22
Cadmium—29 CFR 1910.1027(n)(6)	1218–0185	200902–1218–003	92,259	0	92,259	0
Cadmium—29 CFR 1926.1127(n)(6)	1218–0186	200902–1218–002	39,331	0	39,331	0
Benzene—29 CFR 1910.1028(k)(4)(ii)	1218–0129	200911–1218–004	126,184	−1	126,183	23
Coke Oven Emissions—29 CFR 1910.1029(m)(4)(ii) and (iii)	1218–0128	200809–1218–004	52,701	−3	52,698	60
Bloodborne Pathogens—29 CFR 1910.1030(h)(4)(ii)	1218–0180	200710–1218–006	14, 059,435	0	14,059,435	0
Cotton Dust—29 CFR 1910.1043(k)(4)(ii) and (iii)	1218–0061	200809–1218–007	35,742	−3	35,739	69
1,2 Dibromo-3-Chloropropane—29 CFR 1910.1044(p)(4)(ii) and (iii)	1218–0101	200902–1218–007	1	0	1	0
Acrylonitrile—29 CFR 1910.1045(q)(5)(ii) and (iii)	1218–0126	200809–1218–006	3,166	−3	3,163	74
Ethylene Oxide—29 CFR 1910.1047(k)(5)(ii)	1218–0108	200904–1218–001	41,487	−3	41,484	62
Formaldehyde—29 CFR 1910.1048(o)(6)(ii) and (iii)	1218–0145	201006–1218–006	327,535	−2	327,533	41
Methylenedianiline—29 CFR 1910.1050(n)(7)(ii)	1218–0184	200912–1218–015	298	−1	297	18
Methylenedianiline—29 CFR 1926.60(n)(7)(ii)	1218–0183	200912–1218–014	1,030	−1	1,029	21
1,3-Butadiene—29 CFR 1910.1051(m)	1218–0170	200905–1218–001	955	−3	952	65
Methylene Chloride—29 CFR 1910.1052(m)(5) **	1218–0179	200806–1218–001	67,362	−1	67,361	21
Occupational Exposure to Hazardous Chemicals in Laboratories—29 CFR 1910.1450(j)(2) **	1218–0131	200806–1218–002	281,419	−333	281,086	5,644
Totals			23,562,435	−688	23,561,747	12,583

* The cost estimates in this table represent program changes associated with Item 12 of the Supporting Statements.

** OSHA is not modifying the provisions in these standards containing transfer of exposure-monitoring and medical records to NIOSH since these provisions reference 29 CFR 1910.1020 rather than specify directly any transfer requirements. However, the ICRs for these standards accounted for burden hours and costs for these provisions. Therefore, OSHA included these provisions in this table.

TABLE 4—BURDEN-HOUR AND COST REDUCTIONS FROM REMOVING TRAINING-CERTIFICATION REQUIREMENTS

Standard and provision	OMB Control No.	ICR reference No.	Existing burden hours	Burden-hour reduction	Requested burden hours	Cost reduction *
Personal Protective Equipment—29 CFR 1910.132(f)(4)	1218–0205	201001–1218–002	3,552,171	−1,855,180	1,696,991	$42,743,347
Cadmium—29 CFR 1910.1027(n)(4)	1218–0185	200902–1218–003	92,259	−1,226	91,033	26,371
Personal Protective Equipment (PPE)—29 CFR 1915.152(e)(4)	1218–0215	200911–1218–001	2,827	−2,776	51	48,664
Cadmium—29 CFR 1926.1127(n)(4)	1218–0186	200902–1218–002	39,331	−2,100	37,231	34,218
Totals			3,686,588	−1,861,282	1,825,306	42,861,600

* The cost estimates in this table represent program changes associated with Item 12 of the Supporting Statements.

As a result of removing the requirements for employers to transfer records to NIOSH, and to develop and maintain certification records, OSHA is requesting an overall program-change reduction of 1.86 million hours to its total burden-hour inventory of 67.49 million, for a revised total of 65.63 million hours. Table 5 below summarizes the total burden hour reduction. This translates into a reduction of $42,874,183 ($42,861,600 from removal of the training-certification requirements, and $12,583 since employers will no longer be required to transfer records to NIOSH). Finally, there will be a small reduction in costs of $2,992 since employers will no longer incur mailing expenses to send records to NIOSH.

TABLE 5—BURDEN-HOUR REDUCTIONS RESULTING FROM THE STANDARDS IMPROVEMENT PROJECT—PHASE III FINAL RULE

Action in final rule	Existing burden hours	Burden-hour reduction	Requested burden hours
Removing the Requirements to Transfer Records to NIOSH (Table 1)	23,562,435	−688	23,561,747
Removing Training-Certification Requirement (Table 2)	3,686,588	−1,861,282	1,825,306
Totals	27,249,023	−1,861,970	25,387,053

VIII. State Plans

When Federal OSHA promulgates a new standard or more stringent amendment to an existing standard, the 27 States and U.S. Territories with their own OSHA-approved occupational safety and health plans ("State-Plan States") must amend their standards consistent with the new standard or amendment, or show OSHA why such action is unnecessary, e.g., because an existing State standard covering this area is "at least as effective" as the new Federal standard or amendment. (29 CFR 1953.5(a).) The State standard must be at least as effective as the Federal rule, be applicable to both the private and public (State and local government employees) sectors, and completed within six months of the promulgation date of the final Federal rule. When OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than an existing standard, State-Plan States are not required to amend their standards, although the Agency may encourage them to do so.

The 27 States and U.S. Territories with OSHA-approved occupational safety and health plans are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming; Connecticut, Illinois, New Jersey, New York, and the Virgin Islands have OSHA-approved State Plans that apply to State and local government employees only.

OSHA concludes that this final rule, by revising confusing, outdated, duplicative, or inconsistent standards, will increase the protection afforded to employees while reducing the compliance burden of employers. Therefore, States and Territories with approved State Plans must adopt comparable amendments to their standards within six months of the promulgation date of this rule unless they demonstrate that such amendments are not necessary because their existing standards are at least as effective in protecting workers as this final rule.

List of Subjects

29 CFR Part 1910

Abrasive blasting, Carcinogens, Commercial diving, Egress, Hazard assessment, Hazardous substances, Incorporation by reference, Medical records, Occupational safety and health, Personal protective equipment, Sanitation, Slings, Training, Training certification records, and Respiratory protection.

29 CFR Parts 1915, 1917, 1918, and 1919

Confined spaces, Dangerous atmospheres, Gear certification, Hazard assessment, Hazardous substances, Hot work, Occupational safety and health, Personal protective equipment, Sanitation, Shackles, Slings.

29 CFR Part 1926

Construction, Hazardous substances, Medical records, Occupational safety and health, Potable water, Shackles, Slings.

29 CFR Part 1928

Agriculture, Sanitation, Potable water.

IX. Authority and Signature

David Michaels, PhD MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, authorized the preparation of this final rule. OSHA is issuing this final rule pursuant to 29 U.S.C. 653, 655, and 657, 33 U.S.C. 941, 40 U.S.C. 3701 *et seq.*, Secretary of Labor's Order No. 4–2010 (75 FR 55355), and 29 CFR 1911.

Signed at Washington, DC, on May 26, 2011.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

X. The Final Standard

For the reasons discussed in the preamble, the Occupational Safety and Health Administration is amending 29 CFR parts 1910, 1915, 1917, 1918, 1919, 1926, and 1928 as set forth below:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart A—[Amended]

■ 1. The authority citation for subpart A continues to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order Numbers 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31159), or 4–2010 (75 FR 55355), as applicable.

Sections 1910.7 and 1910.8 also issued under 29 CFR 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Public Law 106–113 (113 Stat. 1501A–222); and OMB Circular A–25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

■ 2. Amend § 1910.6 as follows:

■ a. Revise the introductory text of paragraph (q).

■ a. Redesignate paragraphs (q)(25) through (q)(35) as paragraphs (q)(26) through (q)(36), and add new paragraph (q)(25).

■ b. Add a new paragraph (x).

The revisions and additions read as follows:

§ 1910.6 Incorporation by reference.

* * * * *

(q) The following material is available for purchase from the National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02269–7471; *telephone:* 1–800–344–35557; *e-mail: custserv@nfpa.org.*

* * * * *

(25) NFPA 101–2009, Life Safety Code, 2009 edition, IBR approved for §§ 1910.34, 1910.35, 1910.36, and 1910.37.

* * * * *

(x) The following material is available for purchase from the: International Code Council, Chicago District Office, 4051 W. Flossmoor Rd., Country Club Hills, IL 60478; *telephone:* 708–799–2300, x3–3801; *facsimile:* 001–708–799–4981; *e-mail: order@iccsafe.org.*

(1) IFC–2009, International Fire Code, copyright 2009, IBR approved for §§ 1910.34, 1910.35, 1910.36, and 1910.37.

(2) [Reserved]

Subpart E—Exit Routes and Emergency Planning

■ 3. Revise the authority citation for subpart E to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), or 4–2010 (75 FR 55355), as applicable; and 29 CFR 1911.

■ 4. Revise the heading of subpart E to read as set forth above.

■ 5. In § 1910.33, revise the entry listed for § 1910.35 to read as follows:

§ 1910.33 Table of contents.

* * * * *

§ 1910.35 Compliance with Alternate Exit Route Codes.

* * * * *

■ 6. Revise the definition of the term "Occupant load" in paragraph (c) of § 1910.34 to read as follows:

§ 1910.34 Coverage and definitions.

* * * * *

(c) * * *

Occupant load means the total number of persons that may occupy a workplace or portion of a workplace at any one time. The occupant load of a workplace is calculated by dividing the gross floor area of the workplace or portion of the workplace by the occupant load factor for that particular type of workplace occupancy. Information regarding the "Occupant load" is located in NFPA 101–2009, Life Safety Code, and in IFC–2009, International Fire Code (incorporated by reference, see § 1910.6).

* * * * *

■ 7. Revise § 1910.35 to read as follows:

§ 1910.35 Compliance with alternate exit-route codes.

OSHA will deem an employer demonstrating compliance with the exit-route provisions of NFPA 101, Life Safety Code, 2009 edition, or the exit-route provisions of the International Fire Code, 2009 edition, to be in compliance with the corresponding requirements in §§ 1910.34, 1910.36, and 1910.37 (incorporated by reference, see section § 1910.6).

■ 8. In § 1910.36, revise the notes to paragraphs (b) and (f) to read as follows:

§ 1910.36 Design and construction requirements for exit routes.

* * * * *

(b) * * *

(3) * * *

Note to paragraph (b) of this section: For assistance in determining the number of exit routes necessary for your workplace, consult NFPA 101–2009, Life Safety Code, or IFC–2009, International Fire Code (incorporated by reference, see § 1910.6).

* * * * *

(f) * * *

(2) * * *

Note to paragraph (f) of this section: Information regarding the "Occupant load" is located in NFPA 101–2009, Life Safety Code, and in IFC–2009, International Fire Code (incorporated by reference, see § 1910.6).

* * * * *

Subpart I—[Amended]

■ 9. Revise the authority citation for subpart I to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), or 4–2010 (75 FR 55355), as applicable; and 29 CFR 1911.

Sections 1910.132, 1910.134, and 1910.138 of 29 CFR also issued under 29 CFR 1911.

Sections 1910.133, 1910.135, and 1910.136 of 29 CFR also issued under 29 CFR 1911 and 5 U.S.C. 553.

§ 1910.132 [Amended]

■ 10. Remove paragraph (f)(4) from § 1910.132.

■ 11. In § 1910.134, revise paragraphs (i)(4)(i), (i)(9), and (o), and question 2a in Part A, Section 2 (Mandatory) of Appendix C, to read as follows:

§ 1910.134 Respiratory protection.

* * * * *

(i) * * *

(4) * * *

(i) Cylinders are tested and maintained as prescribed in the Shipping Container Specification Regulations of the Department of Transportation (49 CFR part 180);

* * * * *

(9) The employer shall use only the respirator manufacturer's NIOSH-approved breathing-gas containers,

marked and maintained in accordance with the Quality Assurance provisions of the NIOSH approval for the SCBA as issued in accordance with the NIOSH respirator-certification standard at 42 CFR part 84.

* * * * *

(o) Appendices. Compliance with Appendix A, Appendix B–1, Appendix B–2, Appendix C, and Appendix D to this section are mandatory.

* * * * *

Appendix C to § 1910.134: * * *

* * * * *

Part A. Section 2. * * *

* * * * *

2. * * *

a. Seizures: Yes/No

* * * * *

Subpart J—[Amended]

■ 12. Revise the authority citation for subpart J to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), or 4–2010 (75 FR 55355) as applicable; and 29 CFR 1911.

Sections 1910.141, 1910.142, 1910.145, 1910.146, and 1910.147 also issued under 29 CFR 1911.

■ 13. Revise the definition of "Potable water" in paragraph (a)(2), and revise paragraph (d)(2)(iv) of § 1910.141 to read as follow:

§ 1910.141 Sanitation.

(a) * * *

(2) * * *

Potable water means water that meets the standards for drinking purposes of the State or local authority having jurisdiction, or water that meets the quality standards prescribed by the U.S. Environmental Protection Agency's National Primary Drinking Water Regulations (40 CFR 141).

* * * * *

(d) * * *

(2) * * *

(iv) Individual hand towels or sections thereof, of cloth or paper, air blowers or clean individual sections of continuous cloth toweling, convenient to the lavatories, shall be provided.

* * * * *

Subpart N—[Amended]

■ 14. Revise the authority citation for subpart N to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), or 4–2010 (75 FR 55355) as applicable; and 29 CFR 1911.

Sections 1910.176, 1910.177, 1910.178, 1910.179, 1910.180, 1910.181, and 1910.184 also issued under 29 CFR part 1911.

■ 15. Amend § 1910.184 as follows:

■ a. Add new paragraphs (c)(13) and (c)(14).

■ b. Revise paragraphs (e)(6), (e)(8), (f)(1), and (h)(1).

■ c. Remove and reserve paragraphs (e)(5), (g)(6), and (i)(5).

■ d. Remove Tables N–184–1 and N–184–3 through N–184–22.

■ e. Redesignate Table N–184–2 as N–184–1.

The addition and revisions read as follows:

§ 1910.184 Slings.

* * * * *

(c) * * *

(13) Employers must not load a sling in excess of its recommended safe working load as prescribed by the sling manufacturer on the identification markings permanently affixed to the sling.

(14) Employers must not use slings without affixed and legible identification markings.

* * * * *

(e) * * *

(5) [Reserved]

(6) *Safe operating temperatures.* Employers must permanently remove an alloy steel-chain slings from service if it is heated above 1000 degrees F. When exposed to service temperatures in excess of 600 degrees F, employers must reduce the maximum working-load limits permitted by the chain manufacturer in accordance with the chain or sling manufacturer's recommendations.

* * * * *

(8) Effect of wear. If the chain size at any point of the link is less than that stated in Table N–184–1, the employer must remove the chain from service.

* * * * *

(f) *Wire-rope slings*—(1) *Sling use.* Employers must use only wire-rope slings that have permanently affixed and legible identification markings as prescribed by the manufacturer, and that indicate the recommended safe working load for the type(s) of hitch(es) used, the angle upon which it is based, and the number of legs if more than one.

* * * * *

(g) * * *

(6) [Reserved]

* * * * *

(h) *Natural and synthetic fiber-rope slings*—(1) *Sling use.* Employers must use natural and synthetic fiber-rope slings that have permanently affixed and legible identification markings stating the rated capacity for the type(s) of hitch(es) used and the angle upon which it is based, type of fiber material, and the number of legs if more than one.

* * * * *

(i) * * *

(5) [Reserved]

* * * * *

Subpart T—[Amended]

■ 16. Revise the authority citation for subpart T to read as follows:

Authority: 29 U.S.C. 653, 655, 657; 40 U.S.C. 333; 33 U.S.C. 941; Secretary of Labor's Order No. 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), or 4–2010 (75 FR 55355) as applicable, and 29 CFR 1911.

■ 17. Remove and reserve paragraphs (b)(3)(i) and (b)(5), and revise paragraph (b)(4), of § 1910.440 to read as follows:

§ 1910.440 Recordkeeping requirements.

* * * * *

(b) * * *

(3) * * *

(i) [Reserved]

* * * * *

(4) After the expiration of the retention period of any record required to be kept for five (5) years, the employer shall forward such records to the National Institute for Occupational Safety and Health, Department of Health and Human Services. The employer also shall comply with any additional requirements set forth in 29 CFR 1910.1020(h).

(5) [Reserved]

Subpart Z—[Amended]

■ 18. Revise the authority citation for subpart Z to read as follows:

Authority: 29 U.S.C. 653, 655, and 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), or 4–2010 (75 FR 55355), as applicable, and 29 CFR 1911.

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act, except those substances that have exposure limits listed in Tables Z–1, Z–2, and Z–3 of 29 CFR 1910.1000. The latter were issued under section 6(a) (29 U.S.C. 655(a)).

Section 1910.1000, Tables Z–1, Z–2, and Z–3 also issued under 5 U.S.C. 553, Section 1910.1000 Tables Z–1, Z–2, and Z–3, but not under 29 CFR 1911, except for the arsenic (organic compounds), benzene, cotton dust, and chromium (VI) listings.

Section 1910.1001 also issued under 40 U.S.C. 3704 and 5 U.S.C. 553.

Section 1910.1002 also issued under 5 U.S.C. 553, but not under 29 U.S.C. 655 or 29 CFR 1911.

Sections 1910.1018, 1910.1029, and 1910.1200 also issued under 29 U.S.C. 653.

Section 1910.1030 also issued under Pub. L. 106–430, 114 Stat. 1901.

Section 1910.1201 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 533.

■ 19. Amend § 1910.1001 by removing paragraph (m)(6)(ii), and redesignating paragraph (m)(6)(i) as paragraph (m)(6).

■ 20. Amend § 1910.1003 by revising paragraphs (c)(4)(iv) and (g)(2)(i) to read as follows:

§ 1910.1003 13 Carcinogens (4-nitrobiphenyl, etc.).

* * * * *

(c) * * *

(4) * * *

(iv) Employers must provide each employee engaged in handling operations involving the carcinogens 4-Nitrobiphenyl, alpha-Naphthylamine, 3,3′-Dichlorobenzidine (and its salts), beta-Naphthylamine, Benzidine, 4-Aminodiphenyl, 2-Acetylaminofluorene, 4-Dimethylaminoazo-benzene, and N-Nitrosodimethylamine, addressed by this section, with, and ensure that each of these employees wears and uses, a NIOSH-certified air-purifying, half-mask respirator with particulate filters. Employers also must provide each employee engaged in handling operations involving the carcinogens methyl chloromethyl ether, bis-Chloromethyl ether, Ethyleneimine, and beta-Propiolactone, addressed by this section, with, and ensure that each of these employees wears and uses any self-contained breathing apparatus that has a full facepiece and is operated in a pressure-demand or other positive-pressure mode, or any supplied-air respirator that has a full facepiece and is operated in a pressure-demand or other positive-pressure mode in combination with an auxiliary self-contained positive-pressure breathing apparatus. Employers may substitute a respirator affording employees higher levels of protection than these respirators.

* * * * *

(g) * * *

(2) * * *

(i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment.

§ 1910.1017 [Amended]

■ 21. Remove paragraph (m)(3) from § 1910.1017.

§ 1910.1018 [Amended]

■ 22. Amend § 1910.1018 by removing paragraphs (q)(4)(ii) and (q)(4)(iii), and redesignating paragraph (q)(4)(iv) as paragraph (q)(4)(ii).

§ 1910.1020 [Amended]

■ 23. Remove paragraphs (h)(3) and (h)(4) from § 1910.1020.

■ 24. Amend § 1910.1025 as follows:

■ a. Revise paragraphs (j)(1)(i), (j)(2)(ii), (j)(2)(iv), (k)(1)(i)(B), and (k)(1)(iii)(A)(*1*).

■ b. Remove paragraphs (n)(5)(ii) and (n)(5)(iii), and redesignate paragraph (n)(5)(iv) as paragraph (n)(5)(ii).

The revisions read as follows:

§ 1910.1025 Lead.

* * * * *

(j) * * *

(1) * * *

(i) The employer shall institute a medical surveillance program for all employees who are or may be exposed at or above the action level for more than 30 days per year.

* * * * *

(2) * * *

(ii) *Follow-up blood sampling tests.* Whenever the results of a blood lead level test indicate that an employee's blood lead level is at or above the numerical criterion for medical removal under paragraph (k)(1)(i)(A) of this section, the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.

* * * * *

(iv) *Employee notification.* Within five working days after the receipt of biological monitoring results, the employer shall notify in writing each employee whose blood lead level is at or above 40 μg/100 g:

(A) Of that employee's blood lead level; and

(B) That the standard requires temporary medical removal with Medical Removal Protection benefits when an employee's blood lead level exceeds the numerical criterion for medical removal under paragraph (k)(1)(i) of this section.

* * * * *

(k) * * *

(1) * * *

(i) * * *

(B) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests conducted pursuant to this section (or the average of all blood sampling tests conducted over the previous six (6) months, whichever is longer) indicates that the employee's blood lead level is at or above 50 μg/100 g of whole blood; provided, however, that an employee need not be removed if the last blood sampling test indicates a blood lead level below 40 μg/100 g of whole blood.

(iii) * * *

(A) * * *

(*1*) For an employee removed due to a blood lead level at or above 60 μg/100 g, or due to an average blood lead level at or above 50 μg/100 g, when two consecutive blood sampling tests indicate that the employee's blood lead level is below 40 μg/100 g of whole blood;

* * * * *

■ 25. Amend § 1910.1027 by removing paragraph (n)(4), redesignating paragraphs (n)(5) and (n)(6) as paragraphs (n)(4) and (n)(5), and revising newly designated paragraph (n)(4)(i) to read as follows:

§ 1910.1027 Cadmium.

* * * * *

(n) * * *

(4) * * *

(i) Except as otherwise provided for in this section, access to all records required to be maintained by paragraphs (n)(1) through (3) of this section shall be in accordance with the provisions of 29 CFR 1910.1020.

* * * * *

■ 26. Amend § 1910.1028 revising paragraph (k)(4) as follows:

§ 1910.1028 Benzene.

* * * * *

(k) * * *

(4) *Transfer of records.* The employer shall comply with the requirements involving transfer of records as set forth in 29 CFR 1910.1020(h).

* * * * *

§ 1910.1029 [Amended]

■ 27. Amend § 1910.1029 by removing paragraphs (m)(4)(ii) and (m)(4)(iii), and redesignating paragraph (m)(4)(iv) as paragraph (m)(4)(ii).

■ 28. Amend § 1910.1030 as follows:

■ a. Revise the definition of "Handwashing facilities" in paragraph (b).

■ b. Remove paragraph (h)(4)(ii) and redesignate paragraph (h)(4)(i) as paragraph (h)(4).

The revision reads as follows:

§ 1910.1030 Bloodborne pathogens.

* * * * *

(b) * * *

Handwashing facilities means a facility providing an adequate supply of

running potable water, soap, and single-use towels or air-drying machines.

* * * * *

§ 1910.1043 [Amended]

■ 29. Amend § 1910.1043 by removing paragraphs (k)(4)(ii) and (k)(4)(iii), and redesignating paragraph (k)(4)(iv) as paragraph (k)(4)(ii).

§ 1910.1044 [Amended]

■ 30. Amend § 1910.1044 by removing paragraphs (p)(4)(ii) and (p)(4)(iii), and redesignating paragraph (p)(4)(iv) as paragraph (p)(4)(ii).

§ 1910.1045 [Amended]

■ 31. Amend § 1910.1045 by removing paragraphs (q)(5)(ii) and (q)(5)(iii), and redesignating paragraph (q)(5)(iv) as paragraph (q)(5)(ii).

§ 1910.1047 [Amended]

■ 32. Amend § 1910.1047 by removing paragraph (k)(5)(ii), and redesignating paragraph (k)(5)(i) as paragraph (k)(5).

§ 1910.1050 [Amended]

■ 33. Amend § 1910.1050 by removing paragraph (n)(7)(ii), and redesignating paragraph (n)(7)(i) as paragraph (n)(7).

■ 34. Amend § 1910.1051 as follows:

■ a. Remove and reserve paragraph (m)(3).

■ Revise paragraph (m)(6) as follows:

§ 1910.1051 1,3-Butadiene.

* * * * *

(m) * * *

(3) [Reserved]

* * * * *

(6) *Transfer of records.* The employer shall transfer medical and exposure records as set forth in 29 CFR 1910.1020(h).

* * * * *

■ 35. In Appendix A to § 1910.1450, revise the "ingestion" paragraph under item (a) under Section E, subsection 1, to read as follows:

§ 1910.1450 Occupational exposure to hazardous chemicals in laboratories.

* * * * *

Appendix A to § 1910.1450—National Research Council Recommendations Concerning Chemical Hygiene in Laboratories (Non-Mandatory)

* * * * *

E. * * *

1. * * *

(a) *Accidents and spills*— * * *

Ingestion: This is one route of entry for which treatment depends on the type and amount of chemical involved. Seek medical attention immediately.

* * * * *

PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT

■ 36. Revise the authority citation for part 1915 to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), or 4–2010 (75 FR 55355), as applicable.

Section 1915.100 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Sections 1915.120 and 1915.152 of 29 CFR also issued under 29 CFR 1911.

■ 37. In Appendix A to subpart B, revise item number 1 under the heading "Section 1915.11(b) Definition of 'Hot work'," to read as follows:

* * * * *

Appendix A to Subpart B of Part 1915—Compliance Assistance Guidelines for Confined and Enclosed Spaces and Other Dangerous Atmospheres

* * * * *

Section 1915.11(b) Definition of "Hot work."

* * * * *

1. Abrasive blasting of the external surface of the vessel (the hull) for paint preparation does not necessitate pumping and cleaning the tanks of the vessel.

* * * * *

■ 38. Revise paragraphs (a), (b)(1), (b)(3), (c)(1), and (c)(3) of § 1915.112 to read as follows:

§ 1915.112 Ropes, chains, and slings.

* * * * *

(a) *Manila rope and manila-rope slings.* Employers must ensure that manila rope and manila-rope slings:

(1) Have permanently affixed and legible identification markings as prescribed by the manufacturer that indicate the recommended safe working load for the type(s) of hitch(es) used, the angle upon which it is based, and the number of legs if more than one;

(2) Not be loaded in excess of its recommended safe working load as prescribed on the identification markings by the manufacturer; and

(3) Not be used without affixed and legible identification markings as required by paragraph (a)(1) of this section.

(b) *Wire rope and wire-rope slings.* (1) Employers must ensure that wire rope and wire-rope slings:

(i) Have permanently affixed and legible identification markings as prescribed by the manufacturer that indicate the recommended safe working load for the type(s) of hitch(es) used, the angle upon which it is based, and the number of legs if more than one;

(ii) Not be loaded in excess of its recommended safe working load as prescribed on the identification markings by the manufacturer; and

(iii) Not be used without affixed and legible identification markings as required by paragraph (b)(1)(i) of this section.

* * * * *

(3) When U-bolt wire rope clips are used to form eyes, employers must use Table G–1 in § 1915.118 to determine the number and spacing of clips. Employers must apply the U-bolt so that the "U" section is in contact with the dead end of the rope.

* * * * *

(c) *Chain and chain slings.* (1) Employers must ensure that chain and chain slings:

(i) Have permanently affixed and legible identification markings as prescribed by the manufacturer that indicate the recommended safe working load for the type(s) of hitch(es) used, the angle upon which it is based, and the number of legs if more than one;

(ii) Not be loaded in excess of its recommended safe working load as prescribed on the identification markings by the manufacturer; and

(iii) Not be used without affixed and legible identification markings as required by paragraph (c)(1)(i) of this section.

* * * * *

(3) Employers must note interlink wear, not accompanied by stretch in excess of 5 percent, and remove the chain from service when maximum allowable wear at any point of link, as indicated in Table G–2 in § 1915.118, has been reached.

* * * * *

■ 39. In § 1915.113, revise paragraph (a) to read as follows:

§ 1915.113 Shackles and hooks.

* * * * *

(a) *Shackles.* Employers must ensure that shackles:

(1) Have permanently affixed and legible identification markings as prescribed by the manufacturer that indicate the recommended safe working load;

(2) Not be loaded in excess of its recommended safe working load as prescribed on the identification markings by the manufacturer; and

(3) Not be used without affixed and legible identification markings as

required by paragraph (a)(1)(i) of this section.

* * * * *

■ 40. In § 1915.118, remove Tables G–1, G–2, G–3, G–4, G–5, G–7, G–8, and G–10, and redesignate Table G–6 as Table G–1, and Table G–9 as Table G–2.

§ 1915.152 [Amended]

■ 41. Remove paragraph (e)(4) from § 1915.152.

■ 42. Amend § 1915.1001 as follows:

■ a. Revise paragraph (h)(3)(i).

■ b. Remove paragraphs (h)(3)(ii), (h)(3)(iii), (h)(4), and (n)(8)(ii).

■ c. Redesignate paragraph (h)(3)(iv) as paragraph (h)(3)(ii), and paragraph (n)(8)(i) as paragraph (n)(8).

■ d. Revise Appendix C.

The revisions read as follows:

§ 1915.1001 Asbestos.

* * * * *

(h) * * *

(3) * * *

(i) When respiratory protection is used, the employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134(b) through (d) (except paragraph (d)(1)(iii)), and (f) through (m) which covers each employee required by this section to use a respirator.

* * * * *

Appendix C to § 1915.1001—Qualitative and Quantitative Fit Testing Procedures. Mandatory

Employers must perform fit testing in accordance with the fit-testing requirements of 29 CFR 1910.134(f) and the qualitative and quantitative fit-testing protocols and procedures specified in Appendix A of 29 CFR 1910.134.

* * * * *

PART 1917—MARINE TERMINALS

■ 43. Revise the authority citation for part 1917 to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), or 4–2010 (75 FR 55355), as applicable; and 29 CFR 1911.

Section 1917.28 also issued under 5 U.S.C. 553.

Section 1917.29 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

■ 44. In § 1917.2, add a definition for the term "Ship's stores" in alphabetical order to read as follows:

§ 1917.2 Definitions.

* * * * *

Ship's stores means materials that are aboard a vessel for the upkeep, maintenance, safety, operation, or navigation of the vessel, or for the safety or comfort of the vessel's passengers or crew.

■ 45. Revise paragraph (a)(1)(iii) of § 1917.127 to read as follows:

§ 1917.127 Sanitation.

(a) * * *

(1) * * *

(iii) Individual hand towels, clean individual sections of continuous toweling, or air blowers; and

* * * * *

PART 1918—SAFETY AND HEALTH REGULATIONS FOR LONGSHORING

■ 46. Revise the authority citation for part 1918 to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), or 4–2010 (75 FR 55355), as applicable; and 29 CFR 1911.

Section 1918.90 also issued under 5 U.S.C. 553.

Section 1918.100 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

■ 47. In § 1918.2, add a definition for the term "Ship's stores" in alphabetical order to read as follows:

§ 1918.2 Definitions.

* * * * *

Ship's stores means materials that are aboard a vessel for the upkeep, maintenance, safety, operation, or navigation of the vessel, or for the safety or comfort of the vessel's passengers or crew.

* * * * *

■ 48. Revise paragraph (a)(1)(iii) of § 1918.95 to read as follows:

§ 1918.95 Sanitation.

(a) * * *

(1) * * *

(iii) Individual hand towels, clean individual sections of continuous toweling, or air blowers; and

* * * * *

PART 1919—GEAR CERTIFICATION

■ 49. Revise the authority citation for part 1919 to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), or 4–2010 (75 FR 55355), as applicable; and 29 CFR 1911.

■ 50. Revise the introductory text of paragraph (a)(1) of § 1919.6 to read as follows:

§ 1919.6 Criteria governing accreditation to certificate vessels' cargo gear.

(a) * * *

(1) A person applying for accreditation to issue registers and pertinent certificates, to maintain registers and appropriate records, and to conduct initial, annual and quinquennial surveys, shall not be accredited unless that person is engaged in one or more of the following activities:

* * * * *

■ 51. Revise paragraph (d) of § 1919.11 to read as follows:

§ 1919.11 Recordkeeping and related procedures concerning records in custody of accredited persons.

* * * * *

(d) When annual or quinquennial tests, inspections, examinations, or heat treatments are performed by an accredited person, other than the person who originally issued the vessel's register, such accredited person shall furnish copies of any certificates issued and information as to register entries to the person originally issuing the register.

* * * * *

■ 52. Revise paragraph (f) of § 1919.12 to read as follows:

§ 1919.12 Recordkeeping and related procedures concerning records in custody of the vessel.

* * * * *

(f) An accredited person shall instruct the vessel's officers, or the vessel's operator if the vessel is unmanned, that the vessel's register and certificates shall be preserved for at least 5 years after the date of the latest entry except in the case of nonrecurring test certificates concerning gear which is kept in use for a longer period, in which event the pertinent certificates shall be retained so long as that gear is continued in use.

* * * * *

■ 53. Revise paragraph (a) of § 1919.15 to read as follows:

§ 1919.15 Periodic tests, examinations and inspections.

* * * * *

(a) Derricks with their winches and accessory gear, including the attachments, as a unit; and cranes and other hoisting machines with their accessory gear, as a unit, shall be tested and thoroughly examined every 5 years in the manner set forth in subpart E of this part.

* * * * *

■ 54. Revise paragraph (b) of § 1919.18 to read as follows:

§ 1919.18 Grace periods.

* * * * *

(b) Quinquennial requirements—within six months after the date when due;

* * * * *

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Subpart D—[Amended]

■ 55. Revise the authority citation for subpart D to read as follows:

Authority: 40 U.S.C. 3701 *et seq.;* 29 U.S.C. 653, 655, 657; and Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), or 4–2010 (75 FR 55355), as applicable; and 29 CFR 1911.

Sections 1926.58, 1926.59, 1926.60, and 1926.65 also issued under 5 U.S.C. 553 and 29 CFR 1911.

Section 1926.61 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Section 1926.62 of 29 CFR also issued under 42 U.S.C. 4853.

Section 1926.65 of 29 CFR also issued under 29 U.S.C. 655 note, and 5 U.S.C.

■ 56. Revise paragraphs (a)(6) and (f)(3)(iv) of § 1926.51 to read as follows:

§ 1926.51 Sanitation.

(a) * * *

(6) *Potable water* means water that meets the standards for drinking purposes of the State or local authority having jurisdiction, or water that meets the quality standards prescribed by the U.S. Environmental Protection Agency's National Primary Drinking Water Regulations (40 CFR part 141).

* * * * *

(f) * * *

(3) * * *

(iv) Individual hand towels or sections thereof, of cloth or paper, air blowers or clean individual sections of continuous cloth toweling, convenient to the lavatories, shall be provided.

* * * * *

■ 57. Amend § 1926.60 by revising paragraph (o)(8) to read as follows:

§ 1926.60 Methylenedianiline.

* * * * *

(o) * * *

(8) *Transfer of records.* The employer shall comply with the requirements concerning transfer of records set forth in 29 CFR 1910.1020(h).

* * * * *

■ 58. Amend § 1926.62 as follows:

■ a. Revise paragraphs (j)(2)(ii), (j)(2)(iv)(B), and (k)(1)(iii)(A)(*1*).

■ b. Remove paragraphs (n)(6)(ii), and (n)(6)(iii).

■ c. Redesignate paragraph (n)(6)(iv) as paragraph (n)(6)(ii), and revise newly designated paragraph (n)(6)(ii).

The revisions read as follows:

§ 1926.62 Lead.

* * * * *

(j) * * *

(2) * * *

(ii) *Follow-up blood sampling tests.* Whenever the results of a blood lead level test indicate that an employee's blood lead level is at or above the numerical criterion for medical removal under paragraph (k)(1)(i) of this section, the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.

* * * * *

(iv) * * *

(B) The employer shall notify each employee whose blood lead level is at or above 40 µg/dl that the standard requires temporary medical removal with Medical Removal Protection benefits when an employee's blood lead level exceeds the numerical criterion for medical removal under paragraph (k)(1)(i) of this section.

* * * * *

(k) * * *

(l) * * *

(iii) * * *

(A) * * *

(*1*) For an employee removed due to a blood lead level at or above 50 µg/dl when two consecutive blood sampling tests indicate that the employee's blood lead level is below 40 µg/dl;

* * * * *

(n) * * *

(6) * * *

(ii) The employer shall also comply with any additional requirements involving the transfer of records set forth in 29 CFR 1910.1020(h).

* * * * *

Subpart H [Amended]

■ 59. Revise the authority citation for subpart H to read as follows:

Authority: 40 U.S.C. 3701; 29 U.S.C. 653, 655, 657; and Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 4–2010 (75 FR 55355), as applicable. Section 1926.250 also issued under 29 CFR 1911.

■ 60. Amend § 1926.251 as follows:

■ a. Revise paragraphs (a)(2), (b)(4), (c)(1), (d)(1) and (f)(1).

■ b. Add new paragraphs (c)(16) and (d)(7).

The revisions and additions read as follows:

§ 1926.251 Rigging equipment for material handling.

(a) * * *

(2) Employers must ensure that rigging equipment:

(i) Has permanently affixed and legible identification markings as prescribed by the manufacturer that indicate the recommended safe working load;

(ii) Not be loaded in excess of its recommended safe working load as prescribed on the identification markings by the manufacturer; and

(iii) Not be used without affixed, legible identification markings, required by paragraph (a)(2)(i) of this section.

* * * * *

(b) * * *

(4) Employers must not use alloy steel-chain slings with loads in excess of the rated capacities (i.e., working load limits) indicated on the sling by permanently affixed and legible identification markings prescribed by the manufacturer.

* * * * *

(c) * * *

(1) Employers must not use improved plow-steel wire rope and wire-rope slings with loads in excess of the rated capacities (i.e., working load limits) indicated on the sling by permanently affixed and legible identification markings prescribed by the manufacturer.

* * * * *

(16) Wire rope slings shall have permanently affixed, legible identification markings stating size, rated capacity for the type(s) of hitch(es) used and the angle upon which it is based, and the number of legs if more than one.

* * * * *

(d) * * *

(1) Employers must not use natural- and synthetic-fiber rope slings with loads in excess of the rated capacities (i.e., working load limits) indicated on the sling by permanently affixed and legible identification markings prescribed by the manufacturer.

* * * * *

(7) Employers must use natural- and synthetic-fiber rope slings that have permanently affixed and legible identification markings that state the rated capacity for the type(s) of hitch(es) used and the angle upon which it is based, type of fiber material, and the number of legs if more than one.

* * * * *

(f) * * *

(1) Employers must not use shackles with loads in excess of the rated

capacities (i.e., working load limits) indicated on the shackle by permanently affixed and legible identification markings prescribed by the manufacturer.

* * * * *

Subpart Z—[Amended]

■ 61. Revise the authority citation for subpart Z to read as follows:

Authority: 40 U.S.C. 3701 *et seq.,;* 29 U.S.C. 653, 655, 657; and Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), or 4–2010 (75 FR 55355), as applicable; and 29 CFR 1911.

Section 1926.1102 of 29 CFR not issued under 29 U.S.C. 655 or 29 CFR 1911; also issued under 5 U.S.C. 553.

■ 62. Amend § 1926.1101 as follows:
■ a. Remove paragraph (n)(7)(iii).
■ b. Revise paragraphs (n)(7)(ii) and (n)(8) to read as follows:

§ 1926.1101 Asbestos

* * * * *

(n) * * *

(7) * * *

(ii) The employer must comply with the requirements concerning availability of records set forth in 29 CFR 1910.1020.

(8) *Transfer of records.* The employer must comply with the requirements concerning transfer of records set forth in 29 CFR 1910.1020(h).

* * * * *

■ 63. Amend § 1926.1127 by removing paragraph (n)(4), redesignating paragraphs (n)(5) and (n)(6) as paragraphs (n)(4) and (n)(5), and revising newly designated paragraph (n)(4)(i) to read as follows:

§ 1926.1127 Cadmium.

* * * * *

(n) * * *

(4) * * *

(i) Except as otherwise provided for in this section, access to all records required to be maintained by paragraphs (n)(1) through (3) of this section shall be in accordance with the provisions of 29 CFR 1910.1020.

* * * * *

PART 1928—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

■ 64. Revise the authority citation for part 1928 to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); and Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 4–2010 (75 FR 55355), as applicable; and 29 CFR 1911.

Section 1928.21 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 533.

■ 65. Revise the definition of the term "potable water" in paragraph (b) of § 1928.110 to read as follows:

§ 1928.110 Field sanitation.

* * * * *

(b) * * *

Potable water means water that meets the standards for drinking purposes of the State or local authority having jurisdiction, or water that meets the quality standards prescribed by the U.S. Environmental Protection Agency's National Primary Drinking Water Regulations (40 CFR part 141).

* * * * *

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