

**DEPARTMENT OF LABOR****Occupational Safety and Health Administration****29 CFR Parts 1910, 1915, and 1926**

[Docket No. S-778-A]

RIN 1218-AB 81

**Standards Improvement Project-Phase II****AGENCY:** Occupational Safety and Health Administration, Labor.**ACTION:** Proposed rule; request for comment.

**SUMMARY:** The Occupational Safety and Health Administration ("OSHA" or "the Agency") is continuing to remove and revise provisions of its standards that are outdated, duplicative, unnecessary, or inconsistent. The Agency completed the first phase of this process with the publication of a final rule in the **Federal Register** in June 1998. In this second phase, OSHA is proposing to revise a number of health provisions in its standards for general industry, shipyard employment, and construction. The Agency believes that the proposed revisions would streamline these provisions; in some cases, OSHA is making substantive revisions to provisions that would reduce regulatory requirements for employers while maintaining employee protection.

**DATES:** Submit written comments and any request for a hearing by December 30, 2002.

**ADDRESSES:** Submit three copies of written comments to the Docket Office, Docket No. S-778-A, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (telephone: (202) 693-2350). Commenters may transmit written comments of 10 pages or less by fax to the Docket Office at (202) 693-1648.

You may submit comments electronically through OSHA's Homepage at <http://www.osha.gov>. Please note that you may not attach materials such as studies or journal articles to your electronic comments. If you wish to include such materials, you must submit three copies to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, you must clearly identify your electronic comments by name, date, and subject, so that we can attach the materials to your electronic comments.

Send requests for a hearing to Ms. Veneta Chatmon, Office of Information and Consumer Affairs, Room N-3647, OSHA, U.S. Department of Labor, 200

Constitution Avenue, NW., Washington, DC 20210 (telephone: (202) 693-1999). Submit comments on the reduction of paperwork burden described in section VII of this notice to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20530 (Attention: OSHA Desk Officer). **FOR FURTHER INFORMATION CONTACT:** For general information and press inquiries, contact Ms. Bonnie Friedman, Director, OSHA Office of Information and Consumer Affairs, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (telephone: (202) 693-1999). For technical inquiries, contact Mr. Robert Manware, Office of Physical Hazards, Room N-3718, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (telephone: (202) 693-2299; fax: (202) 693-1678). For additional copies of this **Federal Register** notice, contact the Office of Publications, Room N-3101, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210 (telephone: (202) 693-1888). Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available at OSHA's website on the Internet at <http://www.osha.gov>.

**SUPPLEMENTARY INFORMATION:****I. Background**

In 1995, the Agency identified a number of provisions in its regulations and standards that were inconsistent, duplicative, outdated, or in need of being rewritten in plain language. In 1998, as part of the process of correcting such provisions, OSHA made several substantive revisions to its health and safety standards that reduced the regulatory obligations of employers while maintaining the safety and health protection afforded to employees (63 FR 33450, June 18, 1998). During and after this rulemaking, the Agency identified several other regulatory provisions in its safety and health standards involving notification of use, frequency of exposure monitoring and medical surveillance, and similar provisions that it believes are unnecessary or ineffective in protecting employee safety and health. Today, OSHA is proposing to make substantive revisions to a number of the health standard provisions identified in this process.

The Agency plans to propose similar revisions to several of its safety and other standards in a future Federal Register notice. In addition, OSHA requests comments on possible similar

revisions to outdated provisions in safety or health standards which could be included in the next or subsequent Standards Improvement proposal.

The Agency has made a preliminary finding that the revisions to the health standards proposed herein would reduce the regulatory burden of employers without reducing the health protection that these standards currently provide to employees. OSHA also believes that the changes set forth in this proposal would simplify and clarify the requirements of these provisions, thereby facilitating employer compliance, improving employee protection and reducing paperwork.

This notice-and-comment rulemaking is necessary because a number of the proposed revisions are substantive. The Agency will base its final decisions regarding these proposed revisions on the record developed in this rulemaking through public comment.

This action will affect a number of standards included in Parts 1926 and 1915. In accordance with Agency procedures therefore, the Advisory Committee on Construction Safety and Health, and the Advisory Committee on Maritime Safety and Health have been advised of the standards which affect the construction and maritime industries. This information was presented to the Construction Committee at their meeting in Washington, DC, on September 2, 2000, and to the Maritime Committee on December 6, 2000, in Baltimore, Maryland.

**II. Summary and Explanation**

The proposed revisions address: Methods of communicating illness outbreaks (temporary labor camps standard (§ 1910.142)); first-aid kits for the general industry (standards for medical services and first aid (§ 1910.151) and telecommunications (§ 1910.268)); laboratory licensing (vinyl chloride standard (§ 1910.1017); periodic exposure monitoring (vinyl chloride, 1,2-dibromo-3-chloropropane (DBCP) (§ 1910.1044), and acrylonitrile (§ 1910.1045) standards); reporting the use of alternative control methods (asbestos standards for shipyards and construction (§§ 1915.1001 and 1926.1101, respectively)); evaluating chest x-rays (inorganic arsenic and coke oven emissions standards (§§ 1910.1018 and 1910.1029, respectively)); signing medical opinions (asbestos standards for general industry and the cadmium standards for general industry and construction (§§ 1910.1027 and 1926.1127, respectively)); and semiannual medical examinations

(vinyl chloride, inorganic arsenic, and coke oven emissions standards).

Also included in the proposed revisions are requirements to notify OSHA of certain events (13 carcinogens (§ 1910.1003), vinyl chloride, inorganic arsenic, DBCP, and acrylonitrile standards); semiannual updating of compliance plans (vinyl chloride, inorganic arsenic, lead for general industry and construction (§§ 1910.1025 and 1926.62, respectively), DBCP, and acrylonitrile standards); and employee-notification requirements in general-industry standards (asbestos, vinyl chloride, inorganic arsenic, lead, cadmium, benzene, coke oven emissions, cotton dust (§ 1910.1043), DBCP, acrylonitrile, ethylene oxide (§ 1910.1047), formaldehyde (§ 1910.1048), methylenedianiline (§ 1910.1050), butadiene (§ 1910.1051), and methylene chloride (§ 1910.1052)), and construction standards (methylenedianiline (§ 1910.1051), and methylene chloride (§ 1910.1052)), and construction standards (methylenedianiline (§ 1926.60), lead, asbestos, and cadmium). The Agency is also seeking comment on the need to include social security numbers in the exposure-monitoring and medical-surveillance records required by a number of its substance-specific standards.

The Agency emphasizes that the scope of this rulemaking is limited to revising provisions that are outdated, duplicative, unnecessary, or inconsistent with the provisions in other standards. In regard to the last item, the Agency is specifically proposing to revise a number of OSHA's older standards (vinyl chloride, acrylonitrile, coke ovens, arsenic, DBCP) to be consistent with the frequencies of exposure monitoring, medical surveillance, and compliance plan updates that are required in the majority of more recently promulgated rules. Comment is being solicited on whether it is appropriate to revise these older standards to be consistent with the newer standards. The scope of the rulemaking does not include a review of the appropriateness of the frequencies in exposure monitoring, medical surveillance, and compliance plan updating that is required by the newer standards.

It should be noted that certain sections in 29 CFR part 1910 that are being addressed in this document are being incorporated by reference in 29 CFR parts 1915 and 1926. Thus, changes to those sections in part 1910 will also apply to parts 1915 and 1926.

#### A. *Temporary Labor Camps (§ 1910.142)*

Paragraph (1)(2) of this standard requires camp superintendents to report immediately to local health authorities "by telegram or telephone" the outbreak of specific illnesses and medical conditions among employees. OSHA believes that the requirement to use a telegram or telephone to notify health authorities is too restrictive in this age of computers and the internet, and that other forms of communication should be permitted for this purpose. Thus, the Agency is proposing to delete the requirement to use a telegram or telephone for notification. However, OSHA is retaining the requirement that camp superintendents immediately notify local health authorities of the outbreak of any of the illnesses or medical conditions specified by this provision.

#### B. *Reference to First-Aid Supplies in Appendix A to the Standard on Medical Services and First Aid (§ 1910.151)*

Paragraph (b) § 1910.151, the Agency's standard regulating medical services and first-aid supplies, requires employers to ensure that "[a]dequate first aid supplies shall be readily available [at the workplace]." To assist employers in meeting this requirement, OSHA added a nonmandatory appendix to this standard. (63 FR 33450, June 18, 1998). This appendix refers to the American National Standards Institute (ANSI) consensus standard (ANSI Z308.1-1978, "Minimum requirements for industrial unit-type first aid kits", referred to hereafter as the "1978 edition"), which specifies basic first-aid supplies for the workplace. The Agency believes that this appendix provides employers with helpful information they can use in selecting first-aid supplies and containers that are appropriate to the medical emergencies and environmental conditions that they may encounter in their workplaces. In discussing the addition of Appendix A to this standard, OSHA noted that ANSI was developing a new edition of this consensus standard (63 FR 33461). The Agency then stated that, once ANSI completed this project, it would propose revising Appendix A to reference the new edition. However, OSHA stated that it would propose such a revision only if it had first determined that "the new edition is as effective [in protecting employees] as the earlier edition," and that it would also "consider adding other consensus standards on first aid kits as references to the Appendix."

ANSI subsequently completed the new edition of the consensus standard and published it as ANZI Z308.1-1998

("Minimum requirements for workplace first aid kits", referred to hereafter as "the 1998 edition"). In reviewing the 1998 edition, the Agency found that:

- Regarding container requirements, the 1998 edition permits more compliance flexibility than the 1978 edition. For example, the 1998 edition identifies three types of first-aid containers, types I, II, and III, designed for stationary indoor use, mobile indoor use, and mobile outdoor use, respectively, while the 1978 edition includes only two types of containers, (standard and special purpose, with special-purpose containers designed for use under extreme conditions such as example, corrosive, nonsparking, nonmagnetic, or dielectric conditions.

- Requirements for the three types of containers identified in the 1998 edition are performance based, while the 1978 edition provides extensive specifications for each type of container.

- Unlike the 1978 edition, the conditioning and drop-test procedures described in the 1998 edition for types II and III containers, and the procedures for testing type III containers for corrosion and moisture resistance, specify the minimum number of containers required for testing.

- The 1998 edition specifies that each type III container subjected to drop testing must also undergo corrosion and moisture-resistance testing to ensure the structural integrity of the container under severe moisture conditions. The 1978 edition appears to allow testing of different special-purpose containers under the drop- and moisture-testing conditions.

- Corrosion and moisture-resistance testing of type III containers under the 1998 edition requires exposure of the containers to simulated salt spray for 20 days in accordance with the provisions of American Society for Testing and Materials (ASTM) consensus standard B117 ("Operating salt spray (fog) operations"). The 1978 edition only requires exposure of a special-purpose container to fresh water for 15 minutes.

- Regarding the content (fill items) of the containers, the 1998 edition provides a short list of basic items needed to disinfect and cover wounds, including special items for treating burns. However, the 1998 edition lists optional fill items for use if an employer identifies workplace hazards that may inflict injuries not covered by the basic fill items. The 1978 edition has a single list of fill items, some of which are unnecessary for many emergencies (for example, forceps, metal splints, tourniquets). Additionally, the 1978 edition is missing several important

items (for example, medical-examination gloves, cold packs).

- The 1998 edition requires color coding of unit packages that contain specific types of fill items (for example, yellow for bandages, blue for antiseptics), while the 1978 edition has no such requirement.

- The 1998 edition, more often than the 1978 edition, identifies fill items according to standardized testing and quality-control methods. For example, the 1998 edition requires that absorbent compresses meet the water-absorbency criteria of ASTM consensus standard D117 ("Nonwoven fabrics"), and that antiseptics conform to the requirements specified by the Food and Drug Administration in 21 CFR part 333 ("Topical antimicrobial drug products for over-the-counter human use"). The 1978 edition provides no absorbency criteria for absorbent gauze compresses, while the antiseptic solution used for antiseptic swabs is required only to be "acceptable to the consulting physician."

The Agency's review of the two editions demonstrates that, compared with the 1978 edition, the 1998 edition: Increases compliance flexibility by emphasizing performance-based requirements, including a choice of three containers and a list of basic and optional fill items; improves the procedures for conditioning and testing first-aid containers; and ensures the reliability and efficacy of the fill items by basing the selection of these items on standardized testing and quality-control methods. Based on this review, OSHA preliminarily finds that the provisions of the 1998 edition would provide employers with the information they need to select first-aid containers and fill items appropriate to the hazards in their workplaces that could injure employees. Accordingly, the 1998 edition would protect employees at least as well as the requirements of the 1978 edition. Thus, the Agency is proposing to replace the reference to the 1978 edition in appendix A of § 1910.151 with a reference to the 1998 edition. This revision would not impose any additional cost on employers because appendix A is nonmandatory.

OSHA welcomes comment on the extent to which the newer editions of the ANSI Z308.1 consensus standard would provide equivalent or better protection to employees. The Agency would also appreciate receiving information on the availability of other consensus standards and guidelines for first-aid kits. Responses to this request for information should include, if possible, a detailed description of these consensus standards and guidelines, as

well as a rationale for including them in the proposed revision to appendix A of § 1910.151.

#### *C. First-aid Supplies in the Telecommunications Standard (§ 1910.268)*

Paragraph (b)(3) of OSHA's telecommunication standard (§ 1910.268) requires an employer to: Provide first-aid supplies (fill items) recommended by a consulting physician; ensure that the fill items are readily accessible and housed in weatherproof containers if used outdoors; and inspect the fill items at least once a month and replace expended items. With this rulemaking, the Agency is proposing to revise paragraph (b)(3) to read, "Employers must provide employees with readily accessible, and appropriate first-aid supplies. A nonmandatory example of appropriate supplies is listed in appendix A to § 1910.151."

In an earlier rulemaking on June 18, 1998, 63 FR 33461, OSHA removed from paragraph (b) of § 1910.151 the requirement that a consulting physician approve first-aid supplies. In proposing to remove paragraph (b) (61 FR 37850, July 22, 1996), the Agency found that "[c]ommercial first-aid kits are readily available and will meet the needs of most employers \* \* \*." (Ex. 4-23, Docket No. S-778). In addition, OSHA noted that it expected employers to modify commercial first-aid kits in response to special or unusual workplace hazards, and to consult with a medical professional as necessary when doing so. To provide employers with helpful information for selecting first-aid kits, and to assist them in modifying the kits, the Agency added a nonmandatory appendix A to § 1910.151 (63 FR 33461); this appendix refers to the American National Standards Institute (ANSI) consensus standard (ANSI Z308.1-1978, "Minimum requirements for industrial unit-type first aid kits") that specifies basic first-aid supplies for the workplace. (**Note:** Section B above discusses OSHA's proposal to update this ANSI reference.)

The Agency preliminarily concludes that substituting the guidance of nonmandatory appendix A to § 1910.151 for the requirements specified in paragraph (b)(3) of § 1910.268 would reduce the regulatory burden on employers in the telecommunications industry by increasing their flexibility in meeting OSHA's requirements for first-aid kits, and would facilitate their compliance by making the requirements to provide first-aid kits consistent across the two

standards. In addition, the Agency believes that the proposed revision would afford telecommunication employees with at least the same level of protection they currently receive because nonmandatory appendix A to § 1910.151, including the reference to the ANSI consensus standard, provides more extensive guidelines for selecting appropriate medical supplies than paragraph (b)(3) of § 1910.268 and, in addition, provides the recommendation that these supplies include personal protective equipment to prevent employee exposure to airborne pathogens. Accordingly, OSHA requests comments that discuss the proposed revision updating the nonmandatory recommendations for first-aid supplies.

#### *D. 13 Carcinogens (4-Nitrobiphenyl, etc.) (§ 1910.1003)*

In the 13 carcinogens standard, paragraph (f)(2) of the standard requires employers to provide the nearest OSHA Area Director with two reports on the occurrence of any incident that results in the release, into any area where employees may be potentially exposed, of any of the 13 carcinogenic substances regulated by the standard. These reports consist of an abbreviated preliminary report submitted within 24 hours of the chemical release, followed by a detailed report submitted within 15 calendar days of the incident. OSHA believes that these reports may be of little or no utility in view of the fact that recent substance-specific standards developed by the Agency do not contain this (or any other) reporting requirement. Accordingly, OSHA is proposing to delete this provision from the 13 carcinogens standard to reduce reporting requirements, as required by the Paperwork Reduction Act. OSHA requests comment on the extent to which this proposed revision would reduce reporting burden on employers and on the effect of such a deletion (if any) on employee health.

#### *E. Vinyl Chloride (§ 1910.1017)*

Paragraph (k)(6) of the vinyl chloride standard specifies that laboratories licensed by the U.S. Public Health Service (USPHS) under 42 CFR part 74 ("Clinical laboratories") must analyze biological samples collected during medical examinations. However, 42 CFR part 74 is outdated, and the USPHS now addresses laboratory-licensing requirements under 42 CFR part 493 ("Laboratory requirements"). Therefore, the Agency is proposing to delete the reference to 42 CFR part 74 from paragraph (k)(6) of this standard. OSHA is seeking comment on the need to specify a licensing or quality-control

requirement, the extent to which the requirements specified in 42 CFR part 493 would be a suitable substitute for the requirements of former 42 CFR part 74, and whether any other reference or criteria are available that could serve this purpose.

#### *F. Monthly and Quarterly Exposure Monitoring*

Several of the Agency's older standards retain provisions that require employers to monitor employee exposures either monthly or quarterly, depending on the level of the toxic substance found in the workplace. These provisions include: Paragraphs (d)(2)(i) and (d)(2)(ii) of the vinyl chloride standard (§ 1910.1017), which require employers to conduct exposure monitoring at least monthly if employee exposures are in excess of the permissible exposure limit (PEL) and not less than quarterly if employee exposures are above the action level (AL); paragraphs (f)(3)(i) and (f)(3)(ii) of the standard regulating 1,2-dibromo-3-chloropropane (DBCP) (§ 1910.1044), specifying that employers must perform exposure monitoring at least quarterly if employee exposures are below the PEL and no less than monthly if employee exposures exceed the PEL,<sup>1</sup> and paragraphs (e)(3)(ii) and (e)(3)(iii) of the acrylonitrile standard (§ 1910.1045), which contain requirements for employers to conduct exposure monitoring at least quarterly for employees exposed at or above the AL, but below the PEL, and at least monthly for employees having exposures above the PEL. There is little discussion in the preambles to these standards explaining the basis for adopting these monitoring frequencies, which suggests that OSHA may have relied on prevailing practice in establishing these frequencies.

In the substance-specific standards published by the Agency after these standards, exposure monitoring is required no more often than semiannually if employee exposures are at or above the AL, and no more than quarterly if exposures are above the PEL. Thus, OSHA is proposing to amend the exposure monitoring requirements specified in paragraphs (d)(2)(i) and (d)(2)(ii) of the vinyl chloride standard, paragraphs (e)(3)(ii) and (e)(3)(iii) of the acrylonitrile standard and paragraphs (f)(3)(i) and (f)(3)(ii) of the DBCP standard because they are inconsistent with the exposure

monitoring protocols established by OSHA in its later substance-specified standards and no substantive reason for the increased monitoring frequency is apparent. OSHA is proposing to revise these paragraphs to require that employers conduct exposure monitoring at least quarterly if the results of initial exposure monitoring show that employee exposures are above the PEL, and no less than semiannually if these results indicate exposures that are at or above the AL. The Agency solicits comment on the extent to which, if any, this proposed revision would reduce the protection afforded by the existing standards to employees exposed to vinyl chloride, acrylonitrile and DBCP, and the extent to which the proposed revisions would reduce employer burdens, including cost and paperwork reductions.

OSHA notes that two of its standards (benzene, 1910.1028 and 1,3-butadiene, 1910.1051) provide for exposure monitoring frequency different from the quarterly/semiannual monitoring contained in other standards. The Agency is not revising benzene or 1,3-butadiene with respect to monitoring frequency. The exposure monitoring provisions in those standards have specific basis in their respective rulemaking records that preclude changing them for consistency under this standard improvement action.

#### *G. Alternative Control Methods for Class 1 Asbestos Removal*

Provisions in OSHA's asbestos standards for shipyard employment and construction (§§ 1915.1001, paragraph (g)(6)(iii), and 1926.1101, paragraph (g)(6)(iii), respectively) address alternative control methods used to perform Class I asbestos work. Specifically, these provisions require an employer to send the evaluation and certification of the alternative control method to OSHA's Directorate of Technical Support before removing more than 25 linear feet or 10 square feet or thermal-system insulation or surfacing material. The intent of this provision was the development of a database of alternative control methods for use in future rulemaking. However, in practice, this provision has been little used and no database has been developed. OSHA thus believes that this requirement is of little utility.

Current OSHA regulatory policy requires that paperwork provisions, such as this, be a benefit to employee health or serve some other useful regulatory purpose. Since certification of alternative control methods does not appear to meet this requirement, the Agency is proposing to delete it from

the shipyard-employment and construction asbestos standards. OSHA invites comment on any regulatory benefit or purpose that removal of this provision would jeopardize.

#### *H. Evaluating Chest X-rays Using the ILO U/C Rating*

OSHA is proposing to amend paragraph (n)(2)(ii)(A) of the inorganic arsenic standard (§ 1910.1018) and paragraph (j)(2)(ii) of the coke oven emissions standard (§ 1910.1029); these provisions require that employees' chest x-rays receive an International Labor Office UICC/Cincinnati (ILO U/C) rating. Subsequent to the promulgation of these provisions, the Agency received information from two physicians that the ILO U/C rating is not suitable to evaluate chest x-rays for lung cancer. Regarding the use of the ILO U/C ratings specified by the inorganic arsenic standard, Stephen Wood, MD, MSPH, Corporate Medical Director for the Kennecott Corporation, states in a letter to OSHA (Ex. 1-1), "This method of x-ray interpretation was designed specifically for use in pneumoconiosis or dust related disease. Arsenic does not cause pneumoconiosis. This classification system is unnecessary for cancer surveillance and represents a substantial cost and logistical burden to industry." Later, Steven R. Smith, MD, Director of Occupational Health and Occupational Medicine, Community Hospitals Indianapolis, wrote to the Agency (Ex. 1-2) addressing the ILO U/C rating required by the coke oven emissions standard:

I am sure you know that the main pulmonary problem with coke oven emission exposure is carcinoma of the lung and not pneumoconiosis. The main merit of the ILO U/C rating system is that it standardizes the reading of films where there are parenchymal opacities[,] either round nodules or linear densities. For the problem of carcinoma of the lung this system really has little to add over the proper interpretation of films by skilled radiologists. \* \* \* I think it is of much more importance that the chest films done as part of the coke oven emissions exposure surveillance be interpreted by expert radiologists who are aware of the fact the films are being done primarily for pulmonary carcinoma. To require that an ILO U/C rating system be employed as well seems to me as though it is going to necessitate an additional expense[,] as well as to greatly limit the number of radiologists who are able to interpret such films.

Based on the information provided in these letters, and on the opinion of the Agency's Office of Occupational Medicine, OSHA believes that the ILO U/C rating may not be a suitable method to use in evaluating chest x-rays for lung cancer. Therefore, the Agency is

<sup>1</sup> This standard does not specify an action level, so employers must continue to monitor employee DBCP exposures on a continuing basis. See section O ("Additional Issues for Comment") of this Summary and Explanation for a discussion of this issue.

proposing to remove the ILO U/C rating requirements specified in the inorganic arsenic and coke oven emissions standards, thereby permitting the examining physician to determine the most effective procedure for evaluating these chest x-rays. The proposed approach would be similar to that taken in recent Agency standards that require the evaluation of chest x-rays for cancer (for example, paragraph (l)(4)(ii)(C) of the cadmium standard (§ 1910.1027)). In this regard, OSHA solicits comment and other information regarding the suitability of the ILO U/C ratings for evaluating chest x-rays for cancer, the identity of any other available method or procedure that could effectively substitute for ILO U/C ratings, and the safety and efficacy of the proposed elimination of the requirement.

#### *I. Signed Medical Opinion*

Paragraph (l)(7)(i) of the asbestos standard (§ 1910.1001), and paragraph (l)(10)(i) of the cadmium standard for general industry (§ 1910.1027) and construction (§ 1926.1127), require that the examining physician sign the written medical opinion provided as part of the medical-surveillance requirements of these standards. The preamble to the cadmium standards states that “the [purpose of the]” requirement that the physician sign the opinion is to ensure that the information that is given to the employer has been seen and read by the physician and that the physician has personally determined whether the employee may continue to work in cadmium-exposed jobs” (57 FR 42366). The requirement that a medical opinion be obtained by the employer is not affected by this proposed revision. No other substance-specific standard promulgated by OSHA requires that the physician sign the medical opinion.

The Agency believes that the requirement to sign a medical opinion written by a physician is unnecessary, precludes electronic transmission of the opinion from the physician to the employer, and provides no additional benefit to employees. Accordingly, OSHA is proposing to remove this requirement from these paragraphs. In this regard, the Agency requests comment on whether or not a signed medical opinion is necessary to ensure that the examining physician has reviewed it prior to submitting it to the employer.

#### *J. Providing Semiannual Medical Examinations to Employees Experiencing Long-Term Toxic Exposures*

Three of the Agency’s oldest health standards specify that employers provide semiannual medical examinations to employees having long-term exposures to the toxic substances regulated by these standards. However, these standards, which regulate employee exposures to vinyl chloride (§ 1910.1017), inorganic arsenic (§ 1910.1018), and coke oven emissions (§ 1910.1029), only require that other employees (i.e., those exposed for lesser periods) be given annual medical examinations.

Under paragraph (k)(2)(i) of the vinyl chloride standard, employers must provide a semiannual medical examination to employees exposed to vinyl chloride or polyvinyl chloride manufacturing above the action level for at least 10 years. The preamble to this standard provides no rationale for this requirement.

Paragraph (n)(3)(ii) of the inorganic arsenic standard specifies that employers must offer semiannual medical examinations to employees who are 45 years or older or have been exposed above the action level to inorganic arsenic for at least 10 years. In justifying this requirement, the Agency stated in the preamble to this standard that “[l]ong-term employees who have exposures now or in the near future below the action level, but have had exposure above the action level now or in the recent past, are quite likely to have had substantially greater exposures in the more distant past \* \* \* the epidemiological studies indicate that risk increases with both *degree* and *duration* of exposure” (43 FR 19620). [Italics in original.] OSHA notes that this statement addressed high exposures that occurred prior to the 1970’s.

Paragraphs (j)(3)(ii) and (j)(3)(iii) of the coke oven emissions standard require that employers provide semiannual medical examinations for: Employees who are at least 45 years of age or have five or more years of employment in a regulated area, and for an employee in this age/experience group who “transfers or is transferred from employment in a regulated area \* \* \* [for] as long as that employee is employed by the same employer or a successor employer.” In the preamble to this standard, the Agency explains this requirement by stating that “the high risk population requires more frequent and more comprehensive testing than the remainder of the population” (41 FR 46779).

OSHA believes that the available evidence does not support the requirements for semiannual medical examinations offered to employees with long-term exposures to vinyl chloride, inorganic arsenic, and coke oven emissions. Based on a review of the existing medical research literature, the Agency recently amended the inorganic arsenic and coke oven emissions standards by reducing the frequency of chest x-rays from semiannually to annually, and by removing the requirement for sputum cytology entirely from these standards (63 FR 33450). This review indicated that semiannual chest x-rays did not increase employee protection through early detection of lung cancer, while sputum cytology did not provide additional protection to employee health, over and above that provided by an annual chest x-ray. Semiannual medical examinations are less useful when the frequency of x-ray has been reduced. In addition, no other substance-specific standards promulgated by OSHA require semiannual medical examinations.

Based on the available evidence, the Agency believes that semiannual medical examinations are unnecessary, and that annual medical examinations are sufficient to detect cancer and other medical impairments caused by exposure to vinyl chloride, inorganic arsenic, and coke oven emissions. OSHA also believes that current industry practice with regard to employees occupationally exposed to toxic substances is to screen these employees annually. Therefore, the Agency is proposing to revise the standards regulating these toxic substances to be consistent with its other substance-specific standards, which require that employers provide annual medical examinations for covered employees regardless of the duration of their exposures. The Agency request comment and other information comparing the effectiveness of annual and semiannual medical examinations in detecting cancer and other medical impairments caused by exposure to vinyl chloride, inorganic arsenic, and coke oven emissions.

The proposed revisions to paragraphs (j)(3)(ii) and (j)(3)(iii) of the coke oven emissions standard do not include removing the requirement to conduct semiannual urinary cytology examinations. However, OSHA is raising this issue for comment and may include such removal in the final rule if warranted, based on comments. The coke oven emissions standard (29 CFR 1910.1029) requires that employers provide urinary cytology examinations

(paragraph (j)(2)(vii)) semiannually to certain exposed employees (paragraph (j)(3)(ii)). OSHA adopted this requirement based on the belief, at the time, that urinary cytology would serve as a useful tool in screening for cancer.

The Agency believes that the utility of urinary cytology as a screening tool for cancer should be reexamined. OSHA's Office of Occupational Medicine (OOM) reviewed data pertaining to the benefits of urinary cytology in the detection of bladder cancer (Ex. 1–3). The literature indicates that the sensitivity (*i.e.*, ability to detect bladder cancer in those who have it) of urine cytology is not very powerful and, thus, not a particularly effective screening test for this disease. Although there may be views to the contrary, on balance OOM recommends that urinary cytology testing be eliminated from the coke oven standard. However, OOM does recommend retaining dipstick urinalysis as an inexpensive means of maintaining the urologic screening program until more effective technology is developed, despite its low sensitivity for detecting cancer. Comment is requested on the issue and on the OOM recommendation retaining dipstick urinalysis.

#### *K. Notifying OSHA Regarding Use or Regulated Areas*

The Agency is proposing to delete paragraph (d) of the 1,2-dibromo-3-chloropropane (DBCP) standard (§ 1910.1044). This paragraph requires employers to submit a report to the nearest OSHA Area Office that describes their use of DBCP, and to do so within 10 days of introducing the substance into the workplace. The preamble to the standard does not provide a rationale for this requirement, and no other substance-specific standard published by the Agency has a similar requirement. OSHA has not found this provision of the standard useful for its inspectors.

Accordingly, OSHA finds that the provision has little utility in practice and thus, it may be appropriate to remove this provision to reduce paperwork. OSHA requests comment on this issue and the proposed deletion of paragraph (d) of the DBCP standard.

A number of OSHA standards dating from the 1970s require employers to notify the nearest OSHA Area Director/Office if they are required by the standard to establish regulated areas in their workplaces. The following standards have such a requirement: 13 carcinogens (§ 1910.1003, paragraph (f)(1)), vinyl chloride (§ 1910.1017, paragraph (n)(1)), inorganic arsenic (§ 1910.1018, paragraph (d)(1)), and

acrylonitrile (§ 1910.1045, paragraph (d)(1)).

The preamble to the vinyl chloride standard explains that the purpose of this notification requirement is to “enable the Agency to obtain information on control technology” (39 FR 35890), while the preamble to the acrylonitrile standard notes that the requirement is designed to enable OSHA to be aware of facilities where substantial exposure “exists” (43 FR 45762). Further, in the years since these standards were promulgated, OSHA has not found the notification provision useful for the purposes described or for inspection purposes. In addition, recent substance-specific standards promulgated by OSHA do not require such notification. Accordingly, the Agency is proposing to delete this notification requirement from the 13 carcinogens, vinyl chloride, inorganic arsenic, and acrylonitrile standards to reduce paperwork. OSHA invites comment on the effect this deletion would have in general, and specifically on employee protection, employer burden, and paperwork reduction.

#### *L. Reporting Emergencies to OSHA*

Paragraph (n)(2) of the vinyl chloride standard (§ 1910.1017) and paragraph (d)(2) of the acrylonitrile standard (§ 1910.1045) require employers to report the occurrence of emergencies involving these substances to the nearest OSHA Area Director/Office. The preambles to these standards are silent on the reason for this reporting requirement and OSHA has not found such reporting, which has occurred only rarely, useful. In addition, other Agency substance-specific standards do not have such a requirement. Accordingly, OSHA is proposing to delete these reporting provisions of the vinyl chloride and acrylonitrile standards as unnecessary and to reduce paperwork. OSHA asks for comment on the proposed deletions and for information on any impact such an action might have.

#### *M. Semiannual Updating of Compliance Plans*

The Agency's substance-specific standards typically require employers to develop compliance plans to meet the exposure-control objectives of the standard. Most of these standards specify that employers must update these plans at least annually, and OSHA believes that annual updating is sufficient to ensure the continued effectiveness of the plans. However, several older substance-specific standards promulgated by the Agency

require semiannual updating; these standards include: Vinyl chloride (§ 1910.1017, paragraph (f)(3)); inorganic arsenic (§ 1910.1018, paragraph (g)(2)(iv)); lead (§ 1910.1025, paragraph (e)(3)(iv)); coke oven emissions, paragraph (f)(6)(iv); 1,2-dibromo-3-chloropropane (DBCP) (§ 1910.1044, paragraph (g)(2)(ii)); acrylonitrile (§ 1910.1045, paragraph (g)(2)(v)); and lead in construction (§ 1926.62, paragraph (e)(2)(v)).

The preambles to the standards containing this requirement present no evidence pointing to the need for such a requirement in facilities handling these substances, and OSHA believes that current industry practice considers annual updating sufficient. In particular, there is no evidence to suggest that employee health protections would be lessened by this proposed change. Therefore, the Agency is proposing to revise its older substance-specific standards to require annual, instead of semiannual, updating of compliance plans. OSHA believes that the proposed revisions would make this requirement consistent across its standards without diminishing employee protection and will reduce paperwork. The Agency solicits comment on any impact, particularly on employee health that the proposed revision might have.

#### *N. Notifying Employees of Their Exposure Monitoring Results*

Many of OSHA's substance-specific standards require employers to notify employees of their exposure monitoring results. These standards require the employer to provide written notification to each employee included in the monitoring program. However, some of these standards also require the employer to post the monitoring results, while others allow posting in lieu of individual notification. In addition, the number of days that may elapse between receipt of an employee's exposure monitoring results and employee notification varies across the standards. These periods range from “as soon as possible” to 20 working days after receipt of the monitoring results. Table 1 below describes the methods employers are required to use when notifying employees and the amount of elapsed time permitted by 15 substance-specific standards for general industry, one such standard for shipyard employment, and four such standards for construction.

TABLE 1.—NOTIFYING EMPLOYEES OF THEIR EXPOSURE RESULTS

Standard <sup>1</sup>	Method of notification	Maximum period for notification
<b>Part 1910 (General Industry):</b>		
Asbestos (§ 1910.1001(d)(7)(i)) .....	Individually in writing <i>or</i> posting .....	15 working days.
Vinyl Chloride (§ 1910.1017(n)(3)) .....	Individually in writing only .....	10 working days.
Inorganic Arsenic (§ 1910.1018(e)(5)(i)) .....	Individually in writing only .....	5 working days.
Lead (§ 1910.1025(d)(8)(i)) .....	Individually in writing only .....	5 working days.
Cadmium (§ 1910.1027(d)(5)(ii)) .....	Individually in writing <i>and</i> posting .....	15 working days.
Benzene (§ 1910.1028(e)(7)(i)) .....	Individually in writing only .....	15 working days.
Coke Oven Emissions (§ 1910.1029(e)(3)(i)) .....	Individually in writing only .....	5 working days.
Cotton Dust (§ 1910.1043(d)(4)(i)) .....	Individually in writing only .....	20 working days.
1,2-Dibromo-3-Chloropropane (§ 1910.1044(f)(5)(i)) .....	Individually in writing only .....	5 working days.
Acrylonitrile (§ 1910.1045(e)(5)(i)) .....	Individually in writing only .....	5 working days.
Ethylene Oxide (§ 1910.1047(d)(7)(i)) .....	Individually in writing <i>or</i> posting .....	15 working days.
Formaldehyde (§ 1910.1048(d)(6)) .....	Individually in writing <i>or</i> posting .....	15 working days.
Methylenedianiline (§ 1910.1050(e)(7)(i)) .....	Individually in writing <i>or</i> posting .....	15 working days.
Butadiene (§ 1910.1051(d)(7)(i)) .....	Individually in writing <i>or</i> posting .....	5 working days.
Methelene Chloride (§ 1910.1052(d)(5)(i)) .....	Individually in writing <i>or</i> posting .....	15 working days.
<b>Part 1915 (Shipyards Employment):</b>		
Asbestos (§ 1915.1001(f)(5)(i) and (f)(5)(ii)) .....	Individually in writing <i>or</i> posting .....	As soon as possible.
<b>Part 1926 (Construction):</b>		
Methylenedianiline (§ 1926.60(f)(7)(i)) .....	Individually in writing <i>or</i> posting .....	15 working days.
Lead (§ 1926.62(d)(8)(i)) .....	Individually in writing only .....	5 working days.
Asbestos (§ 1926.1101(f)(5)(i) and (f)(5)(ii)) .....	Individually in writing <i>or</i> posting .....	As soon as possible.
Cadmium (§ 1926.1127(d)(5)(i)) .....	Individually in writing <i>and</i> posting .....	5 working days.

<sup>1</sup> Includes the paragraphs containing the requirements.

The preambles to these standards generally do not identify substance-specific or record-based reasons for these differences in notification methods and timing. Further, there is no evidence to suggest that differences in timing, within the ranges reflected in these standards, have an effect on employee health. Accordingly, OSHA believes that making the notification and timing requirements consistent across standards will reduce regulatory confusion and facilitate compliance without diminishing employee protection. The Agency is therefore proposing to allow employees to provide employees with their exposure monitoring results either individually in writing or by posting the employees' results in a readily accessible location.

In the case of notification there are a number of considerations. Individual notification gives employees a permanent record, employees may take the notification more seriously, and there are no privacy concerns. However, the paperwork burden is increased for employers and employees will have less knowledge of overall trends. Posting has the converse strengths and weaknesses. OSHA is proposing to give the employer the option of either individual notification or posting, or both. The Agency requests comments on these issues.

The point of notification is to ensure that employees are aware of their exposures to OSHA-regulated

substances, and the Agency preliminarily concludes that this goal can be met either through individual written notification or through posting in a location that is readily accessible to all employees whose results are being posted. OSHA requests comment on this preliminary finding, particularly with respect to any impact the proposed changes might have on employee protection.

The Agency is also proposing to require employers regulated by the 15 substance-specific standards for general industry (see Table 1 above) to notify their employees of their exposure monitoring results within 15 working days of receiving the results. OSHA believes consistency of period will simplify compliance and that 15 days is a reasonable time frame.

For employers covered by the four substance-specific standards for construction and the asbestos standard for shipyard employment listed in the table, OSHA is proposing to require notification as soon as possible but no later than five working days after the employer receives the results of the exposure monitoring performed under these standards. Both the asbestos and cadmium standards established different notification intervals based on the industries affected: the asbestos standards requires notification within 15 days for general-industry employers and "as soon as possible" for construction and shipyard employers

which may be involved in more short-term and intermittent activities, while the cadmium standards specified a maximum period of 15 working days for general-industry employers and five working days for construction employers. The preamble to the cadmium standard for construction states that the five working-day notification period is appropriate "in light of the short term nature of many construction jobs" (57 FR 42383).

OSHA is requesting comment on whether a 5 working day or 15 working day notification period is more appropriate for the shipyard standard due to the nature of the work in that industry.

The Agency finds that these factors, short-term or intermittent projects, may justify retaining the shorter notification period for construction activities. OSHA believes that five days is a reasonable interval for notification. However, both shipyards and construction are covered by the 15 working day requirement for other health standards. OSHA is not proposing to change those other standards because they do not have as much impact in the construction or shipyard industry and they may result in an increase in burden.

OSHA invites comment and other information on these proposed revisions to the notification requirements in OSHA health standards, particularly on the differences proposed for employers in different industries and any

reduction in employee protection that may result from the proposed revisions.

*O. Additional Issue for Comment*

Social Security Numbers

Most of OSHA's substance-specific standards require that records, especially exposure monitoring and medical-surveillance records, include the employee's social security number (SSN). In the preamble to the final methylene chloride standard (62 FR 1598), OSHA justified the requirement for employers to document social security numbers by stating: "Social security number \* \* \* are correlated to employee identity in other types of records. These numbers are a more useful differentiation among employees [than other possible methods] since each number is unique to an individual for a lifetime and does not change as an employee changes employers." In a letter of interpretation regarding the use of social security numbers in the asbestos standard for construction (April 16, 1999), the Agency provided the following rationale for requiring SSNs: "[M]any employees have identical or similar names; identifying employees solely by name makes it difficult to determine to which employee a particular record pertains. The present system avoids this problem because Social Security numbers are unique to the individual."

Based on privacy concerns, the Office of Management and Budget recently requested OSHA to examine alternatives to requiring social security numbers for employee identification. Although the Agency is not specifically proposing to delete the requirement for SSNs from its standards at this time, OSHA is requesting the public to submit comments on: The necessity, usefulness, and effectiveness of social security numbers as a means of identifying employee records, notably exposure monitoring and medical-surveillance records, and any privacy concerns or issues raised by this requirement, as well as the availability of other equally effective methods of uniquely identifying employees for OSHA recordkeeping purposes.

**III. Legal Considerations**

The Agency believes that the proposed rule would not reduce the employee protections put into place by the rules being revised; the intent of the present rulemaking is to remove outdated, unnecessary or duplicative provisions from these older rules and makes them more consistent. It is therefore unnecessary to determine significant risk, or the extent to which the proposed rule would reduce that risk, as would be required by *Industrial Union Department, AFL-CIO v. American Petroleum Institute*, 448 U.S.

607 (1980), the Supreme Court ruling applying to standards addressing new hazards, setting more stringent standards, or reducing employee protection. Accordingly, no finding of significant risk is necessary.

**IV. Preliminary Economic Analysis**

*Introduction*

This proposed rule deletes or revises a number of provisions in OSHA standards that are duplicative, unnecessary, or potentially in conflict with the rules of other Federal agencies. All of the changes OSHA is making are expected to benefit the regulated community by reducing burden and confusion, enhancing occupational safety and health to employees, and improving compliance by employers. For most of these changes, economic benefits can be quantified.<sup>2</sup> By deleting and revising these provisions, this Phase II Proposed Revision Standard will lessen the burden employers currently experience, which will, in turn, generate cost savings. OSHA estimates annual savings of \$6.57 million from these revisions (Table 3). Total burden hours would fall by 207892. (The estimates in this Economic Analysis may differ very slightly from the estimates in the Paperwork Reduction Analysis because of rounding.)

TABLE 3.—ESTIMATED ANNUAL COST SAVINGS DUE TO THE STANDARDS IMPROVEMENT PROJECT—PHASE 2.

Provision	Annual cost savings
A § 1910.42, Temporary Labor Camps .....	\$0
B § 1910.151(b), Reference to First Aid Supplies in Appendix A .....	0
C § 1910.268, First Aid Supplies Telecom .....	5,603
D § 1910.1003(f)(2) Incident Reports, 13 Carcinogens .....	27,284
E § 1910.1017(k)(6), Vinyl Chloride .....	0
F:	
§ 1910.1017(d)(2)(i), Exposure Monitoring, Vinyl Chloride .....	102,750
§ 1910.1017(d)(2)(ii), Exposure Monitoring, Vinyl Chloride .....	25,687
§ 1910.1044(f)(3)(i) & f(3)(ii), Exposure Monitoring, 1,2-DBCP .....	0
§ 1910.1045(e)(3)(ii), Exposure Monitoring, Acrylonitrile .....	22,446
Subtotal .....	150,883
G:	
§ 1915.1001(g)(6)(iii), Alt. Control Methods, Asbestos Removal .....	39
§ 1926.1101(g)(6)(iii), Alt. Control Methods, Asbestos Removal .....	39
Subtotal .....	78
H:	
§ 1910.1018(n)(2)(ii)(A), ILO/UC Rating, Inorganic Arsenic .....	0
§ 1910.1029(j)(2)(ii), ILO/UC Rating, Coke Oven Emissions .....	0
I:	
§ 1910.1001(1)(7)(i), Signed Opinion, Asbestos .....	0
§ 1910.1027(1)(10)(i), Signed Opinion, Cadmium Gen. Industry .....	0
§ 1926.1127(1)(10)(i), Signed Opinion, Cadmium Con. Industry .....	0

<sup>2</sup> OSHA estimates that a few of these revised provisions may not have any readily quantifiable

reductions in burden hours and/or costs, although they normally increase employer flexibility.

TABLE 3.—ESTIMATED ANNUAL COST SAVINGS DUE TO THE STANDARDS IMPROVEMENT PROJECT—PHASE 2.—Continued

Provision	Annual cost savings
<b>J:</b>	
§ 1910.1017(k)(2)(i), Semiannual Medical Exams, Vinyl Chloride .....	31,064
§ 1910.1018(n)(3)(ii), Semiannual Medical Exams, Inorganic Arsenic .....	164,238
§ 1910.1029(j)(3)(ii–iii), Semiannual Medical Exams, Coke Oven emissions .....	362,443
Subtotal .....	557,745
<b>K:</b>	
§ 1910.1044(d), Notifying OSHA Regarding Regulated Areas, 1,2–DBCP .....	0
§ 1910.1003(f)(1) Notifying OSHA Regarding Regulated Areas, 13 Carcinogens .....	5,457
§ 1910.1017(n)(1) Notifying OSHA Regarding Regulated Areas, Vinyl Chloride .....	656
§ 1910.1018(d)(1) Notifying OSHA Regarding Regulated Areas, Inorganic Arsenic .....	117
§ 1910.1045(d)(1) Notifying OSHA Regarding Regulated Areas, Acrylonitrile .....	647
Subtotal .....	6,876
<b>L:</b>	
§ 1910.1017(n)(2) Reporting Emergencies, Vinyl Chloride .....	22,503
§ 1910.1045(d)(2) Reporting Emergencies, Acrylonitrile .....	2,588
Subtotal .....	25,090
<b>M:</b>	
§ 1910.1017(f)(3) Semiannual Updating Compliance Plans, Vinyl Chloride .....	7,614
§ 1910.1018(g)(2)(iv), Semiannual Updating Compliance Plans, Inorganic Arsenic .....	2,284
§ 1910.1029(f)(6)(iv), Semiannual Updating Compliance Plans, Coke Oven Emissions .....	1,332
§ 1910.1044(e)(3)(iv), Semiannual Updating Compliance Plans, 1,2–DCBP .....	0
§ 1910.1045(g)(2)(ii), Semiannual Updating Compliance Plans, Acrylonitrile .....	448
§ 1926.1025(e)(2)(v), Semiannual Updating Compliance Plans, Lead, Con. ....	4,209,657
Subtotal .....	4,221,334
<b>N:</b>	
§ 1910.1017(n)(3) Notify Employees of Expos. Monitoring Results, Vinyl Chloride .....	2,741
§ 1910.1018(e)(5)(i) Notify Employees of Expos. Monitoring Results, Inorganic Arsenic .....	9,393
§ 1910.1025(d)(8)(i) Notify Employees of Expos. Monitoring Results, Lead, Gen Ind. ....	891,293
§ 1910.1027(d)(5)(i) Notify Employees of Expos. Monitoring Results, Cadmium, Gen Ind .....	50,540
§ 1910.1029(e)(3)(i) Notify Employees of Expos. Monitoring Results, Coke Oven .....	25,765
§ 1910.1043(d)(4)(i) Notify Employees of Expos. Monitoring Results, Cotton Dust .....	68,102
§ 1910.1044(f)(5)(i) Notify Employees of Expos. Monitoring Results, 1,2–DBCP .....	0
§ 1910.1045(e)(5)(i) Notify Employees of Expos. Monitoring Results, Acrylonitrile .....	8,255
§ 1926.62(d)(8)(i) Notify Employees of Expos. Monitoring Results, Lead Construction .....	494,063
§ 1926.1127(d)(5)(i) Notify Employees of Expos. Monitoring Results, Cadmium, Con. ....	27,189
Subtotal .....	1,454,431
Total .....	6,572,236

This notice-and-comment rulemaking is necessary because a number of the proposed revisions are substantive. The Agency will base its final decisions regarding these proposed revisions on the record developed through public comment. The following paragraphs discuss the Preliminary Economic Analysis in detail.

*Methodology*

This section describes OSHA’s development of the total annual paperwork requirements for a provision or standard, then presents a methodology for aggregating these costs into industry-specific estimates of total one-time costs, annualized costs (one-time or intermittent costs amortized

over a specific number of years), or annual costs. For the purposes of this Preliminary Economic Analysis, one-time or intermittent costs have been annualized using a discount rate of 7 percent<sup>3</sup>, as required by the U.S. Office of Management and Budget (OMB), over a specified period of time using the formula:

$$a = (i \times (1 + i)^n) / ((1 + i)^n - 1),$$

where  
a=annualization factor,

<sup>3</sup> Office of Management and Budget, “Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs,” Circular No. A–94 Revised (Transmittal Memo No. 64). October 29, 1992.

Office of Management and Budget, “Economic Analysis of Federal Regulations Under Executive Order 12866.” January 11, 1996, p. 9.

i=discount rate, and  
n=economic life of the one-time or intermittent investment

OSHA uses average hourly earnings, including benefits, to represent the cost of employee time. For the relevant occupational categories, mean hourly earnings from the Year 2000 National Compensation Survey by the Bureau of Labor Statistics have been adjusted to reflect the fact that fringe benefits comprise about 27.1 percent<sup>4</sup> of total employee compensation in the private

<sup>4</sup> Straight-time hourly wages and salaries were estimated to be 72.9 percent of total compensation in 2000. Thus, total compensation, including benefits, for workers with average hourly earnings of \$13.41 would be \$13.41/.729 = \$18.40.

sector.<sup>5</sup> The costs of labor used in this analysis are therefore estimates of total hourly compensation. These average hourly costs are: \$38.92 for managers; \$27.39 for production supervisors; \$24.68 for chemical technicians; \$18.40 for production workers; and \$17.34 for clerical workers.

Estimates of the number of establishments and the number of employees affected by a proposed change are usually either from a statement in support of information collection requirements (ICR) or from an economic analysis. The number of employees affected and their hourly total wages are used to calculate costs. The changes proposed in the Phase II Standards Improvement Project pertain to approval of equipment, reporting incidents, exposure monitoring, laboratory analysis, medical examinations, and employee notification requirements.

Most of the proposed revised standards reduce costs related to a percentage of affected employees in the industry and the number of labor hours required to monitor a specific activity. Usually, the frequency of an activity, the number of employees requiring the activity, and the cost of the activity per employee were used to arrive at the estimated costs. In some instances, the costs of the activity were calculated according to the number of affected establishments.

#### A. Temporary Labor Camps (§ 1910.42)

Paragraphs (1) and (2) of § 1910.42 require that the camp superintendent immediately report the outbreak of certain diseases to the local health authority "by telegram or telephone." OSHA believes that because other forms of communication are readily available, the requirement for notification via "telegram or telephone" is unnecessarily restrictive. Thus, the Agency proposes deleting the requirements specifying notification by telegram or telephone. The Agency believes the revision would give more flexibility to employers that can result in cost savings. However, the Agency has not calculated the value of such savings.

#### B. Reference to First-Aid Supplies in Appendix A to the Standard on Medical Services and First Aid (§ 1910.151)

Paragraph (b) of § 1910.151, the Agency's standard regulating medical services and first-aid supplies, requires employers to ensure that "[a]dequate

first aid supplies shall be readily available [in the workplace]." OSHA added a nonmandatory appendix to this standard in a recent rulemaking (63 FR 33460) to help employers meet this requirement. OSHA is proposing to update this appendix. This revision would not impose any additional cost on employers because appendix A is non-mandatory.

#### C. First-Aid Supplies in the Telecommunications Standard (§ 1910.268)

The proposed rule revises Paragraph (b)(3) of OSHA's Telecommunications Standard (§ 1910.268) that requires an employer to: provide first-aid supplies recommended by a consulting physician; ensure that the items are readily accessible and housed in weatherproof containers if used outdoors; and inspect the items at least once a month and replace expended items. The Agency is proposing to revise paragraph (b)(3) to read, "Employers must provide employees with readily accessible first-aid supplies in accordance with Appendix A to (§ 1910.151)."

The proposed rule eliminates the requirements in § 1910.268(b)(3) that employers must have certain first-aid supplies approved by a consulting physician before they are used. This requirement applied only in cases where no infirmary, clinic, or hospital was in close proximity to the worksite and the employer intended to treat first-aid injuries at the site. OSHA's analysis here relies on the assumptions in the Final Economic Analysis in an earlier rulemaking (63 FR 33461).<sup>6</sup> Based on the ICR to that rulemaking, the Agency estimates that 10 percent of the establishments would meet these criteria. OSHA also estimates that five minutes of a physician's time, valued at \$100/hr<sup>7</sup> (\$8.33 for five minutes), would be required to approve the contents of the first-aid kit at these establishments.

OSHA assumes that the physician would need to approve the first aid supplies once every 10 years, considering the possibility of the development of new kinds of medical supplies and of new hazards at the worksite. The cost of five minutes of a physician's time annualized over a 10 year period at 7 percent interest is \$1.19

per year ( $5/60 \times \$100 \times$  annualization factor of 0.1424).

The Agency estimates that there were approximately 47,217 employers in the telecommunications industry in 1998 [*County Business Patterns*, 1998]. The major sector in the telecommunications industry is telephone communications, which consists of establishments that operate both wireline and wireless networks. The wireline networks use wires and cables to connect customers' premises to central offices maintained by the telecommunications companies. The wireless networks on the other hand operate through the transmission of signals over networks of radio towers and communications satellites [Career Guide to Industries 2000-01 Edition, Telecommunications (SIC's 481, 482, 489)]. Since first-aid supplies have to be approved once every 10 years, each year approximately 10 percent of the establishment incur costs to comply with the current requirement. Thus, current annualized cost is approximately \$5,603 ( $(47,217 \times 10\%) \times \$1.19$ ). Eliminating the requirement for a physician's approval of an establishment's first-aid kit would eliminate this burden of \$5,603.

#### D. 13 Carcinogens (4-Nitrophenyl, etc.) (§ 1910.1003)

The proposed rule would delete provision § 1910.1003(f)(2) that requires reporting of releases of a regulated carcinogen to the nearest OSHA Area Director. Deleting this provision results in savings in burden hours and associated costs.

Based on the ICR, the Agency estimates that reportable incidents occur once per year at each facility and that about 97 employers fall under OSHA jurisdiction and will be affected by the rule. A manager and a clerical worker will each take five hours to collect information and to report a release of a regulated carcinogen to the nearest OSHA Area Director, for a total of 10 hours per employer. Thus, 970 burden hours are attributed to this provision (485 burden hours each by a manager and a clerk), at an annual cost of \$27,286.<sup>8</sup> By eliminating the requirement to report releases of a regulated carcinogen to the nearest OSHA Area Director, OSHA will eliminate annual cost burdens to employers of \$27,286.

#### E. Vinyl Chloride (§ 1910.1017)

Paragraph (k)(6) of the Vinyl Chloride Standard (§ 1910.1017) specifies that

<sup>5</sup> U.S. Department of Labor, Bureau of Labor Statistics, "Employer Costs for Employee Compensation—March 2001, June 29, 2001, p. 5."

<sup>6</sup> 29 CFR parts 1910 and 1926 Standards Improvement (Miscellaneous Changes) For General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic; Final Rule—63:3350-33469.

<sup>7</sup> Opportunity cost is estimated by the market price for occupational physical exams, i.e., at the rate of about \$100 an hour.

<sup>8</sup> Annual cost saving (\$27,286) due to revision of this standard is obtained by multiplying 485 burden hours by each wage rate and adding the products, i.e. [ $485 \times (\$38.92 + \$17.34)$ ].

laboratories licensed by the U.S. Public Health Service (PHS) under 42 CFR part 74 (“Clinical laboratories”) must analyze biological samples collected during medical examinations. However, 42 CFR part 74 is outdated, and the PHS now addresses laboratory licensing requirements under 42 CFR part 493 (“Laboratory requirements”). Therefore, the Agency is proposing to delete the reference to 42 CFR part 74 from paragraph (k)(6) of this standard. There are no cost applications to the proposed change since the requirements are almost the same.

*F. Monthly and Quarterly Exposure Monitoring (§ 1910.1017)(§ 1910.1044) (§ 1910.1045)*

Several of the Agency’s older standards retain provisions that require employers to monitor employee exposures either monthly or quarterly, depending on the level of the toxic substance found in the workplace. These include: paragraphs (d)(2)(i) and (d)(2)(ii) of the Vinyl Chloride Standard (§ 1910.1017), requiring employers to conduct exposure monitoring at least monthly if employees exposure are above the permissible exposure limit (PEL), and not less than quarterly if employee exposures are above the action level (AL); paragraphs (f)(3)(i) and (f)(3)(ii) of the 1,2-dibromo-3-chloropropane (DBCP) (§ 1910.1044) Standard, requiring exposure monitoring at least quarterly if employee exposures are below the PEL, and no less than monthly if employee exposures exceed the PEL<sup>9</sup>; and paragraphs (e)(3)(ii) and (e)(3)(iii) of the Acrylonitrile Standard (§ 1910.1045), requiring monitoring at least quarterly for employees exposed at or above the AL, but below the PEL, and at least monthly for employees exposed above the PEL. Little discussion exists in the preambles to these standards regarding the basis for adopting these monitoring frequencies, indicating that OSHA relied on prevailing practice in making those determinations.

For substance-specific standards published by the Agency subsequent to these standards, the most frequent exposure monitoring requirement is semiannually if employee exposures are at or above the AL, and quarterly if they are above the PEL. Thus, OSHA is proposing to amend the previously mentioned exposure monitoring requirements because they are

inconsistent with the exposure monitoring protocols established by OSHA in its later substance-specific standards. OSHA is proposing to require that employers conduct exposure monitoring at least quarterly if the results of initial exposure monitoring show that the employee exposures are above the PEL, and no less than semiannually if these results are at or above the AL.

This economic analysis relies on the following assumptions and facts of employee exposure to vinyl chloride. The Agency estimates, based on OSHA sampling data, that one percent of all employees are exposed between the AL and the permissible exposure level (PEL), and another one percent are exposed above the PEL. Employees exposed between the AL and the PEL must be monitored quarterly, while those exposed above the PEL must be monitored monthly. OSHA assumes that employers use an organic vapor badge for monitoring because these badges do not interfere with employees’ work activity. A supervisor, earning \$27.39 per hour, will spend five minutes to administer, and five minutes to collect, each vapor badge, for a total of 0.17 hour. A clerical worker, earning \$17.34 per hour, will spend five minutes (.08 hour) to maintain each record of a monitoring event.

The proposed rule revises the Vinyl Chloride Standard § 1910.1017(d)(2)(i) to require quarterly rather than monthly exposure monitoring if above the PEL. Under monthly monitoring prior to revision, burden hours would be 393 hours, assuming that 131 employees are monitored 12 times a year, with a supervisor spending 0.17 hour and a clerical spending .08 hour each event to administer and collect vapor badges. The cost of monitoring would be \$9,500 (267 hours × \$27.39 per hour plus 126 hours times \$17.34 per hour). Under the revised rule, burden hours would be 131 hours, since the 131 employees would be monitored only four times a year. Costs would be reduced to \$3,167 (89 hours × \$27.39 plus 42 hours times \$17.34). Savings due to the revision from monthly to quarterly monitoring thus would be 262 burden hours, worth \$6,334. There would also be savings of 2/3 of the current cost \$144,624 for badges and laboratory analysis; that is, \$96,416. Thus, total annual savings attributed to this provision would be \$102,750 (\$6,334 + \$96,416).

The proposed rule also revises the Vinyl Chloride Standard § 1910.1017(d)(2)(ii) to require semiannual rather than quarterly exposure monitoring if exposure is at or above the AL. With quarterly exposure

monitoring, burden hours would be 131 hours, costing \$3,167. Revising the provision to allow for semiannual monitoring would cut burden hours to 66 hours, as 131 employees would be monitored only two times a year. The costs of monitoring would be \$1,583 (45 hours × \$27.39 plus 21 hours times \$17.34). There would be a saving of 66 burden hours (quarterly burden hours of 131 hours – semiannual burden hours of 66 hours) and a corresponding cost saving of \$1,583 (quarterly costs of \$3,167 – semiannual costs of \$1,583). The cost of badges and laboratory analysis would fall by one-half, or from \$48,208 to \$24,104. Thus, total annual cost savings due to this revision would be \$25,687 (\$1,583 + \$24,104).

OSHA is of the opinion that revision of paragraphs (f)(3)(i) and (f)(3)(ii) of the standard regulating, 1,2-dibromo-3-chloropropane (DBCP) (§ 1910.1044), would have no effect on cost or burden hours since no U.S. employers currently produce DBCP-based end products.

The proposed revision of paragraphs (e)(3)(ii) and (e)(3)(iii) of the Acrylonitrile Standard (§ 1910.1045) would require semiannual monitoring if employee exposures were at or above the AL, and quarterly monitoring if these exposures were above the PEL. OSHA estimates that a chemical technician, earning \$24.68 per hour, requires 30 minutes (0.5 hour) to obtain and analyze each charcoal-sampling tube, and that each exposure monitoring sample represents the exposures of 2 employees (*i.e.*, on average, there are two employees involved in the same or similar tasks).<sup>10</sup>

The revision from quarterly to semiannual monitoring would save 282 burden hours and \$6,947. The revision from monthly to quarterly monitoring would save 628 burden hours and \$15,499. Thus, revision of the Acrylonitrile Standard would reduce total annual burden by 910 hours and \$22,446.

*G. Alternative Control Methods for Class I Asbestos Removal (§ 1915.1001(g)(6)(iii) and § 1926.1101(g)(6)(iii))*

OSHA is proposing to delete provisions in OSHA’s Asbestos Standards for shipyard employment and for construction (§ 1915.1001, paragraph (g)(6)(iii), and 1926.1101, paragraph (g)(6)(iii), respectively) that require that employers submit, to the Directorate of Technical Support, alternative control

<sup>9</sup>This standard does not specify an action level, so employers must continue to monitor employee DBCP exposures on a continuing basis. See section O (“Additional Issues for Comment”) of this Summary and Explanation for a discussion of this issue.

<sup>10</sup>Supporting Statement for the Information Collection Requirements of the Acrylonitrile (AN) Standard (29 CFR 1910.1045), OMB# 1218-0126 (2000), p. 16.

methods used to perform Class I asbestos work. OSHA believes that this requirement is unnecessary because the Agency can obtain this information from the public through an advanced notice of proposed rulemaking. Current OSHA regulatory policy requires that paperwork provisions such as this requirement demonstrate a benefit to employees or serve some other useful regulatory purpose.

To submit alternative control methods to the Directorate of Technical Support, OSHA estimates would require 1 hour and cost \$39. These estimates are based on the assumption that OSHA would receive 7 notifications from employers who choose new or modified control technology to reduce exposure in Class I asbestos for shipyards. A manager, earning \$38.92 per hour, would spend on average 10 minutes to develop and transmit the information to the Agency for each employer. Thus removing this requirement would result in annual cost savings of \$39.

For the Asbestos Standard for construction, OSHA again assumes the Agency would receive 7 notifications from employers who choose new or modified control technology to reduce exposures in Class I asbestos work. OSHA estimates a manager, earning \$38.92 an hour, would need 10 minutes to develop and transmit the information to OSHA. Thus, 1 burden hour would be spent, at a cost of \$39, to submit alternative method information to OSHA.

Total annual savings of \$78 would result from deleting these two asbestos-related provisions, since the information would no longer have to be submitted.

#### *H. Evaluating Chest X-rays Using the ILO U/C Rating (§ 1910.1018(n)(2)(ii)(A) and § 1910.1029(j)(2)(ii))*

OSHA is proposing to amend paragraph (n)(2)(ii)(A) of the Inorganic Arsenic Standard (§ 1910.1018) and paragraph (j)(2)(ii) of the Coke Oven Emissions Standards (§ 1910.1029); these provisions require that employees' chest x-rays receive an International Labor Office UICC/Cincinnati (ILO U/C) rating. Subsequent to the promulgation of these provisions, the Agency received information from two physicians that the ILO U/C rating is not suitable to evaluate chest x-rays for lung cancer. Based on this information, OSHA believes that the ILO U/C rating may not be a suitable method to use in evaluating chest x-rays for lung cancer. Therefore, the Agency is proposing to remove the ILO U/C rating requirements specified in the Inorganic Arsenic and Coke Oven Emissions Standards, thereby permitting the examining

physician to determine the most effective procedure for evaluating these chest x-rays. Deleting the ILO/UC rating would provide cost savings since it allows the examining physician to determine the most effective procedure for evaluating chest x-rays. However, the Agency has not calculated the value of such savings.

#### *I. Signed Medical Opinions (§ 1910.1001(l)(7)(i), § 1910.1027(l)(10)(i), and § 1926.1127(l)(10)(i))*

Paragraph (l)(7)(i) of the Asbestos Standard (§ 1910.1001) and paragraph (l)(10)(i) of the Cadmium Standards for both general industry (§ 1910.1027) and construction (§ 1926.1127), require that the examining physician sign the written medical opinion provided as part of the medical surveillance requirements of these standards. The Preamble to the Cadmium standards states that "the requirement that the physician sign the opinion is to ensure that the information that is given to the employer has been seen and read by the physician and that the physician has personally determined whether the employee may continue to work in cadmium-exposed jobs" (57 FR 42366). No other substance-specific standard promulgated by OSHA requires a signed medical opinion.

The Agency believes that the requirement to sign a medical opinion written by a physician is unnecessary, precludes electronic transmission of the opinion from the physician to the employer, and provides no benefit to employees. Accordingly, OSHA is proposing to remove this requirement from these paragraph.

Removal of the requirement that a physician sign the written medical opinion provided as part of the medical surveillance requirement of these standards would provide more flexibility, but does not appear to provide any significant savings in time or burden for most employers.

#### *J. Semiannual Medical Examinations (§ 1910.1017(k)(2)(i), § 1910.1018(n)(3)(ii), and § 1910.1029(j)(3)(i))*

Three revisions geared toward reducing burdens are proposed for semiannual medical examinations: changing the requirement to an annual exam requirement for the Vinyl Chloride, Arsenic, and Coke Oven Standards. This analysis presents the burden hours and costs associated with the current provisions and then presents estimates of cost savings of the proposed revisions.

The proposed revision of the semiannual requirement for medical exams in the Vinyl Chloride Standard § 1910.1017(k)(2)(i) to an annual one (for employees working in vinyl chloride or polyvinyl manufacturing for 10 years or longer) would generate annual cost savings in several ways: less employees' time; fewer medical exams; and less clerical time providing the physicians' opinions to the affected employees and maintaining medical records.

Based on estimates in the ICR of the number of facilities, the number of employees per facility, and the distribution of employee exposures, OSHA estimates that 890 burden hours are incurred for medical surveillance under the semiannual examination requirement, with 183 employees monitored twice a year for two hours and 79 employees once a year for two hours at a cost of \$16,376 (890 hours × \$18.40, the wage rate of a production worker). With annual examinations, OSHA estimates that 324 burden hours would be required, as 262 employees would be monitored only once a year, taking two hours. The cost would be \$9,642 (524 hours × \$18.40). Annual savings of \$6,734 would result.

The revision from semiannual to annual medical exams would result in annual savings of \$23,790 in the cost of the medical exams themselves, at \$130 per exam, as 183 employees would have only one, as opposed to two, medical exams per year. The change in frequency from semiannual to annual medical exams also reduces the number of hours of clerical time required from 76 to 45, resulting in annual savings of \$539.

When annual savings are combined for the cost of employees' time (\$6,734), medical exams (\$23,790), and clerical costs of medical records (\$539), the revision of the Vinyl Chloride Standard generates annual savings of \$31,064. Thus, revision of the Vinyl Chloride Standard results in reduced burden hours and substantial annual cost savings.

The proposed rule also revises the semiannual medical exam requirement in the Arsenic Standard, § 1910.1018(n)(3)(ii), for employees who are 45 years old or older with 10 or more years of exposure to Inorganic Arsenic (IA) above the AL. Based on the ICR, the burden for medical surveillance was estimated to be 5,317 hours. OSHA assumes each exam would take one hour and forty minutes and that 50 percent of the 1,900 employees would require two examinations per year, 50 percent of 1,990 employees would undergo only one exam per year, and an

additional 10 percent would be subject to one exam per year. The cost of the employees' time would be \$97,838 (5,317 hours × \$18.40 hourly wage rate). Requiring only annual medical exams would result in 3,656 burden hours. The cost of the employees being away from the job would be \$67,264 (3,565 hours × \$18.40 per hour). Thus, replacing semiannual medical exams by annual medical exams would result in annual savings of 1,661 burden hours and \$30,574.

The change in frequency from semiannual to annual contributes \$129,350 in annual cost savings for the medical exams themselves, at \$130 per exam. Semiannual medical exams cost \$413,920 while annual medical exams would cost an estimated \$284,570. In addition, the clerical costs of medical records would drop by \$4,313 (\$13,803–\$9,489). Total annual savings resulting from revision of the Inorganic Arsenic Standard would be \$164,238 (\$30,574 + \$4,313) and would consist of savings in costs of employees' time, medical exams, and clerical time for medical records.

The proposed rule revises the semiannual medical exams requirement except for the urinary cytology examination, to annual medical exams in the Coke Oven Standard, § 1910.1029(j)(3)(i), for employees who are 45 years of age or older with five or more years of exposure in regulated areas. However, these employees still receive semiannual urinary cytology examinations. The proposed revision would generate annual cost savings in employees' time, medical exams, and physicians' medical opinions. Based on the ICR, medical exams currently require 14,903 burden hours as 84 percent of the 4,600 employees who work in regulated areas require semiannual medical exams, 16 percent require an annual medical exam, and 10 percent require an additional medical exam per year. Each exam requires an employee to be away from his or her job for one hour and 40 minutes, at \$18.40 per hour, for a total annual cost of \$274,217. After the proposed revision, annual medical exams and semiannual urinary cytology exams would require 12,005 burden hours at a cost of \$220,893. Cost savings in employees' time would thus be \$53,323.

At a cost of \$130 per medical exam and \$50 for urinary cytology exams per employee, replacing semiannual medical exams (estimated cost of \$1,425,384) with annual medical exams plus semiannual urinary cytology exams (estimated cost of \$1,126,264) would result in annual cost savings of

\$309,120. There would be no savings in clerical costs of medical records.

OSHA estimates that revision of the Coke Oven Standard would generate total annual savings of \$362,443 when the savings in the costs of employees' time and medical exams.

*K. Notification of Regulated Area (§ 1910.1003(f)(1)(i), 1910.1017(n)(1)(i), 1910.1018(n)(2)(i), and 1910.1045(d)(1)(1))*

The proposed rule would delete the "13 carcinogens" provision, § 1910.1003(f)(1), that requires employers to notify the nearest OSHA Area Director of the established of Regulated Areas. Deleting this provision results in savings in burden hours and associated costs. As in the ICR, OSHA assumes that changes in operation requiring a report to the nearest OSHA Area Director currently occur once a year per facility and require one hour each of managerial and clerical time, a total of two hours per employer, to report the necessary information. OSHA estimates that 97 employers would be affected. Burden hours are thus estimated to total 194 hours to report the information. The cost is estimated to be \$5,457 (97 employers × (\$38.92 × 1 hour + \$17.34 × 1 hour)), where \$38.92 is the wage rate of a manager and \$17.34 is the wage rate of a clerical worker. Thus, savings due to deleting this provision would be 194 burden hours and \$5,457.

The proposed rule would eliminate the vinyl chloride provision, § 1910.1017(n)(1), that requires employers to notify the nearest OSHA Area Director of the establishment of Regulated Areas. Based on the ICR, the Agency estimates that 13 new regulated areas are established each year, and that a manager, at an hourly rate of \$38.92, takes 15 minutes (0.25 hour) to notify the Area Director of the address and the location of the establishment, and the number of employees in a new regulated area. Thus, for new regulated areas, OSHA estimates a current burden of 3.25 hours at a cost of \$126.

For existing facilities, OSHA assumes that each employer experiences one change in a regulated area each year, and that a supervisor requires 10 minutes (0.17 hour) to inform the Area Director of this change. OSHA estimates that there are 80 facilities, resulting in 14 burden hours and a cost of \$529 (14 burden hours × \$38.92).

Total burden of the current rules, for new and existing facilities, is 17 hours, costing \$656. The proposed revision would, thus, save 17 hours and \$656.

The proposed rule would delete the requirement in the Inorganic Arsenic

Standard, 1910.1018(d)(1), that employers notify the nearest OSHA Area Director of the establishment of Regulated Areas. An OSHA report titled "Sampling Activity by Substance" determined that 14.1 percent of establishments had Inorganic Arsenic exposures that exceeded the PEL. Based on the Agency's estimate that 42 facilities are covered by the standard, six facilities would have employees with IA exposures that exceed the PEL (14.1% × 42 = 6). OSHA assumes that these six employers have already notified the Agency about establishing regulated areas; therefore, only significant changes to existing regulated areas or establishments of new regulated areas must be reported to OSHA. The Agency assumes that one significant change occurs in, or a new regulated area is added to, each of these facilities annually, and that a manager, earning \$38.92 an hour, will take 30 minutes (0.5 hours) to notify the Agency of the significant change or addition. Thus, OSHA estimates it would require three burden hours for six employers to notify the Area Director about establishment of regulated areas. Estimated cost would be \$117 (three burden hours × \$38.92 an hour). By deleting this provision, savings of three burden hours and \$117 would be realized.

The proposed rule would delete the provision in the Acrylonitrile Standard, § 1910.1045 (d)(1), that requires employers notify the nearest OSHA Area Director of the establishment of Regulated Areas. Since there are no new establishments, OSHA assumes that employers will not establish new regulated areas during this clearance period, and estimates that each of the 23 facilities will make one significant change annually in a regulated area. The Agency estimates that reporting a significant change to the nearest OSHA Area Office currently takes a manager 0.5 hour and a clerical worker 0.5 hour each, for a total of one hour for each of the 23 facilities. Thus, it costs \$647 for the 23 facilities to report a significant change, at \$38.92 an hour for a manager and \$17.34 an hour for a clerical. Savings due to deleting this provision would thus be 23 burden hours and \$647.

*L. Reporting Emergencies and Incidents (§ 1910.1017(n)(2) and 1910.1045(d)(2)(i))*

The proposed rule would delete the provision in the Vinyl Chloride Standard, § 1910.1017(n)(2), that requires employers to report emergencies, and available facts regarding each emergency, to the nearest OSHA Area Director. On request of the

Area Director, the employer must submit additional information in writing describing the nature and extent of employee exposures, and measures taken to prevent similar emergencies in the future. OSHA estimates that each employer experiences one reportable emergency per year, and that a manager and a secretary will each spend five hours, for a total of 10 hours, reporting the emergency. OSHA assumes there are 80 affected employers; a manager and a secretary would each spend five hours to report an emergency for a total of 800 burden hours. The cost to the employers would be \$22,504 (80 employees  $\times$  (\$38.92  $\times$  5 hours + \$17.34  $\times$  5 hours)), since a manager earns \$38.92 an hour and a secretary earns \$17.34 an hour. Hence, there would be savings of 800 burden hours and \$22,503 by deleting this provision.

The proposed rule would delete the provision in the Acrylonitrile Standard, § 1910.1045(d)(2), that requires employers to report an emergency to OSHA within 72 hours and to provide additional information in writing to the nearest OSHA Area Office if requested to do so. OSHA estimates that two emergencies will occur in each facility annually, and that a professional and a secretary each requires one hour for a total of two hours to compile and report the necessary information for each emergency. OSHA estimates 92 burden hours would be attributed to this provision because 23 facilities would report two emergencies per year and a manager and a secretary would each spend one hour to compile and report the necessary information. The cost of this provision would be \$2,588, since a manager earns \$38.92 per hour and a secretary earns \$17.34 an hour. Savings due to deleting this requirement would be 92 burden hours, worth \$2,588.

*M. Semiannual Updating of Compliance Plans (§ 1910.1017(f)(3), 1910.1018(g)(2)(iv), 1910.1025(e)(3)(iv), 1910.1029(f)(6)(iv), 1910.1044(g)(2)(ii), 1910.1045(g)(2)(v) and 1926.62(e)(2)(v))*

The Agency's substance-specific standards typically require employers to develop compliance plans to meet the exposure-control objectives of the standard. Most of these standards specify that employers must update these plans at least annually, and OSHA believes that annual updating is sufficient to ensure the continued effectiveness of the plans. However, several older substance-specific standards promulgated by the Agency require semiannual updating, including: Vinyl Chloride (§ 1910.1017, paragraph (f)(3)), Inorganic Arsenic (§ 1910.1018, paragraph (g)(2)(iv)); Lead (§ 1910.1025,

paragraph (e)(3)(iv)); Coke Oven Emissions (§ 1910.1029(f)(6)(iv)); 1,2-dibromo-3-chloropropane (DBCP) (§ 1910.1044, paragraph (g)(2)(ii)); Acrylonitrile (§ 1910.1045, paragraph (g)(2)(v)); and Lead in Construction (§ 1926.62, paragraph (e)(2)(v)).

A review of the Preambles to OSHA's substance-specific standards found no compelling argument that updating compliance plans semiannually provides employees with more health protection than updating these plans annually. Therefore, the Agency is proposing to revise its older substance-specific standards to require annual, instead of semiannual, updating of compliance plans. OSHA believes that the proposed revisions would make this requirement consistent across its standards without diminishing employee protection. Accordingly, the proposal would eliminate a significant paperwork requirement that has no demonstrated benefit to employees. The following discussion estimates the cost savings of the proposed revisions.

The proposed rule revises the Vinyl Chloride Standard to require that employers update compliance plans at least annually, instead of semiannually. As in the ICR, the Agency estimates that semiannual updates require 480 burden hours (20 facilities, each needing eight hours from a manager and four hours from a secretary) to update the compliance plans, at a cost of \$15,229. On average, a manager earns \$38.92 an hour while a secretary earns \$17.34 an hour. Annual updates on the other hand, would require 240 burden hours at a cost of \$7,614. Thus, revising the standard to allow for annual updates of compliance plans instead of semiannual updates would result in savings of \$7,614.

Modifying the Inorganic Arsenic Standard (§ 1910.1018) to require that employers update compliance plans at least annually likewise would reduce burden hours and cost. OSHA estimates there are six employers affected by this standard and that a manager and a secretary need eight hours and four hours, respectively, to update the compliance plans. With semiannual updates, the standard would require 144 burden hours at a cost of \$4,569. Revising the standard to require annual compliance updates would entail 72 burden hours at a cost of \$2,284, thereby resulting in savings of \$2,284.

The proposed revision of the Lead Standard for General Industry (§ 1910.1025(e)(3)(iv)) would reduce the frequency for updating the compliance plan from semiannually to annually for areas with exposures over the PEL. OSHA's information on areas over the

PEL in general industry is relatively old and the standard is almost 25 years old. Therefore, a substantial amount of time has gone by to achieve exposures below the PEL. Accordingly, OSHA has not assigned a cost saving for this provision at this time. Instead, OSHA requests comments on the approximate number of general industry lead facilities that still have areas over the PEL. Based on such comments and other information OSHA may be able to gather, OSHA will attempt to make a current estimate of the cost savings from this provision.

Revision of the Coke Oven Standard (§ 1910.1029, paragraph (f)(6)(iv)) would allow employers to update their compliance plans annually instead of semiannually. OSHA estimates that each of the 14 plants takes 3 hours to review and update its compliance plan semiannually for a total of 84 burden hours. OSHA estimates that a manager earning \$32.92 takes two hours to update the compliance semiannually; and that a clerk earning \$17.34 will take one hour semiannually to update the plans. Therefore the cost for the 14 plants to update their compliance plans semiannually is \$2,665. Revising semiannual updating to annual the 14 plants would take 42 hours annually costing a total of \$1,333. The burden hour savings would be 42 hours and cost saving would be \$1,332.

The proposed revision of the 1,2-dibromo-3-chloropropane (DBCP) Standard (§ 1910.1044) would have no cost or burden hours to employers since no U.S. employers currently produce DBCP-based end products.

Revision of the Acrylonitrile Standard (§ 1910.1045, paragraph (g)(2)(v)) would require that employers update compliance plans annually instead of semiannually. OSHA assumes that a manager earning \$38.92 an hour would devote 0.5 hour to update a compliance plan at each facility. With semiannual updating of compliance plans, employers would require 23 burden hours at a cost of \$895 (23 hours  $\times$  \$38.92). Revision of the standard to require annual updates would lower this to 11.5 burden hours at a cost of \$448 (11.5  $\times$  \$38.92). Savings due to this revision would thus be \$448.

The proposed revision of the Lead in Construction Standard (§ 1926.62, paragraph (e)(2)(v)) would require employers to update compliance plans annually instead of semiannually. Based on the Lead In Construction Paperwork Package, which in turn drew upon the Economic Analysis for the current rule, OSHA estimates it requires 216,344 burden hours at a cost of \$8,419,313 (216,272 hours  $\times$  \$38.92) to update compliance plans semiannually.

Revising the standard to require annual updates would cut the burden in half, to 108,172 hours at a cost of \$4,209,657 (108,172 hours × \$38.92). Thus, the savings due to changing from semiannual to annual compliance updates would be \$4,209,657.

*N. Notifying Employees of Their Exposure Monitoring Results* (§ 1910.1017(n)(3), 1910.1018(e)(5)(i), 1910.1025(d)(8)(i), 1910.1027(d)(5)(i), 1910.1029(e)(3)(i), 1910.1043(d)(4)(i), 1910.1044(f)(5)(i), 1910.1045(e)(5)(i), 1926.62(d)(8)(i), and 1926.1127(d)(5)(i))

Many of OSHA's substance-specific standards require employers to notify employees of their exposure monitoring results. However, the standards specify several different methods for providing this notice. Accordingly, the standards state that an employer must provide such notification to employees individually in writing or by posting the results in a readily accessible location, or both. In addition, the maximum period for notifying employees of their exposure monitoring results after the employer receives them varies across the standards. These periods range from "as soon as possible" to 20 working days after receipt of the monitoring results.

A review of the Preambles to each of the above standards indicates that the final choice of notification method and maximum period for notification was a matter of convenience and feasibility; none of the Preambles provided objective evidence that the final requirements were most effective in protecting employees. In view of this finding, OSHA believes that making the requirements consistent among the standards would reduce confusion and facilitate compliance without diminishing employee protection. As a result, the Agency is proposing to revise the standards by requiring employers to provide employees with their exposure monitoring results individually in writing or by posting the employees' results in a readily accessible location. Although the posting option would reduce employers' paperwork burden to some extent, they must still maintain individual exposure monitoring records for employees under §§ 1910.1020, 1915.1020, and 1926.33, OSHA's records-access standards for general industry, shipyard employment, and construction, respectively. Thus, employees could still get subsequent access to their exposure monitoring results.

OSHA is proposing to standardize the period of time for notifying employees of their exposure monitoring results after the employer receives them across

20 pertinent standards. Currently, the notification period ranges from "as soon as possible" to 20 working days after receipt of the monitoring results. The Agency is proposing to standardize the notification period to 15 days for general industry and no later than 5 days for construction and shipyards. Making these requirements consistent will reduce confusion and facilitate compliance with the provisions. However, it will not result in any significant cost savings.

OSHA assumes that the employers will choose to post the employees' results in a readily accessible location for all the standards that give the option of providing the results individually in writing or by posting. This would generate savings in burden hours and costs.

The proposed rule would revise the Vinyl Chloride Standard (§ 1910.1017(n)(3)) to require employers to provide employees with their exposure monitoring results individually in writing or by posting the employees' results in a readily accessible location. Based on the ICR, under the present standard for exposure above the AL, but below the PEL, 42 burden hours are required at a cost of \$727 as 131 employees would be notified quarterly by a secretary earning \$17.34 an hour who would spend 5 minutes per notification. For exposures above the PEL, 126 burden hours at a cost of \$2,181 are required, as the same number of employees would be notified monthly by the secretary. Additional monitoring involves another 6 burden hours, at a cost of \$111. Thus, the present Vinyl Chloride Standard requires a total of 174 burden hours and a cost of \$3,019.

With the revised standard, for exposure above the AL but below the PEL, 3 burden hours at a cost of \$55 would be incurred as a secretary of each of 20 employers would post monitoring results semiannually at a readily accessible location. For exposure above the PEL, a secretary would quarterly post monitoring results at 20 facilities in a readily accessible location, requiring 6 burden hours at a cost of \$111. Additional monitoring would require 6 burden hours at a cost of \$111. Thus, the revised standard would require 15 burden hours at a cost of \$277. Cost savings would amount to \$2,741.

The proposed rule revises the Inorganic Arsenic Standard (§ 1910.1018(e)(5)(i)) to require employers to provide employees with their exposure monitoring results individually in writing or by posting the employees' results in a readily accessible location. OSHA assumes the employers would prefer to post the

employees' results in a readily accessible location.

The present Arsenic Standard requires employers to notify employees individually in writing of their exposure monitoring results. As in the Inorganic Arsenic Paperwork Package, OSHA estimates that 7,400 employees are exposed to IA, 14.1 percent or 1,043 of these are exposed above the PEL and will be monitored quarterly, 12.8 percent or 947 of these employees are exposed above the AL but below the PEL and will receive semiannual monitoring, while the employers must provide 10 percent or 740 of these employees with the results obtained to meet the additional monitoring requirement. OSHA estimates that a secretary, earning \$17.34 per hour, will take 5 minutes (.08 hour) to prepare each notification. Thus, 545 burden hours estimated to cost \$9,444 are attributed to the present Inorganic Arsenic Standard.

With the revised standard, employers would have to post monitoring results in a readily accessible location, which is cheaper than writing to employees individually. For estimating the burden, the assumptions would remain the same as under the present standard except employers or facilities would post monitoring results. OSHA estimates there are 42 facilities: 14.1 percent or 6 of these have employees exposed above the PEL and will be monitored quarterly; 12.8 percent or 5 of these have employees that are exposed above the AL but below the PEL and will be monitored semiannually, and an additional 10 percent or 4 facilities will be monitored yearly. Thus, the revised standard would require 3 burden hours at a cost of \$51. Cost savings due to changing from writing employees individually to employers posting monitoring results in a readily accessible location would amount to \$9,393.

The proposed rule revises the Lead General Industry Standard (§ 1910.1025(d)(8)(i)) to require employers to provide employees with their exposure monitoring results individually in writing or by posting the employees' results in a readily accessible location. OSHA assumes the employees would post the employees' results in a readily accessible location.

Currently, monitoring is required initially to determine if any employees are exposed to lead at or above the action level, and every six months if employees are exposed above the AL but below the PEL and quarterly if employees are exposed to lead above the PEL. OSHA assumes zero burden hours for quarterly monitoring based on the

assumption in the paperwork burden analysis that no industry sectors have working conditions in which employees are being exposed above the PEL. The Agency has estimated that about 11,508 employees would receive initial monitoring and 377,859 employees may be exposed to lead at levels between the AL and the PEL, which would require periodic monitoring at six-month intervals. OSHA estimates that a secretary earning \$17.34 an hour will require five minutes (.08 hour) to prepare each of 767,226 employee notifications (11,508 initial notifications and 377,859 employees  $\times$  2 semiannual notifications).

Developing 767,226 employees monitoring results to comply with the present Lead Standard will take 61,378 burden hours, at a total cost of \$1,064,296.

Under the revised standard 9,997 burden hours, at a cost of \$173,001, would be required for employee notification (secretaries at each of the 62,357 employers, spending five minutes each, at \$17.34 per hour, to post initial and semiannual monitoring results). Cost savings would amount to \$891,293.

The proposed rule would revise the Cadmium General Industry Standard (§ 1910.1027(d)(5)(i)) to require employers to provide employees with their exposure monitoring results individually in writing or by posting the employees' results in a readily accessible location. As posting the monitoring results is cheaper than individually writing employees, OSHA assumes the employers would prefer to post the monitoring results.

The present standard requires employers to notify employees individually in writing and to post in a centralized location their exposure monitoring results. As in the Cadmium General Industry Paperwork Package, the Agency estimates that 71,306 employees may need periodic monitoring when exposed to cadmium above the AL. OSHA estimates that a secretary, earning \$17.34 per hour, will take 5 minutes (.08 hour) semiannually to individually inform the employees in writing of exposure monitoring results and to also post a copy of the results in a centralized location. Included in this five minutes is the time to maintain the record as required in paragraph (n)(1). The Agency also estimates that the 143 additional samples will occur in 143 plants. Thus, 11,420 burden hours would be required at a cost of \$198,030 as 71,306 employees are notified individually in writing and 143 plants post notices of the employees' exposure

monitoring results in centralized locations.

Under the revised standard, 8,517 burden hours at a cost of \$147,685 would be required (secretaries at each of the 53,161 employers, and for posting 143 additional samples spending five minutes, at \$17.34 per hour, to post monitoring results). Cost savings due to changing from individually writing employees and posting notices in centralized location to employers posting notices in a readily accessible location would amount to \$50,341.

The proposed rule would revise the Coke Oven Emissions Standard (§ 1910.1029 (e)(3)(i)) to require employers to provide employees with their monitoring results individually in writing or by posting the employees' results in a readily accessible location. OSHA assumes the employees would prefer to post the employees' results in a readily accessible location.

The present standard requires employers to notify employees individually in writing to their exposure monitoring results. As in the ICR, the Agency estimates that 4,600 employees receive exposure measurements (i.e., are "covered employees" because they work in regulated areas). These measurements include 184,400 quarterly measurements (4,600 employees  $\times$  4 measurements) and 230 resamplings (5% of 4,600 employees), for a total of 18,630 samples. The agency also assumes that a secretary, at a wage rate of \$17.34 per hour, will take 5 minutes (.08 hour) to notify each employee of his or her sampling results. Thus, 1,490 burden hours would be required at a cost of \$25,844 at 4,830 employees would be notified individually in writing of their exposure monitoring results.

With the revised standard, 5 burden hours at a cost of \$79 would be attributed to secretaries at each of the 14 employers who earn \$17.34 per hour and would spend five minutes each to post monitoring results at a readily accessible location. Cost savings would amount to \$25,765.

The proposed rule revises the Cotton Dust Standard (§ 1910.1043(d)(4)(i)) to require employers to provide employees with their exposure monitoring results individually in writing or by posting the employees' results in a readily accessible location. OSHA assumes the employers would prefer to post the employees' results in a readily accessible location.

OSHA estimated the numbers of exposed employees and the number of facilities in the industry by utilizing data from Employment and Earnings and County Business Patterns. The

Agency estimates that 49,628 employees would be notified in writing of their exposure monitoring results. OSHA estimates that a secretary, earning \$17.34 per hour, will take 5 minutes (.08 hour) to prepare each notification. Thus, 3,970 burden hours are required at a cost of \$68,844 as 53,938 employees are notified individually in writing of their exposure monitoring results.

Under the revision, 43 burden hours at a cost of \$742 would be required (a secretary at each of the 535 plants, earning \$17.34 per hour, would spend five minutes (.08 hour) to post monitoring results. Cost savings would amount to \$68,102.

The proposed rule would revise the 1,2-Dibromo-3-Chloropropane (§ 1910.1044(f)(5)(i)) to require employers to provide employees with their exposure monitoring results individually in writing or by posting the employees' results in a readily accessible location. No cost or burden hours accrue to employers under this standard since OSHA has determined that no U.S. employers currently produce DBCP or DBCP-based end-use products.

The proposed rule would revise the Acrylonitrile Standard (§ 1910.1045(e)(5)(i)) to require employers to provide employees with their exposure monitoring results individually in writing or by posting the employees' results in a readily accessible location. OSHA assumes the employers would prefer to post the employees' results in a readily accessible location.

The Agency estimates that under the present standard 923 employees must be informed of sampling results in writing. OSHA estimates that a secretary, earning \$17.34 per hour, will take 5 minutes (.08 hour) to prepare each notification. Thus, 485 burden hours are required at a cost of \$8,415.

Under the revision, 9 burden hours at a cost of \$160 would be attributed to secretaries at each of the 23 plants, earning \$17.34 per hour, spending five minutes (.08 hour) each to post quarterly monitoring results and one additional monitoring result. Cost savings would amount to \$8,255.

The proposed rule would revise the Lead in Construction Standard (§ 1926.62(d)(8)(i)) to require employers to provide employees with their exposure monitoring results individually in writing or by posting the employees' results in a readily accessible location. OSHA assumes the employers would prefer to post the employees' results in a readily accessible location.

As in the Lead in Construction Paperwork Package, the Agency estimates that under the present standard, 177,194 employees are notified two times a year in writing of their exposure monitoring results. OSHA estimates that a secretary, earning \$17.34 per hour, will take 6 minutes (.10 hour) to prepare each notification. Thus, 38,678 burden hours are required at a cost of \$670,671.

The revised standard would require that employers post monitoring results at readily accessible locations at each facility. Thus, 10,185 burden hours at a cost of \$176,608 would be required in Lead in Construction as secretaries of each of 147,073 firms, earning \$17.34 per hour, would spend six minutes (.10 hour) to post monitoring results two times a year. Cost savings would amount to \$494,063.

The proposed rule revises the Cadmium in Construction Standard (§ 1926.1127(d)(5)(i)) to require employers to provide employees with their exposure monitoring results individually in writing or by posting the employees' results in a readily accessible location. OSHA assumes the employers would prefer to post the employees' results in a readily accessible location.

The Agency estimates that under the present standard 7,500 employees need monitoring when exposed to cadmium above the AL. OSHA estimates that a secretary, earning \$17.34 per hour, will take 5 minutes (.08 hour) to individually inform the employees in writing of exposure monitoring results and to also post a copy of the results in a centralized location. The Agency assumes that the time associated with posting a copy of the result is minimal after already completing the individual notification; thus no additional time is assumed. Included in this five minutes is the time to maintain the record as required in paragraph (n)(1). The present standard requires 1,720 burden hours at a cost of \$32,044.

With the revised standard, 280 burden hours at a cost of \$4,855 would be required (secretaries at 1000 employers, earning \$17.34 per hour, would spend 5 minutes each to post monitoring results. The revision would result in cost savings of \$27,189.

#### V. Costs, Economic Feasibility, and Technological Feasibility

The analysis described above indicates that the cost savings associated with this rule are \$6.7 million per year. Since this is far less than \$100 million, the proposed rule will not be economically significant under Executive Order 12866. The

proposed rule is technologically feasible because it always involves reducing requirements on employers. Because this rule provides only cost savings, and no costs to affected employers, it is economically feasible.

#### VI. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (as amended), OSHA examined the regulatory requirements of the proposed rule to determine if they would have a significant economic impact on a substantial number of small entities. As indicated in section IV ("Economic Analysis") of this preamble, the proposed rule is expected to reduce compliance costs and regulatory burden for all employers, large and small. The reduction in compliance costs is under \$100 million. Accordingly, the Agency certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

#### VII. Environmental Impact Assessment

OSHA has reviewed the proposed rule in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the regulations of the Council on Environmental Quality (40 U.S.C. part 1500), and the Department of Labor's NEPA procedures (29 CFR part 11). The Agency finds that the revisions included in the proposal do not directly involve the control of hazardous materials. Therefore, the proposed rule would have no additional impact on the environment, including no impact on the release of materials that contaminate natural resources or the environment, beyond the impact imposed by the existing requirements these proposed revisions would amend.

#### VIII. OMB Review Under the Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA-95) (44 U.S.C. 3507(d), and 5 CFR 1320.11) requires Federal agencies to submit collections of information (i.e., on provisions requiring paperwork) contained in proposed rules to the Office of Management and Budget (OMB) for review. PRA-95 defines a "collection of information" to mean, "[O]btaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency regardless of form or format." (44 U.S.C. 3502(3)(A)). The paperwork burden-hour estimate and cost analysis that an agency submits to OMB is termed an "Information Collection Request" (ICR).

The proposed revisions that reduce paperwork burden hours and/or costs are contained in the following 12 ICRs currently approved by OMB, (OMB approval numbers are in parenthesis): asbestos in construction (1218-0134); asbestos in shipyards (1218-0195); 13 carcinogens (1218-0085); vinyl chloride (1218-0010); inorganic arsenic (1218-0104); lead in general industry (1218-0092); lead in construction (1218-0189); cadmium in general industry (1218-0185); cadmium in construction (1218-0186); coke over emissions (1218-0128); cotton dust (1218-0061); and acrylonitrile (1218-0126).

For six ICRs, the proposed revisions do not affect burden hours or costs. The six ICRs are: Temporary Labor Camps (1218-0096); 1,2-dibromo-3-chloropropane (1218-0101); 1,3-Butadiene (1218-0170); Asbestos in General Industry (1218-0133); Formaldehyde (1218-0145); Methylenedianline in construction (1218-0183).

This proposal will result in a 207,892 burden hour reduction, from 357,749 hours to 149,857 hours. The paperwork burden hour reduction estimates may differ from the Preliminary Economic Analysis as a result of rounding.

As required by 5 CFR 1320.5(a)(1)(iv) and 1320.8(d)(2), the Agency is providing the following information for the ICRs having reductions in burden hours and costs resulting from the proposed revisions: Title and section number of the standard covered by the ICR; OMB control number; a brief description of the proposed collection-of-information revisions, including changes in frequency; total number of respondents being impacted by the revision; and an estimate of the reduced annual reporting (hour) and cost burdens for the information-collection requirements in the standard.<sup>11</sup> The costs below account for only capital, maintenance, and purchasing revision. Hourly wage rate savings are fully discussed in the preliminary economic analysis section of this proposal.

The Agency has a particular interest in comments on the following issues regarding the proposed revisions to the paperwork requirements:

- The extent to which the proposed revisions to the information-collection requirements are necessary for the proper performance of the Agency's functions, including the usefulness of the information;

<sup>11</sup> In determining these reporting and cost burdens, the Agency considers, as appropriate, the time for reviewing instructions, gathering and maintaining the required data, and completing and reviewing the collection of information.

- The accuracy of the Agency's estimate of the burden (time and costs) of the proposed revisions, including the validity of the methodology and assumptions used;

- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

Accordingly, OSHA is proposing to revise the following ICRs in the manner described:

*Title:* Temporary labor camps (§ 1910.142).

*OMB control number:* 1218-0096.

*Proposed revision:* Delete the requirement for camp superintendents to sue a telegram or telephone when notifying local health authorities of the outbreak of specific illnesses and medical conditions among employees (§ 1910.142 (1)(2)).

*Number of respondents:* 838.

*Burden hours and costs (operation and maintenance):* The proposed revision does to affect burden hours or costs.

*Title:* Asbestos in General Industry (§ 1910.1001).

*OMB control number:* 1218-0133.

*Proposed revisions:* Remove the requirement that the physician sign the physician's written opinion (§ 1910.1001(l)(7)(i)).

*Number of respondents:* 233.

*Burden hours and costs (operation and maintenance):* The proposed revision does not affect burden hours or costs.

*Title:* 13 carcinogens (§ 1910.1003).

*OMB control number:* 1218-0085.

*Proposed revisions:* Remove the requirements that employers notify OSHA area directors of regulated areas (§ 1910.1003(f)(1)) and the incidental release of a specified carcinogen (§ 1910.1003(f)(2)).

*Number of respondents:* 97.

*Burden hours and costs (operation and maintenance):* Removing these two provisions result in a burden hour reduction of 1,164 hours. There are no operation and maintenance costs associated with these revisions.

*Title:* Vinyl chloride (§ 1910.1017).

*OMB control number:* 1218-0010.

*Proposed revisions:* Lower the frequency of employee exposure monitoring from monthly to quarterly (§ 1910.1017(d)(2)(i)), and from quarterly to semiannually (§ 1910.1017(d)(2)(ii)); reduce the frequency of updating compliance plans from semiannually to annually (§ 1910.1017(f)(3)); reduce the administration of medical examinations

from semiannually to annually (§ 1910.1017(k)(2)(i)) (The reduction in the number of medical examinations results in fewer instances that employers must provide a copy of a physician's statement to the employee (§ 1910.1017(k)(4)) and fewer medical records (§ 1910.1017(m)(iii)); remove the requirement that employers notify OSHA of regulated areas (§ 1910.1017(n)(1)) and of emergencies (§ 1910.1017(n)(2)); and allow employers to post employee exposure monitoring results instead of individually informing each employee and extend the time for employers to provide exposure-monitoring results to employees from 10 working days to 15 working days (§ 1910.1017(n)(3)).

*Number of respondents:* 80.

*Burden hours and costs (operation and maintenance):* These proposed revisions result in a reduction of 1,938 burden hours. Less frequent exposure monitoring results in a cost savings of \$120,520. The reduction in the number of medical examinations results in a cost savings of \$133,790.

*Title:* Inorganic arsenic (§ 1910.1018).

*OMB control number:* 1218-0104.

*Proposed revisions:* Remove the requirement that employers notify OSHA of regulated areas (§ 1910.1018(d)(1)); allow employers to post employee exposure monitoring results instead of individually informing each employee and extend the time for employers to provide exposure-monitoring results to employees from 5 working days to 15 working days (§ 1910.1018(e)(5)(i)); reduce the frequency of updating compliance plans from semiannually to annually (§ 1910.1018(g)(2)(iv)); reduce the administration of medical examinations from semiannually to annually (§ 1910.1018(n)(3)(ii)). (The reduction in the number of medical examinations results in fewer instances that employers must provide information to the physician (§ 1910.1018(n)(5)) and fewer instances that employers must provide a copy of the physician's written opinion to the employee (§ 1910.1018(n)(6)). Also fewer medical records (§ 1910.1018(q)(2)) will be maintained.)

*Number of respondents:* 42.

*Burden hours and costs (operation and maintenance):* These proposed revisions result in a reduction of 2,517 burden hours. The reduction in the number of medical examinations results in a cost savings of \$124,375.

*Title:* Lead in general industry (§ 1910.1025).

*OMB control number:* 1218-0092.

*Proposed revisions:* Allow employers to post employee exposure monitoring

results instead of individually informing each employee and extend the time for employers to provide exposure-monitoring results to employees from 5 working days to 15 working days (§ 1910.1025(d)(8)(i)); reduce the frequency of up-dating compliance plans from semi-annually to annually (§ 1910.1025(e)(3)(iv)).

*Number of respondents:* 61,535.

*Burden hours and costs (operation and maintenance):* These proposed revisions result in a reduction of 51,401 burden hours. There are no operation and maintenance costs associated with these revisions.

*Title:* Cadmium in general industry (§ 1910.1027).

*OMB control number:* 1218-0185.

*Proposed revisions:* Remove the requirement that the physician's written opinion be signed (§ 1910.1027(l)(10)(i)); allow employers to either post or individually inform employees of their exposure monitoring results (§ 1910.1027(d)(5)(i)). (The current exposure monitoring notification requirement requires employers to both post and individually inform employees of their exposure monitoring results.)

*Number of respondents:* 53,161.

*Burden hours and costs (operation and maintenance):* Allowing employers to notify employees by posting employee monitoring results reduces the burden by 2,902 burden hours. There are no operation and maintenance costs associated with these revisions.

*Title:* Coke oven emissions (§ 1910.1029).

*OMB control number:* 1218-0128.

*Proposed revisions:* Allow employers to post employee exposure monitoring results instead of individually informing each employee and extend the time for employers to provide exposure-monitoring results to employees from 5 working days to 15 working days (§ 1910.1029(e)(3)(i)); remove the requirement for semi-annual medical examinations, except for urinary cytology examinations, for employees 45 years of age or older, or for employees with five or more years employment in a regulated area (§ 1910.1029(j)(3)(i)); reduce the frequency from semiannual to annual review of the employers compliance plan.

*Number of respondents:* 14.

*Burden hours and costs (operation and maintenance):* These proposed revisions result in a reduction of 4,425 burden hours. the reduction in the number of medical examinations results in a cost savings of \$502,320.

*Title:* Cotton dust (§ 1910.1043).

*OMB control number:* 1218-0061.

*Proposed revisions:* Allow employers to post employee exposure monitoring results instead of individually informing each employee and reduce the time for employers to provide exposure-monitoring results to employees from 20 working days to 15 working days (§ 1910.1043(d)(4)(i)).

*Number of respondents:* 535.

*Burden hours and costs (operation and maintenance):* The proposed revision results in a reduction of 3,927 burden hours. There are no operation and maintenance costs associated with these revisions.

*Title:* 1,2-Dibromo-3-chloropropane (DBCP) (§ 1910.1044).

*OMB control number:* 1218-0101

*Proposed Revisions:* Remove the provision requiring employers to notify OSHA when DBCP is introduced into the workplace (§ 1910.1044 (d)(4)); modify monthly exposure monitoring to quarterly when DBCP exposure is above the PEL and quarterly exposure monitoring to semi-annual when exposures are below the PEL (§ 1910.1044 (f)(3)(ii)); extend the time for employers to provide exposure-monitoring results to employees from 5 working days to 15 working days and allow employers to inform employees of their exposure monitoring results by posting instead of individually informing employees (§ 1910.1044 (f)(5)(i)) and reduce the frequency of updating compliance plans from semi-annually to at least annually (§ 1910.1044 (g)(2)(ii)).

*Number of respondents:* 0.

*Burden hours and costs (operation and maintenance):* There are no establishments that are currently using DBCP; therefore, there are no reductions in burden hours and costs on the public.

*Title:* Acrylonitrile (AN) (§ 1910.1045).

*OMB control number:* 1218-0126.

*Proposed revisions:* Remove the reporting provisions requiring employers to notify OSHA when a regulated area is established (§ 1910.1045 (d)(1)) and report to the OSHA Area Office within 72 hours the occurrence of an emergency (§ 1910.1045 (d)(2)); lower the frequency of employee exposure monitoring from monthly/quarterly/semiannually (§ 1910.1045 (e)(3)(ii) and (e)(3)(iii)); extend the time for employers to provide exposure-monitoring results to employees from 5 working days to 15 days and permit employers to post employee exposure monitoring results (§ 1910.1045 (e)(5)); and, reduce the frequency of updating compliance plans from semiannually to annually (§ 1910.1045(g)(2)).

*Number of respondents:* 23.

*Burden hours and cost (operation and maintenance):* These proposed revisions result in a reduction of 1,511 burden hours. There are no operation and maintenance costs associated with these revisions.

*Title:* 1,3 Butadiene (§ 1910.1045).

*OMB control number:* 1218-0170.

*Proposed revisions:* Extend the time for employers to provide exposure-monitoring results to employees from 5 working days to 15 working days (§ 1910.1051 (d)(7)(ii)).

*Number of respondents:* 255.

*Burden hours and cost (operation and maintenance):* The proposed revision does not affect burden hours or costs.

*Title:* Asbestos in shipyards (§ 1910.1001).

*OMB control number:* 1218-0195.

*Proposed revisions:* Extend the maximum time for employers to provide exposure-monitoring results to employees from as soon as possible to 5 working days (§ 1915.1001 (f)(5)(i)); remove the requirement that employers submit their alternative control methods to OSHA (§ 1915.1001(g)(6)(iii)).

*Number of respondents:* 7

*Burden hours and cost (operation and maintenance):* These proposed revisions result in a reduction of burden hour. There are no operation and maintenance costs associated with these revisions.

*Title:* MDA in Construction (§ 1926.60).

*OMB control number:* 1218-0183.

*Proposed Revisions:* Reduce the time for employers must provide exposure-monitoring results to employers from 15 working days to 5 working days (§ 1926.60(f)(7)).

*Number of respondents:* 66.

*burden hours and cost (operation and maintenance):* The proposed revision does not affect burden hours or costs.

*Title:* Lead in construction (§ 1926.62).

*OMB control number:* 1218-0189.

*Proposed revisions:* Allow employers to post employee exposure monitoring results instead of individually informing each employee (§ 1926.62 (d)(8)(i)); reduce the frequency of updating compliance plans from semi-annually to annually (§ 1926.62 (e)(2)(v)).

*Number of respondents:* 147,073.

*Burden hours and cost (operation and maintenance):* These proposed revisions result in a reduction of 136,665 burden hours. There are no operations and maintenance cost associated with these revisions.

*Title:* Asbestos in construction (§ 1926.1101).

*OMB control number:* 1218-0134.

*Proposed revisions:* Increase the maximum time for employers to provide exposure-monitoring results to

employees from as soon as possible to 5 working days (§ 1926.1101 (f)(5)(i)) and remove the requirement that employers submit their alternative control methods to OSHA (§ 1926.1101 (g)(6)(iii)).

*Number of respondents:* 7.

*Burden hours and cost (operation and maintenance):* These proposed revisions result in a reduction of 1 burden hour. There are no operation and maintenance costs associated with these revisions.

*Title:* Cadmium in construction (§ 1926.1127).

*OMB control number:* 1218-0186.

*Proposed revisions:* Allow employers to either post or individually inform employees of their exposure monitoring results (§ 1926.1127 (d)(5)(i)). The current exposure monitoring notification requirement requires employers to both post and individually inform employees of their exposure monitoring results. Remove the requirement that the physician's written opinion be signed (§ 1926.1127 (l)(10)(i)).

*Number of respondents:* 1,000.

*Burden hours and cost (operation and maintenance):* These proposed revisions result in a reduction of 1,440 burden hours. There are no operation and maintenance costs associated with these revisions.

The Agency has submitted a copy of the above ICRs to OMB for their review and approval. Members of the public who wish to provide comments on these proposed revisions must submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20530 (Attention: OSHA Desk Officer).

The Agency will summarize the comments submitted by the public in response to this notice and will include the summaries in its request to OMB for approval for the revisions to the 17 final information collection requests that result from this proposal. These comments will also become part of the record, and will be available for public inspection and copying in the OSHA Docket Office.

Copies of the individual ICR's detailing the revisions are available for inspection and copying in the OSHA or OMB docket offices. Members of the public may also receive a copy of one, or all of the ICRs, through the mail by contacting Mr. Todd Owen at (202) 639-2444, or electronically via OSHA's Web site on the Internet at <http://www.osha.gov/>.

## IX. Unfunded Mandates

OSHA has reviewed the proposed rule in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*, and Executive Order 12875. As discussed above in section III (“Legal Considerations”) of this preamble, OSHA has preliminarily determined that the proposed rule is likely to reduce the regulatory burdens imposed on public and private employers by the existing requirements these proposed revisions would amend. The proposal would not expand existing regulatory requirements or increase the number of employers who are covered by the existing rules. Consequently, compliance with the proposed rule would require no additional expenditures by either public or private employers. In sum, the proposed rule does not mandate that state, local, and tribal governments adopt new, unfunded regulatory obligations.

## X. Federalism

The Agency has reviewed the proposed 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 before taking actions that restrict state policy options, and take such actions only when clear constitutional authority exists and the problem is of national scope. The Executive Order provides for preemption of state law only when Congress expresses an intent that a Federal agency do so. The Federal agency must limit any such preemption to the extent possible.

With respect to states that do not have occupational safety and health plans approved by OSHA under section 18 of the Occupational Safety and Health Act of 1970 (the “Act”) (29 U.S.C. 667), the Agency finds that the proposed rule conforms to the preemption provisions of the Act. These provisions authorize OSHA to preempt state promulgation and enforcement of requirements dealing with occupational safety and health issues covered by Agency standards, unless the state has a state occupational safety and health plan approved by the Agency. (See *Gade v. National Solid Wastes Management Association*, 112 S.Ct. 2374 (1992).) The provisions of 29 U.S.C. 667 prohibit states without such programs from issuing citations for violations of requirements covered by Agency standards. The proposed rule would not expand this limitation.

Regarding states that have OSHA-approved occupational safety and health plans (“State-plan states”), the Agency finds that the proposed rule complies with Executive Order 13132 because the proposal addresses a problem (i.e., health hazards) that is national in scope. After OSHA adopts final revisions based on this proposal, section 18(c)(2) of the Act (29 U.S.C. 667(c)(2)) would not preempt any alternative revisions made by State-plan states if these revisions are at least as affective as the final revisions developed by the Agency from this proposal.

OSHA invites the states to submit comments and information regarding the proposed revisions. In addition to addressing the impact of the proposal on employee protection and employer burden, the Agency requests the states, especially State-plan states, to identify any enforcement issues they believe may result of OSHA adopts the proposed revisions.

## XI. State-Plan States

The 24 states and two territories with their own federally-approved occupational safety and health plans must develop revisions that are at least as effective as the final revisions adopted by the Agency from this proposal within six months after OSHA publishes the final rule. These states and territories are: Alaska, Arizona, California, Connecticut (State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Jersey (State and local government employees only), New Mexico, New York (State and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

## XII. Public Participation

The Agency requests members of the public to submit written comments and other information concerning this proposal. These comments may include comments and data that endorse or support or object to the proposed revisions set forth in this notice. OSHA welcomes such comments and information so that the record of this rulemaking will represent a full public response on the issues involved. See the sections above titled **DATE** and **ADDRESSES** for information on sending these submissions to the Agency. Submissions received within the specified comment period will become part of the record, and will be available for public inspection and copying in the OSHA Docket Office.

Under section 6(b)(3) of the OSHA Act and 29 CFR 1911.11, members of the public may request an informal hearing by filing a request as specified above under the section titled **ADDRESSES**. However, section 6(b)(7) of the Occupational Safety and Health Act (“the Act”) in conjunction with the Administrative Procedures Act does not require the Agency to hold a public hearing on proposed revisions involving medical-surveillance or exposure monitoring requirements. Requests for hearings must include the objections to the proposal that warrant a hearing. The party making objections that are part of a hearing request must:

- Include their name and address;
  - Ensure that the request has a postmark date no later than December 30, 2002;
  - Separately number each objection;
  - Specify with particularity the grounds for each objection; and
- Include a detailed summary of the evidence supporting each objection that they plan to offer at the requested hearing.

Interested parties may file objections with their comments and they will be fully considered by the Agency. Formal objections pursuant to the preceding paragraph are only required if a party is requesting a hearing.

Submit three copies of written comments to the Docket Office, Docket No. S-778-A, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (telephone: (202) 693-2350). Commenters may transmit written comments of 10 pages or less by fax to the Docket Office at (202) 693-1648.

You may submit comments electronically through OSHA’s Homepage at <http://www.osha.gov>. Please note that you may not attach materials such as studies or journal articles to your electronic comments. If you wish to include such materials, you must submit three copies to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, you must clearly identify your electronic comments by name, date, and subject, so that we can attach the materials to your electronic comments.

Send requests for a hearing to Ms. Veneta Chatmon, Office of Information and Consumer Affairs, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (telephone: (202) 693-1999). Submit comments on the reduction of paperwork burden described in section VII of this notice to the Office of Information and Regulatory Affairs, Office of Management and Budget, New

Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20530 (Attention: OSHA Desk Officer).

**XIII. Authority**

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, directed the preparation of this document.

Signed at Washington, DC, on October 15, 2002.

**John L. Henshaw,**  
*Assistant Secretary of Labor.*

**List of Subjects**

*29 CFR Part 1910*

Hazardous substances; Occupational safety and health; Reporting and recordkeeping requirements.

*29 CFR Part 1915*

Hazardous substances; Shipyard employment; Occupational safety and health; Reporting and recordkeeping requirements; Vessels.

*29 CFR Part 1926*

Construction industry; Hazardous substances; Occupational safety and health; Reporting and recordkeeping requirements.

In accordance with sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657), section 41 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), section 107 of the Contract Work and Safety Standards Act (40 U.S.C. 333), section 4 of the Administrative Procedures Act (5 U.S.C. 553) and Secretary of Labor's Order No. 3-2000 (65 FR 50017), the Agency proposes to amend 29 CFR parts 1910, 1915, and 1926 as follows:

**PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

**Subpart J—General Environmental Controls**

1. The authority citation for subpart J is revised 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, 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), or 3-2000 (65 FR 50017), as applicable.

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

**§ 1910.142 [Amended]**

2. In § 1910.142, remove the words "by telegram or telephone" at the end of paragraph (l)(2).

**Subpart K—Medical and First Aid**

3. The authority citation for subpart K is revised 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, 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), or 3-2000 (65 FR 50017), as applicable, and 29 CFR part 1911.

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

4. In the first paragraph of Appendix A to § 1910.151, remove the words "American National Standard (ANSI) Z308.1-1978, "Minimum Requirements for Industrial Unit-Type First-aid Kits" and add, in their place, "American National Standard (ANSI) Z308.1-1998 "Minimum Requirements for Workplace First-aid Kits."

**Subpart R—Special Industries**

5. The authority citation for subpart R is revised 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, 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), or 3-2000 (65 FR 50017), as applicable, and 29 CFR part 1911.

**§ 1910.268 [Amended]**

6. In § 1910.268, revise paragraph (b)(3) to read as follows:

**§ 1910.268 Telecommunications.**

\* \* \* \* \*

(b) \* \* \*

(3) Employers must provide employees with readily accessible, and appropriate first aid supplies. A nonmandatory example of appropriate supplies is listed in appendix A to 29 CFR 1910.151.

\* \* \* \* \*

**Subpart Z—Toxic and Hazardous Substances**

7. The authority citation for subpart Z is revised to read as follows:

**Authority:** Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 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), and 3-2000 (65 FR 50017), as applicable, and 29 CFR part 1911.

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653), except those substances that have exposure limits in Tables Z-1, Z-2, and Z-3, of 29 CFR 1910.1000. Section 1910.1000 also issued under section (6)(a) of the Act (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, but not under 29 CFR part 1911, except for the inorganic arsenic, benzene, and cotton dust listings.

Section 1910.1000 also issued under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) 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 and 29 CFR part 1911.

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

8. in § 1910.1001, revise paragraph (d)(7)(i) to read as set forth below and remove the word "signed" from the first sentence of the introductory text of paragraph (1)(7)(i).

**§ 1910.1001 Asbestos.**

\* \* \* \* \*

(d) \* \* \*

(7) Employee notification of monitoring results. (i) The employer must, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to affected employees.

\* \* \* \* \*

**§ 1910.1003 [Amended]**

9-10. Section 1910.1003 is amended by removing and reserving paragraph (f).

11. Section 1910.1017 is amended by: a. Revising paragraphs (d)(2)(i), (d)(2)(ii), the last sentence of paragraph (f)(3) and paragraph (k)(2);

b. Removing and reserving paragraph (k)(6);

c. Redesignating paragraph (k)(7) as (k)(6); and

d. Removing paragraphs (n)(1) and (n)(2) and redesignating paragraph (n)(3) as new paragraph (n) and revising it.

The revisions read as follows:

**§ 1910.1017 Vinyl chloride.**

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \* (i) Must be repeated at least quarterly for any employee exposed, without regard to the use of respirators, in excess of the permissible exposure limit.

(ii) Must be repeated not less than every 6 months for any employee exposed without regard to the use of respirators, at or above the action level.

\* \* \* \* \*

(f) \* \* \*

(3) \* \* \* Such plans must be updated at least annually.

\* \* \* \* \*

(k) \* \* \*

(2) Examinations must be provided in accordance with this paragraph at least annually.

\* \* \* \* \*

(n) *Employee notification of monitoring results.* The employer must, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results and the steps being taken to reduce exposures within the permissible exposure limit either individually in writing or by posting the results in an appropriate location that is accessible to affected employees.

\* \* \* \* \*

12. Section 1910.1018 is amended by:

a. Removing and reserving paragraph

(d)

b. Revising paragraphs (e)(5)(i),

(g)(2)(iv), (n)(2)(ii)(A), (n)(3)(i);

c. Removing paragraph (n)(3)(ii) and redesignating paragraph (n)(3)(iii) as new (n)(3)(ii); and

d. Removing in appendix C section I, second paragraph, item (2), the words "and an International Labor Office UICC/Cincinnati (ILO U/C rating)".

The revisions read as follows:

**§ 1910.1018 Inorganic arsenic.**

\* \* \* \* \*

(e) \* \* \*

(5) \* \* \* (i) The employer must, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to affected employees.

\* \* \* \* \*

(g) \* \* \*

(3) \* \* \*

(iv) The plans required by this paragraph must be revised and updated at least annually to reflect the current status of the program.

\* \* \* \* \*

(n) \* \* \*

(3) \* \* \*

(ii) \* \* \*

(A) A standard posterior-anterior chest x-ray;

\* \* \* \* \*

(n) \* \* \*

(e) \* \* \* (i) Examinations must be provided in accordance with this paragraph at least annually.

\* \* \* \* \*

**§ 1910.1025 [Amended]**

13. In § 1910.1025, revise paragraphs (d)(8)(i) and (e)(3)(iv) to read as follows:

**§ 1910.1025 Lead.**

\* \* \* \* \*

(d) \* \* \*

(8) \* \* \*

(i) The employer must, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to affected employees.

\* \* \* \* \*

(e) \* \* \*

(3) \* \* \*

(iv) Written programs must be revised and updated at least annually to reflect the current status of the program.

\* \* \* \* \*

14. In § 1910.1027 remove the word "signed" from the first sentence of the introductory text of paragraph (l)(10)(i) and revise paragraph (d)(5)(i) to read as follows:

**§ 1910.1027 Cadmium.**

\* \* \* \* \*

(d) \* \* \*

(5) \* \* \* (i) The employer must, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to employees.

\* \* \* \* \*

**§ 1910.1028 [Amended]**

15–16. In § 1910.1028 revise paragraph (e)(7)(i) to read as follows:

**§ 1910.1028 Benzene.**

\* \* \* \* \*

(e) \* \* \*

(7) \* \* \* (i) The employer must, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to employees.

17. Section § 1910.1029 is amended by:

a. Revising paragraphs (e)(3)(i),

(f)(6)(iv), (j)(2)(ii), (j)(3)(ii) and (j)(3)(iii);

b. Removing paragraph (j)(3)(iv);

c. Redesignating paragraph (j)(3)(v) as (j)(3)(iv); and

d. Removing the words "and a ILO/UC rating to assure some standardization of x-ray reading" from the third sentence of Appendix B.II. A.

The revisions read as follows:

**§ 1910.1029 Coke oven emissions.**

\* \* \* \* \*

(e) \* \* \*

(3) \* \* \* (i) The employer must, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results

either individually in writing or by posting the results in an appropriate location that is accessible to employees.

\* \* \* \* \*

(f) \* \* \*

(6) \* \* \*

(iv) Written plans for such programs shall be submitted, upon request, to the Secretary and the Director, and shall be available at the worksite for examination and copying by the Secretary, the Director, and the authorized employee representative. The plans required under paragraph (f)(6) of this section shall be revised and updated at least annually to reflect the current status of the program.

\* \* \* \* \*

(j) \* \* \*

(2) \* \* \*

(ii) A standard posterior-anterior chest x-ray;

\* \* \* \* \*

(3) \* \* \*

(ii) The employer must provide the examinations specified in paragraphs (j)(2)(i) through (j)(2)(vi) of this section at least annually and provide the examination specified in paragraph (j)(2)(vii) at least semi-annually for employees 45 years of age or older or with five (5) or more years employment in the regulated area.

(iii) Whenever an employee who is 45 years of age or older or with five (5) or more years employment in a regulated area transfers or is transferred from employment in a regulated area, the employer must continue to provide the examinations specified in paragraphs (j)(2)(i) through (j)(2)(vii) of this section at the frequencies specified in paragraph (j)(3)(ii) as long as that employee is employed by the same employer or a successor employer.

\* \* \* \* \*

18–19. In § 1910.1043, revise paragraph (d)(4)(i) to read as follows:

**§ 1910.1043 Cotton dust.**

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(i) The employer must, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to employees.

\* \* \* \* \*

20. In § 1910.1044, remove and reserve paragraph (d) and revise paragraphs (f)(3)(i), (f)(3)(ii), (f)(5)(i) and the last sentence of paragraph (g)(2)(ii) to read as follows:

**§ 1910.1044 1,2-Dibromo-3-chloropropane.**

\* \* \* \* \*

(f) \* \* \*  
 (3) \* \* \* (i) if the monitoring required by this section reveals employee exposures to be at or below the permissible exposure limit, the employer must repeat these measurements at least every 6 months.  
 (ii) If the monitoring required by this section reveals employee exposures to be in excess of the permissible exposure limit, the employer must repeat these measurements for each such employee at least quarterly. The employer must continue quarterly monitoring until at least two consecutive measurements, taken at least seven (7) days apart, are at or below the permissible exposure limit. Thereafter the employer must monitor at least every 6 months.

\* \* \* \* \*  
 (5) \* \* \* (i) The employer must, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to employees.

\* \* \* \* \*  
 (g) \* \* \*  
 (2) \* \* \*  
 (ii) \* \* \* These plans must be revised at least annually to reflect the current status of the program.

\* \* \* \* \*  
 21.–22. In § 1910.1045, remove and reserve paragraph (d) and revise paragraphs (e)(3)(ii), (e)(3)(iii), (e)(5)(i) and (g)(2)(v) to read as follows:

**§ 1910.1045 Acrylonitrile.**

\* \* \* \* \*  
 (e) \* \* \*  
 (3) \* \* \*

(ii) If the monitoring required by this section reveals employee exposure to be at or above the action level but at or below the permissible exposure limits, the employer must repeat such monitoring for each such employee at least every 6 months. The employer must continue these measurements every 6 months until at least two consecutive measurements taken at least seven (7) days apart, are below the action level, and thereafter the employer may discontinue monitoring for that employee.

(iii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer must repeat these determinations for each such employee at least quarterly. The employer must continue these quarterly measurements until at least two consecutive measurements, taken at least seven (7) days apart, are at or below the

permissible exposure limits, and thereafter the employer must monitor at least every 6 months.

\* \* \* \* \*  
 (5) \* \* \* (i) The employer must, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to employees.

\* \* \* \* \*  
 (g) \* \* \*  
 (2) \* \* \*  
 (v) The plans required by this paragraph must be revised and updated at least annually to reflect the current status of the program.

\* \* \* \* \*  
 23.–24. In § 1910.1047, revise (d)(7)(i) to read as follows:

**§ 1910.1047 Ethylene oxide.**

\* \* \* \* \*  
 (d) \* \* \*  
 (7) \* \* \* (i) The employer must, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to employees.

\* \* \* \* \*  
 25. In § 1910.1048, revise (d)(6) to read as follows:

**§ 1910.1048 Formaldehyde.**

\* \* \* \* \*  
 (d) \* \* \*  
 (6) \* \* \* The employer must, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to employees. If employee exposure is above the PEL, affected employees shall be provided with a description of the corrective actions being taken by the employer to decrease exposure.

26. In § 1910.1051, revise paragraph (d)(7)(i) to read as follows:

**§ 1910.1051 1,3-Butadiene.**

\* \* \* \* \*  
 (d) \* \* \*  
 (7) \* \* \* (i) The employer must, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to employees.

**PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT**

27. The authority citation for Part 1915 is revised to read as follows:

**Authority:** Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 ("the Act"), 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), and 3–2000 (65 FR 50017), as applicable.  
 Sections 1915.120 and 1915.152 also issued under 29 CFR part 1911.

**Subpart Z—Toxic and Hazardous Substances**

28. In § 1915.1001, revise paragraph (f)(5) to read as set forth below and remove paragraph (g)(6)(iii).

**§ 1915.1001 Asbestos**

\* \* \* \* \*  
 (f) \* \* \*  
 (5) *Employee notification of monitoring results.* The employer must, as soon as possible but no later than 5 days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to employees.

**PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION**

**Subpart D—Occupational Health and Environmental Controls**

29.–30. The authority citation for subpart D is revised to read as follows:

**Authority:** Section 107, Contract Work Hours and Safety Standards Act (40 U.S.C. 333); sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (the "Act"), 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), and 3–2000 (65 FR 50017), as applicable; and 29 CFR part 1911.

31. In § 1926.60, revise paragraph (f)(7)(i) to read as follows:

**§ 1926.60 Methylenedianilene.**

\* \* \* \* \*  
 (f) \* \* \*  
 (7) \* \* \* (i) The employer must, as soon as possible but no later than 5 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to employees.

32. In § 1926.62, revise paragraphs (d)(8)(i) and (e)(2)(v) to read as follows:

**§ 1926.62 Lead.**

\* \* \* \* \*

(d) \* \* \*

(8) \* \* \*(i) The employer must, as soon as possible but no later than 5 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to employees.

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(v) Written programs must be revised and updated at least annually to reflect the current status of the program.

**Subpart Z—Toxic and Hazardous Substances**

33. The authority citation for subpart Z is revised to read as follows:

**Authority:** Section 107, Contract Work Hours and Safety Standards Act (40 U.S.C. 333); sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (“the Act”), 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), and 3–2000 (65 FR 50017), as applicable; and 29 CFR part 1911.

Section 1926.1102 also issued under 5 U.S.C. 553, but not under 29 U.S.C. 655 or 29 CFR part 1911.

34. In § 1926.1101, revise paragraph (f)(5) to read as set forth below and remove paragraph (g)(6)(iii).

**§ 1926.1101 Asbestos**

\* \* \* \* \*

(f) \* \* \*

(5) *Employee notification of monitoring results.* The employer must, as soon as possible but no later than 5 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the

results in an appropriate location that is accessible to employees.

\* \* \* \* \*

35–36. In § 1926.1127 revise paragraph (d)(5)(i) to read as set forth below and remove the word “signed” from the first sentence of the introductory text of paragraph (1)(10)(i).

**§ 1926.1127 Cadmium.**

\* \* \* \* \*

(d) \* \* \*

(5) \* \* \*(i) The employer must, as soon as possible but no later than 5 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to employees.

\* \* \* \* \*

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