disclosed unless necessary in a court proceeding.

§ 1620.20 Issuance of subpoenas.

(a) With respect to the enforcement of the Equal Pay Act, any member of the Commission shall have the authority to sign a subpoena requiring:

(1) The attendance and testimony of witnesses;

(2) The production of evidence including, but not limited to, books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and

(3) Access to evidence for the purposes of examination and the right to copy.

(b) There is no right of appeal to the Commission from the issuance of such a subpoena.

(c) Upon the failure of any person to comply with a subpoena issued under this section, the Commission may utilize the provisions of sections 49 and 50 of Title 15 of the United States Code to compel enforcement of the subpoena.

§ 1620.21 Recordkeeping requirements.

(a) Employers having employees subject to the Act are required to keep records in accordance with U.S. Department of Labor regulations found at 29 CFR Part 516 (Records To Be Kept by Employers Under the FLSA). The regulations of that Part are adopted herein by reference.

(b) Every employer subject to the equal pay provisions of the Act shall maintain and preserve all records required by the applicable sections of 29 CFR Part 516 and in addition, shall preserve any records which he makes in the regular course of his business operation which relate to the payment of wages, wage rates, job evaluations, job descriptions, merit systems, seniority systems, collective bargaining agreements, description of practices or other matters which describe or explain the basis for payment of any wage differential to employees of the opposite sex in the same establishment, and which may be pertinent to a determination whether such differential is based on a factor other than sex.

(c) Each employer shall preserve for at least two years the records he makes of the kind described in § 1620.21(b) which explain the basis for payment of any wage differential to employees of the opposite sex in the same establishment.

§ 1620.22 Recovery of wages due; injunctions; penalties for willful violations.

(a) Wages withheld in violation of the Act have the status of unpaid minimum wages or unpaid overtime compensation under the FLSA. This is true both of the additional wages required by the Act to be paid to an employee to meet the equal pay standard, and of any wages that the employer should have paid an employee whose wages he reduced in violation of the Act in an attempt to equalize his or her pay with that of an employee of the opposite sex performing equal work, on jobs subject to the Act.

(b) The following methods are provided under sections 16 and 17 of the FLSA for recovery of unpaid wages: The Commission may supervise payment of the back wages and may bring suit for back pay and an equal amount as liquidated damages. The employee may sue for back pay and an additional sum, up to the amount of back pay, as liquidated damages, plus attorney's fees and court costs. The employee may not bring suit if he or she has been paid back wages in full under supervision of the Commission, or if the Commission has filed suit under the Act to collect the wages due the employee. The Commission may also obtain a court injunction to restrain any person from violating the law, including the unlawful withholding by an employer of proper compensation. A 2-year statute of limitations applies to the recovery of unpaid wages, except that an action on a cause of action arising out of a willful violation may be commenced within 3 years after the cause of action accrued.

(c) Willful violations of the Act may be prosecuted criminally and the violator fined up to $10,000. A second conviction for such a violation may result in imprisonment.

(d) Violation of any provision of the Act by any person, including any labor organization or agent thereof, is unlawful, as provided in section 15(a) of the FLSA. Accordingly, any labor organization, or agent thereof, who violates any provision of the Act is subject to injunction proceedings in accordance with the applicable provisions of section 17 of the FLSA. Any such labor organization, or agent thereof, who willfully violates the provisions of section 15 is liable to the penalties set forth in section 16(a) of the FLSA.

§ 1620.23 Rules to be liberally construed.

(a) These rules and regulations shall be liberally construed to effectuate the purpose and provisions of this Act and any other Act administered by the Commission.

(b) Any person claiming to be aggrieved or the agent for such person may advise the Commission of the statute or statutes under which he or she wishes the Commission to commence its inquiry.

(c) Whenever the Commission is investigating a charge or allegation relating to a possible violation of one of the statutes which it administers and finds a violation of one or more of the other statutes which it administers, the Commission may seek to remedy such violation in accordance with the procedures of all relevant statutes.

[FR Doc. 81-1590 Filed 1-16-81; 8:45 am]
BILLING CODE 6570-06-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1990

Identification, Classification and Regulation of Potential Occupational Carcinogens; Conforming Deletions

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

ACTION: Final Rule.

SUMMARY: Deletions are made to the permanent standard for the Identification, Classification and Regulation of Potential Occupational Carcinogens ("Cancer Policy" standard, 45 FR 5002, Jan. 22, 1980) to conform it to the recent Supreme Court decision on OSHA's benzene standard, *Industrial Union Department, AFL-CIO* v. *American Petroleum Institute, et al.* 65 L. Ed. 2d 1010, 100 S. Ct. 2844 (July 2, 1980). The deletions carry out the Court's interpretation of the Occupational Safety and Health Act of 1970 that consideration must be given to the significance of the risk in the issuance of a carcinogen standard and that OSHA must consider all relevant evidence in making these determinations.

EFFECTIVE DATE: February 18, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, OSHA Office of Public Affairs, Room N-3641, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION:

1. Introduction

On January 22, 1980, the Occuaptional Safety and Health Administration published a final standard (29 CFR Part 1990) for the Identification, Classification and Regulation of Potential Occupational Carcinogens (the "Cancer Policy") at 45 FR 5002. On June 27, 1980, OSHA issued a correction document at 45 FR 43403. The Cancer Policy included scientific policies,

regulatory policies and procedures designed to lead to the more effective regulation of occupational carcinogens. Among the regulatory policies was the provision that exposures to Category I Occupational Carcinogens be reduced to the lowest feasible level taking into account economic and technical considerations. Limitations on the consideration of some types of evidence already considered in the cancer Policy were also included.

On July 2, 1980, the Supreme Court issued its decision on the OSHA benzene standard, *Industrial Union Department, AFL-CIO* v. *American Petroleum Institute et al.*, 65 L. Ed. 2d 1010, 100 S. Ct. 2844 (the "benzene decision" or *"I.U.D.* v. *A.P.I."*). The Court held that OSHA must consider the significance of the risk before regulating toxic substances and that OSHA had the burden of demonstrating the significance of the risk.

The Cancer Policy shares certain policies with the benzene standard.

Therefore to conform the Cancer Policy to the benzene decision, OSHA is deleting the provisions of the Cancer Policy which required the automatic setting of the lowest feasible level for Category I Potential Carcinogens. Also deleted are limitations on the evidence which OSHA may consider in determining the exposure limit for carcinogens. The results of these deletions are that in setting exposure limits for carcinogens on a substance by substance basis, OSHA will take into account significance of the risk, feasibility, all relevant provisions of the Act, court interpretations, all relevant evidence, prudent occupational health policy and its experience in regulating toxic substances. No automatic setting of exposures at the lowest feasible level will occur.

Most provisions of the Cancer Policy are not affected by the benzene decision. These include scientific policies, priority setting, identification criteria and classification criteria. OSHA is, of course, not deleting them and they remain in force.

2. OSHA's Cancer Policy

The Cancer Policy preamble discusses the basis for the policy at great length. Very briefly occupational carcinogens pose a serious health problem. OSHA had regulated a number of such chemicals, (asbestos, vinyl chloride, coke oven emissions, arsenic, etc.), but discovered that it was a slow process, in part because it was necessary to reevaluate the scientific basis for identifying potential human carcinogens in each rulemaking. Therefore there were a significant number of likely occupational carcinogens which OSHA would not be able to regulate for a substantial period of time. However, during the course of the earlier rulemakings, it became clear that there was a significant body of well established scientific data to provide the basis for identifying and regulating carcinogenic substances.

In the Cancer Policy proposal, OSHA proposed to make use of this scientific data and its regulatory experience, to lead to a more efficient regulatory process and better protection for employees exposed to carcinogens. The proposal was intensively and extensively explored in a 10 week hearing during which many scientific and policy experts testified, and literally hundreds of scientific articles were submitted. That record and the final standard are analyzed in a 300 page **Federal Register** preamble.

The final Cancer Policy modified the proposal in a number of ways to meet suggestions and criticism made in the record and the scientific evidence. The final standard includes provisions for setting priorities (see §§ 1990.131, .132). There are provisions to amend the policies to reflect advances in science and changes in policy (see §§ 1990.104 and .145).

The Cancer Policy sets forth scientific principles for the identification and classification of carcinogenic chemicals. These principles are primarily stated in §§ 1990.111, .112 and .143. They deal with the relevance of animal data to humans, the appropriateness of high dose testing, the relevance of various routes of exposure to the chemical in test animals, the uses and abuses of human data, the relevance of benign tumors in test animals, and other scientific principles. These scientific principles are based on an extensive scientific record and are analyzed in depth in the preamble.

The Cancer Policy treats these scientific policies as binding on the Agency and the public. Inconsistent evidence may not be considered, unless it is substantial and new and forms the basis for amending the Cancer Policy (see § 1990.145).

The Supreme Court's benzene decision is fully consistent with the aspects of the Cancer Policy just discussed, including the scientific principles and all the identification and classification provisions of the Cancer Policy. Therefore, there is no need to change any of these provisions of the Cancer Policy based on the benzene decision. It should also be noted that all these provisions and specifically the identification and classification provisions of the Cancer Policy are readily severable from the regulatory policies, and it is OSHA's intention that they be considered severable.

3. Conforming Changes to Regulatory Sections

The following paragraphs discuss those sections of the Cancer Policy standard required to be deleted by the Supreme Court's decision in *I.U.D.* v. *A.P.I.* and explain why the Court's decision compels the changes made.

Section 1990.111(h)

This paragraph states that for Category I Potential Carcinogens, exposures will be reduced to the lowest feasible level primarily through engineering and work practice controls. The words "to the lowest feasible level" are deleted. In consequence no binding requirement for exposure level is included in the Cancer Policy and the level will be set on a substance by substance basis taking into account all relevant evidence and statutory provisions. Obviously included within this would be consideration of the significance of the risk present by each substance.

The last sentence in § 1990.111(h) is deleted to avoid the inappropriate inference that the significance of the risk should be ignored. However, the general scientific principle concerning thresholds is already included in § 1990.143(h) and it remains one of those principles adopted by OSHA based on the record evidence in the Cancer Policy rulemaking.

No change is made in the regulatory policy of primary reliance on engineering and work practice controls. That policy was adopted by OSHA based on an extensive analysis of the record (see the discussion at 45 FR 5222) and was not affected by the Supreme Court's decision.

Section 1990.111(i)

This paragraph provided that exposures to Category II Potential Carcinogens "will be reduced as appropriate and consistent with the statutory requirements on a case-by-case basis." No changes are needed, since the formulation of the criterion for setting the exposure limit is "as appropriate and consistent with statutory requirements." the existing language therefore automatically incorporates the Supreme Court's interpretation in *I.U.D.* v. *A.P.I.* and consideration of the significance of the risk becomes an issue.

Section 1990.111(j)

This paragraph states that risk assessments will be performed based on

the available data utilizing cautious and prudent assumptions and that they will depend on the Secretary's judgment. The last sentence has been deleted to eliminate the possible interpretation that the risk assessments would depend solely on the Secretary's judgment. The assessment of risk and its significance have become regulatory issues as a result of the Supreme Court's decision. In consequence, determinations by the Secretary are to be based on the evidence in the record as to factual matters, and appropriate reasonable policies.

The clause that "cautious and prudent assumptions" are to be used remains. The Supreme Court held this was appropriate, stating that,

> So long as they are supported by a body of reputable scientific thought, the agency is free to use conservative assumptions in interpreting the data with respect to carcinogens, risking error on the side of over protection, rather than under-protection, (slip. op. p. 45)

Section 1990.111(k)

This paragraph provides that when suitable substitutes exists for a use of a chemical, a no occupational exposure limit should be set for that use to encourage substitution. Criteria are set for the determination of the suitability of substitutes including consideration of "regulatory requirements".

That terminology, of course, automatically incorporates into the determination of suitability, the regulatory requirements of the Supreme Court that OSHA consider the significance of the risk. Therefore there is no need to change the language of the paragraph to conform to the benzene decision. OSHA, before it encourages substitution, must consider whether the significance of the risk presented by the carcinogen makes it appropriate to encourage substitution.

Section 1990.142(a)(2)(iii)

This paragraph provided that exposure limits for Category I Carcinogens be set at the lowest feasible level achieved through engineering and work practice controls. For the reasons stated in the discussion of § 1990.111(h), the deletion of the reference to the lowest feasible level conforms the paragraph to *I.U.D.* v. *A.P.I.* No change in the suitable substitute language is required because as stated in the discussion of § 1990.111(k), the language of that section automatically incorporates into the suitability determination the significant risk question.

Section 1990.142(b)(2)

This paragraph stated that Category I Potential Carcinogens automatically create a "grave danger" for purposes of determining whether an Emergency Temporary Standard may be issued pursuant to section 6(c) of the OSH Act. (29 U.S.C. 655(c)). The Supreme Court's decision interpreted the Act to require non-emergency regulation of carcinogens to be based on consideration of the significance of the risk as well as qualitative evidence of their carcinogenicity. Clearly then, qualitative evidence of carcinogenicity must be accompanied by consideration of the gravity of the danger before the issuance of an ETS. (See sl. op. p. 30, n. 45). Therefore, this interpretation of the Court requires the deletion of § 1990.142(b)(2). In consequence, the issuance of an ETS under the Cancer Policy requires that the agency determine that a "grave danger" exists and that an "emergency standard is necessary to protect employees from such danger" as provided by § 6(c) of the Act. Conforming changes in numeration are also made.

Section 1990.142(b)(3)(iii) (Renumbered to § 1990.142(b)(2)(iii))

This section provided that the exposure limit for Emergency Temporary Standards shall be set at the lowest feasible level through any practical combination of engineering and work practice controls and respiratory protection. The deletion of the words "set as low as feasible," conforms the paragraph to *I.U.D.* v. *A.P.I.* for the same reasons specified in the discussion of § 1990.111(h).

Section 1990.143

This section sets forth scientific principles to be utilized in the identification of carcinogenic chemicals. They are based on an extensive scientific record including review of many hundreds of scientific articles, testimony of more than 100 scientific witnesses and extensive OSHA experience in earlier rulemaking proceedings. They are discussed in over 200 pages of **Federal Register** preamble. The agency is to apply these principles unless contrary arguments are based on substantial new evidence not considered by the agency, substantial new issues (§ 1990.145), or upon evidence which meets certain threshold criteria (§ 1990.144).

The Supreme Court's decision is consistent with OSHA's recognizing scientific principles and policies based on a substantial evidentiary record. Several Supreme Court cases have recognized the appropriateness of generic policies in those areas so that the same issues need not be constantly repeated.

> To require the Commission to proceed only on a case-by-case basis would require it, so long as its policy outlawed indefinite price changing provisions, to repeat in hearing after hearing its conclusions that condemn all of them. There would be a vast proliferation of hearings * * *. We see no reason why under the statutory scheme the process of regulation need be so prolonged and so crippled. (*F.P.C.* v. *Texaco*, 377 U.S. 33, 112 (1964).)

See also *United States* v. *Storer Broadcasting*, 351 U.S. 199 (1956) and *Weinberger* v. *Hynson*, 412 U.S. 609 (1973). Therefore these scientific principles remain established for the identification of carcinogens and the language of the introductory paragraph of the section indicates that their purpose is for the identification of carcinogens.

However, arguments based on evidence which would not be relevant for identification (such as the dose levels in animal testing) could be relevant in assessing the significance of the risk. Since § 1990.143 only refers to identification, arguments and evidence inconsistent with the principles may be introduced and considered on their merits for purposes of setting exposure limits. Therefore, no changes are made in § 1990.143.

Section 1990.144

This section sets minimum quality standards for the consideration of certain types of evidence for the identification, classification and regulation of carcinogens. As discussed in regard to § 1990.143, the criteria are based on an extensive scientific record and are consistent with the Supreme Court's decision when utilizing the criteria for the identification and classification of carcinogens. However, data which do not meet those criteria may be relevant to assessing the significance of the risk pursuant to the Supreme Court's decision. Therefore, the word "regulating" is deleted from the third line, to indicate that evidence not meeting the quality criteria will nonetheless be considered for purposes of assessing the significance of the risk.

Section 1990.146

This section lists the issues to be considered during the rulemaking proceeding on a carcinogen. Paragraph (h) provides for the consideration of "issues required by statute or executive order." The preamble discussion at 45 FR 5114 states that "this issue recognizes that future court decisions

interpreting the Act and amendments to the Act may require OSHA to consider additional issues". Clearly then, the issues required to be considered by the benzene decision such as the significance of the risk and its assessment become germane to the proceeding. Evidence and arguments on each issue may be introduced in the proceeding and will be considered by the Secretary in his decision.

Paragraph (i) of this section provided for the consideration of the "lowest feasible level to control exposure to Category I Potential Carcinogens * * *." The words "lowest feasible" are deleted to conform the paragraph to the benzene decision for the reasons stated in the discussion of § 1990.111(h). As a result of the deletion all evidence and arguments as to the setting of exposure levels consistent with the statute and the benzene decision are relevant.

Sections 1990.151(c) and .152(c)

Sections 1990.151 and .152 are the model standards for permanent and emergency temporary standards setting forth guidelines for monitoring, exposure limit format, control strategy, medical protection, housekeeping and other provisions. Conforming deletions are made by striking the lowest feasible terminology from the time weighted average limit, ceiling limit, eye exposure limit and dermal limit. The reasons are explained in the discussion of § 1990.111(h). The suitable substitutes provisions automatically pick up the significant risk requirements of *I.U.D.* v. *A.P.I.* as discussed above. Certain minor typographical errors are also corrected.

5. The Process for Conforming the Cancer Policy to the Benzene Decision

As this discussion indicates, the Supreme Court's interpretation of the OSHA Act is clear and the deletions necessary to make the Cancer Policy standard consistent with the Act as interpreted are relatively simple. The deletions merely incorporate the law, as stated by the Supreme Court, into the language of the Cancer Policy, where the Court found OSHA's policy inconsistent with the OSHA Act. Indeed the Supreme Court's benzene decision has already legally nullified those sections of the Cancer Policy inconsistent with the decision, and these changes merely conform the regulations to the law. The agency has not changed any of the factual determinations and has not changed any policies except as required by the Supreme Court's holding in interpreting the OSHA Act.

It is true that the determination of what constitutes significant risk and the role of risk assessment in making these determinations may include many difficult policy and factual questions. However, the agency, by these changes, is not determining those policy or factual questions or setting criteria for those determinations. Rather, those determinations will be made in the regulatory proceedings on specific substances.

It should be noted that the Supreme Court required consideration of the significance of the risk including risk assessments when they could be appropriately performed. The Court stated this requirement was not to be a "mathematical straitjacket"; "OSHA is not required to support its finding that significant risk exists with anything approaching scientific certainty." The agency can utilize the "best available evidence" and "there are a number of ways in which the agency can make a rational judgment about the relative significance of the risks * * *" (sl. op. pp. 44, 45, 46). Therefore, when data are not available to perform a formal quantitative risk assessment, qualitative evidence, expert testimony and other evidence may be appropriately utilized to base a determination of significance of risk.

OSHA has therefore concluded that notice and comment is unnecessary in the process of conforming the Cancer Policy to the holding of the Supreme Court in the benzene decision. The deletions of certain Cancer Policy provisions are compelled by the Supreme Court's benzene decision. They concern only matters of law and they do not involve the reconsideration of evidentiary issues. OSHA's decision would be neither enhanced nor assisted by the receipt of evidence on the issue of what changes are compelled.

In addition, as also discussed above, OSHA recognized when it issued the Cancer Policy that changes in the issues considered may become necessary because of changes in law and provided that such issues would be automatically considered without the need to amend the Cancer Policy. Section 1990.146(h) provides for the consideration of "any issues required by statute or executive order." The preamble discussion at 45 FR 5214 states that "this issue recognizes that future court decisions interpreting the Act and amendments to the Act may require OSHA to consider additional issues." The requirement for consideration of additional issues required by court decision clearly implies that those issues become relevant to the Secretary's decisions. Therefore the conforming deletions from the Cancer Policy merely make explicit the issues which have already become relevant to the Cancer Policy as a result of the Supreme Court's decision.

This document was prepared under the direction and supervision of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health.

Accordingly, pursuant to sections 4(b), 6(b), 8(c) and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1599; 29 U.S.C. 653, 655, 657), the Secretary of Labor's Order 8–76 (41 FR 25059), and section 4 of the Administrative Procedure Act (5 U.S.C. 553), Part 1990, of Title 29, of the Code of Federal Regulations is hereby amended as set forth below.

Signed at Washington, D.C. this 14th day of January, 1981. This amendment is effective on February 18, 1981.

Eula Bingham,

Assistant Secretary of Labor.

Part 1990 of Title 29, Code of Federal Regulations, is amended as follows:

1. Section 1990.111 is amended by revising paragraphs (h) and (j) to read as follows:

§ 1990.111 General statement of regulatory policy.

* * * * *

(h) Worker exposure to Category I Potential Carcinogens will be reduced primarily through the use of engieering and work practice controls.

* * * * *

(j) The assessment of cancer risk to workers resulting from exposure to a potential occupational carcinogen will be made on the basis of available data. Because of the uncertainties and serious consequences to workers if the estimated risk is understated, cautious and prudent assumptions will be utilized to perform risk assessments.

* * * * *

2. Section 1990.142 is amended by revising paragraph (a)(2)(iii), removing paragraph (b)(2) and renumbering paragraph (b)(3) as new paragraph (b)(2) and by revising newly redesignated paragraph (b)(2)(iii) as follows:

§ 1990.142 Initiation of rulemaking.

* * * * *

(a) * * *

(2) * * *

(iii) The permissible exposure limit shall be achieved primarily through engineering and work practice controls except that if a suitable substitute is available for one or more uses no occupational exposure shall be permitted for those uses.

* * * * *

(b) * * *

(2) * * *

(iii) The permissible exposure limit shall be achieved through any practicable combination of engineering controls, work practice controls and respiratory protection.

3. Section 1990.144 is amended by revising the introductory paragraph as follows:

§ 1990.144 Criteria for consideration of arguments on certain issues.

Arguments on the following issues will be considered by the Secretary in identifying or classifying any substance pursuant to this Part, if evidence for the specific substance subject to the rulemaking conforms to the following criteria. Such arguments and evidence will be evaluated based upon scientific and policy judgments.

* * * * *

4. Section 1990.146 is amended by revising paragraph (i) as follows:

§ 1990.146 Issues to be considered in the rulemaking.

* * * * *

(i) The determination of the level to control exposures to Category I Potential Carcinogens primarily through the use of engineering and work practice controls including technological and economic considerations.

* * * * *

5. Section 1990.151 is amended by revising paragraph (c) as follows:

§ 1990.151 Model standard pursuant to section 6(h) of the Act.

* * * * *

(c) Permissible exposure limits provisions. (1) Inhalation. (i) Time weighted average limit (TWA). Within (insert appropriate time period) of the effective date of this section, the employer shall assure that no employee is exposed to an airborne concentration of———in excess of: (insert appropriate exposure limit or when it is determined by the Secretary that there are available suitable substitutes for uses or classes of uses that are less hazardous to humans, the proposal shall permit no occupational exposure) as an eight (8)-hour-time-weighted average.

(Where the Secretary finds that suitable substitutes for———may exist, the determination of the ———level shall include consideration of the availability, practicability, relative degree of hazard, and economic consequences of the substitutes.)

(ii) Ceiling limit. (If appropriate.) Within (insert appropriate time period) of the effective date of this section, the employer shall assure that no employee is exposed to an airborne concentration of———in excess of: (insert exposure limit) as averaged over any: (insert appropriate time period) during the working day.

(2) Dermal and eye exposure. (As appropriate.) (i) Within (insert appropriate time period) of the effective date of this section, the employer shall (If eye exposure to———does not create a risk of cancer, insert exposure level or criteria which will prevent other adverse health affects of eye exposure to———if any. If eye exposure creates a risk of cancer, insert exposure level or criteria which represents the level of eye exposure to———).

(ii) Within (insert appropriate time period) of the effective date of this section, the employer shall (If skin exposure to———does not create a risk of cancer, insert exposure level or criteria which will prevent other adverse health effects of skin exposure to——— if any. If skin exposure creates a risk of cancer, insert exposure level or criteria which represents the level of skin exposure to———).

6. Section 1990.152 is amended by revising paragraph (c) as follows:

§ 1990.151 Model emergency temporary standard pursuant to section 6(c) of the Act.

* * * * *

(c) Permissible exposure limits—(1) Inhalation. (i) Time-weighted average limit (TWA). Within (insert appropriate time) from the effective date of this emergency temporary standard, the employer shall assure that no employee is exposed to an airborne concentration of———in excess of: (insert appropriate exposure limit representing a level that can be complied with immediately) as an eight (8)-hour-time-weighted average.

(ii) Ceiling limit. (If appropriate.) The employer shall assure that no employee is exposed to an airborne concentration of———in excess of: (insert appropriate exposure limit representing a level that can be complied with immediately) as averaged over any: (insert appropriate time period) during the working day.

(2) Dermal and eye exposure. (As appropriate.)

(i) Within (insert appropriate time period) of the effective date of this section, the employer shall (If eye exposure to———does not create a risk of cancer, insert exposure level or criteria which will prevent other adverse effects of eye exposure to———, if any. If eye exposure creates a risk of cancer, insert exposure level or criteria which represent the level of eye exposure to———.)

(ii) Within (insert appropriate time period) of the effective date of this section, the employer shall (If skin exposure to———does not create a risk of cancer, insert exposure level or criteria which will prevent other adverse health affects of skin exposure to——— if any. If skin exposure creates a risk of cancer, insert exposure level or criteria which represents the level of skin exposure to———).

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2604

Intent to Terminate; Amendment Changing Mailing Address

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: Plan administrators of terminating defined benefit pension plans covered under the plan termination insurance program of Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") must submit to the Pension Benefit Guaranty Corporation ("PBGC") a Notice of Intent to Terminate the plan at least 10 days prior to the proposed date of termination. This document changes the address to which the required notice must be submitted. The new address will insure a more timely receipt by the PBGC of these notices.

EFFECTIVE DATE: January 19, 1981.

FOR FURTHER INFORMATION CONTACT: William E. Seals, Deputy Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-4895. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 4041(a) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1341(a), requires the plan administrator of a terminating defined benefit pension plan covered under the plan termination insurance program of Title IV of ERISA, to file with the Pension Benefit Guaranty Corporation ("PBGC") at least 10 days prior to the proposed date of termination, a notice that the plan is to be terminated. The PBGC Notice of Intent to Terminate regulation ("regulation"), 29 CFR Part 2604, contains a Post Office Box address for receipt of those notices.

In order to insure timely receipt of the notices, the PBGC has discontinued use of the Post Office Box address and now requires that on or after the effective date of this amendment, all Notices of Intent to Terminate covered plans must be mailed or delivered to PBGC's Office