evidentiary purposes and the bearer is still eligible to have a passport.

■ 7. Section 51.66(a) is revised to read as follows:

§ 51.66 Expedited passport processing.

(a) Within the United States, an applicant for a passport service (including issuance, replacement or the addition of visa pages) may request expedited processing by a Passport Agency. All requests by applicants for in-person services at a Passport Agency shall be considered requests for expedited processing, unless the Department has determined that the applicant is required to apply at a Passport Agency.

* * * * *

■ 8. The title of part 51, subpart E is revised to read as follows:

Subpart E—Limitations on Issuance or Use of Passports

* * * * *

Dated: September 6, 2005.

Maura Harty,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 05–18108 Filed 9–12–05; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–023A]

RIN 1218–AC08

Updating OSHA Standards Based On National Consensus Standards; General, Incorporation by Reference; Hazardous Materials, Flammable and Combustible Liquids; General Environmental Controls, Temporary Labor Camps; Hand and Portable Powered Tools and Other Hand-Held Equipment, Guarding of Portable Powered Tools; Welding, Cutting and Brazing, Arc Welding and Cutting; Special Industries, Sawmills

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

ACTION: Final rule.

SUMMARY: OSHA is issuing this final rule to delete from OSHA standards three references to national consensus standards and two references to industry standards that are outdated. Deleting these references will not reduce employee protections. By eliminating the outdated references, however, OSHA will clarify employer obligations under the applicable OSHA standards and reduce administrative burdens on employers and OSHA. These revisions are part of OSHA's overall effort to update OSHA standards that reference, or that include language taken directly from, outdated consensus standards.

DATES: This final rule will become effective on November 14, 2005.

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

FOR FURTHER INFORMATION CONTACT: For general information and press inquiries contact Mr. Kevin Ropp, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–1999. For technical inquiries contact Mr. Lee Smith, Director, Office of Safety Systems, Room N–3609, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2255 or fax (202) 693–1663. Copies of this **Federal Register** notice are available from the OSHA Office of Publications, Room N–3101, 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 Web page at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION: References to comments in the rulemaking record are found throughout the text of the preamble. Comments are identified by an assigned exhibit number as follows: ''Ex. 4–3'' means Exhibit 4–3 in Docket S–023A. A list of the exhibits and copies of the exhibits are available in the OSHA Docket Office under Docket S–023A and at OSHA's homepage.

Background

On November 24, 2004, OSHA published a notice in the **Federal Register** announcing its overall project to update OSHA standards that are based on national consensus standards (69 FR 68283). The notice explained the reasons for the project and the regulatory approaches OSHA plans to use to implement the project, including notice and comment rulemaking, direct final rulemaking, and technical amendments. To review the eleven comments received on this notice, most of which were supportive, see Docket S–023 at *http://dockets.osha.gov.* OSHA appreciates these comments and will welcome additional comments as it proceeds with the overall update project.

On the same day, OSHA also published in the **Federal Register** a direct final rule (69 FR 68712) and a companion proposed rule (69 FR 68706) to delete three references to national consensus standards and two references to industry standards that are outdated. OSHA announced that the direct final rule would become effective on February 22, 2005, unless the Agency received a significant adverse comment before the comment period closed.

OSHA received five comments on the direct final rule and companion proposed rule. OSHA considers one of the comments to be significantly adverse. On February 18, 2005, OSHA published a notice withdrawing the direct final rule (70 FR 8291). OSHA is treating the five comments as comments to the proposed rule, and considered all of the comments in publishing this final rule.

Discussion of Changes

OSHA explained in detail its decision to revoke each of the references at issue in the direct final and companion proposed rules published in the **Federal Register** on November 24, 2004 (69 FR 68706, 68712), and OSHA incorporates those discussions in this final rule. The five references are to consensus or industry standards issued over 35 years ago, and in one case over 60 years ago. Some are no longer available to the public through the issuing Standards Development Organization (SDO). Three of the references have been withdrawn by their issuing SDOs and not replaced. In proposing the revocations, OSHA found that the changes would enhance employee safety by eliminating confusion and clarifying employer obligations. OSHA also determined that the revocations would not result in additional costs to employers, and may even produce cost savings.

The Agency carefully considered all comments received. After review of the comments, OSHA continues to find that revoking the five references is appropriate.

29 CFR 1910.106(b)(1)(iii)(a)(2): OSHA is revoking from its standard for flammable and combustible liquids American Petroleum Institute Standard No. 12A, Specification for Oil Storage Tanks with Riveted Shells, Seventh Edition, September 1951 (API 12A). OSHA included API 12A in the standard to provide employers with one

means of complying with the standard's general requirement for atmospheric tanks to be ''built in accordance with acceptable good standards of design.'' 29 CFR 1910.106(b)(1)(iii)(a).

OSHA is revoking the reference for a number of reasons. API 12A is over 50 years old and does not consider recent developments in the construction of atmospheric tanks. The issuing SDO withdrew API 12A in 1974, has not replaced it, has not incorporated its provisions into another consensus standard, and no longer makes the standard available to the public. Under these circumstances, OSHA does not believe it is appropriate to reference the standard as a compliance option. Because OSHA did not require the use of API 12A in the standard, the revocation does not change an employer's responsibility for constructing properly designed atmospheric tanks under 29 CFR 1910.106(b)(1)(iii)(a).

29 CFR 1910.142(c)(4): OSHA is revoking from its temporary labor camps standard a requirement that drinking fountains be constructed in accordance with the American National Standard Institute Standard Specifications for Drinking Fountains, ANSI Z4.2–1942. ANSI Z4.2–1942 contains ten specific recommendations concerning the construction of drinking fountains which are based on the technology and construction practices that existed in 1942. All of these recommendations use advisory ''should'' language. The issuing SDO withdrew the standard in 1972 and it has not been replaced.

OSHA has determined that the reference to ANSI Z4.2–1942 should be revoked for two reasons. First, because the specific recommendations in ANSI Z4.2–1942 use advisory language, they are unenforceable. *See* 49 FR 5318, February 10, 1984; *cf. Marshall* v. *Pittsburgh-Des Moines Steel Company*, 584 F.2d 638, 643–44 (3d Cir. 1978). Second, referencing recommendations issued over 60 years ago for the construction of drinking fountains does not enhance the safety and health of employees. The technology for constructing drinking fountains has changed significantly since the 1940's. Since 1942, a number of drinking fountain units have become available to employers that, while not strictly manufactured in accordance with ANSI Z4.2–1942, are constructed pursuant to good engineering practices and are safe to use at temporary labor camps. It does not serve employers or employees to reference construction specifications that do not consider this new technology.

29 CFR 1910.243(e)(1)(i): OSHA is revoking from its portable powered tools standard a provision that certain power lawnmowers designed for sale to the general public meet the American National Standard Safety Specifications for Power Lawnmowers, ANSI B71.1–X1968 (ANSI B71.1–1968). OSHA is replacing this provision with a reference to the general machine guarding requirements contained in 29 CFR 1910.212. OSHA is also removing the final two sentences of paragraph 1910.243(e)(1) that describe the types of mowers for which the specifications in ANSI B71.1–1968 do not apply. OSHA is making these changes to simplify and clarify the scope and coverage of 29 CFR 1910.243. Deleting the reference and replacing it with a reference to 29 CFR 1910.212 will both retain the existing degree of employee protection, and remove a continuing source of confusion as to the scope of the referenced standard.

ANSI B71.1–1968 provides safety specifications for certain power lawnmowers ''designed for sale to the general public.'' Lawnmowers designed for commercial use must comply with the guarding requirements of 29 CFR 1910.212(a)(1) and (a)(3)(ii). *See* Memorandum from John Miles to Regional Administrators, ''Misapplication of Power Lawnmower Standard 29 CFR 1910.243(e),'' 1986. It is difficult for employers to determine which lawnmowers are designed for sale to the general public, and which are designed for commercial use, and the distinction is not particularly relevant to protecting employees from the hazards associated with operating power lawnmowers.

Furthermore, virtually all of the specific provisions contained in ANSI B71.1–1968 are included in the text of 29 CFR 1910.243(e). OSHA considered updating the 1968 ANSI reference to the 1998 version of ANSI B71.1, but determined that doing so would not clarify the standard because the scope of the 1998 version would raise additional issues for compliance that are not encountered under the existing OSHA standard.

29 CFR 1910.254(d)(1): OSHA is revoking from its arc welding and cutting standard a recommendation that employers be acquainted with the American Welding Society's Recommended Safe Practices for Gas-Shielded Arc Welding, A6.1–1966. OSHA is revoking the reference for several reasons. The hazard information included in AWS A6.1–1966 is extremely outdated, particularly compared to the information that employers are already required to provide to employees under OSHA's Hazard Communication Standard, 29 CFR 1910.1200. Second, virtually all of the recommendations contained in AWS A6.1–1966 are covered elsewhere in OSHA's welding standards. For example, paragraph 1910.254(d)(1) also requires employees performing arc welding to be ''acquainted with'' 1910.252(a), (b), and (c). These three paragraphs specifically address many of the safety-related practices discussed in AWS A6.1–1966. Third, other applicable OSHA standards protect employees performing gas-shielded arc welding from many of the underlying hazards discussed in AWS A6.1–1966. *See, e.g.*, 29 CFR part 1910, subpart Z (Toxic and Hazardous Substances).

29 CFR 1910.265(c)(31)(i): OSHA is revoking a provision from its standard on Sawmills which suggests that employers use ''appropriate traffic control devices,'' as set forth in American National Standard D8.1–1967 for Railroad Highway Grade Crossing Protection (ANSI D8.1–1967). ANSI withdrew the standard in 1981 and did not replace it. OSHA is revoking this reference for two main reasons. First, referencing a withdrawn 37-year-old consensus standard that was intended to address railroad and highway grade crossings—not crossings specifically in sawmills—adds little value to employers and employees in the sawmill industry. Second, the reference uses advisory ''should'' language and is thus unenforceable. *See* 49 FR 5318, February 10, 1984; *cf. Marshall*, 584 F.2d at 643–644. Removing such provisions clarifies employer obligations and enhances OSHA enforcement capabilities. *See* 47 FR 23477, May 28, 1982; 49 FR 5321, February 10, 1984. Because OSHA is retaining the mandatory provision in paragraph 1910.265(c)(3)(i) that employers plainly post railroad tracks and other hazardous crossings, employees will continue to be alerted to potential hazards at these dangerous areas.

Comments Received

The majority of comments received expressed support for this rulemaking. For example, the National Automobile Dealer's Association (NADA) stated that ''without question, OSHA should appropriately update or revoke references to or language from consensus standards that are outdated or no longer relevant.'' (Ex. 4–3). The International Brotherhood of Teamsters (IBT) stated that it supports OSHA's first rulemaking action associated with the update project, and that ''revoking these references will not reduce employee

protections provided by each affected OSHA standard.'' (Ex. 4–2). Similarly, the National Lumber and Building Material Dealer's Association (NLBMDA) stated that it ''supports OSHA's current efforts to update their regulations.'' (Ex. 4–4).

One commenter recommended that OSHA establish a policy to review and update consensus standards on a regular basis. (Ex. 4–2). As explained in this preamble, this rulemaking is the first step in the Agency's overall effort to deal with the problem of outdated national consensus and industry standards in OSHA's rules. OSHA will continue to explore available strategies and approaches to update its standards.

Two commenters representing small business employers, NADA and NLBMDA, expressed concern about the costs and burdens associated with obtaining updated versions of national consensus and industry standards from the issuing SDOs. (Exs. 4–3, 4–4). One recommended that OSHA make the standards readily available to the regulated community by publishing referenced consensus standards in full in the relevant docket and on the OSHA Web site. (Ex. 4–3).

The Agency recognizes the commenters' concerns regarding the availability and cost of consensus and industry standards. OSHA will continue to explore ways to inform employers and employees of their compliance obligations at little or no cost. OSHA notes that this final rule will not result in any cost to employers because it is deleting references to consensus and industry standards. In addition, all national consensus and industry standards which are incorporated by reference in the OSHA standards are available for public inspection at the OSHA Docket Office, OSHA's regional offices, and the U.S. National Archives and Records Administration.

The IBT encouraged OSHA to ensure that the national consensus and industry standards OSHA considers adopting in its regulations were developed in a fair and participatory manner. (Ex. 4–2). The Agency believes that the rulemaking process will address the IBT's concerns. When OSHA attempts a substantive update to its regulations, it will provide an opportunity for notice and comment. OSHA will only use direct final rulemaking or technical amendments for non-controversial updates, and will rely on notice and comment rulemaking for controversial or potentially controversial updates and those which involve substantive changes. Moreover, if a direct final rule results in significant adverse comment, OSHA will withdraw the direct final rule and proceed with notice and comment rulemaking. Consequently, stakeholders will always have an opportunity to share with OSHA concerns about the standards development process.

OSHA received one comment opposed to the Agency's underlying approach to this rulemaking. The U.S. Chamber of Commerce (Chamber) stated that ''because the kind of changes announced by OSHA can affect the compliance options available to employers, they can represent substantive changes with potentially significant impact,'' and is therefore ordinarily inappropriate for direct final rulemaking. (Ex. 3–1). The Chamber also recommended that OSHA retain the current references at issue in this final rule as compliance options. (Ex. 3–1).

While OSHA appreciates the Chamber's concerns, in this instance OSHA believes that retaining these extremely outdated references as compliance options will only confuse employers and employees. As the NLBMDA said, ''Updating or removing references to outdated national consensus standards is the correct course of action to make the regulations more understandable and consistent. The referencing of old or discontinued consensus standards creates confusion, misinterpretation, and ultimately leads to poor compliance.'' (Ex. 4–4).

The need to remove references to out of date consensus standards is particularly acute with regard to extremely outdated standards, such as API 12A, ANSI Z4.2–1942, and ANSI D8.1–1967. These standards are so outdated that they were withdrawn by their issuing SDOs 20 to 30 years ago and never replaced. Some of the consensus standards revoked in this rule are not even available through the issuing SDO. OSHA does not want to encourage the design or construction of equipment to comply with standards that do not reflect current technology and thus may not set an appropriate level of safety. In future phases of the update project, it may be appropriate to continue to reference older standards for certain maintenance and use specifications. However, OSHA maintains that it will rarely be appropriate to retain as compliance options standards issued 40 or 50 years ago to guide the design and construction of today's equipment.

Furthermore, OSHA does not agree with the Chamber that this action is not appropriate for direct final rulemaking. Several of the standards at issue in this rulemaking are unenforceable because they use advisory ''should'' language. Some of the standards have been withdrawn by the issuing SDO and not replaced, or are no longer available to the public through the issuing SDO. None of the standards reflect current technology. Deletion of these references neither restricts meaningful compliance options for employers nor reduces employee protections. In such situations, direct final rulemaking is an appropriate course of action for the Agency to pursue to update its standards.

The IBT made a suggestion regarding OSHA's removal of ANSI Z4.2–1942, the standard for drinking fountains, from OSHA's standard for temporary labor camps, 29 CFR 1910.142. (Ex. 4–2). IBT stated that in the absence of an OSHA, industry, or consensus standard that governs the construction of drinking fountains, and to avoid the use of hoses or alternative devices for drinking, it ''might be helpful if OSHA would include'' in the standard a definition of what constitutes a ''drinking fountain.''

OSHA appreciates the IBT's suggestion, but believes including a definition of what constitutes a drinking fountain is beyond the scope of this rulemaking. The Agency, however, may re-examine the need to provide definitions of this and other terms in future rulemakings. OSHA reiterates that revoking the reference to ANSI Z4.2–1942 will not adversely affect the safety and health of employees at temporary labor camps. As explained above, ANSI Z4.2–1942 uses advisory ''should'' language and thus contains no compliance obligations. *See* 49 FR 5318, February 10, 1984; *cf. Marshall*, 584 F.2d at 643–644. Further, referencing a 60-year-old ANSI standard for drinking fountains that reflects outdated engineering practices and technology does not enhance employee safety. Finally, OSHA notes that other provisions in its temporary labor camp standard, including 29 CFR 1910.142(c)(1), (c)(2), and (c)(3), as well as other OSHA standards, offer additional protection for workers in temporary labor camps.

IBT also stated that it supported OSHA's revocation of ANSI B71.1–1968, safety specifications for power lawnmowers, so long as OSHA thoroughly reviewed ANSI B71.1–1998 and determined that it does not contain provisions that would serve to improve the existing OSHA standard, 29 CFR 1910.243. OSHA assures IBT that it has conducted a thorough review of ANSI B71.1–1998, and, for reasons discussed above, determined that referencing it would not improve the existing OSHA standard. 69 FR 68706, 68712.

Legal Considerations

The purpose of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.*, is ''to assure so far as possible every working man and woman in the nation safe and healthful working conditions and to preserve our human resources.'' 29 U.S.C. 651(b). To achieve this goal Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards. 29 U.S.C. 655(b), 654(b). A safety or health standard is a standard ''which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment or places of employment.'' 29 U.S.C. 652(8). A standard is reasonably necessary or appropriate within the meaning of Section 652(8) if, among other things, a significant risk of material harm exists in the workplace and the proposed standard would substantially reduce or eliminate that workplace risk.

This final rule will not reduce the employee protections put into place by the standards being revised. The intent of this final rule is to revoke references to consensus standards that are outdated, no longer represent the state of the art in workplace safety, and are confusing to employers and employees. It is therefore unnecessary to determine significant risk, or the extent to which the final rule would reduce that risk, as would typically be required by *Industrial Union Department, AFL–CIO* v. A*merican Petroleum Institute*, 448 U.S. 607 (1980).

Final Economic Analysis and Regulatory Flexibility Act Certification

This rule is not economically significant within the context of Executive Order 12866, or a ''major rule'' under the Unfunded Mandates Reform Act or Section 801 of the Small Business Regulatory Enforcement Fairness Act. The rule would impose no additional costs on any private or public sector entity, and does not meet any of the criteria for an economically significant or major rule specified by the Executive Order or relevant statutes.

The rule simply deletes or revises a number of provisions in OSHA standards that are outdated. The Agency concludes that the final rule would not impose any additional costs on these employers. Consequently, the rule requires no final economic analysis. Furthermore, because the rule imposes no costs on employers, OSHA certifies that it would not have a significant impact on a substantial number of small entities. Accordingly, the Agency need not prepare a final regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Paperwork Reduction Act

This rule does not impose or remove any information collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–30.

Federalism

OSHA has reviewed this final rule in accordance with the Executive Order on Federalism (E.O. 13132, 64 FR 43255, August 10, 1999), which requires that agencies, to the extent possible, refrain from limiting State policy options, consult with States prior to taking any actions that would restrict State policy options, and take such actions only when there is clear constitutional authority and the presence of a problem of national scope. E.O. 13132 provides for preemption of State law only if there is a clear congressional intent for the Agency to do so. Any such preemption is to be limited to the extent possible.

Section 18 of the OSH Act, 29 U.S.C. 651 *et seq.*, expresses Congress' intent to preempt State laws where OSHA has promulgated occupational safety and health standards. Under the OSH Act, a State can avoid preemption on issues covered by Federal standards only if it submits, and obtains Federal approval of, a plan for the development of such standards and their enforcement. 29 U.S.C. 667. Occupational safety and health standards developed by such States with State Plans must, among other things, be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Subject to these requirements, States with State Plans are free to develop and enforce their own requirements for safety and health standards under State law.

This final rule complies with E.O. 13132. As Congress has expressed a clear intent for OSHA standards to preempt State job safety and health rules in areas addressed by OSHA standards in States without OSHA-approved State Plans, this rule limits State policy options in the same manner as all OSHA standards. In States with OSHA-approved State Plans, this action does not significantly limit State policy options.

State Plans

When Federal OSHA promulgates a new standard or more stringent amendment to an existing standard, the 26 States or U.S. Territories with their own OSHA-approved occupational safety and health plans must revise their standards to reflect the new standard or amendment, or show OSHA why there is no need for action, e.g., because an existing State standard covering this area is already ''at least as effective'' as the new Federal standard or amendment. 29 CFR 1953.5(a). The State standard must be at least as effective as the final Federal rule, must be applicable to both the private and public (State and local government employees) sectors, and must be completed within six months of the publication date of the final Federal rule. When OSHA promulgates a new standard or standards amendment which does not impose additional or more stringent requirements than an existing standard, States are not required to revise their standards, although OSHA may encourage them to do so. The 26 States and territories with OSHA-approved State Plans are: Alaska, Arizona, California, Connecticut (plan covers only State and local government employees), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New Jersey (plan covers only State and local government employees), New York (plan covers only State and local government employees), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands (plan covers only State and local government employees), Washington, and Wyoming.

Unfunded Mandates Reform Act

This final rule has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq*. For the purposes of the UMRA, the Agency certifies that this final rule does not impose any Federal mandate that may result in increased expenditures by State, local, or tribal governments, or increased expenditures by the private sector, of more than $100 million in any year.

List of Subjects in 29 CFR Part 1910

Consensus standards, Incorporation by reference, Occupational safety and health.

Authority and Signature

This document was prepared under the direction of Mr. Jonathan L. Snare, Deputy Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order 5–2002 (67 FR 65008), and 29 CFR part 1911.

Signed at Washington, DC this 31st day of August, 2005.

Jonathan L. Snare,

Deputy Assistant Secretary of Labor.

Amendments to Standards

■ Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended as set forth below:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart A—General

■ 1. The authority citation for subpart A of part 1910 is revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order Numbers 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), or 5–2002 (67 FR 65008), as applicable.

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

§ 1910.6 [Amended]

■ 2. Section 1910.6 is amended by removing and reserving paragraphs (e)(31); (e)(35); (e)(48); (f)(1); and (i)(2).

Subpart H—Hazardous Materials

■ 3. The authority citation for subpart H of part 1910 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, 657); Secretary of Labor's Orders Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), or 5–2002 (67 FR 65008), as applicable; and 29 CFR part 1911.

Sections 1910.103, 1910.106 through 1910.111, and 1910.119, 1910.120, and 1910.122 through 126 also issued under 29 CFR part 1911.

Section 1910.119 also issued under section 304, Clean Air Act Amendments of 1990 (Pub. L. 101–549), reprinted at 29 U.S.C. 655 Note.

Section 1910.120 also issued under section 126, Superfund Amendments and Reauthorization Act of 1986 as amended (29 U.S.C. 655 Note), and 5 U.S.C. 553.

■ 4. Paragraph (b)(1)(iii)(*a*)(*2*) of § 1910.106 is revised to read as follows:

§ 1910.106 Flammable and combustible liquids.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(*a*) * * *

(*2*) American Petroleum Institute Standards No. 650, Welded Steel Tanks for Oil Storage, Third Edition, 1966.

* * * * *

Subpart J—General Environmental Controls

■ 5. The authority citation for subpart J of part 1910 is revised to read as follows:

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

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

■ 6. Paragraph (c)(4) of § 1910.142 is revised to read as follows:

§ 1910.142 Temporary labor camps.

* * * * *

(c) * * *

(4) Where water under pressure is available, one or more drinking fountains shall be provided for each 100 occupants or fraction thereof. Common drinking cups are prohibited.

* * * * *

Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment

■ 7. The authority citation for subpart P of part 1910 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, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736),–90 (55 FR 9033), or 5–2002 (67 FR 65008), as applicable; 29 CFR part 1911.

Section 1910.243 also issued under 29 CFR part 1910.

■ 8. Paragraph (e)(1)(i) of § 1910.243 is revised to read as follows:

§ 1910.243 Guarding of portable powered tools.

* * * * *

(e) * * *

(1) * * *

(i) Power lawnmowers of the walk-behind, riding-rotary, and reel power lawnmowers shall be guarded in accordance with the machine guarding requirements in 29 CFR 1910.212, General requirements for all machines.

* * * * *

Subpart Q—Welding, Cutting and Brazing

■ 9. The authority citation for subpart Q of part 1910 is revised to read as follows:

Authority: Secs. 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Orders 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 5–2002 (67 FR 65008), as applicable; and 29 CFR part 1911.

■ 10. Paragraph (d)(1) of § 1910.254 is revised to read as follows:

§ 1910.254 Arc welding and cutting.

* * * * *

(d) * * *

(1) *General.* Workers assigned to operate or maintain arc welding equipment shall be acquainted with the requirements of this section and with 1910.252 (a), (b), and (c) of this part.

* * * * *

Subpart R—Special Industries

■ 11. The authority citation for subpart R of part 1910 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, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), or 5–2002 (67 FR 65008), as applicable; and 29 CFR part 1911.

■ 12. Paragraph (c)(31)(i) of § 1910.265 is revised to read as follows:

§ 1910.265 Sawmills.

* * * * *

(c) * * *

(31) * * *

(i) Hazardous crossings. Railroad tracks and other hazardous crossings shall be plainly posted.

* * * * *

[FR Doc. 05–17688 Filed 9–12–05; 8:45 am]

BILLING CODE 4510–26–P