§ 178.1010 Sanitizing solutions.

* * * * *

(b) * * *

(45) An aqueous solution of hydrogen peroxide, acetic acid, peroxyacetic acid, octanoic acid, peroxyoctanoic acid, sodium 1-octanesulfonate, and 1-hydroxyethylidene-1,1-diphosphonic acid. In addition to use on food-processing equipment and utensils, this solution may be used on food-contact surfaces in public eating places, subject to the limitations in paragraph (c)(39) of this section.

* * * * *

(c) * * *

(39)(i) The solution identified in paragraph (b)(45) of this section, when used on food processing equipment and utensils, including dairy and beverage-processing equipment but excluding food-contact surfaces in public eating places and dairy and beverage containers, shall provide when ready for use at least 72 parts per million and not more than 216 parts per million of hydrogen peroxide; at least 46 parts per million and not more than 138 parts per million of peroxyacetic acid; at least 40 parts per million and not more than 122 parts per million of octanoic acid (including peroxyoctanoic acid); at least 281 parts per million and not more than 686 parts per million of acetic acid; at least 7 parts per million and not more than 34 parts per million of 1-hydroxyethylidene-1,1-diphosphonic acid; and at least 36 parts per million and not more than 109 parts per million of sodium 1-octanesulfonate.

(ii) The solution identified in paragraph (b)(45) of this section, when used on food-contact equipment and utensils in warewashing machines, including warewashing machines in public eating places, at temperatures no less than 120 °F (49 °C) shall provide when ready for use at least 30 parts per million and not more than 91 parts per million of hydrogen peroxide; at least 19 parts per million and not more than 58 parts per million of peroxyacetic acid; at least 17 parts per million and not more than 52 parts per million of octanoic acid (including peroxyoctanoic acid); at least 119 parts per million and not more than 290 parts per million of acetic acid; at least 3 parts per million and not more than 14 parts per million of 1-hydroxyethylidene-1,1-diphosphonic acid; and at least 15 parts per million and not more than 46 parts per million of sodium 1-octanesulfonate.

(iii) The solution identified in paragraph (b)(45) of this section, when used on dairy or beverage containers, shall provide when ready for use at least 36 parts per million and not more than 108 parts per million of hydrogen peroxide; at least 23 parts per million and not more than 69 parts per million of peroxyacetic acid; at least 20 parts per million and not more than 61 parts per million of octanoic acid (including peroxyoctanoic acid); at least 140 parts per million and not more than 343 parts per million of acetic acid; at least 3 parts per million and not more than 17 parts per million of 1-hydroxyethylidene-1,1-diphosphonic acid; and at least 18 parts per million and not more than 55 parts per million of sodium 1-octanesulfonate.

* * * * *

Dated: May 24, 1996.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–13982 Filed 6–3–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 40 and 48

[TD 8659]

RIN 1545–AR92

Gasoline and Diesel Fuel Excise Tax; Registration Requirements; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations [TD 8659] which were published in the Federal Register for Thursday, March 14, 1996 (61 FR 10450). The final regulations relate to the taxes on gasoline and diesel fuel reflecting and implementing certain changes made by the Omnibus Budget Reconciliation Act of 1993.

EFFECTIVE DATE: March 14, 1996.

FOR FURTHER INFORMATION CONTACT: Frank Boland (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections are under sections 4081 and 4101 of the Internal Revenue Code.

Need for Correction

As published, [TD 8659] contains errors that are in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations which are the subject of FR Doc. 96–5586 is corrected as follows:

§ 48.4101–1 [Corrected]

On page 10460, column 2, paragraph (f)(3)(ii)(D), lines 4 and 5 are corrected by merging the two lines to read ''paragraph (j) of this section, without regard to''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–13721 Filed 6–3–96; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

[Docket No. T–015A]

North Carolina State Plan: Approval of Revised Compliance Staffing Benchmarks

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

ACTION: Approval of revised State compliance staffing benchmarks.

SUMMARY: This document amends Subpart I of 29 CFR 1952 to reflect the Assistant Secretary's decision to approve revised compliance staffing benchmarks of 64 safety inspectors and 50 industrial hygienists for the North Carolina State plan.

EFFECTIVE DATE: June 4, 1996.

FOR FURTHER INFORMATION CONTACT: Anne Cyr, Acting Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3637, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 219–8148.

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational Safety and Health Act of 1970 (''the Act,'' 29 U.S.C. 651 et seq.) provides that States which desire to assume responsibility for developing and enforcing occupational safety and health standards may do so by submitting, and obtaining Federal approval of, a State plan. Section 18(c) of the Act sets forth the statutory criteria for plan approval, and among these criteria is the requirement that the State's plan provide satisfactory assurances that the

state agency or agencies responsible for implementing the plan have ''* * * the qualified personnel necessary for the enforcement of * * * standards,'' 29 U.S.C. 667(c)(4).

A 1978 decision of the U.S. Court of Appeals and the resultant implementing order issued by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall*, C.A. No. 74–406) interpreted this provision of the Act to require States operating approved State plans to have sufficient compliance personnel necessary to assure a ''fully effective'' enforcement effort. The Assistant Secretary of Labor for Occupational Safety and Health (the Assistant Secretary) was directed to establish ''fully effective'' compliance staffing levels, or benchmarks, for each State plan.

In 1980 OSHA submitted a *Report to the Court* containing these benchmarks and requiring North Carolina to allocate 83 safety and 119 health compliance personnel to conduct inspections under the plan. Attainment of the 1980 benchmark levels or subsequent revision thereto is a prerequisite for State plan final approval consideration under section 18(e) of the Act.

Both the 1978 Court Order and the 1980 *Report to the Court* explicitly contemplate subsequent revisions to the benchmarks in light of more current data, including State-specific information, and other relevant considerations. In August 1983 OSHA, together with State plan representatives, initiated a comprehensive review and revision of the 1980 benchmarks. The State of North Carolina participated in this benchmark revision process, which resulted in a methodology whereby a State could submit data that would justify revision of its 1980 benchmarks. In May 1992, North Carolina proposed to the Assistant Secretary revised compliance staffing levels for a ''fully effective'' program responsive to the occupational safety and health needs of the State. (A complete discussion of both the 1980 benchmarks and the present revision system process is set forth in the January 16, 1985 Federal Register (50 FR 2491) regarding the Wyoming occupational safety and health plan.)

Proposed Revision of Benchmarks

In 1980, OSHA submitted a report to the Court containing the benchmarks and requiring North Carolina to allocate 83 safety compliance officers and 119 industrial hygienists. Pursuant to the initiative begun in August 1983 by the State plan designees as a group, and in accord with the formula and general principles established by that group for individual State revision of benchmarks, North Carolina reassessed the compliance staffing necessary for a ''fully effective'' occupational safety and health program in the State. In September 1984, North Carolina requested that the Assistant Secretary approve revised compliance staffing levels of 50 safety and 27 health compliance officers for a ''fully effective'' program responsive to the occupational safety and health needs and circumstances in the State. These revised benchmarks were approved by the Assistant Secretary on January 17, 1986 (51 FR 2481).

In March 1989 the North Carolina House Appropriations Committee of the North Carolina General Assembly passed a resolution instructing the Commissioner of Labor to renegotiate the appropriate number of occupational safety and health compliance officers with OSHA. In June 1990 the State of North Carolina requested that the Assistant Secretary approve revisions to its 1984 compliance staffing benchmark levels which the State found to be more reflective of current occupational safety and health needs and circumstances within the State. This reassessment resulted in a proposal to OSHA of revised compliance staffing benchmarks of 64 safety and 50 health compliance officers for the State of North Carolina.

In September 1991, a catastrophic fire occurred at a poultry processing plant in North Carolina, resulting in the reinstitution of limited Federal concurrent jurisdiction and a special Federal evaluation of the State's occupational safety and health operations. Consideration of North Carolina's benchmarks revision was suspended during this time. Significant legislative and budgetary changes were made to the North Carolina State program and, for Fiscal Year 1995, the State authorized compliance staffing of 64 safety and 51 health inspectors. In late 1994, the North Carolina Department of Labor requested that the Assistant Secretary resume consideration of State's proposed revision of its benchmarks.

History of the Present Proceedings

On March 7, 1995, the Occupational Safety and Health Administration published notice in the Federal Register of its proposal to approve revised compliance staffing benchmarks for North Carolina (60 FR 12488). A detailed description of the methodology and State-specific information used to develop the revised compliance staffing levels for North Carolina was included in the notice. In addition, OSHA submitted, as a part of the record, detailed submissions containing both narrative explanation and supporting data for North Carolina's proposed revised benchmarks (Docket No. T–015A). A summary of the benchmark revision process is set forth in the January 16, 1985 Federal Register notice concerning the Wyoming State plan (50 FR 2491). An informational record was established in a separate docket (Docket No. T–018) and contained background information relevant to the benchmark issue and the current benchmark revision process.

To assist and encourage public participation in the benchmark revision process, a copy of North Carolina's complete record was maintained in the OSHA Docket Office in Washington, DC. Copies of North Carolina's record were also maintained in the OSHA Region IV Office in Atlanta, Georgia, and in the Office of the North Carolina Department of Labor, in Raleigh, North Carolina.

The March 7 proposal invited interested parties to submit, by April 11, 1995, written comments and views regarding whether North Carolina's proposed revised compliance staffing benchmark levels should be approved. Two comments were received regarding North Carolina's proposed benchmarks.

Summary and Evaluation of Comments Received

In response to the March 7 Federal Register notice for North Carolina, OSHA received one comment from Kae Livsey, Governmental Affairs Manager of the American Association of Occupational Health Nurses, Inc. (Exhibit 4–1), and one comment from Ruth Anne Smith, President, and Susan A. Randolph, Chair for Governmental Affairs, of the North Carolina Association of Occupational Health Nurses (Exhibit 4–2). Charles N. Jeffress, Deputy Commissioner of the North Carolina Department of Labor, responded to the public comments (Exhibit 4–3). Both comments recommended that the North Carolina program include occupational health nursing positions in determining revisions to the State's benchmark levels for compliance staffing and utilizing occupational health nurses to fill compliance and consultation positions.

In his response, Deputy Commissioner Jeffress agreed with the two comments that occupational health nurses are beneficial to a ''full service'' occupational safety and health program,'' and noted that the North Carolina Department of Labor has a long history of employing occupational health nurses to provide training and expert advice in compliance investigations. Mr. Jeffress also

explained that North Carolina program's proposed revised compliance staffing benchmarks apply specifically to personnel for the enforcement of occupational safety and health standards and that although an individual with an educational background in occupational health nursing would be eligible to apply for consideration for these positions, it would be inappropriate to reserve staffing positions for individuals with a particular occupational health degree.

Decision

OSHA has carefully reviewed the record developed during the above described proceedings. In light of all the facts presented on the record, including the absence of any objections from interested parties, the Assistant Secretary has determined that the revised compliance staffing levels proposed for North Carolina meet the requirements of the 1978 Court Order in *AFL–CIO* v. *Marshall* in providing the number of safety and health compliance officers for a ''fully effective'' enforcement program. Therefore, the revised compliance staffing levels of 64 safety and 50 health compliance officers for North Carolina are approved.

Effect of Decision

The approval of the revised staffing levels for North Carolina, set forth elsewhere in this notice, establishes the requirement for a sufficient number of adequately trained and qualified compliance personnel as set forth in Section 18(c) of the Act and 29 CFR 1902.37(b)(1). These benchmarks are established pursuant to the 1978 Court Order in *AFL–CIO* v. *Marshall* and define the compliance staffing levels necessary for a ''fully effective'' program in North Carolina. The allocation of sufficient staffing to meet the benchmarks is one of the conditions necessary for States to receive an 18(e) determination (final State plan approval) with its resultant relinquishment of concurrent Federal enforcement jurisdiction.

Explanation of Changes to 29 CFR Part 1952

29 CFR 1952 contains, for each State having an approved occupational safety and health plan, a subpart generally describing the plan and setting forth the Federal approval status of the plan. This notice makes several changes to Subpart I to reflect the approval of North Carolina's revised compliance staffing benchmarks, as well as to reflect minor editorial modifications to the structure of the Subpart.

Section 1952.393, Compliance staffing benchmarks, has been revised to reflect the approval of the revised benchmarks for North Carolina. In addition, the addresses of locations where the North Carolina plan may be inspected have been updated and are found at § 1952.156.

Regulatory Flexibility Act

OSHA certifies, pursuant to the Regulatory Act of 1980 (5 U.S.C. 601, et seq.), that this rulemaking will not have significant economic impact on a substantial number of small entities. Approval of the revised compliance staffing benchmarks for North Carolina will not place small employers in the State under any new or different requirements nor would any additional burden be placed upon the State government beyond the responsibilities already assumed as part of the approved plan.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (43 FR 35736))

Signed at Washington, DC, this 10th day of May 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

PART 1952—[AMENDED]

Accordingly, Subpart I of 29 CFR Part 1952 is amended as follows:

Subpart I—North Carolina

1. The authority citation for Part 1952 continues to read:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (43 FR 35736).

2. Section 1952.153 is revised to read as follows:

§ 1952.153 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall,* compliance staffing levels (''benchmarks'') necessary for a ''fully effective'' enforcement program were required for each State operating an approved State plan. In September 1984, North Carolina, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised benchmarks of 50 safety and 27 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on January 17, 1986. In June 1990, North Carolina reconsidered the information utilized in the initial revision of its 1980 benchmarks and determined that changes in local conditions and improved inspection data warranted further revision of its benchmarks to 64 safety inspectors and 50 industrial hygienists. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on June 4, 1996.

3. Section 1952.156 is revised to read as follows:

§ 1952.156 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations:

Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Room N3700, Washington, DC 20210;

Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 1375 Peachtree Street, NE., Suite 587, Atlanta, Georgia 30367; and

Office of the Commissioner, North Carolina Department of Labor, 319 Chapanoke Road, Raleigh, North Carolina 27603.

[FR Doc. 96–13913 Filed 6–3–96; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–96–023]

RIN 2115–AA97

Safety Zone: Empire State Regatta, Albany, New York

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Empire State Regatta on June 7, 1996, from 12:01 p.m. until 3 p.m., and on June 8, 1996, from 6 a.m. until 6 p.m. This safety zone will temporarily close the Hudson River at Albany, New York, from the Patroon Island Bridge to the Dunn Memorial Bridge. This safety zone is necessary to protect the maritime public from the hazards associated with crew shells racing in lanes and having limited maneuverability while underway.

EFFECTIVE DATE: This regulation is effective from 12:01 p.m. to 3 p.m. on