As soon as possible, the Graniteville Company shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the applications for a variance.

This interim order shall remain in effect until March 27, 1985, or until a decision is rendered on the applications for variance, whichever is the earlier.

Signed at Washington, D.C., this 20th day of August 1984.

Robert A. Rowland,

Assistant Secretary of Labor.

[FR Doc. 84-22545 Filed 8-23-84; 8:45 am]

BILLING CODE 4510-26-M

[V-84-4]

Temporary Variances From Final Trigger Level for Medical Removal Protection Under the Standard for Occupational Exposure to Lead

AGENCY: Occupational Safety and Health Administration, Labor.

ACTIONS: Notice of Applications for Temporary Variance and Interim Order; Grants of Interim Order; and Request for Comments.

SUMMARY: This notice announces the applications of 67 plants for a temporary variance and an interim order from the final trigger level for Medical Removal Protection (MRP) of the Standard for Occupational Exposure to Lead (29 CFR 1910.1025(k)). Of the total 67 plants, 65 were granted the interim order. However, recent blood lead data show that of the 65 remaining plants 32 are no longer in need of the relief. Therefore, OSHA is hereby terminating the interim orders granted to 32 plants. This notice announces the granting of the interim order to the remaining 33 plants and invites comments on the variance applications.

DATES: Of the 33 remaining plants, the interim order became effective for 21 on September 2, 1983 and for 5 on October 17, 1983. The Interim order will become effective for 7 additional plants on August 24, 1984. The last date for interested persons to submit comments on the variance applications is September 24, 1984. The date by which affected employers and employees must request a hearing is September 24, 1984.

ADDRESSES: Send written comments and requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3656, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, at the above address, telephone (202) 523-7193, or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036

U.S. Department of Labor—OSHA, 90 Church Street, Room 1405, New York, New York 10007

U.S. Department of Labor—OSHA, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104

U.S. Department of Labor—OSHA, Room 242, U.S. Custom House, Second and Chestnut Street, Philadelphia, Pennsylvania 19106

U.S. Department of Labor—OSHA, Penn Place, Room 2005, 20 North Pennsylvania Avenue, Wilkes-Barre, Pennsylvania 18701

U.S. Department of Labor—OSHA, Federal Building, Room 2236, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15522

U.S. Department of Labor—OSHA, Progress Plaza, 49 North Progress Avenue, Harrisburg, Pennsylvania 17109

U.S. Department of Labor—OSHA, Federal Building, Room 6226, 400 North 8th Street, Post Office Box 10186, Richmond, Virginia 23240

U.S. Department of Labor—OSHA, 850 N. 5th Street, Allentown, Pennsylvania 18102

U.S. Department of Labor—OSHA, 1375 Peachtree Street, NE., Suite 587, Atlanta, Georgia 30367

U.S. Department of Labor—OSHA, Building 10—Suite 33, La Vista Perimeter Office Park, Tucker, Georgia 30084

U.S. Department of Labor—OSHA, 1835 Assembly Street, Room 1468, Columbia, South Carolina 29201

U.S. Department of Labor—OSHA, Todd Mall, 2047 Canyon Road, Birmingham, Alabama 35216

U.S. Department of Labor—OSHA, 951 Government Street—Suite 502, Mobile, Alabama 36604

U.S. Department of Labor—OSHA, Federal Building, Room 302, 299 East Broward Boulevard, Fort Lauderdale, Florida 33301

U.S. Department of Labor, 700 Twiggs Street, Room 624, Tampa, Florida 33602

U.S. Department of Labor—OSHA, Federal Office Building, Room 406, 310 New Bern Avenue, Raleigh, North Carolina 27601

U.S. Department of Labor—OSHA, 32nd Floor, Room 3244, 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Department of Labor—OSHA, 1400 Torrence Avenue—2nd Floor, Calumet City, Illinois 60409

U.S. Department of Labor—OSHA, 6000 West Touhy Avenue, Niles, Illinois 60648

U.S. Department of Labor—OSHA, 344 Smoke Tree Business Park, North Aurora, Illinois 60542

U.S. Department of Labor—OSHA, Federal Office Building, Room 4028, 550 Main Street, Cincinnati, Ohio 45202

U.S. Department of Labor—OSHA, Federal Office Building, Room 899, 1240 East 9th Street, Cleveland, Ohio 44199

U.S. Department of Labor—OSHA, USPO & Courthouse, Room 422, 46 East Ohio Street, Indianapolis, Indiana 46204U.S. Department of Labor—OSHA, Henry S. Reuss Building, 310 West Wisconsin Avenue, Suite 1180, Milwaukee, Wisconsin 53203

U.S. Department of Labor—OSHA, 555 Griffin Square Building, Room 602, Dallas, Texas 75202

U.S. Department of Labor—OSHA, 1425 West Pioneer Drive,Irving, Texas 75061

U.S. Department of Labor—OSHA, Savers Building—Suite 828,320 West Capitol Avenue,Little Rock, Arkansas 72201

U.S. Department of Labor—OSHA, Hoover Annex, Suite 200, 2156 Wooddale Boulevard, Baton Rouge, Louisiana 70806

U.S. Department of Labor—OSHA, 911 Walnut Street, Room 406, Kansas City, Missouri 64106

U.S. Department of Labor—OSHA, 1150 Grand Avenue, 6th Floor, Room 606, Kansas City, Missouri 64106

SUPPLEMENTARY INFORMATION:

I. Background

Under the medical removal protection (MRP) provision of the lead standard, (29 CFR 1910.1025(k)), employers are required to remove an employee whose blood lead level is at or above the medical removal trigger level from work having an exposure to lead at or above the action level of 30 micrograms of lead per cubic meter of air (30 $\mu g/m^3$). The employee must be kept on temporary medical removal until the employee's blood lead level has declined to or below the return trigger. Employees are guaranteed full wages and benefits throughout the duration of the removal period to a maximum of eighteen months.

The purpose of the MRP provision is to provide temporary medical removal protection to workers who are at risk of sustaining material impairment to health from continuous exposure to lead. The standard specifies four medical removal

and three return trigger levels. These levels were phased in over a five-year period. Phase one required removal of employees having blood-lead levels at or above 80 micrograms of lead per 100 grams of whole blood (80 μg/100g) and allowed return when blood-lead levels decline to 60 micrograms of lead per 100 grams of whole blood (60 μg/100g). Phase two required removal at 70 μg/100g and permitted return at 50 μg/100g. Phase three requires removal at 60 μg/100g and authorizes return at 40 μg/100g. The fourth and final phase requires removal at 50 μg/100g and allows return at 40 μg/100g.

The first three medical removal triggers—the 80, 70, and 60 μg/100g triggers—would require removal of an employee after periodic and followup blood sample tests indicate that the employee's blood lead is at or above the specified trigger. The fourth removal trigger, however, requires the removal of an employee whenever the average of the last three blood tests or the average of all blood tests taken over the previous six months, whichever is longer, is at or above 50 μg/100g. An employee need not be removed under the terms of the 50 μg/100g trigger whenever the employee's last blood test results indicate a blood lead level of 40 μg/100g or below.

At present and for the indefinite future, the 60 and 50 μg/100g removal triggers are concurrently in effect. Thus, an employee must be removed when the employee's blood-lead test results average 50 μg/100g or when the employee's blood-lead level is confirmed by a follow-up sample to be 60 μg/100g or over.

Prior to the March 1981 effective date of the 60/40 MRP triggers, the primary and secondary lead smelters and lead battery manufacturers petitioned the Agency for industry-wide stays. The petitions were based upon assertions that the companies would be unable to comply with the MRP provision because of the anticipated removal and resulting unavailability of so many key employees affected by the 60/40 μg/100g MRP triggers. The petitions were denied because the data submitted by these industries did not demonstrate a need for an industry-wide stay of the MRP trigger (46 FR 24558 and 46 FR 37891). However, OSHA did find that, on a plant-by-plant basis, there were some feasibility problems. Therefore, on July 23 and 24, 1981 (46 FR 37891 and 46 FR 38074), OSHA announced that the temporary variance and interim order mechanism, set forth in section 6(b)(6)(A) of the OSH Act and covered by regulations in 29 CFR Part 1905, would be used to afford relief to lead smelting and battery companies on a plant-by-plant basis.

The July 23 and 24, 1981 Federal Register notice (46 FR 37891 and 46 FR 38074) gave the affected plants until August 31, 1981 to demonstrate that 10 percent or more of their total lead-exposed supervisory, maintenance and skilled employees would be subjected to temporary removal because of blood lead levels between 60–70 μg/100g, or, for any plant below the 10 percent figure, to show by compelling evidence that the relief was needed. Eligible employers were required to submit to OSHA an application for a temporary variance and an interim order, written acceptance of the terms of the interim order, certification of notice to the affected employees and certain data to support their application.

Seventy applications for a temporary variance and an interim order were received. Of the 70 plants requesting this relief, 45 were granted the interim order (46 FR 48654, October 2, 1981; 47 FR 8431, February 26, 1982; and 47 FR 16434, April 16, 1982), which remained in effect until OSHA rendered a decision on the applications for temporary variance.

The variance record demonstrated that immediate compliance with the 60/40 μg/100g MRP removal and return trigger levels presented major feasibility problems for the 45 plants in four main areas: (1) The plants would have to remove 10 percent to 66 percent of their total skilled workforce from lead exposure; (2) experienced employees who would be removed could not easily be replaced because employers would be unable to recruit other employees with the levels of skills necessary to perform these highly skilled positions or to quickly train replacements; (3) removal of highly skilled and experienced employees would diminish the health and safety of the remaining employees at the affected plants, with a resulting increased probability of work-related injuries, illnesses, and deaths; and (4) sufficient transfer opportunities did not exist for removed employees to be transferred to other jobs in the affected plants, and extensive medical removal layoffs would result in greatly increased MRP costs. Based on the above, OSHA concluded that the 45 plants had demonstrated that immediate compliance with 60/40 μg/100g MRP removal and return trigger levels was infeasible. Each, therefore, merited a temporary variance, which was granted on January 28, 1983 (48 FR 4062), effective until February 28, 1983.

The order temporarily relieved the affected employers of the requirement to comply with the 60 μg/100g removal and 40 μg/100g return trigger levels. As conditions of the relief, the employers were obligated to comply with the 70/50 μg/100g triggers, the other conditions and requirements of the order, and with all other provisions of the lead standard. The order also required increased medical surveillance and additional safeguards to protect the health of affected employees.

On March 1, 1983, the 50 μg/100g MRP removal trigger level became effective. Based on the data that had been submitted in support of the requests for temporary variance from the 60/40 μg/100g MRP trigger levels, the lead rulemaking record (OSHA Docket No. H–004), the judicial history of the lead standard and surveys of lead industries, OSHA recognized that this trigger was likely to pose feasibility problems for many companies.

One-hundred and twenty-five plants sought relief from the 50 μg/100g removal trigger. Of that number, only 67 were considered appropriate for relief by OSHA at this time. They submitted applications for a temporary variance and an interim order with supporting data indicating that 10 percent or more of their total skilled lead exposed employees would require removal because their blood lead levels exceed the 50 μg/100g trigger. Based on that data, OSHA decided to grant the interim order to 65 of the 67 plants, since two plants (General Battery's Dallas smelter and Indiana battery plants) no longer needed this relief. Of the 65, the interim order is being granted to 7 plants today. The remaining 58 plants were granted the interim order by letter. The interim order became effective for 48 plants on September 2, 1983, for one plant on September 20, 1983, and for nine plants on October 17, 1983. However, of the 58 plants, 32 no longer need the relief: two plants have closed; 19 no longer qualify; and recent blood lead data indicate that 11 plants are now in compliance with the standard. Therefore, OSHA is hereby terminating the relief to the following plants who earlier were granted interim orders:

Amax Lead Company of Missouri, Boss, Missouri 65440

Associated Lead, 85 Jay Street, Brooklyn, New York 11201

Bulldog Battery Corporation, 1000 Airport Road, Terrell, Texas 75160

C & D Batteries, 1835 Rockdale Industrial Boulevard, Conyers, Georgia 30207

C & D Batteries, Washington and Cherry Streets, Conshohocken, Pennsylvania 19428

C & D Batteries, 82 East Main Street, Leola, Pennsylvania 17540
Canton Metal Alloys Company, 1551 Belden Avenue, S.E., Canton, Ohio 44701
East Penn Manufacturing Company (Secondary Smelter), Deka Road, Lyon Station, Pennsylvania 19536
East Penn Manufacturing Company (Battery Plant), Deka Road, Lyon Station, Pennsylvania 19536
Fry Metals, Inc. [illegible]

States with approved occupational safety and health plans, and 12 are not being granted relief at this time. Four of the remaining 5 plants submitted applications in error, and one has been withdrawn.

Thirty-three plants also requested relief from the 40 μg/100g return trigger. These plants claim that the 40 return trigger is infeasible because the length [illegible] required for blood lead levels to [illegible] below 40 is longer than [illegible]ed by OSHA. Their concerns [illegible]ticularly on long-tenured [illegible]s. Based on the evidence to [illegible]ever, OSHA concludes that [illegible]re insufficient to support the [illegible] feasibility. Thus, OSHA [illegible]requests for relief from the 40 [illegible]urn trigger. This issue is [illegible] addressed in the [illegible] proposal to revise the lead

[illegible]porary variance requests [illegible]ployer at multiple [illegible]uding one or more in a [illegible]pproved occupational [illegible]th plan, the interim order [illegible]r the Federal/State [illegible]eement established at 29 [illegible]). Thus, each of the [illegible]e authorities having [illegible] the place of [illegible]red in the application [illegible]granting of this interim

[illegible]r grants temporary [illegible] from the requirement [illegible]50 μg/100g removal [illegible]ployers must [illegible]with the 60 μg/100g [illegible]ll other provisions [illegible]nd must satisfy [illegible]quirements of the

[illegible]esses of each [illegible]he grant of [illegible]lows:

[illegible]735 Forsyth [illegible]issouri 63105

[illegible] Smelters

Franklin Smelting & Refining Corporation, Castor Avenue East of Richmond Street, Philadelphia, Pennsylvania 19134
GNB Batteries, Inc., South 5th Street, Frisco, Texas 75034
General Battery Corporation, Spring Valley Road, Reading, Pennsylvania 19603
Gulf Coast Lead Company, 1910 N. 66th Street, Tampa, Florida 33619
ILCO, Inc., Dunnanant Road, Leeds, Alabama 35094
Inland Metals Refining Company, 651 East 119th Street, Chicago, Illinois 60628
Master Metals, Inc., 2850 West 3rd Street, Cleveland, Ohio 44113
Non-Ferrous Processing Corporation, 551 Stewart Avenue, Brooklyn, New York 11222
Sanders Lead Company, Inc., Henderson Road, Troy, Alabama 36081
Seitzinger, Inc., 900 Ashby Street, NW., Atlanta, Georgia 30318
Tonolli Corporation, R. D. #1, Route 54, Nesquehoning, Pennsylvania 18204

Battery Manufacturers

Abex Corporation, Bronze and Alloy Division, Route 19 (Baldwin Street Extension), Meadville, Pennsylvania 16335
Battery Manufacturing Company, Inc., 804 South Dixie, West Palm Beach, Florida 33401
Exide Corporation, 303 Water Street, Logansport, Indiana 46947
Exide Corporation, 2510 North Boulevard, Raleigh, North Carolina 27604
Exide Corporation, 2001 Lee High Street, Allentown, Pennsylvania, 18103
Exide Corporation, U.S. Highway 15, Sumter, South Carolina 29150
Exide Corporation, 1222 18th Street, Racine, Wisconsin 53403
GNB Batteries Inc., 11331 Satellite Boulevard, Orlando, Florida 32809
GNB Batteries Inc., West Station Road, Kankakee, Illinois 60901
GNB Batteries Inc., 2800 Carroll Avenue, Lynchburg, Virginia 24506
General Battery Corporation, 250 Grand Street, Hamburg, Pennsylvania 19526
General Battery Corporation, Spring Valley Road, Reading, Pennsylvania 19603
K W Battery Company, 3555 Howard Street, Skokie, Illinois 60076
Miami Battery Manufacturing Company, 11100 N. W. South River Drive, Miami, Florida 33178
New Castle Battery Manufacturing Company, 3601 Wimington Road, New Castle, Pennsylvania 16105
Prestolite Battery Division, 4700 Fifth Street Highway, Temple, Pennsylvania 19603
Red Diamond Battery Company, Route 6, Box 328, Garland County Industrial Park, Hot Springs, Arkansas 71901

Other Industries

[illegible] Cyanamid Company, 4500 West Fifteenth Street, Chicago, Illinois 60623
Associated Lead, Inc., 2545 Aramingo Avenue, Philadelphia, Pennsylvania 19125
Eagle-Picher Industries, Inc., Post Office Box 550, Joplin, Missouri 64802
Hamilton Brass & Aluminum Casting Company, Eighth and Chestnut Streets, Hamilton, Ohio 45011

[illegible] Rouge, Louisiana 70897-3916
Schuylkill Metals Corporation, Cannon Hollow Road, Forest City, Missouri 64451
Standard Industries, Nelson Road at Reliable Drive, San Antonio, Texas 78227
Taracorp Industries, 16th and Cleveland Boulevard, Granite City, Illinois 62040

Of the remainder of the 125 plants which had sought relief, 28 failed to submit sufficient data to establish need, 13 were referred to the appropriate

II. Notice of Application for Temporary Variance and Interim Order

Notice is hereby given that 67 primary and secondary lead smelters, lead battery manufacturers, and facilities in other segments of the lead industry submitted appropriate applications pursuant to section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655), 29 CFR 1905.10 and the Secretary of Labor's Order No. 9–83 (48 FR 35736) for a temporary variance and an interim order, pending a decision on the variance, from 29 CFR 1910.1025(k)(1)(i)(D), the 50 ug/100g medical removal protection (MRP) trigger of the lead standard. Subsequently, the interim order was granted to 58 of the 67 plants, by letter. However, thirty-two of the 58 now no longer need relief. Of the nine remaining plants 7 will be granted the interim order today, and 2 plants no longer needed this relief. Thus, 33 plants will continue to have interim relief for the 50 ug/100g removal trigger.

This trigger requires an employer to remove an employee from work where lead exposure is at or above 30 ug/m³ action level whenever the average of the employee's last three blood sample tests or of all tests conducted over the previous six months, whichever is longer, is at or above 50 ug/100g. However, the employee need not be removed if the employee's last blood test is at or below 40 ug/100g.

The requests for temporary variance are based upon the employers' alleged inability to comply with the standard because of the anticipated removal and consequent unavailability of certain employees if the 50 removal and 40 return triggers for MRP were put into effect. Essentially, the applicants made the following three-pronged feasibility argument:

(1) The removal trigger would require for the first time, the removal of many supervisory, maintenance and highly skilled employees whose blood-lead levels are between 50–59 μg/100g.

(2) The removal of the supervisory, maintenance and highly skilled employees would be prolonged beyond OSHA's original expectation in order for their blood-lead levels to drop to the 40 μg/100g return level.

(3) Since these employees are highly paid, occupy crucial positions and are extremely difficult to replace, placing them on MRP not only would be costly, but also would drastically reduce productivity and result in a less safe and healthful workplace.

The employers have submitted data to establish their need for this relief. Submissions by each employer include: individual employee blood lead and air lead levels; documentation of safety and health programs presently administered and enforced at the plant, e.g., respirator and work practice programs; engineering improvements anticipated for implementation in the next 18 months; projections for MRP removal period; estimated costs; and specific analyses of any adverse safety and health consequences of removing supervisors, maintenance and skilled employees who have blood lead levels between 50–59 μg/100g.

An analysis of the blood lead data from September 1, 1982 to March 1, 1983 indicate that the plants receiving relief appear to have severe problems in coming into compliance with the 50 trigger. For the 67 plants that originally required relief, the numbers alone suggest the severity of the problem. The anticipated removals range from a high of approximately 100 percent of all lead exposed supervisory, maintenance and skilled employees to a low of approximately 10 percent. Hamilton Brass and Aluminum Company, with the highest blood lead levels, would have to remove approximately 100 percent of its total skilled workforce. Other plants on the high side include: Miami Battery (86 percent); Steitzinger, (72 percent); Non-Ferrous (71 percent); ILCO, Inc. (70 percent); Eagle-Picher (63 percent); GNB's Frisco smelter and Standard Industries (49 percent); Red Diamond (47 percent); Inland Metals (40 percent). Among the companies having the lowest blood lead levels, approximately 10 percent, are: New Castle and GNB's Reading battery plant.

The employers certify that employees who would be affected by the variance have been notified of the applications by the employer providing copies to the employees' authorized representatives and posting copies at all places where notices to employees are normally posted. The employers also certify that employees have been informed of their right to petition the Assistant Secretary for a hearing. The employers further certify that they accept the conditions and requirements of the interim order, which was forwarded to them by OSHA prior to granting this relief.

The interim order temporarily relieves the affected employers of the requirement to comply with the 50 μg/100g removal trigger level under the lead standard. As a condition of the interim relief, employers must continue to comply with the 60/40 μg/100g triggers and all other provisions of the standard, and must satisfy the special conditions and requirements of the order.

III. Summary and Explanation of the Interim Order Requirements

The primary purpose of the requirements contained in the interim order is to provide significantly increased protection to supervisory, maintenance and skilled employees with elevated blood lead levels between 50–59 μg/100g who, because of this variance, need not be removed from their jobs. In the absence of this relief the employer would have to remove such employees in compliance with the 50 μg/100g removal trigger. Because the order temporarily denies the affected employees that particular form of protection, OSHA, in fulfillment of its statutory obligations under section 6(b)(6)(A) of the Act, mandates further safeguards in order to protect the safety and health of the affected employees from the hazards of lead exposure.

The following is a discussion of the individual requirements of the variance order, including OSHA's rationale for each specific provision.

(1) Paragraph 1 requires that the employers perform blood lead and ZPP testing bi-monthly on all employees with blood leads over 40 μg/100g who are exposed to lead above the 30 μg/m³ action level. This requirement imposes no additional burden upon employers. Section 1910.1025(j)(2) of the lead standard presently requires such monitoring.

(2) Paragraph 2 requires that the employer provide for a consultation with a physician every 2 months and a comprehensive medical examination every 6 months (or sooner, at the discretion of the consulting or examining physician) for employees with blood lead averages between 50–59 μg/100g who are not removed because of this order. By contrast the lead standard requires medical examinations and consultations annually for any employee whose blood lead level during the preceding 12 months is at or above 40 μg/100g (§ 1910.1025(j)(3)).

(3) Paragraph 3 requires a written medical opinion by the physician as to whether the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead. Section 1910.1025(k)(1)(iii) of the lead standard already requires removal of an employee from lead exposure at or above 30 μg/m³ on each occasion when a final medical determination indicates that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead. To more fully implement the

II. Notice of Application for Temporary Variance and Interim Order

Notice is hereby given that 67 primary and secondary lead smelters, lead battery manufacturers, and facilities in other segments of the lead industry submitted appropriate applications pursuant to section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655), 29 CFR 1905.10 and the Secretary of Labor's Order No. 9–83 (48 FR 35736) for a temporary variance and an interim order, pending a decision on the variance, from 29 CFR 1910.1025(k)(1)(i)(D), the 50 ug/100g medical removal protection (MRP) trigger of the lead standard. Subsequently, the interim order was granted to 58 of the 67 plants, by letter. However, thirty-two of the 58 now no longer need relief. Of the nine remaining plants 7 will be granted the interim order today, and 2 plants no longer needed this relief. Thus, 33 plants will continue to have interim relief for the 50 ug/100g removal trigger.

This trigger requires an employer to remove an employee from work where lead exposure is at or above 30 ug/m³ action level whenever the average of the employee's last three blood sample tests or of all tests conducted over the previous six months, whichever is longer, is at or above 50 ug/100g. However, the employee need not be removed if the employee's last blood test is at or below 40 ug/100g.

The requests for temporary variance are based upon the employers' alleged inability to comply with the standard because of the anticipated removal and consequent unavailability of certain employees if the 50 removal and 40 return triggers for MRP were put into effect. Essentially, the applicants made the following three-pronged feasibility argument:

(1) The removal trigger would require for the first time, the removal of many supervisory, maintenance and highly skilled employees whose blood-lead levels are between 50–59 μg/100g.

(2) The removal of the supervisory, maintenance and highly skilled employees would be prolonged beyond OSHA's original expectation in order for their blood-lead levels to drop to the 40 μg/100g return level.

(3) Since these employees are highly paid, occupy crucial positions and are extremely difficult to replace, placing them on MRP not only would be costly, but also would drastically reduce productivity and result in a less safe and healthful workplace.

The employers have submitted data to establish their need for this relief. Submissions by each employer include: individual employee blood lead and air lead levels; documentation of safety and health programs presently administered and enforced at the plant, e.g., respirator and work practice programs; engineering improvements anticipated for implementation in the next 18 months; projections for MRP removal period; estimated costs; and specific analyses of any adverse safety and health consequences of removing supervisors, maintenance and skilled employees who have blood lead levels between 50–59 μg/100g.

An analysis of the blood lead data from September 1, 1982 to March 1, 1983 indicate that the plants receiving relief appear to have severe problems in coming into compliance with the 50 trigger. For the 67 plants that originally required relief, the numbers alone suggest the severity of the problem. The anticipated removals range from a high of approximately 100 percent of all lead exposed supervisory, maintenance and skilled employees to a low of approximately 10 percent. Hamilton Brass and Aluminum Company, with the highest blood lead levels, would have to remove approximately 100 percent of its total skilled workforce. Other plants on the high side include: Miami Battery (86 percent); Steitzinger, (72 percent); Non-Ferrous (71 percent); ILCO, Inc. (70 percent); Eagle-Picher (63 percent); GNB's Frisco smelter and Standard Industries (49 percent); Red Diamond (47 percent); Inland Metals (40 percent). Among the companies having the lowest blood lead levels, approximately 10 percent, are: New Castle and GNB's Reading battery plant.

The employers certify that employees who would be affected by the variance have been notified of the applications by the employer providing copies to the employees' authorized representatives and posting copies at all places where notices to employees are normally posted. The employers also certify that employees have been informed of their right to petition the Assistant Secretary for a hearing. The employers further certify that they accept the conditions and requirements of the interim order, which was forwarded to them by OSHA prior to granting this relief.

The interim order temporarily relieves the affected employers of the requirement to comply with the 50 μg/100g removal trigger level under the lead standard. As a condition of the interim relief, employers must continue to comply with the 60/40 μg/100g triggers and all other provisions of the standard, and must satisfy the special conditions and requirements of the order.

III. Summary and Explanation of the Interim Order Requirements

The primary purpose of the requirements contained in the interim order is to provide significantly increased protection to supervisory, maintenance and skilled employees with elevated blood lead levels between 50–59 μg/100g who, because of this variance, need not be removed from their jobs. In the absence of this relief the employer would have to remove such employees in compliance with the 50 μg/100g removal trigger. Because the order temporarily denies the affected employees that particular form of protection, OSHA, in fulfillment of its statutory obligations under section 6(b)(6)(A) of the Act, mandates further safeguards in order to protect the safety and health of the affected employees from the hazards of lead exposure.

The following is a discussion of the individual requirements of the variance order, including OSHA's rationale for each specific provision.

(1) Paragraph 1 requires that the employers perform blood lead and ZPP testing bi-monthly on all employees with blood leads over 40 μg/100g who are exposed to lead above the 30 μg/m³ action level. This requirement imposes no additional burden upon employers. Section 1910.1025(j)(2) of the lead standard presently requires such monitoring.

(2) Paragraph 2 requires that the employer provide for a consultation with a physician every 2 months and a comprehensive medical examination every 6 months (or sooner, at the discretion of the consulting or examining physician) for employees with blood lead averages between 50–59 μg/100g who are not removed because of this order. By contrast the lead standard requires medical examinations and consultations annually for any employee whose blood lead level during the preceding 12 months is at or above 40 μg/100g (§ 1910.1025(j)(3)).

(3) Paragraph 3 requires a written medical opinion by the physician as to whether the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead. Section 1910.1025(k)(1)(ii) of the lead standard already requires removal of an employee from lead exposure at or above 30 μg/m³ on each occasion when a final medical determination indicates that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead. To more fully implement the

preventive aspects of the medical consultations and examinations required by this order. OSHA is requiring the physician's written medical opinion after each visit. This paragraph also requires the employer to submit to OSHA after each consultation and medical examination a written statement from the physician concerning each affected employee who need not be moved from his or her job, stating that it is medically appropriate for the employee to continue to work at his or her present job. This requirement will enable OSHA to monitor compliance with this provision.

Paragraph 4 requires the employer to remove an employee with blood leads at 60 μg/100g or above to areas where lead exposure is below 30 μg/m³, and allows the employer to return the employee when the blood lead level has diminished to 40 μg/100g or below. This is already required by the lead standard (Paragraphs (k)(1)(i)(C) and (k)(1)(iii)(A)(3)).

Paragraph 5 requires that the employer provide OSHA with the name, job classification, and position of each employee who is subject to MRP as a result of either a blood lead level at or above 60 μg/100g or the recommendation of the examining physician. Requiring this data will enable OSHA to confirm employer compliance with the applicable removal provisions of the lead standard.

Paragraph 6 requires full-shift respirator usage for employees with blood lead levels at or above 50 μg/100g who are working in areas with air lead levels at or above 30 μg/m³, and who, because of this order, are not removed. OSHA has concluded that requiring full-shift respirator usage at or above the 30 μg/m³ action level, in lieu of the more limited respirator usage at or above the 50 μg/m³ permissible exposure limit required by § 1910.1025(e)(2) of the lead standard, will provide increased protection to these employees.

Paragraph 7 requires that the employer make an immediate inspection and evaluation of the work conditions and practices of employees with blood lead levels between 50–59 μg/100g who need not be removed under this order, and take all reasonable and appropriate corrective steps necessary to reduce employee lead absorption. This paragraph also requires the employer to make periodic inspections and evaluations of the work conditions and practices until the affected employees blood lead levels are below 50 μg/100g.

Paragraph 8 requires that the employer provide OSHA with blood lead, ZPP, and air lead data as accumulated bi-monthly for all skilled employees. OSHA has concluded that the data will assist in determining the applicant's compliance with the lead standard and terms of the variance order.

Paragraph 9 requires that the employer agree to OSHA (or, where relevant, State) health and safety inspections related to its temporary variance. OSHA, in granting this relief, must be assured that it can readily monitor compliance with the requirements of the order.

IV. Grants of Interim Order

It appears from the applications and supporting data that temporary variances are likely to be granted to the above listed 33 plants. The interim order is necessary to prevent undue hardship to the employers and their employees pending decision on the variance. Therefore, it is ordered, pursuant to the authority in section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970, in the Secretary of Labor's Order No 9–83 (48 FR 35736), and in 29 CFR Part 1905, that the 33 plants listed above are hereby authorized to comply with the requirements of the interim order set forth below, with respect to their lead exposed supervisory, maintenance and skilled employees, in lieu of complying with 29 CFR 1910.1025(k)(1)(i)(D). All other provisions of the lead standard are unaffected by this order and therefore must be complied with in conjunction with the terms of this order.

The conditions and requirements of the interim order are enumerated below:

(1) As presently required by 29 CFR 1910.1025(j)(2) of the lead standard, employers shall perform blood lead and zinc protoporphyrin (ZPP) tests every two months on each employee whose last blood test indicated a blood lead level at or above 40 μg/100g and who is exposed to lead above the 30 μg/m³ action level.

(2) For employees whose last three blood tests or all blood tests for the previous six months (whichever is longer) average 50 μg/100g or above who work in jobs having airborne lead exposure at or above 30 μg/m³ and who need not be removed because of this order, the employer shall provide:

(a) A personal consultation with a licensed physician every two months; and,

(b) A comprehensive medical examination by a licensed physician every six months, or sooner, as determined by a physician.

(3) After each personal consultation and comprehensive medical examination, the physician shall make a written medical determination as to whether the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(a) If the employee is determined to have such a condition, the employee shall be removed from work having an exposure to lead at or above 30 μg/m³; or,

(b) If the employee is determined not to have such a condition, the employer shall submit to the Office of Variance Determination a written statement from the physician stating that it is medically appropriate for the employee to continue to work at the employee's present job.

(4) Employers shall remove each employee with blood lead levels at or about 60 μg/100g and return the employee when the employee's blood lead level is at or below 40 μg/100g in accordance with the provisions of §§ 1910.1025(k)(1)(i)(C) and 1910.1025(k)(1)(iii)(A)(3) of the lead standard.

(5) The name and job classification of each employee on MRP and the area where the employee is assigned shall be submitted to the Office of Variance Determination each time an affected employee is placed on medical removal protection as a result of either a blood lead level at or above 60 μg/100g or the recommendation of a physician.

(6) For employees with blood lead levels at or above 50 μg/100g who are working in areas with air-lead levels at or above 30 μg/m³, respirator usage shall be mandatory during the entire workshift.

(7) For all employees with blood lead levels between 50–59 μγ/100g, who need not be removed under the terms of the order, the employer shall make immediate inspections and evaluations of:

(a) The lead-related work practices affecting the employees;

(b) The employee's respirator usage;

(c) The use and availability of hygiene facilities, and the employee's relevant personal hygiene habits; and,

(d) The existing engineering controls, to determine whether they are maintained properly to ensure that such controls do not have an adverse effect on the employee.

Based on that inspection and evaluation, the employer shall take all reasonable and appropriate corrective steps in these regards to reduce the employee's absorption of lead. The employer shall submit to the Office of Variance Determination a written report (within 45 days after the effective date of this order) documenting when and where the evaluation took place, any corrective actions that were necessary,

and the name and job classification of the affected employee. Periodic inspections and evaluations shall be conducted until the employee's blood lead level is below 50 μg/100g.

(8) For the duration of the interim order, the employer shall submit to the Office of Variance Determination every two months blood lead, ZPP, and air lead data as accumulated for all skilled employees.

(9) The employer shall agree to allow OSHA or, where relevant, State safety and health officials to inspect its facility in connection with this variance application and this interim order.

EFFECTIVE DATE: This order became effective for the following 21 plants on September 2, 1983:

American Cyanamid Company
Associated Lead, Inc. (Philadelphia, PA plant)
Battery Manufacturing Company, Inc.
Eagle-Picher Industries, Inc.
Exide Corporation (2 plants)
  Allentown, PA plant
  Sumter, SC plant
Franklin Smelting and Refining Corporation
GNB Batteries Inc. (4 plants)
  Orlando, FL plant
  Kankakee, IL plant
  Frisco, Texas—Secondary Smelter
  Lynchburg, VA plant
General Battery Corporation (3 plants)
  Hamburg, PA plant
  Reading, PA—Secondary Smelter
  Reading, PA—Battery Manufacturing plant
Gulf Coast Lead Company
Hamilton Brass & Aluminum Casting Company
Master Metals
New Castle Battery Manufacturing Company
Seitzinger, Inc.
St. Joe Lead Company
Tonolli Corporation

This order became effective for the following 5 plants on October 17, 1983.

Exide Corporation (3 Plants)
  Logansport, IN plant
  Raleigh, NC plant
  Racine, WI plant
ILCO, Inc.
K W Battery Corporation

This order shall become effective for the following 7 plants on August 24, 1984.

Abex Corporation
Inland Metals, Inc.
Miami Battery Manufacturing Company
Non-Ferrous Processing Corporation
Prestolite Battery Division
Red Diamond Battery Company
Sanders Lead Company

The above 33 plants shall give notice of this grant of interim order to all affected employees by the same means required to be used to inform them of the application for variance.

The Assistant Secretary may revoke this order at any time if the employer does not comply with any requirement of the order or the relevant standards, or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remain in effect until a decision is made on the applications for variance.

Copies of the applications for variance will be made available for inspection and copying upon request at the locations listed above. All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the applications for variance are invited to submit written data, views, and arguments relating to the applications no later than September 24, 1984. In addition, employers and employees who believe they would be adversely affected by the grant or denial of the variance may request a hearing on the application no later than September 24, 1984, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and request for a hearing should be in quadruplicate and must be addressed to the Office of Variance Determination at the above address.

Signed at Washington, D.C. this 20th day of August, 1984.

Robert A. Rowland,

Assistant Secretary of Labor.

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NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (41 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on September 6–8, 1984, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the Federal Register on July 26, 1984.

The agenda for the subject meeting will be as follows:

Thursday, September 6, 1984

8:30 a.m.–8:45 a.m.: ACRS Chairman's Report (Open)—The Chairman will briefly report on items of current interest.

8:45 a.m.–10:45 a.m.: USNRC Backfitting Requirements (Open)—The members will hear and discuss reports of its Subcommittee and representatives of the NRC Staff regarding the proposed final NRC Program for Mangement of Plant-Specific Backfitting of Operating Power Plants (NRC Manual Chapter 0514).

10:45 a.m.–12:30 p.m.: Consideration of Class 9 Accidents (Open)—The members will discuss proposed comments regarding the severity and frequency of severe nuclear power plant accidents.

1:30 p.m.–3:30 p.m.: Categorization of Generic and Licensing Issues Regarding Their Application to Standardized Nuclear Plants (Open)—The members will hear and discuss reports from its Subcommittee and representatives of the NRC Staff regarding proposed categorization of generic and licensing issues as applied to standardized nuclear plants.

3:30 p.m.–4:30 p.m.: Recent Operating Experience (Open)—The members will hear reports from members of the NRC Staff regarding recent events and occurrences at nuclear power plants.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being discussed.

4:30 p.m.–5:30 p.m.: ACRS Subcommittee Report (Open)—The members will hear and discuss the report of its Subcommittee regarding consideration of an independent board to investigate/evaluate nuclear power plant incidents/accidents.

5:30 p.m.–6:00 p.m.: Future ACRS Activities (Open)—The members will discuss anticipated ACRS Subcommittee activities and proposed items for consideration by the full Committee.

Friday, September 7, 1984

8:30 a.m.–9:39 a.m.: Meeting with NRC Executive Director for Operations (Open)—Discuss items of mutual interest.

9:30 a.m.–12:30 p.m. and 1:30 p.m.–3:30 p.m.: Millstone Nuclear Power Station, Unit 3 (Open)—The members will hear and discuss reports of its Subcommittee, members of the NRC Staff, and representatives of the applicant regarding the request for an Operating License for this facility.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this plant and information which involves detailed security arragements for this station.

3:30 p.m.–5:00 p.m.: Selection of New Unresolved Safety Issues (Open)—The members will hear and discuss reports of designated ACRS Subcommittees and representatives of the NRC Staff