



Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia
 Request for Quotation
 13 - Equipment

Proc Folder: 95330

Doc Description: CLASS 131 - 2 WHEEL DRIVE TRACTOR

Proc Type: Central Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version
2015-04-22	2015-05-27 13:30:00	CRFQ 0803 DOT1500000092	1

BID RECEIVING LOCATION

BID CLERK
 DEPARTMENT OF ADMINISTRATION
 PURCHASING DIVISION
 2019 WASHINGTON ST E
 CHARLESTON WV 25305
 US

VENDOR

Vendor Name, Address and Telephone Number:

J.S.C. Enterprises Inc.
 2809 Charleston Rd.
 Spencer WV, 25276
 304-927-4822

06/02/15 10:23:23
 WV Purchasing Division

FOR INFORMATION CONTACT THE BUYER

Crystal Rink
 (304) 558-2402
 crystal.g.rink@wv.gov

Signature X

FEIN #

20-8836925

DATE

6/1/15

All offers subject to all terms and conditions contained in this solicitation

INVOICE TO		SHIP TO	
DIVISION OF HIGHWAYS EQUIPMENT DIVISION RT 33 83 BRUSHY FORK RD CROSSING BUCKHANNON WV26201 US		DIVISION OF HIGHWAYS EQUIPMENT DIVISION 33 BRUSHY FORK RD CROSSING BUCKHANNON WV 26201 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	CLASS 131-2 WHEEL DRIVE TRACTOR	80.00000	EA		

Comm Code	Manufacturer	Specification	Model #
21100000	<i>Cannot Meet Tractor / Mower Specifications</i>		

Extended Description :

CLASS 131 - 2 WHEEL DRIVE TRACTOR WITH MID MOUNTED ARTICULATED BOOM MOWER AND 60" SIDE MOUNTED ROTARY GRASS DECK

DOT1500000092	Document Phase Final	Document Description CLASS 131 - 2 WHEEL DRIVE TRAC TOR	Page 3 of 3
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ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

CERTIFICATION AND SIGNATURE PAGE

By signing below, or submitting documentation through wvOASIS, I certify that I have reviewed this Solicitation in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

J.S.C. Enterprises Inc.
(Company)


(Authorized Signature) (Representative Name, Title)

304 927-4822 304-927-4823 6/1/15
(Phone Number) (Fax Number) (Date)

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ DOT1500000092

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:
(Check the box next to each addendum received)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input checked="" type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

J.S.C. Enterprises Inc.

Company



Authorized Signature

6/1/15

Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.

REQUEST FOR QUOTATION
**2 WHEEL DRIVE TRACTOR W/MID MOUNTED ARTICULATED
BOOM MOWER AND 60" SIDE MOUNTED ROTARY GRASS DECK**

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids On behalf of the West Virginia Division of Highways, Department of Transportation to establish an open-end contract for a Two (2) Wheel Drive Utility Tractor with Mid Mounted Articulated Boom Mower and 60" Side Mounted Rotary Grass Deck.

2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
 - 2.1 **"Contract Item" or "Contract Items"** means the list of items identified in Section 3, Subsection 1 below.

 - 2.2 **"Pricing Pages"** means the schedule of prices, estimated order quantity, and totals contained in wvOASIS or attached hereto as Exhibit A, and used to evaluate the Solicitation responses.

 - 2.3 **"Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

 - 2.4 **"WVDOH"** means West Virginia Division of Highways.

 - 2.5 **"EPA"** means Environmental Protection Agency.

 - 2.6 **"PTO"** means Power Take Off.

 - 2.7 **"OSHA"** means Occupational Safety and Health Act.

 - 2.8 **"MPH"** means miles per hour.

 - 2.9 **"GPM"** means gallons per minute.

 - 2.10 **"PSI"** means pounds per square inch.

 - 2.11 **"ROPS"** means Roll-over Protection Structures.

 - 2.13 **"RPM"** means Revolutions per minute.

 - 2.14 **"CCA"** means cold cranking amps.

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3. GENERAL REQUIREMENTS:

3.1 Contract Items and Mandatory Requirements: Vendor shall provide Agency with the Contract Items listed below on an open-end and continuing basis. Contract items must meet or exceed the mandatory requirements as shown below.

3.1.1 General – 2 Wheel Drive Tractor general mandatory requirements.

3.1.1.1 Unit shall be 2 wheel drive.

3.1.1.2 Wheelbase shall be 80 inches minimum.

3.1.1.3 Tractor dry weight (without ballast): shall be 8,700 lbs. minimum.

3.1.1.4 All daily checks shall be done from ground level.

3.1.1.5 Vendor must certify that unit offered will meet or exceed the "Occupational Safety and Health Act of 1970" or subsequent changes that are in effect at the time of manufacture of the unit. Please see Exhibit C.

3.1.1.6 The unit specified herein and offered shall be manufactured on or after January 1, 2015 and will be clearly identified and marked with date of manufacture.

3.1.2 Engine – The following are mandatory requirements related to the tractor's engine.

3.1.2.1 Engine shall be; Tier 4 Interim Compliant, ^{or better} minimum.

3.1.2.2 Shall have 80 PTO horsepower minimum.

3.1.2.3 Shall be Manufacturers standard water cooled, diesel powered engine.

3.1.2.4 Shall be Manufacturers standard governor with engine key shut off, wire sealed by Manufacturer.

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3.1.3 Engine Lubrication System – The following are mandatory requirements related to engine's lubrication system.

3.1.3.1 The engine shall have full pressure lubrication with oil filter and oil by pass system.

3.1.3.2 Shall have engine oil cooler

3.1.4 Engine Cooling System – The following are mandatory requirements related to the engine's cooling system.

3.1.4.1 Shall have manufacturer's largest cooling system offered.

3.1.4.2 Cooling system shall be equipped with a coolant recovery tank and sight glass.

3.1.4.3 Shall have engine air filtration system.

3.1.4.4 Dry type dual element (2 stage) air cleaner with self dumping valve shall be provided.

3.1.4.5 Unit shall have dash mounted air filter restriction indicator with light that is operator visible when service is required.

3.1.5 Exhaust System – The following are mandatory items related to the exhaust system.

3.1.5.1 The muffler shall be mounted in compliance with Tier 4 Interim standards and not interfere with the articulated boom mower and 60" side mounted rotary grass deck.

3.1.6 Electrical System – The following are mandatory items related to the electrical system.

3.1.6.1 Unit's electrical system shall be manufacturer's noise suppression wiring, and must have 12 volts negative ground.

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3.1.6.2 Neutral start switch (for safety purposes) shall be provided.

3.1.6.3 Shall have minimum 1200 cold cranking amp (CCA) battery.

3.1.6.4 OSHA approved back up alarm shall be provided on unit.

3.1.7 Charging System – The following are mandatory items related to the charging system.

3.1.7.1 Charging system shall be manufacturer heavy duty for model bid.

3.1.8 Engine Fuel System – The following are mandatory requirements related to the engine's fuel system.

3.1.8.1 If fuel tank is exposed, manufacturers skid plate must be provided.

3.1.8.2 Dual stage fuel filtering shall be provided.

3.1.8.3 Unit shall have a fuel water separator.

3.1.9 Lighting – The following are mandatory requirements related to the lights.

3.1.9.1 Unit shall have Class 1 LED amber beacon; mounted in rear by use of brackets. *110x 01 x09 06 640*

3.1.9.2 Shall have two (2) high-low beam head light (halogen) with manufacturers heavy duty console mounted switch.

3.1.9.3 Shall have four (4) roof mounted work lights; two (2) front and two (2) rear.

3.1.9.4 Shall have fender mounted rear tail lights and turn signals. Lights shall be shock mounted.

3.1.9.5 Unit shall have seven (7) factory installed terminal out sockets to provide lighting for towed equipment.

3.1.9.6 Shall have four (4) roof mounted flashing warning lights; two (2) front and two (2) rear.

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3.1.9.7 Unit shall be provided with console and dome lighting.

3.1.10 Unit Instrumentation – The following are mandatory requirements related to the units instrument panel.

3.1.10.1 Unit Instrumentation shall include:

- A. Tachometer
- B. Speedometer
- C. Hour meter operable from engine operation not key switch
- D. Coolant temperature indicator with audible buzzer or warning light
- E. Oil pressure indicator with audible buzzer or warning light
- F. Hydraulic oil temperature indicator with audible buzzer or warning light, to warn operator when manufacturers recommended hydraulic oil temperature is exceeded.

3.1.11 Clutch - The following are mandatory requirements related to the clutch.

3.1.11.1 Clutch shall be wet type.

3.1.12 Transmission – The following are mandatory requirements related to the transmission's design and arrangement.

3.1.12.1 Shall have power shift design and must have a transmission that can be shifted on the go without using a clutch (within the speed gears).

3.1.12.2 Shall have transmission forward and reverser that can be shifted from forward to reverse without the use of a clutch and shifted on the go.

3.1.12.3 The unit shall have a minimum of 12 forward speeds and 12 reverse speeds.

3.1.12.4 Gear range selections requires clutch usage, but can be shifted while moving.

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3.1.13 Differential – The following are mandatory requirements related to the differential.

3.1.13.1 Differential shall be manufacturer's heavy duty.

3.1.13.2 Shall have manufacturer's differential lock engagement and disengagement capability and must be able to engage differential lock on the go.

3.1.14 Front Axle – The following are mandatory requirements related to the front axle.

3.1.14.1 Front axle shall be manufacturer's heavy duty for use with boom mounted mower.

*3.1.14.2 Right side stabilizer for front axle shall be included.
Exceeds A/Ac Reqs

3.1.15 Rear Axle – The following are mandatory requirements related to the rear axle.

3.1.15.1 The rear axle shall be heaviest duty available.

3.1.16 Planetary Final Drives – The following are mandatory requirements related to the tractor's planetary final drives.

3.1.16.1 Planetary final drives shall be in board type.

3.1.17 Hydraulic System – The following are mandatory requirements related to the tractor's hydraulic system.

3.1.17.1 Tractor hydraulic system shall provide sufficient pressure and flow to operate all tractor functions at peak efficiency.

3.1.17.2 Tractor shall have two (2) control valves with three (3) detent position and flow.

3.1.17.3 Shall have hydraulic hoses that can be coupled and uncoupled while under pressure.

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3.1.17.4 Tractor hydraulic system shall be separate from attachment hydraulic system.

3.1.17.5 Quick coupler attachments shall be furnished for both the boom mower and grass deck.

3.1.18 Brakes – The following are mandatory requirements related to the brakes.

3.1.18.1 Manufacturer's standard emergency braking system shall be provided.

3.1.18.2 Tractor shall have hydraulic actuated service brakes.

3.1.18.3 Tractor shall have wet-type disk brakes which must be both adjusting and equalizing.

3.1.19 Tires – The following are mandatory requirements related to the tires.

3.1.19.1 Manufacturer's standard size tires for unit bid.

A. Front Tires shall be F2 tread design

B. Rear Tires shall be R1W tread, design radial

3.1.20 Three Point Hitch – The following are mandatory requirements related to the hitch.

3.1.20.1 Hitch shall have external switch to control raising and lowering from rear of tractor for safety purposes.

3.1.20.2 Hitch lift capacity shall be 3,190 lbs. minimum at 24 inches behind lift point.

3.1.20.3 Hitch shall be electro-hydraulically operated.

3.1.20.4 Three point hitch shall be Category 2.

3.1.21 Cab and Related Accessories – The following are mandatory requirements related to the cab and accessories.

3.1.21.1 Cab shall be OSHA approved ROPS.

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3.1.21.2 Cab shall be mounted by the manufacturer, insulated and pressurized.

3.1.21.3 Cab shall have Lexan, or equal safety glass, tinted at all locations.

3.1.21.4 Cab unit shall be equipped with heater, defroster, and air conditioning and shall be installed by the manufacturer.

3.1.21.5 Cab shall have two (2) lockable entry doors keyed alike; one (1) left and one (1) right.

3.1.21.6 Seat shall be cloth covered type protected with scotch guard (or equal) and equipped with a seat belt.

3.1.21.7 Seat shall have a height and swivel adjustment.

3.1.21.8 Seat shall be equipped with adjustable arm rests.

3.1.21.9 Unit shall be equipped with a tilt/telescoping steering wheel.

3.1.21.10 Tool box shall be provided, weather resistant, lockable, and mounted for operator convenience.

3.1.21.11 Cab unit shall have front and rear windshield wipers and washers.

3.1.21.12 Left and right side view mirrors and in cab rear view mirror shall be provided.

3.1.21.13 Cab and tractor shall have a type of non-skid step (steps) and hand holds for safety purposes.

3.1.21.14 Unit shall be equipped with a first aid kit mounted inside of cab.

3.1.21.15 All features that are considered to be manufacturer's standard equipment that are not specifically addressed above shall be provided.

3.1.21.16 Unit shall be delivered to the WVDOH with all manufacturers recommended safety related decals and safety features intact.

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3.1.22 PTO Requirements – The following are mandatory requirements related to the PTO (power take off).

3.1.22.1 Tractor shall have a minimum of 540 PTO R.P.M.

3.1.22.2 PTO shall be able to be engaged and disengaged on the go.

3.1.23 Advertisement – The following are mandatory requirements related to advertising.

3.1.23.1 Manufacturer shall attach a metal plate on the unit stating manufacturer, serial number, or model number, etc. No decals or painted advertisement are permitted.

3.1.24 Paint – The following are mandatory items related to the color of unit.

3.1.24.1 The tractor shall be painted manufacturer's standard color.

3.2 17 Foot Minimum Universal Mid-Mounted Articulated Hydraulic Powered Boom Mower – The following are general mandatory requirements related to the above mower.

3.2.1 General

3.2.1.1 Mower shall have universal frame.

3.2.1.2 Vendor must certify that unit offered will meet or exceed the "Occupational Safety and Health Act of 1970" or subsequent changes that are in effect at the time of manufacture of the unit. See Exhibit C attached.

3.2.1.3 The unit specified herein and offered shall be manufactured on or after January 1, 2015 and will be clearly identified and marked with date of manufacture.

3.2.2 Frame – The following are mandatory items related to the frame.

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3.2.2.1 Frame shall be mid-mounted to underside of tractor utilizing a modular center weldment with attaching rails adequately secured to the front bolster and rear axle.

3.2.2.2 Unit shall be counterweighted to maintain the most possible ground pressure of tires on opposite side of mower during all reach out, up, and down operations of boom with specified head.

3.2.2.3 Frame shall accept 60" side mounted grass deck

3.2.3 Hydraulic Reservoir – The following are mandatory items related to the hydraulic reservoir.

3.2.3.1 Shall have Manufacturer's properly sized hydraulic oil reservoir that is capable to operate all mower functions including forward, backward, up, down, and rotary head.

3.2.3.2 Tank shall have a built-in oil level sight glass and thermometer.

3.2.3.3 Hydraulic filter shall be capable of providing suitable filtration for system.

3.2.3.4 Tank shall be equipped with a shut off valve for closing when changing filter or hoses and for draining of tank.

3.2.3.5 Unit shall be equipped with manufacturer's standard recommended hydraulic pump to run the mower head and a piggy back pump shall be gear or piston to operate all other mower functions. The mower and its control shall have their own independent hydraulic system.

3.2.3.6 Hydraulic GPM shall be manufacturer's standard specified to operate all mower functions at maximum efficiency.

3.2.3.7 All motor circuit hoses shall be a minimum of 1 inch diameter, four (4) wire braided.

3.2.3.8 Deck hoses shall be four (4) wire braid fitted with cordura sleeving for brush protection.

3.2.3.9 Mower controls shall be a five (5) section valve controlled through a single electronic joystick.

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3.2.3.10 Valve shall allow a minimum of four (4) functions simultaneously.

3.2.3.11 The swing, lift, and dipper sections shall have individual relief valves to give breakaway protection.

3.2.3.12 Mower cutter shall have a 6 second maximum emergency shutdown.

3.2.3.13 Mower head motor shall take 6 seconds minimum to wind up to full RPM for a "no-shock-load startup".

3.2.4 Boom Rest – The following are mandatory items related to the boom rest.

3.2.4.3 When in stow, tractor and mower shall be maximum 108 inches width, with 50 inch rotary mower, and 12 foot high maximum.

3.2.5 Boom – The following are mandatory items related to the boom.

3.2.5.1 Boom shall be two (2) piece design, with all hinge points of the arm and mast shall have minimum 2" diameter steel pins with greasable, replaceable steel bushings.

3.2.5.2 Pivot pins shall be a minimum of 2 inch diameter.

3.2.5.3 Inner boom shall be made of 6 inch x 6 inch x 3/8 inch steel tubing minimum, with a 50,000 lb. per square inch minimum yield strength.

3.2.5.4 Dipper boom shall be made of 5 inch x 5 inch x 3/8 inch steel tubing minimum, with a 50,000 lb. per square inch minimum yield strength.

3.2.5.5 All hinge points shall be T-1 steel reinforcement.

3.2.5.6 Boom swing from stow position shall be 140 degrees forward minimum.

3.2.5.7 Boom reach up shall be minimum 16' feet.

3.2.5.8 Boom reach out shall be minimum 16' feet from tractor centerline to outside edge or cutting blade arc.

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3.2.6.9 Boom mower head shall be capable of mowing within inches of rear tractor tire allowing tractor to stay further out of traffic lane.

3.2.6 Brush Head – The following are mandatory items related to the brush head.

3.2.6.1 Cutting width shall be minimum 50 inches.

3.2.6.2 Top deck shall be A606 alloy steel 10 gauge or equal.

3.2.6.3 Side skirts shall be a minimum of 3/8 inch steel.

3.2.6.4 Top deck shall be reinforced with channel frame with a reinforced spindle mount plate.

3.2.6.5 Deck shall have replaceable bolts on full length skid shoes.

3.2.6.6 Spindle bearings shall be tapered roller type in a sealed housing, to support 4 1/2" minimum diameter spindle drive shaft.

3.2.6.7 Blade carrier shall be triple bar type with bottom bar being T-1 steel.

3.2.6.8 Blades shall be a minimum of 4 inch wide x 5/8 inch thick double edge tempered steel and full swing 360 degrees.

3.2.6.9 Blade bolts shall be minimum 1 1/8 inch x 3 heat treated, Grade 8 shoulder bolt with a castle nut and roll pin.

3.2.6.10 Hydraulic Motor shall be cast steel and shall be sized to match the hydraulic pump proposed by the mower manufacturer.

3.2.6.11 Brush head shall have a front safety shield, hydraulic actuated, center feed metal door operational from joystick control.

3.2.6.12 Cutter deck tilt rotation shall be 160 degrees minimum.

3.2.6.13 Rear shield shall be rubber/fabric material.

3.2.7 Paint – The following are mandatory items related to the color.

3.2.7.1 Mower shall be manufacturer's standard color.

3.2.8 Advertising – The following is a mandatory requirement related to advertising.

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3.2.8.1 Shall have only one (1) manufacturer name plate, which must include model number, may appear on exterior of unit. Logos created through the stamping or casting process of manufacturer are also acceptable. No decals or painted advertisement are permitted.

3.2.9 Miscellaneous – The following mandatory items are related to the mower.

3.2.9.1 Complete unit shall be delivered with all manufacturers' safety features intact. .

3.2.9.2 Vendor must certify that unit offered will meet or exceed the "Occupational Safety and Health Act of 1970" or subsequent changes that are in effect at the time of manufacture of the unit. Please see Exhibit C.

3.2.9.3 The unit specified herein and offered shall be manufactured on or after January 1, 2015 and will be clearly identified and marked with date of manufacture.

3.3 FULLY HYDRAULIC 60" SIDE MOUNTED ROTARY GRASS DECK –
The following are mandatory requirements pertaining to the above mower.

3.3.1 General:

3.3.1.1 Actual cutting width shall be 60" minimum.

3.3.1.2 Spindle drive shall be direct flexible coupler.

3.3.1.3 Cutting height shall be 1 ½" inches minimum to 7" inches maximum.

3.3.1.4 Cutter assembly shall be one piece formed dish type with one piece forged spindle assembly.

3.3.1.5 Shall have cutter disc, dish type ¾" x 3 x 7 ½" diameter minimum attached to spindle with six 5/8" grade 8 bolts minimum.

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3.3.1.6 Shall have two (2) cutter knives 14 x 3 x ½" minimum, full swinging heat treated knives.

3.3.1.7 Shall have skid shoes, replaceable full length inner and outer.

3.3.2 Paint – The following are mandatory items related to the color

3.3.2.1 Mower shall be manufacturer's standard paint color

3.3.3 Advertising – The following are mandatory requirements related to advertising.

3.3.3.1 Shall have only one (1) manufacturer name plate, which must include model number, may appear on exterior of unit. Logos created through the stamping or casting process of manufacturer are also acceptable. No decals or painted advertisement are permitted.

3.3.4 Miscellaneous – The following mandatory items are related to the mower.

3.3.4.1 Complete unit shall be delivered with all manufacturers' safety features intact.

3.3.4.2 Vendor must certify that unit offered will meet or exceed the "Occupational Safety and Health Act of 1970" or subsequent changes that are in effect at the time of manufacture of the unit. Please see Exhibit C.

3.3.4.3 The unit specified herein and offered shall be manufactured on or after January 1, 2015 and will be clearly identified and marked with date of manufacture.

4. CONTRACT AWARD:

4.1 **Contract Award:** The Contract is intended to provide Agencies with a purchase price on all Contract Items. The Contract shall be awarded to the Vendor that provides the Contract Items meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages.

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4.2 Pricing Pages: Vendor should complete the Pricing Pages (Exhibit A) by completing the Year, Make, Model, and inserting quoted unit price. Vendor should take estimated Quantity and multiply by unit price to get grand total. Vendor should complete the pricing pages in their entirety as failure to do so may result in Vendor's bids being disqualified.

The Pricing Page contains a list of the Contract Items and estimated purchase volume. The estimated purchase volume for each item represents the approximate volume of anticipated purchases only. No future use of the Contract or any individual item is guaranteed or implied.

Vendor should electronically enter the information into the Pricing Pages through wvOASIS, if available, or as an electronic document. In most cases, the Vendor can request an electronic copy of the Pricing Pages for bid purposes by sending an email request to the following address:
Crystal.G.Rink @wv.gov

5. ORDERING AND PAYMENT:

5.1 Ordering: Vendor shall accept orders through wvOASIS, regular mail, facsimile, e-mail, or any other written forms of communication. Vendor may, but is not required to accept on-line orders through a secure internet ordering portal/website. If Vendor has the ability to accept on-line orders, it should include in its response a brief description of how Agencies may utilize the on-line ordering system. Vendor shall ensure that its on-line ordering system is properly secured prior to processing Agency orders on-line.

5.2 Payment: Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

6. DELIVERY AND RETURN:

6.1 Delivery Time: Vendor shall deliver standard orders within 120 working days after orders are received. Vendor shall ship all orders in accordance with the above schedule and shall not hold orders until a minimum delivery quantity is met. A completed pilot model for inspection must be provided within 90 working day(s)

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after receipt of the purchase agreement by the successful vendor. Working day is defined as any week day, Monday thru Friday, excluding Federal and State Holidays. Vendor shall ship all orders in accordance with the above schedule and shall not hold orders until a minimum delivery quantity is met.

- 6.2 **Late Delivery:** The Agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party.

Any Agency seeking to obtain items from a third party under this provision must first obtain approval of the Purchasing Division.

- 6.3 **Delivery Payment/Risk of Loss:** Standard order delivery shall be F.O.B. Destination to the Agency's location. Vendor shall include the cost of standard order delivery charges in its bid pricing/discount and is not permitted to charge the Agency separately for such delivery. The Agency will pay delivery charges on all emergency orders provided that Vendor invoices those delivery costs as a separate charge with the original freight bill attached to the invoice.

- 6.4 **Representative Unit for Test:** The successful vendor must (if specified) provide the DOH one (1) completed representative unit to be observed and evaluated on each order to insure compliance with specification. If requested, the time period for testing and evaluation shall be seven (7) working days following receipt of the unit. DOH will incur no obligation for deterioration of surfaces, finishes, seals, and mechanical or electrical parts on the unit resulting from operation and testing within the limits of these specifications; nor will DOH incur obligation for damage to the unit resulting from failure to meet specifications when due care and attention is given by DOH and testing is done within the limits of these specifications. Failure of the pilot unit to satisfactorily meet specifications as bid may be cause for cancellation of the purchase order, and return of the delivered unit along with all associated equipment to the vendor at the vendor's expense.

- 6.5 **Condition of Unit(s) Upon Delivery:** All units must arrive at the prescribed delivery point having been completely pre-serviced with oil, lubricants, and coolant. All prescribed precautions pertaining to first operations and break-in of the unit are to be posted conspicuously on the unit for ready observance by the operator.

- 6.6 **Delivery Point:** Delivery point of the completed representative unit will be the WVDOH, Equipment Division, Rt. 33 and Brushy Fork Road, Buckhannon, WV 26201.

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BOOM MOWER AND 60" SIDE MOUNTED ROTARY GRASS DECK

7. MISCELLANEOUS:

7.1 No Substitutions: Vendor shall supply only Contract Items submitted in Response to the Solicitation unless a contract modification is approved in accordance with the provisions contained in this Contract.

7.2 Reports: Vendor shall provide quarterly reports and annual summaries to the Agency showing the Agency's items purchased, quantities of items purchased, and total dollar value of the items purchased. Vendor shall also provide reports, upon request, showing the items purchased during the term of this Contract, the quantity purchased for each of those items, and the total value of purchases for each of those items. Failure to supply such reports may be grounds for cancellation of this Contract.

7.3 Contract Manager: During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

Contract Manager: Clyde Stricklin Jr.
Telephone Number: 304-927-4822
Fax Number: 304-927-4823
Email Address: Stricklin@hushes.net

7.4 Operating and Service Manuals and Parts Lists: An operator's manual must be included with each unit upon delivery. A "line sheet" (if applicable) and the "Equipment Preventative Maintenance Questionnaire", (Exhibit "B") must be with pilot unit upon delivery, Attn: Marcia Lee. There must be 12 service/shop/maintenance manuals and 14 parts manuals; CD-ROM is preferred in lieu of parts manuals. Manuals shall be delivered upon completion of delivery of total units. Failure to do so will delay payment.

7.5 Training: Manufacturers and/or dealers will be required to stage a thorough seminar on the subjects of Preventative Maintenance, Operator, and Mechanic Training. In order to keep operators and mechanics updated, the successful vendor shall conduct training sessions covering the operation, maintenance, trouble

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shooting with each purchase order against this open end contract.
Manufacturers and/or dealers shall be required to furnish the Training Academy with one (1) Operator's Manual to be shipped direct to

WVDOH
Training Academy
P.O. Box 610
Buckhannon, West Virginia 26201

Prior to delivery of the pilot unit. Training seminar to be held at the WVDOH, Equipment Division, Buckhannon, WV.


- 7.6 **Preventative Maintenance & Operator Procedures:** Manufacturers and/or dealers will be required to submit to the Equipment Division, in addition to the operating and service manuals, booklets and pamphlets explaining the Preventative Maintenance and Operator Procedures to be used by the operators of this equipment, and must include such things as daily prestart inspection procedure, service schedule, and routine maintenance required, safety precautions, etc. The successful vendor shall furnish all training aids; i.e. videos, projectors as required in conducting the training.
- 7.7 **Warranty and Service Policy:** The unit must be accompanied upon delivery by the unit's manufacturers executed warranty and service policy.
- 7.8 **Unspecified Accessories & Features:** All parts, equipment, accessories, Material, design and performance characteristics not specified herein, but which are necessary to provide a complete unit, must be furnished with each unit and required to conform to strength, quality of material, and quality of workmanship to those which are advertised and provided to the market in general by the unit industry. All parts and accessories advertised and regularly supplied as standard shall be included, except those which would represent duplication of these specified and except those which, by specification, are not to be furnished. All standard safety features, required by Federal and State Law, shall be included.

8. VENDOR DEFAULT:

- 8.1 The following shall be considered a vendor default under this Contract.

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- 8.1.1 Failure to provide Contract Items in accordance with the requirements contained herein.
 - 8.1.2 Failure to comply with other specifications and requirements contained herein.
 - 8.1.3 Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.
 - 8.1.4 Failure to remedy deficient performance upon request.
- 8.2 The following remedy shall be available to Agency upon default.
- 8.2.1 Immediate cancellation of the contract.
 - 8.2.2 Immediate cancellation of one or more release orders issued under this Contract.
 - 8.2.3 Any other remedies available in law or equity.



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OSHA

OSH Act of 1970 - Table of Contents

Public Law 91-596
84 STAT. 1590
91st Congress, S. 2193
December 29, 1970,
as amended through January 1, 2004. (1)

An Act

To assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Occupational Safety and Health Act of 1970."

Footnote (1) See Historical notes at the end of this document for changes and amendments affecting the OSH Act since its passage in 1970 through January 1, 2004.

SEC. 2. Congressional Findings and Purpose.

(a) The Congress finds that personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of lost production, wage loss, medical expenses, and disability compensation payments. 29 USC 651

(b) The Congress declares it to be its purpose and policy, through the exercise of its powers to regulate commerce among the several States and with foreign nations and to provide for the general welfare, 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 --

- (1) by encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions; (2) by providing that employers and employees have separate but dependent responsibilities and rights with respect to achieving safe and healthful working conditions;
- (3) by authorizing the Secretary of Labor to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce, and by creating an Occupational Safety and Health Review Commission for carrying out adjudicatory functions under the Act;
- (4) by building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;
- (5) by providing for research in the field of occupational safety and health, including the psychological factors involved, and by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems;
- (6) by exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research relating to health problems, in recognition of the fact that occupational health standards present problems often different from those involved in occupational safety;
- (7) by providing medical criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience;
- (8) by providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health; affecting the OSH Act since its passage in 1970 through January 1, 2004.
- (9) by providing for the development and promulgation of occupational safety and health standards;
- (10) by providing an effective enforcement program which shall include a prohibition against giving advance notice of any inspection and sanctions for any individual violating this prohibition;
- (11) by encouraging the States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws by providing grants to the:

States to assist in identifying their needs and responsibilities in the area of occupational safety and health, to develop plans in accordance with the provisions of this Act, to improve the administration and enforcement of State occupational safety and health laws, and to conduct experimental and demonstration projects in connection therewith;

(12) by providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health problem;

(13) by encouraging joint labor-management efforts to reduce injuries and disease arising out of employment.

SEC. 3. Definitions

For the purposes of this Act -

29 USC 652

(1) The term "Secretary" means the Secretary of Labor.

(2) The term "Commission" means the Occupational Safety and Health Review Commission established under this Act.

(3) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a State and any place outside thereof, or within the District of Columbia, or a possession of the United States (other than the Trust Territory of the Pacific Islands), or between points in the same State but through a point outside thereof.

For Trust Territory coverage, including the Northern Mariana Islands, see *Historical notes*.

(4) The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

Pub. L. 105-241 United States Postal Service is an employer subject to the Act. See *Historical notes*.

(5) The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States (not including the United States Postal Service) or any State or political subdivision of a State.

(6) The term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce.

(7) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(8) The term "occupational safety and health standard" means 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 and places of employment.

(9) The term "national consensus standard" means any occupational safety and health standard or modification thereof which (1) has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby it can be determined by the Secretary that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption; (2) was formulated in a manner which afforded an opportunity for diverse views to be considered and (3) has been designated as such a standard by the Secretary, after consultation with other appropriate Federal agencies.

(10) The term "established Federal standard" means any operative occupational safety and health standard established by any agency of the United States and presently in effect, or contained in any Act of Congress in force on the date of enactment of this Act.

(11) The term "Committee" means the National Advisory Committee on Occupational Safety and Health established under this Act.

(12) The term "Director" means the Director of the National Institute for Occupational Safety and Health.

(13) The term "Institute" means the National Institute for Occupational Safety and Health established under this Act.

(14) The term "Workmen's Compensation Commission" means the National Commission on State Workmen's Compensation Laws established under this Act.

SEC. 4. Applicability of This Act

(a) This Act shall apply with respect to employment performed in a workplace in a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, Wake Island, Outer Continental Shelf Lands defined in the Outer Continental Shelf Lands Act, Johnston Island, and the Canal Zone. The Secretary of the Interior shall, by regulation, provide for judicial enforcement of this Act by the courts established for areas in which there are no United States district courts having jurisdiction.

29 USC 653

For Canal Zone and Trust Territory coverage, including the Northern Mariana Islands, see *Historical notes*.

(b) (1) Nothing in this Act shall apply to working conditions of employees with respect to which other Federal agencies, and State agencies acting under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021), exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

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(2) The safety and health standards promulgated under the Act of June 30, 1936, commonly known as the Walsh-Healey Act (41 U.S.C. 35 et seq.), the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), Public Law 91-54, Act of August 9, 1969 (40 U.S.C. 333), Public Law 85-742, Act of August 23, 1958 (33 U.S.C. 941), and the National Foundation on Arts and Humanities Act (20 U.S.C. 951 et seq.) are superseded on the effective date of corresponding standards promulgated under this Act, which are determined by the Secretary to be more effective. Standards issued under the laws listed in this paragraph and in effect on or after the effective date of this Act shall be deemed to be occupational safety and health standards issued under this Act, as well as under such other Acts.

(3) The Secretary shall, within three years after the effective date of this Act, report to the Congress his recommendations for legislation to avoid unnecessary duplication and to achieve coordination between this Act and other Federal laws.

(4) Nothing in this Act shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment.

SEC. 5. Duties

(a) Each employer --

(1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;

29 USC 654

(2) shall comply with occupational safety and health standards promulgated under this Act.

(b) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

6. Occupational Safety and Health Standards

(a) Without regard to chapter 5 of title 5, United States Code, or to the other subsections of this section, the Secretary shall, as soon as practicable during the period beginning with the effective date of this Act and ending two years after such date, by rule promulgate as an occupational safety or health standard any national consensus standard, and any established Federal standard, unless he determines that the promulgation of such a standard would not result in improved safety or health for specifically designated employees. In the event of conflict among any such standards, the Secretary shall promulgate the standard which assures the greatest protection of the safety or health of the affected employees.

29 USC 655

(b) The Secretary may by rule promulgate, modify, or revoke any occupational safety or health standard in the following manner:

(1) Whenever the Secretary, upon the basis of information submitted to him in writing by an interested person, a representative of any organization of employers or employees, a nationally recognized standards-producing organization, the Secretary of Health and Human Services, the National Institute for Occupational Safety and Health, or a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this Act, the Secretary may request the recommendations of an advisory committee appointed under section 7 of this Act. The Secretary shall provide such an advisory committee with any proposals of his own or of the Secretary of Health and Human Services, together with all pertinent factual information developed by the Secretary or the Secretary of Health and Human Services, or otherwise available, including the results of research, demonstrations, and experiments. An advisory committee shall submit to the Secretary its recommendations regarding the rule to be promulgated within ninety days from the date of its appointment or within such longer or shorter period as may be prescribed by the Secretary, but in no event for a period which is longer than two hundred and seventy days.

(2) The Secretary shall publish a proposed rule promulgating, modifying, or revoking an occupational safety or health standard in the Federal Register and shall afford interested persons a period of thirty days after publication to submit written data or comments. Where an advisory committee is appointed and the Secretary determines that a rule should be issued, he shall publish the proposed rule within sixty days after the submission of the advisory committee's recommendations or the expiration of the period prescribed by the Secretary for such submission.

(3) On or before the last day of the period provided for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objections to the proposed rule, stating the grounds therefor and requesting a public hearing on such objections. Within thirty days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the occupational safety or health standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing.

(4) Within sixty days after the expiration of the period provided for the submission of

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written data or comments under paragraph (2), or within sixty days after the completion of any hearing held under paragraph (3), the Secretary shall issue a rule promulgating, modifying, or revoking an occupational safety or health standard or make a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date for such period (not in excess of ninety days) as the Secretary determines may be necessary to insure that affected employers and employees will be informed of the existence of the standard and of its terms and that employers affected are given an opportunity to familiarize themselves and their employees with the existence of the requirements of the standard.

(5) The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

(6) (A) Any employer may apply to the Secretary for a temporary order granting a variance from a standard or any provision thereof promulgated under this section. Such temporary order shall be granted only if the employer files an application which meets the requirements of clause (B) and establishes

that --

(i) he is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date,

(ii) he is taking all available steps to safeguard his employees against the hazards covered by the standard, and

(iii) he has an effective program for coming into compliance with the standard as quickly as practicable.

Any temporary order issued under this paragraph shall prescribe the practices, means, methods, operations, and processes which the employer must adopt and use while the order is in effect and state in detail his program for coming into compliance with the standard. Such a temporary order may be granted only after notice to employees and an opportunity for a hearing. Provided, That the Secretary may issue one interim order to be effective until a decision is made on the basis of the hearing. No temporary order may be in effect for longer than the period needed by the employer to achieve compliance with the standard or one year, whichever is shorter, except that such an order may be renewed not more than twice (I) so long as the requirements of this paragraph are met and (II) if an application for renewal is filed at least 90 days prior to the expiration date of the order. No interim renewal of an order may remain in effect for longer than 180 days.

(B) An application for temporary order under this paragraph (6) shall contain:

(i) a specification of the standard or portion thereof from which the employer seeks a variance,

(ii) a representation by the employer, supported by representations from qualified persons having firsthand knowledge of the facts represented, that he is unable to comply with the standard or portion thereof and a detailed statement of the reasons therefor,

(iii) a statement of the steps he has taken and will take (with specific dates) to protect employees against the hazard covered by the standard,

(iv) a statement of when he expects to be able to comply with the standard and what steps he has taken and what steps he will take (with dates specified) to come into compliance with the standard, and

(v) a certification that he has informed his employees of the application by giving a copy thereof to their authorized representative, posting a statement giving a summary of the application and specifying where a copy may be examined at the place or places where notices to employees are normally posted, and by other appropriate means.

A description of how employees have been informed shall be contained in the certification. The information to employees shall also inform them of their right to petition the Secretary for a hearing.

(C) The Secretary is authorized to grant a variance from any standard or portion thereof whenever he determines, or the Secretary of Health and Human Services certifies, that such variance is necessary to permit an employer to participate in an experiment approved by him or the Secretary of Health and Human Services designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

(7) Any standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency

treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees. In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure. In the event such medical examinations are in the nature of research, as determined by the Secretary of Health and Human Services, such examinations may be furnished at the expense of the Secretary of Health and Human Services. The results of such examinations or tests shall be furnished only to the Secretary or the Secretary of Health and Human Services, and, at the request of the employee, to his physician. The Secretary, in consultation with the Secretary of Health and Human Services, may by rule promulgated pursuant to section 553 of title 5, United States Code, make appropriate modifications in the foregoing requirements relating to the use of labels or other forms of warning, monitoring or measuring, and medical examinations, as may be warranted by experience, information, or medical or technological developments acquired subsequent to the promulgation of the relevant standard.

(b) Whenever a rule promulgated by the Secretary differs substantially from an existing national consensus standard, the Secretary shall, at the same time, publish in the Federal Register a statement of the reasons why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard.

(c) (1) The Secretary shall provide, without regard to the requirements of Chapter 5, title 5, United States Code, for an emergency temporary standard to take immediate effect upon publication in the Federal Register if he determines -

(A) that employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and

(B) that such emergency standard is necessary to protect employees from such danger.

(2) Such standard shall be effective until superseded by a standard promulgated in accordance with the procedures prescribed in paragraph (3) of this subsection.

(3) Upon publication of such standard in the Federal Register the Secretary shall commence a proceeding in accordance with section 6 (b) of this Act, and the standard as published shall also serve as a proposed rule for the proceeding. The Secretary shall promulgate a standard under this paragraph no later than six months after publication of the emergency standard as provided in paragraph (2) of this subsection.

(d) Any affected employer may apply to the Secretary for a rule or order for a variance from a standard promulgated under this section. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The Secretary shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Secretary on his own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

(e) Whenever the Secretary promulgates any standard, makes any rule, order, or decision, grants any exemption or extension of time, or compromises, mitigates, or settles any penalty assessed under this Act, he shall include a statement of the reasons for such action, which shall be published in the Federal Register.

(f) Any person who may be adversely affected by a standard issued under this section may at any time prior to the sixtieth day after such standard is promulgated file a petition challenging the validity of such standard with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall not, unless otherwise ordered by the court, operate as a stay of the standard. The determinations of the Secretary shall be conclusive if supported by substantial evidence in the record considered as a whole.

(g) In determining the priority for establishing standards under this section, the Secretary shall give due regard to the urgency of the need for mandatory safety and health standards for particular industries, trades, crafts, occupations, businesses, workplaces or work environments. The Secretary shall also give due regard to the recommendations of the Secretary of Health and Human Services regarding the need for mandatory standards in determining the priority for establishing such standards.

SEC. 7. Advisory Committees; Administration

(a) (1) There is hereby established a National Advisory Committee on Occupational Safety and Health consisting of twelve members appointed by the Secretary, four of whom are to be designated by the Secretary of Health and Human Services, without regard to the provisions

29 USC 656

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of title 5, United States Code, governing appointments in the competitive service, and composed of representatives of management, labor, occupational safety and occupational health professions, and of the public. The Secretary shall designate one of the public members as Chairman. The members shall be selected upon the basis of their experience and competence in the field of occupational safety and health.

(2) The Committee shall advise, consult with, and make recommendations to the Secretary and the Secretary of Health and Human Services on matters relating to the administration of the Act. The Committee shall hold no fewer than two meetings during each calendar year. All meetings of the Committee shall be open to the public and a transcript shall be kept and made available for public inspection.

(3) The members of the Committee shall be compensated in accordance with the provisions of section 3109 of title 5, United States Code.

(4) The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business.

(b) An advisory committee may be appointed by the Secretary to assist him in his standard-setting functions under section 6 of this Act. Each such committee shall consist of not more than fifteen members and shall include as a member one or more designees of the Secretary of Health and Human Services, and shall include among its members an equal number of persons qualified by experience and affiliation to present the viewpoint of the employers involved, and of persons similarly qualified to present the viewpoint of the workers involved, as well as one or more representatives of health and safety agencies of the States. An advisory committee may also include such other persons as the Secretary may appoint who are qualified by knowledge and experience to make a useful contribution to the work of such committee, including one or more representatives of professional organizations of technicians or professionals specializing in occupational safety or health, and one or more representatives of nationally recognized standards producing organizations, but the number of persons so appointed to any such advisory committee shall not exceed the number appointed to such committee as representatives of Federal and State agencies. Persons appointed to advisory committees from private life shall be compensated in the same manner as consultants or experts under section 3109 of title 5, United States Code. The Secretary shall pay to any State which is the employer of a member of such a committee who is a representative of the health or safety agency of that State, reimbursement sufficient to cover the actual cost to the State resulting from such representative's membership on such committee. Any meeting of such committee shall be open to the public and an accurate record shall be kept and made available to the public. No member of such committee (other than representatives of employers and employees) shall have an economic interest in any proposed rule.

(c) In carrying out his responsibilities under this Act, the Secretary is authorized

to --

(1) use, with the consent of any Federal agency, the services, facilities, and personnel of such agency, with or without reimbursement, and with the consent of any State or political subdivision thereof, accept and use the services, facilities, and personnel of any agency of such State or subdivision with reimbursement; and

(2) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually; compensate individuals so employed at rates not in excess of the rate specified at the time of service for grade GS-18 under section 5332 of title 5, United States Code, including travel time, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

SEC. 8. Inspections, Investigations, and Recordkeeping

(a) In order to carry out the purposes of this Act, the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized -- 29 USC 657

(1) to enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; and

(2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

(b) In making his inspections and investigations under this Act the Secretary may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of a contumacy, failure, or refusal of any person to obey such an order, any district court of the United States or the United States courts of any territory or possession, within the jurisdiction of which such person is found, or resides or transacts business, upon the application by the Secretary, shall have jurisdiction to issue to such person an order requiring such person to appear to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be

punished by said court as a contempt thereof.

(c) (1) Each employer shall make, keep and preserve, and make available to the Secretary or the Secretary of Health and Human Services, such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of Health and Human Services, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses. In order to carry out the provisions of this paragraph such regulations may include provisions requiring employers to conduct periodic inspections. The Secretary shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protectors and obligations under this Act, including the provisions of applicable standards.

(2) The Secretary, in cooperation with the Secretary of Health and Human Services, shall prescribe regulations requiring employers to maintain accurate records of, and to make periodic reports on, work-related deaths, injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

(3) The Secretary, in cooperation with the Secretary of Health and Human Services, shall issue regulations requiring employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under section 6. Such regulations shall provide employees or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provision for each employee or former employee to have access to such records as will indicate his own exposure to toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable occupational safety and health standard promulgated under section 6, and shall inform any employee who is being thus exposed of the corrective action being taken.

(d) Any information obtained by the Secretary, the Secretary of Health and Human Services, or a State agency under this Act shall be obtained with a minimum burden upon employers, especially those operating small businesses. Unnecessary duplication of efforts in obtaining information shall be reduced to the maximum extent feasible.

(e) Subject to regulations issued by the Secretary, a representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any workplace under subsection (a) for the purpose of aiding such inspection. Where there is no authorized employee representative, the Secretary or his authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

(f) (1) Any employees or representative of employees who believe that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or representative of employees, and a copy shall be provided the employer or his agent no later than at the time of inspection, except that, upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available pursuant to subsection (g) of this section. If upon receipt of such notification the Secretary determines there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violation or danger exists. If the Secretary determines there are no reasonable grounds to believe that a violation or danger exists he shall notify the employees or representative of the employees in writing of such determination.

(2) Prior to or during any inspection of a workplace, any employees or representative of employees employed in such workplace may notify the Secretary or any representative of the Secretary responsible for conducting the inspection, in writing, of any violation of this Act which they have reason to believe exists in such workplace. The Secretary shall, by regulation, establish procedures for informal review of any refusal by a representative of the Secretary to issue a citation with respect to any such alleged violation and shall furnish the employees or representative of employees requesting such review a written statement of the reasons for the Secretary's final disposition of the case.

(g) (1) The Secretary and Secretary of Health and Human Services are authorized to compile, analyze, and publish, either in summary or detailed form, all reports or information obtained under this section.

(2) The Secretary and the Secretary of Health and Human Services shall each prescribe such rules and regulations as he may deem necessary to carry out their responsibilities under this Act, including rules and regulations dealing with the inspection of an employer's establishment.

(h) The Secretary shall not use the results of enforcement activities, such as the number of citations issued or penalties assessed, to evaluate employees directly involved in enforcement activities under this Act or to impose quotas or goals with regard to the results of such activities.

Pub. L. 105-198 added subsection (h).

SEC. 9. Citations:

(a) If, upon inspection or investigation, the Secretary or his authorized representative believes that an employer has violated a requirement of section 5 of this Act, or any standard, rule or order promulgated pursuant to section 6 of this Act, or of any regulations

29 USC 658

prescribed pursuant to this Act, he shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The Secretary may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no direct or immediate relationship to safety or health.

(b) Each citation issued under this section, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the Secretary, at or near each place a violation referred to in the citation occurred.

(c) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

SEC. 10. Procedure for Enforcement

(a) If, after an inspection or investigation, the Secretary issues a citation under section 9(a), he shall, within a reasonable time after the termination of such inspection or investigation, notify the employer by certified mail of the penalty, if any, proposed to be assessed under section 17 and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the citation or proposed assessment of penalty. If, within fifteen working days from the receipt of the notice issued by the Secretary the employer fails to notify the Secretary that he intends to contest the citation or proposed assessment of penalty, and no notice is filed by any employee or representative of employees under subsection (c) within such time, the citation and the assessment, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency. 29 USC 659

(b) If the Secretary has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the Commission in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties), the Secretary shall notify the employer by certified mail of such failure and of the penalty proposed to be assessed under section 17 by reason of such failure, and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the Secretary's notification or the proposed assessment of penalty. If, within fifteen working days from the receipt of notification issued by the Secretary, the employer fails to notify the Secretary that he intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency.

(c) If an employer notifies the Secretary that he intends to contest a citation issued under section 9(a) or notification issued under subsection (a) or (b) of this section, or if, within fifteen working days of the issuance of a citation under section 9(a), any employee or representative of employees files a notice with the Secretary alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section). The Commission shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation or proposed penalty, or directing other appropriate relief, and such order shall become final thirty days after its issuance. Upon a showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that abatement has not been completed because of factors beyond his reasonable control, the Secretary, after an opportunity for a hearing as provided in this subsection, shall issue an order affirming or modifying the abatement requirements in such citation. The rules of procedure prescribed by the Commission shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this subsection.

SEC. 11. Judicial Review

(a) Any person adversely affected or aggrieved by an order of the Commission issued under subsection (c) of section 10 may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or where the employer has its principal office, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within sixty days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to the other parties, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Commission. No objection that has not been urged before the Commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be made a part of the record. 29 USC 660

The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States; as provided in section 1254 of title 28, United States Code.

Pub. L. 99-620

(b) The Secretary may also obtain review or enforcement of any final order of the Commission by filing a petition for such relief in the United States court of appeals for the circuit in which the alleged violation occurred or in which the employer has its principal office, and the provisions of subsection (a) shall govern such proceedings to the extent applicable. If no petition for review, as provided in subsection (a), is filed within sixty days after service of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the Secretary after the expiration of such sixty-day period. In any such case, as well as in the case of a noncontested motion or notification by the Secretary which has become a final order of the Commission under subsection (a) or (b) of section 10, the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary and the employer named in the petition. In any contempt proceeding brought to enforce a decree of a court of appeals entered pursuant to this subsection or subsection (a), the court of appeals may assess the penalties provided in section 17, in addition to invoking any other available remedies.

(c) (1) No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act.

(2) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this subsection may, within thirty days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown to restrain violations of paragraph (1) of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to his former position with back pay.

(3) Within 90 days of the receipt of a complaint filed under this subsection the Secretary shall notify the complainant of his determination under paragraph 2 of this subsection.

SEC. 12. The Occupational Safety and Health Review Commission

29 USC 661

(a) The Occupational Safety and Health Review Commission is hereby established. The Commission shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate, from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. The President shall designate one of the members of the Commission to serve as Chairman.

(b) The terms of members of the Commission shall be six years except that:

(1) the members of the Commission first taking office shall serve, as designated by the President at the time of appointment, one for a term of two years, one for a term of four years, and one for a term of six years, and

(2) a vacancy caused by the death, resignation, or removal of a member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term.

A member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(c) (Text omitted.)

See notes in omitted text.

(d) The principal office of the Commission shall be in the District of Columbia. Whenever the Commission deems that the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place.

Pub. L. 95-251

(e) The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission and shall appoint such administrative law judges and other employees as he deems necessary to assist in the performance of the Commission's functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. *Provided*, That assignment, removal and compensation of administrative law judges shall be in accordance with sections 3165, 3344, 5372, and 7521 of title 5, United States Code.

(f) For the purpose of carrying out its functions under this Act, two members of the Commission shall constitute a quorum and official action can be taken only on the affirmative

vote of at least two members.

(g) Every official act of the Commission shall be entered of record, and its hearings and records shall be open to the public. The Commission is authorized to make such rules as are necessary for the orderly transaction of its proceedings. Unless the Commission has adopted a different rule, its proceedings shall be in accordance with the Federal Rules of Civil Procedure.

(h) The Commission may order testimony to be taken by deposition in any proceedings pending before it at any state of such proceeding. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Commission. Witnesses whose depositions are taken under this subsection, and the persons taking such depositions, shall be entitled to the same fees as are paid for like services in the courts of the United States.

(i) For the purpose of any proceeding before the Commission, the provisions of section 11 of the National Labor Relations Act (29 U.S.C. 161) are hereby made applicable to the jurisdiction and powers of the Commission.

(j) An administrative law judge appointed by the Commission shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such administrative law judge by the Chairman of the Commission, and shall make a report of any such determination which constitutes his final disposition of the proceedings. The report of the administrative law judge shall become the final order of the Commission within thirty days after such report by the administrative law judge, unless within such period any Commission member has directed that such report shall be reviewed by the Commission.

(k) Except as otherwise provided in this Act, the administrative law judges shall be subject to the laws governing employees in the classified civil service, except that appointments shall be made without regard to section 5306 of title 5, United States Code. Each administrative law judge shall receive compensation at a rate not less than that prescribed for GS-16 under section 5332 of title 5, United States Code.

SEC. 13. Procedures to Counteract Imminent Dangers

(a) The United States district courts shall have jurisdiction, upon petition of the Secretary, to restrain any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

29 USC 662

(b) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this Act. The proceeding shall be as provided by Rule 65 of the Federal Rules, Civil Procedure, except that no temporary restraining order issued without notice shall be effective for a period longer than five days.

(c) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any place of employment, he shall inform the affected employees and employers of the danger and that he is recommending to the Secretary that relief be sought.

(d) If the Secretary arbitrarily or capriciously fails to seek relief under this section, any employee who may be injured by reason of such failure, or the representative of such employees, might bring an action against the Secretary in the United States district court for the district in which the imminent danger is alleged to exist or the employer has its principal office, or for the District of Columbia, for a writ of mandamus to compel the Secretary to seek such an order and for such further relief as may be appropriate.

SEC. 14. Representation in Civil Litigation

Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

29 USC 663

SEC. 15. Confidentiality of Trade Secrets

All information reported to or otherwise obtained by the Secretary or his representative in connection with any inspection or proceeding under this Act which contains or which might reveal a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. In any such proceeding the Secretary, the Commission, or the court shall issue such orders as may be appropriate to protect the

29 USC 664

confidentiality of trade secrets.

16. Variations, Tolerances, and Exemptions

The Secretary, on the record, after notice and opportunity for a hearing may provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act as he may find necessary and proper to avoid serious impairment of the national defense. Such action shall not be in effect for more than six months without notification to affected employees and an opportunity being afforded for a hearing. 29 USC 665

SEC. 17. Penalties

(a) Any employer who willfully or repeatedly violates the requirements of section 5 of this Act, any standard, rule, or order promulgated pursuant to section 5 of this Act, or regulations prescribed pursuant to this Act, may be assessed a civil penalty of not more than \$70,000 for each violation, but not less than \$5,000 for each willful violation. 29 USC 666

Pub. L. 101-508 increased the civil penalties in subsections (a)-(d) & (f). See Historical notes.

(b) Any employer who has received a citation for a serious violation of the requirements of section 5 of this Act, of any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, shall be assessed a civil penalty of up to \$7,000 for each such violation.

(c) Any employer who has received a citation for a violation of the requirements of section 5 of this Act, of any standard, rule, or order promulgated pursuant to section 6 of this Act, or of regulations prescribed pursuant to this Act, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to \$7,000 for each violation.

(d) Any employer who fails to correct a violation for which a citation has been issued under section 9(a) within the period permitted for its correction (which period shall not begin to run until the date of the final order of the Commission in the case of any review proceeding under section 10 initiated by the employer in good faith and not solely for delay or avoidance of penalties), may be assessed a civil penalty of not more than \$7,000 for each day during which such failure or violation continues.

(e) Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, and that violation caused death to any employee, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than \$20,000 or by imprisonment for not more than one year, or by both. Pub. L. 98-473 Maximum criminal fines are increased by the Sentencing Reform Act of 1984, 18 USC § 3551 et seq. See Historical notes.

(f) Any person who gives advance notice of any inspection to be conducted under this Act, without authority from the Secretary or his designees, shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or by both. See Historical notes.

(g) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both.

(h) (1) Section 1114 of title 18, United States Code, is hereby amended by striking out "designated by the Secretary of Health and Human Services to conduct investigations, or inspections under the Federal Food, Drug, and Cosmetic Act" and inserting in lieu thereof "or of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions".

(2) Notwithstanding the provisions of sections 1111 and 1114 of title 18, United States Code, whoever, in violation of the provisions of section 1114 of such title, kills a person while engaged in or on account of the performance of investigative, inspection, or law enforcement functions added to such section 1114 by paragraph (1) of this subsection, and who would otherwise be subject to the penalty provisions of such section 1111, shall be punished by imprisonment for any term of years or for life.

(i) Any employer who violates any of the posting requirements, as prescribed under the provisions of this Act, shall be assessed a civil penalty of up to \$7,000 for each violation.

(j) The Commission shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

(k) For purposes of this section, a serious violation shall be deemed to exist in a place of employment if there is a substantiated probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(l) Civil penalties owed under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in

a civil action in the name of the United States brought in the United States district court for the district where the violation is alleged to have occurred or where the employer has its principal office.

SEC. 18. State Jurisdiction and State Plans

29 USC 667

(a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any occupational safety or health issue with respect to which no standard is in effect under section 6.

(b) Any State which, at any time, desires to assume responsibility for development and enforcement therein of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated under section 6 shall submit a State plan for the development of such standards and their enforcement.

(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgement --

(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State,

(2) provides for the development and enforcement of safety and health standards relating to one or more safety or health issues, which standards (and the enforcement of which standards) are or will be at least as effective in providing safe and healthful employment and places of employment as the standards promulgated under section 6 which relate to the same issues, and which standards, when applicable to products which are distributed or used in interstate commerce, are required by competing local conditions and do not unduly burden interstate commerce,

(3) provides for a right of entry and inspection of all workplaces subject to the Act which is at least as effective as that provided in section 8, and includes a prohibition on advance notice of inspections,

(4) contains satisfactory assurances that such agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards,

(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards,

(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions, which program is as effective as the standards contained in an approved plan,

(7) requires employers in the State to make reports to the Secretary in the same manner and to the same extent as if the plan were not in effect, and

(8) provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time require.

(d) If the Secretary rejects a plan submitted under subsection (b), he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

(e) After the Secretary approves a State plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under sections 8, 9, 10, 13, and 17 with respect to comparable standards promulgated under section 6, for the period specified in the next sentence. The Secretary may exercise the authority referred to above until he determines, on the basis of actual operations under the State plan, that the criteria set forth in subsection (c) are being applied, but he shall not make such determination for at least three years after the plan's approval under subsection (c). Upon making the determination referred to in the preceding sentence, the provisions of sections 5(a)(2), 8 (except for the purpose of carrying out subsection (f) of this section), 9, 10, 13, and 17, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the date of determination.

(f) The Secretary shall, on the basis of reports submitted by the State agency and his own inspections make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), he shall notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

(g) The State may obtain a review of a decision of the Secretary withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall

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certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing its approval of such a plan is not supported by substantial evidence the court shall affirm the Secretary's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) The Secretary may enter into an agreement with a State under which the State will be permitted to continue to enforce one or more occupational health and safety standards in effect in such State until final action is taken by the Secretary with respect to a plan submitted by a State under subsection (b) of this section, or two years from the date of enactment of this Act, whichever is earlier.

SEC. 19. Federal Agency Safety Programs and Responsibilities

(a) It shall be the responsibility of the head of each Federal agency (not including the United States Postal Service) to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under section 6. The head of each agency shall (after consultation with representatives of the employees thereof) --

(1) provide safe and healthful places and conditions of employment, consistent with the standards set under section 6; Pub. L. 50-241

(2) acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect employees;

(3) keep adequate records of all occupational accidents and illnesses for proper evaluation and necessary corrective action;

(4) consult with the Secretary with regard to the adequacy as to form and content of records kept pursuant to subsection (a)(3) of this section; and

(5) make an annual report to the Secretary with respect to occupational accidents and injuries and the agency's program under this section. Such report shall include any report submitted under section 7902(e)(2) of title 5, United States Code.

(b) The Secretary shall report to the President a summary or digest of reports submitted to him under subsection (a)(5) of this section, together with his evaluations of and recommendations derived from such reports. Pub. L. 97-375

(c) Section 7902(c)(1) of title 5, United States Code, is amended by inserting after "agencies" the following: "and of labor organizations representing employees".

(d) The Secretary shall have access to records and reports kept and filed by Federal agencies pursuant to subsections (a)(3) and (5) of this section unless those records and reports are specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy, in which case the Secretary shall have access to such information as will not jeopardize national defense or foreign policy.

SEC. 20. Research and Related Activities

(a) (1) The Secretary of Health and Human Services, after consultation with the Secretary and with other appropriate Federal departments or agencies, shall conduct (directly or by grants or contracts) research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems. 29 USC 669

(2) The Secretary of Health and Human Services shall from time to time consult with the Secretary in order to develop specific plans for such research, demonstrations, and experiments as are necessary to produce criteria, including criteria identifying toxic substances, enabling the Secretary to meet his responsibility for the formulation of safety and health standards under this Act; and the Secretary of Health and Human Services, on the basis of such research, demonstrations, and experiments and any other information available to him, shall develop and publish at least annually such criteria as will effectuate the purposes of this Act.

(3) The Secretary of Health and Human Services, on the basis of such research, demonstrations, and experiments, and any other information available to him, shall develop criteria dealing with toxic materials and harmful physical agents and substances which will describe exposure levels that are safe for various periods of employment, including but not limited to the exposure levels at which no employee will suffer impaired health or functional capacities or diminished life expectancy as a result of his work experience.

(4) The Secretary of Health and Human Services shall also conduct special research, experiments, and demonstrations relating to occupational safety and health as are necessary to explore new problems, including those created by new technology in occupational safety and health, which may require ameliorative action beyond that which is otherwise provided for in the operating provisions of this Act. The Secretary of Health and Human Services shall also conduct research into the motivational and behavioral factors relating to the field of occupational safety and health.

(5) The Secretary of Health and Human Services, in order to comply with his responsibilities under paragraph (2), and in order to develop needed information regarding potentially toxic substances or harmful physical agents, may prescribe regulations requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents which the Secretary of Health and Human Services reasonably believes may endanger the health or safety of employees. The Secretary of Health and Human Services also is authorized to establish such programs of medical examinations and tests as may be necessary for determining the incidence of occupational illnesses and the susceptibility of employees to such illnesses. Nothing in this or any other provision of this Act shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others. Upon the request of any employer who is required to measure and record exposure of employees to substances or physical agents as provided under this subsection, the Secretary of Health and Human Services shall furnish full financial or other assistance to such employer for the purpose of defraying any additional expense incurred by him in carrying out the measuring and recording as provided in this subsection.

(6) The Secretary of Health and Human Services shall publish within six months of enactment of this Act and thereafter as needed but at least annually a list of all known toxic substances by generic family or other useful grouping, and the concentrations at which such toxicity is known to occur. He shall determine following a written request by any employer or authorized representative of employees, specifying with reasonable particularity the grounds on which the request is made, whether any substance normally found in the place of employment has potentially toxic effects in such concentrations as used or found; and shall submit such determination both to employers and affected employees as soon as possible. If the Secretary of Health and Human Services determines that any substance is potentially toxic at the concentrations in which it is used or found in a place of employment, and such substance is not covered by an occupational safety or health standard promulgated under section 6, the Secretary of Health and Human Services shall immediately submit such determination to the Secretary, together with all pertinent criteria.

(7) Within two years of enactment of the Act, and annually thereafter the Secretary of Health and Human Services shall conduct and publish industry-wide studies of the effect of chronic or low-level exposure to industrial materials, processes, and stresses on the potential for illness, disease, or loss of functional capacity in aging adults.

(b) The Secretary of Health and Human Services is authorized to make inspections and question employers and employees as provided in section 8 of this Act in order to carry out his functions and responsibilities under this section.

(c) The Secretary is authorized to enter into contracts, agreements, or other arrangements with appropriate public agencies or private organizations for the purpose of conducting studies relating to his responsibilities under this Act. In carrying out his responsibilities under this subsection, the Secretary shall cooperate with the Secretary of Health and Human Services in order to avoid any duplication of efforts under this section.

(d) Information obtained by the Secretary and the Secretary of Health and Human Services under this section shall be disseminated by the Secretary to employers and employees and organizations thereof.

(e) The functions of the Secretary of Health and Human Services under this Act shall, to the extent feasible, be delegated to the Director of the National Institute for Occupational Safety and Health established by section 22 of this Act.

EXPANDED RESEARCH ON WORKER SAFETY AND HEALTH

The Secretary of Health and Human Services (referred to in this section as the "Secretary"), acting through the Director of the National Institute of Occupational Safety and Health, shall enhance and expand research as deemed appropriate on the health and safety of workers who are at risk for bioterrorist threats or attacks in the workplace, including research on the health effects of measures taken to treat or protect such workers for diseases or disorders resulting from a bioterrorist threat or attack. Nothing in this section may be construed as establishing new regulatory authority for the Secretary or the Director to issue or modify any occupational safety and health rule or regulation.

29 USC 669a

Pub. L. 107-188,
Title I, § 153 added
this text.

SEC. 21. Training and Employee Education

(a) The Secretary of Health and Human Services, after consultation with the Secretary and with other appropriate Federal departments and agencies, shall conduct, directly or by grants or contracts --

29 USC 670

- (1) education programs to provide an adequate supply of qualified personnel to carry out the purposes of this Act, and
- (2) informational programs on the importance of and proper use of adequate safety and health equipment.

(b) The Secretary is also authorized to conduct, directly or by grants or contracts, short-term training of personnel engaged in work related to his responsibilities under this Act.

(c) The Secretary, in consultation with the Secretary of Health and Human

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Services, shall --

(1) provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions in employments covered by this Act, and:

(2) consult with and advise employers and employees, and organizations representing employers and employees as to effective means of preventing occupational injuries and illnesses.

Pub. L. 105-67,
§2 added
subsection (d).
See Historical
notes.

(d) (1) The Secretary shall establish and support cooperative agreements with the States under which employers subject to this Act may consult with State personnel with respect to --

(A) the application of occupational safety and health requirements under this Act or under State plans approved under section 18; and

(B) voluntary efforts that employers may undertake to establish and maintain safe and healthful employment and places of employment. Such agreements may provide, as a condition of receiving funds under such agreements, for contributions by States towards meeting the costs of such agreements.

(2) Pursuant to such agreements the State shall provide on-site consultation at the employer's worksite to employers who request such assistance. The State may also provide other education and training programs for employers and employees in the State. The State shall ensure that on-site consultations conducted pursuant to such agreements include provision for the participation by employees.

(3) Activities under this subsection shall be conducted independently of any enforcement activity. If an employer fails to take immediate action to eliminate employee exposure to an imminent danger identified in a consultation or fails to correct a serious hazard so identified within a reasonable time, a report shall be made to the appropriate enforcement authority for such action as is appropriate.

(4) The Secretary shall, by regulation after notice and opportunity for comment, establish rules under which an employer --

(A) which requests and undergoes an on-site consultative visit provided under this subsection;

(B) which corrects the hazards that have been identified during the visit within the time frames established by the State and agrees to request a subsequent consultative visit if major changes in working conditions or work processes occur which introduce new hazards in the workplace; and

(C) which is implementing procedures for regularly identifying and preventing hazards regulated under this Act and maintains appropriate involvement of, and training for, management and non-management employees in achieving safe and healthful working conditions, may be exempt from an inspection (except an inspection requested under section 8(f) or an inspection to determine the cause of a workplace accident which resulted in the death of one or more employees or hospitalization for three or more employees) for a period of 1 year from the closing of the consultative visit.

(5) A State shall provide worksite consultations under paragraph (2) at the

request of an employer. Priority in scheduling such consultations shall be

assigned to requests from small businesses which are in higher hazard industries or have the most hazardous conditions at issue in the request.

SEC. 22. National Institute for Occupational Safety and Health

(a) It is the purpose of this section to establish a National Institute for Occupational Safety and Health in the Department of Health and Human Services in order to carry out the policy set forth in section 2 of this Act and to perform the functions of the Secretary of Health and Human Services under sections 20 and 21 of this Act.

29 USC 671

(b) There is hereby established in the Department of Health and Human Services a National Institute for Occupational Safety and Health. The Institute shall be headed by a Director who shall be appointed by the Secretary of Health and Human Services, and who shall serve for a term of six years unless previously removed by the Secretary of Health and Human Services.

(c) The Institute is authorized to --

(1) develop and establish recommended occupational safety and health standards; and

(2) perform all functions of the Secretary of Health and Human Services under sections 20 and 21 of this Act.

(d) Upon his own initiative, or upon the request of the Secretary of Health and Human Services, the Director is authorized (1) to conduct such research and experimental programs as he determines are necessary for the development of criteria for new and improved occupational safety and health standards; and (2) after consideration of the results of such research and experimental programs make recommendations concerning new or improved occupational safety and health standards. Any occupational safety and health standard recommended pursuant to this section shall immediately be forwarded to the Secretary of Labor, and to the Secretary of Health and Human Services.

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(e) In addition to any authority vested in the Institute by other provisions of this section, the Director, in carrying out the functions of the Institute, is authorized to --

- (1) prescribe such regulations as he deems necessary governing the manner in which its functions shall be carried out;
- (2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of the Institute and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;
- (3) receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)), money and other property donated, bequeathed, or devised to the Institute with a condition or restriction, including a condition that the Institute use other funds of the Institute for the purposes of the gift;
- (4) in accordance with the civil service laws, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this section;
- (5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;
- (6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;
- (7) enter into contracts, grants or other arrangements, or modifications thereof to carry out the provisions of this section, and such contracts or modifications thereof may be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or any other provision of law relating to competitive bidding;
- (8) make advance, progress, and other payments which the Director deems necessary under this title without regard to the provisions of section 3324 (a) and (b) of Title 31; and
- (9) make other necessary expenditures.

Pub. L. 97-258

(f) The Director shall submit to the Secretary of Health and Human Services, to the President, and to the Congress an annual report of the operations of the Institute under this Act, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as he deems appropriate.

Pub. L. 102-550
added subsection
(g).

(g) Lead-Based Paint Activities.

(1) Training Grant Program.

(A) The Institute, in conjunction with the Administrator of the Environmental Protection Agency, may make grants for the training and education of workers and supervisors who are or may be directly engaged in lead-based paint activities.

(B) Grants referred to in subparagraph (A) shall be awarded to nonprofit organizations (including colleges and universities, joint labor-management trust funds, States, and nonprofit government employee organizations) --

(i) which are engaged in the training and education of workers and supervisors who are or who may be directly engaged in lead-based paint activities (as defined in Title IV of the Toxic Substances Control Act),

(ii) which have demonstrated experience in implementing and operating health and safety training and education programs, and

(iii) with a demonstrated ability to reach, and involve in lead-based paint training programs, target populations of individuals who are or will be engaged in lead-based paint activities. Grants under this subsection shall be awarded only to those organizations that fund at least 30 percent of their lead-based paint activities training programs from non-Federal sources, excluding in-kind contributions. Grants may also be made to local governments to carry out such training and education for their employees.

(C) There are authorized to be appropriated, a minimum, \$10,000,000 to the Institute for each of the fiscal years 1994 through 1997 to make grants under this paragraph.

(2) Evaluation of Programs. The Institute shall conduct periodic and comprehensive assessments of the efficacy of the worker and supervisor training programs developed and offered by those receiving grants under this section. The Director shall prepare reports on the results of these assessments addressed to the Administrator of the Environmental Protection Agency to include recommendations as may be appropriate for the revision of these programs. The sum of \$500,000 is authorized to be appropriated to the Institute for each of the fiscal years 1994 through 1997 to carry out this paragraph.

WORKERS' FAMILY PROTECTION

(a) Short title
This section may be cited as the "Workers' Family Protection Act".

29 USC 671a

Pub. L. 102-522,
Title II, §209
added this text.

(b) Findings and purpose

(1) Findings
Congress finds that--

- (A) hazardous chemicals and substances that can threaten the health and safety of workers are being transported out of industries on workers' clothing and persons;
- (B) these chemicals and substances have the potential to pose an additional threat to the health and welfare of workers and their families;
- (C) additional information is needed concerning issues related to employee transported contaminant releases; and
- (D) additional regulations may be needed to prevent future releases of this type.

(2) Purpose

It is the purpose of this section to--

- (A) increase understanding and awareness concerning the extent and possible health impacts of the problems and incidents described in paragraph (1);
- (B) prevent or mitigate future incidents of home contamination that could adversely affect the health and safety of workers and their families;
- (C) clarify regulatory authority for preventing and responding to such incidents; and
- (D) assist workers in redressing and responding to such incidents when they occur.

(c) Evaluation of employee transported contaminant releases

(1) Study

(A) In general

Not later than 18 months after October 26, 1992, the Director of the National Institute for Occupational Safety and Health (hereafter in this section referred to as the "Director"), in cooperation with the Secretary of Labor, the Administrator of the Environmental Protection Agency, the Administrator of the Agency for Toxic Substances and Disease Registry, and the heads of other Federal Government agencies as determined to be appropriate by the Director, shall conduct a study to evaluate the potential for, the prevalence of, and the issues related to the contamination of workers' homes with hazardous chemicals and substances, including infectious agents, transported from the workplaces of such workers.

(B) Matters to be evaluated

In conducting the study and evaluation under subparagraph (A), the Director shall--

(i) conduct a review of past incidents of home contamination through the utilization of literature and of records concerning past investigations and enforcement actions undertaken by--

(I) the National Institute for Occupational Safety and Health;

(II) the Secretary of Labor to enforce the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);

(III) States to enforce occupational safety and health standards in accordance with section 18 of such Act (29 U.S.C. 657); and

(IV) other government agencies (including the Department of Energy and the Environmental Protection Agency), as the Director may determine to be appropriate;

(ii) evaluate current statutory, regulatory, and voluntary industrial hygiene or other measures used by small, medium and large employers to prevent or remediate home contamination;

(iii) compile a summary of the existing research and case histories conducted on incidents of employee transported contaminant releases, including--

(I) the effectiveness of workplace housekeeping practices and personal protective equipment in preventing such incidents;

(II) the health effects, if any, of the resulting exposure on workers and their families;

(III) the effectiveness of normal house cleaning and laundry procedures for removing hazardous materials and agents from workers' homes and personal clothing;

(IV) indoor air quality, as the research concerning such pertains to the fate of chemicals transported from a workplace into the home environment; and

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(v) methods for differentiating exposure health effects and relative risks associated with specific agents from other sources of exposure inside and outside the home;

(iv) identify the role of Federal and State agencies in responding to incidents of home contamination;

(v) prepare and submit to the Task Force established under paragraph (2) and to the appropriate committees of Congress, a report concerning the results of the matters studied or evaluated under clauses (i) through (iv); and

(vi) study home contamination incidents and issues and worker and family protection policies and practices related to the special circumstances of firefighters and prepare and submit to the appropriate committees of Congress a report concerning the findings with respect to such study.

(2) Development of investigative strategy

(A) Task Force

Not later than 12 months after October 26, 1992, the Director shall establish a working group, to be known as the "Workers' Family Protection Task Force". The Task Force shall—

(i) be composed of not more than 15 individuals to be appointed by the Director from among individuals who are representative of workers, industry, scientists, industrial hygienists, the National Research Council, and government agencies, except that not more than one such individual shall be from each appropriate government agency and the number of individuals appointed to represent industry and workers shall be equal in number;

(ii) review the report submitted under paragraph (1)(B)(v);

(iii) determine, with respect to such report, the additional data needs, if any, and the need for additional evaluation of the scientific issues related to and the feasibility of developing such additional data; and

(iv) if additional data are determined by the Task Force to be needed, develop a recommended investigative strategy for use in obtaining such information.

(B) Investigative strategy

(i) Content

The investigative strategy developed under subparagraph (A)(iv) shall identify data gaps that can and cannot be filled, assumptions and uncertainties associated with various components of such strategy, a timetable for the implementation of such strategy, and methodologies used to gather any required data.

(ii) Peer review

The Director shall publish the proposed investigative strategy under subparagraph (A)(iv) for public comment and utilize other methods, including technical conferences or seminars, for the purpose of obtaining comments concerning the proposed strategy.

(iii) Final strategy

After the peer review and public comment is conducted under clause (ii), the Director, in consultation with the heads of other government agencies, shall propose a final strategy for investigating issues related to home contamination that shall be implemented by the National Institute for Occupational Safety and Health and other Federal agencies for the period of time necessary to enable such agencies to obtain the information identified under subparagraph (A)(iii).

(C) Construction

Nothing in this section shall be construed as precluding any government agency from investigating issues related to home contamination using existing procedures until such time as a final strategy is developed or from taking actions in addition to those proposed in the strategy after its completion.

(3) Implementation of investigative strategy

Upon completion of the investigative strategy under subparagraph (B)(iii), each Federal agency or department shall fulfill the role assigned to it by the strategy.

(d) Regulations

(1) In general

Not later than 4 years after October 26, 1992, and periodically thereafter, the Secretary of Labor, based on the information developed under subsection (c) of this section and on other information available to the Secretary, shall—

(A) determine if additional education about, emphasis on, or enforcement of existing regulations or standards is needed and will be sufficient, or if additional regulations or standards are needed with regard to employee transported releases of hazardous materials; and

(b) prepare and submit to the appropriate committees of Congress a report concerning the result of such determination.

(2) Additional regulations or standards If the Secretary of Labor determines that additional regulations or standards are needed under paragraph (1), the Secretary shall promulgate, pursuant to the Secretary's authority under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), such regulations or standards as determined to be appropriate not later than 3 years after such determination.

(e) Authorization of appropriations There are authorized to be appropriated from sums otherwise authorized to be appropriated, for each fiscal year such sums as may be necessary to carry out this section.

SEC. 23. Grants to the States

29 USC 672

(a) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States which have designated a State agency under section 18 to assist them --

(1) in identifying their needs and responsibilities in the area of occupational safety and health,

(2) in developing State plans under section 18, or

(3) in developing plans for --

(A) establishing systems for the collection of information concerning the nature and frequency of occupational injuries and diseases;

(B) increasing the expertise and enforcement capabilities of their personnel engaged in occupational safety and health programs; or

(C) otherwise improving the administration and enforcement of State occupational safety and health laws, including standards thereunder, consistent with the objectives of this Act.

(b) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States for experimental and demonstration projects consistent with the objectives set forth in subsection (a) of this section.

(c) The Governor of the State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(d) Any State agency designated by the Governor of the State desiring a grant under this section shall submit an application therefor to the Secretary.

(e) The Secretary shall review the application, and shall, after consultation with the Secretary of Health and Human Services, approve or reject such application.

(f) The Federal share for each State grant under subsection (a) or (b) of this section may not exceed 90 per centum of the total cost of the application. In the event the Federal share for all States under either such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(g) The Secretary is authorized to make grants to the States to assist them in administering and enforcing programs for occupational safety and health contained in State plans approved by the Secretary pursuant to section 18 of this Act. The Federal share for each State grant under this subsection may not exceed 50 per centum of the total cost to the State of such a program. The last sentence of subsection (f) shall be applicable in determining the Federal share under this subsection.

(h) Prior to June 30, 1973, the Secretary shall, after consultation with the Secretary of Health and Human Services, transmit a report to the President and to the Congress, describing the experience under the grant programs authorized by this section and making any recommendations he may deem appropriate.

SEC. 24. Statistics

29 USC 673

(a) In order to further the purposes of this Act, the Secretary, in consultation with the Secretary of Health and Human Services, shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. Such program may cover all employments whether or not subject to any other provisions of this Act but shall not cover employments excluded by section 4 of the Act. The Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

(b) To carry out his duties under subsection (a) of this section, the Secretary may --

(1) promote, encourage, or directly engage in programs of studies, information and communication concerning occupational safety and health statistics;

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(2) make grants to States or political subdivisions thereof in order to assist them in developing and administering programs dealing with occupational safety and health statistics; and

(3) arrange, through grants or contracts, for the conduct of such research and investigations as give promise of furthering the objectives of this section.

(c) The Federal share for each grant under subsection (b) of this section may be up to 50 per centum of the State's total cost.

(d) The Secretary may, with the consent of any State or political subdivision thereof, accept and use the services, facilities, and employees of the agencies of such State or political subdivision, with or without reimbursement, in order to assist him in carrying out his functions under this section.

(e) On the basis of the records made and kept pursuant to section 8(c) of this Act, employers shall file such reports with the Secretary as he shall prescribe by regulation, as necessary to carry out his functions under this Act.

(f) Agreements between the Department of Labor and States pertaining to the collection of occupational safety and health statistics already in effect on the effective date of this Act shall remain in effect until superseded by grants or contracts made under this Act.

SEC. 25. Audits

(a) Each recipient of a grant under this Act shall keep such records as the Secretary or the Secretary of Health and Human Services shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant; the total cost of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. 29 USC 674

(b) The Secretary or the Secretary of Health and Human Services, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of any grant under this Act that are pertinent to any such grant.

SEC. 26. Annual Report

Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary and the Secretary of Health and Human Services shall each prepare and submit to the President for transmittal to the Congress a report upon the subject matter of this Act, the progress toward achievement of the purpose of this Act, the needs and requirements in the field of occupational safety and health, and any other relevant information. Such reports shall include information regarding occupational safety and health standards, and criteria for such standards, developed during the preceding year; evaluation of standards and criteria previously developed under this Act, defining areas of emphasis for new criteria and standards; an evaluation of the degree of observance of applicable occupational safety and health standards, and a summary of inspection and enforcement activity undertaken; analysis and evaluation of research activities for which results have been obtained under governmental and nongovernmental sponsorship; an analysis of major occupational diseases; evaluation of available control and measurement technology for hazards for which standards or criteria have been developed during the preceding year; description of cooperative efforts undertaken between Government agencies and other interested parties in the implementation of this Act during the preceding year; a progress report on the development of an adequate supply of trained manpower in the field of occupational safety and health, including estimates of future needs and the efforts being made by Government and others to meet those needs; listing of all toxic substances in industrial usage for which labeling requirements, criteria, or standards have not yet been established; and such recommendations for additional legislation as are deemed necessary to protect the safety and health of the worker and improve the administration of this Act. 29 USC 675 Pub. L. 104-66 §3003 terminated provision relating to transmittal of report to Congress.

SEC. 27. National Commission on State Workmen's Compensation Laws

(Text omitted.) 29 USC 676

SEC. 28. Economic Assistance to Small Businesses

(Text omitted.) See notes on omitted text.

SEC. 29. Additional Assistant Secretary of Labor

(Text omitted.) See notes on omitted text.

SEC. 30. Additional Positions

(Text omitted.) See notes on omitted text.

SEC. 31. Emergency Locator Beacons

(Text omitted.) See notes on omitted text.

SEC. 32. Separability.

If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. 29 USC 677

SEC. 33. Appropriations

There are authorized to be appropriated to carry out this Act for each fiscal year such sums as the Congress shall deem necessary. 29 USC 678

SEC. 34. Effective Date

This Act shall take effect one hundred and twenty days after the date of its enactment.

Approved December 29, 1970.

As amended through January 1, 2004.

HISTORICAL NOTES

This reprint generally retains the section numbers originally created by Congress in the Occupational Safety and Health (OSH) Act of 1970, Pub. L. 91-596, 84 Stat. 1590. This document includes some editorial changes, such as changing the format to make it easier to read, correcting typographical errors, and updating some of the margin notes. Because Congress enacted amendments to the Act since 1970, this version differs from the original version of the OSH Act. It also differs slightly from the version published in the United States Code at 29 U.S.C. 661 *et seq.* For example, this reprint refers to the statute as the "Act" rather than the "chapter."

This reprint reflects the provisions of the OSH Act that are in effect as of January 1, 2004. Citations to Public Laws which made important amendments to the OSH Act since 1970 are set forth in the margins and explanatory notes are included below.

NOTE: Some provisions of the OSH Act may be affected by the enactment of, or amendments to, other statutes. Section 17(h)(1), 29 U.S.C. 666, is an example. The original provision amended section 1114 of title 18 of the United States Code to include employees of "the Department of Labor assigned to perform investigative, inspection, or law enforcement functions" within the list of persons protected by the provisions to allow prosecution of persons who have killed or attempted to kill an officer or employee of the U.S. government while performing official duties. This reprint sets forth the text of section 17(h) as enacted in 1970. However, since 1970, Congress has enacted multiple amendments to 18 U.S.C. 1114. The current version does not specifically include the Department of Labor in a list; rather it states that "Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance shall be punished . . ." as provided by the statute. Readers are reminded that the official version of statutes can be found in the current volumes of the United States Code, and more extensive historical notes can be found in the current volumes of the United States Code Annotated.

Amendments

On January 2, 1974, section 2(c) of Pub. L. 93-237 replaced the phrase "7(b)(6)" in section 28(d) of the OSH Act with "7(b)(5)". 87 Stat. 1023. Note: The text of Section 28 (Economic Assistance to Small Business) amended Sections 7(b) and Section 4(c)(1) of the Small Business Act. Because these amendments are no longer current, the text of section 28 is omitted in this reprint. For the current version, see 15 U.S.C. 636.

In 1977, the U.S. entered into the Panama Canal Treaty of 1977, Sept. 7, 1977, U.S.-Panama, T.J.A.S. 10030, 33 U.S.T. 29. In 1979, Congress enacted implementing legislation, Panama Canal Act of 1979, Pub. L. 96-70, 93 Stat. 452 (1979). Although no corresponding amendment to the OSH Act was enacted, the Canal Zone ceased to exist in 1979. The U.S. continued to manage, operate and facilitate the transit of ships through the Canal under the authority of the Panama Canal Treaty until December 31, 1999, at which time authority over the Canal was transferred to the Republic of Panama.

On March 27, 1978, Pub. L. 95-251, 92 Stat. 183, replaced the term "hearing examiner(s)" with "administrative law judge(s)" in all federal laws, including sections 12(e), 12(i), and 12(k) of the OSH Act, 29 U.S.C. 661.

On October 13, 1978, Pub. L. 95-454, 92 Stat. 1111, 1221, which redesignated section numbers concerning personnel matters and compensation, resulted in the substitution of section 5372 of Title 5 for section 5362 in section 12(e) of the OSH Act, 29 U.S.C. 661.

On October 17, 1979, Pub. L. 96-98, Title V, section 509(b), 93 Stat. 668, 695, redesignated references to the Department of Health, Education, and Welfare to the Department of Health and Human Services and redesignated references to the Secretary of Health, Education, and Welfare to the Secretary of Health and Human Services.

On September 13, 1982, Pub. L. 97-258, 94(b), 96 Stat. 877, 1067, effectively substituted "Section 3324(a) and (b) of Title 31" for "Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529)" in section 22 (e)(6), 29 U.S.C. 671, relating to NIOSH procurement authority.

On December 21, 1982, Pub. L. 97-375, 96 Stat. 1819, deleted the sentence in section 19(b) of the Act, 29 U.S.C. 668, that directed the President of the United States to transmit annual reports of the activities of federal agencies to the House of Representatives and the Senate.

On October 12, 1984, Pub. L. 98-473, Chapter II, 98 Stat. 1837, 1887, (commonly referred to as the "Sentencing Reform Act of 1984") instituted a classification system for criminal offenses punishable under the United States Code. Under this system, an offense with imprisonment terms of "six months or less but more than thirty days,"

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such as that found in 29 U.S.C. 666(e) for a willful violation of the OSH Act, is classified as a criminal "Class B misdemeanor." 18 U.S.C. 3559(a)(7).

The criminal code increases the monetary penalties for criminal misdemeanors beyond what is provided for in the OSH Act: a fine for a Class B misdemeanor resulting in death, for example, is not more than \$250,000 for an individual, and is not more than \$500,000 for an organization. 18 U.S.C. 3571(b)(4), (c)(4). The criminal code also provides for authorized terms of probation for both individuals and organizations. 18 U.S.C. 3551, 3561. The term of imprisonment for individuals is the same as that authorized by the OSH Act. 18 U.S.C. 3581(b)(7).

On November 8, 1994, Pub. L. 98-620, 98 Stat. 3335, deleted the last sentence in section 13(a) of the Act, 29 U.S.C. 660, that required petitions filed under the subsection to be heard expeditiously.

On November 5, 1990, Pub. L. 101-508, 104 Stat. 1388, amended section 17 of the Act, 29 U.S.C. 666, by increasing the penalties in section 17(a) from \$10,000 for each violation to "\$70,000 for each violation, but not less than \$5,000 for each violation," and increased the limitation on penalties in sections (b), (c), (d), and (f) from \$1,000 to \$7,000.

On October 26, 1992, Pub. L. 102-522, 106 Stat. 3410, 3420, added to Title 29, section 671a "Workers' Family Protection" to grant authority to the Director of NIOSH to evaluate, investigate and if necessary, for the Secretary of Labor to regulate employee transported releases of hazardous material that result from contamination on the employee's clothing or person and may adversely affect the health and safety of workers and their families. Note: section 671a was enacted as section 209 of the Fire Administration Authorization Act of 1992, but it is reprinted here because it is codified within the chapter that comprises the OSH Act.

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102-550, 106 Stat. 3672, 3924, amended section 22 of the Act, 29 U.S.C. 671, by adding subsection (g), which requires NIOSH to institute a training grant program for lead-based paint activities.

On July 5, 1994, section 7(b) of Pub. L. 103-272, 108 Stat. 745, repeated section 31 of the OSH Act, "Emergency Locator Beacons." Section 1(e) of the same Public Law, however, enacted a modified version of section 31 of the OSH Act. This provision, titled "Emergency Locator Transmitters," is codified at 49 U.S.C. 44712.

On December 21, 1995, Section 3003 of Pub. L. 104-66, 109 Stat. 707, as amended, effective May 15, 2000, terminated the provisions relating to the transmittal to Congress of reports under section 26 of the OSH Act. 29 U.S.C. 675.

On July 16, 1998, Pub. L. 105-197, 112 Stat. 638, amended section 21 of the Act, 29 U.S.C. 670, by adding subsection (d), which required the Secretary to establish a compliance assistance program by which employers can consult with state personnel regarding the application of and compliance with OSHA standards.

On July 16, 1998, Pub. L. 105-198, 112 Stat. 640, amended section 8 of the Act, 29 U.S.C. 657, by adding subsection (h), which forbids the Secretary to use the results of enforcement activities to evaluate the employees involved in such enforcement or to impose quotas or goals.

On September 29, 1998, Pub. L. 105-241, 112 Stat. 1572, amended sections 3(5) and 19(a) of the Act, 29 U.S.C. 652 and 668, to include the United States Postal Service as an "employer" subject to OSHA enforcement.

On June 12, 2002, Pub. L. 107-188, Title I, Section 153, 116 Stat. 631, Congress enacted 29 U.S.C. 669a, to expand research on the "health and safety of workers who are at risk for bioterrorist threats or attacks in the workplace."

Jurisdictional Note

Although no corresponding amendments to the OSH Act have been made, OSHA no longer exercises jurisdiction over the entity formerly known as the Trust Territory of the Pacific Islands. The Trust Territory, which consisted of the former

Japanese Mandated Islands, was established in 1947 by the Security Council of the United Nations, and administered by the United States. *Trusteeship Agreement for the Former Japanese Mandated Islands*, Apr. 2- July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

From 1947 to 1994, the people of these islands exercised the right of self-determination conveyed by the Trusteeship four times, resulting in the division of the Trust Territory into four separate entities. Three entities: the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands, became "Freely Associated States," to which U.S. Federal Law does not apply. Since the OSH Act is a generally applicable law that applies to Guam, it applies to the Commonwealth of Northern Mariana Islands, which elected to become a "Flag Territory" of the United States. See *Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America*, Article V, section 502(a) as obtained in Pub. L. 94-24, 90 Stat. 263 (Mar. 24, 1976) [citations to amendments omitted]; 48 U.S.C. 1801 and note (1976); see also *Saipan Stevedore Co., Inc. v. Director, Office of Workers' Compensation Programs*, 133 F.3d 717, 722 (9th Cir. 1998) [Longshore and Harbor Workers' Compensation Act applies to the Commonwealth of Northern Mariana Islands pursuant to section 502(a) of the Covenant because the Act has general application to the states and to Guam]. For up-to-date information on the legal status of these freely associated states and territories, contact the Office of Insular Affairs of the Department of the Interior. (Web address: <http://www.doi.gov/ola/>)

Omitted Text. Reasons for textual deletions vary. Some deletions may result from amendments to the OSH Act; others to subsequent amendments to other statutes which the original provisions of the OSH Act may have amended in 1970. In some instances, the original provision of the OSH Act was date-limited and is no longer operative.

The text of section 12(c), 29 U.S.C. 661, is omitted. Subsection (c) amended sections 5314 and 5315 of Title 5, United States Code, to add the positions of Chairman and members of the Occupational Safety and Health Review Commission.

The text of section 27, 29 U.S.C. 676, is omitted. Section 27 listed Congressional findings on workers' compensation and established the National Commission on State Workmen's Compensation Laws, which ceased to exist ninety days after the submission of its final report, which was due no later than July 31, 1972.

OSHA Content Document

The text of section 28 (Economic Assistance to Small Business) amended sections 7(b) and section 4(c)(1) of the Small Business Act to allow for small business loans in order to comply with applicable standards. Because these amendments are no longer current, the text is omitted here. For the current version see 15 U.S.C. 636.

The text of section 29 (Additional Assistant Secretary of Labor), created an Assistant Secretary for Occupational Safety and Health, and section 30 (Additional Positions) created additional positions within the Department of Labor and the Occupational Safety and Health Review Commission in order to carry out the provisions of the OSH Act. The text of these sections is omitted here because it no longer reflects the current statutory provisions for staffing and pay. For current provisions, see 29 U.S.C. 653 and 5 U.S.C. 5108 (c).

Section 31 of the original OSH Act amended 49 U.S.C. 1421 by inserting a section entitled "Emergency Locator Beacons." The text of that section is omitted in this reprint because Pub. L. 103-272, 108 Stat. 745, (July 5, 1994), repealed the text of section 31 and enacted a modified version of the provision, entitled "Emergency Locator Transmitters," which is codified at 49 U.S.C. 44712.

Notes on other legislation affecting the administration of the Occupational Safety and Health Act. Sometimes legislation does not directly amend the OSH Act, but does place requirements on the Secretary of Labor either to act or to refrain from acting under the authority of the OSH Act. Included below are some examples of such legislation. Please note that this is not intended to be a comprehensive list.

STANDARDS PROMULGATION.

For example, legislation may require the Secretary to promulgate specific standards pursuant to authority under section 6 of the OSH Act, 29 U.S.C. 655. Some examples include the following:

Hazardous Waste Operations. Pub. L. 99-499, Title I, section 126(a)-(f), 100 Stat. 1613 (1986), as amended by Pub. L. 100-202, section 101(f), Title II, section 201, 101 Stat. 1329 (1987), required the Secretary of Labor to promulgate standards concerning hazardous waste operations.

Chemical Process Safety Management. Pub. L. 101-549, Title III, section 304, 104 Stat. 2399 (1990), required the Secretary of Labor, in coordination with the Administrator of the Environmental Protection Agency, to promulgate a chemical process safety standard.

Hazardous Materials. Pub. L. 101-615, section 29, 104 Stat. 3244 (1990), required the Secretary of Labor, in consultation with the Secretaries of Transportation and Treasury, to issue specific standards concerning the handling of hazardous materials.

Bloodborne Pathogens Standard. Pub. L. 102-170, Title I, section 100, 105 Stat. 1307 (1991), required the Secretary of Labor to promulgate a final Bloodborne Pathogens standard.

Lead Standard. The Housing and Community Development Act of 1992, Pub. L. 102-550, Title X, sections 1031 and 1032, 106 Stat. 3672 (1992), required the Secretary of Labor to issue an interim final lead standard.

EXTENSION OF COVERAGE.

Sometimes a statute may make some OSH Act provisions applicable to certain entities that are not subject to those provisions by the terms of the OSH Act. For example, the Congressional Accountability Act of 1995, Pub. L. 104-1, 109 Stat. 3, (1995), extended certain OSH Act coverage, such as the duty to comply with Section 5 of the OSH Act, to the Legislative Branch. Among other provisions, this legislation authorizes the General Counsel of the Office of Compliance within the Legislative Branch to exercise the authority granted to the Secretary of Labor in the OSH Act to inspect places of employment and issue a citation or notice to correct the violation found. This statute does not make all the provisions of the OSH Act applicable to the Legislative Branch. Another example is the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Title IX, Section 947, Pub. L. 108-173, 117 Stat. 2066 (2003), which requires public hospitals not otherwise subject to the OSH Act to comply with OSHA's Bloodborne Pathogens standard, 29 CFR 1910.1030. This statute provides for the imposition and collection of civil money penalties by the Department of Health and Human Services in the event that a hospital fails to comply with OSHA's Bloodborne Pathogens standard.

PROGRAM CHANGES ENACTED THROUGH APPROPRIATIONS LEGISLATION.

Sometimes an appropriations statute may allow or restrict certain substantive actions by OSHA or the Secretary of Labor. For example, sometimes an appropriations statute may restrict the use of money appropriated to run the Occupational Safety and Health Administration or the Department of Labor. One example of such a restriction, that has been included in OSHA's appropriation for many years, limits the applicability of OSHA requirements with respect to farming operations that employ ten or fewer workers and do not maintain a temporary labor camp. Another example is a restriction that limits OSHA's authority to conduct certain enforcement activity with respect to employers of ten or fewer employees in low hazard industries. See Consolidated Appropriations Act, 2004, Pub. L. 108-199, Div. E - Labor, Health and Human Services, and Education, and Related Agencies Appropriations, 2004, Title I - Department of Labor, 118 Stat. 3 (2004). Sometimes an appropriations statute may allow OSHA to retain some money collected to use for occupational safety and health training or grants. For example, the Consolidated Appropriations Act, 2004, Div. E, Title I, cited above, allows OSHA to retain up to \$750,000 of training institute course tuition fees per fiscal year for such uses. For the statutory text of currently applicable appropriations provisions, consult the OSHA appropriations statute for the fiscal year in question.

☛ [OSHA Act of 1970 - Table of Contents](#)

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U.S. Department of Labor | Occupational Safety & Health Administration | 300 Constitution Ave., NW, Washington, DC 20210
Telephone: 800-321-OSHA (6742) | TTY: 877-889-5627

www.OSHA.gov

EXHIBIT B

Cannot Meet Specifications
EQUIPMENT PREVENTATIVE MAINTENANCE QUESTIONNAIRE

THIS FORM MUST BE COMPLETED IN ITS ENTIRETY BY SUCCESSFUL BIDDER OR MANUFACTURER'S TECHNICAL REPRESENTATIVE PRIOR TO DELIVERY OF PILOT MODEL TO THE WVDOH.

DESCRIPTION: _____ MAKE: _____

MODEL: _____ YEAR: _____ PURCHASE AMOUNT: _____

ENGINE: MAKE: _____ MODEL: _____ FUEL TYPE: _____

HORSEPOWER: _____ CYLINDER: _____ ENGINE SERIAL: _____

COOLING SYSTEM CAPACITY: _____

BELTS: DESCRIPTION: _____ PART NUMBERS: _____

GVW: _____ AXLE CAPACITY: FRONT: _____ REAR: _____

TIRES: FRONT MAKE & SIZE: _____

REAR MAKE & SIZE: _____

DIMENSIONS OF UNIT: LENGTH: _____ WIDTH: _____ LENGTH: _____

VENDOR CONTACT PERSON: _____ PHONE: _____

PARTS:

BATTERY MAKE: _____ MODEL: _____ CCA: _____

TOP OR SIDE POST: _____ DIMENSIONS: LENGTH _____ WIDTH _____ HEIGHT _____

SPARK PLUGS OR FUEL INJECTORS MAKE: _____ PART #: _____

FUEL PUMP OR INJECTION PUMP MAKE: _____ MODEL: _____

ALTERNATOR MAKE: _____ PART #: _____

STARTER MAKE: _____ PART #: _____

TURBO CHARGER MAKE: _____ PART #: _____

TRANS. MAKE: _____ MODEL: _____ AUTO/MANUAL: _____

HYDRAULIC PUMP MAKE: _____ MODEL: _____

FILTERS	MAKE	PART NO.	LUBRICANT	MANUFACTURER TYPE
OIL	_____	_____	ENGINE	_____
AIR INNER	_____	_____	TRANSMISSION	_____
AIR OUTER	_____	_____	POWER STEERING	_____
FUEL PRIMARY	_____	_____	HYDRAULIC	_____
FUEL SECONDARY	_____	_____	DIFFERENTIALS	_____
COOLANT	_____	_____	BRAKE FLUID	_____
HYDRAULIC	_____	_____	COOLANT	_____
OTHER	_____	_____	OTHER	_____

Pricing Page

Item	Estimated Quantity	Unit Price
Two wheel drive tractor with boom mower	80	

Vendor should also supply the year, make, and model of the following:

2 wheel drive tractor with boom mower

Can not meet tractor, or mower specifications

Grand Total	
\$	-



Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia
 Request for Quotation
 13 - Equipment

Proc Folder: 95330

Doc Description: ADDENDUM 1 CLASS 131 - 2 WHEEL DRIVE TRACTOR

Proc Type: Central Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version
2015-05-21	2015-06-03 13:30:00	CRFQ 0803 DOT1500000092	2

BID RECEIVING LOCATION

BID CLERK
 DEPARTMENT OF ADMINISTRATION
 PURCHASING DIVISION
 2019 WASHINGTON ST E
 CHARLESTON WV 25305
 US

VENDOR

Vendor Name, Address and Telephone Number:

J.S.C Enterprises Inc.
 2809 Charleston Rd.
 Spencer WV 25276
 304-927-4822

FOR INFORMATION CONTACT THE BUYER

Crystal Rink
 (304) 558-2402
 crystal.g.rink@wv.gov

Signature X

FEIN # 20-8836925

DATE 6/11/15

All offers subject to all terms and conditions contained in this solicitation

SOLICITATION NUMBER: CRFQ DOT1500000092

Addendum Number: 1

The purpose of this addendum is to modify the solicitation identified as ("Solicitation") to reflect the change(s) identified and described below.

Applicable Addendum Category:

- Modify bid opening date and time
- Modify specifications of product or service being sought
- Attachment of vendor questions and responses
- Attachment of pre-bid sign-in sheet
- Correction of error
- Other

Description of Modification to Solicitation:

To extend bid opening date to June 3, 2015 at 1:30 PM EST

Additional Documentation: Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

Terms and Conditions:

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

ATTACHMENT A

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: DOT1500000092

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input checked="" type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

J.S.C. Enterprises Inc.
Company
Clyde E. Strickland
Authorized Signature
6/11/15
Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.
Revised 6/8/2012

State of West Virginia VENDOR PREFERENCE CERTIFICATE

Certification and application* is hereby made for Preference in accordance with *West Virginia Code, §5A-3-37*. (Does not apply to construction contracts). *West Virginia Code, §5A-3-37*, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the *West Virginia Code*. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Vendor Preference, if applicable.

1. Application is made for 2.5% vendor preference for the reason checked:

Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,

Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,

Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; or,

2. Application is made for 2.5% vendor preference for the reason checked:

Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,

3. Application is made for 2.5% vendor preference for the reason checked:

Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,

4. Application is made for 5% vendor preference for the reason checked:

Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,

5. Application is made for 3.5% vendor preference who is a veteran for the reason checked:

Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,

6. Application is made for 3.5% vendor preference who is a veteran for the reason checked:

Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

7. Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with *West Virginia Code §5A-3-59* and *West Virginia Code of State Rules*.

Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Under penalty of law for false swearing (*West Virginia Code, §61-5-3*), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: J.S.C. Enterprises Inc.

Signed: 

Date: 6/1/15

Title: President

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

MANDATE: Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

EXCEPTION: The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

DEFINITIONS:

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Employer default" means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

AFFIRMATION: By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

WITNESS THE FOLLOWING SIGNATURE:

Vendor's Name: J.S.C. Enterprises Inc.

Authorized Signature: *Clyde Stuchler* Date: 6/1/15

State of West Virginia

County of Roane, to-wit:

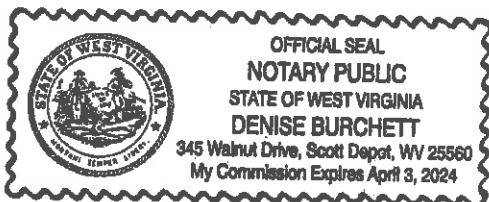
Taken, subscribed, and sworn to before me this 1 day of June, 2015.

My Commission expires April 3, 2024, 20 .

AFFIX SEAL HERE

NOTARY PUBLIC *Denise Burchett*

Purchasing Affidavit (Revised 07/01/2012)





Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia
 Request for Quotation
 13 - Equipment

Proc Folder: 95330

Doc Description: ADDENDUM 2 CLASS 131 - 2 WHEEL DRIVE TRACTOR

Proc Type: Central Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version
2015-05-21	2015-06-03 13:30:00	CRFQ 0803 DOT1500000092	3

BID RECEIVING LOCATION

BID CLERK
 DEPARTMENT OF ADMINISTRATION
 PURCHASING DIVISION
 2019 WASHINGTON ST E
 CHARLESTON WV 25305
 US

VENDOR

Vendor Name, Address and Telephone Number:

J.S.C. Enterprises Inc.
 2809 Charleston Rd.
 Spencer WV 25276
 304-927-4822

FOR INFORMATION CONTACT THE BUYER

Crystal Rink
 (304) 558-2402
 crystal.g.rink@wv.gov

Signature X

FEIN #

20-8836925

DATE

6/1/15

All offers subject to all terms and conditions contained in this solicitation

INVOICE TO		SHIP TO	
DIVISION OF HIGHWAYS EQUIPMENT DIVISION RT 33 83 BRUSHY FORK RD CROSSING BUCKHANNON WV26201 US		DIVISION OF HIGHWAYS EQUIPMENT DIVISION 33 BRUSHY FORK RD CROSSING BUCKHANNON WV 26201 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	CLASS 131-2 WHEEL DRIVE TRACTOR	80.00000	EA		

Comm Code	Manufacturer	Specification	Model #
21100000			

Extended Description :

CLASS 131 - 2 WHEEL DRIVE TRACTOR WITH MID MOUNTED ARTICULATED BOOM MOWER AND 60" SIDE MOUNTED ROTARY GRASS DECK

DOT1500000092	Document Phase Draft	Document Description ADDENDUM 2 CLASS 131 - 2 WHEEL DRIVE TRACTOR	Page 3 of 3
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ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

SOLICITATION NUMBER: CRFQ DOT1500000092
Addendum Number: 2

The purpose of this addendum is to modify the solicitation identified as (“Solicitation”) to reflect the change(s) identified and described below.

Applicable Addendum Category:

- Modify bid opening date and time
- Modify specifications of product or service being sought
- Attachment of vendor questions and responses
- Attachment of pre-bid sign-in sheet
- Correction of error
- Other

Description of Modification to Solicitation:

To provide answers to vendor questions

To provide the pre-bid meeting sign-in sheet

Additional Documentation: Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

Terms and Conditions:

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

Answer: We will leave this as written, vendor should bid standard size for their manufacturer.

6. **3.1.21.3** Cab shall have Lexan, or equal safety glass, tinted at all locations.

Question: Please clarify, are you asking for all glass to be tinted, and Lexan installed on the right? Or are you asking all glass be Lexan?

Answer: Lexon or equal on right side with 3/8" anti-scratch coating on both sides, polysield or equal. Tinted at all locations.

7. **3.2.2.1** Frame shall be mid-mounted to underside of tractor utilizing a modular center weldment with attaching rails adequately secured to the front bolster and rear axle.

Question: Ours doesn't mount there, this creates shock load to center of tractor?

Answer: Leave as written.

8. **3.2.2.3** Frame shall accept 50" side mounted grass deck.

Question: Should this not be a 60" side mounted grass deck?

Question: Is the deck to be 50" or 60"?

Answer: Should read 60".

9. **3.2.3.9** Mower controls shall be a five (5) section valve controlled through a single electronic joystick.

Question: Is a non-proportional joystick acceptable?

Answer: No, leave as written.

10. **3.2.5.3** Inner boom shall be made of 6 inch x 6 inch x 3/8 inch steel tubing minimum, with a 50,000 lb. per square inch minimum yield strength.

Question: Ours has a minimum of 70,000 PSI 8"x6" structural tube and reinforcement with 50,000 PSI steel. Is this acceptable?

Answer: Yes

11. **3.2.5.4** Dipper boom shall be made of 5 inch x 5 inch x 3/8 inch steel tubing minimum, with a 50,000 lb. per square inch minimum yield strength.

Question: Our secondary boom shall have a minimum of 50,000 PSI yield 6"x4" tube and reinforced at all stress points. Will you accept?

Answer: Yes

12. 3.2.5.5 All hinge points shall be T-1 steel reinforcement.

Question: Question raised concerning the T-1 Steel?

Answer: This will remain as written.

13. 3.2.5.6 Boom swing from stow position shall be 140 degrees forward.

Question: Ours is 110 degrees forward. Will you accept?

Answer: Yes

14. 3.2.5.8 Boom reach-out shall be minimum 16' feet from tractor centerline to outside edge or cutting blade arc.

Question: 3.2 refers to 17-foot reach-out. Please clarify. Also is there maximum reach?

Answer: Reach out is 16' with no maximum.

15. 3.2.6.2 Top deck shall be A606 alloy steel 10 gauge or equal.

3.2.6.3 Side skirts shall be a minimum of 3/8 inch steel.

We will be answering 3.2.6.2 and 3.2.6.3 together.

Question: Our specifications state the following: Shall be constructed of 110,000 PSI yield Domex® steel 1/8" deck and ¼" thick side walls and (4) four trapezoidal formed 50,000 PSI Domex steel reinforcements. Top to be continuously welded for strength and eliminate debris from collecting under reinforcements.

Answer: 3.2.6.2 and 3.2.6.3 will remain as written.

16. 3.2.6.6 Spindle bearings shall be tapered roller type in a sealed housing, to support 4 ½" minimum diameter spindle drive shaft.

Question# 1: Are self-adjusting bearings acceptable? These are generally regarded as superior to tapered roller bearings.

Question # 2: What size of bearings, top and bottom are to be used?

Question # 3: What size spindle support bearings are required?

Answer: The type and size of bearings shall be standard for the unit being bid.

17. 3.2.6.7 Blade carrier shall be triple bar type with bottom bar being T-1 steel.

Question: Our specification state: Shall be one piece, laser cut, 10,000 PSI, rectangular steel bar. The bar shall not be less than 7 1/4" x 41 5/16" x 1 1/4" , bar shall be papered to 5" at the knife bolt mounting holes, and attach to spindle with (6) six, 5/8" x 1 3/4"NF grade 8, mounting bolts. Mounting bolts shall be recessed so as the bolt head is below the surface level of the bar. The bar shall extend a minimum of 5 3/8" beyond the center of the knife mounting hole. Will you accept?

Answer: No, remains as written.

18. 3.2.6.11 Brush head shall have a front safety shield, hydraulic actuated center feed metal door operational from joystick control.

Question: Is this an optional feature?

Answer: No, this is a mandatory requirement.

19. 3.3.1.2 Spindle drive shall be direct flexible coupler.

Question: This cannot be both direct and flexible, will you revise?

Answer: Yes this will now read: **3.3.1.2 Spindle drive shall be direct coupler, or direct flexible coupler.**

20. 3.3.1.3 Cutting height shall be 1 1/2" inches minimum to 7" inches maximum.

Question: How is the cutter to be lifted and by what components?

Question: Please clarify?

Answer # 1: 60" side mower will be pinned to existing boom mower frame, to be lifted and controlled by boom mower functions.

Answer # 2: We will delete 3.3.1.3.

21. 3.3.1.5 Shall have cutter disc, dish type $\frac{3}{4}$ " x 3 x $7\frac{1}{2}$ " diameter minimum attached to spindle with six $\frac{5}{8}$ " grade 8 bolts minimum.

Question: This is proprietary to one brand.

Answer: We will change to read: 3.3.1.5 Shall have 60" dish type rotary head, with minimum $1\frac{1}{2}$ " to $7\frac{1}{2}$ " maximum cutting height and 6 inch maximum cutting diameter.

22. 6. Delivery: 90 working days for pilot and 120 working days for remainder of order.

Question # 1: All but one vendors would like to see this changed to 140 working days for pilot and 200 working days for remainder of order.

Question # 2: Delivery request of 200 days for pilot and 320 days for balance of order.

Answer: Two other John Deere dealers had no issue with time frame of 140 days for pilot and 200 for balance of order, therefore we will change to 140 working days for pilot and 200 working days for remainder of order.

**PRE-BID CONFERENCE
SIGN IN SHEET**

Request for Quotation Number: CRFQ 0803 DOT150000092

Date: 5/7/15

Project Description:

2 Wheel Dr. Tractor w/ mowers

PLEASE PRINT LEGIBLY. THIS INFORMATION IS ESSENTIAL TO CONTACT THE ATTENDEES IN A TIMELY MANNER. FAILURE TO DO SO MAY RESULT IN DELAYS IN YOUR COMPANY GETTING IMPORTANT BID INFORMATION.

Firm Name:	ALAMO SALES
Firm Address:	8878 BRUCEWOOD LN. KNOXVILLE TN 37923
Representative Attending:	BRIAN DUNLEAVY
Phone Number:	830-305-2295
Fax Number:	865-693-0436
Email Address:	bdunleavy@alamo-group.com

Firm Name:	Bridgeport Equipment & Tool
Firm Address:	1700 South Bridge St. New Martinsville WV 26155
Representative Attending:	Brandon Neville
Phone Number:	770 304-455-6686
Fax Number:	304-455-6685
Email Address:	bneville@bridgeportequip.com

Firm Name:	ALAMO SALES Corp
Firm Address:	1502 E. WALNUT SEGUIN, TX 78155
Representative Attending:	Doug BAKER
Phone Number:	830-305-7001
Fax Number:	317-865-7787
Email Address:	dbaker@alamo-group.com

Firm Name:	Bridgeport Equipment and Tool
Firm Address:	1504 Oakhurst Drive Charleston, WV 25314
Representative Attending:	Chris Walter
Phone Number:	304-744-0555
Fax Number:	304-744-0586
Email Address:	cwalter@bridgeportequip.com

Firm Name:	Bridgeport Equipment & Tool
Firm Address:	4351 W. MYLES AVE DENNSBORO, WV 26045
Representative Attending:	RON GARDNER
Phone Number:	304-659-2917
Fax Number:	304-659-3341
Email Address:	rgardner@bridgeportequip.com

Firm Name:	Tri Tech MFG
Firm Address:	7404 ST RT 6600 Delphos OH. 45833
Representative Attending:	DANIEL P. TEMAN
Phone Number:	419 863 2409
Fax Number:	419 692 9201
Email Address:	TritechMFG@Yahoo.com

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Firm Name: JSC Enterprises
 Firm Address: 2809 Charleston Rd
Spencer, WV 25276
 Representative Attending: Patrick Looney
 Phone Number: (304) 927-4822
 Fax Number: (304) 927-4823
 Email Address: Stricklin@Hughes.net

Firm Name: Fairplain Tractor Sales
 Firm Address: 1169 Ripley Rd
Ripley W. Va. 25271
 Representative Attending: Gene Fisher
 Phone Number: 304-372-9875
 Fax Number: 304-372-2712
 Email Address: Fairplain1169@yahoo.com

Firm Name: Baldcroft Equipment
 Firm Address: 6777 MERRITT CREEK
Road
 Huntington WV
25702
 Representative Attending: DAVID MILL
 Phone Number: 304 736 2120
 Fax Number: 304 302 2301
 Email Address: dmill@baldcroftequip.com

Firm Name: PARIS New Holland
 Firm Address: 87 Wiseman Run Rd
Salem, WV 26426
 Representative Attending: MIKE SCOTT
 Phone Number: 888-726-2384
 Fax Number: (304) 782-3279
 Email Address: www.thetractorguys.com

Firm Name: TRI-TECH
 Firm Address: 430-7404 ST. RT 66 N
DELPHOS, OH 45833
 Representative Attending: JOE KRENDEL
 Phone Number: 419-236-0240
 Fax Number: 419-672-9291
 Email Address: JKRENDEL@MOWMASTER.COM

Firm Name: Rollin Barnes Diamond Mowers
 Firm Address: 2733 S. Parklawn Dr
Sioux Falls, SD 57106
 Representative Attending: Rollin Barnes
 Phone Number: 605 856 0041
 Fax Number: 605 498 1722
 Email Address: r.barnes@diamondmowers.com

**PRE-BID CONFERENCE
SIGN IN SHEET**

Request for Quotation Number: CRFQ 0903 DOT 150000092

Date: 5/7/15

Project Description:

2 Wheel Dr. Tractor w/ mowers

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Firm Name:	James River Equipment
Firm Address:	11053 Leadbetter Rd Ashland, VA 23005
Representative Attending:	Lisa Smith
Phone Number:	(804) 358-6776
Fax Number:	(804) 353-8431
Email Address:	Lsmith@jamesriverequipment.com

Firm Name:	AGCO Corporation
Firm Address:	403 E. Park St Wauseon, OH 43567
Representative Attending:	John Hallett
Phone Number:	419-902-1599
Fax Number:	419-335-2084
Email Address:	john.hallett@agcocorp.com

Firm Name:	Walker Machinery Co.
Firm Address:	P.O. Box 2427 Charleston, WV 25329
Representative Attending:	Mark Conner
Phone Number:	(304) 543-5406
Fax Number:	(304) 989-6404
Email Address:	mconner@walker-cat.com

Firm Name:	Mark Goodman Motrim Inc
Firm Address:	240 stubenville AVE Cambridge Ohio 43725
Representative Attending:	Mark Goodman
Phone Number:	740-439-2725
Fax Number:	Parts At Motrim, Net
Email Address:	

Firm Name:	Walker Machinery Co
Firm Address:	PO BOX 2427 Charleston WV 25329
Representative Attending:	Rocley PECIC
Phone Number:	304 380 1163
Fax Number:	304 759 6404
Email Address:	rpecic@walker-cat.com

Firm Name:	Motrim Inc
Firm Address:	240 stubenville Av Cambridge Ohio 43725
Representative Attending:	Jack O. Partner
Phone Number:	740 260-8090
Fax Number:	740 439-2725
Email Address:	

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MAY RESULT IN DELAYS IN YOUR COMPANY GETTING IMPORTANT BID INFORMATION.

Firm Name: Tiger Corporation
Firm Address: 3301 N. Louise Ave
Sioux Falls, SD 57107
Representative Attending: Steven Marks
Phone Number: 605-212-0610
Fax Number: 605-338-9702
Email Address: Smarks@tigertractors.com

Firm Name: _____
Firm Address: _____
Representative Attending: _____
Phone Number: _____
Fax Number: _____
Email Address: _____

Firm Name: Middletown Tractor Sales
Firm Address: 2050 Bryans Dr
Farmington, WI, 26554
Representative Attending: Phillip R. Cottrell
Phone Number: 304-366-4690
Fax Number: 366 4698
Email Address: phil@middletowntractor.com

Firm Name: _____
Firm Address: _____
Representative Attending: _____
Phone Number: _____
Fax Number: _____
Email Address: _____

Firm Name: Middletown Tractor
Firm Address: 2050 Bryans Drive
Farmington WV 26554
Representative Attending: Tim Govers
Phone Number: 304-366-4690
Fax Number: 304-366-4698
Email Address: Tim@MiddletownTractor.com

Firm Name: _____
Firm Address: _____
Representative Attending: _____
Phone Number: _____
Fax Number: _____
Email Address: _____

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Firm Name: _____
Firm Address: _____

Representative Attending: Pam Hall
WVDOT
Phone Number: _____
Fax Number: _____
Email Address: _____

Firm Name: _____
Firm Address: _____

Representative Attending: Dave Brebhan
DOT
Phone Number: _____
Fax Number: _____
Email Address: _____

Firm Name: _____
Firm Address: _____

Representative Attending: DOH
Angie Moorman
Phone Number: _____
Fax Number: _____
Email Address: _____

Firm Name: _____
Firm Address: _____

Representative Attending: TODD Campbell
D.O.H.
Phone Number: _____
Fax Number: _____
Email Address: _____

Firm Name: _____
Firm Address: _____

Representative Attending: MARCIA Lee
DOT
Phone Number: _____
Fax Number: _____
Email Address: _____

Firm Name: _____
Firm Address: _____

Representative Attending: _____
Phone Number: _____
Fax Number: _____
Email Address: _____

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: DOT150000092

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input checked="" type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

J.S.C. Enterprises Inc.

Company

Clyde E. Strickland

Authorized Signature

6/1/15

Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.

Revised 6/8/2012