

OSHA's Proposed PEL for Hexavalent Chromium: Update & Outlook

HCAT

San Diego, CA

January 24, 2006

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Report Documentation Page

Form Approved
OMB No. 0704-0188

Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

1. REPORT DATE 24 JAN 2006		2. REPORT TYPE		3. DATES COVERED 00-00-2006 to 00-00-2006	
4. TITLE AND SUBTITLE OSHA's Proposed PEL for Hexavalent Chromium:Update & Outlook				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) The Policy Group,One Thomas Circle, NW, 10th Floor,Washington,DC,20005				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited					
13. SUPPLEMENTARY NOTES 26th Replacement of Hard Chrome and Cadmium Plating Program Review Meeting, January 24-26, 2006, San Diego, CA. Sponsored by SERDP/ESTCP.					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT Same as Report (SAR)	18. NUMBER OF PAGES 10	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			

Latest Developments: January 2006

- Deadline Extension – Federal Court Granted OSHA’s Request
 - ◆ Original – January 18, 2006
 - ◆ New – February 28, 2006
 - ◆ Agency Discretion – Court did NOT dictate what PEL is protective

- Status
 - ◆ Rule package at White House for review
 - ◆ Interagency discussion within Administration

- Issues
 - ◆ Technical Feasibility
 - ◆ Compliance Cost
 - ◆ Economic Analysis
 - ◆ Health Studies

- Potential for Revisions from:
 - ◆ Proposed Rule (October 2004)
 - ◆ Final OSHA Package (December 2005)

Industry Impacts: Selected Industry Sectors

High Impact

Plating & Surface Finishing
Aerospace / Defense

Stainless Steel & Welding
Shipbuilding

High to Moderate Impact

Chromate Production
Pigments & Catalysts
Refractory Brick
Fiberglass Mfg.
Auto Body & Repair

Chemical Proc & Distribution
Portland Cement
Industrial Laundries
Electric Utilities
Construction

Extension Issues: Interagency Concerns

- Scope of Discussion & Review
 - ◆ Dept of Commerce – U.S. competitiveness
 - ◆ Small Business Administration – health studies
 - ◆ Dept of Defense – scope of impact (Navy & Air Force comments)

- Persisting Analytical Concerns in PEL Package
 - ◆ Compliance – underestimated costs
 - ◆ Sectors – missed industry processes (Cr conversion, POPs)
 - ◆ Sampling – link between facility sampling & proposed PEL limit
 - ◆ Impacts – economics of targeted industry sectors
 - ◆ OSHA re-analysis

Compliance Cost of Proposed PEL: Aerospace Manufacturing (\$ annualized, industry-only)

Impacts	PEL @ 1 ug/m ³	PEL @ 10 ug/m ³	PEL @ 20 ug/m ³
<i>COST</i>	<i>\$ 1.06 billion</i>	<i>\$ 379 million</i>	<i>\$269 million</i>

Compliance Cost of Proposed PEL: Electroplating

(\$ annualized – hard cr, deco cr, anodizing, others)

Impacts	PEL @ 1 ug/m ³	PEL @ 10 ug/m ³	PEL @ 20 ug/m ³
Facilities Affected	90 %	60 %	25 %
<i>COST</i>	<i>\$ 1.026 billion</i>	<i>\$ 614 million</i>	<i>\$244 million</i>

Compliance Cost of Proposed PEL: General Welding (\$ annualized)

Impacts	PEL @ 1 ug/m ³	PEL @ 10 ug/m ³	PEL @ 20 ug/m ³
<i>COST</i>	<i>\$ 524 million</i>	<i>\$ 379 million</i>	<i>\$ 269 million</i>

Outlook: Potential Policy Options

Limits

- Variable PEL – tailored framework with different limits by sector
- Higher PEL – 5 ug/m³ or higher applicable to some sectors

Compliance Schedule

- Longer Compliance Schedule – deadline extended beyond 2 years
- Graduated Schedule – lower PEL over time (per NIOSH study)

Outlook: Action After Publication

Litigation

- ◆ Litigation – Nearly a certainty, regardless of selected PEL approach
 - ◆ Plaintiffs have argued science dictates 0.25 ug/m³ PEL

Congressional Action

- ◆ Legislation to overturn under Congressional Review Act unlikely
 - ◆ Key differences vs. Ergonomics rule (2001)

NEW OSHA DEADLINE

- ◆ FEBRUARY 28, 2006
- ◆ No Further Extensions...