State of Alaska
Department of Labor and Workforce Development
Division of Labor Standards and Safety

AKOSH Direct Final Rule

Date: August 10, 2010

To: Distribution List

From: Grey R. Mitchell, Director

Subject: **29 CFR Parts 1910, 1915, and 1926 – Hexavalent Chromium – Direct Final Rule Revising the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards**

This response to Direct Final Rule is a formal notice that the Alaska Department of Labor and Workforce Development, Division of Labor Standards and Safety recognizes and will implement the revision of the notification requirements in the exposure determination provisions of the Hexavalent Chromium Standards. Note references to 29 CFR 1915 are out of Alaska's jurisdiction and will not be adopted.

Effective Date: November 14, 2010

Please ensure that all members of your staff receive a copy of this response to final rule.

Attachment: FR Vol. 75, No. 93, May 14, 2010 pp 27188-27189

Distribution List

Steve Standley, Chief AKOSH – Enforcement, LS&S
Krystyna Markiewicz, Chief AKOSH - Consultation & Training, LS&S

cc: Dean Ikeda, Acting Regional Administrator, USDOL, Region X, OSHA
David Mahlum, Assistant Regional Administrator, USDOL Region X OSHA - Anchorage
Scott Ketcham, Alaska Area Administrator, USDOL Region X OSHA - Anchorage

SUPPLEMENT NO. 7 TO PART 748—AUTHORIZATION VALIDATED END-USER (VEU); LIST OF VALIDATED END-USERS, RESPECTIVE ITEMS ELIGIBLE FOR EXPORT, REEXPORT AND TRANSFER AND ELIGIBLE DESTINATIONS—Continued

Country	Validated end-user	Eligible items (by ECCN)	Eligible destination
			Applied Materials (China), Inc.—Shanghai Depot No. 2667, Zuchongzhi Road Shanghai, China 201203.
			Applied Materials (China), Inc.—Beijing Depot No. 1 North Di Sheng Street, BDA Beijing, China 100176.
		2B006.b, 2B230, 2B350.g.3, 2B350.i, 3B001.b, 3B001.c, 3B001.d, 3B001.e, 3B001.f, 3C001, 3C002, 3D002 (limited to "software" specially designed for the "use" of stored program controlled items classified under ECCN 3B001), and 3E001 (limited to "technology" according to the General Technology Note for the "development" or "production" of items controlled by ECCN 3B001).	Applied Materials (Xi'an) Ltd. No. 28 Xin Xi Ave., Xi'an High Tech Park Export Processing Zone Xi'an, Shaanxi, China 710075.
*	*	*	* * * *

Dated: May 6, 2010.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2010–11574 Filed 5–13–10; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. OSHA–H054A–2006–0064]

RIN 1218–AC43

Revising the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards

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

ACTION: Final rule; confirmation of effective date.

SUMMARY: OSHA is confirming the effective date of its direct final rule (DFR) revising the employee notification requirements in the exposure determination provisions of the standards for Hexavalent Chromium (Cr(VI)). In the March 17, 2010, DFR document, OSHA stated that the DFR would become effective on June 15, 2010, unless one or more significant adverse comments were submitted by April 16, 2010. OSHA did not receive significant adverse comments on the DFR, so by this document the Agency is confirming that the DFR will become effective on June 15, 2010.

DATES: The DFR published on March 17, 2010, becomes effective on June 15, 2010. For purposes of judicial review, OSHA considers May 14, 2010 as the date of promulgation.

FOR FURTHER INFORMATION CONTACT: For general information and press inquiries contact Ms. Jennifer Ashley, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–1999. For technical inquiries, contact Maureen Ruskin, Office of Chemical Hazards—Metals, Directorate of Standards and Guidance, Room N–3718, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–1950; fax: (202) 693–1678.

Copies of this **Federal Register** notice are available from the OSHA Office of Publications, Room N–3101, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1888. Electronic copies of this **Federal Register** notice and other relevant documents are available at OSHA's Web page at *http://www.osha.gov.*

ADDRESSES: For purposes of 28 U.S.C. 2112(a), OSHA designates the Associate Solicitor of Labor for Occupational Safety and Health as the recipient of petitions for review of the direct final rule. Contact the Associate Solicitor at the Office of the Solicitor, Room S–4004, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–5445.

SUPPLEMENTARY INFORMATION:

I. Confirmation of Effective Date

On March 17, 2010, OSHA published a DFR in the **Federal Register** (75 FR 12681) amending the employee notification requirements in the exposure determination provisions of the Cr(VI) standards, 29 CFR 1910.1026, 29 CFR 1915.1026, and 29 CFR 1926.1126. As originally promulgated in 2006, the Cr(VI) standards required employers to notify employees of any exposure determinations indicating exposures in excess of the applicable permissible exposure limit (PEL). As amended, the standard requires employers to notify employees of all exposure determinations, whether above or below the PEL. Interested parties had until April 16, 2010, to submit comments on the DFR. The Agency stated that it would publish another notice confirming the effective date of the DFR if it received no significant adverse comments.

Eight comments were submitted in response to the DFR. OSHA has determined that they are not significant adverse comments. Three of the comments were nonsubstantive and did not object to the planned amendments to the Cr(VI) standards. *See* OSHA–H054A–2006–0064–0003; OSHA–H054A–2006–0064–0004; OSHA–H054A–2006–0064–0005. Four commenters—the Building and Construction Trades Department, Ameren (an investor owned electric and natural gas utility), Public Citizen, and the AFL–CIO—strongly supported the DFR. *See* OSHA–H054A–2006–0064–0006; OSHA–H054A–2006–0064–0007; OSHA–H054A–2006–0064–0008; OSHA–H054A–2006–0064–0009. The eighth commenter was Edison Electric

Institute (EEI), the association of shareholder-owned electric companies. *See* OSHA–H054A–2006–0064–0010.

EEI supported the DFR, commenting: "EEI has no objection to informing employees of exposure determinations regardless of the results. Indeed, EEI members have long been sharing the results of exposure monitoring with their employees, regardless of whether overexposures have been revealed." EEI went on, however, to ask OSHA for clarification of the Cr(VI) standards' requirements that employers provide affected employees with notice of exposure determination results within 15 work days in general industry, and within 5 work days in construction. These deadlines for providing required notices were in the Cr(VI) standards as originally promulgated in 2006, and are not being changed in this direct final rulemaking. OSHA noted as much in the DFR notice. (*See* 75 FR at 12683 ("[T]he number of work days employers have to provide notice to employees will remain unchanged.").)

Because EEI's interpretive request is beyond the scope of this narrow direct final rulemaking, and EEI did not explain why the amendment to the scope of the notification requirement would be ineffective without clarification on the timing issue, the Agency has concluded that this is not a significant adverse comment. (*See* 75 FR at 12683 ("OSHA will not consider a comment recommending an additional amendment to be a significant adverse comment unless the comment states why the direct final rule would be ineffective without the addition.").) Moreover, because the issues raised by EEI are unrelated to this rulemaking, OSHA will not be addressing them in this notice. EEI may submit its inquiries to OSHA via a written request for a letter of interpretation from the Directorate of Enforcement Programs.

As the Agency did not receive any significant adverse comments, OSHA is hereby confirming that the DFR published on March 17, 2010, will become effective on June 15, 2010.

II. OMB Review Under the Paperwork Reduction Act of 1995

The DFR amends a notification requirement that is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA–95), 44 U.S.C. 3501 *et seq.*, and OMB's regulations at 5 CFR part 1320. The information collection requirements ("paperwork") currently contained in the Chromium VI (Cr(VI)) standards are approved by OMB (Information Collection Request (ICR), *Chromium (VI) Standards for General Industry (29 CFR 1910.1026), Shipyard Employment (29 CFR 1915.1026), and Construction (29 CFR 1926.1126)*), under OMB Control number 1218–0252. The Department notes that a federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA and displays a currently valid OMB control number. The public is not required to respond to a collection of information requirement unless it displays a currently valid OMB control number. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information requirement if the requirement does not display a currently valid OMB control number.

On June 22, 2009, OSHA published a preclearance **Federal Register** notice, Docket No. OSHA–2009–0015, as specified in PRA–95 (44 U.S.C. 3506(c)(2)(A)), allowing the public 60 days to comment on a proposal to extend OMB's approval of the information collection requirements in the Cr(VI) standards (74 FR 29517). This notice also informed the public that OSHA was considering revising the notification requirements in the Cr(VI) standards to require employers to notify employees of all exposure determination results. OSHA estimated the new burden hours and costs that would result from this amendment to the standard, and the public had 60 days to comment on those estimates in accordance with the PRA, 44 U.S.C. 3506(c)(2). OSHA estimated that a requirement to notify employees of all exposure determination results would result in an increase of 62,575 burden hours and would increase employer cost, in annualized terms, by $1,526,731.

The preclearance comment period closed on August 21, 2009. OSHA did not receive public comments on that notice. On October 30, 2009, OSHA published a **Federal Register** notice announcing that the Cr(VI) ICR had been submitted to OMB (74 FR 56216) for review and approval, and that interested parties had until November 30, 2009, to submit comments to OMB on that submission. No comments were received in response to that notice either. OMB approved the Cr(VI) ICR, but because this direct final rulemaking was still ongoing, the total burden hours approved did not include the additional burden that OSHA had estimated would need to be added to the ICR as a result this DFR (75 FR 13783, Mar. 23, 2010).

In the DFR published on March 17, 2010, OSHA provided an additional 30 days for the public to comment on the estimated paperwork implications of the revised notification requirements. The Agency did not receive any comments on paperwork in response to that notice.

On April 23, 2010, OSHA submitted a Change Worksheet to OMB requesting modification of the Cr(VI) ICR to reflect the additional paperwork burdens that need to be added as a result of this DFR. OMB approved OSHA's request on May 4, 2010.

List of Subjects

29 CFR Part 1910

Exposure determination, General industry, Health, Hexavalent chromium (Cr(VI)), Notification of determination results to employees, Occupational safety and health.

29 CFR Part 1915

Exposure determination, Health, Hexavalent chromium (Cr(VI)), Notification of determination results to employees, Occupational safety and health, Shipyard employment.

29 CFR Part 1926

Construction, Exposure determination, Health, Hexavalent chromium (Cr(VI)), Notification of determination results to employees, Occupational safety and health.

Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, directed the preparation of this direct final rule. The Agency is issuing this rule under Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order 5–2007 (72 FR 31159), and 29 CFR part 1911.

Signed at Washington, DC, on May 11, 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–11586 Filed 5–13–10; 8:45 am]

BILLING CODE 4510–26–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.