



Exempt Action Final Regulation Agency Background Document

Agency name	Department of Labor and Industry/Safety and Health Codes Board
Virginia Administrative Code (VAC) citation	16 VAC-25-90-1910.1026; 16 VAC 25-100-1915.1026; and 16 VAC 25-175-1926.1126
Regulation title	Occupational Exposure to Hexavalent Chromium: Part 1910.1026 for General Industry; Part 1915.1026 for Shipyards, and Part 1926.1126 for Construction
Action title	Revision of the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards, paragraph (d)(4)(i) of 16 VAC 25-90-1910.1026, 16 VAC 25-100-1915.1026 and 16 VAC 25-175-1926.1126; Direct Final Rule
Final agency action date	August 18, 2010
Document preparation date	August 19, 2010

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This federal Direct Final Rule (DFR) amends paragraph (d)(4)(i) of the Chromium (VI) standards (29 CFR 1910.1026 – General Industry, 29 CFR 1915.1026 – Shipyard employment, and 29 CFR 1926.1126 – Construction). The current final rule established an 8-hour time-weighted average (TWA) exposure limit of 5 micrograms of Cr(VI) per cubic meter of air (5

$\mu\text{g}/\text{m}^3$) for all sectors. In paragraph (d)(4)(i) of the current final rule – Exposure notification of determination results – employers are required to notify workers only of exposures that *exceed* the permissible exposure limit (PEL).

This revision of paragraph (d)(4)(i) would now require employers to notify workers of all hexavalent chromium exposure level monitoring results, not just exposures that exceed the PEL. This change mirrors similar provisions in federal OSHA's other substance-specific health standards including, but not limited to:

- lead (29 CFR 1910.1025(d)(8)(i));
- arsenic, 29 CFR 1910.1018(e)(5)(i);
- methylenedianiline (29 CFR 1910.1050(e)(7)(i));
- butadiene, 29 CFR 1910.1051(d)(7)(i); and
- methylene chloride (29 CFR 1910.1052(d)(5)(i)).

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On August 18, 2010, the Safety and Health Codes Board adopted federal OSHA's direct final rule on Revising the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards, paragraph (d)(4)(i) of 29 CFR 1910.1026, 1915.1026 and 1926.1126, as published in 75 FR 12681 on March 17, 2010. The effective date of this revision is November 15, 2010.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

This regulatory action will have no impact on the institution on the institution of the family and family stability.

To access Revising the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards; Direct Final Rule, please refer to:

http://www.osha.gov/FedReg_osha_pdf/FED20100317.pdf

Amendments to Standards

■ For the reasons stated in the preamble, OSHA is amending 29 CFR parts 1910, 1915, and 1926 to read as follows:

**PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS
[AMENDED]****Subpart A—General**

■ 1. The authority citation for subpart A of part 1910 is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), or 5-2007 (72 FR 31160), as applicable.

Sections 1910.7, 1910.8, and 1910.9 also issued under 29 CFR Part 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Pub. L. 106-113 (113 Stat. 1501A-222); and OMB Circular A-25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

Subpart Z—Toxic and Hazardous Substances

■ 2. The authority citation for subpart Z of Part 1910 is revised to read as follows:

Authority: Secs. 4, 6, 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), or 5-2007 (72 FR 31160), as applicable; and 29 CFR part 1911.

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act of 1970, except those substances that have exposure limits listed in Tables Z-1, Z-2, and Z-3 of 29 CFR 1910.1000. The latter were issued under section 6(a) (29 U.S.C. 655(a)).

Section 1910.1000, Tables Z-1, Z-2, and Z-3 also issued under 5 U.S.C. 553, but not

under 29 CFR part 1911 except for the arsenic (organic compounds), benzene, cotton dust, and chromium (VI) listings.

Section 1910.1001 also issued under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704) and 5 U.S.C. 553.

Section 1910.1002 also issued under 5 U.S.C. 553, but not under 29 U.S.C. 655 or 29 CFR part 1911.

Sections 1910.1018, 1910.1029, and 1910.1200 also issued under 29 U.S.C. 653.

Section 1910.1030 also issued under Public Law 106-430, 114 Stat. 1901.

■ 3. Section 1910.1026 is amended by revising paragraph (d)(4)(i), to read as follows:

§ 1910.1026 Chromium (VI)

* * * * *

(d) * * *

(4) * * *

(i) Within 15 work days after making an exposure determination in accordance with paragraph (d)(2) or paragraph (d)(3) of this section, the employer shall individually notify each affected employee in writing of the results of that determination or post the results in an appropriate location accessible to all affected employees.

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PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT [AMENDED]

Subpart A—General Provisions

■ 4. The authority citation for part 1915 will continue to read as follows:

Authority: Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); 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 No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), or 5-2007 (72 FR 31160) as applicable; 29 CFR Part 1911.

Subpart Z—Toxic and Hazardous Substances

■ 5. Section 1915.1026, is amended by revising paragraph (d)(4)(i), to read as follows:

§ 1915.1026 Chromium (VI)

* * * * *

(d) * * *

(4) * * *

(i) Within 5 work days after making an exposure determination in accordance with paragraph (d)(2) or paragraph (d)(3) of this section, the employer shall individually notify each affected employee in writing of the results of that determination or post the

results in an appropriate location accessible to all affected employees.

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PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION [AMENDED]

Subpart A—General

■ 6. The authority citation for subpart A of part 1926 is revised to read as follows:

Authority: Section 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et seq.); sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), or 5-2007 (72 FR 31160) as applicable; and 29 CFR part 1911.

Subpart Z—Toxic and Hazardous Substances

■ 7. The authority citation for subpart Z of part 1926 is revised to read as follows:

Authority: Section 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et seq.); 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 Orders 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (62 FR 50017), 5-2002 (67 FR 65008), or 5-2007 (72 FR 31160) as applicable; and 29 CFR part 11.

Section 1926.1102 of 29 CFR Not Issued Under 29 U.S.C. 655 or 29 CFR Part 1911; Also Issued Under 5 U.S.C. 553

■ 8. Section 1926.1126, is amended by revising paragraph (d)(4)(i), to read as follows:

§ 1926.1126 Chromium (VI)

* * * * *

(d) * * *

(4) * * *

(i) Within 5 work days after making an exposure determination in accordance with paragraph (d)(2) or paragraph (d)(3) of this section, the employer shall individually notify each affected employee in writing of the results of that determination or post the results in an appropriate location accessible to all affected employees.

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