

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**FINAL STATEMENT OF REASONS**

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Chapter 4, Subchapter 4, Subchapter 4, Article 4, Section 1532.2 of the Construction Safety Orders; Chapter 4, Subchapter 7, Article 110, Sections 5203 and 5206 of the General Industry Safety Orders; and Chapter 4, Subchapter 18, Article 4, Section 8359 of the Ship Building, Ship Repairing, and Ship Breaking Safety Orders

Carcinogen Report of Use Requirements for Chromium VI**MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM
THE 45-DAY PUBLIC COMMENT PERIOD**

There are no modifications to the information contained in the Initial Statement of Reasons.

Summary and Response to Written and Oral Comments:I. Written Comments

Mr. Frank Strasheim, Regional Administrator, Region IX, U.S. Department of Labor,
Occupational Safety and Health Administration by letter dated August 15, 2007

Comment:

Mr. Strasheim stated that the proposed standard includes a carcinogen reporting requirement for Chromium VI not in Federal standards; therefore, the standard is more effective than the Federal Standard.

Response:

The Board thanks Mr. Strasheim for his participation and support of the proposed standard.

II. Oral CommentsBoard Member Frisch

In regards to proposed Section 5203(c)(2)(A), which requires reporting when exposure exceeds, or can reasonably be expected to exceed, the PEL, Dr. Frisch asked whether the phrase "can reasonably be expected to exceed" is commonly used and understood.

Response

The use of the phrase in the proposal is consistent with its use in many other standards which have requirements that are triggered by employee exposure levels. For example, Section 5206(e) requires the employer to establish a regulated area wherever an employee's exposure to airborne concentrations of chromium (VI) is, or can reasonably be expected to be, in excess of the PEL. Therefore the Board does not believe further modification of the standard is necessary as a result of this comment.

Board Member Rank

Mr. Rank asked whether the performance of air sampling and air monitoring tests would clarify the word "reasonably" as it is used in the proposal. Mr. Rank stated that here were many users who may use as little as five pounds of welding consumables containing Chromium VI, and asked whether someone using such a small amount would be required to report to the Division.

Response

If the use of five pounds of Chromium VI containing material resulted in an exposure above the PEL, it would need to be reported. The Chromium VI standards have several exemptions for certain uses. One such exemption is that the standard does not apply where the employer has objective data demonstrating that a material containing chromium cannot release dusts, fumes, or mists of chromium (VI) in concentrations greater than one tenth of the PEL under any expected conditions of use. Therefore the Board does not believe further modification of the standard is necessary as a result of this comment.

ADDITIONAL DOCUMENTS RELIED UPON

None.

ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE

None.

DETERMINATION OF MANDATE

This standard does not impose a mandate on local agencies or school districts as indicated in the Initial Statement of Reasons.

ALTERNATIVES CONSIDERED

The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed regulation. No alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the adopted action.