

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

HCAT

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January 24, 2006

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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...