



DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
DIRECTOR'S OFFICE
OCCUPATIONAL HEALTH STANDARDS

Filed with the Secretary of State on July 31, 2006 (as amended September 13, 2010)

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of energy, labor, and economic growth by sections 14 and 24 of 1974 PA 154, and Executive Reorganization Orders Nos. 1996-1, 1996-2, 2003-1, and 2008-4, MCL 408.1014, 408.1024, 330.3101, 445.2001, 445.2011, and 445.2025)

R 325.51996 and R 325.51997 the Michigan Administrative Code are amended as follows:

PART 604. CHROMIUM (VI) IN CONSTRUCTION

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R 325.51995 Scope and application.

Rule 1. (1) These rules apply to all occupational exposures to Chromium (VI), except as provided in subrule (2) of this rule.

(2) These rules do not apply to general industry work as defined by 1974 PA 154 as amended, MCL 408.1001 to MCL 408.1094. Exposure to Chromium (VI) in general industry work is covered by occupational health standard Part 315 Chromium (VI) in General Industry, R 325.50141 to R 325.50143.

(b) "§1910.134," referenced in 29 C.F.R. §1910.1126(f)(2), means occupational health standard Part 451 Respiratory Protection, R 325.60051 and R 325.60052.

(c) "§1910.1200," referenced in 29 C.F.R. §1910.1026(g)(2)(iv) and §1910.1026(j)(1), mean occupational health standard Part 430 Hazard Communication, R 325.77001 to R 325.77003.

(d) "§1910.1020," referenced in 29 C.F.R. §1910.1126(k)(1)(iii); §1910.1126(k)(2)(ii)(E); §1910.1126(k)(3)(iii); and §1910.1126(k)(4)(iii), mean occupational health standard Part 470 Employee Medical Records and Trade Secrets, R 325.3451 to R 325.3476.

(2) The adopted federal regulations shall have the same force and effect as a rule promulgated under 1974 PA 154, MCL 408.1001 to MCL 408.1094.

R 325.51996 Adoption by reference of federal standard.

Rule 2. (1) The provisions of federal occupational safety and health administration regulations on the Occupational Exposure to Hexavalent Chromium promulgated by the United States department of labor and codified at 29 C.F.R. §1926.1126, Chromium (VI), February 28, 2006 and appearing in the Federal Register Volume 71, Number 39 on pp. 10382 to 10385 and amended March 17, 2010 and appearing in the Federal Register Volume 75, Number 51 on pp. 12681 to 12686, are adopted by reference in these rules as of the effective date of these rules. As used in these rules:

(a) "Assistant Secretary," as used in 29 C.F.R. §1926.1126(b), means director of the department of energy, labor, and economic growth.

R 325.51997 Availability of documents.

Rule 3. (1) The federal regulation adopted by reference in these rules is available without cost as of the time of adoption of these rules from the United States Department of Labor, OSHA, 315 West Allegan, Room 315, Lansing, Michigan 48933, or via the internet at website: www.osha.gov, or from the Michigan Department of Energy, Labor, and Economic Growth, MIOSHA Standards Section, P.O. Box 30643, Lansing, Michigan 48909.

- (2) The following Michigan occupational safety and health standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Energy, Labor, and Economic Growth, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.
- (a) Occupational Health Standard Part 430 Hazard Communication, R 325.77001 to R 325.77003.
 - (b) Occupational Health Standard Part 451 Respiratory Protection, R 325.60051 and R 325.60052.
 - (c) Occupational Health Standard Part 470 Employee Medical Records and Trade Secrets, R 325.3451 to R 325.3476.

§1926.1126 Chromium (VI) in Construction

(a) Scope.

- (1) This standard applies to occupational exposures to chromium (VI) in all forms and compounds in construction, except:
- (2) Exposures that occur in the application of pesticides regulated by the Environmental Protection Agency or another Federal government agency (e.g., the treatment of wood with preservatives);
- (3) Exposures to portland cement; or
- (4) Where the employer has objective data demonstrating that a material containing chromium or a specific process, operation, or activity involving chromium cannot release dusts, fumes, or mists of chromium (VI) in concentrations at or above $0.5 \mu\text{g}/\text{m}^3$ as an 8 hour time weighted average (TWA) under any expected conditions of use.

(b) Definitions.

For the purposes of this section the following definitions apply:

Action level means a concentration of airborne chromium (VI) of 2.5 micrograms per cubic meter of air ($2.5 \mu\text{g}/\text{m}^3$) calculated as an 8-hour time weighted average (TWA).

Assistant Secretary means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

Chromium (VI) [hexavalent chromium or Cr(VI)] means chromium with a valence of positive six, in any form and in any compound.

Director means the Director of the National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health and Human Services, or designee.

Emergency means any occurrence that results, or is likely to result, in an uncontrolled release of chromium (VI). If an incidental release of chromium (VI) can be controlled at the time of release by employees in the immediate release area, or by maintenance personnel, it is not an emergency.

Employee exposure means the exposure to airborne chromium (VI) that would occur if the employee were not using a respirator.

High efficiency particulate air [HEPA] filter means a filter that is at least 99.97 percent efficient in removing mono dispersed particles of 0.3 micrometers in diameter or larger.

Historical monitoring data means data from chromium (VI) monitoring conducted prior to May 30, 2006, obtained during work operations conducted under workplace conditions closely resembling the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations.

Objective data means information such as air monitoring data from industry-wide surveys or calculations based on the composition or chemical and physical properties of a substance demonstrating the employee exposure to chromium (VI) associated with a particular product or material or a specific process, operation, or activity. The data must reflect workplace conditions closely resembling the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations.

Physician or other licensed health care professional [PLHCP] is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide some or all of the particular health care services required by paragraph (i) of this section.

This section means this 1926.1126 chromium (VI) standard.

(c) Permissible exposure limit (PEL).

The employer shall ensure that no employee is exposed to an airborne concentration of chromium (VI) in excess of 5 micrograms per cubic meter of air ($5 \mu\text{g}/\text{m}^3$), calculated as an 8 hour time weighted average (TWA).

(d) Exposure determination.

- (1) **General.** Each employer who has a workplace or work operation covered by this section shall determine the 8-hour TWA exposure for each employee exposed to chromium (VI). This determination shall be made in accordance with either paragraph (d)(2) or paragraph (d)(3) of this section.

- (2) **Scheduled monitoring option.**

- (i) The employer shall perform initial monitoring to determine the 8-hour TWA exposure for each employee on the basis of a sufficient number of personal breathing zone air samples to accurately characterize full shift exposure on each shift, for each job classification, in each work area. Where an employer does representative sampling instead of sampling all employees in order to meet this requirement, the employer shall sample the employee(s) expected to have the highest chromium (VI) exposures.

- (ii) If initial monitoring indicates that employee exposures are below the action level, the employer may discontinue monitoring for those employees whose exposures are represented by such monitoring.
 - (iii) If monitoring reveals employee exposures to be at or above the action level, the employer shall perform periodic monitoring at least every six months.
 - (iv) If monitoring reveals employee exposures to be above the PEL, the employer shall perform periodic monitoring at least every three months.
 - (v) If periodic monitoring indicates that employee exposures are below the action level, and the result is confirmed by the result of another monitoring taken at least seven days later, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.
 - (vi) The employer shall perform additional monitoring when there has been any change in the production process, raw materials, equipment, personnel, work practices, or control methods that may result in new or additional exposures to chromium (VI), or when the employer has any reason to believe that new or additional exposures have occurred.
- (3) Performance-oriented option.** The employer shall determine the 8-hour TWA exposure for each employee on the basis of any combination of air monitoring data, historical monitoring data, or objective data sufficient to accurately characterize employee exposure to chromium (VI).
- (4) Employee notification of determination results.**
- (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.
 - (ii) Whenever the exposure determination indicates that employee exposure is above the PEL, the employer shall describe in the written notification the corrective action being taken to reduce employee exposure to or below the PEL.
- (5) Accuracy of measurement.** Where air monitoring is performed to comply with the requirements of this section, the employer shall use a method of monitoring and analysis that can measure chromium (VI) to within an accuracy of plus or minus 25 percent (+/- 25%) and can produce accurate measurements to within a statistical confidence level of 95 percent for airborne concentrations at or above the action level.
- (6) Observation of monitoring.**
- (i) Where air monitoring is performed to comply with the requirements of this section, the employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to chromium (VI).
 - (ii) When observation of monitoring requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with clothing and equipment and shall assure that the observer uses such clothing and equipment and complies with all other applicable safety and health procedures.
- (e) Methods of compliance.**
- (1) Engineering and work practice controls.**
- (i) Except as permitted in paragraph (e)(1)(ii) of this section, the employer shall use engineering and work practice controls to reduce and maintain employee exposure to chromium (VI) to or below the PEL unless the employer can demonstrate that such controls are not feasible. Wherever feasible engineering and work practice controls are not sufficient to reduce employee exposure to or below the PEL, the employer shall use them to reduce employee exposure to the lowest levels achievable, and shall supplement them by the use of respiratory protection that complies with the requirements of paragraph (f) of this section.
 - (ii) Where the employer can demonstrate that a process or task does not result in any employee exposure to chromium (VI) above the PEL for 30 or more days per year (12 consecutive months), the requirement to implement engineering and work practice controls to achieve the PEL does not apply to that process or task.
- (2) Prohibition of rotation.** The employer shall not rotate employees to different jobs to achieve compliance with the PEL.
- (f) Respiratory protection.**
- (1) General.** The employer shall provide respiratory protection for employees during:
- (i) Periods necessary to install or implement feasible engineering and work practice controls;
 - (ii) Work operations, such as maintenance and repair activities, for which engineering and work practice controls are not feasible;
 - (iii) Work operations for which an employer has implemented all feasible engineering and work practice controls and such controls are not sufficient to reduce exposures to or below the PEL;
 - (iv) Work operations where employees are exposed above the PEL for fewer than 30 days per year, and the employer has elected not to implement engineering and work practice controls to achieve the PEL; or
 - (v) Emergencies.
- (2) Respiratory protection program.** Where respirator use is required by this section, the employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134.

(g) Protective work clothing and equipment.

(1) Provision and use. Where a hazard is present or is likely to be present from skin or eye contact with chromium (VI), the employer shall provide appropriate personal protective clothing and equipment at no cost to employees, and shall ensure that employees use such clothing and equipment.

(2) Removal and storage.

- (i) The employer shall ensure that employees remove all protective clothing and equipment contaminated with chromium (VI) at the end of the work shift or at the completion of their tasks involving chromium (VI) exposure, whichever comes first.
- (ii) The employer shall ensure that no employee removes chromium (VI)-contaminated protective clothing or equipment from the workplace, except for those employees whose job it is to launder, clean, maintain, or dispose of such clothing or equipment.
- (iii) When contaminated protective clothing or equipment is removed for laundering, cleaning, maintenance, or disposal, the employer shall ensure that it is stored and transported in sealed, impermeable bags or other closed, impermeable containers.
- (iv) Bags or containers of contaminated protective clothing or equipment that are removed from change rooms for laundering, cleaning, maintenance, or disposal shall be labeled in accordance with the requirements of the Hazard Communication Standard, 29 CFR 1910.1200.

(3) Cleaning and replacement.

- (i) The employer shall clean, launder, repair and replace all protective clothing and equipment required by this section as needed to maintain its effectiveness.
- (ii) The employer shall prohibit the removal of chromium (VI) from protective clothing and equipment by blowing, shaking, or any other means that disperses chromium (VI) into the air or onto an employee's body.
- (iii) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with chromium (VI) of the potentially harmful effects of exposure to chromium (VI) and that the clothing and equipment should be laundered or cleaned in a manner that minimizes skin or eye contact with chromium (VI) and effectively prevents the release of airborne chromium (VI) in excess of the PEL.

(h) Hygiene areas and practices.

(1) General. Where protective clothing and equipment is required, the employer shall provide change rooms in conformance with 29 CFR 1926.51. Where skin contact with chromium (VI) occurs, the employer shall provide washing facilities in conformance with 29 CFR 1926.51. Eating and drinking areas provided by the employer shall also be in conformance with §1926.51.

(2) Change rooms. The employer shall assure that change rooms are equipped with separate storage facilities for protective clothing and equipment and for street clothes, and that these facilities prevent cross-contamination.

(3) Washing facilities.

- (i) The employer shall provide readily accessible washing facilities capable of removing chromium (VI) from the skin, and shall ensure that affected employees use these facilities when necessary.
- (ii) The employer shall ensure that employees who have skin contact with chromium (VI) wash their hands and faces at the end of the work shift and prior to eating, drinking, smoking, chewing tobacco or gum, applying cosmetics, or using the toilet.

(4) Eating and drinking areas.

- (i) Whenever the employer allows employees to consume food or beverages at a worksite where chromium (VI) is present, the employer shall ensure that eating and drinking areas and surfaces are maintained as free as practicable of chromium (VI).
- (ii) The employer shall ensure that employees do not enter eating and drinking areas with protective work clothing or equipment unless surface chromium (VI) has been removed from the clothing and equipment by methods that do not disperse chromium (VI) into the air or onto an employee's body.

(5) Prohibited activities. The employer shall ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in areas where skin or eye contact with chromium (VI) occurs; or carry the products associated with these activities, or store such products in these areas.

(i) Medical surveillance.**(1) General.**

- (i) The employer shall make medical surveillance available at no cost to the employee, and at a reasonable time and place, for all employees:
 - (A) Who are or may be occupationally exposed to chromium (VI) at or above the action level for 30 or more days a year;
 - (B) Experiencing signs or symptoms of the adverse health effects associated with chromium (VI) exposure; or
 - (C) Exposed in an emergency.
- (ii) The employer shall assure that all medical examinations and procedures required by this section are performed by or under the supervision of a PLHCP.

(2) Frequency. The employer shall provide a medical examination:

- (i) Within 30 days after initial assignment, unless the employee has received a chromium (VI) related medical examination that meets the requirements of this paragraph within the last twelve months;
- (ii) Annually;
- (iii) Within 30 days after a PLHCP's written medical opinion recommends an additional examination;

- (iv) Whenever an employee shows signs or symptoms of the adverse health effects associated with chromium (VI) exposure;
 - (v) Within 30 days after exposure during an emergency which results in an uncontrolled release of chromium (VI); or
 - (vi) At the termination of employment, unless the last examination that satisfied the requirements of paragraph (i) of this section was less than six months prior to the date of termination.
- (3) Contents of examination.** A medical examination consists of:
- (i) A medical and work history, with emphasis on: past, present, and anticipated future exposure to chromium (VI); any history of respiratory system dysfunction; any history of asthma, dermatitis, skin ulceration, or nasal septum perforation; and smoking status and history;
 - (ii) A physical examination of the skin and respiratory tract; and
 - (iii) Any additional tests deemed appropriate by the examining PLHCP.
- (4) Information provided to the PLHCP.** The employer shall ensure that the examining PLHCP has a copy of this standard, and shall provide the following information:
- (i) A description of the affected employee's former, current, and anticipated duties as they relate to the employee's occupational exposure to chromium (VI);
 - (ii) The employee's former, current, and anticipated levels of occupational exposure to chromium (VI);
 - (iii) A description of any personal protective equipment used or to be used by the employee, including when and for how long the employee has used that equipment; and
 - (iv) Information from records of employment-related medical examinations previously provided to the affected employee, currently within the control of the employer.
- (5) PLHCP's written medical opinion.**
- (i) The employer shall obtain a written medical opinion from the PLHCP, within 30 days for each medical examination performed on each employee, which contains:
 - (A) The PLHCP's opinion as to whether the employee has any detected medical condition(s) that would place the employee at increased risk of material impairment to health from further exposure to chromium (VI);
 - (B) Any recommended limitations upon the employee's exposure to chromium (VI) or upon the use of personal protective equipment such as respirators;
 - (C) A statement that the PLHCP has explained to the employee the results of the medical examination, including any medical conditions related to chromium (VI) exposure that require further evaluation or treatment, and any special provisions for use of protective clothing or equipment.
 - (ii) The PLHCP shall not reveal to the employer specific findings or diagnoses unrelated to occupational exposure to chromium (VI).
 - (iii) The employer shall provide a copy of the PLHCP's written medical opinion to the examined employee within two weeks after receiving it.
- (j) Communication of chromium (VI) hazards to employees.**
- (1) General.** In addition to the requirements of the Hazard Communication Standard, 29 CFR 1910.1200, employers shall comply with the following requirements.
 - (2) Employee information and training.**
 - (i) The employer shall ensure that each employee can demonstrate knowledge of at least the following:
 - (A) The contents of this section; and
 - (B) The purpose and a description of the medical surveillance program required by paragraph (i) of this section.
 - (ii) The employer shall make a copy of this section readily available without cost to all affected employees.
- (k) Recordkeeping.**
- (1) Air monitoring data.**
 - (i) The employer shall maintain an accurate record of all air monitoring conducted to comply with the requirements of this section.
 - (ii) This record shall include at least the following information:
 - (A) The date of measurement for each sample taken;
 - (B) The operation involving exposure to chromium (VI) that is being monitored;
 - (C) Sampling and analytical methods used and evidence of their accuracy;
 - (D) Number, duration, and the results of samples taken;
 - (E) Type of personal protective equipment, such as respirators worn; and
 - (F) Name, social security number, and job classification of all employees represented by the monitoring, indicating which employees were actually monitored.
 - (iii) The employer shall ensure that exposure records are maintained and made available in accordance with 29 CFR 1910.1020.
 - (2) Historical monitoring data.**
 - (i) Where the employer has relied on historical monitoring data to determine exposure to chromium (VI), the employer shall establish and maintain an accurate record of the historical monitoring data relied upon.
 - (ii) The record shall include information that reflects the following conditions:
 - (A) The data were collected using methods that meet the accuracy requirements of paragraph (d)(5) of this section;
 - (B) The processes and work practices that were in use when the historical monitoring data were obtained are essentially the same as those to be used during the job for which exposure is being determined;

- (C) The characteristics of the chromium (VI) containing material being handled when the historical monitoring data were obtained are the same as those on the job for which exposure is being determined;
- (D) Environmental conditions prevailing when the historical monitoring data were obtained are the same as those on the job for which exposure is being determined; and
- (E) Other data relevant to the operations, materials, processing, or employee exposures covered by the exception. (iii) The employer shall ensure that historical exposure records are maintained and made available in accordance with 29 CFR 1910.1020.

(3) Objective data.

- (i) The employer shall maintain an accurate record of all objective data relied upon to comply with the requirements of this section.
- (ii) This record shall include at least the following information:
 - (A) The chromium containing material in question;
 - (B) The source of the objective data;
 - (C) The testing protocol and results of testing, or analysis of the material for the release of chromium (VI);
 - (D) A description of the process, operation, or activity and how the data support the determination; and

(E) Other data relevant to the process, operation, activity, material, or employee exposures.

- (iii) The employer shall ensure that objective data are maintained and made available in accordance with 29 CFR 1910.1020.

(4) Medical surveillance.

- (i) The employer shall establish and maintain an accurate record for each employee covered by medical surveillance under paragraph (i) of this section.
- (ii) The record shall include the following information about the employee:
 - (A) Name and social security number;
 - (B) A copy of the PLHCP's written opinions;
 - (C) A copy of the information provided to the PLHCP as required by paragraph (i)(4) of this section.
- (iii) The employer shall ensure that medical records are maintained and made available in accordance with 29 CFR 1910.1020.

(I) Dates.

- (1)** For employers with 20 or more employees, all obligations of this section, except engineering controls required by paragraph (e) of this section, commence November 27, 2006.
- (2)** For employers with 19 or fewer employees, all obligations of this section, except engineering controls required by paragraph (e) of this section, commence May 30, 2007.
- (3)** For all employers, engineering controls required by paragraph (e) of this section shall be implemented no later than May 31, 2010.



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