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B-298073

March 27, 2006

The Honorable Michael B. Enzi  
Chairman  
The Honorable Edward M. Kennedy  
Ranking Minority Member  
Committee on Health, Education, Labor, and Pensions  
United States Senate

The Honorable Howard P. "Buck" McKeon  
Chairman  
The Honorable George Miller  
Ranking Minority Member  
Committee on Education and the Workforce  
House of Representatives

Subject: *Department of Labor, Occupational Safety and Health Administration:  
Occupational Exposure to Hexavalent Chromium*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Labor, Occupational Safety and Health Administration (OSHA), entitled "Occupational Exposure to Hexavalent Chromium" (RIN: 1218-AB45). We received the rule on March 10, 2006. It was published in the Federal Register as a final rule on February 28, 2006. 71 Fed. Reg. 10100.

The final rule amends the existing standard which limits occupational exposure to hexavalent chromium (Cr(VI)). The final rule establishes an 8-hour time-weighted average exposure limit of 5 micrograms of Cr(VI) per cubic meter of air.

Enclosed is our assessment of OSHA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that OSHA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: Dorothy Dougherty  
Acting Director, OSHA Directorate of  
Standards and Guidance  
Department of Labor

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF LABOR,  
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION  
ENTITLED  
"OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM"  
(RIN: 1218-AB45)

(i) Cost-benefit analysis

OSHA estimates that the final rule will require employers to incur costs of \$282 million per year and \$110 million per year to comply with the personal protective equipment and hygiene requirements already present in existing standards.

OSHA estimates that the final rule will prevent 1,782 to 6,546 lung cancers over the working lifetime of the current worker populations.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

OSHA prepared a Final Regulatory Flexibility Analysis in connection with the final rule that complies with the requirements of the Act. The analysis also discusses the alternatives considered to reduce the burden on small entities, including certain exemptions and special approaches for shipyard and construction industries.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule contains a mandate for the private sector of about \$288 million each year, as described in title II of the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On October 4, 2004, OSHA published a Notice of Proposed Rulemaking in the Federal Register. 69 Fed. Reg. 59306. The comments received in response to the notice and the public hearing are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains new information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OSHA estimates the total burden to be 940,000 hours at a cost of \$126 million.

Statutory authorization for the rule

The final rule is promulgated under the authority found in sections 4, 6(b), 8(c), and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333); and section 41, the Longshore and Harbor Worker's Compensation Act (33 U.S.C. 941).

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an "economically significant" regulatory action under the order.

Executive Order No. 13132 (Federalism)

OSHA has reviewed the final rule under the order and found that the final rule will fall under the preemption provisions of the Occupational Safety and Health Act and will preempt state rules that do not have OSHA-approved plans.