OSHA is confirming the effective date of its direct final rule (DFR) revising the employee notification requirements in the exposure determination provisions of the Cr(VI) standards, 29 CFR 1910.1026, 29 CFR 1915.1026, and 29 CFR 1926.1126. As originally promulgated in 2006, the Cr(VI) standards required employers to notify employees of any exposure determinations indicating exposures in excess of the applicable permissible exposure limit (PEL). As amended, the standard requires employers to notify employees of all exposure determinations, whether above or below the PEL. Interested parties had until April 16, 2010, to submit comments on the DFR. The Agency stated that it would publish another notice confirming the effective date of the DFR if it received no significant adverse comments.

Eight comments were submitted in response to the DFR. OSHA has determined that they are not significant adverse comments. Three of the comments were nonsubstantive and did not object to the planned amendments to the Cr(VI) standards. See OSHA—H054A—2006–0064; OSHA—H054A—2006–0064–0003; OSHA—H054A—2006–0064–0004; OSHA—H054A—2006–0064–0005. Four commenters—the Building and Construction Trades Department, Ameren (an investor owned electric and natural gas utility), Public Citizen, and the AFL–CIO—strongly supported the DFR. See OSHA—H054A—2006–0064–0006; OSHA—H054A—2006–0064–0007; OSHA—H054A—2006–0064–0008; OSHA—H054A—2006–0064–0009. The eighth commenter was Edison Electric

DATED: May 6, 2010.
Kevin J. Wolf,
Assistant Secretary for Export Administration.

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DEPARTMENT OF LABOR
Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926
[Docket No. OSHA–H054A–2006–0064]
RIN 1218–AC43
Revising the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards

AGENCY: Occupational Safety and Health Administration (OSHA); Department of Labor.

ACTION: Final rule; confirmation of effective date.

SUMMARY: OSHA is confirming the effective date of its direct final rule (DFR) revising the employee notification requirements in the exposure determination provisions of the standards for Hexavalent Chromium (Cr(VI)).

DATES: The DFR published on March 17, 2010, becomes effective on June 15, 2010. For purposes of judicial review, OSHA considers May 14, 2010 as the date of promulgation.


ADDRESSES: For purposes of 28 U.S.C. 2112(a), OSHA designates the Associate Solicitor of Labor for Occupational Safety and Health as the recipient of petitions for review of the direct final rule. Contact the Associate Solicitor at the Office of the Solicitor, Room S–4004, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–5445.

SUPPLEMENTARY INFORMATION:

I. Confirmation of Effective Date

On March 17, 2010, OSHA published a DFR in the Federal Register (75 FR 12681) amending the employee notification requirements in the exposure determination provisions of the Cr(VI) standards, 29 CFR 1910.1026, 29 CFR 1915.1026, and 29 CFR 1926.1126. As originally promulgated in 2006, the Cr(VI) standards required employers to notify employees of any exposure determinations indicating exposures in excess of the applicable permissible exposure limit (PEL). As amended, the standard requires employers to notify employees of all exposure determinations, whether above or below the PEL. Interested parties had until April 16, 2010, to submit comments on the DFR. The Agency stated that it would publish another notice confirming the effective date of the DFR if it received no significant adverse comments.

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Institute (EEI), the association of shareholder-owned electric companies. See OSHA—HO54A—2006—0064—0010.

EEI supported the DFR, commenting: “EEI has no objection to informing employees of exposure determinations regardless of the results. Indeed, EEI members have long been sharing the results of exposure monitoring with their employees, regardless of whether overexposures have been revealed.” EEI went on, however, to ask OSHA for clarification of the Cr(VI) standards’ requirements that employers provide affected employees with notice of exposure determination results within 15 work days in general industry, and within 5 work days in construction. These deadlines for providing required notices were in the Cr(VI) standards as originally promulgated in 2006, and are not being changed in this direct final rulemaking. OSHA noted as much in the DFR notice. (See 75 FR at 12683 (“[T]he number of work days employers have to provide notice to employees will remain unchanged.” ).). Because EEI’s interpretive request is beyond the scope of this narrow direct final rulemaking, and EEI did not explain why the amendment to the scope of the notification requirement would be ineffective without clarification on the timing issue, the Agency has concluded that this is not a significant adverse comment. (See 75 FR at 12683 (“OSHA will not consider a comment recommending an additional amendment to be a significant adverse comment unless the comment states why the direct final rule would be ineffective without the addition.”). Moreover, because the issues raised by EEI are unrelated to this rulemaking, OSHA will not be addressing them in this notice. EEI may submit its inquiries to OSHA via a written request for a letter of interpretation from the Directorate of Enforcement Programs.

As the Agency did not receive any significant adverse comments, OSHA is hereby confirming that the DFR published on March 17, 2010, will become effective on June 15, 2010.

II. OMB Review Under the Paperwork Reduction Act of 1995

The DFR amends a notification requirement that is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA—95), 44 U.S.C. 3501 et seq., and OMB’s regulations at 5 CFR part 1320. The information collection requirements (“paperwork”) currently contained in the Chromium VI (Cr(VI)) standards by OMB (Information Collection Request (ICR), Chromium (VI) Standards for General Industry (29 CFR 1910.1026), Shipyard Employment (29 CFR 1915.1026), and Construction (29 CFR 1926.1126)), under OMB Control number 1218—0252. The Department notes that a federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA and displays a currently valid OMB control number. The public is not required to respond to a collection of information requirement unless it displays a currently valid OMB control number. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information requirement if the requirement does not display a currently valid OMB control number.

The OMB Rule 5—2007 (72 FR 31159), and 29 CFR part 1911.

On June 22, 2009, OSHA published a preclearance Federal Register notice, Docket No. OSHA—2009—0015, as specified in PRA—95 (44 U.S.C. 3506(c)(2)(A)), allowing the public 60 days to comment on a proposal to extend OMB’s approval of the information collection requirements in the Cr(VI) standards (74 FR 29517). This notice also informed the public that OSHA was considering revising the notification requirements in the Cr(VI) standards to require employers to notify employees of all exposure determination results. OSHA estimated the new burden hours and costs that would result from this amendment to the standard, and the public had 60 days to comment on those estimates in accordance with the PRA, 44 U.S.C. 3506(c)(2). OSHA estimated that a requirement to notify employees of all exposure determination results would result in an increase of 62,575 burden hours and would increase employer cost, in annualized terms, by $1,526,731.

The preclearance comment period closed on August 21, 2009. OSHA did not receive public comments on that notice. On October 30, 2009, OSHA published a Federal Register notice announcing that the Cr(VI) ICR had been submitted to OMB (74 FR 56216) for review and approval, and that interested parties had until November 30, 2009, to submit comments to OMB on that submission. No comments were received in response to that notice.

List of Subjects
29 CFR Part 1910
Exposure determination, General industry, Health, Hexavalent chromium (Cr(VI)), Notification of determination results to employees, Occupational safety and health.

29 CFR Part 1915
Exposure determination, Health, Hexavalent chromium (Cr(VI)), Notification of determination results to employees, Occupational safety and health, Shipyard employment.

29 CFR Part 1926
Construction, Exposure determination, Health, Hexavalent chromium (Cr(VI)), Notification of determination results to employees, Occupational safety and health.

Authority and Signature
David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, directed the preparation of this direct final rule. The Agency is issuing this rule under 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 5—2007 (72 FR 31159), and 29 CFR part 1911.

Signed at Washington, DC, on May 11, 2010.

David Michaels,
Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010—11586 Filed 5—13—10; 8:45 am]

BILLING CODE 4510—25—P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.