

KELLEY DRYE

COLLIER SHANNON

Occupational Exposure to Hexavalent Chromium

71 Fed. Reg. 10100 (Feb. 28, 2006)

Presented by: Wayne D'Angelo

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Background

- » **Final Rule Promulgated February 2006**
 - 15 year regulatory history
- » **Permissible Exposure Limit (PEL)**
 - 52 ug/m³ to 5 ug/m³
 - Compliance based on engineering controls rather than respiratory protection
 - November, 2006/May, 2007 compliance deadlines
 - May 2010: Deadline for engineering/Work practice controls

Action Level

» 2.5 ug/m³

» Triggers:

- Periodic Monitoring
 - Every 3 Months if > PEL
 - Every 6 Months if \geq action level
 - Every change in process/material/personnel
- Medical Surveillance

Monitoring

Exposure Determination

» Scheduled monitoring option

- » Initial monitoring: pbz samples for each job category (highest exposed ee)
- » Periodic monitoring:
 - » Every 3 months if > PEL
 - » Every 6 months if > or = action level
 - » Every change in process, raw materials, personnel, etc.

» Performance-oriented monitoring option

- » Air monitoring data, historical monitoring data, or objective data or any combination may be relied on to determine employee exposure
 - » **At employer's risk*

Ancillary Provisions

- » PPE
- » Hygiene Areas
 - Change rooms/Wash facilities/CrVI-free break rooms
- » Medical Surveillance
 - Trigger:
 - exposed \geq AL for 30 or more days per year
 - Emergency exposure
 - Signs or symptoms
- » HAZCOM (enhanced)
- » Recordkeeping
 - Exposure monitoring data and medical surveillance data

Welding Exposures

Based on data supplied to OSHA by the NAVY, private shipbuilding industry and data OSHA or NIOSH independently collected, OSHA generated the following exposure profile for Maritime welding operations:

Welding Process	Total No. of Workers	Distribution ug/m ³							
		Below LOD	≥ LOD to <0.25	≥0.25 to <0.5	≥ 0.5 to <1.0	≥ 1.0 to <5.0	≥ 5.0 to <10.0	≥ 10.0 to <20.0	≥ 20.0
SMAW	1,893	555 (29.3%)	212 (11.2%)	138 (7.3%)	250 (13.2%)	305 (16.1%)	129 (6.8%)	157 (8.3%)	148 (7.8%)
GMAW	2,734	1,113 (40.7%)	432 (15.8%)	243 (8.9%)	405 (14.8%)	487 (17.8%)	55 (2.0%)	0 (0%)	0 (0%)
TIG	631	423 (67%)	158 (25%)	25 (4%)	19 (3%)	6 (1%)	0 (0%)	0 (0%)	0 (0%)
FCAW	12,619	5,605 (44.4%)	1,251 (9.9%)	1,869 (14.8%)	1,717 (13.6%)	1,088 (8.6%)	153 (1.2%)	153 (1.2%)	784 (6.2%)
Plasma Cutting	421	58 (13.8%)	58 (13.8%)	0 (0%)	29 (6.9%)	160 (37.9%)	72 (17.2%)	0 (0%)	43 (10.3%)
Plasma Welding	168	0 (0%)	113 (67%)	55 (33%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Oxy-fuel Cutting	420	106 (25%)	161 (38%)	76 (18%)	26 (6%)	26 (6%)	13 (3%)	13 (3%)	0 (0%)
Air Carbon Arc Cutting/Gouging	167	51 (30%)	15 (9%)	37 (22%)	7 (4%)	0 (0%)	22 (13%)	29 (17%)	7 (4%)
Electron Torch Cutting	42	42 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Thermal Spray Tungsten Carbide	42	0 (0%)	42 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
SAW	1,682	1,682 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Grinding	210	84 (40%)	126 (60%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Total	21,031	9,718 (46%)	2,568 (12%)	2,492 (12%)	2,453 (12%)	2,071 (10%)	444 (2%)	352 (2%)	982 (4%)

Where We Are

February 28, 2006 – Final Standard

» Petitions filed in multiple US Courts of Appeal Challenging Rule

Industry Petitioners

NAM/SSINA

SFIC

Edison Electronic Institute

Petitioner Labor

Public Citizen – 3rd Cir.

AFL-CIO

Steelworkers

Teamsters

» Interveners (for OSHA)

- Portland cement
- AAI
- CPMA

Litigation Strategy

- » SFIC has settled
- » Briefing deadline extended to April 7, 2007
- » Settlement negotiations ongoing between:
 - Steelworkers and OSHA
 - SSINA/OSHA/Public Citizen
 - EEI and OSHA

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Questions?

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