DEPARTMENT OF LABOR
Occupational Safety and Health Administration

29 CFR Part 1910
[Docket No. OSHA–2007–0080]
RIN: 1218–AC34

Regulatory Flexibility Act Review of the Bloodborne Pathogens Standard

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Request for comments.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is conducting a review of its Bloodborne Pathogens Standard (29 CFR 1910.1030) under Section 610 of the Regulatory Flexibility Act and Section 5 of Executive Order (EO) 12866 on Regulatory Planning and Review. OSHA conducts its review pursuant to Section 610 of the Regulatory Flexibility Act, 5 U.S.C. 610, and Section 5 of Executive Order (EO) 12866. Section 610 directs agencies to review impacts of regulations on small businesses by examining: the continued need for the rule; the nature of complaints or comments received concerning the rule from the public; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. The EO requires agencies to determine whether their regulations “should be modified or eliminated so as to make the Agency’s regulatory program more effective in achieving the regulatory objectives, less burdensome, or in greater alignment with the President’s priorities and principles set forth in the Executive Order.” Written comments on these and other relevant issues are welcome.

DATES: Written comments to OSHA must be sent or postmarked by August 12, 2010.

ADDRESSES: You may submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at http://www.regulations.gov, which is the Federal eRulemaking Portal. Follow the instructions on-line for making electronic submissions;

Fax: If your submissions, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648; or

Mail, hand delivery, express mail, messenger and courier service: You must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2007–0080, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger and courier service) are accepted during the Department of Labor’s and Docket Office’s normal business hours, 8:15 a.m.–4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number for this rulemaking (OSHA–2007–0080). Submissions are placed in the public docket without change and may be available online http://www.regulations.gov. OSHA cautions you about submitting personal information such as social security numbers and birth dates.

Docket: To read or download submissions or other material in the docket, go to http://www.regulations.gov.
or the OSHA Docket Office at the address above. All documents in the
docket are listed in the http://
www.regulations.gov index; however,
some information (e.g., copyrighted
material) is not publicly available to
read or download through the Web site.
All submissions, including copyrighted
material, are available for inspection
and copying at the OSHA Docket Office.

FOR FURTHER INFORMATION CONTACT:
Joanna Dizikes Friedrich, Directorate of
Evaluation and Analysis, Occupational
Safety and Health Administration,
Room N–3641, 200 Constitution
Avenue, NW., Washington, DC 20210,
Telephone (202) 693–1939, Fax (202)
693–1641.

SUPPLEMENTARY INFORMATION:

Background

OSHA issued the final Bloodborne
Pathogens Standard (29 CFR 1910.1030)
on December 6, 1991 (56 FR 64004). It
was promulgated to protect health care
workers from exposure to pathogens in
blood and other potentially infectious
materials, particularly the Hepatitis B
virus (HBV) and the Human
Immunodeficiency Virus (HIV). Workers
who may have occupational exposure to
bloodborne pathogens include, but are
not limited to, physicians, nurses,
nursing home workers, dental workers,
fraction home workers, law enforcement,
emergency, fire, and rescue workers.
The Standard was upheld in American
Dental Assoc. v. Martin, 984 F. 2d 823
(7th Cir. 1993), cert. denied, 510 U.S.
859 (1993). The court concluded that
OSHA had shown that occupational
exposure to bloodborne pathogens
constituted a significant risk and that
the compliance measures required by
the standard were feasible.

In 2001, in response to the
Needlestick Safety and Prevention Act
(Pub. L. 106–430, 114 Stat. 1901), OSHA
revised the Bloodborne Pathogens Standard (66 FR 5316, 1/18/01) to
include the use of safer needle devices
and to involve employees in identifying
and choosing these devices. Also, the
updated Standard requires employers to
maintain a log of injuries from
contaminated sharps.1 (A sharp is any
object that can penetrate the skin
including, but not limited to, needles,
scalpels, broken glass, broken capillary
tubes, and exposed ends of dental
wires.) Significant requirements of the
1991 Standard are as follows: 2

- A written exposure plan intended
to minimize or eliminate workers’
exposures to bloodborne pathogens;
- Use of Universal Precautions (i.e.,
an infection control approach in which
all human blood and certain human
body fluids are treated as if known to be
infectious for HIV, HBV, and other
bloodborne pathogens);
- Engineering controls to minimize or
eliminate worker exposure;
- Work practices to minimize or
eliminate worker exposure;
- Personal protective equipment if
worker exposure is not eliminated by
engineering controls or work practices;
- Unless required by a specific
medical or dental procedure or there is
no feasible alternative, bending,
recapping, or removing contaminated
needles and other sharps is prohibited;
- Shearing or breaking contaminated
needles (i.e., needles reasonably
expected to have blood or other
potentially infectious substances on
them) is prohibited;
- Employers must make HBV
vaccinations available to employees
occupationally exposed to bloodborne
pathogens and at no cost to the
employees;
- Employee training;
- Post-exposure evaluation and
follow-up;
- If appropriate, post-exposure
prophylaxis.

The revised 2001 Standard clarifies
the need for employers to: 3

- Select safer needle devices;
- Involve employees in identifying
and choosing safer needle devices;
- Maintain a log of injuries from
contaminated sharps.

In conducting this lookback review,
OSHA intends to investigate possible
sources of occupational data on HIV,
HBV, and needlestick injuries that may
be applied to analyzing the impact of
the Standard. Medical developments
and treatment protocols may also be
reviewed. Since the Standard affects
small businesses across a range of
sectors, the lookback review might
identify opportunities for reducing the
burden on small entities while
maintaining or improving worker
protection, particularly outside the
healthcare sectors.

Regulatory Review

OSHA is reviewing the Bloodborne
Pathogens Standard (29 CFR 1910.1030)
under Section 610 of the Regulatory
Flexibility Act (5 U.S.C. 601 et seq.) and
Section 5 of Executive Order 12866 (58

The purpose of a review under Section 610 of the Regulatory Flexibility
Act:

“[s]hall be to determine whether such
rules should be continued without
change, or should be amended or
rescinded, consistent with the stated
objectives of applicable statutes, to
minimize any significant impact of the
rules upon a substantial number of such
small entities.”

In reviewing rules under this Section,
“the agency shall consider the following
factors:
(1) The continued need for the rule;
(2) The nature of complaints or
comments received concerning the rule
from the public;
(3) The complexity of the rule;
(4) The extent to which the rule
overlaps, duplicates or conflicts with
other Federal rules, and, to the extent
feasible, with State and local
governmental rules; and
(5) The length of time since the rule
has been evaluated or the degree to
which technology, economic conditions,
or other factors have changed in the area
affected by the rule.”

The review requirements of Section 5
of Executive Order 12866 require
agencies:

“* * * to reduce the regulatory burden
on the American people, their families,
their communities, their State, local,
and Tribal governments, and their
industries; to determine whether
regulations promulgated by the * * *
[Agency] have become unjustified or
unnecessary as a result of changed
circumstances; to confirm that
regulations are both compatible with
each other and not duplicative or
inappropriately burdensome in the
aggregate; to ensure that all regulations
are consistent with the President’s
priorities and the principles set forth in
this Executive order, within applicable
law; and to otherwise improve the
effectiveness of existing regulations
* * *.”

Request for Comments

An important step in the review
process involves gathering and
analyzing information from affected
persons about their experience
complying with the rule and any
material changes in circumstances since
the rule was issued. This notice requests
written comments on the continuing

1 http://www.osha.gov/SLTC/
  bloodborneinfections/index.html.
2 United States Department of Labor,
  Occupational Safety and Health Administration
  (OSHA); Safety and Health Topics, Bloodborne
  Pathogens and Needlestick Prevention; http://
  www.osha.gov/SLTC/bloodborneinfections/
  index.html.

Alert: Preventing Needlestick Injuries in Health
Care Settings;” NIOSH Publication No. 2000–108;
November 1999.

3 United States Department of Labor,
  Occupational Safety and Health Administration
  (OSHA); Safety and Health Topics, Bloodborne
  Pathogens and Needlestick Prevention; http://
  www.osha.gov/SLTC/bloodborneinfections/
  index.html.
need for the Bloodborne Pathogens Standard (29 CFR 1910.1030), its impact on small businesses, its effectiveness in protecting workers, and all other issues raised by Section 610 of the Regulatory Flexibility Act and Section 5 of Executive Order 12866. It would be particularly helpful for commenters to suggest how the Standard could be modified to reduce the burden on employers while maintaining or improving employee protection. Furthermore, comments would be appreciated on the following topics:

- Exposures in non-hospital settings;
- Recent technological advances in needlestick prevention;
- Effectiveness of needlestick prevention programs;
- New, emerging health risks from bloodborne pathogens; and
- Any other experiences related to compliance with the standard.

Public comments will assist the Agency in determining whether to retain the Standard unchanged, to initiate rulemaking to revise or rescind it, or to develop improved compliance assistance.

Comments must be submitted by August 12, 2010. Comments should be submitted to the addresses and in the manner specified at the beginning of the notice.

Authority: This document was prepared under the direction of David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued under Section 610 of the Regulatory Flexibility Act (5 U.S.C. 610) and Section 5 of Executive Order 12866 (58 FR 51735, October 4, 1993).


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

[FR Doc. 2010–11579 Filed 5–13–10; 8:45 am]
BILLING CODE 4510–29–P

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: Proposed rule; withdrawal.

SUMMARY: With this notice, OSHA is withdrawing the proposed rule that accompanied its direct final rule (DFR) amending the employee notification requirements in the exposure determination provisions of the Hexavalent Chromium (Cr(VI)) standards.

DATES: Effective May 14, 2010, the proposed rule published March 16, 2010 (75 FR 12485), is withdrawn.


SUPPLEMENTARY INFORMATION: On March 17, 2010, OSHA published a DFR amending the employee notification requirements in the exposure determination provisions of the Cr(VI) standards at 29 CFR 1910.1026, 29 CFR 1915.1026, and 29 CFR 1926.1126 (75 FR 12681). OSHA also published a companion proposed rule proposing the same changes to the Cr(VI) standards. (75 FR 12485, March 16, 2010). In the DFR, OSHA stated that it would withdraw the companion proposed rule and confirm the effective date of the DFR if no significant adverse comments were submitted on the DFR by April 16, 2010.

OSHA received eight comments on the DFR, which the Agency has determined were not significant adverse comments. OSHA is publishing a notice announcing and explaining this determination and confirming the effective date of the DFR as June 15, 2010. Accordingly, OSHA is not proceeding with the proposed rule and is withdrawing it from the rulemaking process.

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 210

RIN 1510–AB24

Federal Government Participation in the Automated Clearing House


ACTION: Notice of proposed rulemaking with request for comment.

SUMMARY: The Department of the Treasury, Financial Management Service (Service) is proposing to amend our regulation governing the use of the Automated Clearing House (ACH) system by Federal agencies. Our regulation adopts, with some exceptions, the ACH Rules developed by NACHA—The Electronic Payments Industry Council.