

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

-----X  
:  
**In the Matter of** :  
:  
**Alstom Power Inc. Air Preheater Company** :  
:  
**Respondent** :  
:  
Proceeding under Section 325(c) of Title III :  
of the Superfund Amendments :  
and Reauthorization Act :  
-----X

**CONSENT AGREEMENT  
AND  
FINAL ORDER**

**DOCKET NUMBER  
EPCRA-02-2012-4207**

**U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
2012 APR -9 P 3:00  
REGIONAL HEARING  
CLERK**

**PRELIMINARY STATEMENT**

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. §11001 *et seq.* [also known as the Emergency Planning and Community Right-to-Know Act of 1986 (hereinafter, "EPCRA")]. The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Etc." (40 C.F.R. Part 22 (July 1, 2000)) provide in 40 C.F.R. §22.13(b) that when the parties agree to settle one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order pursuant to 40 C.F.R. §§22.18(b)(2) and (3).

The Director of the Division of Enforcement and Compliance Assistance of the United States Environmental Protection Agency, Region 2, ("EPA or Complainant") alleges that Alstom Power Inc. Air Preheater Company, located at 3020 Truax Road in Wellsville, New York 14895, violated the requirements of Section 313 of EPCRA (42 U.S.C. §11023) and the regulations promulgated pursuant to that Section, codified at 40 C.F.R. Part 372.

Under Section 313 of EPCRA and 40 C.F.R. §372.22, owners or operators of a facility subject to the requirements of Section 313(b) are required to submit annually, no later than July 1 of each year, a Toxic Chemical Release Inventory Reporting Form R, EPA Form 9350-1 (hereinafter, "Form R") for each toxic chemical listed under 40 C.F.R. §372.65 and/or 40 C.F.R. §372.28 that was manufactured, imported, processed, or otherwise used during the preceding calendar year in quantities exceeding the established toxic chemical thresholds. A complete and correct Form R is required to be submitted to the Regional Administrator of the Environmental Protection Agency and to the State in which the subject facility is located.

EPA and Alstom Power Inc. Air Preheater Company agree that settling this matter by entering into this Consent Agreement and Final Order ("CAFO"), pursuant to 40 C.F.R. §22.13(b) and 40 C.F.R. §22.18(b)(2) and (3), is an appropriate means of resolving this case without further litigation. This CAFO is being issued pursuant to said provisions of 40 C.F.R. Part 22. No formal or adjudicated Findings of Fact or Conclusions of Law have been made. The following constitutes EPA's Findings of Fact and Conclusions of Law based upon information EPA obtained through September 30, 2011.

**FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

1. Respondent is Alstom Power Inc. Air Preheater Company (TRI Facility No.: 14895BBRPRANDOV).
2. At all times relevant hereto, Respondent has maintained a facility located at 3020 Truax Road in Wellsville, New York, which is the subject of this Consent Agreement and Final Order (hereinafter, "Respondent's facility").
3. Respondent is a "person" within the meaning of Section 329(7) of EPCRA (42 U.S.C. §11049).
4. Respondent is an owner of a "facility" as that term is defined by Section 329(4) of EPCRA (42 U.S.C. §11049(4)) and by 40 C.F.R. §372.3.
5. Respondent is an operator of a "facility" as that term is defined by Section 329(4) of EPCRA (42 U.S.C. §11049(4)) and by 40 C.F.R. §372.3.
6. Respondent's facility has ten (10) or more "full time employees" as that term is defined by 40 C.F.R. §372.3.

7. Respondent's facility is in the North American Industry Classification System (NAICS) Code 332313 (Plate Work Manufacturing).

8. Respondent's facility is subject to the requirements of Section 313(b) of EPCRA (42 U.S.C. §11023(b)) and 40 C.F.R. §372.22.

9. Chromium, CAS No.: 7440-47-3, is listed under 40 C.F.R. §372.65.

10. Respondent processed approximately 98,360 pounds of chromium in calendar year 2009.

11. Respondent was required to submit a complete and correct Form R report for chromium for calendar year 2009 to the Administrator of the EPA and to the State of New York by July 1, 2010.

12. Respondent submitted a Form R report for chromium to the EPA for calendar year 2009 on February 14, 2011. The Form R report was submitted 228 days late.

13. Respondent's failure to submit a timely, complete and correct Form R report for chromium for calendar year 2009 constitutes a failure to comply with Section 313 of EPCRA, 42 U.S.C. §11023, and with 40 C.F.R. Part 372.

14. Copper, CAS No.: 7440-50-8, is listed under 40 C.F.R. §372.65.

15. Respondent processed approximately 71,371 pounds of copper in calendar year 2009.

16. Respondent was required to submit a complete and correct Form R report for copper for calendar year 2009 to the Administrator of the EPA and to the State of New York by July 1, 2010.

17. Respondent submitted a Form R report for copper to the EPA for calendar year 2009 on February 14, 2011. The Form R report was submitted 228 days late.

18. Respondent's failure to submit a timely, complete and correct Form R report for copper for calendar year 2009 constitutes a failure to comply with Section 313 of EPCRA, 42 U.S.C. §11023, and with 40 C.F.R. Part 372.

19. Manganese, CAS No.: 7439-96-5, is listed under 40 C.F.R. §372.65.

20. Respondent processed approximately 224,440 pounds of manganese in calendar year 2009.

21. Respondent was required to submit a complete and correct Form R report for manganese for calendar year 2009 to the Administrator of the EPA and to the State of New York by July 1, 2010.

22. Respondent submitted a Form R report for manganese to the EPA for calendar year 2009 on February 14, 2011. The Form R report was submitted 228 days late.

23. Respondent's failure to submit a timely, complete and correct Form R report for manganese for calendar year 2009 constitutes a failure to comply with Section 313 of EPCRA, 42 U.S.C. §11023, and with 40 C.F.R. Part 372.

24. Nickel, CAS No.: 7440-02-0, is listed under 40 C.F.R. §372.65.

25. Respondent processed approximately 52,727 pounds of nickel in calendar year 2009.

26. Respondent was required to submit a complete and correct Form R report for nickel for calendar year 2009 to the Administrator of the EPA and to the State of New York by July 1, 2010.

27. Respondent submitted a Form R report for nickel to the EPA for calendar year 2009 on February 14, 2011. The Form R report was submitted 228 days late.

28. Respondent's failure to submit a timely, complete and correct Form R report for nickel for calendar year 2009 constitutes a failure to comply with Section 313 of EPCRA, 42 U.S.C. §11023, and with 40 C.F.R. Part 372.

### **TERMS OF CONSENT AGREEMENT**

Based on the foregoing, and pursuant to Section 325(c) of EPCRA, and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Etc., 40 C.F.R. §22.18 (hereinafter, "Consolidated Rules"), it is hereby agreed by and between the parties, and Respondent voluntarily and knowingly agrees as follows:

1. Respondent certifies herein that any and all EPA Toxic Chemical Release Inventory Forms submitted for the above-described violations comply with the requirements of Section 313 of EPCRA and the regulations set forth at 40 C.F.R. Part 372.

2. For the purpose of this proceeding, Respondent: (a) admits the jurisdictional allegations of this Consent Agreement as applied to the facility as set forth in paragraphs 1 through 17, inclusive; and (b) neither admits nor denies the Findings of Fact and Conclusions of Law section, above.

3. Respondent shall pay a civil penalty totaling **SEVENTEEN THOUSAND FOUR HUNDRED SEVENTY TWO DOLLARS (\$17,472)**. Payment shall be made by cashier's or

certified check or by electronic fund transfer (EFT). If the payment is made by check, then the check shall be made payable to the “**Treasurer, United States of America,**” and shall be mailed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

The check shall be identified with a notation thereon listing the following: **In The Matter of Alstom Power Inc. Air Preheater Company** and shall bear thereon the **Docket Number EPCRA-02-2012-4207**. Payment must be received at the above address on or before 45 calendar days after the date of signature of the Final Order at the end of this document (the date by which payment must be received shall hereafter be referred to as the "due date"). If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment.
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045.
- 3) Account Code for Federal Reserve Bank of New York receiving payment: 68010727.
- 4) Federal Reserve Bank of New York ABA routing number: 021030004.
- 5) Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency.”
- 6) Name of Respondent: **Alstom Power Inc. Air Preheater Company**
- 7) Case Number: **EPCRA-02-2012-4207**.

Such EFT must be received on or before 45 calendar days after the date of signature of the Final Order at the end of this document. Whether the payment is made by check or by EFT, the Respondent shall promptly thereafter furnish reasonable proof that such payment has been made to both:

Karen Maples, Regional Hearing Clerk  
Office of the Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 2  
290 Broadway, 16th Floor (1631)  
New York, New York 10007-1866

and

John Gorman, Chief  
Pesticides and Toxic Substances Branch  
U.S. Environmental Protection Agency - Region 2  
2890 Woodbridge Avenue (Bldg. 10, MS-105)  
Edison, New Jersey 08837

a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice for collection.

b. Further, if payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. §3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling fee of \$15 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid.

c. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

#### **SUPPLEMENTAL ENVIRONMENTAL PROJECT**

4. Respondent agrees to undertake the following Supplemental Environmental Project ("SEP"), "Final EPA Supplemental Environmental Projects Policy Issued," 63 Federal Register 86 (May 5, 1998), pp.24796-24804, which the parties agree is intended to secure significant environmental or public health protection and improvements:

**a. Project Summary – Pollution Reduction**

Alstom Power Inc. will commit to implementing a Pollution Reduction SEP to reduce the emissions from their manufacturing processes which involve the welding, grinding and cutting of a significant quantity of metals such as chromium, nickel, manganese and copper which are the subject chemicals of this enforcement action. The company's current emission capture rates are within the limits allowed by the company's air permit issued by the New York Department of Conservation.

The company has agreed to install mechanical ventilation with high efficiency HEPA filtration media to capture and reduce fugitive emissions for reclamation of the emissions generated from their welding operations. Improving those rates would benefit both the worker's health and the surrounding community. The annual personal exposure testing data from the welding of stainless steel at the plant for hexavalent chromium, a known carcinogen, without the

use of fume extractors is approximately 80% of the OSHA Permissible Exposure Limit (PEL) for an 8 hour Time Weighted Average (TWA). It is anticipated that the use of the proposed fume extractors will reduce this personal exposure to less than 5% of the OSHA. Similar reductions can be expected for the other listed Hazardous Air Pollutants (chromium, nickel, and manganese) and copper in the fumes produced during the welding operations. Placement of the filters will be optimized according to the planned engineering study to be conducted by a third party engineering firm as part of the SEP.

The total capital expenditure for the SEP shall not be less than \$84,450 to purchase the equipment and \$56,550 to operate the equipment during a five-year project period, in accordance with the criteria set forth in the Project Summary. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

b. Respondent hereby certifies that, as of the date of this Consent Agreement and Final Order, Respondent was not required to perform or develop the SEP by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant, or as injunctive relief in this or any other case or in compliance with state or local requirements. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP, and that it will not receive reimbursement for any portion of the SEP from any other person.

c. Respondent will purchase three (3) mechanical ventilation units to install in fixed welding areas within two (2) months of the date of signature of the Final Order at the end of this document. (Phase 1)

d. Respondent will contract a third party engineering firm to perform testing to determine the release points with the highest potential to reduce emissions within four (4) months of the date of signature of the Final Order at the end of this document. (Phase 2)

e. Respondent will purchase and install a minimum of seven (7) additional mechanical ventilation units as indicated by the engineering study within eight (8) months of the date of signature of the Final Order at the end of this document. (Phase 3)

f. Whether Respondent has complied with the terms of this Consent Agreement and Final Order through implementation of the SEP project, as herein required, shall be the sole determination of EPA.

5. Respondent shall submit a SEP Reports to EPA as follows: The reports shall contain the following information:

- (i) A SEP progress report will be submitted within one (1) month of completion of each of Phases 1 and 2 of the SEP as described above. Each report will include documentation of monies spent and project status.
- (ii) Respondent shall submit a SEP Completion report to EPA on or by ten (10) months of the date the Regional Administrator signed the Consent Agreement and Final Order at the end of this document.
- (iii) The Completion Report will include a description of all activities conducted regarding implementation of the proposed SEP, monies spent and any quantifiable results of the proposed SEP such as pounds of additions releases captured by the units.

6. Respondent agrees that failure to submit the SEP Completion Report or any Periodic Report required by paragraph 5, above, shall be deemed a violation of this Consent Agreement and Final Order, and Respondent shall become liable for stipulated penalties pursuant to paragraph 9, below.

7. Respondent shall maintain legible copies of documentation for any and all documents or reports submitted to EPA pursuant to this Consent Agreement and Final Order, and Respondent shall provide the documentation of any such data to EPA within seven (7) days of a request for such information. In all documents or reports, including, without limitation, the SEP Completion Report, submitted to EPA pursuant to this Consent Agreement and Final Order, Respondent shall, by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

8. a. Following receipt of the SEP Completion Report described in paragraph 5, above, EPA will do one of the following:



- (i) Accept the report;
- (ii) Reject the SEP Completion Report, notify Respondent in writing of deficiencies in the SEP Completion Report and grant Respondent an additional thirty (30) days in which to correct any deficiencies; or
- (iii) Reject the SEP Completion Report and seek stipulated penalties in accordance with paragraph 9 herein.

b. If EPA elects to exercise option (ii) or (iii) above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency or disapproval given pursuant to this paragraph within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA as a result of any such deficiency or failure to comply with the terms of this Consent Agreement and Final Order. In the event that the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with paragraph 9, herein.

9. a. In the event that Respondent fails to comply with any of the terms or provisions of this Consent Agreement and Final Order relating to the performance of the SEP described in paragraph 5, above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP as described in paragraph 5, above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- (i) Except as provided in subparagraph (ii) immediately below, for a SEP which has not been completed satisfactorily pursuant to paragraph 9, Respondent shall pay a stipulated penalty to the United States in the amount of **\$52,416**.
- (ii) If the SEP is not completed satisfactorily, but Respondent: a) made in good faith and timely efforts to complete the project; and b) certifies, with supporting documentation, that at least 90% of the amount of money which was required to be spent was expended on the SEP, Respondent shall not pay any stipulated penalty.
- (iii) If the SEP is satisfactorily completed, but Respondent spent less than 90 percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to the United States in the amount determined as follows:

- (iv) Stipulated penalty =  $[1 - \frac{\text{\$ amount SEP cost expended}}{\text{\$52,416}}] \times \text{\$52,416}$
- (v) If the SEP is satisfactorily completed, and Respondent spent at least 90% of the amount of money which was required to be expended on the SEP, Respondent shall not pay any stipulated penalty.

b. The determinations of whether the SEP has been satisfactorily completed, whether Respondent has made a good faith timely effort to implement the SEP, whether specific expenditures that have been made are creditable toward the required SEP expenditures and/or whether the reason for submitting a late completion report is acceptable shall be the sole discretion of EPA.

c. A stipulated penalty under subparagraph a.(iii), shall begin to accrue on the day after the completion report is due.

d. Respondent shall pay any stipulated penalties within fifteen (15) days of receipt of a written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of paragraph 3, herein. Interest and late charges shall be paid as stated in paragraph 3, herein.

10. Complainant, at her discretion, may waive any stipulated penalties specified above.

11. Any public statement, oral or written, made by Respondent making reference to this SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of Section 313 of EPCRA, 42 U.S.C. § 11023 and regulations pursuant to that Section, 40 C.F.R. Part 372."

12. a. If any event occurs, which causes or may cause delays in the completion of the SEP as required under this Consent Agreement and Final Order, Respondent shall notify EPA in writing within ten (10) days of the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of delay, the precise cause of delay, the measures taken by Respondent to prevent or minimize delay, and the timetable by which those measures will be implemented. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of Respondent's right to request an extension of its obligation under this Agreement based on such incident.

b. If the parties agree that the delay, or anticipated delay, in compliance with this Consent Agreement and Final Order has been, or will be, caused by circumstances entirely beyond the control of Respondent, the time for performance of the SEP may be extended for a period no longer than the delay resulting from such circumstances. In such an event, the parties shall negotiate the extension of time.

c. In the event that EPA does not agree that a delay in achieving compliance with the requirements of this Consent Agreement and Final Order has been, or will be, caused by circumstances beyond the control of Respondent, EPA will notify Respondent in writing of its decision, and any delays in completion of the SEP shall not be excused.

d. The burden of proving that any delay is caused by circumstances entirely beyond the control of Respondent shall rest with Respondent. Increased cost or expenses associated with the implementation of actions called for by this Consent Agreement and Final Order shall not, in any event, be a basis for changes in this Consent Agreement and Final Order or extensions of time under section (b) of this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

13. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred, in the performance of the SEP.

14. This Consent Agreement and Final Order is being voluntarily and knowingly entered into by the parties in full and final settlement of all civil liabilities under the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §11001 et seq.) and the regulations promulgated thereunder, 40 C.F.R. Part 372, that attach, or might have attached, as a result of the Findings of Fact and Conclusions of Law set out above.

15. Respondent explicitly and knowingly consents to the assessment of the civil penalty, as set forth in this Consent Agreement and Final Order, and agrees to pay the penalty in accordance with the terms of this Consent Agreement and Final Order.

16. Respondent has read the Consent Agreement, understands its terms, and voluntarily consents to its issuance and to abide by its terms and conditions, including payment of the full amount of the civil penalty in accordance with the terms set forth above. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

17. Respondent waives any right it may have pursuant to 40 C.F.R. §22.08 to be present during discussions with or to be served with and to reply to any memorandum or

communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

18. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect respondent's obligation to comply with all applicable provisions of EPCRA and the regulations promulgated there under.

19. Each undersigned signatory to this Consent Agreement and Final Order certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and Final Order and all the terms and conditions set forth in this Consent Agreement and Final Order.

20. Each party hereto agrees to bear its own costs and fees in this matter.

21. Respondent consents to service upon Respondent by a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

**RESPONDENT:****Alstom Power Inc. Air Preheater Company**

BY: Richard M. Wright  
Authorizing Signature

NAME: RICHARD M. WRIGHT  
(PLEASE PRINT)

TITLE: MANAGER - EHS, MAINT. & FACILITIES

DATE: 12-28-2011

**COMPLAINANT:**

Dore LaPosta  
**Dore LaPosta, Director**  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency, Region 2  
290 Broadway  
New York, New York 10007

DATE: MAR 23, 2012

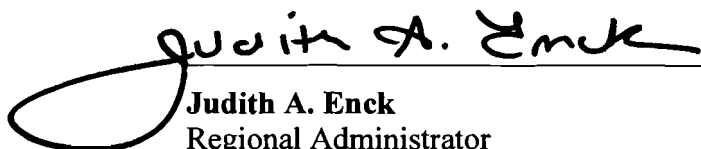
**In the Matter of Alstom Power Inc. Air Preheater Company**

**Docket Number EPCRA-02-2012-4207**

**FINAL ORDER**

The Regional Administrator of the United States Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement (including Attachment A) in the case of **In the Matter of Alstom Power Inc. Air Preheater Company**, bearing **Docket No. EPCRA-02-2012-4207**. Said Consent Agreement, having been duly accepted and entered into by the parties, is hereby ratified, incorporated into and issued, as this Final Order, which shall become effective when filed with the Regional Hearing Clerk of the United States Environmental Protection Agency, Region 2. 40 C.F.R. § 22.31(b). This Final Order is being entered pursuant to the authority of 40 C.F.R. §§ 22.13(b) and 22.18(b)(3) and shall constitute an order issued under authority of Section 325(c) of EPCRA 42 U.S.C. § 11045(c).

DATE: April 2 2012

  
\_\_\_\_\_  
**Judith A. Enck**  
Regional Administrator  
U.S. Environmental Protection Agency, Region 2  
290 Broadway  
New York, New York 10007

Alstom Power Inc. Air Preheater Company

Docket No.: EPCRA-02-2012-4207

ATTACHMENT 1



**EPA Supplemental Environmental Project  
 Article Number 7001-0320-0004-7790-2851  
 Facility TRI ID: 14895BBRPRANDOV**

**July 13, 2011**

**Category – #3 Pollution Reduction**

**Sub-Category – Air Quality**

- Reduce fugitive emissions through use of mechanical ventilation and HEPA filtration.

**Current Situation**

Manufacturing of our products requires us to weld, grind & cut a significant quantity of metals. This process releases fugitive emissions containing various materials, such as, Chromium, Nickel, Manganese, & Copper.

**Project Proposal**

Propose to install mechanical ventilation with high efficiency filtration media to capture fugitive emissions for reclamation.

**Phase 1**

- Immediate purchase of 3 mechanical ventilation units to install in fixed welding areas.
- Schedule: Complete November 15, 2011
- Cost:
 

Microair TMG 1000 Fume Extractors	3@\$5,300.00	\$15,900.00
Freight-in		\$550.00
Installation Labor	3@\$100.00	<u>\$300.00</u>
Total Cost:.....		\$16,750.00
- Estimated Annual Maintenance:
 

Consumables (HEPA Filters)	3@\$500.00	\$1,500.00
Labor	3@\$150.00	\$450.00
Testing & Disposal	3@\$450.00	<u>\$1,350.00</u>
Total:.....		\$3,300.00

# STRATE WELDING SUPPLY CO., INC.

101 Comet Street, Buffalo, New York 14216 • P.O. Box 570, Buffalo, New York 14207-0570  
Telephone (716) 873-3660 • Fax (716) 873-2315

19 Clifton Avenue  
Jamestown, NY 14701  
(716) 483-1534  
Fax (716) 488-0266

6776 N. Canal Road  
Lockport, NY 14094  
(716) 434-6193  
Fax (716) 434-6372

1646 E. State Road  
Olean, NY 14760  
(716) 373-0710  
Fax (716) 373-0711

329 Main Avenue  
Warren, PA 16365  
(814) 726-1051  
Fax (814) 726-7247

November 9, 2011

Alstom Preheater  
3020 Truax Rd.  
Wellsville, NY 14895

Attn: Steve Riley

We are pleased to offer you the following quote on air cleaners.

1. TM1000 Micro Air Unit w/120V auto pull and 6'x10' area with lamps.....\$5,300.00ea.

There will be a freight charge and a 2 week lead time. If you have any question please feel free to call us at (716)373-0710.

Thank You,

Justin Bunk  
Strate Welding Supply




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[Federal Registers - Table of Contents](#)

• **Publication Date:** 02/28/2006  
 • **Publication Type:** Final Rules  
 • **Fed Register #:** 71:10099-10385  
 • **Standard Number:** [1910](#); [1915](#); [1917](#); [1918](#); [1926](#)  
 • **Title:** Occupational Exposure to Hexavalent Chromium

[Federal Register: February 28, 2006 (Volume 71, Number 39)]  
 [Rules and Regulations]  
 [Page 10099-10385]  
 From the Federal Register Online via GPO Access [wais.access.gpo.gov]  
 [DOCID:fr28fe06-25]

Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, et al.

Occupational Exposure to Hexavalent Chromium; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, 1918, and 1926

[Docket No. H054A]  
RIN 1218-AB45

Occupational Exposure to Hexavalent Chromium

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

ACTION: Final rule.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is amending the existing standard which limits occupational exposure to hexavalent chromium (Cr(VI)). OSHA has determined based upon the best evidence currently available that at the current permissible exposure limit (PEL) for Cr(VI), workers face a significant risk to material impairment of their health. The evidence in the record for this rulemaking indicates that workers exposed to Cr(VI) are at an increased risk of developing lung cancer. The record also indicates that occupational exposure to Cr(VI) may result in asthma, and damage to the nasal epithelia and skin.

The final rule establishes an 8-hour time-weighted average (TWA) exposure limit of 5 micrograms of Cr(VI) per cubic meter of air (5 [mu]g/m<sup>3</sup>). This is a considerable reduction from the previous PEL of 1 milligram per 10 cubic meters of air (1 mg/10 m<sup>3</sup>), or 100 [mu]g/m<sup>3</sup> reported as CrO<sub>3</sub>, which is equivalent to a limit of 52 [mu]g/m<sup>3</sup> as Cr(VI). The final rule also contains ancillary provisions for worker protection such as requirements for exposure determination, preferred exposure control methods, including a compliance alternative for a small sector for which the new PEL is infeasible, respiratory protection, protective clothing and equipment, hygiene areas and practices, medical surveillance, recordkeeping, and start-up dates that include four years for the implementation of engineering controls to meet the PEL.

The final standard separately regulates general industry, construction, and shipyards in order to tailor requirements to the unique circumstances found in each of these sectors.

The PEL established by this rule reduces the significant risk posed to workers by occupational exposure to Cr(VI) to the maximum extent

that is technologically and economically feasible.

**DATES:** This final rule becomes effective on May 30, 2006. Start-up dates for specific provisions are set in Sec. 1910.1026(n) for general industry; Sec. 1915.1026(l) for shipyards; and Sec. 1926.1126(l) for construction. However, affected parties do not have to comply with the information collection requirements in the final rule until the Department of Labor publishes in the Federal Register the control numbers assigned by the Office of Management and Budget (OMB). Publication of the control numbers notifies the public that OMB has approved these information collection requirements under the Paperwork Reduction Act of 1995.

**ADDRESSES:** In compliance with 28 U.S.C. 2112(a), the Agency designates the Associate Solicitor for Occupational Safety and Health, Office of the Solicitor, Room S-4004, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, as the recipient of petitions for review of these standards.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kevin Ropp, Director, OSHA Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-1999.

**SUPPLEMENTARY INFORMATION:** The following table of contents lays out the structure of the preamble to the final standards. This preamble contains a detailed description of OSHA's legal obligations, the analyses and rationale supporting the Agency's determination, including a summary of and response to comments and data submitted during the rulemaking.

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## XVII. Final Standards

## I. General

This final rule establishes a permissible exposure limit (PEL) of 5 micrograms of Cr(VI) per cubic meter of air (5  $\mu\text{g}/\text{m}^3$ ) as an 8-hour time-weighted average for all Cr(VI) compounds. After consideration of all comments and evidence submitted during this rulemaking, OSHA has made a final determination that a PEL of 5  $\mu\text{g}/\text{m}^3$  is necessary to reduce the significant health risks posed by occupational exposures to Cr(VI); it is the lowest level that is technologically and economically feasible for industries impacted by this rule. A full explanation of OSHA's rationale for establishing this PEL is presented in the following preamble sections: V (Health Effects), VI (Quantitative Risk Assessment), VII (Significance of Risk), VIII (Summary of the Final Economic Analysis and Regulatory Flexibility Analysis), and XV (Summary and Explanation of the Standard, paragraph (c), Permissible Exposure Limit).

OSHA is establishing three separate standards covering occupational exposures to Cr(VI) for: general industry (29 CFR 1910.1026); shipyards (29 CFR 1915.1026), and construction (29 CFR 1926.1126). In addition to the PEL, these three standards include ancillary provisions for exposure determination, methods of compliance, respiratory protection, protective work clothing and equipment, hygiene areas and practices, medical surveillance, communication of Cr(VI) hazards to employees, recordkeeping, and compliance dates. The general industry standard has additional provisions for regulated areas and housekeeping. The Summary and Explanation section of this preamble (Section XV, paragraphs (d) through (n)) includes a full discussion of the basis for including these provisions in the final standards.

Several major changes were made to the October 4, 2004 proposed rule as a result of OSHA's analysis of comments and data received during the comment periods and public hearings. The major changes are summarized below and are fully discussed in the Summary and Explanation section of this preamble (Section XV).

Scope. As proposed, the standards apply to occupational exposures to Cr(VI) in all forms and compounds with limited exceptions. OSHA has made a final determination to exclude from coverage of these final standards exposures that occur in the application of pesticides containing Cr(VI) (e.g., the treatment of wood with preservatives). These exposures are already covered by the Environmental Protection Agency. OSHA is also excluding exposures to portland cement and exposures in work settings 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 Cr(VI) in concentrations at or above 0.5  $\mu\text{g}/\text{m}^3$  under any expected conditions of use. OSHA believes that the weight of evidence in this rulemaking demonstrates that the primary risk in these two exposure scenarios can be effectively addressed through existing OSHA standards for personal protective equipment, hygiene, hazard communication and the PELs for portland cement or particulates not otherwise regulated (PNOR).

Permissible Exposure Limit. OSHA proposed a PEL of 1  $\mu\text{g}/\text{m}^3$  but has now determined that a PEL 5  $\mu\text{g}/\text{m}^3$  is the lowest level that is technologically and economically feasible.

Exposure Determination. OSHA did not include a provision for

December 23, 2003. The panel conferred with representatives from small entities in chemical, alloy, and pigment manufacturing, electroplating, welding, aerospace, concrete, shipbuilding, masonry, and construction on March 16-17, 2004, and delivered its final report to OSHA on April 20, 2004. The Panel's report, including comments from the small entity representatives (SERS) and recommendations to OSHA for the proposed rule, is available in the Cr(VI) rulemaking docket (Ex. 34). The SBREFA Panel made recommendations on a variety of subjects. The most important recommendations with respect to alternatives that OSHA should consider included: A higher PEL than the PEL of 1; excluding cement from the scope of the standard; the use of SECALs for some industries; different PELs for different Hexavalent chromium compounds; a multi-year phase-in to the standards; and further consideration to approaches suited to the special conditions of the maritime and construction industries. OSHA has adapted many of these recommendations: The PEL is now 5; cement has been excluded from the scope of the standard; a compliance alternative, similar to a SECAL, has been used in aerospace industry; the standard allows four years to phase in engineering controls; and a new performance based monitoring approach for all industries, among other changes, all of which should make it easier for all industries with changing work place conditions to meet the standard in a cost effective way. A full discussion of all of the recommendations, and OSHA's responses to them, is provided in Section VIII of this Preamble.

In addition to undertaking SBREFA proceedings, in early 2004, OSHA provided the Advisory Committee on Construction Safety and Health (ACCSH) and the Maritime Advisory Committee on Occupational Safety and Health (MACOSH) with copies of the draft proposed rule for review. OSHA representatives met with ACCSH in February 2004 and May 2004 to discuss the rulemaking and receive their comments and recommendations. On February 13, 2004, ACCSH recommended that portland cement should be included within the scope of the proposed standard (Ex. 35-307, pp. 288-293) and that identical PELs should be set for construction, maritime, and general industry (Ex. 35-307, pp. 293-297). On May 18, 2004, ACCSH recommended that the construction industry should be included in the current rulemaking, and affirmed its earlier recommendation regarding portland cement. OSHA representatives met with MACOSH in March 2004. On March 3, 2004, MACOSH collected and forwarded additional exposure monitoring data to OSHA to help the Agency better evaluate exposures to Cr(VI) in shipyards (Ex. 35-309, p. 208). MACOSH also recommended a separate Cr(VI) standard for the maritime industry, arguing that maritime involves different exposures and requires different means of exposure control than general industry and construction (Ex. 35-309, p. 227).

In accordance with the Court's rulemaking schedule, OSHA published the proposed standard for hexavalent chromium on October 4, 2004 (69 FR at 59306). The proposal included a notice of public hearing in Washington, DC (69 FR at 59306, 59445-59446). The notice also invited interested persons to submit comments on the proposal until January 3, 2005. In the proposal, OSHA solicited public input on 65 issues regarding the human health risks of Cr(VI) exposure, the impact of the proposed rule on Cr(VI) users, and other issues of particular interest to the Agency (69 FR at 59306-59312).

OSHA convened the public hearing on February 1, 2005, with Administrative Law Judges John M. Vittone and Thomas M. Burke presiding. At the conclusion of the hearing on February 15, 2005, Judge Burke set a deadline of March 21, 2005, for the submission of post hearing comments, additional information and data relevant to the rulemaking, and a deadline of April 20, 2005, for the submission of additional written comments, arguments, summations, and briefs. A wide range of employees, employers, union representatives, trade associations, government agencies and other interested parties participated in the public hearing or contributed written comments. Issues raised in their comments and testimony are addressed in the relevant sections of this preamble (e.g., comments on the risk assessment are discussed in section VI; comments on the benefits analysis in section VIII). On December 22, 2005, OSHA filed a motion with the U.S. Court of Appeals for the Third Circuit requesting an extension of the court-mandated deadline for the publication of the final rule by six weeks, to February 28, 2006 (Ex. 48-13). The Court granted the request on January 17, 2006 (Ex. 48-15).

As mandated by the Act, the final standard on occupational exposure to hexavalent chromium is based on careful consideration of the entire record of this proceeding, including materials discussed or relied upon in the proposal, the record of the hearing, and all written comments and exhibits received.

OSHA has developed separate final standards for general industry, shipyards, and the construction industry. The Agency has concluded that excess exposure to Cr(VI) in any form poses a significant risk of material impairment to the health of workers, by causing or contributing to adverse health effects including lung cancer, non-cancer respiratory effects, and dermal effects. OSHA determined that the TWA PEL should not be set above 5 [mu]g/m<sup>3</sup> based on the evidence in the record and its own quantitative risk assessment. The TWA PEL of 5 [mu]g/m<sup>3</sup> reduces the significant risk posed to workers by occupational exposure to Cr(VI) to the maximum extent that is technologically and economically feasible. (See discussion of the PEL in Section XV below.)

#### IV. Chemical Properties and Industrial Uses

Chromium is a metal that exists in several oxidation or valence states, ranging from chromium (-II) to chromium (+VI). The elemental

**In the Matter of Alstom Power Inc. Air Preheater Company**

Docket No. EPCRA-02-2012-4207

**CERTIFICATE OF SERVICE**

I certify that I have this day caused to be sent the foregoing fully executed CONSENT AGREEMENT and FINAL ORDER, bearing the above-referenced Docket Number, in the following manner to the respective addressees below:

Original and One Copy  
by Interoffice Mail:

Ms. Karen Maples, Regional Hearing Clerk  
Office of the Regional Hearing Clerk  
U.S. Environmental Protection Agency -Region 2  
290 Broadway, 16th Floor (1631)  
New York, New York 10007-1866

Copy by Certified Mail,  
Return Receipt Requested:

Mr. Richard M. Wright  
Manager – EHS, Maintenance & Facilities  
Alstom Power Inc. Air Preheater Company  
3020 Truax Road  
Wellsville, New York 14895

Copy by Mail:

Ms. Suzanne Wither, Division of Environmental Remediation  
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625 Broadway - 11th Floor  
Albany, New York 12233

Dated: APR - 5 2012



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