



**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
www.hawaii.gov/labor  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: dlir.director@hawaii.gov

March 23, 2010

To: The Honorable Angus L.K. McKelvey, Chair  
and Members of the House Committee on Economic Revitalization, Business  
and Military Affairs

Date: March 25, 2010

**LATE TESTIMONY**

Time: 10:00 a.m.

Place: Conference Room 312, State Capitol

From: Darwin L.D. Ching, Director  
Department of Labor and Industrial Relations

**Testimony in Opposition to H.C.R. 102 -  
Expressing Support for Enforcement of Existing OSHA Regulations on the Use of  
Hexavalent Chromium and Urging OSHA to Develop Safer Alternatives and Ban  
Hexavalent Chromium**

**I. DLIR's OPPOSITION TO THE HOUSE CONCURRENT RESOLUTION**  
*(The revised resolution with amendments was not published following the Senate hearing; therefore this testimony is based on the original language of the resolution.)*

The Department opposes the resolution for the following reasons:

First, the Resolution states: "Occupational Safety and Health Administration (OSHA) regulations limit acceptable levels for workplace exposure to hexavalent chromium, but do not contain mechanisms for enforcement or penalties for noncompliance." This statement is not accurate.

OSHA established the Permissible Exposure Level (PEL) for hexavalent chromium in 2006, which is 5 micrograms/m<sup>3</sup> for a Time-Weighted Average (TWA) of 8 hours. If this PEL is exceeded, the HIOSH will issue a serious citation and monetary fine to the responsible party. Therefore, it is not accurate to claim that there are no enforcement mechanisms or penalties for noncompliance.

Furthermore, on February 23, 2010, OSHA adopted a National Emphasis Program concerning Hexavalent Chromium, aimed at identifying and reducing or eliminating health hazards associated with occupational exposure to hexavalent chromium. The HIOSH is currently in the process of adopting this emphasis program.

Second, the Resolution endorses the “Trivalent Chromium Process” as a “safer alternative to hexavalent chromium.” It is unclear upon what evidence or study this conclusion is based. We do not have any evidence of consensus in the relevant scientific community on whether the trivalent chromium process is a safer alternative.

Third, the Resolution urges OSHA to “develop and promote the use of safer alternatives to hexavalent chromium.” As a regulatory agency, the HIOSH cannot endorse any particular industrial process or chemical to be used in such process. The industry must play a key role in developing safer alternatives. We do not have a clear understanding of the industry's position or consensus on this matter.

## **II. OVERVIEW OF PROPOSED RESOLUTION**

H.C.R. 102 proposes to do the following:

- Expresses strong support for vigorous enforcement of existing OSHA regulations on hexavalent chromium until the goal of banning its use is achieved.
- Urges OSHA to adopt meaningful enforcement mechanisms of OSHA regulations regarding hexavalent chromium in the workplace, including penalties for noncompliance.
- Urges OSHA to work to develop and promote the use of safer alternatives to hexavalent chromium with the goal of eventually banning hexavalent chromium.

## **III. CURRENT LAW**

OSHA and the Hawaii Occupational Safety and Health Division (HIOSH) have already set the Permissible Exposure Levels for hexavalent chromium. Should these levels be exceeded, a serious citation and monetary fine will be issued.



March 24, 2010

## LATE TESTIMONY

Committee on Economic Revitalization, Business, & Military Affairs  
Representative Angus L.K. McKelvey, Chair  
Representative Issac W. Choy, Vice Chair

### Hearing:

10:00 A.M., Thursday, March 25, 2010  
Hawaii State Capitol, Room 312

**RE: HCR102, Expressing Support for Enforcement of Existing OSHA Regulations on the Use of Hexavalent Chromium and Urging OSHA to Develop Safer alternative and Ban Hexavalent Chromium.**

### Testimony in Support

Chair McKelvey and Vice Chair Coy, and members of the Committee. On behalf of the American Cancer Society Hawaii Pacific Inc., we are offering this testimony in support of HCR102.

For the past 62 years, the American Cancer Society Hawaii Pacific, Inc. has been dedicated to eliminating cancer mortality and reducing the suffering caused by cancer through education, advocacy, research, and prevention. Because of prevention, we have made much progress in reducing certain types of cancers caused by highly toxic industrial chemicals and substances one of which is Hexavalent Chromium.

Lung cancer has been linked to **hexavalent chromium which is used here in Hawaii by welders at the Pearl Harbor Naval Ship Yard, as well as, in metal and iron fabrication, and custom chrome plating.** However, use of this deadly material is unnecessary. A safer substance, trivalent chromium, is non-carcinogenic and can be used in many of same processes that utilize hexavalent chromium.

The Society believes that enhance enforcement of OSHA safety regulations pertaining to hexavalent chromium, and the substitution of trivalent chromium will ultimately result in the decreased incidence of lung cancers in metal working occupations. We strongly urge the committees to pass this resolution.

Thank you for the opportunity to present testimony here today.

Sincerely,

A handwritten signature in black ink, appearing to read "George S. Massengale".

George S. Massengale, JD  
Director of Government Relations