



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

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To: The Honorable Karl Rhoads, Chair
and Members of the House Committee on Labor & Public Employment

Date: March 16, 2010
Time: 10:00 a.m.
Place: Conference Room 309, 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/m³ 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.