

**VIRGINIA SAFETY AND HEALTH CODES BOARD**

**BRIEFING PACKAGE**

**FOR May 24, 2005**

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**Methylenedianiline in Construction, ' 1926.60, Final Rule;  
Correction**

**I. Action Requested.**

The Virginia Occupational Safety and Health (VOSH) Program requests the Safety and Health Codes Board to consider for adoption federal OSHA's correction to the final rule on Methylenedianiline in Construction, as published in 69 FR 70373 on December 6, 2004.

The proposed effective date is August 15, 2005.

**II. Summary of the Amendment.**

Federal OSHA revised the regulatory text of the Methylenedianiline (MDA) Standard for Construction to correct a cross reference to OSHA's standard on Emergency Action Plans and Fire Prevention Plans by inserting the reference for Fire prevention plans, 29 CFR 1910.39, in ' 1926.60(e)(1)(iii). (69 FR 70373)

Section 1926.60 (e)(1)(iii) will now read as follows:

The plan shall specifically include provisions for alerting and evacuating affected employees as well as the applicable elements prescribed in 29 CFR 1910.38 and 29 CFR 1910.39, Emergency action plans and Fire prevention plans, respectively. (69 FR 70373)

### **III. Basis, Purpose and Impact of the Amendment.**

#### **A. Basis.**

On November 7, 2002, federal OSHA published a final rule entitled, "Exit Routes, Emergency Action Plans, and Fire Prevention Plans." 67 FR 67949. The purpose of this action was to clarify and make consistent provisions regarding emergency action plans and fire prevention plans in several general industry standards. In that final rule, federal OSHA separated the requirements for emergency action plans and fire protection plans into two separate sections, 1910.38 and 1910.39, respectively. (69 FR 70373)

OSHA had intended to revise all health standards to reflect the change. Although several general industry health standards were revised at that time to reflect this change, the same provision in the Methylene dianiline (MDA) Standard for Construction (29 CFR 1926.60) was not similarly revised at that time.

On December 2, 2003, the Safety and Health Codes adopted federal OSHA's final rule on Exit Routes, Emergency Action Plans and Fire Prevention Plans, with an effective date of March 1, 2003.

#### **B. Purpose.**

Federal OSHA is correcting the MDA Construction Standard to make it consistent with the revised language in the other health standards.

#### **C. Impact on Employers.**

This correction should have no impact on employers.

#### **D. Impact on Employees.**

This correction should have no impact on employees.

#### **E. Impact on the Department of Labor and Industry.**

This correction should have no impact on the Department.

Federal regulations 29 CFR 1953.23(a) and (b) require that Virginia, within six months of the occurrence of a federal program change, to adopt identical changes or promulgate equivalent changes which are at least as effective as the federal change. The Virginia Code reiterates this requirement in § 40.1-22(5). Adopting these revisions will allow Virginia to conform to the federal program change.

### **RECOMMENDED ACTION**

Staff of the Department of Labor and Industry recommends that the Safety and Health Codes Board adopt the correction to the final rule for Methylenedianiline (MDA) in Construction, ' 1926.60, as authorized by Virginia Code ' ' 40.1-22(5) and 2.2-4006.A.4(c), with an effective date of August 15, 2005.

The Department also recommends that the Board state in any motion it may make to amend this regulation that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of this or any other regulation which has been adopted in accordance with the above-cited subsection A.4(c) of the Administrative Process Act.

**Methylenedianiline in Construction, ' 1926.60, Final Rule; Correction**

As Adopted by the  
Safety and Health Codes Board

Date: \_\_\_\_\_



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: \_\_\_\_\_

16 VAC 25-175-1926.60, Methylenedianiline in Construction, ' 1926.60; Final Rule

When the regulations, as set forth in the corrections to 16 VAC 25-175-1926.60, Methylenedianiline in Construction, ' 1926.60, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and  
Industry

Agency

Department

January 5, 2005

August 15, 2005