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Room N2625

200 Constitution Avenue, NW

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The National Council for Occupational Safety and Health (National COSH) is a federation of local and statewide "COSH" groups-Committees/Coalitions on Occupational Safety and Health. COSH groups are private, non-profit coalitions of workers, worker organizations, health and technical professionals, labor unions and others interested in promoting and advocating for worker health and safety. There are currently twenty active formal COSH groups around the country with many more allied groups that we serve.

National COSH affiliate's members are directly affected by the level of protections from health hazards in the workplace including protections from beryllium exposure. These workers are in all types on industry including construction, general industry, service and health care. National COSH programs are designed to protect and reach all workers, but particularly targeted at the most vulnerable workers in the workplace i.e. high-hazard industry workers, temporary workers, immigrant workers and low-wage workers.

National COSH strongly supports OSHA's proposal to regulate beryllium exposures. The proposal would provide much needed protections to some, but not all, workers from exposures known to cause chronic beryllium disease (CBD) and lung cancer. A comprehensive program to protect workers from these exposures, that includes a requirement for a written beryllium control plan, regular exposure monitoring, medical surveillance, medical removal protection benefits, and training would provide much needed protection for beryllium exposed workers.

However, the proposal is not strong enough. Under the proposal, too many workers will not be protected. National COSH believes the beryllium standard should be comprehensive, should cover all workers exposed to airborne beryllium, and should require employers to implement engineering controls to minimize exposures to beryllium. In other words, OSHA should require employers to take all feasible steps to protect **all** workers from beryllium exposure. OSHA should revise the proposal to strengthen the protections it provides to workers.

I. OSHA's Existing Standard Does Not Adequately Protect Workers

OSHA's current standard for beryllium was adopted in 1971 under section 6(a) of the Occupational Safety & Health Act and is based on a consensus standard from the 1940s. NIOSH first recommended that OSHA revise its beryllium standard in 1972 and has recommended increasingly stronger beryllium protections in the years since. The Department of Energy updated its beryllium control requirements in 1999. OSHA first proposed a 6(b) standard controlling beryllium exposures in 1975. Now, forty years later, it is finally moving forward with efforts to protect these workers. OSHA's action is long-overdue. National COSH urges OSHA to finish this rulemaking quickly and to finally adopt a comprehensive standard protecting beryllium workers.

The health of workers exposed to beryllium at the existing permissible exposure limit is at risk. Studies show significant numbers of workers exposed at the existing PEL and below develop chronic beryllium disease and lung cancer. These effects have been seen in workers exposed to beryllium below the proposed action level as well. OSHA has identified these exposures as posing a significant risk to workers. Even under the revised standard OSHA has proposed, beryllium workers would continue to be exposed to significant risks. National COSH believes OSHA must take stronger steps to eliminate the risks faced by beryllium workers.

I. OSHA Should Provide Construction and Maritime Workers Comprehensive Protection from Risks Posed by Beryllium Exposures.

OSHA should ensure greater protections to beryllium exposed workers by extending the scope of the proposed standard to workers in the construction and maritime industries. In the proposed preamble, OSHA recognizes that these workers are exposed to beryllium during abrasive blasting and clean-up of spent material. The risks that construction and maritime workers face when exposed to beryllium particulate is the same as the risk faced at similar exposures by general industry workers. OSHA has already conducted an economic analysis of the impact of the proposed standard in maritime and construction. That analysis shows each of these industries can afford the compliance costs. National COSH believes it is arbitrary for OSHA to protect one group of workers while failing to protect another.

OSHA action to update Table Z as it pertains to construction and maritime would not be an effective alternative way to protect these workers. Mandating compliance with a revised PEL, without also including ancillary requirements for exposure monitoring, medical surveillance, medical removal protection benefits and other requirements of a comprehensive standard would short change these workers. OSHA should, at a minimum, require that employers in construction and maritime industries conduct exposure monitoring and medical surveillance of beryllium exposed workers. These requirements may be imposed even in the absence of a significant risk. Information obtained through monitoring and medical surveillance can be used to tailor a comprehensive standard specific to these industries. And, these requirements would provide needed protection to construction and maritime workers who face significant risks from beryllium exposure.

II. OSHA Should Eliminate the Exclusion for Material Which Contains Less than .1% Beryllium

OSHA's proposed standard, at 29 C.F.R. §1910.1024(a)(3), would exclude from the scope of the standard any exposures resulting from products which contain less than .1% beryllium by weight. This exclusion leaves hundreds of workers at risk and has no logical justification.

OSHA's proposed PEL is based on health effects studies measuring the risk of disease at different airborne concentrations of beryllium. When compounds with beryllium less than .1% generate airborne exposures above the PEL, those exposures produce the same risk of disease as do similar exposures from compounds with a greater beryllium percentage. Nothing in OSHA's risk assessment measures the risk to workers based on the amount of beryllium in the product. It, therefore, makes no sense to exclude some exposures from regulation based on the percentage of beryllium in the product.

This product exclusion is particularly unwarranted because OSHA's proposal permits employers to forgo initial monitoring, and conclude beryllium exposures cannot exceed the action level, based on objective data. If such objective data show that a product with less than .1% beryllium cannot generate airborne exposures above the action level, they are already excluded from the scope of the standard. If such objective data show that a product with less than .1% beryllium can generate exposures above the action level then there remains an urgent need to protect workers exposed as a result.

III. OSHA Should Mandate Engineering and Work Practice Controls to Minimize All Beryllium Exposures

The United Steelworkers Union [USW] and Materion agreed that engineering and work practice controls should be required to minimize exposures wherever airborne beryllium particulate is present. OSHA eliminated that provision from paragraph (f) of the proposal. OSHA should adopt the engineering control provision agreed to in the joint labor management proposal.

OSHA's risk assessment shows that workers remain exposed to significant risks of CBD [Chronic Beryllium Disease] and cancer at exposure levels below the proposed PEL. Additional controls are both feasible and necessary to reduce those risks. A requirement that employers install controls to minimize dust, so long as those controls are feasible, would better protect workers than would OSHA's proposal. Such a requirement would impose little added burden on employers because properly designed engineering solutions should seek to reduce exposures to as low a level as possible. It is especially important since CBD has been reported in workers exposed to beryllium at levels below the proposed PEL.

IV. Medical Removal Protection Benefits are Crucial to A Successful Medical Surveillance Program

Workers exposed to beryllium need a strong medical surveillance program. By recognizing beryllium sensitization and early symptoms, CBD can be reversed and its progression to more debilitating disease slowed. The experience of National COSH and its member COSH groups tells us that workers will not willingly participate in medical surveillance or disclose early signs and symptoms of disease if doing so means they lose their job and can no longer pay their bills. For this reason, an effective medical surveillance program for CBD must include medical removal protection (MRP) benefits. MRP benefits should allow a worker to be transferred to a job without beryllium exposure or, if no such job is available, continue a workers' pay, benefits and seniority for a period of at least 6 months. Such

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benefits would cushion the financial blow to those who must change to lower paying jobs because occupational beryllium exposure has placed them at high risk for developing CBD.

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