

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****21 CFR Part 589**

[Docket No. 02N-0273]

Substances Prohibited From Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed; Correction**AGENCY:** Food and Drug Administration, HHS.**ACTION:** Advance notice of proposed rulemaking; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting an advance notice of proposed rulemaking that appeared in the **Federal Register** of November 6, 2002 (67 FR 67572). The document solicited information and views on some potential changes to its current regulation prohibiting the use of certain proteins in ruminant animal feed.

EFFECTIVE DATE: November 26, 2002.

FOR FURTHER INFORMATION CONTACT: Linda Huntington, Executive Secretariat, Office of the Commissioner (HF-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-4443.

SUPPLEMENTARY INFORMATION: In FR Doc. 02-28373, appearing on page 67572 in the **Federal Register** of Wednesday, November 6, 2002, the following correction is made:

1. On page 67573, in the second column, in the sixth line, the phone number "301-594-1755" is corrected to read "301-827-3800".

Dated: November 20, 2002.

Margaret M. Dotzel,*Associate Commissioner for Policy.*

[FR Doc. 02-29926 Filed 11-25-02; 8:45 am]

BILLING CODE 4160-01-S**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-106879-00]

RIN 1545-AY27**Dual Consolidated Loss Recapture Events; Hearing Cancellation****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations under section 1503(d) regarding the events that require the recapture of dual consolidated losses.

DATES: The public hearing originally scheduled for December 3, 2002, at 10 a.m., is canceled.

FOR FURTHER INFORMATION CONTACT: Sonya M. Cruse of the Regulations Unit, Associate Chief Counsel (Income Tax and Accounting), at (202) 622-7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

A notice of proposed rulemaking and notice or public hearing that appeared in the **Federal Register** on Thursday, August 1, 2002, (67 FR 49892), announced that a public hearing was scheduled for December 3, 2002 at 10 a.m., in room 4718, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 1503(d) of the Internal Revenue Code. The public comment period for these proposed regulations expired on November 12, 2002. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Tuesday, November 19, 2002, no one has requested to speak. Therefore, the public hearing scheduled for December 3, 2002, is canceled.

Cynthia E. Grigsby,*Chief, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).*

[FR Doc. 02-29994 Filed 11-25-02; 8:45 am]

BILLING CODE 4830-01-P**DEPARTMENT OF LABOR****Occupational Safety and Health Administration****29 CFR Part 1910**

[Docket No. H005C]

RIN 1218-AB76**Occupational Exposure to Beryllium; Request for Information****AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.**ACTION:** Request for information.

SUMMARY: OSHA requests information and comment on issues related to occupational exposure to beryllium, including current employee exposures to beryllium; the relationship between exposure to beryllium and the

development of adverse health effects; exposure assessment and monitoring methods; exposure control methods; employee training; medical surveillance for adverse health effects related to beryllium exposure; and other pertinent subjects. The information received in response to this document will assist the Agency in determining an appropriate course of action regarding occupational beryllium exposure.

DATES: Comments must be submitted by the following dates:

Hard copy: Your comments must be submitted (postmarked or sent) by February 24, 2003.

Facsimile and electronic transmission: Your comments must be sent by February 24, 2003.

(Please see the **SUPPLEMENTARY INFORMATION** section for additional information on submitting comments.)

ADDRESSES: Regular mail, express delivery, hand-delivery, and messenger service: You must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. H005C, Room N-2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m., EST.

Facsimile: If your comments, including any attachments, are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693-1648. You must include the docket number of this document, Docket No. H005C, in your comments.

Electronic: You may submit comments, but not attachments, through the Internet at <http://ecommments.osha.gov/>.

(Please see the **SUPPLEMENTARY INFORMATION** section for additional information on submitting comments.)

FOR FURTHER INFORMATION CONTACT:

General Information and press inquiries—Bonnie Friedman, Director, OSHA Office of Public Affairs, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693-1999. Technical Information—Amanda Edens, OSHA Directorate of Standards and Guidance, Room N-3718, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693-2093. Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available at OSHA's webpage at <http://www.osha.gov>.

SUPPLEMENTARY INFORMATION:

I. Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document by (1) hard copy, (2) fax transmission (facsimile), or (3) electronically through the OSHA webpage. Please note that you cannot attach materials such as studies or journal articles to electronic comments. If you have additional materials, you must submit three copies of them to the OSHA Docket Office at the address above. The additional materials must clearly identify your electronic comments by name, date, subject and docket number so we can attach them to your comments. Because of security-related problems there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693-2350 for information about security procedures concerning the delivery of materials by express delivery, hand delivery and messenger service.

All comments and submissions will be available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web site will be available at <http://www.osha.gov>. OSHA cautions you about submitting personal information such as social security numbers and birth dates. Contact the OSHA Docket Office at (202) 693-2350 for information about materials not available through the OSHA web page and for assistance in using the web page to locate docket submissions.

II. Background

Properties and uses. Beryllium has unique characteristics that make it a superior material for certain specialized applications. Compared to other metals, beryllium is very light, has a high melting point, low electrical conductivity, superior strength and stiffness, high thermal conductivity, and high resistance to corrosion. In addition, it is also transparent to X-rays, absorbs neutrons, and is non-magnetic. Beryllium is used in several forms: as a pure metal, as beryllium oxide, and as an alloy with copper, aluminum, magnesium, or nickel.

Until recently, the primary demand for beryllium came from the Department of Defense and the Department of Energy, where the metal was important in the development of nuclear weapons and in applications for the nuclear power industry. However, the use of beryllium has become more widespread in general industry, both in the manufacture of products containing

beryllium and the salvage of materials containing beryllium.

For example, because of its lightness and strength, beryllium and beryllium alloy are used by the aerospace industry in the manufacture of high performance military aircraft, satellites, rocketry and the space shuttle. Beryllium and beryllium alloy are also used in X-ray machines and high-speed computers. Beryllium alloy is used by manufacturers of electrical components to make springs, switches, and other parts that are used in automotive, computer, telecommunication, and other industries. Additional alloy applications include tubing for oil and gas drilling; tool and die making and other mold-making; jewelry; golf clubs; and non-sparking tools. Beryllium oxide is used as a substrate for circuits in computer manufacture and in industries that produce lasers or traveling-wave tubes, automotive ignition systems, radar, microwave systems, and in other electronic and opto-electronic markets. Processes that create employee exposure in these industries typically involve machine shop, metalworking, and finishing processes, such as machining, sanding, stamping, grinding, crushing, lapping, and sintering.

Beryllium is also present in other industries that do not intentionally produce or process the metal. Examples of such activities include abrasive blasting operations, where coal or copper slag is used as a substitute for sand; spot or seam welding of specialized beryllium-copper electrodes; welding processes, where beryllium is in the electrode, in the flux or rod, or in the substrate alloy being fabricated; and recycling metals and other materials from computers and electrical products.

Health Risks Associated With Occupational Exposure to Beryllium and Its Compounds

Some workers exposed to beryllium or beryllium compounds may develop beryllium sensitization, chronic beryllium disease (CBD, also sometimes known as berylliosis), lung cancer, or skin disease (Ex. 4-1). Acute beryllium disease, a pneumonitis resulting from high beryllium exposure, is now considered rare (Ex. 4-9).

Inhalation appears to be the primary route of exposure to beryllium. However, dermal contact can result in a beryllium-related skin disease characterized by a rash, or wart-like bumps (Ex. 4-15). Questions have been raised regarding the contribution of dermal exposure, ingestion, and genetic factors to the risk of sensitization and CBD. (e.g., Exs. 4-2 and 4-14).

Chronic Beryllium Disease

CBD primarily affects the lungs. Inhalation of beryllium dust appears to be the primary route of exposure in CBD. Research indicates that beryllium exposure causes some workers to become sensitized, which may result in the formation of granulomas (inflammatory cells surrounding beryllium particles) in the lung that reduce oxygen exchange (Ex. 4-15). Proliferation of granulomas leads to additional symptoms of CBD, such as dry cough, chest pain, weakness, fatigue and progressive shortness of breath (Ex. 4-9). Progression of the disease may lead to weight loss, acrocyanosis (blueness or pallor of the extremities usually associated with pain and numbness), and eventually, heart failure. The clinical course of CBD is considered highly variable; because the disease may develop slowly over time, workers may have the disease for years without knowing it. With progression, CBD is sometimes fatal. (Ex. 4-10).

The amount or length of exposure to beryllium necessary to cause a specific individual to develop CBD is not known, but recent information suggests that even short exposures to levels of beryllium below OSHA's Permissible Exposure Limit (PEL) of $2 \mu\text{g}/\text{m}^3$ averaged over an 8-hour day may lead to CBD in some workers (Exs. 4-5, 4-7, and 4-8). CBD may develop within months after initial exposure to beryllium or may have a very slow onset and not develop for 25 years or more and may even develop after exposure has ceased (Ex. 4-9). The prevalence of CBD among beryllium exposed workers has been reported to range from an average of about 2% to a high of approximately 15% for workers involved in machining operations in the manufacture of beryllium products (Exs. 4-5, 4-6, and 4-8).

Measurement of exposure to total airborne beryllium dust may not be the best predictor of CBD. Particle size, surface area, number of particles, solubility, and the chemical form of beryllium involved may all be relevant to the development of disease. It has been suggested that development of disease may be more closely correlated with the mass or number of particles deposited in the alveolar regions of the lung than with total dust exposure (Exs. 4-4 and 4-11).

Only workers who have developed sensitization to beryllium are believed to develop CBD. Following sensitization, CBD can develop with or without additional exposure (Ex. 4-13). Lang (Ex. 4-10) estimates that the probability of developing CBD following

sensitization is approximately 10% per year and that about half of those sensitized will go on to develop pulmonary granulomas within three to four years. Similarly, Newman (Ex. 4–13) reported that almost 50% of a beryllium-sensitized follow-up group of 44 subjects developed CBD within 4 years of becoming sensitized.

The Beryllium Lymphocyte Proliferation Test (BeLPT) can identify employees who are sensitized to beryllium. Sensitized individuals are typically further evaluated by biopsy, high resolution computerized tomography, or other means, such as the exercise tolerance test or bronchoalveolar lavage, to determine if they have CBD. Diagnosis of CBD depends on demonstration of pathologic changes such as granulomas in the lungs, along with evidence that these changes are the result of hypersensitivity to beryllium (*e.g.*, positive BeLPT results) (Exs. 4–15 and 4–19).

Lung Cancer

The International Agency for Research on Cancer classifies beryllium and beryllium compounds as carcinogenic to humans (Ex. 4–3). The National Institute for Occupational Safety and Health classifies beryllium and beryllium compounds as a “potential occupational carcinogen” (Ex. 4–12). The Environmental Protection Agency classifies beryllium and beryllium compounds as a “probable human carcinogen” (Ex. 4–18). Recent epidemiological studies have reported excess lung cancer deaths among beryllium-exposed employees (Exs. 4–16 and 4–17). A variety of beryllium metal alloys, compounds, and ores have also been shown to cause lung cancer in rats and monkeys in inhalation and intratracheal instillation studies (Exs. 4–3 and 4–18).

Occupational health regulation of beryllium exposure. The first occupational exposure limit for beryllium was set in 1949 by the Atomic Energy Commission (AEC). The AEC required that beryllium exposure in the workplaces under its jurisdiction be limited to 2 $\mu\text{g}/\text{m}^3$ as an 8-hour time-weighted-average (TWA) and 25 $\mu\text{g}/\text{m}^3$ as a peak exposure, never to be exceeded.

In 1971, OSHA adopted, under Section 6(a) of the Occupational Safety and Health Act of 1970, and made applicable to general industry, a national consensus standard (ANSI Z37.29–1970) for beryllium and beryllium compounds. The standard sets a PEL for beryllium and beryllium compounds at 2 $\mu\text{g}/\text{m}^3$ as an 8-hour

TWA; 5 $\mu\text{g}/\text{m}^3$ as an acceptable ceiling concentration; and 25 $\mu\text{g}/\text{m}^3$ as an acceptable maximum peak above the acceptable ceiling concentration for an 8-hour shift. (29 CFR Part 1910.1000; Table Z–2).

In 1975, OSHA proposed a new beryllium standard for all industries based on information that beryllium caused cancer in animal experiments (40 FR 48814 (10/17/75)). Adoption of this proposal would have lowered the 8-hour TWA exposure limit from 2 $\mu\text{g}/\text{m}^3$ to 1 $\mu\text{g}/\text{m}^3$. In addition, the proposal included provisions for exposure monitoring, hygiene facilities, medical surveillance, and training related to the health hazards from beryllium exposure. This rulemaking was never completed.

Based upon information showing that OSHA’s current PEL of 2 $\mu\text{g}/\text{m}^3$ may not be adequate to protect workers from developing CBD, OSHA placed beryllium on its Regulatory Agenda in 1998. In 1999, the Department of Energy issued a Chronic Beryllium Disease Prevention Program Final Rule for employees exposed to beryllium in its facilities, setting an action level of 0.2 $\mu\text{g}/\text{m}^3$. This action level triggers workplace precautions and control measures. (DOE, 10 CFR part 850)

In 1999, OSHA was petitioned by the Paper, Allied-Industrial, Chemical and Energy Workers International Union (PACE) (Ex. 1–1) and by Dr. Lee Newman and Ms. Margaret Mroz, from the National Jewish Medical Research Center (Ex. 1–2), to promulgate an Emergency Temporary Standard (ETS) for beryllium in the workplace. In 2001, OSHA was petitioned for an ETS by Public Citizen Health Research Group and again by PACE (Ex. 1–10). OSHA denied the petitions.

III. Key Issues On Which Comment Is Requested

The control of occupational exposures to beryllium and its compounds presents a number of complex issues. OSHA is seeking information, data, and comment that the Agency can use to address these issues. OSHA has included these questions to provide a basis for response to this general request for information. When answering specific numbered questions below, key your responses to the number of the question, explain the reasons supporting your views, and identify and provide relevant information on which you rely, including, but not limited to, data, studies and articles. However, respondents are encouraged to address any aspect of occupational exposure to beryllium that they feel is pertinent. OSHA intends to use the information it obtains to decide on a course of action

regarding occupational exposures to beryllium.

A. Employee Exposure

(1) Where and how is beryllium currently used? Please provide any workplace or industry-specific data you have indicating the amount of beryllium used, its form, and the processes and products in which it is used. OSHA is particularly interested in identifying industries and operations whose use of beryllium is not noted here, and in identifying uses of beryllium that involve small businesses.

(2) What are the job categories in which employees are potentially exposed to beryllium in your company or industry? For each job category, please provide a description of how the exposure takes place within that job category.

(3) How many employees are exposed to beryllium, or have the potential for exposure, in each job category in your company or industry?

(4) What are the frequency, duration and levels of employee exposures to beryllium in each job category in your company or industry? Please include the analytical method and type of samples used for determining exposure levels. OSHA requests that, if possible, exposure data be personal samples with clear descriptions of the length of the sample. If this is not possible, the exposure data should indicate the form and length of the exposure.

B. Health Effects

OSHA is aware of a number of studies showing an association between adverse health effects and exposure to beryllium. The Agency is seeking the most recent and important studies that can be used to identify significant adverse health effects related to occupational beryllium exposure.

(5) Which studies should OSHA consider in assessing the potential health risks of CBD and lung cancer associated with exposure to beryllium? Please explain your rationale for recommending these studies, including potential strengths and weaknesses, such as size of the population studied, characterization of exposure, and confounding factors.

(6) Which recent studies examine the effects from dermal exposure and absorption of beryllium?

(7) Describe any studies showing adverse health effects resulting from routes of occupational beryllium exposure other than dermal contact and inhalation.

(8) Describe any studies that address the mechanisms of action of beryllium

in the development of CBD, sensitization, or lung cancer.

(9) Which studies or other information should OSHA take into account in examining the role of genetic factors in the development of beryllium-related disease?

(10) Describe characteristics of beryllium aerosols (*e.g.*, particle size, surface area, particle number) that are related to the development of disease.

(11) To what extent do different forms of beryllium have specific properties (*e.g.*, solubility) that should be taken into consideration when assessing health risks?

C. Risk Assessment

OSHA is interested in data that will assist it in developing quantitative estimates of the occupational risk of sensitization, CBD, or lung cancer based on the level, timing, and duration of exposure to beryllium. Case reports and epidemiological and animal studies on these measures, along with associated exposure data characterizing total or respirable mass, particle number, particle surface area, and dermal exposure are desired.

(12) Which studies should be used for a quantitative risk assessment for CBD and lung cancer?

(13) Which approaches (*i.e.*, methods, models, data) should OSHA use for estimating risk from exposure to beryllium?

(14) Which mathematical models are most appropriate to quantify the risk of cancer or other adverse health effects from exposure to beryllium or beryllium compounds? Describe the strengths and weaknesses of these models.

(15) Which mathematical lung deposition models are appropriate to characterize beryllium lung uptake?

(16) Describe studies the Agency should consider that relate to the dose-response behavior of beryllium, including cellular, mechanistic, and dosimetric considerations. For instance, are any adverse health effects of beryllium dependent on the time period over which exposure occurs rather than dependent on the total cumulative dose received, or are there data that suggest beryllium exhibits a threshold effect?

(17) Do short-term peak exposures play a role in causing adverse health effects, especially sensitization? If so, provide any information that addresses this role.

(18) Are there studies or other evidence on the combined effects of inhalation and dermal exposure?

(19) The U.S. Environmental Protection Agency (USEPA) has prepared a quantitative risk assessment addressing the risks for sensitization

and lung cancer related to beryllium exposure in the ambient environment (Ex. 4–18). In addition, the California EPA (CalEPA) published a quantitative risk assessment addressing risks for sensitization and CBD in the ambient environment (Ex. 4–20). Should OSHA rely on these assessments to characterize the risk of sensitization, CBD, or lung cancer from occupational exposure to beryllium? Are there other assessments that the Agency should consult? For Beryllium sensitization, the two assessments relied on the same key study of beryllium ceramics plant workers by Kreiss *et al.* (Ex. 4–6), but used some different uncertainty/modifying factors. Should OSHA, in characterizing the risk of beryllium sensitization, rely on (a) the same key study, (b) the same methodology, and (c) the uncertainty/modifying factors used by USEPA and the CalEPA?

D. Exposure Assessment and Monitoring Methods

(20) Is initial sampling, objective data, or some other measure used to estimate beryllium exposures in your facility? Describe any programs that have been implemented for initial assessment of exposure to beryllium.

(21) Describe any follow-up or periodic exposure assessments that you conduct. How often do you conduct such follow-up or periodic exposure assessments?

(22) What type of exposure monitoring methods are available for measuring beryllium in the workplace? Provide information on any sampling and analytical methods available for determining exposure based on total or respirable mass, particle size, particle number, particle surface area, or dermal contact. Information on the precision and accuracy of the sampling method, the range and limits of detection, the method of validation of sampling and analysis, and any potential sources of chemical interference is desired.

E. Control Measures and Technological Feasibility

(23) What types of engineering controls or work practices are used by your facility to reduce exposure to beryllium? Describe the effectiveness of these controls in reducing worker exposure and indicate any operations or processes in your facility for which engineering controls are not available, are ineffective, or are too costly to use. Give specific examples where engineering controls or work practices have been applied or evaluated or where engineering control programs have been implemented to ensure reliable operation of control systems.

(24) Are there other materials available that can be substituted for beryllium in your processes? Describe any technical, economic or other barriers or hindrances to substitution.

(25) Describe housekeeping practices used in your facility to control employee exposure to beryllium, including cleaning methods used (*e.g.*, wet vacuuming, vacuums with HEPA filters, tack cloths), the frequency of these activities, and any prohibited housekeeping practices (*e.g.*, dry sweeping or use of compressed air).

(26) Are clean rooms, change rooms, shower areas, or separate lunchrooms used in your facility for hygiene and housekeeping in the control of beryllium exposure? Indicate the effectiveness of these measures in reducing employee exposure to beryllium, and describe the procedures followed or methods used to ensure that these areas are free from beryllium contamination.

(27) Are respirators or other types of personal protective equipment (*e.g.*, gloves, overalls or other clothing, goggles, face shields) provided to employees in your facility to protect them against exposure to beryllium? If so, describe your program and identify the type of equipment used, the basis for selection, and any difficulties encountered in implementing your program (*e.g.*, problems with cleaning inner surfaces of respirators contaminated with beryllium).

(28) Describe the conditions under which respirators and other personal protective equipment are used, including any criteria (*e.g.*, regulated area, exposure level, type of operation, duration of exposure) used to trigger requirements for use of such equipment.

(29) Are there processes or areas where it is impracticable to use respirators or other protective equipment to protect against exposure to beryllium? Describe those situations and explain what measures are taken to protect employees.

(30) Other than reducing employee exposure to beryllium, has adoption of control measures resulted in any additional benefits? Provide specific details of the benefits.

(31) Have any technological changes within your industry influenced the frequency, duration, or magnitude of exposure to beryllium or the means by which employers attempt to control exposures? The Agency requests that commenters describe in detail any technological changes within industries that have altered methods of control. Information linking control technologies and data on exposure levels associated

with the application of controls is desired.

(32) Is the Department of Energy Beryllium Disease Prevention Program (10 CFR part 850) a viable program for non-DOE beryllium users?

F. Economic Impacts

(33) What are the potential economic impacts of reducing occupational exposures to beryllium in terms of costs of controls, costs for training, benefits from reduction in the number or severity of illnesses, effects on revenue and profit, changes in worker productivity, or any other impact measure that you can to identify? Provide, if possible, explicit examples of costs that could be incurred (e.g., dollar estimates for controls) or benefits that could be achieved (e.g., dollar estimates for medical savings from a reduction in the number or severity of beryllium-related illnesses).

(34) What changes in market conditions would result from reducing employees' exposures to beryllium? Please include in your response any changes in market structure or concentration, or effects on domestic or international shipments of beryllium-related products or services that would be expected to result from reducing occupational exposures to beryllium.

(35) What information and training is provided to your employees to reduce risks associated with occupational exposure to beryllium? OSHA seeks comment on the information and training provided or recommended for workers exposed to beryllium, including job categories included in your training program, criteria for determining which employees receive information and training, program structure, content, methods, frequency, and any procedures used to address language barriers.

G. Employee Training

(36) How do you determine the effectiveness of training? Describe methods used and any factors taken into account in examining the effectiveness of training programs.

(37) Describe any ways in which beryllium-related training could be improved.

H. Medical Surveillance

(38) Which criteria are used, or should be used, to determine when occupational medical screening or surveillance should be provided? Describe the job categories, duties, exposure levels, or any other basis used for determining when health screening should be provided to employees.

(39) Which screening tests or procedures are used, or should be used,

for early identification of adverse health effects related to beryllium exposure? Explain the basis for your position.

(40) If the BeLPT is part of your screening and surveillance program, describe its role in the program (e.g., factors used to determine eligibility for receiving the test, how the results are used to make decisions about further actions for the employee and the facility).

(41) If the BeLPT is part of your screening and surveillance program, what confirmation protocols are used for determining a worker's sensitivity (e.g., single specimen followed by split-specimen, split specimen followed by split specimen)?

(42) If the BeLPT is part of your screening and surveillance program, describe your experience with the test, including information regarding the sensitivity, specificity, false positive rate, false negative rate, and positive predictive value of the test, and any difficulties found with the interpretation of test results.

(43) How often should beryllium-related health screening be performed?

(44) What happens after an employee in your facility is identified as sensitized or diagnosed with beryllium-related disease? Describe the policies and procedures that are followed, including any provisions for removal from exposure and return to work.

(45) Has health screening and surveillance had any effect on the number or severity of adverse health effects associated with beryllium exposure?

I. Environmental Effects

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*), the Council on Environmental Quality (CEQ) regulations (40 CFR part 1500), and the Department of Labor (DOL) NEPA Compliance Regulations (29 CFR part 11), require that OSHA give appropriate consideration to environmental issues and the impacts of proposed actions significantly affecting the quality of the human environment. OSHA is currently collecting written information and data on possible environmental impacts that could occur outside of the workplace (e.g., exposure to the community through contaminated air/water, contaminated waste sites, etc.) if the Agency were to issue guidance or revise the existing standard for occupational exposure to beryllium. Such information should include both negative and positive environmental effects that could be expected to result from guidance or a revised standard. Specifically, OSHA requests comments and information on the following:

(46) What is the potential direct or indirect environmental impact (for example, the effect on air and water quality, energy usage, solid waste disposal, and land use) from a reduction in employee exposure to beryllium or the use of substitutes for beryllium?

(47) Are there any situations in which reducing beryllium exposures to employees would be inconsistent with meeting environmental regulations?

J. Impact on Small Business Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), OSHA is required to assess the impact of proposed and final rules on small entities. OSHA requests that members of the small business community, or other parties familiar with regulation of small business, address any special circumstances facing small firms in controlling occupational exposure to beryllium.

(48) How many and what kinds of small businesses or other small entities in your industry could be affected by amending OSHA's beryllium standard? Describe any such effects.

(49) Are there special issues that make control of beryllium exposures more difficult or more costly in small firms?

(50) Are there any reasons that the benefits of reducing occupational exposure to beryllium might be less in small firms than in larger firms? With regard to potential impacts on small firms, describe specific concerns that should be addressed, and any alternatives that might serve to minimize these impacts while meeting the requirements of the OSH Act.

K. Duplication/Overlapping/Conflicting Rules

(51) Are there any federal regulations that might duplicate, overlap or conflict with guidance or a revised standard concerning beryllium? If so, identify which ones and explain how they would duplicate, overlap or conflict.

(52) Are there any federal programs in areas such as defense or energy that might be impacted by guidance or a revised standard concerning beryllium? If so, identify which ones and explain how they would be impacted.

Authority and Signature

This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC, 20210. It is issued pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655,

657), Secretary's Order 3-2000, and 29 CFR part 1911.

Signed at Washington, DC, this 21st day of November, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 02-29984 Filed 11-25-02; 8:45 am]

BILLING CODE 4510-26-P

POSTAL SERVICE

39 CFR Part 501

Authorization To Manufacture and Distribute Postage Meters

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule clarifies and strengthens requirements for postage meter manufacturers to control what a postage meter allows the licensed user to print.

DATES: The Postal Service must receive your comments on or before December 26, 2002.

ADDRESSES: Mail or deliver written comments to the manager, Postage Technology Management, 1735 N. Lynn Street, Room 5011, Arlington, VA 22209-6370. You can view and copy all written comments at the same address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Wayne Wilkerson, manager of Postage Technology Management, at 703-292-3782, or by fax at 703-292-4073.

SUPPLEMENTARY INFORMATION: Some postage meters and postage evidencing systems can print written or graphic matter in addition to a U.S. Postal Service-approved indicium-evidencing payment of United States postage. Written or graphic matter, other than Postal Service-approved indicia, printed by a meter or postage evidencing system, could convey a false impression that the Postal Service had approved the content of both the indicia and any additional printed matter. For this reason, the *Domestic Mail Manual* provides in P030.9.8 that such "printed matter may not be obscene, defamatory of any person or group, or deceptive, and it must not advocate any unlawful action." When 39 CFR 501.23(d) was adopted, meter stamps and other printed matter were printed with printing plates engraved for customers by the approved postage meter manufacturers. Accordingly, the responsibility for complying with the regulation clearly rested upon the approved meter manufacturer, and failure to comply with a postal meter

regulation could result, under 39 CFR 501.5, in the suspension or revocation of a manufacturer's approval to distribute postage meters. Manufacturers are now distributing Postal Service-approved postage meters and postage evidencing systems that employ digital printing technology. The proposed rule seeks to make clear that the approved manufacturers continue to be responsible for controlling the printing capabilities of their products in order to meet the requirements of the *Domestic Mail Manual*.

We will review any public comments and will issue a final rule amending the regulations. When this proposed rule is issued as a final rule, we will revise the *Domestic Mail Manual* to notify users of meters and postage evidencing systems that the meter manufacturers and providers are responsible for controlling what the user is allowed to print using the postage meter or postage evidencing system.

Notice and Comment

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed amendments to the *Code of Federal Regulations*.

List of Subjects in 39 CFR Part 501

Administrative practice and procedure, Postal Service.

For the reasons set out in this document, the Postal Service is proposing to amend 39 CFR part 501 as follows:

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE METERS

1. The authority citation for part 501 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Public Law 95-452, as amended); 5 U.S.C. App. 3.

2. § 501.23(d) is revised to read as follows:

§ 501.23 Distribution controls.

Each authorized postage meter manufacturer must do the following:

* * * * *

(d) Control all print capabilities of the postage meter or postage evidencing system, including printing of indicia and all other matter printed by the system, by supplying only meter slogans, ad plates, or other print capabilities that meet all Postal Service

requirements, including those for suitable quality and content.

Stanley F. Mires,

Chief Counsel, Legislative.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-P-7617]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Acting Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646-2878 or (e-mail) michael.grimm@fema.gov.

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean