DEPARTMENT OF ENERGY

10 CFR Part 850

[Docket No. HS–RM–10–CBDPP]

RIN 1992–AA39

Chronic Beryllium Disease Prevention Program

AGENCY: Office of Health, Safety and Security, Department of Energy.

ACTION: Request for information.

SUMMARY: The Department of Energy (DOE or the Department) requests information and comments on issues related to its current chronic beryllium disease prevention program. The Department solicits comment and information on the permissible exposure level, establishing surface action levels, the use of warning labels to release items that are free of removable surface levels of beryllium to other DOE facilities for non-beryllium use or to general members of the public, medical restrictions for beryllium workers, and other pertinent subjects. The information received in response to this request will assist DOE in determining the appropriate course of action regarding its chronic beryllium disease prevention program.

DATES: All comments on the issues presented in this document must be received by the Department by February 22, 2011.

ADDRESSES: Comments in response to this document may be submitted by hardcopy or electronically through e-mail. Hardcopies (2 copies) sent by regular mailing should be addressed to: Jacqueline D. Rogers, Office of Worker Safety and Health Policy, Office of Health, Safety and Security, U.S. Department of Energy, Docket No. HS–RM–10–CBDPP, 1000 Independence Avenue, SW., Washington, DC 20585.

Electronic submissions may be sent to *jackie.rogers@hq.doe.gov*. If you have additional information, such as studies or journal articles, and cannot attach them to your electronic submission, please send 2 copies to the address above. The additional material must clearly identify your electronic comments by name, date, subject, and Docket No. HS–RM–10–CBDPP.

FOR FURTHER INFORMATION CONTACT: Jacqueline D. Rogers, U.S. Department of Energy, Office of Health, Safety and Security, Office of Worker Safety and Health Policy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–4714, or *jackie.rogers@hq.doe.gov*.

Electronic copies of this **Federal Register** notice, as well as other relevant DOE documents concerning this issue, will be available on a Web page at: *http://www.hss.energy.gov/HealthSafety/WSHP/BE/*.

SUPPLEMENTARY INFORMATION:

I. Background

DOE has a long history of beryllium use because of the element's broad application to many nuclear operations and processes. Beryllium metal and ceramics are used in nuclear weapons as nuclear reactor moderators or reflectors and as nuclear reactor fuel element cladding. At DOE, beryllium operations have historically included foundry (melting and molding), grinding, and machine tooling of parts.

Inhalation of beryllium particles may cause chronic beryllium disease (CBD) and beryllium sensitization. CBD is a chronic, often debilitating, and sometimes fatal lung condition. Beryllium sensitization is a condition in which a person's immune system becomes highly responsive (allergic) to the presence of beryllium in the body. There has long been scientific consensus that exposure to airborne beryllium is the only cause of CBD.

On December 3, 1998, DOE published a notice of proposed rulemaking (NOPR) to establish a Chronic Beryllium Disease Prevention Program (CBDPP) (63 FR 66940). After considering the comments received, DOE published its final rule establishing CBDPP on December 8, 1999 (64 FR 68854). At that time, DOE sought to reduce the number of workers exposed to beryllium in the course of their work at DOE facilities managed by DOE or its contractors; to minimize the levels of, and potential for, exposure to beryllium; and to establish medical surveillance requirements to ensure early detection of the disease. DOE now has nearly 10 years of job, exposure, and health data, as well as experience implementing the rule, since CBDPP was fully implemented in January 2002. In addition, new research related to CBD has been published in the years since 1999.

Currently, the Department is considering establishing new requirements in several sections of the CBDPP rule (10 CFR part 850). DOE is gathering data, views, and other relevant information to develop a revised standard for CBDPP at its facilities. The Department urges those individuals interested in this issue to provide responses to the questions provided in this document.

II. Questions for Comment

DOE would like to have more data and information to decide whether its current CBDPP can be improved, and if so, how it can be improved. When answering specific numbered questions below, key your response to the number of the question and, if possible, include the mission and cost impacts implied by the question and by your answer.

1. DOE currently defers to the Occupational Safety and Health Administration (OSHA) for establishing the permissible exposure limits (PEL) and uses an action level as the administrative level to assure that controls are implemented to prevent exposures from exceeding the permissible exposure limits. Should the Department continue to use the OSHA PEL? Please explain your answer and provide evidence to support your answer.

2. Should the Department use the 2010 ACGIH threshold limit value (TLV) of 0.05 $\mu g/m^3$ (8-hour time-weighted average of 0.05 microgram of beryllium, in inhalable particulate matter, per cubic meter of air), for its allowable exposure limit? Please explain your answer and provide evidence to support your answer.

3. Should an airborne action level that is different from the 2010 ACGIH TLV for beryllium (8-hour time-weighted average of 0.05 microgram of beryllium, in inhalable particulate matter, per cubic meter of air) be established? If so, what should be the level? Please explain each of your answers and provide evidence to support your answers.

4. In the past DOE encouraged, but did not require, the use of wet wipes rather than dry wipes for surface monitoring. DOE's experience with wipe testing leads the Department to consider requiring the use of wet wipes, unless the employer demonstrates that using wet wipes may cause an undesirable alteration of the surface, in order to achieve greater comparability of results across the DOE complex and in response to studies demonstrating that wet wipes capture more of the surface contamination than do dry wipes. Should the Department require the use of wet wipes? Please explain your answer and provide evidence to support your answer.

5. Since the use of wipe sampling is not a common occupational safety and health requirement, how do current wipe sampling protocols aid exposure assessments and the protection of beryllium workers? How reliable and accurate are current sampling and analytical methods for beryllium wipe samples? Please explain your answers and provide evidence to support your answers.

6. What is the best method for sampling and analyzing inhalable beryllium? Please explain your answers

and provide evidence to support your answers.

7. How should total fraction exposure data be compared to inhalable fraction exposure measurements? Please explain your answer and provide evidence to support your answer.

8. Should surface area action levels be established, or should DOE consider controlling the health risk of surface levels by establishing a low airborne action level that precludes beryllium settling out on surfaces, and administrative controls that prevent the buildup of beryllium on surfaces? If surface area action levels are established, what should be the DOE surface area action levels? If a low airborne action level should be established in lieu of the surface area action level, what should that airborne action level be? What, if any, additional administrative controls to prevent the buildup on surfaces should be established? Please explain each of your answers and provide evidence to support your answers.

9. Should warning labels be required for the transfer, to either another DOE entity or to an entity to whom this rule does not apply, of items with surface areas that are free of removable surface levels of beryllium but which may contain surface contamination that is inaccessible or has been sealed with hard-to-remove substances, *e.g.,* paint? Please explain your answer and provide evidence to support your answer.

10. Should the Department establish both surface level and aggressive air sampling criteria (modeled after the U.S. Environmental Protection Agency's aggressive air sampling criteria to clear an area after asbestos abatement) for releasing areas in a facility, or should the Department consider establishing only the aggressive air sampling criteria? Please explain your answers and provide evidence to support your answers.

11. Currently, after the site occupational medicine director has determined that a beryllium worker should be medically removed from exposure to beryllium, the worker must consent to the removal. Should the Department continue to require the worker's consent for medical removal, or require mandatory medical removal? Please explain your answers.

Issued in Washington, DC, on December 20, 2010.

Glenn S. Podonsky,

Chief Health, Safety and Security Officer, Office of Health, Safety and Security.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM438 Special Conditions No. 25–10–03–SC]

Special Conditions: Gulfstream Model GVI Airplane; High Incidence Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Gulfstream GVI airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes associated with the use of high incidence protection. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: We must receive your comments by February 7, 2011.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, *Attn:* Rules Docket (ANM–113), Docket No. NM438, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM438. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airplane & Flightcrew Interface Branch, ANM–111, Transport Standards Staff, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington, 98057–3356; telephone (425) 227–2011; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive. If you want us to acknowledge receipt of your comments on this proposal, include with your comments a self-addressed, stamped postcard on which you have written the docket number. We will stamp the date on the postcard and mail it back to you.

Background

On March 29, 2005, Gulfstream Aerospace Corporation (hereafter referred to as "Gulfstream") applied for an FAA type certificate for its new Gulfstream Model GVI passenger airplane. Gulfstream later applied for, and was granted, an extension of time for the type certificate, which changed the effective application date to September 28, 2006. The Gulfstream Model GVI airplane will be an all-new, two-engine jet transport airplane with an executive cabin interior. The maximum takeoff weight will be 99,600 pounds, with a maximum passenger count of 19 passengers.

Type Certification Basis

Under provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Gulfstream must show that the Gulfstream Model GVI airplane (hereafter referred to as "the GVI") meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–119, 25–122, and 25–124. If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the GVI because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to complying with the applicable airworthiness regulations and special conditions, the GVI must