

Tri-Valley CAREs

Communities Against a Radioactive Environment

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Subject: Chronic Beryllium Disease Prevention Program Rule Changes
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Proposed Rules [Page 80734-80735]
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Department of Energy
10 CFR Part 850
[Docket No. HS-RM-10-CBDPP]
RIN 1992-AA39

Tri-Valley CAREs (“TVC”) appreciates the opportunity to comment on possible rule changes for the U.S. Department of Energy’s (“DOE”) plan for protecting the workforce at its various sites, and the public, from exposure to beryllium.

TVC has been advocating on behalf of sickened nuclear weapons workers seeking compensation benefits under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) since the inception of the program. Consequently, TVC has developed extensive knowledge regarding the types of illnesses these nuclear workers have developed as a consequence of exposures common within the nuclear weapons industry. TVC has facilitated the *Lawrence Livermore National Lab-Sandia National Lab (CA)-Lawrence Berkeley National Lab Sick Worker Support Group* on an on-going basis for over a decade, and currently stays in contact with more than 150 sick workers of those facilities.

Beryllium has been an important health and safety issue at the Livermore Lab, which is a DOE NNSA site requiring a Chronic Beryllium Disease Prevention Plan. TVC is aware of multiple recent worker exposures to beryllium at LLNL (as recent as February 2010) and numerous former employees are diagnosed with beryllium sensitivity and its related illnesses.

Due to the above information, TVC believes it to be within its responsibility to provide comment to some of the questions posed in the Federal Register. Accordingly, TVC offers the following responses to Questions 8, 9, 10, and 11, in particular:

- **Response to Question 8:** TVC believes that DOE should implement a low airborne action level that precludes beryllium settling out on surfaces. However, DOE should also continue wiping the surface areas to ensure that this low airborne action level is sufficient to prevent beryllium from settling on surfaces. We understand that the original airborne action level decided upon in 10 C.F.R. 850 may prove to be insufficient to keep workers safe from beryllium contamination. By retaining the current surface wiping procedure, workers will be all the more protected. Areas that have beryllium present, either through production or clean-up activities, should have continuous air monitoring. Additionally, personal monitoring instruments should be worn by all employees who work with beryllium as the air monitors may be located at a distance from the operation and may prove to be insufficient to detect the beryllium dust concentration nearest the worker.

TVC also suggests that DOE investigate whether the current beryllium machining fabrication operations (machining, drilling, grinding, etc.) are performed in the most efficacious manner to keep the beryllium dust contained. Considering how widespread the beryllium contamination is across the DOE complex, perhaps having these processes performed in a glove box environment would result in less dust escaping into the environment.

- **Response to Question 9:** Yes, warning labels must be required to identify inventories containing beryllium. This practice must apply whether the material is transferred within the facility or transferred offsite to another facility. TVC bases this opinion on an unfortunate incident at the LLNL reported in an incident report in February 2010 where a machinist began machining a beryllium part that was not marked as beryllium. The machinist was not wearing protective equipment as the worker was not aware of the contents of the material. Before long, the machinist noticed the material acting in a manner consistent with beryllium, but the worker had already become exposed to beryllium dust, together with the other machinists in the room. Thus, in addition to actual labels being affixed to the part, which could possibly fall off during transit, DOE must establish a more reliable system for marking and monitoring beryllium parts and “inventories.” For example, DOE could mark individual parts with an easily recognizable color to denote the presence of beryllium. TVC also suggests that DOE establish a database that will track the location of parts and “inventories” that contain beryllium.
- **Response to Question 10:** TVC strongly believes that the best protective measures are vital to keeping workers safe. DOE should use the Environmental Protection Agency’s aggressive air sampling criteria to “clear an area” after asbestos abatement before releasing the areas in a facility as a starting point and then consider the differences between asbestos and beryllium in determining whether an even more stringent standard is needed. TVC urges DOE to enlist the assistance of the Department of Labor’s Occupational Safety and Health Administration, the Department of Health and Human Service’s National Institute for Occupational Safety and Health and other relevant experts to develop the standard where an area is deemed free of any beryllium contamination.
- **Response to Question 11:** The issue of whether an employee who is positive for beryllium sensitivity should be removed from the workplace environment without the worker’s approval is very complex. On the one hand, TVC believes that DOE must do everything possible to ensure workers’ safety and continued health. However, removing an employee from a beryllium area without his/her consent may result in workers not

coming forward to report incidents of unsafe workplace conditions because they fear a loss of income. 10 C.F.R. 850 permits an employer to remove a worker for medical reasons until a comparable position is found or for one year without losing income, benefits, and seniority; whichever comes first. TVC suggests that the one year requirement be extended to up to five years; or, in the alternative, if the employer finds another position for the worker, that all benefits and seniority be maintained for the medically removed worker. DOE should also mandate that the employer offer a vocational retraining program to the affected worker that will result in the employee maintaining the financial compensation and benefits from his/her previous position. This plan will safeguard workers' health yet still allow workers the freedom to report concerns, without fearing the loss of income.

TVC values DOE's concern for the health and safety of its workers. We trust that the foregoing comments will facilitate the development of a more effective and comprehensive chronic beryllium disease protection program.

Thank you for your time and consideration.

Respectfully submitted,

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