

BEFORE THE  
UNITED STATES DEPARTMENT OF ENERGY  
OFFICE OF ENVIRONMENT, HEALTH, SAFETY AND SECURITY  
TRANSCRIPT OF PROCEEDINGS

PUBLIC HEARING

IN RE: NOTICE OF PROPOSED RULEMAKING

10 CFR 850  
CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM

DOCKET Nbr. AU-RM-11-CBDPP

28 June 2016  
Richland, Washington USA

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## 1 APPEARANCES:

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3 Presiding Official  
4 Industrial Hygienist  
5 Office of Worker Safety and Health Policy  
6 U.S. Department of Energy  
7 1000 Independence Avenue  
8 Washington, D.C.  
9 USA  
10 PH

## 11 SPEAKERS:

12 None

## 13 ALSO PRESENT:

14 Not registered

15

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1           If you need anything from me, I can be  
2 reached at 376-5353, or you need any help or  
3 assistance, just call that number. And, if you do  
4 have an actual emergency, please call 373-0911.

09:01:27

5           You get the ambulance on the way. We  
6 had a couple of things happen yesterday here in the  
7 middle of everything else, so make sure you call  
8 that ambulance and get him here on the way if you  
9 have any troubles.

09:01:39

10           But, other than that, have a good, good  
11 morning, and I'll be back in a while to check on  
12 you. Thank you.

13           (Whereupon, at 9:01 a.m. PT, Ms. Knight  
14 left the room, after which the following occurred:)

09:01:47

15           MS. ROGERS: Thank you, Kim.

16           Good morning. I'm Jacqueline Rogers, an  
17 industry hygienist in the Office of Environment,  
18 Health, Safety, and Security. On behalf of the  
19 Department of Energy I'd like to thank you for  
20 taking the time to participate in this Public  
21 Hearing concerning the Notice of Proposed  
22 Rulemaking to amend the current Beryllium Disease  
23 Prevention Program.

09:02:01

1                   And, particularly I'd like to thank  
2 those of you who have traveled to be here. The  
3 purpose of this Hearing is to receive oral  
4 testimony from public on the Department of Energy's  
09:02:21 5 Notice of Proposed Rulemaking for the Chronic  
6 Beryllium Disease Prevention Program, 10 CFR 850.

7                   Your comments are not only appreciated;  
8 they are essential in developing a final Rule. The  
9 comments received here today, and those submitted  
09:02:37 10 during the written comment period which ends on  
11 September 6, 2016, will assist the Department in  
12 the rulemaking process.

13                   All written comments must be received by  
14 September sixteenth, 2016, to assure consideration  
09:02:55 15 by DOE. The address for sending the comment is  
16 Jacquelin Rogers, U.S. Department of Energy, Docket  
17 Number AU dash-RM dash-11 dash-CBDPP, Mail Stop AU  
18 dash-11, 1000 Independence Avenue, Southwest,  
19 Washington, D.C.; Zip Code 20585.

09:03:19 20                   Also, comments can be filed  
21 electronically at <http://www.regulations.gov>, or you can e-mail your  
22 comments in to [Rulemaking.850@hq.doe.gov](mailto:Rulemaking.850@hq.doe.gov).  
23

1           As the presiding official for this  
2 Hearing I would like to set forth the guidelines  
3 for conducting the Hearing, and provide other  
4 pertinent information. This is not an evidentiary  
5 or a judicial Hearing.

09:03:51

6           It will be conducted in accordance with  
7 the Administrative Procedures Act and Section 501  
8 of the DOE Organization Act to provide the  
9 Department with as much pertinent information as  
10 many of you as can reasonably be obtained, and to  
11 enable interested persons to express their views.  
12 The Hearings will be conducted in accordance with  
13 the following procedures:

09:04:06

14           Speakers will be called to testify in  
15 the order indicated on the Agenda. Speakers have  
16 been allotted ten minutes for their verbal  
17 statement.

09:04:20

18           Anyone can make an unscheduled oral  
19 statement after all scheduled speakers have  
20 delivered their statement. To do so, please submit  
21 your name to the Registration Desk before the  
22 conclusion of the last speaker, scheduled speaker,  
23 and at the conclusion of all presentations, if time

09:04:34

1 permits, scheduled speakers who request to do so  
2 will be given the opportunity to make a rebuttal or  
3 clarifying statement.

4           If you would like this opportunity if,  
09:05:00 5 if available, please give your name to the person  
6 at the Registration Desk, and indicate that you're  
7 making such a request. Only members of the DOE  
8 Panel, and that will be me, conducting the Hearing  
9 will be allowed to ask questions of the speaker.

09:05:17 10           In approximately 30 days, the Transcript  
11 of this Hearing will be available for inspection  
12 and copying at the web site. The web site address  
13 is [http: Backslash backslash www.energy.doe.gov](http://www.energy.doe.gov/ehss/chronic-disease-prevention-program-10-dash-CF-,CFR-dash-850)  
14 [backslash EHSS backslash chronic dash-beryllium](http://www.energy.doe.gov/ehss/chronic-disease-prevention-program-10-dash-CF-,CFR-dash-850)  
09:05:40 15 [dash-disease dash-prevention dash-program dash-10](http://www.energy.doe.gov/ehss/chronic-disease-prevention-program-10-dash-CF-,CFR-dash-850)  
16 [dash-CF-, CFR dash-850.](http://www.energy.doe.gov/ehss/chronic-disease-prevention-program-10-dash-CF-,CFR-dash-850)

17           As mentioned earlier, the public comment  
18 period will close on September 6, 2016. All  
19 written comments received will be made available  
09:06:03 20 for public inspection at the Internet address I  
21 just gave you.

22           Three copies of the comments are  
23 requested. If you have any questions concerning

1 the submission of comments, please contact me on  
2 202-586-4714.

3           It is assumed that any information  
4 provided at this Hearing is public, and will be  
09:06:19 5 included in the Record for the rulemaking. Any  
6 person submitting information that he or she  
7 believes to be confidential and exempt by law from  
8 public disclosure should submit, should submit to  
9 the comment address I mentioned a total of four  
09:06:37 10 copies of the information, one complete copy with  
11 the confidential material included, and three  
12 copies without the confidential information.

13           The Department of Energy will make its  
14 own determination in accordance with applicable  
09:06:56 15 procedures as to whether the information will be  
16 exempted from public disclosure. We appreciate the  
17 time and the effort you have taken in preparing a  
18 Statement, and are pleased to receive your  
19 comments.

09:07:08 20           And, now, I'll call the first speaker.  
21 And, for the Record, I'm asking each speaker to  
22 state his or her name, and whom you represent  
23 before making your statement.

1           And, the first speaker will be Calin  
2 Peabody (sic).

3           MR. TEBAY: Calin Tebay.

4           MS. ROGERS: I'm sorry, Tebay.

09:07:27 5       STATEMENT BY CALIN TEBAY:

6           MR. TEBAY: Okay. I have two comments.

7           My name's Calin Tebay. I'm currently  
8 the Site-wide Beryllium Health Advocate, as well as  
9 the ESA Health Advocate, although I am here  
10 representing myself.

09:08:09

11           I'll get right to it. The proposed  
12 Rule, in the definitions, DOE proposes adding  
13 beryllium sensitization or sensitivity diagnosis  
14 criteria, as well as CBD diagnosis criteria.

09:08:30

15           The current -- The proposed language  
16 and, and criteria for sensitization or sensitivity  
17 is not -- I won't go through the details of, of all  
18 the criteria, but it's not current of what we're  
19 using now at Hanford. My recommendation would be  
20 that we add, we either add the addition of three  
21 borderline BeLPT resorts, results, which, and then  
22 would also help bolster the diagnosis of CBD,  
23 because it's not current, as well, and does not

09:08:52

1 reflect what we're using in the medical or clinical  
2 assessment right now.

3 I'm not quite sure on the language to  
4 help recommend a language base, you know, to, to  
09:09:27 5 help clarify that, but what I do have is a clinical  
6 guideline for the diagnosis of beryllium  
7 sensitization and chronic beryllium disease that  
8 was developed by labor and industries.

9 This was developed in the last year. It  
09:09:44 10 includes all the latest diagnosis methods, tests,  
11 criteria.

12 It was developed by several of the  
13 experts, specialists, and, and facilities  
14 specializing in respiratory and diseases related to  
09:10:02 15 beryllium, and I would like to submit this to DOE  
16 for consideration.

17 MR. ROGERS: I was going to ask you, can  
18 you submit that?

19 MR. TEBAY: How many of these do you  
09:10:14 20 want?

21 MS. ROGERS: Three copies.

22 MR. TEBAY: Oh, my gosh.

23 So, I believe that in that document it

1 will clarify not only beryllium sensitization  
2 diagnosis criteria, but it will also clarify the  
3 methods and testing currently utilized for CBD, as  
4 well.

09:10:34

5 MS. ROGERS: Okay.

09:10:54

6 MR. TEBAY: My second comment would have  
7 to do with medical removal and, and benefits. In  
8 the Proposed Rule it discusses -- I won't go  
9 through all the details, but it discusses the two-,  
10 one-year time period in temporary benefits and  
11 two-year time period in permanent removal benefits.

12 There's always confusion based on when  
13 that time clock starts. That's something we  
14 struggle with at Hanford.

09:11:15

15 At Hanford we have never had to remove a  
16 worker to this point, that I'm aware of, for  
17 medical removal for any other reason than they were  
18 too sick to work. So, we've always been able to  
19 find an alternate position or a comparable  
20 position.

09:11:32

21 At this point, the way the Rule is  
22 written, that two-year clock would start the minute  
23 you were diagnosed. Although that's a benefit to

1 maintain a comparable job or benefits or wages for  
2 the next two years, it also becomes a job jeopardy  
3 scenario, because after that two years you could be  
4 found unfit for duty, depending on the situation.

09:11:59

5 My recommendation would be -- And, in --  
6 Let me see the section here. -- 850-36, it  
7 discusses that employers would be required to  
8 include a start date for medical removal in the  
9 written Notification.

09:12:18

10 So, I recommend that DOE clarifies that  
11 the medical removal time periods, the, the  
12 requirement of two years or one year, start at the  
13 time that the employee can no longer, that, that  
14 the employer no longer has a job to transfer to, or  
15 the employee is too sick to work.

09:12:35

16 There's no reason to start a clock on an  
17 employee that's healthy, that's, that can work  
18 through retirement at Hanford, and, and potentially  
19 put him in a situation where -- You know, they

09:12:53

20 don't need the benefits at that point. They need  
21 the benefits when the job is no longer available,  
22 or they're too sick to work.

23

So, that's all I've got.

1 MS. ROGERS: Thank you.

2 MR. TEBAY: Am I the first person?

3 MS. ROGERS: Yes.

4 MR. TEBAY: Oh, good.

09:13:14

5 MS. ROGERS: Is Marc here yet?

6 MR. TEBAY: Marc is probably going to be  
7 another half-hour.

8 MS. ROGERS: Okay. That -- Is Dan  
9 Wharton?

09:13:21

10 STATEMENT BY DAN WHARTON:

11 MR. WHARTON: And, I represent myself.

12 I've pretty much got the same issues  
13 that Calin was just talking about an 850.36 medical  
14 removal.

09:13:52

15 MS. ROGERS: Okay.

16 MR. WHARTON: I believe that the way  
17 it's written right now is, well, if this is  
18 implemented our SOMD is going to medically remove  
19 us and we are going to lose our jobs the way it's  
20 written today, okay.

09:14:06

21 It doesn't say in there that if you're  
22 too sick to work, which it should, because it  
23 doesn't clarify. It just says "removed from

1 exposure."

2 So, I think we -- It needs to actually  
3 say in there "too sick to work, or no job that we  
4 can do." That is the biggest one that I've been  
5 finding has been the biggest issue.

09:14:26

6 Then, the second part of the dot-36 Rule  
7 that I'm, would like some different clarification,  
8 because I think it's wrong, is SOMD has final say  
9 even on multiple-physicians' review process. At my  
10 facility, SOMD does not have good knowledge on  
11 beryllium, so he refers everybody out to other  
12 facilities.

09:14:48

13 And, if we do that, SOMD has final say,  
14 even on multiple-physician review process. That  
15 has known to put people at job jeopardy.

09:15:08

16 He also -- Since we don't have  
17 knowledgeable SOMDs at all locations.

18 MS. ROGERS: I have a question. But,  
19 you don't think that the SO-, the SOMD is supposed  
20 to take into account all the information that they  
21 get from other doctors to make a final  
22 determination?

09:15:24

23 You're saying that you don't think your

1 SOMD will do that?

2 MR. WHARTON: I have in writing that  
3 they've, that he doesn't do that; correct.

4 MS. ROGERS: Okay. Okay.

09:15:40

5 MR. WHARTON: Yes. Then, on the limit  
6 changes is my third comment that I have, where, at  
7 my employer, I work for PNNL, if we change the  
8 airborne limits down, which I believe is a good  
9 thing, we will get rid of our beryllium program  
10 because we have not reached any of those areas.

09:16:04

11 And, if we drop the airborne level down  
12 to .05, and then raise our surface sampling up  
13 where we find our contamination, we will actually  
14 get rid of our beryllium program, and then we'll  
15 not be protecting workers at that point.

09:16:19

16 So, I think we need to keep the surface  
17 sampling numbers down so that we can still keep  
18 protecting workers, because in the last couple  
19 years we have doubled the amount of affected  
20 workers at Battelle. And, we have not hit the  
21 airborne level limits, but we keep hitting the  
22 surface-sample limits.

09:16:34

23 MS. ROGERS: When you say that, are you

1 saying that the new proposed-action level, --

2 MR. WHARTON: Um-hum.

3 MS. ROGERS: -- where it triggers  
4 everything, you're saying that the .05 is, is the  
09:16:54 5 one you're talking about?

6 Or, are you talk being the risk  
7 exposure?

8 MR. WHARTON: So, the .05, if we drop  
9 down --

09:17:01 10 MS. ROGERS: Okay. I just want to make  
11 sure.

12 MR. WHARTON: -- for air, --

13 MS. ROGERS: Um-hum.

14 MR. WHARTON: -- we're going to get rid  
09:17:05 15 of the beryllium program because we've not hit that  
16 limit in any of our air samples that we've had in  
17 the last, since 2000.

18 But, we don't do enough air samples to  
19 do, to look at those numbers efficiently, in my  
09:17:19 20 opinion. Where we do more surface-sample numbers,  
21 and we keep hitting above the .2.

22 And, we keep getting more people  
23 affected. So, the 1.5 level on surface samples is

1 still too high.

2 It shouldn't be raised up to that level.

3 MS. ROGERS: Okay. Thank you.

4 MR. WHARTON: And, that's all I have.

09:17:41

5 MS. ROGERS: Thank you.

6 MR. WHARTON: Thank you.

7 MS. ROGERS: Okay, people, see how easy  
8 this is?

9 A SPECTATOR: Line up.

09:17:53

10 MS. ROGERS: I don't have a gun. I'm  
11 not going to shoot you in the foot; none of that.

12 It's easy. Anybody else want to make a  
13 statement; tell me what we got wrong? Anybody?

14 (Whereupon, no response was had.)

09:18:14

15 MS. ROGERS: Calin, you want to say  
16 something?

17 MR. TEBAY: No.

18 MS. ROGERS: Stan, here?

19 MR. WHARTON: Don't look at me.

09:18:22

20 A SPECTATOR: No, I'm good. I'm good.

21 MS. ROGERS: I'm joking. I'm joking.

22 You can say, go back. They can say

23 whatever it is they want to say.

1 We won't shoot you. I don't bite.

2 Did I bite you?

3 MR. WHARTON: No.

4 MS. ROGERS: Okay.

09:18:38

5 (Whereupon, at 9:18 a.m. PT, remarks  
6 were made among those present, off the Record,  
7 after which, at 10:16 a.m. PT, the following  
8 occurred:)

10:16:07

9 MS. ROGERS: The next speaker is Mark  
10 Fisher.

11 Will you please state your name and who  
12 you're representing?

13 MR. FISHER: I am Mark Fisher.

14 MS. ROGERS: Oh. You have ten minutes.

10:16:16

15 MR. FISHER: Ten minutes?

16 MS. ROGERS: Ten minutes.

17 MR. FISHER: To make all my comments?

18 MS. ROGERS: Yes.

19 STATEMENT BY MARK FISHER:

10:16:21

20 MR. FISHER: I'm Mark Fisher, M-a-r-k  
21 F-i-s-h-e-r, and I am the Chairman of the Hanford  
22 Beryllium Awareness Group, which consists of both  
23 past and present workers affected by exposure to

1 beryllium.

2                   So, the BAG asked me to present to you  
3 people comments on the proposed wording of the  
4 Rule. Apparently I didn't realize I only had ten  
5 minutes.

10:17:01

6                   MS. ROGERS: I might could grant you  
7 some more time.

8                   MR. FISHER: Okay. So, never been  
9 involved in something like this.

10:17:08

10                   I'm not really sure the proper protocol.  
11 I have an Opening Statement, if that's permissible.

12                   MS. ROGERS: Um-hum.

13                   MR. FISHER: Because I was highly  
14 anticipating this rewrite of this Rule, and you  
15 folks probably are fully aware, we had quite a  
16 full-blown assessment by HSS, and quite a few  
17 findings, which, somebody correct me, it took --  
18 What? -- five, six years to develop our current  
19 CDDPP, with some very good things developed and  
20 implemented on site.

10:17:46

21                   So, when the Proposed Rule came out and  
22 I started reading it, my first impression was,  
23 we're going backwards and not going forward. I

1 like the fact that the action level's been dropped  
2 from .2 to .05.

3 You know, at Hanford we use .1. Took a  
4 more proactive approach.

10:18:14

5 My concern is all through the proposed  
6 language, that's all we're referred to, .05 and at  
7 above the action level for requirements. Medical  
8 removal, mandatory medical removal, if your work  
9 involves any activity at or above the action level,  
10 all through your proposed language it refers to  
11 that.

10:18:39

12 I'm concerned that we are implementing  
13 an action level on an airborne, but we're really  
14 not sure what to do with surface contamination. To  
15 me, is, there has to be a correlation with a  
16 surface contamination in relationship to your  
17 proposed airborne limit.

10:18:55

18 So, as you know, at Hanford, our scope  
19 of work is tearing buildings down. We are not  
20 actively doing any beryllium activities while we're  
21 creating airborne machining or anything like that.

10:19:18

22 So, to me, the Rule is mostly written  
23 for operations where, you know, you're creating an

1 airborne beryllium exposure. So, for Hanford, at  
2 least for the BAG, it's imperative that we need to  
3 have surface levels, because that's what we go by  
4 in order to protect our workers.

10:19:53

5 So, we know it's there. It can go  
6 airborne, plain and simple.

10:20:10

7 No surface beryllium, there's no  
8 airborne hazard. Also, I'm very, very concerned  
9 because of all the air samplings I've ever seen or  
10 been reported to the site-wide CDDPP Committee,  
11 I've seen one air sample that approached .05.

10:20:28

12 So, if this Rule is implemented today as  
13 it's written, there would never be another  
14 beryllium activity on the Hanford site. I'm very  
15 concerned that you're eliminating the exposure  
16 minimization clause, you know, where it's minimized  
17 the contractors exposures so you don't get any  
18 beryllium exposures.

10:20:48

19 That's worked very well for us at  
20 Hanford. That's how we came up with your  
21 beryllium-controlled areas' extensive access.

22 We used extensive historic knowledge,  
23 best we can, talking with workers. And, if we have

1 an area in a facility or something where we suspect  
2 beryllium was used, we take a proactive approach  
3 and we make it a beryllium-controlled area, and we  
4 go ahead and do the work, and then we do the  
5 workers' the protections.

10:21:11

6 That's how it works at Hanford. But,  
7 what I'm reading in this, that's all been  
8 eliminated.

10:21:31

9 And, I'm very, very concerned about  
10 that. My comments with your medical removal  
11 mandatory, I have been involved on the Hanford site  
12 since 2007, and that has been the number-one agenda  
13 for the Department of Energy, to implement medical  
14 removal requirements and to use up your two years'  
15 of benefits.

10:21:56

16 All my BAG members, when you talk to  
17 them, not a one of them ever said they volunteered  
18 to get exposed to beryllium. We can't even tell  
19 you what the exposure limit, what we're exposed to,  
20 because there is none.

10:22:16

21 I believe, and the BAG believes the  
22 Government owes it to take care of us. We did not  
23 ask for it.

1           We got exposed to it. Some individuals,  
2 it's been very disabling to them with the chronic  
3 beryllium disease.

10:22:38

4           And, therefore, through a cooperative  
5 effort from myself and, at the time, Mr. Doug  
6 Shoop, we came up with this process using our  
7 medical restrictions to prevent our affected  
8 workers from being involved into beryllium  
9 activities using DCA, and we have yet to have a BRA  
10 activity.

10:22:57

11           To ensure that the medical removal  
12 protection benefits would be intact in case at such  
13 time there was no more place for you to work out  
14 here, because eventually everything's a BCA, or as  
15 was determined by GC, and it applies, if your  
16 health got too bad you could not no longer work,  
17 which was a benefit to help the affected workers.

10:23:14

18           And, also, I believe with this mandatory  
19 medical removal, you will, you'll force people not  
20 to voluntarily get tested. Why would they want to  
21 get tested if they found out their affected  
22 desensitize CBD and get medical removed?

10:23:36

23           And, it could be detrimental to their

1 employment. This was one of the very important  
2 points of the current Rule that was pointed out,  
3 that workers feared that their employment would be  
4 in jeopardy, they wouldn't want to get tested,  
5 okay?

10:24:07

6 Now, of course, we know it's mandatory  
7 if you're a beryllium worker, you know. Tested  
8 every year, and stuff, and, and so forth.

10:24:17

9 I'm also very concerned of the language  
10 in the Rule on how, the empowerment of the SOMD.  
11 All the SOMDs that I have been involved with, I  
12 think currently it's up to four, they're not  
13 totally qualified to be a beryllium doctor.

10:24:45

14 We have to rely on experts outside of  
15 Hanford, one being National Jewish; another one  
16 being Cleveland, currently. Very concerned that  
17 the SOMD's empowered to determine if you need  
18 further medical monitoring.

10:25:10

19 So, take an example, you go to National  
20 Jewish. Jewish says, "Come back and see us a  
21 year."

22 By the way, I have chronic beryllium  
23 disease, so I go every year. The way I read the

1 Rule, the SOMD could review charts and say, "I'm  
2 not authorizing for you to go this year."

3 That's putting too much power into  
4 somebody to make a determination on somebody's  
5 health.

10:25:31

6 I like the fact that we are talking  
7 about surface contamination, which the current Rule  
8 is very void of. But, again, I would like to see  
9 some correlation with your proposed airborne to a  
10 surface contamination flow.

10:25:50

11 I've talked to many CIHs about this, and  
12 there is a formula out there. I believe it can be  
13 done.

14 I'm not smart enough to figure it out.  
15 It's about three feet long if you put it on a chalk  
16 board, but it can be done.

10:26:06

17 The pushback is if you have perfect  
18 suspension of the beryllium, which we all know that  
19 would not happen. But, at least it's a start.

10:26:21

20 I like the fact in the, in the proposed  
21 Rules you're talking about wind-blown dust. And,  
22 we all know beryllium is natural occurring in the  
23 soil, and it's my belief our current background

1 level at Hanford is way too high.

2 And, it was developed through some very  
3 outdated methodologies back in around 2000. But,  
4 now we're in the process of, of using current  
10:26:52 5 methodologies (sic) to determine what are, what is  
6 our background beryllium at Hanford with a (sic)  
7 associated other particulates.

8 So, I think that's a good thing, and I  
9 hope that this is still encouraged. But, like I  
10:27:12 10 said, we're still in the process of doing it.

11 But, that's important. That's very  
12 important.

13 At Hanford it's been noted through a  
14 National Jewish study that, for whatever reason, we  
10:27:30 15 have low exposures out here. But, it's low enough  
16 to still get people sensitized.

17 We are averaging more than one a month,  
18 newly diagnosed sensitized worker. And, I believe  
19 we have a very, very strong program.

10:27:48 20 And, it, it doesn't appear that we have  
21 a high beryllium contamination problem at Hanford,  
22 but for some reason, workers are still being  
23 exposed. And, that tells me, you know, with our

1 program, we keep people out of beryllium-controlled  
2 areas, or BRAs, and, but, it's individuals that  
3 weren't working in those areas.

10:28:19

4 So, it's, it's hard to answer that  
5 question. That's one of the things I notice  
6 reading in this.

10:28:42

7 It's important that somebody be at your  
8 site occupational facility for somebody, that we  
9 have to have a continuous running study of the  
10 current workers at Hanford, or any DOE site, to  
11 look into where they work, what they did, to see if  
12 we're missing something so we can plug that hole in  
13 our program.

10:28:57

14 I've noticed in the Proposed Rule that  
15 was recommended to be eliminated. So, how am I  
16 doing on my time?

10:29:17

17 I'm not going to go through -- I mean,  
18 I, I've got tags on a lot of things here that I  
19 felt were going in the wrong direction.

20 MS. ROGERS: You can always submit them  
21 in writing.

22 MR. FISHER: That's what I was told.

23 MS. ROGERS: Okay.

1 MR. FISHER: I was hoping what we did at  
2 Hanford, which I, I feel was very good, we did some  
3 really good things. I'm not saying it's  
4 hundred-percent perfect.

10:29:34

5 I think it's protected the affected  
6 workers. I think our, our medical removal benefits  
7 is protected with our using the, the work  
8 restriction.

10:29:52

9 I notice in the proposed language, the  
10 only time you use a work restriction, if the SOMD  
11 feels you have some health affect other than  
12 beryllium sensitization CBD that would be  
13 detrimental to keep you out of the beryllium zone.

10:30:10

14 We have that now, but we also have a  
15 beryllium restriction to the work restriction to  
16 keep workers out of the BCA and BRA to maintain  
17 those benefits if and when you really, legally need  
18 them. As said, it's been way back in '07 and '08,  
19 that was the Department of Energy's goal, was to  
20 get that clock started, and burn that time up.

10:30:33

21 And, that's not fair for us. Like I  
22 said, we did not ask for this.

23 Nobody protected us, and yet we got

1 something doing our job for the U.S. Government.

2 And, it's always feeled (sic) like it's a battle to  
3 take care of us.

4 We want to work out here. We want to  
5 work for as long as we can.

6 And, the way our system is now, I  
7 believe that's achievable unless somebody's chronic  
8 beryllium disease got to the point where they  
9 physically can no longer work. And, that's  
10 happened.

11 I'm not going to lie to you. And,  
12 again, at Hanford we don't have -- we're not doing  
13 machining.

14 We're not doing anything like that. We  
15 can't send workers and go, "You're going to be  
16 exposed to this and we're going, we're going to  
17 protect you."

18 So, again, I can't tell you enough that  
19 if this Rule's implemented the way it is right now,  
20 my fear, there will never be another beryllium  
21 activity at Hanford, but, yet, workers are still  
22 getting sensitized. So, it would not be protective  
23 enough for our current workers and for affected

10:30:57

10:31:14

10:31:25

10:31:40

1 workers to be allowed to go into an area where you  
2 suspect beryllium activities are in there, but,  
3 yet, the airborne wouldn't be high enough to  
4 protect us.

10:32:09

5 And, it's -- And, it's factual that the  
6 medical experts will tell you they really don't  
7 know what is a safe level, especially for affected  
8 workers. If you're not familiar, at Hanford we use  
9 .02 for affected workers, airborne, and that was  
10 developed through the first development of our  
11 site-wide CBD based on medical input from medical  
12 experts, but also to help facilitate the IHs and  
13 CIHs, because at least we needed a definitive  
14 number.

10:32:29

10:32:47

15 We would get a number back less than  
16 .005, something like that. You know, there's  
17 always a number down there.

10:32:59

18 And, so, we, they asked for, and we  
19 said, okay, be .02. But, even then, some of the  
20 medical experts say that's still too high.

21 But, it was important to give those  
22 people who needed protection a good number so we  
23 could actually say that's a real number, not a

1 fictitious amount.

2 MS. ROGERS: Are you using your .05 as  
3 your protection level or your access level?

4 MR. FISHER: No, that's, that's for  
5 protection of workers. So, at Hanford we have that  
6 you must assess primary, secondary, or air samples.

7 In the old days they used to come and  
8 ask me to wear a bell sampler that day. And, I'd  
9 be outside working, and they would say, "Well,  
10 you're not being exposed to beryllium."

11 Well, wait a minute. That's just a  
12 snapshot in one day.

13 So, we developed -- We focused more on  
14 surface contamination. Again, you don't have  
15 surface contamination, you don't go airborne.

16 And, so, again, we focused on surface  
17 contamination in those primary and secondary. And,  
18 if an A worker chooses not to wear an air sampler,  
19 they'll put an air sampler out and the contractors  
20 get credit for primary verification of that air  
21 sample.

22 Again, I've got, could talk for hours on  
23 this here, and I will reserve the right to write

10:33:22

10:33:40

10:33:52

10:34:11

1 in. One thing here, on this Page 13 and 14 of  
2 DOE's validation for this Rule, and I'm very, very  
3 concerned because it seems like money's driving  
4 things these days, not so much for worker safety  
10:34:46 5 and protection.

6 It's, it's all money. And, when you say  
7 "reduced medical costs," "reduce mortality,"  
8 "increase quality of life," "increase medical  
9 surveillance for workers at risk," these things, I  
10:35:00 10 don't, I don't see how this is true.

11 Reduce medical evaluation costs due to  
12 allowing SOMD to determine what samples and tests  
13 are needed for each worker? But, then, down there  
14 you go, "increase medical surveillance for workers  
10:35:16 15 at risk"?

16 Kind of contradicts itself. Reduce  
17 costs, avoid confusion, reduce liability, and avoid  
18 disputes with employees over DOE's legal liability  
19 due to clarifications in the medical removal,  
10:35:31 20 surveillance, and the removal requirements?

21 This is directly from Hanford when one  
22 of our affected workers wrote the GC for  
23 interpretation. This surprises me that, how long

1 ago it, that was.

2 This has been on the list. And, some of  
3 these things were driven from Hanford.

4 That's been on the list. So, it is time  
5 to rewrite the Rule.

6 It was a finger dot away that we can  
7 remove all that. Take them rights, take those  
8 protections away from the affected workers.

9 So, you got some good things. It's  
10 always good to reduce your action level.

11 If we applied that at Hanford, I'd be --  
12 And, we kept our program the way it is. That's  
13 great.

14 Yes, we need surface contaminate control  
15 levels. That's important.

16 We need to figure out where our  
17 background is. Other than that, I would say the  
18 program at Hanford is way above and beyond and more  
19 protecting than what you guys are proposing.

20 And, that's another thing I want to make  
21 a point. You're going to remove the requirements  
22 for contractors to even go above and beyond the  
23 Rule.

10:35:51

10:36:08

10:36:20

10:36:34

1 I am -- I'm afraid that requirements  
2 removed, everything we've done at Hanford will go  
3 away. It is my experience working in this, and I  
4 don't fault the contractors, but it's been told to  
5 me many times, "It's not a regulatory requirement.

10:37:07

6 "It's not a regulatory requirement. I'm  
7 very reluctant to do anything."

8 So, what we build at Hanford will be  
9 watered down, things taken away that we're doing  
10 now to protect our workers, and I will, I strongly  
11 feel that would be less protective for our current  
12 workforce.

10:37:26

13 Any questions?

14 MS. ROGERS: No, I'm, I'm the only one  
15 that can ask those, and I don't have any.

10:37:42

16 MR. FISHER: You don't have any  
17 questions?

18 MS. ROGERS: No.

19 MR. FISHER: Okay.

10:37:47

20 MS. ROGERS: Thank you.

21 MR. FISHER: Well, thank you for the  
22 opportunity and, and my understanding and talking  
23 with Calin, that we can submit --

1 MS. ROGERS: Um-hum. You can submit  
2 written --

3 MR. FISHER: That may be better for all  
4 my deals.

10:37:58

5 MS. ROGERS: Yes.

6 MR. FISHER: Okay.

7 MS. ROGERS: All right. Thank you.

8 MR. FISHER: All right. Thank you.

10:38:13

9 (Whereupon, at 10:38 a.m. PT, remarks  
10 were made among those present, off the Record,  
11 after which, at 11:30 a.m. PT, the following  
12 occurred:)

11:30:01

13 MS. ROGERS: Dan Wharton is going to  
14 make a clarifying statement to his Statement,  
15 earlier statement.

16 State your name and who you're  
17 representing before you make a statement.

18 STATEMENT BY DAN WHARTON:

19 MR. WHARTON: Yes, ma'am.

11:30:12

20 Dan Wharton, W-h-a-r-t-o-n, and I  
21 represent myself.

22 I need to make a clarifying statement on  
23 if we drop the airborne levels to .05, I believe

1 that the contractor that I work for will say that  
2 they do, will not have a beryllium issue at that  
3 point, and that's what I meant by "they will close  
4 the beryllium program, shut it down," since they  
11:30:42 5 will not have any beryllium worker, any beryllium  
6 projects.

7 MS. ROGERS: Okay.

8 MR. WHARTON: Thank you.

9 MR. ROGERS: Thank you.

11:30:53 10 (Whereupon, at 11:30 a.m. PT, remarks  
11 were made among those present, off the Record,  
12 after which, at 12:05 p.m. PT, the following  
13 occurred:)

14 MS. ROGERS: It is now 12:05. At this  
12:04:15 15 time we do not have any scheduled speakers so we'll  
16 close the Public Hearing this will conclude the  
17 Public Hearing for the Department of Energy's  
18 Notice of Proposed Rulemaking for 10 CFR 850,  
19 Chronic Beryllium Disease Prevention Program.

11:28:49 20 On behalf of the Department I would like  
21 to thank everyone for participating in this  
22 rulemaking process.

23 (Whereupon, at 12:05 p.m. PT, the above

1 Hearing was concluded.)

2 I certify the foregoing to be a  
3 true transcript from my notes.

4 E-signature: D. I. Bunn

5 CSR CP RPR

6 CERTIFICATION

7 I, D. I. Bunn, a Registered  
8 Professional Reporter, Certified Conference  
9 Reporter, and Notary Public, do hereby certify that  
10 the foregoing testimony was duly taken and reduced  
11 to writing before me at the place and time therein  
12 mentioned. I further certify that I am neither  
13 related to any of the parties by blood or marriage,  
14 nor do I have any interest in the outcome of the  
15 above matter.

16 In witness whereof, I have hereunto set  
17 my hand and affixed my official seal, at Richland,  
18 Washington, USA, this 29th day of June, 2016.

19 E-signature: D. I. Bunn

20 Notary Public

21  
22 My Commission expires January 5, 2020.

23

BEFORE THE  
UNITED STATES DEPARTMENT OF ENERGY  
OFFICE OF ENVIRONMENT, HEALTH, SAFETY AND SECURITY  
TRANSCRIPT OF PROCEEDINGS

PUBLIC HEARING

IN RE: NOTICE OF PROPOSED RULEMAKING

10 CFR 850  
CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM

DOCKET Nbr. AU-RM-11-CBDPP

29 June 2016  
Richland, Washington USA

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1 APPEARANCES:

2 JACQUELINE ROGERS  
3 Presiding Official  
4 Industrial Hygienist  
5 Office of Worker Safety and Health Policy  
6 U.S. Department of Energy  
7 1000 Independence Avenue  
8 Washington, D.C.  
9 USA  
10 PH

11 SPEAKERS:

12 None

13 ALSO PRESENT:

14 Not registered

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I N D E X

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1           If you need anything from me, I can be  
2 reached at 376-5353, or you need any help or  
3 assistance, just call that number. And, if you do  
4 have an actual emergency, please call 373-0911.

09:01:27

5           You get the ambulance on the way. We  
6 had a couple of things happen yesterday here in the  
7 middle of everything else, so make sure you call  
8 that ambulance and get him here on the way if you  
9 have any troubles.

09:01:39

10           But, other than that, have a good, good  
11 morning, and I'll be back in a while to check on  
12 you. Thank you.

13           (Whereupon, Ms. Knight left the room,  
14 after which the following occurred:)

09:01:47

15           MS. ROGERS: Thank you, Kim.

09:02:01

16           Good evening. I'm Jacqueline Rogers, an  
17 industry hygienist in the Office of Environment,  
18 Health, Safety, and Security. On behalf of the  
19 Department of Energy I'd like to thank you for  
20 taking the time to participate in this Public  
21 Hearing concerning the Notice of Proposed  
22 Rulemaking to amend the current Beryllium Disease  
23 Prevention Program.

1           And, particularly I'd like to thank  
2 those of you who have traveled to be here. The  
3 purpose of this Hearing is to receive oral  
4 testimony from public on the Department of Energy's  
5 Notice of Proposed Rulemaking for the Chronic  
6 Beryllium Disease Prevention Program, 10 CFR 850.

7           Your comments are not only appreciated;  
8 they are essential in developing a final Rule. The  
9 comments received here today, and those submitted  
10 during the written comment period which ends on  
11 September 6, 2016, will assist the Department in  
12 the rulemaking pro-, process.

13           All written comments must be received by  
14 September sixteenth, 2016, to assure consideration  
15 by DOE. The address for sending the comment is  
16 Jacquelin Rogers, U.S. Department of Energy, Docket  
17 Number AU dash-RM dash-11 dash-CBDPP, Mail Stop AU  
18 dash-11, 1000 Independence Avenue, Southwest,  
19 Washington, D.C.; Zip Code 20585.

20           Also, comments can be filed  
21 electronically at [http: Backslash backslash](http://www.regulations.gov)  
22 [www.regulations.gov](http://www.regulations.gov), or you can e-mail your  
23 comments in to [Rulemaking.850@hq.doe.gov](mailto:Rulemaking.850@hq.doe.gov).

1           As the presiding official for this  
2 Hearing I would like to set forth the guidelines  
3 for conducting the Hearing, and provide other  
4 pertinent information. This is not an evidentiary  
5 or a judicial Hearing.

09:03:51

6           It will be conducted in accordance with  
7 the Administrative Procedures Act and Section 501  
8 of the DOE Organization Act to provide the  
9 Department with as much pertinent information as  
10 many of you as can reasonably be obtained, and to  
11 enable interested persons to express their views.  
12 The Hearings will be conducted in accordance with  
13 the following procedures:

09:04:06

14           Speakers will be called to testify in  
15 the order indicated on the Agenda. Speakers have  
16 been allotted ten minutes for their verbal  
17 statement.

09:04:20

18           Anyone can make an unscheduled oral  
19 statement after all scheduled speakers have  
20 delivered their statement. To do so, please submit  
21 your name to the Registration Desk before the  
22 conclusion of the last speaker, scheduled speaker,  
23 and at the conclusion of all presentations, if time

09:04:34

1 permits, scheduled speakers who request to do so  
2 will be given the opportunity to make a rebuttal or  
3 clarifying statement.

4 If you would like this opportunity if,  
09:05:00 5 if available, please give your name to the person  
6 at the Registration Desk, and indicate that you're  
7 making such a request. Only members of the DOE  
8 Panel, and that will be me, conducting the Hearing  
9 will be allowed to ask questions of the speaker.

09:05:17

10 In approximately 30 days, the Transcript  
11 of this Hearing will be available for inspection  
12 and copying at the web site. The web site address  
13 is http: Backslash backslash www.energy.doe.gov  
14 backslash EHSS backslash chronic dash-beryllium  
09:05:40 15 dash-disease dash-prevention dash-program dash-10  
16 dash-CF-, CFR dash-850.

09:05:40

17 As mentioned earlier, the public comment  
18 period will close on September 6, 2016. All  
19 written comments received will be made available  
09:06:03 20 for public inspection at the Internet address I  
21 just gave you.

09:06:03

22 Three copies of the comments are  
23 requested. If you have any questions concerning

1 the submission of comments, please contact me on  
2 202-586-4714.

3 It is assumed that any information  
4 provided at this Hearing is public, and will be  
5 included in the Record for the rulemaking. Any  
6 person submitting information that he or she  
7 believes to be confidential and exempt by law from  
8 public disclosure should submit, should submit to  
9 the comment address I mentioned a total of four  
10 copies of the information, one complete copy with  
11 the confidential material included, and three  
12 copies without the confidential information.

13 The Department of Energy will make its  
14 own determination in accordance with applicable  
15 procedures as to whether the information will be  
16 exempted from public disclosure. We appreciate the  
17 time and the effort you have taken in preparing a  
18 Statement, and are pleased to receive your  
19 comments.

20 And, now, I'll call the first speaker.  
21 And, for the Record, I'm asking each speaker to  
22 state his or her name, and whom you represent  
23 before making your statement.

09:06:19

09:06:37

09:06:56

09:07:08

1 (Whereupon, remarks were made among  
2 those present, off the Record, after which, at 6:45  
3 p.m. PT, the following occurred:)

4 MS. ROGERS: It is now 6:45 at this time  
5 we do not have any scheduled speakers so we'll  
6 close the Public Hearing this will conclude the  
7 Public Hearing for the Department of Energy's  
8 Notice of Proposed Rulemaking for 10 CFR 850,  
9 Chronic Beryllium Disease Prevention Program.

10 On behalf of the Department I would like  
11 to thank everyone for participating in this  
12 rulemaking process.

13 (Whereupon, at 6:45 p.m. PT, the above  
14 Hearing was concluded.)

15 I certify the foregoing to be a  
16 true transcript from my notes.

17 E-signature: D. I. Bunn

18 CSR CP RPR

19 CERTIFICATION

20 I, D. I. Bunn, a Registered  
21 Professional Reporter, Certified Conference  
22 Reporter, and Notary Public, do hereby certify that  
23 the foregoing testimony was duly taken and reduced

12:04:15

11:28:49

1 to writing before me at the place and time therein  
2 mentioned. I further certify that I am neither  
3 related to any of the parties by blood or marriage,  
4 nor do I have any interest in the outcome of the  
5 above matter.

6 In witness whereof, I have hereunto set  
7 my hand and affixed my official seal, at Richland,  
8 Washington, USA, this 29th day of June, 2016.

9

E-signature: D. I. Bunn

10

Notary Public

11

12 My Commission expires January 5, 2020.

13

14

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1 APPEARANCES:

2 JACQUELINE ROGERS  
3 Presiding Official  
4 Industrial Hygienist  
5 Office of Worker Safety and Health Policy  
6 U.S. Department of Energy  
7 1000 Independence Avenue  
8 Washington, D.C.  
9 USA  
10 PH

11 SPEAKERS:

12 None

13 ALSO PRESENT:

14 Not registered

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I N D E X

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2 INTRODUCTION

3 SPEAKERS:

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1           A lady with a very lovely voice comes on  
2 and says, "Please exit." But, anyway, just wanted  
3 to let you know that if you have any more concerns,  
4 please call us at 376-5353, and we'll make sure we  
5 take care of it.

09:03:52

6           Any audiovisual, the gals all know what  
7 to do. And, have a good morning.

8           MS. ROGERS: Thank you, it is, it -- Is  
9 it on? Can you hear me?

09:04:25

10           Good morning. Can you hear me now?

11           It's a Verizon commercial. Can you hear  
12 me now?

13           Can you hear me now? Okay.

14           Good morning, and welcome. I'm

09:04:38

15           Jacquelin Rogers,

16           I am an industrial hygienist in the  
17 Office of Environment, Health, Safety, and  
18 Security. On behalf of the Department of Energy, I  
19 would like to thank you for taking the time to  
20 participate in the Public Hearing concerning the  
21 Notice of Proposed Rulemaking to amend the Chronic  
22 Beryllium Disease Prevention Program Rule,  
23 particularly those of you who have, who have

09:04:49

1 traveled here to be here to speak to us.

2 The purpose, purpose of this Hearing is  
3 to receive oral testimony from the public on the  
4 Department of Energy's Notice for the Chronic  
09:05:14 5 Beryllium Disease Prevention Programs and CFR 850.  
6 Your comments are not only appreciated; they are  
7 essential in developing a final Rule.

8 The comments received here today, and  
9 those submitted during the written-comment period,  
09:05:28 10 which ends on September 6, 2016, will assist the  
11 Department in the rulemaking process. All written  
12 comments must be received by September sixth, 2016,  
13 to ensure consideration by DOE.

14 The address for sending the comments is  
09:05:46 15 Jacquelin D. Rogers, U.S. Department of Energy,  
16 Docket Number AU dash-HM dash-11 dash-CBDPP, Mail  
17 Stop AU-11, 1000 Independence Avenue, Southwest,  
18 Washington, DC, and the zip is 20585.

19 Also, comments can be filed  
09:06:09 20 electronically at [http: Backslash backslash](http://Backslashbackslash)  
21 [www.Regulations.gov](http://www.Regulations.gov), or e-mailed to  
22 [Rulemaking.850@HQ.doe.gov](mailto:Rulemaking.850@HQ.doe.gov). As the presiding  
23 official for this Hearing, I'd like to set forth

1 the guidelines for conducting the Hearing, and  
2 provide other pertinent information.

3 This is not an evidentiary or a judicial  
4 Hearing. It will be conducted in accordance with  
09:06:44 5 the Administrative Procedures Act, and Section 5012  
6 of the DOE Organization Act to provide the  
7 Department with as much pertinent information as  
8 many of the rules as can be obtained, and to enable  
9 interested persons to express their views.

09:07:00 10 The Hearings will be conducted in  
11 accordance with the following procedures: Speakers  
12 will be called to testify in the order indicated on  
13 the Agenda, and that would be if you signed up with  
14 Meredith outside you will be called to testify in  
09:07:15 15 that order.

16 Speakers have been allotted ten minutes  
17 for their verbal Statement, and since we have so  
18 many people here today, we can, if you need more  
19 than ten minutes, you can have more than ten  
09:07:29 20 minutes.

21 Anyone that wishes to make an  
22 unscheduled oral statement after all scheduled  
23 speakers have, have delivered their statement, to

1 do so, please submit your name to the Registration  
2 Desk before the conclusion of the last speaker.

3 And, at the conclusion of all  
4 presentations, if time permits, scheduled speakers  
09:07:49 5 who request to do so will be given the opportunity  
6 to make a rebuttal or clarifying statement. If you  
7 would like this opportunity, if available, please  
8 give your name to the person at the Registration  
9 Desk right outside the door and indicate that  
09:08:03 10 you're making such a request.

11 Only members of the DOE Panel, and that  
12 would be me, conducting the Hearing will be allowed  
13 to ask questions to any speakers.

14 In, in approximately 30 days, a  
09:08:18 15 Transcript of this Hearing will be published, will  
16 be available for inspection and copying on the web  
17 site at [http: Backslash backslash www.energy.gov  
18 backslash backslash chronic-beryllium-disease-  
19 prevention-program-10-CFR-850.](http://www.energy.gov/chronic-beryllium-disease-prevention-program-10-CFR-850)

09:08:49 20 As mentioned earlier, the public comment  
21 period will close on September the sixth, 2016.

22 All written comments received will be made  
23 available for the public inspection at the Internet

1 address I just gave you.

2 We need three copies of the comments, as  
3 requested. If you have any questions concerning  
4 this submission of your comments, please contact me  
5 at 202-586-4714.

6 It is assumed that any information  
7 provided at this Hearing is public, and will be  
8 included in the Record for the rulemaking. Any  
9 person submitting information that he or she  
10 believes to have been confidential and exempt by  
11 law from public disclosure, disclosure should  
12 submit to the comment address I mentioned a total  
13 of four copies of the information, one complete  
14 copy with the confidential material included, and  
15 three copies without the confidential information.

16 The, the Department of Energy will make  
17 its own determination in accordance with the  
18 applicable procedures as to whether the information  
19 will be exempt from the public disclosure.

20 We appreciate the time and effort you  
21 have taken in preparing a Statement, and are  
22 pleased to receive your comments. And now I would  
23 like to introduce the first speaker.

1 (Whereupon, no response was had.)

2 MS. ROGERS: For the Record, I'm asking  
3 each seeker to state his or her name, and whom you  
4 are representing, before making that Statement.

09:10:45

5 And, thank you.

6 (Whereupon, at 9:10 a.m. PT the DOE  
7 awaited public comment, after which, at 11:28 a.m.  
8 PT, the following occurred:)

11:28:35

9 MS. ROGERS: It is now 11:30 a.m. At  
10 this time we do not have any scheduled speakers.  
11 This will conclude the Public Hearing for the  
12 Department of Energy's Notice of Proposed  
13 Rulemaking for 10 CFR 850, Chronic Beryllium  
14 Disease Prevention Program.

11:28:49

15 On behalf of the Department I would like  
16 to thank everyone for participating in this  
17 rulemaking process.

18 (Whereupon, at 11:29 a.m. PT, the above  
19 Hearing was concluded.)

20 I certify the foregoing to be a  
21 true transcript from my notes.

22 E-signature: D. I. Bunn

23

CSR CP RPR

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CERTIFICATION

I, D. I. Bunn, a Registered Professional Reporter, Certified Conference Reporter, and Notary Public, do hereby certify that the foregoing testimony was duly taken and reduced to writing before me at the place and time therein mentioned. I further certify that I am neither related to any of the parties by blood or marriage, nor do I have any interest in the outcome of the above matter.

In witness whereof, I have hereunto set my hand and affixed my official seal, at Richland, Washington, USA, this 28th day of June, 2016.

E-signature: D. I. Bunn

Notary Public

My Commission expires January 5, 2020.

BEFORE THE  
UNITED STATES DEPARTMENT OF ENERGY  
OFFICE OF ENVIRONMENT, HEALTH, SAFETY AND SECURITY  
TRANSCRIPT OF PROCEEDINGS  
PUBLIC HEARING  
IN RE: NOTICE OF PROPOSED RULEMAKING  
10 CFR 850  
CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM  
DOCKET Nbr. AU-RM-11-CBDPP

28 June 2016  
Richland, Washington USA

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## 1 APPEARANCES:

2 JACQUELINE ROGERS  
3 Presiding Official  
4 Industrial Hygienist  
5 Office of Worker Safety and Health Policy  
6 U.S. Department of Energy  
7 1000 Independence Avenue  
8 Washington, D.C.  
9 USA  
10 PH

## 11 SPEAKERS:

12 8

## 13 ALSO PRESENT:

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I N D E X

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- 2 INTRODUCTIONS
- 3 SPEAKERS:
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1           A lady with a very lovely voice comes on  
2 and says, "Please exit." But, anyway, just wanted  
3 to let you know that if you have any more concerns,  
4 please call us at 376-5353, and we'll make sure we  
5 take care of it.

09:03:52

6           Any audiovisual, the gals all know what  
7 to do.

8           MS. ROGERS: It is now -- What? --

9           6:08, and good evening, and welcome. I'm Jacquelin  
10 Rogers, an industrial hygienist within the Office  
11 of Environment, Health, Safety, and Security.

18:07:53

12           On behalf of the Department of Energy,  
13 I'd like to thank you for taking the time to  
14 participate in this public hearing concerning the  
15 Notice of Proposed Rulemaking to amend the Chronic  
16 Beryllium Disease Prevention Program. If I have  
17 anyone in here, and I believe I do, that have  
18 traveled, thank you for traveling to get here.

18:08:10

19           The purpose of this Hearing is to  
20 receive oral testimony from the public on the  
21 Department of Energy's Notice for Chronic Beryllium  
22 Disease Program, 10 CFR 850. Your comments are not  
23 only appreciated; they are essential in development

18:08:25

1 of a final Rule.

2 The comments received here today, and  
3 those received during the written-comment period,  
4 which ends on September sixth, 2016, will assist  
5 the Department in the rulemaking process. All  
6 written comments must be received by September 6,  
7 2016, to ensure consideration by DOE.

8 The address for sending comments is  
9 Jacqueline Rogers, U.S. Department of Energy,  
10 Docket Number AU dash-RM dash-11 dash-CBDPP, Mail  
11 Stop AU-11, 1000 Independence Avenue Southwest,  
12 Washington, D.C. The Zip Code is 20585.

13 Also, you can file your comments  
14 electronically at [http: Backslash backslash](http://www.Regulations.doe.gov)  
15 [www.Regulations.doe.gov](http://www.Regulations.doe.gov), or you can e-mail them to  
16 [Rulemaking.850@HQ.doe.gov](mailto:Rulemaking.850@HQ.doe.gov).

17 As the presiding official for this  
18 hearing I'd like to set forth the guidelines for  
19 conducting the Hearing, and provide other pertinent  
20 information. This is not an evidentiary or a  
21 judicial Hearing.

22 It will be conducted in accordance with  
23 the Administrative Procedures Act, and section 501

1 of the DOE Organization Act to provide the  
 2 Department with as much pertinent information and  
 3 as many views as can reasonably be obtained, and to  
 4 enable interested persons to express their views.

18:10:29

5 The Hearing will be conducted in  
 6 accordance with the following procedures: Speakers  
 7 will be called to testify in order, in the order  
 8 indicated on the Agenda which is outside on the, at  
 9 the receptionist desk.

18:10:43

10 Speakers have been allotted ten minutes  
 11 for the verbal statement. Anyone making an  
 12 unscheduled oral statement after scheduled speakers  
 13 have delivered their statements.

18:10:56

14 To do so, please submit your name to the  
 15 Registration Desk before the conclusion of the last  
 16 speaker, and at the conclusion of all  
 17 presentations, if time permits, scheduled speakers  
 18 who request to do so will be given the opportunity  
 19 to make a rebuttal or clarifying statement.

18:11:11

20 If you would like the op-, this  
 21 opportunity if available, please give your name to  
 22 the persons at the registration desk and indicate  
 23 that you're making such a request.

1           Only members of the DOE panel, and that  
2 would be me, conducting the Hearing will be allowed  
3 to ask questions of the speaker.

4           In approximately 30 days a Transcript of  
18:11:33 5 this Hearing will be published for, will be  
6 available for inspection and copying on the web  
7 site located at [http: Backslash backslash dot  
8 Energy dot gov backslash EHSS backslash chronic  
9 dash-beryllium dash-disease dash-prevention  
18:12:01 10 dash-program dash-10 dash-CFR dash-850.](http://Backslash backslash dot Energy dot gov backslash EHSS backslash chronic dash-beryllium dash-disease dash-prevention dash-program dash-10 dash-CFR dash-850)

11           As mentioned earlier, the public comment  
12 period will close on September 6, 2016. All  
13 written comments received will be made available  
14 for public inspection on the address I just gave,  
18:12:20 15 at the Internet address I just gave.

16           Three copies of the comments are  
17 requested. If you have any questions concerning  
18 the submission of your comment, please contact me  
19 on 202-586-4714.

18:12:35 20           It is assumed that any information  
21 provided at this Hearing is public and will be  
22 included in the Record for the rulemaking. Any  
23 person submitting information that he or she

1 believes to be confidential and exempt by law from  
2 public disclosure, disclosure, should submit it to  
3 the comment address I mentioned a total of four  
4 copies of the information, one complete copy with  
18:12:59 5 the confidential material included, and three  
6 copies without the confidential, confidential  
7 information.

8           The Department of Energy will make its  
9 own determination in accordance with applicable  
18:13:14 10 procedures as to whether the information will be  
11 exempt from public disclosure.

12           Again, we appreciate the time and effort  
13 you've taken in preparing your Statement, and are  
14 pleased to receive your comments. At this time I  
18:13:31 15 would call the first speaker, but I don't have  
16 anyone who has signed up to speak.

17           Anyone sitting here can sign up to speak  
18 and give us comments. I would be happy to take  
19 them.

18:13:54 20           (Whereupon, at 6:13 p.m. PT, the  
21 presiding official awaited public participation.  
22 At 6:40 p.m. PT, the following occurred:)

23

1 MR. ROGERS: It is now 6:40 p.m. At  
2 this time we do not have any scheduled speakers so  
3 we'll close the Public Hearing this will conclude  
4 the Public Hearing for the Department of Energy's  
5 Notice of Proposed Rulemaking for 10 CFR 850,  
6 Chronic Beryllium Disease Prevention Program.

11:28:42

7 On behalf of the Department I would like  
8 to thank everyone for participating in this  
9 rulemaking process.

10 (Whereupon, at 6:41 p.m. PT, the above  
11 Hearing was concluded.)

12 I certify the foregoing to be a  
13 true transcript from my notes.

14 E-signature: D. I. Bunn

15 CSR CP RPR

16 CERTIFICATION

17 I, D. I. Bunn, a Registered  
18 Professional Reporter, Certified Conference  
19 Reporter, and Notary Public, do hereby certify that  
20 the foregoing testimony was duly taken and reduced  
21 to writing before me at the place and time therein  
22 mentioned. I further certify that I am neither  
23 related to any of the parties by blood or marriage,

1 nor do I have any interest in the outcome of the  
2 above matter.

3 In witness whereof, I have hereunto set  
4 my hand and affixed my official seal, at Richland,  
5 Washington, USA, this 29th day of June, 2016.

6

E-signature: D. I. Bunn

7

Notary Public

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9 My Commission expires January 5, 2020.

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BEFORE THE  
UNITED STATES DEPARTMENT OF ENERGY  
OFFICE OF ENVIRONMENT, HEALTH, SAFETY AND SECURITY  
TRANSCRIPT OF PROCEEDINGS  
PUBLIC HEARING  
IN RE: NOTICE OF PROPOSED RULEMAKING  
10 CFR 850  
CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM  
DOCKET Nbr. AU-RM-11-CBDPP

30 June 2016  
Richland, Washington USA

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Worldwide Telefax 001-307-316-0388  
E-mail: BUNNORLDWIDE@aol.com  
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1 APPEARANCES:

2 JACQUELINE ROGERS  
3 Presiding Official  
4 Industrial Hygienist  
5 Office of Worker Safety and Health Policy  
6 U.S. Department of Energy  
7 1000 Independence Avenue  
8 Washington, D.C.  
9 USA  
10 PH

11 SPEAKERS:

12 None

13 ALSO PRESENT:

14 Not registered

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INTRODUCTIONS  
SPEAKERS:

Page  
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1           If you need anything from me, I can be  
2 reached at 376-5353, or you need any help or  
3 assistance, just call that number. And, if you do  
4 have an actual emergency, please call 373-0911.

09:01:27

5           You get the ambulance on the way. We  
6 had a couple of things happen yesterday here in the  
7 middle of everything else, so make sure you call  
8 that ambulance and get him here on the way if you  
9 have any troubles.

09:01:39

10           But, other than that, have a good, good  
11 morning, and I'll be back in a while to check on  
12 you. Thank you.

13           (Whereupon, Ms. Knight left the room,  
14 after which the following occurred:)

09:01:47

15           MS. ROGERS: Thank you, Kim.

16           Well, good morning everybody this is the  
17 last time you all see me in the morning. It is  
18 June twenty-eighth I mean June the thirtieth, 2016.

09:01:52

19           I'm Jacqueline Rogers, an industry  
20 hygienist in the Office of Environment, Health,  
21 Safety, and Security. On behalf of the Department  
22 of Energy I'd like to thank you for taking the time  
23 to participate in this Public Hearing concerning

1 the Notice of Proposed Rulemaking to amend the  
2 current Beryllium Disease Prevention Program.

3 And, particularly I'd like to thank  
4 those of you who have traveled to be here. The  
09:02:14 5 purpose of this Hearing is to receive oral  
6 testimony from public on the Department of Energy's  
7 Notice of Proposed Rulemaking for the Chronic  
8 Beryllium Disease Prevention Program, 10 CFR 850.

9 Your comments are not only appreciated;  
09:02:33 10 they are essential in developing a final Rule. The  
11 comments received here today, and those submitted  
12 during the written comment period which ends on  
13 September 6, 2016, will assist the Department in  
14 the rulemaking pro-, process.

09:02:49 15 As I said, all written comments must be  
16 received by September sixteenth, 2016, to assure  
17 consideration by DOE. The address for sending the  
18 comment is Jacquelin Rogers, U.S. Department of  
19 Energy, Docket Number AU dash-RM dash-11  
09:03:08 20 dash-CBDPP, Mail Stop AU dash-11, 1000 Independence  
21 Avenue, Southwest, Washington, D.C.; Zip Code  
22 20585.

23 Also, comments can be filed

1 electronically at [http: Backslash backslash](http://Backslash backslash)  
2 [www.regulations.gov](http://www.regulations.gov), or e-mailed to  
3 [Rulemaking.850@hq.doe.gov](mailto:Rulemaking.850@hq.doe.gov).

4 As the presiding official for this  
09:03:43 5 Hearing I would like to set forth the guidelines  
6 for conducting the Hearing, and provide other  
7 pertinent information. This is not an evidentiary  
8 or a judicial Hearing.

9 It will be conducted in accordance with  
09:03:55 10 the Administrative Procedures Act and Section 501  
11 of the DOE Organization Act to provide the  
12 Department with as much pertinent information as  
13 many of you can reasonably be obtained, and to  
14 enable interested persons to express their views.  
09:04:13 15 The Hearings will be conducted in accordance with  
16 the following procedures:

17 Speakers will be called to testify in  
18 the order indicated on the Agenda. Speakers have  
19 been allotted ten minutes for their verbal  
09:04:27 20 statement.

21 Anyone can make an unscheduled oral  
22 statement after all scheduled speakers have  
23 delivered their statement. To do so, please submit

1 your name to the Registration Desk before  
2 conclusion of the last speaker, scheduled speaker,  
3 and at the conclusion of all presentations, if time  
4 permits, scheduled speakers who request to do so  
09:04:51 5 will be given the opportunity to make a rebuttal or  
6 clarifying statement.

7 If you would like this opportunity, if  
8 available, please give your name to the person at  
9 the Registration Desk, and indicate that you are  
09:05:06 10 making such a request. Only members of the DOE  
11 Panel conducting the Hearing will be allowed to ask  
12 questions of the speaker.

13 In approximately 30 days, a Transcript  
14 of this Hearing will be available for inspection  
09:05:22 15 and copying at the web site. The web site located  
16 at [http: Backslash backslash www.energy.doe.gov](http://www.energy.doe.gov)  
17 [backslash EHSS backslash chronic dash-beryllium](http://www.energy.doe.gov)  
18 [dash-disease dash-prevention dash-program dash-10](http://www.energy.doe.gov)  
19 [dash-CF-, CFR dash-80. Eight-fifty. I'm sorry.](http://www.energy.doe.gov)

09:05:50 20 As mentioned earlier, the public comment  
21 period will close on September 6, 2016. All  
22 written comments received will be made available  
23 for public inspection at the Internet address given

1 a few minutes ago.

2 Three copies of the comments are  
3 requested. If you have any questions concerning  
4 the submission of comments, please contact me on  
5 202-586-4714.

09:06:11

6 It is assumed that any information  
7 provided at this Hearing is public, and will be  
8 included in the Record for the rulemaking. Any  
9 person submitting information that he or she  
10 believes to be confidential and exempt by law from  
11 public disclosure should submit to the comment  
12 address I mentioned a total of four copies of the  
13 information, one complete copy with the  
14 confidential material included, and three copies  
15 with the con-, without the confidential  
16 information.

09:06:26

09:06:44

17 The Department of Energy will make its  
18 own determination in accordance with applicable  
19 procedures as to whether the information will be  
20 exempt from public disclosure. We appreciate the  
21 time and the effort you have taken in preparing and  
22 presenting a Statement, and are pleased to receive  
23 your comments.

09:06:56



1 true transcript from my notes.

2 E-signature: D. I. Bunn

3 CSR CP RPR

4 CERTIFICATION

5 I, D. I. Bunn, a Registered  
6 Professional Reporter, Certified Conference  
7 Reporter, and Notary Public, do hereby certify that  
8 the foregoing testimony was duly taken and reduced  
9 to writing before me at the place and time therein  
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11 related to any of the parties by blood or marriage,  
12 nor do I have any interest in the outcome of the  
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15 my hand and affixed my official seal, at Richland,  
16 Washington, USA, this 29th day of June, 2016.

17 E-signature: D. I. Bunn

18 Notary Public

19  
20 My Commission expires January 5, 2020.

21

22

23

BEFORE THE  
UNITED STATES DEPARTMENT OF ENERGY  
OFFICE OF ENVIRONMENT, HEALTH, SAFETY AND SECURITY  
TRANSCRIPT OF PROCEEDINGS  
PUBLIC HEARING  
IN RE: NOTICE OF PROPOSED RULEMAKING  
10 CFR 850  
CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM  
DOCKET Nbr. AU-RM-11-CBDPP

30 June 2016  
Richland, Washington USA

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1 APPEARANCES:

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3 Presiding Official  
4 Industrial Hygienist  
5 Office of Worker Safety and Health Policy  
6 U.S. Department of Energy  
7 1000 Independence Avenue  
8 Washington, D.C.  
9 USA  
10 PH

11 SPEAKERS:

12 None

13 ALSO PRESENT:

14 Not registered

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I N D E X

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2 reached at 376-5353, or you need any help or  
3 assistance, just call that number. And, if you do  
4 have an actual emergency, please call 373-0911.

09:01:27

5           You get the ambulance on the way. We  
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7 middle of everything else, so make sure you call  
8 that ambulance and get him here on the way if you  
9 have any troubles.

09:01:39

10           But, other than that, have a good, good  
11 morning, and I'll be back in a while to check on  
12 you. Thank you.

13           (Whereupon, Ms. Knight left the room,  
14 after which the following occurred:)

09:01:47

15           MS. ROGERS: Thank you, Kim.

16           Well, good morning everybody this is the  
17 last time you all see me in the morning. It is  
18 June twenty-eighth I mean June the thirtieth, 2016.

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19           I'm Jacqueline Rogers, an industry  
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22 of Energy I'd like to thank you for taking the time  
23 to participate in this Public Hearing concerning

1 the Notice of Proposed Rulemaking to amend the  
2 current Beryllium Disease Prevention Program.

3 And, particularly I'd like to thank  
4 those of you who have traveled to be here. The  
09:02:14 5 purpose of this Hearing is to receive oral  
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9 Your comments are not only appreciated;  
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12 during the written comment period which ends on  
13 September 6, 2016, will assist the Department in  
14 the rulemaking pro-, process.

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16 received by September sixteenth, 2016, to assure  
17 consideration by DOE. The address for sending the  
18 comment is Jacquelin Rogers, U.S. Department of  
19 Energy, Docket Number AU dash-RM dash-11  
09:03:08 20 dash-CDDPP, Mail Stop AU dash-11, 1000 Independence  
21 Avenue, Southwest, Washington, D.C.; Zip Code  
22 20585.

23 Also, comments can be filed

1 electronically at [http: Backslash backslash](http://Backslash%20backslash)  
2 [www.regulations.gov](http://www.regulations.gov), or e-mailed to  
3 [Rulemaking.850@hq.doe.gov](mailto:Rulemaking.850@hq.doe.gov).

09:03:43

4 As the presiding official for this  
5 Hearing I would like to set forth the guidelines  
6 for conducting the Hearing, and provide other  
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09:03:55

9 It will be conducted in accordance with  
10 the Administrative Procedures Act and Section 501  
11 of the DOE Organization Act to provide the  
12 Department with as much pertinent information as  
13 many of you can reasonably be obtained, and to  
14 enable interested persons to express their views.

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22 statement after all scheduled speakers have  
23 delivered their statement. To do so, please submit

1 your name to the Registration Desk before  
2 conclusion of the last speaker, scheduled speaker,  
3 and at the conclusion of all presentations, if time  
4 permits, scheduled speakers who request to do so  
09:04:51 5 will be given the opportunity to make a rebuttal or  
6 clarifying statement.

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09:05:06 10 making such a request. Only members of the DOE  
11 Panel conducting the Hearing will be allowed to ask  
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09:05:22 15 and copying at the web site. The web site located  
16 at [http: Backslash backslash www.energy.doe.gov](http://www.energy.doe.gov)  
17 [backslash EHSS backslash chronic dash-beryllium](http://www.energy.doe.gov)  
18 [dash-disease dash-prevention dash-program dash-10](http://www.energy.doe.gov)  
19 [dash-CF-, CFR dash-80](http://www.energy.doe.gov). Eight-fifty. I'm sorry.

09:05:50 20 As mentioned earlier, the public comment  
21 period will close on September 6, 2016. All  
22 written comments received will be made available  
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1 a few minutes ago.

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22 presenting a Statement, and are pleased to receive  
23 your comments.

1           Since no one has yet signed up, as soon  
2 as someone signs up to make a comment, I'll call  
3 the first speaker.

4           And, for the Record, I'm asking each  
5 speaker to state his or her name, and whom you  
6 represent before making your statement.

7           (Whereupon, at 6:11 p.m. PT, remarks  
8 were made among those present, off the Record,  
9 after which, at 6:23 p.m. PT, the following  
10 occurred:)

11           MS. ROGERS: It is now 6:23. At this  
12 time we do not have any scheduled speakers so we'll  
13 close the Public Hearing this will conclude the  
14 Public Hearing for the Department of Energy's  
15 Notice of Proposed Rulemaking for 10 CFR 850,  
16 Chronic Beryllium Disease Prevention Program.

17           On behalf of the Department I would like  
18 to thank everyone for participating in this  
19 rulemaking process.

20           (Whereupon, at 6:24 p.m. PT, the above  
21 Hearing was concluded.)

22                           I certify the foregoing to be a

23

09:07:16

09:07:19

11:28:42

1 true transcript from my notes.

2 E-signature: D. I. Bunn

3 CSR CP RPR

4 CERTIFICATION

5 I, D. I. Bunn, a Registered  
6 Professional Reporter, Certified Conference  
7 Reporter, and Notary Public, do hereby certify that  
8 the foregoing testimony was duly taken and reduced  
9 to writing before me at the place and time therein  
10 mentioned. I further certify that I am neither  
11 related to any of the parties by blood or marriage,  
12 nor do I have any interest in the outcome of the  
13 above matter.

14 In witness whereof, I have hereunto set  
15 my hand and affixed my official seal, at Richland,  
16 Washington, USA, this 29th day of June, 2016.

17 E-signature: D. I. Bunn

18 Notary Public

19

20 My Commission expires January 5, 2020.

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