



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. OSHA-H005C-2006-0870]

RIN 1218-AB76

Occupational Exposure to Beryllium: Delay of Effective Date

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review,” this action temporarily delays until March 21, 2017 the effective date of the rule entitled Occupational Exposure to Beryllium, published in the Federal Register on January 9, 2017 (82 FR 2470), to allow OSHA officials the opportunity for further review and consideration of new regulations.

DATES: This regulation is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The effective date of the regulation entitled Occupational Exposure to Beryllium published in the Federal Register on January 9, 2017 (82 FR 2470) is delayed to a new effective date of March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Frank Meilinger, Director, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-1999; email meilinger.francis2@dol.gov.

SUPPLEMENTARY INFORMATION: OSHA bases this action on the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and

Chief of Staff, entitled “Regulatory Freeze Pending Review.” (82 FR 8346 (January 24, 2017)). That memorandum directed the heads of Executive Departments and Agencies to temporarily postpone for 60 days from the date of the memorandum the effective dates of all regulations that had been published in the Federal Register but had not yet taken effect. The memorandum also noted certain exceptions that do not apply here. OSHA is therefore delaying the effective date for the rule entitled “Occupational Exposure to Beryllium” to March 21, 2017.

The Agency’s implementation of this action without opportunity for public comment is based on the good cause exception in 5 U.S.C. 553(b)(B), in that seeking public comment is impracticable, unnecessary and contrary to the public interest. The temporary delay in effective date until March 21, 2017, will give Agency officials the opportunity for review and consideration of new regulations, as required by the memorandum of the Assistant to the President and Chief of Staff, dated January 20, 2017. Given the imminence of this effective date, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. In addition, since the Occupational Exposure to Beryllium rule would not have taken effect until March 10, 2017, as a practical matter the new effective date for this regulation would extend by only 11 days the original effective date. Thus, the good cause exception in 5 U.S.C. 553(b)(B) applies to OSHA’s decision to extend the effective date of the beryllium rule without first going through notice and comment. This extension of the effective date will not impact the compliance dates of the Beryllium rule.

In taking this action, the Agency also invokes the good cause exception in 5 U.S.C. 553(d)(3), which allows the action to be immediately effective for “good cause” rather than subject to the requirement in the Administrative Procedure Act (5 U.S.C. 553(d)) that a minimum of 30 days is

required before a rule may become effective. The nature of this action, which is to extend by 11 days a final rule that otherwise becomes effective on March 10, 2017, makes it unnecessary and impractical to delay the effectiveness of this action by 30 days.

Signed at Washington, DC, on January 26, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

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