



BILLING CODE: 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2019-0010]

Beryllium Standards for General Industry, Construction and Maritime; Extension for the Office of Management and Budget's (OMB) Approval of the Information Collection (Paperwork) Requirements

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

ACTION: Request for public comments.

SUMMARY: OSHA solicits comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Beryllium Standards for General Industry, Construction, and Maritime.

DATES: Comments must be submitted (postmarked, sent, or received) by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES:

Electronically: You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693-1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA-2019-0010, U.S. Department of Labor, Occupational

Safety and Health Administration, Room N-3653, 200 Constitution Avenue, NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA-2019-0010) for the Information Collection Request (ICR). All comments, including any personal information you provide such as social security numbers and date of birth, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>. For further information on submitting comments, see the "Public Participation" heading in the section of this notice titled "**SUPPLEMENTARY INFORMATION.**"

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the above address. All documents in the docket (including this *Federal Register* notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Theda Kenney at the phone number below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693-2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of a continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 et seq.) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

This ICR is based on the 2017 final rule for Beryllium which includes general industry, construction, and maritime. Subsequently, the agency has proposed revisions to the beryllium standards. OSHA proposed revisions to the beryllium general industry standard in December 2018 (83 FR 63746) titled "Occupational Exposure to Beryllium in General Industry," and to the beryllium construction and shipyard standards in October 2019 (84 FR 53902) titled "Occupational Exposure to Beryllium in Construction and Shipyard Sectors." The agency is planning to finalize the beryllium standards in two separate rulemakings in the coming months. The modification and update of these beryllium standards will clarify the provisions contained in the 2017 general industry standard and will better tailor the construction and shipyard standards to address the particular operations in these sectors involving exposure to beryllium. These two Beryllium final rules contain information collection requirements that will have an impact on this ICR when they are published.

The information collection requirements specified by the beryllium standards for general industry, construction, and maritime standards help protect workers from harmful elements when exposed to permissible exposure limits of beryllium and beryllium compounds in the workplace. The information collection requirements in the 2017 Standards involve the following elements of the Standard.

Paragraph (d)(2) contains the performance options where the employer must assess the 8-hour TWA exposure and the 15-minute short-term exposure for each employee on the basis of any combination of air monitoring data and objective data sufficient to accurately characterize airborne exposure to beryllium. Employers do not have to conduct initial exposure monitoring if they rely on objective data that would satisfy the exposure assessment requirements contained in this standard. Paragraph (d)(3) says the employer must perform initial monitoring to assess the 8-hour TWA exposure for each employee on the basis of one or more personal breathing zone air samples that reflect the airborne exposure of employees on each shift, for each job classification, and in each work area and the employer is required to do periodic monitoring when the most recent exposure monitoring indicates that airborne exposure is at or above the action level but at or below the TWA PEL, the employer must repeat such monitoring within six months of the most recent monitoring. Paragraph (d)(4) requires the employer to reassess airborne exposure whenever a change in the production, process, control equipment, personnel, or work practices may reasonably be expected to result in new or additional airborne exposure at or above the action level or STEL, or when the employer has any reason to believe that new or additional airborne exposure at or above the action level or STEL has occurred.

In paragraph (f)(1)(i) the employer is required to establish, implement, and maintain a written exposure control plan and what information and procedures are included in the plan. Paragraph (f)(1)(ii) requires the employer to review and evaluate the effectiveness of each written exposure control plan at least annually and update it, as necessary. Also, in paragraph (f)(1)(iii) the employer must make a copy of the written exposure control plan accessible to each employee who is, or can reasonably be expected to be, exposed to airborne beryllium in accordance with OSHA's Access to Employee Exposure and Medical Records (Records Access) standard (29 CFR 1910.1020(e)).

Paragraph (g)(2) requires the employer to provide respiratory protection for the selection and use of respirators, medical evaluations of employees required to use respirators, respirator fit testing procedures for tight-fitting respirators and procedures for proper use of respirators in routine and reasonably foreseeable emergency situations.

Paragraph (h)(3)(iii) requires the employer to inform in writing the persons or the business entities who launder, clean, or repair the personal protective clothing or equipment required by this standard of the potentially harmful effects of airborne exposure to and dermal contact with beryllium and that the personal protective clothing and equipment must be handled in accordance with this standard. This provision is intended to reduce exposure to beryllium for employees handling beryllium-contaminated materials by providing employers and employees handling these materials the information necessary to protect employees from beryllium exposure.

Under paragraph (k)(1) the employer is required to make medical surveillance available at no cost to the employee, and at a reasonable time and place, to each employee who: (A) Is reasonably expected to be exposed at or above the action level for more than 30 days per year; (B) Shows signs or symptoms of chronic beryllium disease

(CBD) or other beryllium-related health effects; (C) Is exposed to beryllium during an emergency; or (D) Most recent written medical opinion required by paragraph (k)(6) or (k)(7) recommends periodic medical surveillance.

In paragraph (k)(5) of medical surveillance, the employer is required to ensure that the employee receives a written medical report from the licensed physician within 45 days of the examination (including any follow-up beryllium lymphocyte proliferation test (BeLPT) required under paragraph (k)(3)(ii)(E) of this standard) and that the physician or other licensed health care professional (PLHCP) explains the results of the examination to the employee. The requirement for a written medical report ensures that the employee receives a record of all findings. In paragraph (k)(6) of medical surveillance the employer is required to obtain a written medical opinion from the licensed physician within 45 days of the medical examination and what must be contained in the written medical opinion. Under paragraph (k)(7) of medical surveillance, when being referred to the CBD Diagnostic Center, the employer is required to provide an evaluation at no cost to the employee at a CBD diagnostic center that is mutually agreed upon by the employer and the employee. The examination must be provided within 30 days of: (A) The employer's receipt of a physician's written medical opinion to the employer that recommends referral to a CBD diagnostic center; or (B) The employee presenting to the employer a physician's written medical report indicating that the employee has been confirmed positive or diagnosed with CBD, or recommending referral to a CBD diagnostic center. The employer must ensure that the employee receives all written medical reports from the CBD diagnostic center that contains all the information required in paragraph (k)(5)(i), (ii), (iv), and (v) and that the PLHCP explains the results of the examination to the employee within 30 days of the examination. Also, the employer is required to obtain a

written medical opinion from the CBD diagnostic center within 30 days of the medical examination and ensure that each employee receives a copy of the written medical opinion from the CBD diagnostic center within 30 days of any medical examination performed for that employee.

In paragraph (m)(2) the employer is required to post warning signs at each approach to a regulated area. Paragraph (m)(3) requires the employer to label each bag and container of clothing, equipment, and materials contaminated with beryllium.

In paragraph (m)(4)(iv) the employer is required to make a copy of this standard and its appendices readily available at no cost to each employee and designated employee representative(s).

Under paragraph (n) recordkeeping, the employer is required to make and maintain records for the air monitoring data, objective data, medical surveillance, and training. Access to these records must be made available upon request for examination and copying to the Assistant Secretary, the Director, each employee, and each employee's designated representative(s) in accordance the Records Access standard (29 CFR 1910.1020).

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;

- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extends approval of the information collection requirements contained in the Beryllium Standards for General Industry (29 CFR part 1910.1024), Construction (29 CFR 1926.1124), Maritime (29 CFR 1915.1024). OSHA is proposing that the burden hours and cost for material and maintenance remain the same. The agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Beryllium Standards for General Industry (29 CFR part 1910.1024), Construction (29 CFR 1926.1124), Maritime (29 CFR 1915.1024).

OMB Number: 1218-0267.

Affected Public: Business or other for-profits; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 5,872.

Frequency of Response: On occasion.

Average Time Per Response: Various.

Estimated Total

Burden Hours: 194,261.

*Estimated Cost
(Operation and
Maintenance):* \$46,158,266.

IV. Public Participation – Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA-2019-0010). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled “**ADDRESSES**”). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693-2350 (TTY (877) 889-5627).

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g.,

copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order No. 1-2012 (77 FR 3912).

Signed at Washington, DC, on January 28, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.
[FR Doc. 2020-02000 Filed: 1/31/2020 8:45 am; Publication Date: 2/3/2020]