



November 7, 2019

OSHA Docket Office
Docket No. OSHA-2019-0006
U.S. Department of Labor
200 Constitution Avenue NW.
Washington, DC 20210

RE: Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors (Docket Number: OSHA-2019-0006)

Dear Director Perry:

On behalf of the National Demolition Association (NDA), we respectfully submit the following comments regarding the Occupational Safety and Health Administration's (OSHA) Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors (Docket Number: OSHA-2019-0006). The National Demolition Association represents nearly 500 companies that offer standard demolition services as well as a full range of demolition-related services and products. We educate members on the latest advances in equipment and services, provide educational programs and tools to stay abreast of regulatory and safety matters, help keep regulators informed about issues in our industry, and increase public awareness of the economic and societal benefits of demolition.

NDA member companies have an excellent record of providing a safe environment and work with government officials regularly to mitigate hazards. Our association is firmly committed to protecting public health along with the safety of workers at all times and takes that responsibility seriously. The following comments reflect our perspectives on OSHA's proposed rule.

First, NDA is skeptical that a beryllium in construction standard is necessary. In reviewing the previous proposed rule from 2015 and documentation up to today, OSHA has not provided the necessary evidence to demonstrate a need for a lower the permissible exposure limit ("PEL") for beryllium in construction or to justify certain ancillary provisions. In order to promulgate a health standard, OSHA has to demonstrate, based on tangible evidence, that a significant risk of health exists with exposure to a particular hazard and that this risk will be substantially reduced through enactment of the standard.

In this proposed rule, OSHA only mentions "evidence of high airborne exposures in construction and shipyard sectors, in particular during blasting operations and cleanup of spent media", but relies on only one study addressing beryllium in construction. It examined the effects on workers who worked within Department of Energy (DOE) facilities that had notable beryllium exposure. The study determined that the construction workers were exposed while working in maintenance, renovation, repair and demolition of facilities where work with beryllium had taken place.

However, there is no evidence demonstrating that construction employees have developed chronic beryllium disease (CBD) or other negative outcomes while performing non-specialized construction operations at the current PEL. As stated, NDA is firmly committed to protecting public health along with the safety of workers at all times and takes that responsibility seriously. With that said, NDA is concerned about the evidence of the need for a standard in construction, and that a comprehensive standard in construction will subject employers to requirements and burdens to address health outcomes that simply do not exist in the demolition industry. Current documentation from OSHA shows that risks associated with exposure to beryllium are limited to general industry and OSHA even focused on that in the original 2015 proposed rule.

Regarding the rulemaking process, OSHA has not adopted the most cost-effective regulatory approach to the issue of beryllium exposure in construction. OSHA has continually stated that the only exposures of concern in construction are in “abrasive blasting with certain media”. NDA is not aware of evidence demonstrating that this is problematic especially when considering the protections provided to employees performing abrasive blasting. If OSHA is still adamant that exposure is a significant risk, there are cost-effective ways of addressing the hazard, as opposed to applying a broad-based standard to the entire construction industry, which will divert resources from other pressing safety and health hazards.

Finally, OSHA’s proposed rule seeks comment on ancillary provisions and the efforts of OSHA to tailor the ancillary provisions to the construction industry. NDA appreciates OSHA’s attempts to narrow the ancillary provisions, however, NDA does not believe that any ancillary provisions are necessary. One of the primary ancillary provisions retained by OSHA is the one containing the requirement that employers implement a written exposure control plan. This requires employers, including demolition contractors, to list the operations and job titles of employees that could involve covered exposures to beryllium. In order to complete this plan, demolition contractors will be required to assess all workplace exposures, jobs, tasks, and work to be performed to determine whether beryllium is present in trace amounts. This would be a particular unnecessary burden for contractors across the industry and inappropriate given OSHA’s failure to identify any exposures of concern in operations outside of abrasive blasting with certain media.

NDA appreciates the ability to provide comment on this issue. As OSHA continues to work on this rulemaking, we urge the Agency to consider these comments and to craft a workable and tailored rule on exposure. This will ensure demolition contractors are not burdened by unnecessary requirements, while supporting the Agency in reasonable and substantiated efforts to protect workers.

Please contact NDA Director of Government Affairs, Kevin McKenney, at kmckenney@demolitionassociation.com with questions or concerns.

Sincerely,



Jeff Lambert
Chief Executive Officer