

October 16, 2015

OSHA Docket Office
Docket No. OSHA-H005C-2006-0870
U.S. Department of Labor
Room N-2625
200 Constitution Avenue
Washington, DC 20210

Re: Occupational Exposure to Beryllium and Beryllium Compounds

To Whom It May Concern:

On behalf of our 158,000 members, we are pleased to comment on the Occupational Safety and Health Administration (OSHA) proposed rule to lower occupational exposure to beryllium and beryllium compounds. We offer these comments in response to your Federal Register notice of August 7, 2015 (80 FR 47566).

Some crowns, bridges, and other dental appliances are crafted with beryllium-containing alloys to improve castability and bond strength. The process of melting, grinding, polishing, and finishing these appliances can produce beryllium-containing particles, fumes, mists and solutions, which may be harmful depending on the intensity, duration, frequency, and route of exposure. The ADA and the National Institute of Occupational Safety and Health (NIOSH) have both promulgated standard practices to prevent unsafe exposure to beryllium and beryllium-containing compounds.

OSHA is proposing to lower its eight-hour time-weighted average (TWA) permissible exposure limit (PEL) for beryllium vapor—from 2 micrograms per cubic meter of air (2 $\mu\text{g}/\text{m}^3$) to 0.2 $\mu\text{g}/\text{m}^3$. It is also proposing new requirements dental laboratories must implement to meet the new standard. The requirements include new standards for personal protective clothing and equipment (PPE), medical removal, hazard communication, and recordkeeping.

Use of beryllium alloys in dental laboratories has fallen to very low levels, according to the National Association of Dental Laboratories. Moreover, only 4.7 percent of dentists employ laboratory technicians directly in dental offices.¹

With respect to the scope of the proposed rule, we ask OSHA to clarify that employers who use but do not process articles containing beryllium are fully exempt from all requirements, including those established for recordkeeping.

For employers that would be subject to a new beryllium exposure rule, we urge OSHA to pursue Regulatory Alternative #1b, which would exempt—for all purposes except recordkeeping—operations where the employer can show that employee exposures will not meet or exceed the action level or exceed the short-term exposure limit (STEL); however, we ask OSHA that such operations be required to comply only with those recordkeeping

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requirements necessary to show that employees' exposure will not meet or exceed the STEL.

Where recordkeeping is required, we ask OSHA not to require employers with fewer than 10 employees to include employee social security numbers in any records required under the standard.

We appreciate OSHA's diligence in examining the potential impact of this proposal on dental offices and dental laboratories. If you have any questions or would like more information, please contact Mr. Robert J. Burns at 202-789-5176 or burnsr@ada.org.

Sincerely,

/s/

Maxine Feinberg, D.D.S.
President

/s/

Kathleen T. O'Loughlin, D.M.D., M.P.H.
Executive Director

MF:KTO:rjb
Enclosure

¹ American Dental Association Survey Center. 2010 Survey of Dental Practice: Characteristics of Dentists in Private Practice and Their Patients. American Dental Association, Chicago; 2012.

Supplemental Comments

**Proposed Rule on
Occupational Exposure to Beryllium and Beryllium Compounds**

October 16, 2015

On behalf of our 158,000 members, we are pleased to offer these supplemental comments on the Occupational Safety and Health Administration (OSHA) proposed rule to lower occupational exposure to beryllium and beryllium compounds. We offer these supplemental comments in response to your Federal Register notice of August 7, 2015 (80 FR 47566).

The proposed rule would apply to occupational exposures to beryllium in all forms, compounds, and mixtures in general industry. However, it would not apply to articles that contain beryllium that the employer does not process.

OSHA has requested comments on Regulatory Alternatives #1a and #1b. As stated in the proposed rule, Regulatory Alternative #1a would modify the proposed scope to eliminate the exemption for materials containing less than 0.1 percent beryllium by weight.

Regulatory Alternative #1b is similar to Regulatory Alternative #1a, but exempts operations where the employer can show that employees' exposure will not meet or exceed the action level or exceed the short-term exposure limit (STEL). Where the employer has objective data demonstrating that a material containing beryllium or a specific process, operation, or activity involving beryllium cannot release beryllium in concentrations at or above the proposed action level or above the proposed STEL under any expected conditions of use, the specific process, operation, or activity would be exempt from the proposed standard except for recordkeeping requirements pertaining to the objective data.

ADA urges OSHA to clarify that employers that do not process articles that contain beryllium are not required to comply with the recordkeeping requirements in the proposed rule. ADA further urges OSHA to select Regulatory Alternative #1b but to limit the recordkeeping requirements to those records that show that employees' exposure will not meet or exceed the action level or exceed the STEL.

Limiting the recordkeeping requirements of employers whose employees are not at significant risk of exposure is reasonable because the record retention period is onerous: employers are required to maintain certain records for the duration of employment plus 30 years, and make them available for examination and copying to the Assistant Secretary, the Director of NIOSH, each employee, and each employee's designated representative as stipulated.

In addition, ADA urges OSHA not to require employers with fewer than 10 employees to include employee social security numbers in any records required under the standard.

In the preamble, OSHA recognizes the privacy concerns raised by social security numbers, and "emphatically recommends against distributing or posting employees' social security numbers with monitoring results." Some state statutes also impose data security and breach notification requirements on those who collect social security numbers.

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Also in the preamble, OSHA states that it has included the social security number requirement because social security numbers are an effective means of identifying employee records, particularly when two employees have identical or similar names. In a small business, however, the risk to employees of identity theft outweighs the difficulty of identifying employee records.

We appreciate OSHA's diligence in examining the potential impact of this proposal on dental offices and dental laboratories.