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March 13, 2017

Dorothy Dougherty
Deputy Assistant Secretary of Labor for Occupational Safety and Health
U.S. Department of Labor
200 Constitution Ave. NW
Washington, D.C. 20210

Re: RIN: 1218-AB76; Occupational Exposure: Beryllium: Proposed Delay of Effective Date [OSHA-H005C-2006-0870-2047]

[comments filed electronically at regulations.gov]

Dear Ms. Dougherty,

Public Citizen, a consumer advocacy organization with more than 400,000 members and supporters nationwide, is filing these comments to urge you not to adopt the proposal¹ to delay the effective date of the Occupational Safety and Health Administration's (OSHA's) final beryllium rule. The proposed 60-day postponement of the effective date of the rule, from the current date of March 21 to May 20, 2017, is simply the latest in a 16-year-long series of delays of a rule that the entire scientific community agrees is urgently necessary to save thousands of workers from the risk of needless suffering and death.

The rule will save workers from death and crippling illness.

Beryllium is toxic at extremely low levels and exposure of workers, for even brief periods, to beryllium can result in a devastating, incurable lung condition known as chronic beryllium disease (CBD).² Beryllium also is a recognized carcinogen³ that can cause lung cancer.⁴ The current permissible exposure limit (PEL) of 2.0 micrograms per cubic meter of air ($\mu\text{g}/\text{m}^3$) is a level that is woefully outdated and, according to the overwhelming scientific consensus, highly toxic to human beings. By reducing the PEL

¹ U.S. Department of Labor. US Labor Department proposes delay to beryllium rule effective date. March 1, 2017. https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=33780. Accessed March 9, 2017.

² Occupational Safety and Health Administration. Fact Sheet: Health Effects of Exposure to Beryllium. <https://www.osha.gov/Publications/OSHA3822.pdf>. Accessed March 9, 2017.

³ World Health Organization. International Agency for Research on Cancer. List of Classifications, Volumes 1-114. http://monographs.iarc.fr/ENG/Classification/latest_classif.php. Beryllium is classified as a Group 1 carcinogen, which means that "sufficient evidence of carcinogenicity in humans" exists. World Health Organization. International Agency for Research on Cancer. Preamble to the IARC monographs: Scientific review and evaluation. <http://monographs.iarc.fr/ENG/Preamble/currentb6evalrationale0706.php>. Both links accessed March 9, 2017.

⁴ National Toxicology Program. Report on Carcinogens, Thirteenth Edition. Beryllium and Beryllium Compounds CAS No. 7440-41-7 (Beryllium). <http://ntp.niehs.nih.gov/ntp/roc/content/profiles/beryllium.pdf>. Accessed March 9, 2017.

by 90%, to 0.2 $\mu\text{g}/\text{m}^3$, OSHA's final rule, once implemented, would save 90 workers' lives and prevent 46 new cases of the incurable condition CBD each year.⁵

The rule is readily feasible and cost-saving, with industry prepared to comply.

We note that this new rule is readily feasible for companies using beryllium in the workplace. In 2012, the only producer of beryllium in the U.S., Materion Brush, collaborated with the United Steelworkers to propose the lower PEL of 0.2 $\mu\text{g}/\text{m}^3$, along with the ancillary provisions necessary to adequately protect workers. Thus, the final rule is a rare example of industry-labor cooperation to help save workers from a lifetime of disease and premature death. In addition, OSHA projects that the final rule will produce net benefits of about \$561 million each year.

The rule is long overdue.

OSHA first attempted to strengthen protections for workers from beryllium exposure in 1975, but it was stymied by industry backlash and the rule never went forward.⁶ In 1999, the Department of Energy lowered its action level for beryllium that would trigger protective measures from 2.0 $\mu\text{g}/\text{m}^3$ to 0.2 $\mu\text{g}/\text{m}^3$, after it recognized that such a reduction would "significantly decrease the number of workers exposed and the level of exposure to beryllium, and therefore, is expected to decrease disease".⁷ In 2001, following decades of inaction by OSHA, Public Citizen along with the Paper, Allied-Industrial, Chemical & Energy Workers International Union – which has since merged with the United Steelworkers – petitioned OSHA to lower the PEL for beryllium to 0.2 $\mu\text{g}/\text{m}^3$.⁸ After more than 15 years of careful deliberation and close consultation with industry, OSHA finalized a lower beryllium PEL of 0.2 $\mu\text{g}/\text{m}^3$, along with other provisions necessary to protect workers.⁹

The rule must be implemented, as finalized, without further delay.

There is thus no valid reason to further delay this rule. We urge you in the strongest possible terms not to postpone the effective date of the final beryllium rule and to implement the rule, as finalized by OSHA, without further delay. The rule is guaranteed to save workers' lives, will net hundreds of millions of dollars in savings, has been exhaustively vetted with all stakeholders, and is supported by industry.

Thank you for your consideration.

Sincerely,

⁵ Occupational Safety and Health Administration. Protecting Workers from Exposure to Beryllium and Beryllium Compounds: Final Rule Overview. January 2017. <https://www.osha.gov/Publications/OSHA3821.pdf>. Accessed March 9, 2017.

⁶ Meier B. OSHA to Propose Beryllium Limit in the Works Since 1975. The New York Times. August 5, 2015. https://www.nytimes.com/2015/08/07/business/osha-to-propose-beryllium-limit-in-the-works-since-1975.html?_r=3. Accessed March 13, 2017.

⁷ 64 FR 68854. Docket No. EH-RM-98-BRYLM. Chronic Beryllium Disease Prevention Program. December 8, 1999. <http://www.gpo.gov/fdsys/pkg/FR-1999-12-08/pdf/99-31181.pdf>. Accessed March 13, 2017.

⁸ Public Citizen and the Paper, Allied-Industrial, Chemical & Energy Workers International Union. Petition to OSHA to Lower Occupational Exposure to Beryllium. September 1, 2001. <http://www.citizen.org/Page.aspx?pid=2042>. Accessed March 9, 2017.

⁹ Occupational Safety and Health Administration. US Department of Labor issues final rule to lower beryllium levels, increase workplace protections to reduce health risks. January 6, 2017. https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=33627. Accessed March 9, 2017.

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