BERYLLIUM STANDARD IN GENERAL INDUSTRY (29 CFR 1910.1024), CONSTRUCTION (29 CFR 1926.1124), AND MARITIME (29 CFR 1915.1024)
1218-0267

Attachment A - Excerpts from Revising the Beryllium Standard for General Industry Final Rule Describing Significant Substantive Comments and Significant Changes Related to the ICR (OMB Control No. 1218-0267)

In the final rule excerpts below, OSHA provides a summary of the discussion of public comments that pertain to the ICR.

§1910.1024 (d)

Performance Option.

Final paragraph (d)(2) the performance option requires the employer to assess the 8-hour time-weighted average (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. The agency did not receive any comments on this provision and therefore, these provisions will go forward to the final as proposed.

Scheduled Monitoring Option.

In final paragraph (d)(3)(iii) where several employees perform the same tasks on the same shift and in the same work area, the employer may sample a representative fraction of these employees in order to meet the requirements of paragraph (d)(3). In representative sampling, the employer must sample the employee(s) expected to have the highest airborne exposure to beryllium.

The agency made a minor grammatical change to paragraph (d)(3)(iii) from the proposal to the final removing the word “this” from in front “paragraph (d)(3)” in the first sentence of the requirement. OSHA did not receive any public comments on these provisions and therefore, these provisions for paragraph (d)(3)(iii) will go forward to the final as proposed.

§1910.1024 (f)

Methods of Compliance -- Written Exposure Control Plan.

Final paragraph (f)(1)(i) requires the employer to establish, implement, and maintain a written exposure control plan, which must contain:(A) A list of operations and job titles reasonably expected to involve airborne exposure to or dermal contact with beryllium;(B) A list of operations and job titles reasonably expected to involve airborne exposure at or above the action level;(C) A list of operations and job titles reasonably expected to involve airborne exposure above the TWA PEL or STEL;(D) Procedures for minimizing cross-contamination, including the transfer of beryllium between surfaces, equipment, clothing, materials, and articles within beryllium work areas;(E) Procedures for keeping surfaces as free as practicable of beryllium; (F)

Procedures for minimizing the migration of beryllium from beryllium work areas to other locations within or outside the workplace;(G) A list of engineering controls, work practices, and respiratory protection required by paragraph (f)(2) of this standard; (H) A list of personal protective clothing and equipment required by paragraph (h) of this standard; and(I) Procedures for removing, laundering, storing, cleaning, repairing, and disposing of beryllium-contaminated personal protective clothing and equipment, including respirators.

Final 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, when:(A) Any change in production processes, materials, equipment, personnel, work practices, or control methods results, or can reasonably be expected to result, in new or additional airborne exposure to beryllium; (B) The employer is notified that an employee is eligible for medical removal in accordance with paragraph (l)(1) of this standard for evaluation at a CBD diagnostic center, or shows signs or symptoms associated with exposure to beryllium; or (C) The employer has any reason to believe that new or additional airborne exposure is occurring or will occur.

Final 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)).

The first proposed change relates to the contents of the written exposure control plan. Under paragraph (f)(1)(i)(D), employers were previously required to include procedures in their plans for minimizing cross-contamination, "including preventing the transfer of beryllium" between surfaces, equipment, clothing, materials, and articles within beryllium work areas. OSHA proposed removing the word "preventing" from the regulatory text to clarify that these procedures may not totally eliminate the transfer of beryllium, but should minimize cross-contamination of beryllium, including between surfaces, equipment, clothing, materials, and articles.

All of the stakeholders that submitted comments related to OSHA's proposed changes to the written exposure control plan section supported the changes (*see, e.g.,* Document ID 0031, p. 2; 0038, p. 31). For example, EEI observed that OSHA's discussion of the proposed changes were appropriate modifications to the beryllium standard (Document ID 0031, p. 2). Materion also supported the proposed changes and agreed with OSHA that these proposed changes are merely clarifying, and that they will maintain safety and health protections for employees. In addition, Materion noted that it "identifie[d] no reduction in protection to employees associated with these clarifying language revisions" (Document ID 0038, p. 31).

After reviewing these comments and considering the record as a whole, OSHA has determined that the proposed changes will clarify for employers the requirements of the written exposure control plan without sacrificing safety and health protections for workers. Therefore, OSHA is finalizing the proposed changes to paragraph (f) in this final rule.

§1910.1024 (h)(2)(v)

Personal Protective Clothing and Equipment -- Removal and Storage.

Final paragraph (h)(2)(v) when personal protective clothing or equipment required by this standard is removed from the workplace for laundering, cleaning, maintenance, or disposal, the employer must ensure that personal protective clothing and equipment are stored and transported in sealed bags or other closed containers that are impermeable and are labeled in accordance with paragraph (m)(3) of this standard and the Hazard Communication standard (HCS) (29 CFR 1910.1200).

OSHA did not receive any comments on paragraph (h)(2)(v) but did receive multiple comments in support of the proposed change to paragraph (h)(2)(i). USW commented that it believes the change is reasonable and clarifies the intent of the standard (Document ID 0033, p. 6). Similarly, Century Aluminum Company expressed its support for this "sensibl[e]" revision, commenting that it is an example of a logical and workable requirement that will produce better work practices and habits and, in turn, improve employee health and safety outcomes (Document ID 0026, p. 2). In addition, Century commented that requiring PPE to be changed after every task would "significantly increase costs without increasing employee health and safety" and could actually increase the amount of time employees are exposed to beryllium, thus increasing their risk of sensitization and disease (Document ID 0026, p. 2). Materion also expressed its general support for the "clarifying language revisions" to paragraph (h) (Document ID 0038, p. 32).

OSHA received two comments opposing the proposed change to paragraph (h)(2)(i). J. Ryan, a private citizen, commented that, although OSHA did not intend to require continuous PPE changes throughout a work shift, doing so seemed necessary to limit transmission of contaminant between workers and work areas (Document ID 0017). And private citizen Hadee Hedrick commented that if a worker's suit is contaminated, the worker should be required to change even if the suit is not visibly contaminated (Document ID 0019).

§1910.1024 (h)(3)(iii)

Personal Protective Clothing and Equipment -- Cleaning and Replacement.

Final 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 exposure to beryllium and that the personal protective clothing and equipment must be handled in accordance with this standard.

The PPE requirements are intended to protect employees by preventing dermal exposure to beryllium and the accumulation of airborne beryllium on PPE, and to protect employees and

other individuals both inside and outside the workplace from exposures that could occur if contaminated clothing were to transfer beryllium (82 FR at 2678). Proposed paragraph (h)(3)(iii), which addresses cleaning and replacement of PPE, required employers to inform in writing the persons or the business entities who launder, clean, or repair the PPE required by this standard of the potentially harmful effects of "airborne exposure to and dermal contact with beryllium." The 2018 NPRM proposed replacing the phrase "airborne exposure to and dermal contact with beryllium" with "exposure to beryllium". OSHA is retaining the proposed revision to paragraph (h)(3)(iii) in the final rule.

OSHA received no comments on this proposed change beyond Materion's general support for the clarifying revisions to paragraph (h) as a whole (Document ID 0038, p. 32). OSHA is therefore retaining the proposed revision to paragraph (h)(3)(iii) in the final rule.

§1910.1024 (j)(3)

Housekeeping – Disposal, recycling, and reuse.

Final paragraph (j)(3)(i) except for intra-plant transfers, when the employer transfers materials that contain at least 0.1% beryllium by weight or are contaminated with beryllium for disposal, recycling, or reuse, the employer must label the materials in accordance with paragraph (m)(3) of this standard;

Final paragraph (j)(3)(ii) except for intra-plant transfers, materials designated for disposal that contain at least 0.1% beryllium by weight or are contaminated with beryllium must be cleaned to be as free as practicable of beryllium or placed in enclosure that prevent the release of beryllium-containing particulate or solutions under normal conditions of use, storage, or transport, such as bags or containers; and

Final paragraph (j)(3)(iii) except for intra-plant transfers, materials designated for recycling or reuse that contain at least 0.1% beryllium by weight or are contaminated with beryllium must be cleaned to be as free as practicable of beryllium or placed in enclosures that prevent the release of beryllium-containing particulate or solutions under normal conditions of use, storage, or transport, such as bags or containers.

The final rule makes a number of changes to the previous requirements of paragraph (j)(3). As originally promulgated in the 2017 final rule, paragraph (j)(3)(i) required that materials designated for disposal be disposed of in sealed, impermeable enclosures, such as bags or containers, that are labeled according to paragraph (m)(3) of the beryllium standard, but did not allow employers the alternative option of cleaning such material to be as free as practicable of beryllium. Further, both paragraphs (j)(3)(i) and (j)(3)(ii) required that materials be transferred in sealed, impermeable bags, but did not further define this requirement. Finally, the original

paragraph (j)(3) did not explicitly address transfers of materials for the purpose of reuse.[1]

After the promulgation of the 2017 final rule, OSHA learned that some stakeholders were confused about these requirements. For example, stakeholders were uncertain about what types of enclosures would be acceptable under the standard. To help alleviate stakeholder confusion, OSHA proposed a number of changes in the 2018 NPRM that make explicit what had been intended in the 2017 final rulemaking. Specifically, OSHA proposed adding provisions explicitly addressing transferring materials for reuse; clarifying that the rule's requirements for disposal, recycling, and reuse do not apply to intra-plant transfers; and allowing for the cleaning of materials bound for disposal. The agency also proposed reorganizing the paragraph's two paragraphs into three that focused on specific topics and making minor changes in terminology to improve the clarity and internal consistency of the standard. Only one of the changes is substantive, which is the inclusion of the option for cleaning instead of enclosure; the remaining edits merely clarify OSHA's original intent. As discussed in more detail below, OSHA is retaining the changes proposed in the 2018 NPRM in the final rule with only one clarifying revision. With these changes, final paragraph (j)(3) provides comprehensive, easy to understand requirements for employers that are transferring materials that contain at least 0.1 percent beryllium by weight or are contaminated with beryllium outside of their plants for disposal, recycling, or reuse.

In response to the NPRM, a number of commenters, including the Department of Defense, Materion, USW, and EEI, expressed support for the proposed revisions generally (*see, e.g.*, Document ID 0029, p. 1; 0038, pp. 32-33; 0033, p. 5; 0031, p. 2). For example, DOD stated that the revisions "are evidence based and provide greater employee protection" (Document ID 0029, p. 1). Similarly, Materion commented that the revisions "will provide improved understanding and more practical meaning to manufacturers by improving the clarity and internal consistency of the standard" (Document ID 0038, p. 32).

USW supported the proposed inclusion of the "intra-plant transfer" exemption in the regulatory text (Document ID 0033, p. 5). Specifically, USW pointed to its comments on OSHA's 2015 NPRM, which stated that the agency should not require all materials to be decontaminated or sealed in an enclosure (Document ID 0033, p. 5). Rather, USW explained, the initial intent of the corresponding provision of the joint-model standard it drafted with Materion, was "to ensure that materials *leaving a facility* and designated for recycling be containerized or visibly clean" (Document ID 0033, p. 5) (emphasis added).

DOD did not submit a comment on the proposed intra-plant transfer exception, but its comment on another part of paragraph (j)(3) suggested that it understood the paragraph to apply to intra-plant transfers (*see* Document ID 0029, p. 1 ("To support the proposed revisions that require surface cleaning of equipment and materials to remove beryllium before recycling, re-use, or

[1] Subsequent to the 2017 final rule, the 2018 DFR clarified that the requirements of paragraph (j)(3) do not apply to materials containing only trace amounts of beryllium (less than 0.1 percent by weight).

intra-plant transfers, we recommend the use of the Department of Energy's (DOE's) cleanliness standards as specified in Title 10 Code of Federal Regulations Part 850.")).[2] As discussed below, OSHA does not agree with DOD's suggested use of DOE's surface limits and, as already stated, OSHA never intended to require employers to clean or enclose materials transferred within a single plant. Rather, the provisions in paragraph (j)(3) have always been intended to protect employees after the materials leave the facility.

Materion commented that beryllium-containing scrap metal or wastes are, in most cases, recycled internally "either within or between facilities," but companies "also recycle scrap or purchase scrap on the open market" (Document ID 0038, p. 32). Materion further asserted that OSHA's regulation "should not be construed as potentially limiting the environmentally beneficial recycling of metals" (Document ID 0038, p. 32). OSHA agrees that paragraph (j)(3)'s requirements should not be read to discourage the reuse or recycling of metals and reads Materion's statements regarding the manner in which companies recycle scrap metal or wastes (i.e., within or between facilities or on the open market) as purely informational. However, the agency notes that this comment could be read to suggest that the exception for items transferred within a facility also applies to items transferred between two facilities owned by the same employer. Such an interpretation would be incorrect—the *intra*-plant transfer exception only exempts transfers within a single plant; material transfers between plants are not excluded, regardless of plant ownership.

This comment also alerted the agency to a potential ambiguity in the text of proposed paragraph (j)(3)(i). Specifically, OSHA realized that the phrase "to another party" could be read to suggest that transfers between two facilities owned by the same employer are exempted from the labeling requirements in paragraph (j)(3)(i). Again, this was not the agency's intent. As noted above, the proposed addition of the explicit intra-plant transfer exception in paragraphs (j)(3)(ii) and (iii) was not a substantive change—the agency never intended to require employers to clean or enclose materials transferred within a single plant. The reorganization of paragraph (j)(3) was also not a substantive change; it merely allowed the agency to make clear that the labeling requirements apply regardless of whether the employer transfers materials for the purpose of disposal, recycling, or reuse (83 FR at 63763, 63756). Because the labeling requirements were part of paragraphs (j)(3)(i) and (ii) in the 2017 final rule, to which the intra-plant exemption applied, and were simply moved to a new stand-alone paragraph without substantive change, the scope of those activities requiring labeling has not changed. Put another way, the intra-plant exemption continues to apply to the labeling provision to the same extent it did prior to the proposal. And, more to the point, the labeling requirement continues to apply to all other transfers for purposes of disposal, recycling, or reuse, regardless of whether they involve transfers between two locations operated by the same employer.

In summary, OSHA is finalizing (j)(3) as proposed in 2018, except for the clarifying revision in

[2] DOD's suggestion regarding DOE's cleanliness standards is addressed in this Summary and Explanation section as part of the discussion of the seventh and final proposed change to paragraph (j)(3) relating to the cleaning of materials designated for disposal, recycling, or reuse.

paragraph (j)(3)(i), which explicitly incorporates the intra-plant exception found in paragraphs (j)(3)(ii) and (j)(3)(iii). OSHA has based this decision on the record and has determined this will maintain or enhance worker protections.

§1910.1024 (k)

Medical Surveillance.

Final paragraph (k)(2) requires the employer to provide a medical examination: (i) Within 30 days after determining that: (A) An employee meets the criteria of paragraph (k)(1)(i)(A), unless the employee has received a medical examination, provided in accordance with this standard, within the last two years; or (B) An employee meets the criteria of paragraph (k)(1)(i)(B). And Final paragraph (k)(2)(ii) requires at least every two years thereafter for each employee who continues to meet the criteria of paragraph (k)(1)(i)(A), (B), or (D) of this standard. Final paragraph (k)(2)(iii) requires at the termination of employment for each employee who meets any of the criteria of paragraph (k)(1)(i) of this standard at the time the employee's employment terminates, unless an examination has been provided in accordance with this standard during the six months prior to the date of termination. Each employee who meets the criteria of paragraph (k)(1)(i)(C) and who has not received an examination since exposure to beryllium during the emergency must be provided an examination at the time the employee's employment terminates. Final paragraph (k)(2)(iv) requires for an employee who meets the criteria of paragraph (k)(1)(i)(C): (A) If that employee has not received a medical examination within the previous two years pursuant to paragraph (k)(1)(i), then within 30 days after the employee meets the criteria of paragraph (k)(1)(i)(C); or (B) If that employee has received a medical examination within the previous two years pursuant to paragraph (k)(1)(i), then at least one year but no more than two years after the employee meets the criteria of paragraph (k)(1)(i)(C).

OSHA proposed removing the requirement for a medical examination within 30 days of exposure in an emergency, under paragraph (k)(2)(i)(B), and adding paragraph (k)(2)(iv), which would require the employer to offer a medical examination at least one year after but no more than two years after the employee is exposed to beryllium in an emergency. OSHA requested comments on the appropriateness of this change (83 FR at 63757).

Several stakeholders commented on this issue. National Jewish Health (NJH) supported extending the time to offer medical surveillance to one year after an emergency because 30 days following a high exposure may not be enough time to detect beryllium sensitization (Document ID 0022, p. 8). Materion also agreed with the proposed one-to-two-year timeframe times for examinations following exposure during an emergency because 30 days may be too soon to detect an immunological change using the BeLPT (Document ID 0038, p. 33). Washington State Department of Labor and Industries Division of Occupational Safety and Health (DOSH) similarly commented that delaying the medical examination to one year might improve the detection of sensitization because it may take several months to detect it (Document ID 0023, p. 2). However, DOSH also expressed concern that workers would not get counselling about signs and symptoms of beryllium-related conditions, an occupational history review, and other medical

advice which may allow for the worker to identify a developing condition within the first year after exposure (Document ID 0023, p. 2). DOSH added that if the medical examination will be delayed, it would be appropriate to have a requirement for additional training or a brief medical consultation for workers who are not knowledgeable about beryllium and the potential medical conditions which may be triggered by exposure (Document ID 0023, pp. 2-3).

The American College of Occupational and Environmental Medicine (ACOEM) and the National Supplemental Screening Program (NSSP) shared DOSH's concerns regarding potential delays in consultations and counseling (Document ID 0024, p. 2; 0027, p. 4). NSSP recommended an earlier discussion with employees exposed in an emergency to address their individual concerns, the medical path forward, options available, and to answer any questions the employees might have (Document ID 0027, p. 4). It suggested that the medical examination could then be scheduled in keeping with the individual employee's medical needs (Document ID 0027, p. 4). ACOEM opposed the change, arguing that workers who are exposed to beryllium in an emergency deserve prompt medical evaluation to understand the potential health risks, receive baseline testing, if desired, and to receive medical counseling (Document ID 0024, p. 2). ACOEM maintained that it would be "an extremely insensitive and harsh change in policy" to require exposed workers to wait more than a year to receive professional medical advice (Document ID 0024, p. 2). On the other hand, Materion argued that the standard protects workers who may have been exposed in an emergency, regardless of when the emergency occurred, by requiring employers to make medical surveillance available to any employees showing signs and symptoms of CBD or other beryllium-related health effects (Document ID 0038, p. 33). Specifically, paragraph (k)(2)(i)(B) (29 CFR 1910.1024(k)(2)(i)(B)) requires employers to provide an examination to these employees within 30 days of determining that the employee shows signs or symptoms of CBD.

After considering these comments and the record as a whole on this issue, OSHA reaffirms its preliminary belief that testing conducted during the proposed time period of one to two years is more likely to detect sensitization than testing conducted 30 days following emergency exposure (82 FR at 63757).

Final paragraph (k)(3)(i) requires the employer to ensure that the PLHCP conducting the examination advises the employee of the risks and benefits of participating in the medical surveillance program and the employee's right to opt out of any or all parts of the medical examination. Final paragraph (k)(3)(ii) requires the employer to ensure that the employee is offered a medical examination that includes:(A) A medical and work history, with emphasis on past and present airborne exposure to or dermal contact with beryllium, smoking history, and any history of respiratory system dysfunction;(B) A physical examination with emphasis on the respiratory system; (C) A physical examination for skin rashes;(D) Pulmonary function tests, performed in accordance with the guidelines established by the American Thoracic Society including forced vital capacity (FVC) and forced expiratory volume in one second (FEV_1); (E) A standardized BeLPT or equivalent test, upon the first examination and at least every two years thereafter, unless the employee is confirmed positive. If the results of the BeLPT are other than

normal, a follow-up BeLPT must be offered within 30 days, unless the employee has been confirmed positive. Samples must be analyzed in a laboratory certified under the College of American Pathologists/Clinical Laboratory Improvement Amendments guidelines to perform the BeLPT. (F) A low dose computed tomography scan, when recommended by the PLHCP after considering the employee's history of exposure to beryllium along with other risk factors, such as smoking history, family medical history, sex, age, and presence of existing lung disease; and (G) Any other test deemed appropriate by the PLHCP.

OSHA recognizes, as NJH, DOSH, and Materion noted, that 30 days following the emergency is not the best timeframe for detecting sensitization. However, paragraph (k)(3)(ii)(E) of the beryllium standard for general industry already requires that employees who received a medical examination because of an emergency exposure continue to receive a BeLPT, or an equivalent test, every two years following that examination, unless the employee is confirmed positive. Therefore, the standard already requires the employers to offer these employees a BeLPT during the best timeframe for detecting sensitization.

Licensed Physician's Written Medical Report for the Employee.

Final paragraph (k)(5) requires the employer must ensure that the employee receives a written medical report from the licensed physician within 45 days of the examination (including any follow-up BeLPT required under paragraph (k)(3)(ii)(E) of this standard) and that the PLHCP explains the results of the examination to the employee. The written medical report must contain: (i) A statement indicating the results of the medical examination, including the licensed physician's opinion as to whether the employee has: (A) Any detected medical condition, such as CBD or beryllium sensitization (i.e., the employee is confirmed positive, as defined in paragraph (b) of this standard), that may place the employee at increased risk from further airborne exposure, and (B) Any medical conditions related to airborne exposure that require further evaluation or treatment. In final paragraph (k)(5)(ii), the report must contain any recommendations on: (A) The employee's use of respirators, protective clothing, or equipment; or (B) Limitations on the employee's airborne exposure to beryllium. In final paragraph (k)(5)(iii) if the employee is confirmed positive or diagnosed with CBD or if the licensed physician otherwise deems it appropriate, the written report must also contain a referral for an evaluation at a CBD diagnostic center. In final paragraph (k)(5)(iv) if the employee is confirmed positive or diagnosed with CBD the written report must also contain a recommendation for continued periodic medical surveillance. In final paragraph (k)(5)(v) if the employee is confirmed positive or diagnosed with CBD the written report must also contain a recommendation for medical removal from airborne exposure to beryllium, as described in paragraph (l) of this standard.

The requirement for continuing BeLPTs for any employee who has received an examination under the beryllium standard, including for an emergency exposure, addresses another concern voiced by NJH, which is that anyone exposed in an emergency should be provided periodic medical surveillance (Document ID 0022, p. 8). If the employee is confirmed positive, or if the licensed physician otherwise deems it appropriate, the licensed physician is to provide in the

written medical opinion to the employee a referral to a CBD diagnostic center and a recommendation for continued periodic medical surveillance under paragraph (k)(5)(iii) and (iv).

Referral to the CBD Diagnostic Center.

Final paragraph (k)(7) is the referral to the CBD diagnostic center. Final paragraph (k)(7)(i) requires the employer 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 evaluation at the CBD diagnostic center must be scheduled within 30 days, and must occur within a reasonable time, 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.

In final paragraph (k)(7)(ii) requires an evaluation to include any tests deemed appropriate by the examining physician at the CBD diagnostic center, such as pulmonary function testing (as outlined by the American Thoracic Society criteria), bronchoalveolar lavage (BAL), and transbronchial biopsy. If any of the tests deemed appropriate by the examining physician are not available at the CBD diagnostic center, they may be performed at another location that is mutually agreed upon by the employer and the employee. Final paragraph (k)(7)(iii) requires the employer to ensure that the employee receives a written medical report from the CBD diagnostic center that contains all the information required in paragraph (k)(5)(i), (ii), (iv), and (v) of this standard and that the PLHCP explains the results of the examination to the employee within 30 days of the examination. Final paragraph (k)(7)(iv) requires the employer to obtain a written medical opinion from the CBD diagnostic center within 30 days of the medical examination. The written medical opinion must contain only the information in paragraph (k)(6)(i), as applicable, unless the employee provides written authorization to release additional information. If the employee provides written authorization, the written opinion must also contain the information from paragraphs (k)(6)(ii), (iv), and (v), if applicable. Final paragraph (k)(7)(v) requires the employer to ensure that each employee receives a copy of the written medical opinion from the CBD diagnostic center described in paragraph (k)(7) of this standard within 30 days of any medical examination performed for that employee. In final paragraph (k)(7)(vi) after an employee has received the initial clinical evaluation at a CBD diagnostic center described in paragraphs (k)(7)(i) and (ii) of this standard, the employee may choose to have any subsequent medical examinations for which the employee is eligible under paragraph (k) of this standard performed at a CBD diagnostic center mutually agreed upon by the employer and the employee, and the employer must provide such examinations at no cost to the employee.

The last set of changes that OSHA proposed to the standard's medical surveillance requirements is in paragraph (k)(7), which contains the requirements for evaluation at a CBD Diagnostic Center. In this final rule, OSHA is amending paragraph (k)(7) in three ways. First, OSHA is revising paragraph (k)(7)(i) to require that the evaluation must be scheduled within 30 days, and must occur within a reasonable time, of the employer receiving one of the types of

documentation listed in paragraph (k)(7)(i)(A) or (B). Second, OSHA is adding a provision, in paragraph (k)(7)(ii), which specifies that the evaluation must include any tests deemed appropriate by the examining physician at the CBD diagnostic center, such as pulmonary function testing (as outlined by the American Thoracic Society criteria), bronchoalveolar lavage (BAL), and transbronchial biopsy. The new provision also states that if any of the tests deemed appropriate by the examining physician are not available at the CBD diagnostic center, they may be performed at another location that is mutually agreed upon by the employer and the employee. Third, OSHA is making a handful of minor, non-substantive numbering and reference edits to other provisions in paragraph (k)(7) to account the addition of new paragraph (k)(7)(ii). Specifically, OSHA is renumbering current paragraphs (k)(7)(ii), (iii), (iv), and (v) as (k)(7)(iii), (iv), (v), and (vi), accordingly, and is adding a reference to new paragraph (k)(7)(ii) to the newly renumbered paragraph (k)(7)(vi).

Each of these final revisions differ in some way from the proposed amendments based on stakeholder feedback. With regard to the first change, related to the timing of the exam, the current standard requires employers to provide the examination within 30 days of the employer receiving one of the types of documentation listed in paragraph (k)(7)(i)(A) or (B). The purpose of the 30-day requirement was to ensure that employees receive the examination in a timely manner. However, as OSHA explained in the proposal, since the publication of the 2017 final rule, stakeholders have raised concerns that the examination and any required tests could not be scheduled and completed within 30 days (83 FR at 63758).

To address this concern, OSHA proposed that the employer provide an initial consultation with the CBD diagnostic center, which could occur via telephone or virtual conferencing methods, rather than the full evaluation, within 30 days of the employer receiving one of the types of documentation listed in paragraph (k)(7)(i)(A) or (B). OSHA explained that providing a consultation before the full examination at the CBD diagnostic center would demonstrate that the employer made an effort to begin the process for a medical examination. OSHA also noted that the proposed change would also allow (1) the employee to consult with a physician to discuss concerns and ask questions while waiting for a medical examination, and (2) the physician to explain the types of tests that are recommended based on medical findings about the employee and the risks and benefits of undergoing such testing. OSHA requested comments on the appropriateness of providing the consultation within 30 days and on the sufficiency of a consultation via telephone or virtual conference (83 FR at 63758).

Several stakeholders offered comments on this issue (Document ID 0021, p. 3; 0022, p. 6; 0029, p. 2; 0038, p. 34). ATS, NJH, and Materion agreed that an examination at the CBD diagnostic center should not be required to occur within 30 days of the referral because it may take weeks or months before the CBD diagnostic center has an opening for an evaluation. In addition, many of the stakeholders noted that work responsibilities, personal and family obligations, or the need to arrange travel may make it difficult for employees to have an evaluation done within that time period.

Materion also supported the proposed requirement for a telephone or virtual consultation within 30 days, claiming that it is a more workable solution that does not reduce protections, while allowing employees to consider medical options available under the standard and offering the employee more flexibility in determining when they can undergo testing based on their availability and preference (Document ID 0038, p. 34). In contrast to Materion, ATS and NJH opposed the proposed requirement for a consultation that can be performed via telephone or virtual conferencing within 30 days of the employer receiving documentation recommending a referral. NJH commented:

> A video or phone consultation adds cost and logistics to scheduling and is not necessary as the PLHCP who sees the employee for screening provides information on the clinical evaluation. HIPAA privacy issues of a phone or video conference also exist. A full clinical evaluation including review of both the available medical and exposure data and hands-on medical assessment are essential to providing the best, most efficient care – from a time and financial perspective

(Document ID 0022, p. 6).

ATS agreed with many of the concerns expressed by NJH, including logistical challenges, the need for an in-person clinical evaluation and review of medical tests to provide effective care, and redundancy with the PLHCP consultation (Document ID 0021, p. 3). ATS and NJH recommended that the standard be revised to require that the employer make an appointment for the employee to be evaluated at the CBD diagnostic center within 30 days of receiving documentation for the referral (Document ID 0021, p. 3; Document ID 0022, p. 6). DoD also opposed requiring an evaluation by telephone or virtual conferencing and stated that an ill worker should be examined immediately; it recommended that the employer make the appointment for evaluation at a CBD diagnostic center within 7 days of receiving documentation for a referral (Document ID 0029, p. 2).

After considering these comments, OSHA is convinced that scheduling a phone or virtual consultation with the CDB diagnostic center is an unnecessary step that adds logistical complications and costs. Although the agency understands Materion's point that the additional consultation could provide employees with more time and information to make medical decisions, as well as accommodate other scheduling logistics, OSHA finds that the scheduling approach suggested by ATS and NJH addresses both the logistical difficulties cited by stakeholders with respect to the requirements in the current standard and the timing concerns brought up by Materion. Moreover, OSHA finds that employees will have enough information (through trainings under paragraph (m) and discussions with the PLHCP)[3] to allow them to decide whether to choose to be evaluated at the CBD diagnostic center without the need for an additional consultation. OSHA is therefore amending paragraph (k)(7)(i) to require that the

[3] Under paragraph (k)(6)(i)(D), the employer is to ensure that the PLHCP explains the results of the medical examination to the employee, including results of tests conducted and medical conditions related to airborne beryllium exposure that require further evaluation or treatment.

employer schedule an examination at a CBD diagnostic center within 30 days of receiving one of the types of documentation listed in paragraph (k)(7)(i)(A) or (B). And, to maintain the intent of the 2017 final rule and the 2018 NPRM to ensure that evaluation at a CBD diagnostic center occurs in a timely manner, OSHA is adding that the evaluation must occur within a reasonable time. Requiring that the evaluation occur within a reasonable time ensures that the evaluation be done as soon as practicable based upon availability of openings at the CBD diagnostic center and the employee's preferences. This revision better addresses OSHA's original intent that the employee be examined within a timely period, while providing employees and employers with maximum flexibility and convenience.

Although OSHA understands DoD's concerns about making a timely appointment, requiring that an appointment be made within a 7-day period might not give the employee enough time to consider his or her future obligations and possibly have discussions with family members to determine the best time period for the examination. OSHA believes that a 30-day period to schedule an appointment for an examination is a reasonable time that allows the employee to consider his or her preferences for an examination date. In addition, a 30-day period offers more administrative convenience for employers because it is consistent with other triggers in the beryllium standard.

The second change that OSHA proposed to paragraph (k)(7)(i) relates to the contents of the examination at the CBD diagnostic center. As discussed in more detail above, the former definition of *CBD diagnostic center*—which stated that the evaluation at the diagnostic center "must include" a pulmonary function test as outlined by ATS criteria, BAL, and transbronchial biopsy —could have been misinterpreted to mean that the examining physician was required to perform each of these tests during every clinical evaluation at a CBD diagnostic center. That was not OSHA's intent. Rather, the agency merely intended to ensure that any CBD diagnostic center has the capacity to perform any of these tests, which are commonly needed to diagnose CBD. Therefore, OSHA proposed revising the definition to clarify that the CBD diagnostic center must simply have the ability to perform each of these tests when deemed appropriate.

To account for that proposed change to the definition of CBD diagnostic center and to ensure that the employer provides those tests if deemed appropriate by the examining physician at the CBD diagnostic center, OSHA proposed expanding paragraph (k)(7)(i) to require that the employer provide, at no cost to the employee and within a reasonable time after consultation with the CBD diagnostic center, any of the three tests mentioned above, if deemed appropriate by the examining physician at the CBD diagnostic center (83 FR at 63764). OSHA explained that the revision would also clarify the agency's original intent that, instead of requiring all three tests to be conducted after referral to a CBD diagnostic center, the standard would allow the examining physician at the CBD diagnostic center the discretion to select one or more of those tests as appropriate (83 FR at 63764).

Several stakeholders offered opinions on these proposed changes. For example, Materion agreed with the proposed changes to align paragraph (k)(7)(i) with the definition for *CBD diagnostic*

center (Document ID 0038, p. 34). However, as discussed above in the summary and explanation section on definitions, ATS argued that "not requiring certain diagnostic tests (or an equivalent) could reduce the potential to diagnose CBD and determine disease severity" (Document ID 0021, p. 3). ATS further asserted that "confirmed positive workers should have an assessment of lung function and gas exchange (such as a full set of pulmonary function tests with spirometry, lung volumes and diffusion capacity for carbon monoxide or other similar tests) and also chest imaging" (Document ID 0021, p. 3). NJH and the Association of Occupational and Environmental Clinics (AOEC) expressed similar concerns, commenting that lung function and imaging tests should be included as part of an evaluation at the CBD diagnostic center (Document ID 0022, p. 3; 0028, p. 2).

After reviewing these comments and the remainder of the record on this issue, OSHA agrees that pulmonary function testing, BAL, and transbronchial biopsies are important diagnostic tools, but finds that the examining physician at the CBD diagnostic center is in the best position to determine which diagnostic tests are appropriate for particular workers. The agency believes that the modified definition of the term *CBD diagnostic center*, which requires the centers to have the capacity to perform these three tests, will serve to ensure that healthcare providers at the centers are aware of the importance of and are able to perform pulmonary function testing, BAL, and transbronchial biopsies.

However, OSHA understands that the proposed provision could be misinterpreted to mean that the employer does not have to make available additional tests that the examining physician deems appropriate for reasons such as diagnosing or determining severity of CBD. That was never the agency's intent. In fact, OSHA noted the potential for other tests, as deemed necessary by the CBD diagnostic center physician, several times in the preamble to the 2017 final rule (see, e.g., 82 FR at 2709, 2714). Similar to paragraph (k)(3)(ii)(G), which provides that the employer ensure that the employee is offered as part of the initial or periodic medical examination any test deemed appropriate by the PLHCP, OSHA intends for the employer to offer the employee any tests deemed appropriate by the examining physician at the CBD diagnostic center, including tests for diagnosing CBD, for determining its severity, and for monitoring progression of CBD following diagnosis. Allowing the physician at the CBD diagnostic center to order additional tests that are deemed appropriate is also consistent with most OSHA substance-specific standards, such as respirable crystalline silica (29 CFR 1910.1053) and chromium (VI) (29 CFR 1910.1026).

To clarify the agency's intent that the physician at the CBD diagnostic center has discretion to order appropriate tests, and to further respond to stakeholder concerns regarding the necessity of pulmonary function testing, BAL, and transbronchial biopsies, OSHA is adding a new sub-paragraph (k)(7)(ii), which focuses on the content of the examination. This new provision requires that the evaluation include any tests deemed appropriate by the examining physician at the CBD diagnostic center, such as pulmonary function testing (as outlined by the ATS criteria), BAL, and transbronchial biopsy. OSHA intends for the new provision to make clear that the employer must provide additional tests, such as those noted by ATS, NJH, and AOEC, at no cost

to the employee, if those tests are deemed necessary by the examining physician. The agency also believes that explicitly naming the three examples of tests that may be appropriate will further emphasize their importance to examining physicians at the CBD diagnostic centers.

Consistent with OSHA's original intent, those tests are only required to be offered if deemed appropriate by the physician at the CBD diagnostic center. For example, if lung volume and diffusion tests were performed according to ATS criteria as part of the periodic medical examination under paragraph (k)(3) and the physician at the CBD diagnostic center found them to be of acceptable quality, those tests would not have to be repeated as part of a CBD evaluation. The addition of paragraph (k)(7)(ii) clarifies that the employer must, however, offer any test that the PLHCP deems appropriate. Consistent with previous health standards and the meaning of the identical phrase in paragraph (k)(3)(ii)(G), OSHA intends the phrase ''deemed appropriate'' to mean that additional tests requested by the physician must be both related to beryllium exposure and medically necessary, based on the findings of the medical examination (see 82 FR at 2709; 81 FR at 16826).

New paragraph (k)(7)(ii) also addresses the possibility that a test that is deemed appropriate by the examining physician at the CBD diagnostic center might not be available at that center. Although OSHA's intention has been to require any testing to be provided by the same CBD diagnostic center unless the employer and employee agree to a different CBD diagnostic center (see 83 FR at 63758), there may be cases where the CBD diagnostic center does not perform a type of test deemed appropriate by the examining physician. In such a case, OSHA wants to ensure that the employee can receive the appropriate test. Therefore, OSHA is also including in paragraph (k)(7)(ii) a requirement that if any of those tests deemed appropriate by the physician are not available at the CBD diagnostic center, they may be performed at another location that is mutually agreed upon by the employer and the employee. This other location does not need to be a CBD diagnosis center as long as it is able to perform tests according to requirements under paragraph (k).

As noted above, OSHA is also making a handful of minor, non-substantive numbering and reference edits to other provisions in paragraph (k)(7) to account the addition of new paragraph (k)(7)(ii). Specifically, OSHA is renumbering current paragraphs (k)(7)(ii)-(v) as (k)(7)(iii), (iv), (v), and (vi), accordingly, and is adding a reference to new paragraph (k)(7)(ii) to the newly renumbered paragraph (k)(7)(vi). Paragraph (k)(7)(vi) provided that after an employee received the initial clinical evaluation at the CBD diagnostic center described in paragraph (k)(7)(i), the employee could choose to have any subsequent medical evaluations for which the employee is eligible under paragraph (k) performed at a CBD diagnostic center mutually agreed upon by the employer and employee and that the employer must provide such examinations to the employee at no cost. OSHA is revising the paragraph to add the reference to new paragraph (k)(7)(ii) because the description of the initial clinical evaluation is now split between paragraph (k)(7)(i) and (ii), rather than solely appearing in paragraph (k)(7)(i). OSHA does not expect that this clarifying change will have any substantive effect. Newly renumbered paragraph (k)(7)(vi) (previous paragraph (k)(7)(v)), therefore, continues to require that, after an employee has

received the initial clinical evaluation at a CBD diagnostic center, the employee may choose to have any subsequent medical examinations for which the employee is eligible under paragraph (k) of this standard performed at a CBD diagnostic center mutually agreed upon by the employer and the employee, and the employer must provide such examinations at no cost to the employee.

The addition of paragraph (k)(7)(ii) and consequential renumbering of current paragraphs (k)(7)(ii)-(v) as (k)(7)(iii), (iv), (v), and (vi) also affects two other cross-references in the standard. Paragraph (l)(1) of the standard details the eligibility requirements for medical removal. Two of the criteria, those in (l)(1)(i)(B) and (l)(1)(ii) reference paragraphs (k)(7)(ii) and (k)(7)(iii), respectively. In this final rule, OSHA is updating those references to reflect the renumbering in paragraph (k)(7). Therefore, final paragraph (l)(1)(i)(B) references paragraph (k)(7)(iii) and paragraph (l)(1)(ii) references paragraph (k)(7)(iv). These consequential edits, like those noted above in paragraph (k)(7)(vi), do not change the substantive meaning of the provisions.

§1910.1024 (m)

Warning labels

Final paragraph (m)(3) consistent with the HCS (29 CFR 1910.1200), requires the employer to label each immediate container of clothing, equipment, and materials contaminated with beryllium, and must, at a minimum, include the following on the label: DANGER, CONTAINS BERYLLIUM, MAY CAUSE CANCER, CAUSES DAMAGE TO LUNGS, AVOID CREATING DUST, and DO NOT GET ON SKIN.

Employee Information

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

In the 2018 NPRM, OSHA proposed three revisions to paragraph (m) of the beryllium standard for general industry (83 FR at 63759-60, 63769). The first change is related to paragraph (m)(3), which previously required employers to label “each bag and container” of clothing, equipment, and materials contaminated with beryllium. In the 2018 NPRM, OSHA proposed to replace the phrase “each bag and container” with the phrase “each immediate container,” to clarify that the employer need only label the immediate bag or container of beryllium-contaminated items and not larger containers holding the labeled bag or container. OSHA proposed this change to be consistent with the HCS, which requires only the primary or immediate container to be labeled (See 29 CFR 1910.1200(c)) (definition of “Label”). OSHA explained that this proposed change would effectuate OSHA’s intent, expressed in the 2017 final rule, that the hazard communication requirements of the beryllium standard “be substantively as consistent as possible” with the HCS (82 FR at 2694, 2724). As such, OSHA preliminarily determined that the change would maintain

safety and health protections for workers.

Next, OSHA proposed two revisions to paragraph (m)(4), which addresses employee information and training. Paragraph (m)(4)(ii) requires the employer to ensure that each employee who is, or can reasonably be expected to be, exposed to airborne beryllium can demonstrate knowledge and understanding of certain specified topics. One of the topics specified in the previous standard was the health hazards associated with "airborne exposure to and contact with beryllium," including the signs and symptoms of CBD (83 FR at 63759). OSHA proposed to modify this language by adding the word "dermal" immediately prior to "contact with beryllium." OSHA explained that the change would clarify OSHA's intent that employers must ensure that exposed employees can demonstrate knowledge and understanding of the health hazards caused by dermal contact with beryllium.

OSHA also proposed to modify the language in paragraph (m)(4)(ii)(E), which required the employer to ensure that each employee who is, or can reasonably be expected to be, exposed to airborne beryllium can demonstrate knowledge and understanding of measures employees can take to protect themselves from "airborne exposure to and contact with beryllium," including personal hygiene practices (83 FR at 63759). As with the previous revision, OSHA proposed adding the word "dermal" to "contact with beryllium" to clarify OSHA's intent that employers must ensure exposed employees can demonstrate knowledge and understanding of measures employees can take to protect themselves from dermal contact with beryllium.

Commenters did not object to any of the changes that OSHA proposed to paragraph (m). In fact, the only stakeholder that offered any comments on these revisions, Materion, generally supported the proposed changes, commenting that the changes will maintain safety and health protections for employees (Document ID 0038, p. 34). OSHA agrees with this assessment and finds that the proposed changes will clarify employers' requirements for the communication of hazards of beryllium. Therefore, OSHA is finalizing the proposed changes to paragraph (m) in this final rule.

§1910.1024 (n) -- Recordkeeping.

Air Monitoring Data.

Final paragraph (n)(1)(i) requires the employer to make and maintain a record of all exposure measurements taken to assess airborne exposure as prescribed in paragraph (d) of this standard.

In final paragraph (n)(1)(ii) requires this record to include at least the following information: (A) The date of measurement for each sample taken; (B) The task that is being monitored; (C) The sampling and analytical methods used and evidence of their accuracy; (D) The number, duration, and results of samples taken; (E) The type of personal protective clothing and equipment, including respirators, worn by monitored employees at the time of monitoring; and

(F) The name and job classification of each employee represented by the monitoring, indicating which employees were actually monitored.

Final paragraph (n)(1)(iii) requires the employer to ensure that exposure records are maintained and made available in accordance with the Records Access standard (29 CFR 1910.1020).

Medical Surveillance.

Final paragraph (n)(3)(i) requires the employer to make and maintain a record for each employee covered by medical surveillance under paragraph (k) of this standard.

Final paragraph (n)(3)(ii) The record must include the following information about the employee: (A) Name and job classification;(B) A copy of all licensed physicians' written medical opinions for each employee; and (C) A copy of the information provided to the PLHCP as required by paragraph (k) (4) of this standard.

Final paragraph (n)(3)(iii) requires the employer to ensure that medical records are maintained and made available in accordance with the Records Access standard (29 CFR 1910.1020).

Training.

Final paragraph (n)(4) (i) At the completion of any training required by this standard, the employer must prepare a record that indicates the name and job classification of each employee trained, the date the training was completed, and the topic of the training.

Final paragraph (n)(4)(ii) This record must be maintained for three years after the completion of training.

Paragraph (n) of the beryllium standard for general industry requires employers to make and maintain air monitoring data, objective data, and medical surveillance records, and prepare and maintain training records. The 2017 final rule required employers' air monitoring data ((n)(1)(ii)(F)), medical surveillance ((n)(3)(ii)(A)), and training ((n)(4)(i)) records to include employee Social Security Numbers (SSNs). In the 2018 NPRM, OSHA proposed to modify paragraph (n) to remove that requirement. This final rule adopts the proposed revisions, eliminating the requirement to include employee SSNs in these records.

The issue of whether to include employee SSNs in records under OSHA's standards for beryllium dates back to the 2015 beryllium NPRM. In that NPRM, OSHA proposed to require inclusion of employee SSNs in records related to air monitoring, medical surveillance, and training, similar to provisions in previous substance-specific health standards. Some stakeholders objected to the proposed requirement based on employee privacy and identity theft concerns (82 FR 2730). OSHA recognized the validity of these concerns, but preliminarily concluded that due to the agency's past consistent practice of requiring an employee's SSN on records, any change to this requirement should be comprehensive and apply to all OSHA standards, not just the standards for beryllium (82 FR 2730).

In 2016, in its Standards Improvement Project-Phase IV (SIP–IV) proposed rule (81 FR 68504, 68526-68528 (10/4/16)), OSHA proposed to delete the requirement that employers include employee SSNs in records required by the agency's substance-specific standards. The 2017 final rule for beryllium included the SSN requirements, but, in the preamble, OSHA recognized that the SIP-IV rulemaking was ongoing and stated that it would revisit its decision to require employers to include SSNs in beryllium records in light of the SIP-IV rulemaking, if appropriate (82 FR 2730).

The SIP-IV rulemaking was still ongoing when OSHA published the 2018 NPRM. Consistent with the SIP-IV proposal, OSHA proposed to modify the beryllium standard for general industry by removing the requirement to include SSNs in the recordkeeping provisions in paragraphs (n)(1)(ii)(F) (air monitoring data), (n)(3)(ii)(A) (medical surveillance), and (n)(4)(i) (training). OSHA noted that these proposed revisions would address the privacy concerns raised in response to the 2015 NPRM, while maintaining safety and health protection for workers.

Three commenters, Phylmar Regulatory Roundtable, DoD, and Materion, expressed general support for the proposed changes to the recordkeeping provisions (Document IDs 0020, p.1; 0029, p. 1; and 0038, p. 34), and no commenters expressed opposition to OSHA's proposal to remove the requirement to include each employee's SSN in these three sets of records. After reviewing these comments, OSHA is retaining the proposed deletion of the SSN requirements in the final rule. This change is also consistent with the agency's decision in the SIP-IV rulemaking, which was finalized in the months since the publication of the 2018 NPRM (84 FR 21416). The SIP-IV final rule, which was published on May 14, 2019, deletes the requirement to include employee SSNs in records employers must maintain under the substance-specific standards that existed at the time of OSHA's 2016 SIP-IV proposal (84 FR 21416).[4] The deletion of the SSN requirements in the beryllium general industry standard will, thus, bring this standard into line with the majority of OSHA's other substance-specific standards.

OSHA also received one other comment related to SSNs in this rulemaking. J. Ryan, a private citizen, agreed that the proposed changes were "necessary and appropriate," but expressed concerns that there is no additional requirement to remove SSNs from existing records and that allowing employers the option to continue using SSNs will not effectively protect employee privacy (Document ID 0017). OSHA understands J. Ryan's concerns. The SIP-IV NPRM did not propose to require employers to remove employee SSNs from existing records or to prohibit employers from using employee SSNs in their records. However, the agency requested comment on whether employers should be required to use an alternative identification system rather than SSNs, or to remove SSNs from existing records (81 FR 68528).

As discussed in the preamble to the SIP-IV final rule (84 FR at 21440), the comments that

[4] The beryllium standard for general industry, which was not published until 2017, was not listed in the SIP-IV NPRM and, therefore, the SIP-IV final rule does not affect the 2017 final rule's requirement to include employee SSNs in records.

OSHA received in response to the SIP-IV NPRM advocated against requiring employers to use an alternative type of employee identifier or to remove SSNs from existing records. For example, the Construction Industry Safety Coalition (CISC) supported OSHA's statements in the SIP-IV NPRM that employers would not be required to delete employee SSNs from existing records, would not be required to use an alternative employee identifier on existing records, and would still be permitted to use SSNs if they wish to do so. CISC stated that limiting employers' flexibility to come up with an identification system that works best for their unique situations would create undue compliance burden. (Id.) After considering the comments, OSHA decided in the SIP-IV final rule to proceed with removing the SSN collection requirements from previously published standards, but not to require employers to delete employee SSNs from existing records or to use an alternative employee identifier.

In order to maintain consistency among OSHA recordkeeping requirements for substance-specific standards, the agency has decided not to require employers to delete employee SSNs from existing records relating to beryllium or to use an alternative employee identifier. The final rule allows employers the option to still use SSNs or to use some other alternative employee identifier system, as explained in the SIP-IV final rule. This will give employers the flexibility to choose the best option for their particular circumstance and will avoid unnecessarily increasing employers' compliance burdens.