

U.S. DEPARTMENT OF ENERGY
OFFICE OF ENVIRONMENT, SAFETY AND HEALTH
Office of Worker Health and Safety (EH-5)

CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM
Notice of Proposed Rulemaking (NOPR)
Docket Number EH-RM-98-BRYLM

PUBLIC HEARINGS

February 3, 1999 - Oak Ridge, TN

February 9, 1999 - Golden, CO

February 11, 1999 - Washington, DC

OPENING REMARKS

Good morning/evening and welcome. I am Rick Jones, Director of the Office of Worker Protection Programs and Hazards Management (EH-52) within the Office of Worker Health and Safety [Washington, DC - Dr. David Michaels, Assistant Secretary for Environment, Safety and Health]. On behalf of the Department of Energy, I would like to thank you for taking the time to participate in this public hearing concerning the proposed Chronic Beryllium Disease Prevention Program (CBDPP), particularly those of you who have come from some distance.

The purpose of this hearing is to receive oral testimony from the public on DOE's Notice of Proposed Rulemaking (NOPR). Your comments are not only appreciated, they are essential to the process.

The publishing of the NOPR that is the subject of today's public hearing, has been preceded by 2 years of information gathering and data analysis by the Department. In 1996, the Department surveyed its contractors to characterize the extent of beryllium usage, the types of tasks involving beryllium usage, the controls in place for each task, and the estimated exposure levels associated with each task. To supplement the data obtained from the 1996 survey, the Department published a Federal Register notice on December 30, 1996, requesting scientific data, information, and views relevant to a DOE beryllium health standard. The survey and Federal Register notice were followed by two Beryllium Public Forums, held in Albuquerque, New Mexico, and Oak Ridge, Tennessee, January 1997. While the Department moved forward with its rulemaking process, an Interim Chronic Beryllium Disease Prevention Program was issued on July 15, 1997, as DOE Notice 440.1 to direct immediate action for the protection of workers while rulemaking efforts continued. The Interim Notice established a CBDPP that enhanced and supplemented worker protection programs already required by current worker safety and health orders with provisions that are designed to manage and control beryllium exposure hazards in the DOE workplace. Because of the complexity and significance of issues regarding the development of a DOE health standard for beryllium, a Beryllium Rule Advisory Committee (BRAC) was established in June 1997 to advise the Department on issues pertinent to the proposed rulemaking activity. DOE also used the BRAC recommendations and the lessons learned in the implementation of DOE Notice 440.1 to develop this NOPR.

The objectives of the NOPR are to: 1) minimize the number of workers exposed to beryllium; 2) minimize the levels of beryllium exposure and the potential for beryllium exposure; 3) establish medical surveillance protocols to ensure early detection of CBD; and 4) assist affected workers who are dealing with beryllium health effects. In addition, the Department intends to collect and analyze exposure and health data as part of its ongoing beryllium-related research efforts to ensure the protection of workers' health. DOE will consider amendments to its regulations as additional information and feedback are collected.

If you have not already read the Federal Register notice from December 3, 1998, I urge you to do so. Copies are available at the registration desk.

The comments received here today and those submitted during the written comment period, which ends **March 9**, will assist the Department in the rulemaking process. All written comments must be received by this date to ensure consideration by DOE. The address for sending in comments is: Jacqueline D. Rogers, U.S. Department of Energy, Office of Environment, Safety and Health, EH-51, Docket Number EH-RM-98-BRYLM, 1000 Independence Avenue, SW, Washington, DC 20585.

As the Presiding Official for this hearing, I would like to set forth the guidelines for conducting the hearing and provide other pertinent information. In approximately 14 days, a transcript of this hearing will be available for inspection and copying at the Department of Energy's Freedom of Information Reading Room in Washington, DC as well as at the DOE Oak Ridge and Rocky Flats Public Reading Rooms. The addresses are specified in the Federal Register notice and are also available at the registration desk. The transcript will also be placed on the Office of Environment, Safety and Health's Chronic Beryllium Disease Prevention Program's Internet web page which can be accessed at: <http://tis.eh.doe.gov/be/>. In addition, anyone wishing to purchase a copy of the transcript may make their own arrangements with the transcribing reporter.

This will not be an evidentiary or judicial type of hearing. It will be conducted in accordance with Section 553 of the Administrative Procedure Act, 5 U.S.C. section 553 and section 501 of the DOE Organization Act, 42, U.S.C. section 7191. To provide the Department with as much pertinent information and as many views as can reasonably be obtained, and to enable interested persons to express their views, the hearing will be conducted in accordance with the following procedures:

- o speakers will be called to testify in the order indicated on the agenda;
- o speakers have been allotted 10 minutes for their verbal statements.
- o anyone may make an unscheduled oral statement after all scheduled speakers have delivered their statements. To do so, please submit your name to the registration desk before the conclusion of the last scheduled speaker; and
- o at the conclusion of all presentations, scheduled and unscheduled, speakers will be given the opportunity to make a rebuttal or clarifying statement. To do so, please submit your name to the registration desk.

Questions for the speakers will be asked only by members of the DOE panel conducting the hearing.

As I explained, the purpose of this hearing is to receive testimony from the public on DOE's Notice of Proposed Rulemaking. It is not the purpose of this hearing to discuss individual lawsuits that have been filed in court, or claims that have been filed under the Federal Tort Claims Act. This panel will therefore not discuss litigation or claims. Instead, I urge all speakers to provide this panel with their comments, opinions, and pertinent information about the proposed rule.

As mentioned earlier, the close of the comment period is **March 9, 1999**. All written comments received will be available for public inspection at the DOE Freedom of Information Reading Room in Washington, DC, (202) 586-3142. Ten copies of the comments are requested. If you have any questions concerning the submission of written comments, please see Andi Kasarsky at the registration desk. She can also be reached at (202) 586-3012.

Any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit to the Washington, DC written comments address a total of four copies; one complete copy with the confidential material included and three copies without the confidential information. In accordance with the procedures established at 10 CFR 1004.11, the Department of Energy shall make its own determination as to whether or not the information shall be exempt from public disclosure.

In keeping with the regulations of this facility, there will be no smoking in this room.

We appreciate the time and effort you have taken in preparing your statements and are pleased to receive your comments and opinions. I would now like to introduce the other members of the panel. Joining me today is Jacqueline Rogers, Industrial Hygienist, Office of Occupational Safety and Health Policy (EH-51) within the Office of Environment, Safety and Health. Also joining me is Dr. George Gebus, Director, Office of Occupational Medicine and Medical Surveillance (EH-61) within the Office of Health Studies. [See Golden, CO and Washington, DC hearing agendas for panel names.]

This introduction has been lengthy, but I hope, useful. Now it is time to move on to the reason why we are all here - to listen to your comments on the NOPR.

I would like to call our first speaker on the agenda. For the record, I ask that each speaker please state his or her name and whom you represent before making your statement. Thank you.

U.S. DEPARTMENT OF ENERGY
OFFICE OF ENVIRONMENT, SAFETY AND HEALTH
Office of Worker Health and Safety (EH-5)

CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM

Notice of Proposed Rulemaking (NOPR)

Docket Number EH-RM-98-BRYLM

PUBLIC HEARINGS

February 3, 1999 - Oak Ridge, TN

February 9, 1999 - Golden, CO

February 11, 1999 - Washington, DC

OPENING REMARKS, Washington, DC

Good morning and welcome. I am Dr. David Michaels, Assistant Secretary for Environment, Safety and Health. On behalf of the Department of Energy, I would like to thank you for taking the time to participate in this public hearing concerning the proposed Chronic Beryllium Disease Prevention Program (CBDPP), particularly those of you who have come from some distance.

The purpose of this hearing is to receive oral testimony from the public on DOE's Notice of Proposed Rulemaking (NOPR). Your comments are not only appreciated, they are essential to the process.

The publishing of the NOPR that is the subject of today's public hearing, has been preceded by 2 years of information gathering and data analysis by the Department. In 1996, the Department surveyed its contractors to characterize the extent of beryllium usage, the types of tasks involving beryllium usage, the controls in place for each task, and the estimated exposure levels associated with each task. To supplement the data obtained from the 1996 survey, the Department published a Federal Register notice on December 30, 1996, requesting scientific data, information, and views relevant to a DOE beryllium health standard. The survey and Federal Register notice were followed by two Beryllium Public Forums, held in Albuquerque, New Mexico, and Oak Ridge, Tennessee, January 1997. While the Department moved forward with its rulemaking process, an Interim Chronic Beryllium Disease Prevention Program was issued on July 15, 1997, as DOE Notice 440.1 to direct immediate action for the protection of workers while rulemaking efforts continued. The Interim Notice established a CBDPP that enhanced and supplemented worker protection programs already required by current worker safety and health orders with provisions that are designed to manage and control beryllium exposure hazards in the DOE workplace. Because of the complexity and significance of issues regarding the development of a DOE health standard for beryllium, a Beryllium Rule Advisory Committee (BRAC) was established in June 1997 to advise the Department on issues pertinent to the proposed rulemaking activity. DOE also used the BRAC recommendations and the lessons learned in the implementation of DOE Notice 440.1 to develop this NOPR.

The objectives of the NOPR are to: 1) minimize the number of workers exposed to beryllium; 2) minimize the levels of beryllium exposure and the potential for beryllium exposure; 3) establish medical surveillance protocols to ensure early detection of CBD; and 4) assist affected workers who are dealing with beryllium health effects. In addition, the Department intends to collect and analyze exposure and health data as

part of its ongoing beryllium-related research efforts to ensure the protection of workers' health. DOE will consider amendments to its regulations as additional information and feedback are collected.

If you have not already read the Federal Register notice from December 3, 1998, I urge you to do so. Copies are available at the registration desk.

The comments received here today and those submitted during the written comment period, which ends **March 9**, will assist the Department in the rulemaking process. All written comments must be received by this date to ensure consideration by DOE. The address for sending in comments is: Jacqueline D. Rogers, U.S. Department of Energy, Office of Environment, Safety and Health, EH-51, Docket Number EH-RM-98-BRYLM, 1000 Independence Avenue, SW, Washington, DC 20585.

As the Presiding Official for this hearing, I would like to set forth the guidelines for conducting the hearing and provide other pertinent information. In approximately 14 days, a transcript of this hearing will be available for inspection and copying at the Department of Energy's Freedom of Information Reading Room in Washington, DC as well as at the DOE Oak Ridge and Rocky Flats Public Reading Rooms. The addresses are specified in the Federal Register notice and are also available at the registration desk. The transcript will also be placed on the Office of Environment, Safety and Health's Chronic Beryllium Disease Prevention Program's Internet web page which can be accessed at: <http://tis.eh.doe.gov/be/>. In addition, anyone wishing to purchase a copy of the transcript may make their own arrangements with the transcribing reporter.

This will not be an evidentiary or judicial type of hearing. It will be conducted in accordance with Section 553 of the Administrative Procedure Act, 5 U.S.C. section 553 and section 501 of the DOE Organization Act, 42, U.S.C. section 7191. To provide the Department with as much pertinent information and as many views as can reasonably be obtained, and to enable interested persons to express their views, the hearing will be conducted in accordance with the following procedures:

- o speakers will be called to testify in the order indicated on the agenda;
- o speakers have been allotted 10 minutes for their verbal statements.
- o anyone may make an unscheduled oral statement after all scheduled speakers have delivered their statements. To do so, please submit your name to the registration desk before the conclusion of the last scheduled speaker; and
- o at the conclusion of all presentations, scheduled and unscheduled, speakers will be given the opportunity to make a rebuttal or clarifying statement. To do so, please submit your name to the registration desk.

Questions for the speakers will be asked only by members of the DOE panel conducting the hearing.

As I explained, the purpose of this hearing is to receive testimony from the public on DOE's Notice of Proposed Rulemaking. It is not the purpose of this hearing to discuss individual lawsuits that have been filed in court, or claims that have been filed under the Federal Tort Claims Act. This panel will therefore not discuss litigation or claims. Instead, I urge all speakers to provide this panel with their comments, opinions, and pertinent information about the proposed rule.

As mentioned earlier, the close of the comment period is **March 9, 1999**. All written comments received will be available for public inspection at the DOE Freedom of Information Reading Room in Washington, DC, (202) 586-3142. Ten copies of the comments are requested. If you have any questions concerning the

submission of written comments, please see Andi Kasarsky at the registration desk. She can also be reached at (202) 586-3012.

Any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit to the Washington, DC written comments address a total of four copies; one complete copy with the confidential material included and three copies without the confidential information. In accordance with the procedures established at 10 CFR 1004.11, the Department of Energy shall make its own determination as to whether or not the information shall be exempt from public disclosure.

In keeping with the regulations of this facility, there will be no smoking in this room.

We appreciate the time and effort you have taken in preparing your statements and are pleased to receive your comments and opinions. I would now like to introduce the other members of the panel. Joining me today is Joseph Fitzgerald, Jr., Deputy Assistant Secretary for Worker Health and Safety (EH-5), Dr. Paul J. Seligman, Deputy Assistant Secretary for Health Studies (EH-6), C. Rick Jones, Director, Office of Worker Protection Programs and Hazards Management (EH-52), within the Office of Worker Health and Safety, Jacqueline Rogers, Industrial Hygienist, Office of Occupational Safety and Health Policy (EH-51), and Edward LeDuc, Attorney, Office of the General Counsel.

This introduction has been lengthy, but I hope, useful. Now it is time to move on to the reason why we are all here - to listen to your comments on the NOPR.

I would like to call our first speaker on the agenda. For the record, I ask that each speaker please state his or her name and whom you represent before making your statement. Thank you.