

Administrative Procedures – Final Proposed Rule Filing

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**VOSHA Rule: 29 CFR 1910.1024, Updates and Revisions of
the Beryllium Standard for General Industry**

_____/s/ Michael Harrington_____, on 8/2/2021
(signature) (date)

Printed Name and Title:

Michael Harrington, Commissioner

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

Final Proposed Coversheet
Vermont Department of Labor

TITLE OF RULE FILING:

VOSHA Rule: 29 CFR 1910.1024, Updates and Revisions of the Beryllium Standard for General Industry

1.

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

01P-016

3. ADOPTING AGENCY:

Vermont Department of Labor

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Daniel A. Whipple

Agency: Vermont Occupational Safety and Health Administration

Mailing Address: P.O. Box 488 Montpelier, VT 05601-0488

Telephone: 802 828 - 5084 Fax: 802 828 - 0408

E-Mail: dan.whipple@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://labor.vermont.gov/vosha>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Bailey Thibault

Agency: Vermont Occupational Safety and Health Administration

Mailing Address: P.O. Box 488 Montpelier, VT 05601-0488

Telephone: 802 828 - 5085 Fax: 802 828 - 0408

E-Mail: bailey.thibault@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

21 V.S.A. §§204, 224

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

As a State Plan Occupational Safety and Health regulatory agency, Vermont Occupational Safety and Health Administration (VOSHA) is charged with enforcing workplace safety and health rules. This rule is within that jurisdiction.

9. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS NOT INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS NOT INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS NOT INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

Occupational exposure to respirable beryllium is highly toxic and has long been known to cause berylliosis, also known as chronic beryllium disease (CBD) and lung cancer. This rulemaking was prompted by Federal OSHA and incorporated standards were adopted as such. This current rulemaking is intended to address areas of the previous standard that are somewhat ambiguous and confusing to employers. OSHA is amending the existing general industry standard for occupational exposure to beryllium and beryllium compounds to clarify certain provisions and simplify or improve compliance. The revisions in this final rule are designed to maintain or enhance worker protections overall by ensuring that the rule is well understood and compliance is more

straightforward. VOSHA as a State Plan of Federal OSHA is adopting this rule change as an extension of the previous OSHA adopted rule.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

This rule is necessary because it provides simplification and clarity to a rule of relatively high complexity. This rule does not lessen the employer's responsibility to protect workers nor the level of effectiveness of protections from exposure to beryllium and Beryllium Compounds.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

This rule change has been previously adopted by Federal OSHA. VOSHA is compelled to adopt these rules or rules at least as effective as them.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Compared to other OSHA health standards, the beryllium rule covers a relatively small worker population of approximately 62,000 workers (nationally). Workers and entities in Vermont likely affected by this rule include aerospace workers involved in precision machining and welding, dental offices that use beryllium alloy and some construction workers that use blasting agents of more than .1% beryllium.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

As this rule does not represent a significant change in requirements, the cost to employers is expected to be nonexistent. As OSHA has stated "After carefully reviewing the proposed clarifications and revisions, OSHA preliminarily determined that their net total effect would result in potential cost savings, mainly from improving employer understanding and facilitating application of the rule (83 FR at 63760-61)." VOSHA considers the effects of this rule change to be net zero for employers.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

Final Proposed Coversheet

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 7/8/2021

Time: 01:00 PM

Street Address: 5 Green Mountain Drive, Montpelier VT

Zip Code: 05601

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

7/15/2021

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

OSHA Subpart Z

Beryllium and Beryllium Compounds

VOSHA Beryllium standard

1910.1024