

testimony of a current or former NMB employee should be addressed to the General Counsel, National Mediation Board, 1301 K Street NW., Suite 250E, Washington, DC 20005. No other official or employee of the NMB is authorized to accept service of a demand or subpoena on behalf of the Agency.

(b) No current or former employee may produce official records or information or provide testimony in response to a demand or subpoena unless authorized by the General Counsel.

(c) The General Counsel may grant an employee permission to testify or produce official records or information in response to a demand or subpoena. In making this determination, the General Counsel shall consider whether:

(1) Release of the requested records or testimony is prohibited under § 1208.5;

(2) The disclosure is appropriate under the rules of procedure governing the case or matter;

(3) The requested testimony or records are privileged under the relevant substantive law concerning privilege;

(4) Disclosure would violate a statute or regulation;

(5) Disclosure would reveal trade secrets without the owner's consent; and

(6) Allowing testimony or production of records would be in the best interest of the NMB or the United States.

Dated: January 27, 2017.

**Mary Johnson,**

*General Counsel, National Mediation Board.*

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Parts 1910, 1915, and 1926

[Docket No. OSHA-H005C-2006-0870]

RIN 1218-AB76

#### Occupational Exposure to Beryllium: Delay of Effective Date

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** In accordance with the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory

Freeze Pending Review,” this action temporarily delays until March 21, 2017 the effective date of the rule entitled Occupational Exposure to Beryllium, published in the **Federal Register** on January 9, 2017 (82 FR 2470), to allow OSHA officials the opportunity for further review and consideration of new regulations.

**DATES:** This regulation is effective on February 1, 2017. The effective date of the regulation entitled Occupational Exposure to Beryllium published in the **Federal Register** on January 9, 2017 (82 FR 2470) is delayed to a new effective date of March 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** Frank Meilinger, Director, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-1999; email [meilinger.francis2@dol.gov](mailto:meilinger.francis2@dol.gov).

**SUPPLEMENTARY INFORMATION:** OSHA bases this action on the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review.” (82 FR 8346 (January 24, 2017)). That memorandum directed the heads of Executive Departments and Agencies to temporarily postpone for 60 days from the date of the memorandum the effective dates of all regulations that had been published in the **Federal Register** but had not yet taken effect. The memorandum also noted certain exceptions that do not apply here. OSHA is therefore delaying the effective date for the rule entitled “Occupational Exposure to Beryllium” to March 21, 2017.

The Agency's implementation of this action without opportunity for public comment is based on the good cause exception in 5 U.S.C. 553(b)(B), in that seeking public comment is impracticable, unnecessary and contrary to the public interest. The temporary delay in effective date until March 21, 2017, will give Agency officials the opportunity for review and consideration of new regulations, as required by the memorandum of the Assistant to the President and Chief of Staff, dated January 20, 2017. Given the imminence of this effective date, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. In addition, since the Occupational Exposure to Beryllium rule would not have taken effect until March 10, 2017, as a practical matter the new effective date for this regulation

would extend by only 11 days the original effective date. Thus, the good cause exception in 5 U.S.C. 553(b)(B) applies to OSHA's decision to extend the effective date of the beryllium rule without first going through notice and comment. This extension of the effective date will not impact the compliance dates of the Beryllium rule.

In taking this action, the Agency also invokes the good cause exception in 5 U.S.C. 553(d)(3), which allows the action to be immediately effective for “good cause” rather than subject to the requirement in the Administrative Procedure Act (5 U.S.C. 553(d)) that a minimum of 30 days is required before a rule may become effective. The nature of this action, which is to extend by 11 days a final rule that otherwise becomes effective on March 10, 2017, makes it unnecessary and impractical to delay the effectiveness of this action by 30 days.

Signed at Washington, DC, on January 26, 2017.

**Dorothy Dougherty,**

*Deputy Assistant Secretary of Labor for Occupational Safety and Health.*

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## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1250

[FDMS No. NARA-17-0001; Agency No. NARA-2017-019]

RIN 3095-AB93

#### NARA Records Subject to FOIA

**AGENCY:** National Archives and Records Administration.

**ACTION:** Direct final rule.

**SUMMARY:** We are amending our Freedom of Information Act (FOIA) regulations on access to NARA's archival holdings and our operational records to make them consistent with the FOIA Improvement Act of 2016, and a few small administrative changes to remain current. The rule affects individuals and organizations that file FOIA requests for access to NARA operational records and archival holdings.

**DATES:** This rule is effective on March 3, 2017 without further notice, unless we receive adverse written comment by February 21, 2017. If we receive such comments, we will withdraw the rule.

**FOR FURTHER INFORMATION CONTACT:** Kimberly Keravuori, by telephone at 301-837-3151, by email at [regulation\\_](mailto:regulation_)