

OSHA's overreaching beryllium rules

By Mark Mummert

On January 9, OSHA finalized a sweeping set of beryllium rules that go beyond reasonable regulation and threaten the livelihood of the entire abrasive blasting industry. The new rules dramatically reduce the action level for beryllium to 0.1 micrograms per cubic meter of air, which would trigger a host of onerous worksite requirements for abrasive blasting, regardless of the media used.

The new OSHA rules are ill-considered for a number of reasons. First, OSHA's initial goal was to regulate the beryllium alloy industry, not trace amounts of beryllium found in abrasive blasting media. It makes no sense to lump the two issues together. Beryllium alloy components typically contain 20,000 times more beryllium than abrasives, which contain less beryllium than garden soil. Furthermore, the toxic effects of beryllium are well established in alloys and similar compounds, but not in abrasive blasting media.

Second, there have been no documented cases of beryllium-related illness in the 80 year history of the abrasive blasting industry. In its Regulatory Analysis document, risk assessment and preambles to the rulemaking, OSHA does not cite any incidences of beryllium-related disease or cancer for the abrasive blasting industry.

Third, OSHA's rulemaking process was far from transparent. In fact, the final rules were materially different from what was initially proposed and opened to public comment. Industry stakeholders were not given the opportunity to consider and understand the extent of the new beryllium regulations. Most notably, at the last minute, OSHA issued rules for the construction and shipyard industries that were never previously published for public comment and stakeholder input.

As a result, there is widespread confusion about the impact of the beryllium rules. The most common misconception, which has been reported in the mainstream media and industry publications, is that the beryllium rules for abrasive blasting only apply to slag products. The OSHA rules make no mention of slag; they cover any material containing beryllium, including all abrasive blasting media that contain beryllium. Based on a study conducted by KTA-Tator for the National Institute for Occupational Safety and Health, all blasting media include trace amounts of beryllium. And because the new action level set by OSHA is so restrictive, all existing blasting media are likely to trigger the new beryllium rules. Any statements to the contrary are false.

As an industry, we have a tremendous opportunity to repeal these rules before they ever go into effect. OSHA's last-minute expansion of the beryllium rules to construction and shipyard applications is unlawful, as it was not made available for public scrutiny. The Agency provided no scientific or public health studies showing any link between abrasive blasting and beryllium-related disease, only back of the envelope calculations unsupported by actual scientific data and studies. This lack of scientific evidence is being discussed with the new Administration, Members of Congress and is being presented in court via a legal challenge to the new OSHA rules.

In order for our industry to fight effectively, we must fully understand the impact the rules will have on our businesses. Those trying to drive up their own sales in the short-term by deliberately underestimating the scope of the rules will harm our ability to present a united, effective front in Washington advocating for the repeal of the rules.

As written, the beryllium rules apply to all abrasive blasting media, no matter how hard some try to convince the public that only slag products are affected. We must stand together as an industry to fight back against these onerous, opaque, and unjustified regulations. All industry stakeholders should reach out directly to their representatives in Congress and urge them to demand the removal of the construction and shipyard industries from the OSHA's beryllium rules.

The abrasive blasting industry is an important contributor to America's economy and environment. We directly employ more than 400,000 workers, and divert one million tons of co-product from landfills to productive use. We also contribute to industries that provide stable American jobs, like construction and shipbuilding. And we do so safely; to ensure the wellbeing of our workers, abrasive blasters are already subject to at least 27 OSHA rules requiring engineering and administrative controls, personal protective equipment and employee training.

The beryllium rules were haphazardly applied to the construction and shipyard industries. OSHA should immediately review the rules and exempt abrasive blasting from unnecessary regulation.

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