



**SCHOOL OF
PUBLIC HEALTH**

University of Medicine & Dentistry of New Jersey

Department of Environmental and Occupational Health

RE: FOIA REQUEST

FOIA Officer
U.S. Department of Labor—OSHA
Room N-3647
200 Constitution Ave., N.W.
Washington, DC 20210

VIA FAX (202-693-1635) and overnight mail

To whom it may concern:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, I hereby request various data pertaining to OSHA inspection activities where analytical measurements of a particular substance were made and reported. I have prepared this request in my capacity as Professor of Environmental and Occupational Health at UMDNJ School of Public Health, with the approval of my supervisors there, and have used no government resources to draft this request.

This request includes all documents that have ever been within your custody or control, whether they exist in agency “working,” investigative, retired, electronic mail, or other files currently or at any other time.

UMDNJ and I seek this information in order to conduct statistical analyses of trends in beryllium concentrations by time period, geographic region, industry sector, etc., and to estimate the exposure potential of the OSHA compliance officer workforce, a population recently found to have an unexpectedly high rate of sensitization to beryllium. Release of the requested information is in the interest of the general public, in order for the public to better understand the quantitative relationship between exposure to beryllium and the probability that an exposed individual will become sensitized to beryllium; it will also significantly advance public understanding of the operations and activities of OSHA with regard to beryllium exposure within its workforce. Reducing the scientific uncertainty

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that currently exists in this dose-response relationship will enable health care professionals and employers to prevent in a more cost-effective way future cases of sensitization and chronic beryllium disease.

In particular, it is essential that OSHA provide the information in its possession so that researchers can link the industrial hygiene data collected by a given OSHA inspector to other sampling data that inspector collected during his/her employment with the Agency, in order to determine the number of instances in which each inspector may have been exposed to beryllium and to estimate the cumulative exposure potential. This can be accomplished without any risk to the privacy of any individual, as is commonly done in medical and other research, by assigning each individual a unique identification number that provides no information about his or her identity. In this case, OSHA has already assigned each inspector a unique "CSHO ID" number, which as you know does not contain any clues to the individual involved (such as the first letter of the last name, or digits from the Social Security number). I do not wish to receive under this request, and hereby disclaim any interest in, the names of any individual OSHA personnel, and therefore assert that paragraph (b)(6) of FOIA does not apply to this request and that none of the responsive documents constitute "records" under the Privacy Act of 1974.

Specifically, I request the following. I am aware that all of the information under item 1 of my request currently exists in electronic form, and I therefore request this information (and any other information in this request that originally or subsequently existed in electronic form) be transmitted to me electronically and in unencrypted form, either by e-mail or on CD-ROM, along with any information (e.g., "readme" files) necessary to access the information contained in the response:

1. All sampling records from OSHA's Salt Lake City Technical Center's analytical database, beginning on or about June 1, 1979 and extending to June 1, 2005, where beryllium (IMIS analyte #0360) was analyzed. Each record should either contain information from all of the fields present in the database, or at OSHA's option, the information from at least the following fields:
 - Date of sample
 - Office ID number
 - Inspection ID number
 - CSHO ID number
 - Establishment name and address
 - Sample type (personal, area, bulk, wipe, etc.)
 - Sample result
 - Sample units (ppm, ug/m3, percent, etc.)
 - Duration of sampling (in minutes)

2. A list of the coded ID numbers of all the OSHA employees who have received the Beryllium Lymphocyte Proliferation Test (BeLPT) since January 1, 2004 (I understand that this list will contain at least 300 entries), with the test result (positive

or negative) indicated with each ID number.¹ In the alternative, I request the test results themselves, with all personally-identifying information except for the coded ID number redacted.

3. The results of any analyses OSHA has undertaken, using either in-house or contractor resources, to estimate the cumulative exposures of any of its employees to beryllium, including but not limited to any analyses comparing the cumulative exposures (and/or the number of facilities an inspector entered where beryllium was found) of employees who have tested positive for sensitization to those who have tested negative and those who have not been tested.

For any documents or portions of documents for which you assert specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

I request that all fees be waived because “disclosure of the information is in the public interest... and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)). Disclosure of the above requested information is in the public interest because disclosure will contribute significantly to public understanding of a serious occupational health problem. Disclosure is in no way connected with any commercial interest of the requestors in that UMDNJ is a nonprofit educational and research institution. UMDNJ is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (609) 258-4828 or at finkelam@umdnj.edu. Please send the documents responsive to this request by electronic mail to the address above, via fax to (609) 258-6082, or via regular mail to me at: 409 Robertson Hall, Woodrow Wilson School, Princeton University, Princeton, NJ 08540. I look forward to receiving the agency’s final response within 20 working days (i.e., not later than July 28, 2005).

Cordially,

Adam M. Finkel, Sc.D., CIH
Professor of Environmental and Occupational Health

¹ If the laborator(ies) that performed the BeLPT provided quantitative results (such as the “mean peak stimulation index”) on each blood sample, I request that these results be included along with the qualitative (positive/negative) determination.