

- (iii) The probable risks and benefits associated with the use of the device;
- (iv) Post-procedure care instructions; and
- (v) Alternative treatments.

Dated: February 28, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 801

[TD 9831]

RIN 1545-BL88

#### Balanced System for Measuring Organizational and Employee Performance Within the Internal Revenue Service

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations regarding management and personnel within the IRS. The final regulations relate to the “employee satisfaction measures” utilized by the IRS in its Balanced System for Measuring Organizational and Employee Performance. These regulations affect internal operations of the IRS and the systems employed to evaluate the performance of organizations within the IRS and individuals employed by the IRS.

**DATES:**

*Effective Date:* These regulations are effective on March 7, 2018.

*Applicability Date:* These regulations are applicable for the reporting of employee satisfaction information within the meaning of 26 CFR 801.5 that occurs on or after March 7, 2018.

**FOR FURTHER INFORMATION CONTACT:** Julie Barry, at (202) 317-5759 (not a toll free number).

**SUPPLEMENTARY INFORMATION:**

#### Background

On November 13, 2014, the IRS published in the **Federal Register** (79 FR 67351) a temporary regulation (TD 9703) modifying the regulations governing the IRS Balanced System for Measuring Organizational and Employee Performance. A notice of proposed rulemaking (REG-138605-13) cross-referencing the temporary regulation was published in the **Federal**

**Register** (79 FR 67396) on the same day. The text of the temporary regulation served as the text of the proposed regulation.

#### Summary of Comments and Explanation of Revisions

The IRS provided an opportunity for comment and an opportunity for a public hearing. No public hearing was requested, and the IRS received one written comment. The written comment did not substantively address the proposed change, but instead expressed appreciation for the IRS’s efforts to obtain public feedback to support an open, measurable, and user-friendly government.

The regulation being modified concerns “employee satisfaction measures” and requires the collection of information from employees through various means, including employee surveys. Once collected, the information is used to measure and report on employee satisfaction, one of three elements comprising the IRS balanced performance measurement system. To be consistent with other government-wide employee satisfaction surveys, the proposed regulation provides that employee satisfaction measures can be reported at a higher agency level.

Specifically, the proposed regulation relates to the employee satisfaction measure, § 801.5, of the IRS Balanced System for Measuring Organizational and Employee Performance (26 CFR part 801). As originally implemented in 1999, the employee satisfaction measure required the IRS to gauge and report the satisfaction of employees in pay and duty status (non-seasonal employees) to the first-level supervisor organizational level, as well as to all succeeding management levels of the organization. Consequently, the IRS utilized and modified a pre-existing survey to enable the reporting of data to first-level supervisors. Other surveys, such as OPM’s Federal Employee Viewpoint Survey (FEVS), however, report employee satisfaction data to a level of agency management higher than that of the first-level supervisor. Consequently, the IRS conducted both the FEVS survey and the internal survey that complied with § 801.5. The administration of both surveys resulted in an unnecessary expenditure of funds, an undue burden on employees, and the duplication of efforts by the IRS.

The proposed regulation permits the IRS to report employee satisfaction data at higher organization levels, thereby permitting the IRS to use the FEVS and eliminate the use of its internal survey. The corresponding temporary regulation was effective on or after November 13,

2014, and expired on or before November 10, 2017. This document adopts, without modification, the proposed regulation as final and removes the corresponding temporary regulation.

#### Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. Because the regulation would not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

Pursuant to Section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding this final regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. No comments were received from the Small Business Administration.

#### Drafting Information

The principal author of these regulations is Julie A. Barry, Office of Associate Chief Counsel (General Legal Services). However, other personnel from the Treasury Department and the IRS participated in their development.

#### List of Subjects in 26 CFR Part 801

Federal employees, Organization and functions (Government agencies).

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 801 is amended as follows:

#### **PART 801—BALANCED SYSTEM FOR MEASURING ORGANIZATIONAL AND EMPLOYEE PERFORMANCE WITHIN THE INTERNAL REVENUE SERVICE**

■ **Paragraph 1.** The authority citation for part 801 continues to read in part as follows:

**Authority:** 5 U.S.C. 9501 \* \* \*

■ **Par. 2.** Section 801.5 is revised to read as follows:

#### **§ 801.5 Employee satisfaction measures.**

(a) The employee satisfaction numerical ratings to be given to a Business Operating Division (BOD) or equivalent office within the IRS will be determined on the basis of information gathered through various methods. For example, questionnaires, surveys, and other information gathering mechanisms may be employed to gather data regarding satisfaction. The information

gathered will be used to measure, among other factors bearing upon employee satisfaction, the quality of supervision, and the adequacy of training and support services. All full and part-time permanent employees of a BOD or equivalent office who are in pay and duty status will have an opportunity to provide information regarding employee satisfaction under conditions that guarantee them confidentiality.

(b) This section applies to the reporting of employee satisfaction information that occurs on or after March 7, 2018.

**§ 801.5T [Removed]**

■ **Par. 3.** Section 801.5 T is removed.

**Kirsten Wielobob,**

*Deputy Commissioner for Services and Enforcement.*

Approved: January 24, 2018.

**David J. Kautter,**

*Assistant Secretary of the Treasury (Tax Policy).*

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**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

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

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

RIN 1218-AB76

**Occupational Exposure to Beryllium**

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

**ACTION:** Final rule; OMB information collection approval.

**SUMMARY:** This rule is a technical amendment announcing that OMB has

approved the collection of information contained in OSHA's standards for Occupational Exposure to Beryllium and Beryllium Compounds in General Industry, and revising OSHA's regulations to reflect that approval. The OMB approval number is 1218-0267.

**DATES:** Effective March 7, 2018.

**FOR FURTHER INFORMATION CONTACT:** Charles McCormick, OSHA, Directorate of Standards and Guidance, U.S. Department of Labor; telephone (202) 693-2222.

**SUPPLEMENTARY INFORMATION:** OSHA published a final rule on January 9, 2017, amending its existing standards for the Occupational Exposure to Beryllium and Beryllium Compounds. OSHA determined that employees exposed to beryllium at the previous permissible exposure limits face a significant risk of material impairment to their health. The evidence in the record for this rulemaking indicates that workers exposed to beryllium are at increased risk of developing chronic beryllium disease and lung cancer. The final rule establishes new permissible exposure limits of 0.2 micrograms of beryllium per cubic meters (µg/m<sup>3</sup>) of air as an 8-hour time weighted average and 2.0 µg/m<sup>3</sup> as a short term exposure limit determined over a sampling period of 15 minutes. It also includes other provisions to protect employees, such as requirements for exposure assessment, methods for controlling exposure, respiratory protection, personal protective clothing and equipment, housekeeping, medical surveillance, hazard communication, and recordkeeping.

OSHA issued three separate standards (one for general industry, one for shipyards, and one for construction) in order to tailor requirements to the circumstances found in these sectors. The effective date of those standards was March 10, 2017.

Consistent with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501-3520), the **Federal Register** notice for the Occupational Exposure to Beryllium and Beryllium Compounds final rule states that employers do not have to comply with the collection of information until OMB approves those collections of information, and the Department of Labor publishes a notice in the **Federal Register** announcing this approval and the control number assigned by OMB to the final rule's collection of information. Under 5 CFR 1320.5(b), an agency may not conduct or sponsor a collection of information unless: (1) The collection of information displays a current, valid OMB control number, and (2) The Agency informs members of the public who are required to respond to the collection of information that they are not required to do so unless the agency displays a currently valid OMB control number for the collection of information.

The revision of these standards is a technical amendment to increase public awareness of OMB's approval of the collection of information. The Agency notes that the public has already had the opportunity to comment on the collections of information, and OMB has approved them. Opportunity for public comment on this final rule is therefore unnecessary.

The final Occupational Exposure to Beryllium and Beryllium Compounds standards impose new collections of information for the purposes of the PRA. The collections of information in the rule are needed to assist employers in identifying and controlling exposure to beryllium and beryllium compounds in the workplace, and to address adverse health effects related to beryllium. OSHA will also use records developed in response to these standards to determine compliance with OSHA standards.

**COLLECTIONS OF INFORMATION REQUIREMENTS IN THE FINAL STANDARD**

Number	General industry	Construction industry	Maritime industry
1 .....	§ 1910.1024(d)(2) Performance Option .....	§ 1926.1124(d)(2) Performance Option .....	§ 1915.1024(d)(2) Performance Option.
2 .....	§ 1910.1024(d)(3)(i), (ii), and (iii) Scheduled Monitoring Options.	§ 1926.1124(d)(3)(i), (ii), and (iii) Scheduled Monitoring Options.	§ 1915.1024(d)(3)(i), (ii), and (iii) Scheduled Monitoring Options.
3 .....	§ 1910.1024(d)(3)(iv), (v), and (vi) Scheduled Monitoring Options.	§ 1926.1124(d)(3)(iv), (v), and (vi) Scheduled Monitoring Options.	§ 1915.1024(d)(3)(iv), (v), and (vi) Scheduled Monitoring Options.
4 .....	§ 1910.1024(d)(4) Reassessment of Exposure.	§ 1926.1124(d)(4) Reassessment of Exposure.	§ 1915.1024(d)(4) Reassessment of Exposure.
5 .....	§ 1910.1024(d)(6)(i) and (ii) Employee Notification of Assessment Results.	§ 1926.1124(d)(6)(i) and (ii) Employee Notification of Assessment Results.	§ 1915.1024(d)(6)(i) and (ii) Employee Notification of Assessment Results.
6 .....	§ 1910.1024(e)(2)(i) and (ii) Demarcation of Beryllium Work Areas and Regulated Areas.	§ 1926.1124(e)(2) Competent Person .....	§ 1915.1024(e)(2) Regulated Areas—Demarcation.
7 .....	§ 1910.1024(f)(1)(i), (ii), and (iii) Methods of Compliance—Written Exposure Control Plan.	§ 1926.1124(f)(1)(i), (ii), and (iii) Methods of Compliance—Written Exposure Control Plan.	§ 1915.1024(f)(1)(i), (ii), and (iii) Methods of Compliance—Written Exposure Control Plan.