

Lead Advisory Committee

Meeting Minutes
September 21, 2017

Location: Associated General Contractors (AGC) Headquarters, 9450 SW Commerce Circle #200, Wilsonville Oregon 97070

Meeting Started: 9:34 AM

Present:

Heather Case (Oregon OSHA)
Aaron Corvin (Oregon OSHA)
Manish Goonentnz (Vigilant)
Jeff Green (Oregon OSHA)
Kim Henry (SAIF)
Keely Hopkins (National Rifle Association)
Jeff Jackson (Oregon OSHA)
Sue MacMillan (Oregon DEQ)
Heather McCabe (DCBS)
Dave McLaughlin (Oregon OSHA)

Roger Miksad (BCI)
Bernie Morrillo (Johnson Controls)
Larisa Palmentere (Bullseye Glass)
Russ Reasoner (Oregon OSHA)
Joe Robertson (CenturyLink)
John Stebbins (WA DOSH)
Alden Strealy (AGC)
Eileen Tanner (Covanta)
Cris Williams (ILA)

Welcome and Introductions:

The group introduced themselves.

Introductory Remarks:

Dave stated that he attended the stakeholder meetings in Washington State, and mentioned that we have someone from Washington Health and Safety in attendance at our meeting today. Additionally, some group members indicated they also went to those meetings or listened in by phone.

Dave helped outline what Washington State is proposing regarding lead, and discussion moved from there below.

Discussion:

Washington State Proposal: Both Dave and the representative from Washington Dept. of Occupational Safety and Health (WA DOSH) explained what the state of Washington is proposing. They are primarily addressing blood levels, with 30 mg/deciliter being the ceiling, and 20 mg/deciliter triggering testing over a full year. Administrative blood levels are lower. Their permissible exposure limit (PEL) is proposed to be 20 µg/m³, and 10µg/m³ would trigger a testing requirement. Their proposed rule also includes housekeeping and hygiene as major controls. There are copies of Washington's draft and position statement at ACGOM.

There was a bit of pushback from stakeholders in Washington regarding their proposal, particularly with regard to the airborne levels. Additionally, much of the levels were chosen based on data that relied on modeling, which can be problematic, as there are many confounding factors, especially in low level lead exposures.

Other people in attendance at this meeting had attended or listened by phone to the Washington stakeholder meetings. They offered their perspectives. Members brought up concerns related to gun ranges in particular. Additionally, participants were curious to know and wanted to better understand where the levels Washington settled on came from. A representative from the battery industry pointed out that air leads in a well run facility could be wholly unrelated to blood lead levels.

Feasibility: The group discussed the role of feasibility in OSHA rulemaking, both on a federal and a state level. Members remarked that Oregon OSHA should not drive PELs so low as to put people out of business. Some members remarked that 10 µg/m³ was an unfeasible requirement for industry to reach. Some members stated that it is unnecessary for Oregon to change the PEL for lead at all, but to focus strongly on engineering controls. Generally, the group discussed Oregon OSHA's obligation to consider the feasibility of implementing rules they create.

Engineering vs. Respiratory Requirements: The group discussed potential support in a rule that split out engineering protections versus respiratory requirements to reduce exposure to lead.

CA Rulemaking: The group briefly discussed the levels in California's potential rulemaking to reduce the lead PEL, and the lower levels present in their rules.

Lower PEL with engineering standard: The group discussed the idea of potentially lowering the PEL and allowing for/encouraging engineering controls in order to meet that standard. The group seemed to reach a consensus that mandatory respiratory protection in the standard could be supported. They agreed that most respiratory protection is technically feasible to meet lower lead PELs, but employers would need to check if it is economically feasible. The group seemed to support the idea of having a trigger level for respiratory protection, with an action level even lower than that.

Some in the group discussed the idea that preventing levels above 10 µg/m³ was a good idea, or at least 20. If looking at 10, hygiene becomes a very big concern to keep levels there or below. Most employers represented stated that their employees were already in half mask respirators. Some members stated it would not be feasible to put everyone in powered air purifying respirators (PAPRs). There were some serious heat considerations as well as access and movement issues associated with workers wearing PAPRs depending on the industry.

There was some discussion about including performance standards within the rule, allowing employers to simply "use appropriate personal protective equipment (PPE)" and if blood lead levels are in compliance among workers, then employer is deemed compliant. However there was some conflict with this approach, as there is discrepancy between that and the National Institute for Occupational Safety and Health (NIOSH) certification on respirators themselves.

A challenge the group identified within this rulemaking would be time frame controls- For workers with shorter term exposures or only certain welding 'excursions', this could prove to be a problem in enforcement.

The group also discussed any engineering controls in place in the current lead rule and a potential respirator trigger. The group also discussed the current PEL of 50 µg/m³ and why we would want to lower it or if it should stay the same. The group also briefly discussed the act of modeling when doing research on exposure and the potential issues with the math of that.

The group did agree that it would be beneficial to see the 30 days monitoring per year requirement tossed. It's hard for some employers to go back in time, although some employers state that they regularly monitor levels on their own. Instead, members asked if Oregon OSHA could potentially change blood lead level monitoring frequency requirements instead.

Hygiene Controls: The group discussed that often, in the 'average' employer, proper respirator use is rare. Employers also remarked on the seriousness of asking employees to shave facial hair in order to wear a fit tested respirator, and that they do and could potentially lose employees because of that.

Handout Discussion: The group discussed the handout Dave provided from the last meeting, the Kosnett study. The group used this to discuss certain blood lead levels. The members seemed to think that a recommendation to be off medical removal at 40 mg/deciliter seemed high. The group also discussed the possibility of a non-mandatory notification by employers if an employee tested with some exposure, but before 10 mg/deciliter. Washington's proposed rule indicates at 10 mg/deciliter the employer is required to address the exposure, and at 5 mg/deciliter, the employer is required to advise the employee of their blood lead levels.

Baseline blood lead levels: The group spent some time discussing the 'average' blood lead levels among people. Some members said that, for someone who is not employed or working regularly with lead, a baseline could be between 1 and 3 mg/deciliter blood lead level. However, as group members pointed out, people in the welding industry may frequently switch jobs, but will still have worked with lead in the past. Employers cannot assume that their employees are always coming in with a baseline between 1 and 3. The group discussed what the rule should say or what employers should be obligated to do if an employee comes to work for them with an elevated baseline level. The group thought that some things to consider were to discuss the potential issues with the employee, to address previous employers, to ask the employee about their hobbies/interests to get some idea of where the elevated levels were coming from.

The group also discussed other agencies involvement in high lead exposure, including Public Health, Oregon Health Authority, etc. The group was concerned about this stating that the closer one goes to a level of 20, the more likely employers would have to deal with these elevated baseline concerns. Members agreed that Oregon OSHA (and employers or site managers themselves) need to advocate for strict pre-work baseline testing, and to get the blood sample before work begins (but not to have to wait for the results before putting an employee to work, as that may take too long). Representatives spoke to the idea of potentially getting the prior employer to put the employee on medical removal if needed at baseline. (However this does not work if exposure came from something other than prior employment).

Blood lead testing, pre-employment: The group discussed testing of blood leads pre-employment. They discussed both downsides and advantages. In construction industries, the timing would be difficult as it is hard to test before a job begins. Workers often work from job to job and quickly need to get started. The idea was proposed that the testing happen pre job, but then workers begin work while waiting for results. This may also be problematic for temp agencies, who may not comply or realize they are responsible for the pre-employment testing. Also, workers with temp agencies may jump from job to job as well. Potentially, pre-employment testing could also be a safe harbor for employers. Also what baseline level workers test at can depend on the method of testing, ingested versus respirable. The group also discussed the idea that a task specific trigger for biological monitoring is only in construction, but this may be hard to modify for other industries.

Hygiene Emphasis: The group discussed an emphasis on hygiene in order to reduce blood lead levels. Hygiene controls would have to be based on airborne levels rather than other factors. The group discussed the importance of hygiene training and specific products that could be used. It was suggested that Oregon OSHA emphasize what is effective in hygiene and clean work areas and provide that guidance to employers. Members stated there are currently not a lot of studies on what is most effective currently. The group emphasized the importance of the training and education side of things in reducing blood lead levels. Right now, training and education do not kick in before an employer reaches the PEL (in the Oregon OSHA rules specifically). Members suggested that training and education not be driven by the airborne levels of lead, but become part of mandatory work practices. Also employers need to provide access to cleaning facilities based on type of employer.

The group also discussed the implications of requiring education of workforce and a discussion of potential training requirements.

Surface contamination level: The group discussed the idea of a surface contamination level that may trigger hygiene, especially within certain areas in an establishment. Members also discussed the idea that evidence of surface contamination can be a chance to educate and can trigger an increase in hygiene and potential increased blood level testing. For surface testing, the group identified that a challenge would lie in the delay in testing results as well as the difficulty in replicating testing. The group discussed methods of both surface testing and blood lead level testing.

The group also discussed dropping ZPP out of the rule, which is good for pre-screening and some employers use it but generally it is not useful. This method is better for measuring long term issues.

Task Specific Rules: The group discussed the idea of having task specific rules- work tasks triggering different engineering and work practice control methods, as well as levels for required respiratory protection and minimum assigned protection factor all based on the type of work being done. The group identified that right now there is little to no data to back up exposure levels based on task. It was suggested that the group could potentially ask for data from members anonymously regarding exposure to lead connected with specific tasks. The group wanted to look for a nationwide study, however representatives from Oregon OSHA pointed out that it does not need to be that formal, and that data from employers would be sufficient. Getting this information from employers could be problematic as most employers have their workers moving between jobs throughout the shift.

Construction issues: Some construction employers stated that it may be easier within their industry to follow a task specific rule regarding reducing lead exposure instead of doing air sampling due to the nature of the work.

With regards to looking at current samples taken by Oregon OSHA, members identified problems in lab data and would need to work with Oregon OSHA to potentially recode what is actually happening in lab data (right now Oregon OSHA representatives take samples but usually do not record exact tasks done throughout sampling).

Members compared the idea of a task specific rule with the task table similar to the silica rule.

Separation between General Industry and Construction: Dave asked the group how they felt about construction of the rule. The question was presented: Should the lead rules be separate

between general industry (Division 2) and construction (Division 3), or be put together, similar to the recent beryllium rules. The group reached a consensus that the exposure rules should be separate, one set for construction and one for general industry. Especially if a task table should get introduced into the draft rule. The group agreed that key provisions could be the same between the rules.

Blood level numbers: The group began to discuss numbers regarding blood levels. Dave again referred the group to the Kosnett study, and the group looked at that again. Some members pointed out flaws within this study, which, in some circles, is no longer considered the leading study. Some in the group presented 60 µg/deciliter, 50 µg/deciliter and 40 µg/deciliter however others in the group noted those seemed high. According to the Kosnett study, removal may be appropriate somewhere between 30 and 40 µg/deciliter.

Members of the group suggested a return to work be authorized by a physician rather than a specific blood level. The group discussed challenges to this idea, especially based on what kind of physician was suggesting a returned to work (general practitioner versus occupational doctor). The group thought clear triggers (such as blood level) would be better for initial return to work, with an ability for a physician to recommend continued medical removal.

Committee members thought between 20 and 30 µg/deciliter sounded reasonable. Below 20 µg/deciliter doesn't seem to have the same medical support to require medical removal. 20 could be a sort of a trigger level but perhaps not for medical removal. Others in the group recommended 20 µg/deciliter with a return to work no lower than 15 µg/deciliter in order to make the rule feasible and workable. A member of the committee had an Association of Occupational and Environmental Clinics (AOEC) article/study and will email that to Dave who will distribute it to the group.

The group discussed how quickly lead leaves the body and different factors that can effect how long it takes lead to leave the body.

Phase in: The group discussed the importance of a phase in period for the effective date of the rule, no matter what is done with the rule specific. The group identified that if Oregon OSHA takes a more aggressive approach, industries will need a longer lead in time. Especially building engineering controls may take a long time for companies to do.

Action Items: Dave will receive the AOEC article from a group member and distribute it to the rest of the group.

Closing Remarks: The group discussed the next meeting. Dave will work on draft language for a rule and schedule a meeting once some draft language is prepared for consideration. Dave will send out a Doodle Poll like last time in order to gauge good dates for the meeting.

AGC has the ability to allow people to call in to the meeting. Additionally a webinar or remote meeting was suggested, which Dave said was something he could look in to, especially if the weather is bad or it is too close to the holidays.

Meeting Adjourned: 11:40 AM

Next Meeting: None Scheduled yet. Dave will send out a doodle poll once a draft is completed in order to pick a specific date.