



Lead Rule Advisory Group Meeting Minutes Friday, October 20, 2023, 9-11am, Zoom

Attendees:

Linda Pressnell, Oregon
OSHA

Jennifer Ekdahl, Oregon
OSHA

Steve Patterson, Clarios

Rob Roloson, AGC

Angie Marsh, Oregon OSHA

Chris Zimmer,
Oregon OSHA

Chris James, Oregon OSHA

Sarah Rew,
Oregon OSHA

Kerry Spurgin, Oregon
Association of Shooting
Ranges

Brian Hauck,
Oregon OSHA

Greig Lowell, Oregon OSHA

Robert "Bob" Snyder, ODOT

Linda Pressnell started the meeting at 9:05am.

Linda: An Oregon OSHA public hearing is starting at 10am for anyone interested who will need to leave this meeting.

Linda shared the agenda on screen.

- We'll talk about non-compliance with the current rule, and OSHA updates.

-Our next meeting is Friday, Nov. 17. We're cancelling the December meeting.

Linda: Introduced Sarah Rew, Oregon OSHA & shared on screen:

Violation History Summary (**2013-2023**), 29 CFR 1910.1025 – **Lead (General Industry)** table

- Went through by section & indicated number of violations – note that the most frequent violations are in these categories: (d)Exposure Monitoring, (h)Housekeeping, and (l)Employee Information & Training

Violation History Summary for 29 CFR 1910.1025 – **Lead (Construction)** table

- Highest number for frequently cited was (d)Exposure Monitoring with 649
- This was followed by Methods of Compliance with 114

There were approximately 563 violations related to respiratory protection between General Industry and Construction. The total number of inspections during this 10-year period was 743; 132 were in compliance, and 611 had violations.

-Chris: (d) Exposure Monitoring – this number is so large because it includes other measures as well.

-Linda: Agreed. Some were for not air monitoring, but many were an umbrella over these different violations.

We can revisit this section in the future if we want.

Linda shared on screen: Common NAICS codes inspected table

-Note that descriptions include:

- 236 Construction—including structures, highways, roofing, siding, drywall, painting and electrical contractors
- 332—Metal manufacturing, including machine shops, electroplating and fabricating, arms manufacturing
- 423—Wholesalers including equipment and recyclable materials
- 811—Auto repair, mechanical repair, auto body

Others covered included: real estate, solid waste, dentists, hospitals & auto services.

-Let's talk about what we'd like to see in the Rule

- In previously meetings, we talked about putting all Lead requirements into 1 rule (which we'd done with Silica)
- Another idea was Safe Harbor Tables
- We'd also talked about Housekeeping/Surface Contamination surface level

-Robert S.: Would safe harbor tables help employers with some of the more common citations for lead?

- Chris Z.: This definitely would help.

-Robert: The cost to do monitoring is getting astronomical for employers. Safe Harbor Tables help designate X, Y, Z that need to be done. Other testing is out of reach cost-wise.

-Linda: With Safe Harbor Tables, part of the role is to increase compliance—how can we best protect employees? What would the Tables cover? Are employers more likely to comply?

-Robert: We found it to be very true for the welding regulations.

-Chris Z.: Yes, it's confusing for employers, often small employers. I've found compliance to be higher when specifics are offered.

-James: For auto body—like lead on the battery terminals—is where surface contamination is going to be critical. For others, exposure determination is much more challenging and doesn't show up on airborne testing.

-Linda: We're talking about air sampling, but we have the possibility of not seeing inhalation exposure. We may need separate Safe Harbors addressing different situations.

-Robert: Table 1 of the Silica standard might be a good example too.

-Linda: I'll use these comments to start drafting the rule language.

-Chris: There's essentially a Safe Harbor Table already built into the respirator rules; for sandblasting & manual demolition, these are specified, similar to Silica.

-Linda: Good point. This might be easier to discuss after I document what we'd like to see. If we go with Safe Harbor Tables, we could start with those trigger tasks and their protections.

-James: For surface housekeeping: There are accepted consensus standards to keep in mind; those tied to Brookhaven Natural Laboratories and EPA and HUD—those are built around 'after abatement.'

-Linda: Yes, those and the State of Washington incorporated levels into their rulemaking. And cleaned to a certain level could mean exemptions.

-Chris: We do need to base this on data and its connection to ultimate exposure. What does the level mean as to exposure to employees?

-Chris Z.: Would we be replacing the current program directive?

-Linda: Typically, yes. After the rule is enacted, we have to show our rationale in a decision document, then a PD in order to assist our own compliance officers with inspections. Then a FAQ or similar document(s) for public consumption explaining the rule.

-Chris: The current HUD level doesn't address surface areas such as lunchrooms. The only current level we have to apply is in our program directive. Often Federal OSHA uses it as a reference when answering questions.

-Linda: To expand on that, the reference to the level from HUD comes from federal OSHA. I'd have to investigate more if we're interested.

-Brian H.: I did search & couldn't find the basis of Washington's surface level of 1000ug. It would be great to have a reference.

-Linda: Agreed. We can look into this.

-Linda: We may have to massage our language to allow for leeway; for example, a water bottle carried from one work area to another. Or maybe with something like soldering, where I did wipe samples at an electrical soldering where an employee had a book,

makeup, and a water bottle that contained lead dust. Maybe we can fill a gap to include these kinds of situations.

-Linda: It looks like one safe harbor table could be based on trigger tasks under Construction. We also talked about a level for surface contamination.

-Brian H.: Back to writing a combined rule for both general industry and construction. Have we had any pushback about the other rules that are now combined -like confined space? Seem like employers like the combined effect?

-Chris: the nature of a mobile business would makes it more challenging.

-Robert: We could make some exempt. I prefer one rule. It clears the air on what is general and what is construction.

-Linda: Early on, someone did question if one rule was possible. From the Enforcement side, we get questions from people asking simply what the requirements are.

-Robert: When you start looking at highway maintenance and highway construction our employees could be on either side of it; it's easier to have one rule. For instance, putting in a new guardrail or repairing a guardrail can place them in 2 different rules (general and construction), which is confusing to explain.

-Linda: At this point, we'll start with safe harbor stemming from trigger tasks. I can develop a trigger level for surface contamination.

-James: Let's take into account your tables and what we're trying to fix. Let's cover the exposure monitoring; one triggers the next, especially in general industry. I like the one-stop shopping approach. We can't include every single scenario. Let's use the consensus standards as much as possible.

-Linda: My recollection is that in some subsections of the exposure assessment, only 6-10 sample results returned over the PEL. I'll look further at that. We do want to assist employers in complying with what we establish.

-Chris: If you look at violations, 1/5 are exposure monitoring. Construction is more difficult to capture air monitoring. To help employers and us with enforcement, I have several points. 1. Is PPE wording adequate? 2. Issues such as tepid water/handwashing hygiene must be provided 3. The Program Directive says they need to wash hands and face. 4. I'd like to see changing areas addressed—What's feasible? Or is taking off a full-body suit acceptable? What if a shower isn't immediately accessible? Or is something like a camping shower a requirement? This is a grey area for compliance officers regarding what a clean changing area is. 5. Consultants at construction sites have wiped people's hands and found lead. Nitrile gloves under work gloves help. Do we want to require these? We don't have a black and white definition of what's acceptable. It would be easier if specifics were in writing.

-Linda: Is there a water temp requirement?

-Chris: we can find a water temperature specifics.

-Sarah shared on screen: Oregon OSHA Fact Sheet:

<https://osha.oregon.gov/OSHApubs/factsheets/fs48.pdf> with Water Temp Guidelines

-Linda: Scrubbing hands is required to remove, and hand sanitizer is ineffective. Perhaps our supporting publication materials can include these specifics.

-Linda: I never had people refuse to allow me to gather wipe samples from their hands.

-Chris: Change areas are important to specify in some way.

-Linda: In California, there's outcry from industry about affordability of pull-behind showers.

-James: I'm looking at the Construction rule, looking at (d), some of it only applies above the PEL. (d)(2)(v) specifies tasks – if a worksite isn't doing these, it doesn't seem to kick in. If we're going to incorporate this all into one rule, it may not be applicable at times. Safe harbor tables may be needed.

-Chris: Essentially, every time you have a change in personnel; environment; or more than 12 months, you're required to monitor more.

-James: If we're going to comingle the rule, we have to differentiate the tasks that apply. For example, at a battery manufacturing facility, they're always triggering these.

-Linda: Good points. Now it will be good to look at something in writing and go from there. I'll look at trigger tasks, and safe harbor, probably in a table format.

-Brian: The safe harbor table we create will need to be very complex and hopefully include a general category to catch unforeseen tasks or newly invented equipment. I am already finding new grinders for silica that we did not foresee.

-Jennifer: I tend to be working more with the general industry side. For example, air monitoring is way over at two facilities that do manufacturing. Sanding lead-based paint has overexposures. I'd like to see what's an acceptable level and *where* to apply it, from door handles to work areas.

-Linda: Safe harbor tables can help with compliance in some instances. We need to consider air sampling and surface contamination. What we haven't talked about today is BLLs. Are we agreeable to lowering the BLLs?

-Chris: The physician at our prior meeting noted that people ages 40 and up may have trouble getting to low BLLs. So what would we move it to?

-Linda: The target has moved over time. Leaded gas and paint has been regulated and reduced general population levels. We'll have to look at what federal OSHA is working with.

-Jennifer: Window places I'm working with, we're finding a real difference in how different physicians are evaluating BLLs. There's no established level for physicians to work from. Some physicians send people home for levels that other physicians find permissible.

-Linda: Our main goal is protecting employees and maintaining standards. We need good data, evidence, and rationale for what we establish.

-Chris: The nature of science and medicine is that different levels affect people in different ways. We'll need a bit of leeway for the physician to assess the baseline for each person.

-Linda: With this rule, we have the potential for air sampling and also the biological markers. Both these forms of data can give us guidance. Yes, we need the guidance for physicians, especially as they're determining which people to pull out of work.

Linda: Thanks to all. We'll meet in November, then pick up again in January 2024. Contact me if you need to access any of these materials.

Meeting adjourned at 10:47am. Next meeting: Friday, November 17, 9-11am.