

NOVEMBER 7, 2023 | LEGISLATIVE & STANDARDS BOARD UPDATES

Latest Standards Board Update – Lead Takes Center Stage

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Although the Cal/OSH Standard's Board has [many draft regulations in the works](#), the revisions to the Lead Standards took center stage at the October meeting.

In March, the Cal/OSH Standards Board published proposed revisions to California's standards on lead in both construction and general industry. Cal/OSHA stated the catalyst for these proposed revisions was that existing requirements are based on more than 40-year-old lead toxicity information and medical and epidemiological data. Recommendations from the California Department of Public Health also spurred this latest rulemaking. 

Currently, the permissible exposure limit (PEL) for lead is 50 micrograms per cubic meter of air ($\mu\text{g}/\text{M}^3$), as an eight-hour time-weighted average, with an action level of 30 $\mu\text{g}/\text{M}^3$.

The proposal lowers the PEL to 10 $\mu\text{g}/\text{M}^3$, with an action level of 2 $\mu\text{g}/\text{M}^3$ for construction and general industry.

After the 45-day comment period and the April 20th public hearing, Cal/OSHA released a revised draft of the lead standards, with public comment on the revised drafts closing on July 24, 2023.

On October 6th, Cal/OSHA released its second [15-day Notice of proposed modifications](#), with the comment period ending on October 25th. Changes in the second 15-day proposal include:

- Respiratory protection – filtering facepiece can be used
- Addition of head coverings to interim protection measures. All protective equipment must be provided in accordance with General Industry Safety Orders (GISO) Article 10, Personal Safety Devices and Safeguards
- Personal vehicles added in places employees are prohibited to enter while wearing personal protective equipment
- Showers are required above 50 mg/m^3 when performing certain tasks
- Showers not required when employer can demonstrate they are not feasible
- Under the medical surveillance provision, an additional exception included as follows: "[i]nitial blood lead testing is not required for an employee who is not, and is not reasonably expected to be, exposed to lead at or above the action level for 15 or more days in any 12 consecutive months, and who is not exposed on any day above 20 $\mu\text{g}/\text{m}^3$ as an 8-hour TWA, without regard to respirator use."
- Training exception included that states, "[a] written elevated blood lead level response plan, training and

instruction, as specified in subsection (j)(2)(E), are not required when a blood lead level at or above 10 µg/dl is detected only in an employee's initial blood lead testing."

- Removal of detail regarding what must be included in written medical opinions.

Despite revisions, employer representatives urged that additional work is needed. Specifically, comments included:

- The assumptions and data used in the lead exposure models result in an overly protective proposal.
- The lead studies relied on by Cal/OSHA are based on correlation rather than causation.
- If less than 1% of workers in construction have tests that show elevated blood levels under the current standard, why is this amended regulation necessary?
- The requirements are too burdensome and will disproportionately burden smaller businesses (e.g., requiring four blood level tests in the first six months).
- Cal/OSHA grossly underestimates the cost to employers and contractors.
- Cost to construction industry also has huge impact on other industries, which should be considered.

The Board is expected to vote on the revised lead standards in the first quarter of 2024. However, the Board has stated that they will request the effective date be pushed 6 months to allow employers additional time to comply—leaving the potential effective date of approximately October 2024.