



The Truth About the Impact of Cal/OSHA's Proposed Lead Standards on Construction

Cal/OSHA Has Proposed Changes to the "California Code of Regulations, Title 8, Section 1532.1" Related to Lead

The Cal/OSHA Standards Board claims their proposal is necessary to comply with Federal OSHA regulations, however their proposal goes well beyond current Federal requirements. For example, Cal/OSHA is proposing to change the lead Action Level (AL) from 30 to 2 micrograms per cubic meter of air, and the Permissible Exposure Limit (PEL) from 50 to 10 micrograms per cubic meter of air. These new and extreme AL and PEL thresholds raise fundamental questions as to the proposal's necessity, attainability, and costs. It is important that the entire construction industry, both management and labor, oppose these proposed regulatory changes.

The Negative Impacts and Unintended Consequences of the Proposed Regulations on The Construction Industry

The proposed revisions to the Lead in Construction Standard, Construction Safety Orders, 8CCR 1532.1 will create; 1) new and significant compliance costs to our public and private customers and; 2) new and invasive medical surveillance and multiple blood draw requirements for workers. All while there has been zero evidence presented by Cal/OSHA staff that the current state and federal lead regulations are inadequately protecting workers.



Extremely Expensive -- These new lead regulations will be costly to our state. Construction costs will be driven up statewide by the mandatory blood lead level (BLL) testing, requirements for portable "decontamination showers" on jobsites (*which employees who are "presumed" to be doing lead work above the PEL will be **required** to use after completion of work*) and mandatory employee medical record keeping.

These elements of the proposal will have the effect of reducing the amount of public and private funds available for actual construction work throughout the state. Fewer school, highway and energy projects will be built. And for what? According to comments by Cal/OSHA, "The vast majority of California's 930,000 construction workers have no lead exposure whatsoever." In addition, according to Federal OSHA, there is a decline in the prevalence of elevated Blood Lead Levels (BLLs) in the United States. OSHA has provided data in the Federal Register to show that the national prevalence rate of BLLs greater than 10 mg/dL has declined from 2010 to 2016 indicating the current rules are working. These statements by OSHA and Cal/OSHA are contradictory to the rushed and expedited process Cal/OSHA is using to revise this standard in 2023.



Frequent Blood Draws from Workers -- Cal/OSHA's newly proposed PEL and AL levels are so low that almost all types of construction work will trigger compliance. Meaning workers performing any and all construction work could trigger action under the proposed regulations. This will include work in refineries, along state highways, demolition, excavation, tenant improvements, and building retrofits for important state programs related to decarbonization and improved energy efficiency. The planned reductions in the PEL and AL **will require ALL workers performing work on projects triggering compliance to have their blood drawn and tested for BLLs frequently**. Even infrequent tasks will require medical surveillance (employee physical exams) and for employees to undergo pre-exposure BLL testing before the project begins. Additionally:

- **Workers will have their blood drawn 4X by a professional phlebotomist in the first six months on a new project** until an exposure assessment can prove that the lead work is below the action level; and
- **Workers will be required to have monthly blood draws** if they are identified with BLLs over 20 Micrograms/Deciliter.



Privacy Issues? -- The frequent BLL testing of hundreds of thousands of construction workers will compile a lot of new data on workers' health and the results must be filed somewhere. Under the newly proposed lead regulations, **workers' personal medical data for medical surveillance and BLL testing will be reported to the California Department of Public Health and contained on a state registry**. Also, employers responsible for administering the medical surveillance program on their employees are required to maintain employees' personal medical records for 30 years after the employees' last day of employment.

Considering the impact of the proposed Lead in Construction Standard on contractors, workers and the industry overall; contractors and trade unions are urged to oppose the current version of the proposed regulations as more analysis is needed.