



VOSH PROGRAM DIRECTIVE: 12-105C

ISSUED: February 15, 1996

SUBJECT: Lead Standard, General Industry, § 1910.1025; Amendments

A. Purpose.

This program directive transmits to field personnel the most recent update to the Lead Standard for General Industry. This amendment reflects OSHA's conclusion that an airborne lead concentration of 75 ug/m³, measured as an eight-hour time weighted average (TWA) is the lowest economically feasible level that can be achieved by the brass and bronze ingot manufacturing industry as a whole by utilizing engineering and work practice controls.

This Program Directive is an internal guideline, not a statutory or regulatory rule, and is intended to provide instructions to VOSH personnel regarding internal operation of the Virginia Occupational Safety and Health Program and is solely for the benefit of the program. This document is not subject to the Virginia Register Act or the Administrative Process Act; it does not have general application nor the force of law.

B. Scope.

This Directive applies to all VOSH Personnel and specifically to Occupational Health Compliance and Cooperative Programs personnel.

C. Action.

The Deputy Commissioner, directors and supervisors shall assure that field personnel and employers understand and comply with the requirements of the general industry Lead Standard, § 1910.1025, and its amendments.

D. Effective Date.

March 1, 1996.

E. Expiration Date.

Not Applicable.

F. Background.

On November 14, 1978, federal OSHA promulgated the Lead standard which reduced the permissible exposure limit (PEL) from 200 ug/m³ to 50 ug/m³ based on an eight-hour time-weighted average (TWA). Paragraph (e)(1) of the Lead standard requires that, to the extent feasible, employers achieve the PEL of 50 ug/m³ solely by means of engineering and work practice controls.

The standard was challenged by both industry and labor. In *United Steelworkers of America v. Marshall*, 647 F.2d 1189 (D.C. Cir. 1980), *cert. denied*, 453 U.S. 913 (1981), the court affirmed most aspects of the regulation covering worker exposure to airborne lead but remanded to OSHA the question of the feasibility of the standard for certain industries.

After OSHA amended the Lead standard and promulgated a bifurcated standard for the non-ferrous foundries, six industries challenged OSHA's feasibility findings. They are as follows: nonferrous foundries; secondary copper smelting; brass and bronze ingot manufacturing; collection and processing of scrap (including independent battery breaking); leaded steel manufacturing and lead chemicals manufacturing.

In response, the D.C. Circuit Court ruled in 1991 that substantial evidence supported OSHA's finding that the Lead standard was technically and economically feasible for all industries, except the finding of economic feasibility for brass and bronze ingot manufacturing. The court lifted the judicial stay for the other five industries. As to the brass and bronze ingot manufacturing industry, the stay remained in effect.

On June 27, 1995, OSHA and representatives of brass and bronze ingot manufacturers signed a settlement agreement resolving a dispute over the economic feasibility of the Lead standard. The settlement agreement requires the brass and bronze ingot industry to achieve an eight-hour, time-weighted average (TWA) of 75 micrograms of lead per cubic meter of air, down from the 200 ug/m³ level. The parties agreed that an eight-hour TWA of 75 ug/m³ is economically feasible for the industry. Where an employer cannot achieve that level with engineering and work practice controls, the parties agreed to require the use of a supplemental respirator to achieve the permissible exposure level ("PEL").

The settlement agreement provides that, because of economic feasibility constraints on the brass and bronze ingot manufacturing industry, the industry will have six years from the date the District of Columbia Circuit Court lifts the existing stay to reduce air lead levels to an eight-hour TWA of 75 ug/m³.

The agreement also provides that until engineering and work practice controls can achieve the eight-hour TWA of 75 ug/m³, the Institute of Scrap Recycling Industries and the Brass and Bronze Ingot Manufacturers, Inc., are to provide OSHA's Office of Health Standards Programs with air-lead and blood-lead monitoring data.

On April 15, 1979, the Lead Standard for General Industry became effective in Virginia. At its meeting on December 11, 1995, the Safety and Health Codes Board adopted this recent amendment, with an effective date of March 1, 1996.

G. Summary

Based upon available OSHA and industry data, federal OSHA determined that it is economically feasible for the brass and bronze ingot manufacturing industry as a whole to achieve an air lead limit of 75 ug/m³. The air lead limit is to be achieved by engineering and work practice controls. Once the U. S. Court of Appeals for the District of Columbia lifts the stay of implementation of paragraph (e)(1), the industry has 6 years from the date the stay is lifted to comply. These amendments revised the

Implementation Schedule (Table I) of paragraph (e)(1) to reflect the current status of compliance dates for the engineering and work practice requirements for the lead industries.

These amendments also revised Table I based upon the lifting of judicial stays on March 8, 1990 and on July 19, 1991, for other specific industries. The stays had been in effect with respect to compliance requirements set forth in paragraph (e)(1) of the Lead standard. Accordingly, lead industries affected by the lifting of the stays must implement engineering and work practice controls in accordance with the date specified for the particular industry in Table I of paragraph (e)(1).

Additionally, these amendments revised portions of the standard that were unclear, obsolete or inconsistent with current compliance requirements. They also amended certain information in the Appendices to § 1910.1025 that may have been misleading.

Summary of technical amendments and corrections:

- 1) Paragraph (e). Methods of compliance--(1) Engineering and work practice controls. The Implementation Schedule (Table I) of paragraph (e)(1) was revised to reflect the current status of compliance dates for the engineering and work practice requirements for the lead industries as a result of the lifting of the stay on enforcement of paragraph (e)(1) for the remaining remanded lead industries except brass and bronze ingot manufacturers. Also, reference to interim levels, which are now obsolete, is deleted.
- 2) Paragraph (e)(4). Bypass of interim level. This paragraph was deleted from § 1910.1025 as the interim levels established in this paragraph at the time of promulgation of the lead standard are no longer relevant.
- 3) Paragraph (f). Respiratory protection. This paragraph was revised to delete the clause beginning with the word "except," which was based on interim levels that are no longer relevant.
- 4) Paragraph (j). Medical Surveillance. Paragraph (j)(2)(ii) was revised to clarify that the requirement for follow-up blood sampling tests applies only to the 60 ug/100 g removal trigger and does not apply to the 50 ug/100 g trigger which already involves an average rather than a single result to be confirmed.
- 5) Paragraph (k). Medical removal protection. (1) Temporary medical removal and return of an employee--(i) Temporary removal due to elevated blood lead levels. Paragraphs (k)(1)(i)(A) and (B) are deleted as they reference a phase-in schedule for medical removal protection that is no longer relevant. Paragraphs (k)(1)(i)(C) and (D) are revised and redesignated as paragraphs (k)(1)(i)(A) and (B), respectively, to maintain continuity of the regulatory text.

Paragraphs (k)(1)(iii)(A)(1) and (2) are deleted since they reference interim levels that no longer apply, and paragraphs (k)(1)(iii)(A)(3) and (4) are redesignated as paragraphs (k)(1)(iii)(A)(1) and (2), respectively, to maintain continuity of the regulatory text.
- 6) These amendments correct several inadvertent errors, updates information in Appendix B and revise certain language in Appendix C which might otherwise be misleading.

Theron J. Bell
Commissioner

E-Attachment: 60 FR 52856 (October 11, 1995)

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=FEDERAL_REGISTER&p_id=13503

Distribution: Commissioner of Labor and Industry
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**LEAD STANDARD, GENERAL INDUSTRY, § 1910.1025;
AMENDMENTS**

As Adopted by the

SAFETY AND HEALTH CODES BOARD

Date: December 11, 1995



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: March 1, 1996

Lead Standard, General Industry, § 1910.1025

VR 425-02-66

When the regulations, as set forth in the amendment to the Lead Standard for General Industry, § 1910.1025, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

FEDERAL TERMS

29 CFR

Assistant Secretary

Agency

October 11, 1995

VOSH EQUIVALENT

VOSH Standard

Commissioner of Labor and Industry

Department

March 1, 1996