



Lead Industries Association, Inc.

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Environmental Health Department

February 27, 1981

TO: LIA Environmental Health Committee
Official Members of LIA

FROM: Donald R. Lynam, Ph.D.

SUBJECT: OSHA Lead Standard

Enclosed is a letter received from OSHA announcing a 30-day delay in the March 1, 1981 date for reducing the blood lead removal trigger to 60 ug/100 g. This delay was granted in response to LIA's request for a one-year delay in the effective date of the 60 ug/100 g level. Please note that after consideration of additional data OSHA will make a decision as to what further relief is appropriate. The notice further states that public comments and information from interested parties will be solicited and that there will be a brief period of time available for submission of additional data. It is recommended that member companies start to accumulate information that OSHA apparently will be requesting.

As additional details are received as to the type of information requested and the date by which this information must be received, we will so advise you.

Sincerely,

Donald R. Lynam, Ph.D.
Assistant Manager, Environmental Health

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U.S. Department of Labor

Assistant Secretary for
Occupational Safety and Health
Washington, D.C. 20210

Standish Forde Medina, Esq.
Debevoise, Plimpton, Lyons & Gates
299 Park Avenue
New York, New York 10171

Dear Mr. Medina:

This is in response to your request, dated February 18, 1981, for a one year delay in the effective date of the 60 ug/100g removal trigger and 40 ug/100g return trigger in the medical removal protection provisions of the OSHA lead standard. After carefully reviewing your request and the attached documents, I have decided to grant a 30-day delay in the March 1, 1981, effective date to permit the submission and evaluation of additional information relating to your request. After consideration of the additional data, a decision will be made as to what further relief is appropriate.

The occupational lead standard was issued on November 13, 1978 and published in the Federal Register in November 14 (43 FR 52952) and November 21 (43 FR 54354). The standard, codified at 29 CFR 1910.1025, includes a requirement for the removal of employees whose blood lead levels exceed specified values and for their transfer to lower exposure positions or, in the absence of such positions, for the maintenance of these employees' earnings and other employment rights. These employees would then be returned to employment when their blood lead levels dropped below specified levels.

To assure the feasibility of this provision and in recognition of the existing elevated blood lead levels of many exposed employees, the standard provided for a progressive phase-in of the levels which would trigger the removal and subsequent return of employees to lead exposure positions. For purposes relevant here, beginning March 1, 1981, the start of the third year of the standard, employees would have to be removed if their blood lead levels exceeded 60 ug/100g and could not be returned until their blood lead levels dropped below 40 ug/100g.

In your request, you allege that the application of this requirement on the March 1, 1981, effective date is infeasible because it would necessitate the removal of many skilled employees, including supervisors, foremen and maintenance workers, whose blood lead levels currently exceed 60 ug/100g. You further state that these employees would have to be on removal status for lengthy periods of time until their blood leads dropped below 40 ug/100g, and that because of their skills and experience they could

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not be easily replaced. As a result, there would be serious adverse effects on the continued operation and productivity of your plants, including the health and safety controls utilized in these industries.

Your request raises substantial questions concerning the feasibility of the new trigger levels, which clearly warrant some relief to prevent the disruptions you contend will occur. From the information submitted so far, however, it is difficult to determine the precise nature of the relief necessary. Thus, for example, you have submitted data concerning certain employers in the primary smelting and battery manufacturing industries. It is not clear from these data whether similar problems are faced in other industries and therefore whether the relief requested is necessary for all industries covered by the lead standard or can be limited to the primary smelters and battery manufacturers. Even in these two industries, your submission relates mainly to a limited group of skilled employees who would be difficult to replace while they are on removal status. Again, it is not clear whether it would be sufficient if a delay in the new trigger levels affected only these employees or whether a broader delay covering production employees is also made necessary by the circumstances.

In light of these uncertainties and other gaps in the evidence submitted, and the very brief period of time before the March 1 effective date, I have decided as an interim measure to delay the effective date of the new trigger values, provided in 591910.1025(k)(1)(i)(C) and 1910.1025(k)(1)(iii)(A)(3), until April 1, 1991, for all employers covered by the lead standard. This brief delay will enable you to submit additional information concerning the extent and scope of a delay which you consider necessary, and will enable the agency to evaluate your request and determine what long-term action is appropriate. Public comments and information from other interested parties will also be solicited. I would suggest that your collection of additional data commence immediately because of the brief period of time available. We will shortly be sending you a separate letter setting out in some detail the questions we believe you should address in your additional submissions and the date by which this information must be submitted.

I am confident that with the cooperation of all concerned we will be able to develop a solution which will protect employees in a reasonable and feasible manner.

Sincerely,

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