

LEAD EXPERTS

A Lead Hazard Training Provider

THE LEAD ABATEMENT ADVISOR

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SPECIALIZING IN LEAD PAINT
ASBESTOS AND
MOLD TOPICS

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INSIDE THIS ISSUE:

LEAD DUST IN DEMOLITION.....	1
CA SUPREME COURT AFFIRMS RULING AGAINST LEAD PAINT MAKERS.....	2
LANDLORD IN PRISON FOR LEAD PAINT VIOLATIONS.....	3
OSHA CLARIFIES ANTI-RETALIATION RULES.....	4
OSHA UPDATE.....	5
EPA UPDATE.....	7
CITATIONS & PENALTIES.....	8
BITS & PIECES.....	10
LEAD EXPERTS TRAINING SCHEDULE - FIRST HALF OF 2019.....	11

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- OSHA Programs: Emergency Action, Respirator, PPE, HazCom, Fall Protection
- Customized Safety Programs • DOT HazMat Training • Air and Noise Sampling
- OSHA Training: Lift Truck, HazCom, PPE, Lockout-tagout, Confined Space, Emergency Evacuation, Fire Prevention, Spill Response, Lead Abatement Training, Electrical Shock & Arc Flash Protection, Bloodborne Pathogens, Excavation, Fall Protection, Scaffolding
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- Lead Paint Risk Assessments and Clearance Reports • Lead Abatement Consulting
- ISO 14001 EMS Training and Consulting
- Management Training: Supervisory Skills, Modern Safety Management Skills, Behavior Based Safety

The Lead Abatement Advisor is prepared by Lead Experts, Inc. to inform its clients and friends of developments in lead-based paint hazard evaluation and control, safety management, environmental compliance, and new developments in the environmental remediation field. The newsletter is available free of charge to interested parties. The articles appearing in this newsletter do not constitute legal or other advice or opinion. The views expressed in this newsletter are not necessarily those of Lead Experts, Inc. The application of various laws and regulations to your business operations may depend on many specific facts. Questions regarding your operation relative to the topics discussed in this newsletter should be directed to a qualified professional. For more information, call us at (800) 259-8930 or info@leadexperts.org

LEAD DUST IN DEMOLITION

The city of Detroit has the nation's largest program demolishing and removing abandoned and blighted homes, which may have created a new problem.

In 2017, a Health department analysis found children living near demolition sites appeared at higher risk for elevated blood lead levels. The study found living within 400 feet of a demolition site, increased the odds of elevated blood lead levels in children by 20%. However, the city hasn't definitively established the precise source of the lead or determined the demolitions to be the cause.

To reduce the risk possibly caused by demolition, Detroit has adopted protocols including:

- Homes being demolished with federal funds must have asbestos removed prior demolition.
- Residence neighboring a planned demolition site must be notified in advance, and literature on how to avoid dust and other possible hazards must be distributed.
- Contractors must control dust, spraying water on homes before and during demolition. Demolition debris also must be sprayed with water as it is loaded for disposal.
- The city will perform air quality testing at demolition sites to ensure harmful contaminants are contained.
- Contractors caught violating protocol, and Detroit Building Authority requirements, will be suspended or terminated from the demolition program.

CA SUPREME COURT AFFIRMS RULING AGAINST FORMER LEAD PAINT MAKERS

In October California's Supreme Court rejected appeals of former lead paint manufacturers, upholding a judgment of more than \$400 million, to help clean effected homes, seemingly signaling the end of nearly two decades of litigation.

The legal battle against former lead paint makers originated in 2000, as a product-liability suit. By 2011 the suit was being heard as a public nuisance case. This allowed municipal governments to sue collectively, for unlawful harm to their respective communities. The plaintiffs included, the cities of Oakland, San Diego, San Francisco, Santa Clara, the counties of Alameda, San Mateo, San Francisco, Solano and Ventura.

The local governments argued that lead paint makers should be held liable for removing the remaining lead hazards, that they had profited from. In 2014 the courts ruled against the manufacturers, in a judgment over \$1 billion.

On appeal, manufacturers were successfully able to limit their liability, to include only homes built before 1951. In 2017 an appellate court reduced the judgment to \$400 million.

Quotables

"The poor have sometimes objected to being governed badly; The rich have always objected to being governed at all." – G. K. Chesterton

"One cannot live a meaningful life unless there is something one is prepared to give it up for." – Anthony Kronman

LANDLORD IN PRISON FOR LEAD PAINT VIOLATIONS

Cephus Murrell, a 69 -year-old, Baltimore area landlord since 1974, was sentenced to spend one year in prison, six months in home detention, and one year of supervised work-release.

The landlord and his company, owns and manages 175 rental properties. Each of these properties was built before lead paint was banned, and subject local and federal lead paint regulations.

The city has issued over 20 Notices of Violation, and compliance orders against Murrell and his properties. In the past three decades, Children in 11 of Murrell's properties had tested positive for lead poisoning.

In U.S. District Court, Murrell pleaded guilty to three counts of violating the Toxic Substances Control Act, including failing to inform any tenant that their units contained lead-based paint, or when abatement work was being performed, conducting lead abatement while children were present, and falsely certifying abatement work. Murrell was found personally liable, despite operating as a rental company.

Quotables

“I’ll not listen to reason. Reason always means what someone else has to say.”
– Elizabeth Gaskell

“People try nonviolence for a week, and when it does not work, they go back to violence, which hasn’t worked for centuries.” – Theodore Roszak

OSHA CLARIFIES ANTI-RETALIATION RULES

[In an October 2018 memorandum](#), OSHA has clarified provisions of the anguished 2016 Improve Tracking of Workplace Injuries and Illnesses rule (29 CFR 1904.35(b)(1)(iv)). The rule prohibits employers from discharging or discriminating against an employee for reporting a work-related injury or illness. Publication of the rule was delayed following a call to provide additional guidance and a legal challenge by industrial and trade organizations. Groups claimed provisions unlawfully ban important safety incentive programs and post-accident drug testing. Not mentioned in the rule itself, the (29 CFR 1904.35(b)(1)(iv) preamble outlines circumstances where the agency would consider post-accident drug testing retaliatory. Other mentioned possible violations included, blanket post-incident testing, and some safety incentive programs as being deterrents for proper injury and illness reporting.

Safety Incentive Programs - According to the memorandum, safety policies where employee's incentives were tied to the number of recordable injuries, are not always prohibited. The memo includes steps employers may take to counterbalance unintentional deterrents of a rate-based incentive program. Among examples given to balance deterrents are incentive programs which reward employees who identify unsafe conditions.

Post-Accident Drug Testing - OSHA also clarified that testing is often generally permissible, giving the following circumstances: random testing, testing unrelated to injury reporting, testing required by workers compensation laws, and testing required by DOT or federal law. Testing to determine the root cause of an injury illness or near miss, should be conducted for any employee who could have contributed to the incident, not just employees who reported injuries.

Key Points for Employers

- Employers can and should continue to use post-accident drug screening;
- OSHA requires a "reasonable basis" for employers to perform a post-accident drug test;
- Review your company's post-accident drug testing policy to ensure compliance;
- Remove blanket rules for post-accident testing;
- Review your state laws for superseding post-accident testing requirements;
- Provide post-accident reasonable suspicion training for your supervisors, and
- Review and update your injury reporting process for employee ease of use.

OSHA UPDATE

Beryllium Standard Update

OSHA has proposed a rule to amend certain parts of its beryllium standard for general industry. Beryllium is a lightweight metal used in electronics and manufacturing which can pose serious health risks. OSHA issued a final rule in 2016 to combat chronic beryllium disease and lung cancer in workers. The Amendment, published in the [December Federal Register](#), would revise provisions regarding recordkeeping, personal protective clothing and equipment, written control exposure plans, disposal and recycling, medical surveillance, and hazard communication.

Key Amendments Proposed

- Reduces the permissible exposure limit (PEL) for beryllium to 0.2 micrograms per cubic meter of air, averaged over 8-hours;
- Establishes a new short term exposure limit for beryllium of 2.0 micrograms per cubic meter of air, over a 15-minute sampling period;
- Requires employers to use engineering and work practice controls (such as ventilation or enclosure) to limit worker exposure to beryllium; provide respirators when controls cannot adequately limit exposure; limit worker access to high-exposure areas; develop a written exposure control plan; train workers on beryllium hazards, and
- Requires employers to make available medical exams to monitor exposed workers and provides medical removal protection benefits to workers identified with a beryllium-related disease.

Compliance Schedule

May 20, 2017	Final rule took effect
December 12, 2018	General industry enforcement
March 11, 2019	Provisions for changing rooms & showers
March 10, 2020	Engineering Control provisions

OSHA is currently enforcing the permissible exposure limit of 0.2 micrograms of beryllium per cubic meter of air, and the short-term exposure limit of 2 micrograms per cubic meter of air for general industry, construction and shipyards.

OSHA Penalty Adjustment

Below are the maximum Occupational Safety and Health Administration (OSHA) penalty amounts adjusted for inflation as of Jan. 23, 2019.

Type of Violation	Penalty
Serious Other-Than-Serious Posting Requirements	\$13,260 per violation
Failure to Abate	\$13,260 per day beyond the abatement date
Willful or Repeated	\$132,598 per violation

OSHA Launches Program to Target High Injury and Illness Rates

OSHA is initiating the [Site-Specific Targeting Program](#) to target workplaces with high injury rates for inspection. OSHA will inspect identified establishments, and establishments that should have provided 300A data for 2016, but did not.

This program helps OSHA ensure that employers provide safe and healthful workplaces by directing enforcement resources to those workplaces with the highest rates of injuries and illnesses.

The 2016, Improve Tracking of Workplace Injuries and Illnesses rule, requires covered establishments with 250+ employees, and establishments in high-hazard industries with 20-249 employees, to electronically submit their Work-Related Injuries and Illnesses (300A form) data. The deadline to submit data each year, is March 2.

EPA UPDATE

EPA Reviews RRP Rule

Last April, The Environmental Protection Agency (EPA) completed a its Regulatory Flexibility review of its Renovation, Repair, and Painting Rule (RRP). The RRP Rule requires lead-safe work practices by workers, in homes, and child-occupied facilities built before 1978, and where lead is a known hazard. The review was initiated due to the scope of RRP, to determine if the rule could be amended, to minimize any adverse, economic impact, on small business entities.

EPA analysis found estimated economic benefits of up to 500% over estimated compliance costs. Concluding that RRP, “should remain unchanged without any actions to amend or rescind it.”

The Court Ordered Lead-Paint Law

In accordance with last year’s ruling, The Environmental Protection Agency (EPA) has released a proposal, to lower the lead-dust standards for floors and window-sills. In 2001, EPA set standards for lead dust for floors, and window-sills. Since 2001, new data demonstrates human health effects at lower blood lead levels, than previously analyzed. Late last year, a federal appeals court ordered the EPA “to act” on a 2009 petition to revise standards, meant to protect children.

The agency’s proposal lowers the lead-dust hazard standards on floors and window sills from 40 µg/ft² and 250 µg/ft² to 10 µg/ft² and 100 µg/ft², respectively. These standards will apply to most pre-1978 housing and child-occupied facilities,

[Read the proposed rule](#) [PDF].

Quotables

“Those who are not looking for happiness are the most likely to find it, because those who are searching forget the surest way to be happy is to seek happiness for others.” – Martin Luther King Jr.

CITATIONS & PENALTIES

Virginia Cites Contractor for Silica Hazards

Virginia Occupational Safety and Health (VOSH) issued five citations and \$304,000 in penalties to Lanford Brothers Company for exposing workers to respirable crystalline silica hazards. Inspectors determined that the company did not provide adequate eye and respiratory protection, failed to assess workers exposure to silica, and permitted workers to use jackhammers and concrete saws without proper hazard controls.

Hotel Cited for Exposing Workers to Asbestos Hazards

\$66,013 in penalties and eight citations were issued to the Hyatt Corporation, after Hawaii Occupational Safety and Health investigators determined, maintenance and demolition workers were not informed about asbestos handling, personal protective equipment, and safe work practices. The employer was cited for failing to conduct safety inspections, to train workers on asbestos hazards, and proper use of respirators.

Contractor Cited for Exposing Workers to Fall Hazards

OSHA cited Northeast Framing, for exposing workers to serious hazards after a fatal fall. The company was cited for failing to provide adequate fall protection; conduct regular jobsite safety inspections; train employees to recognize fall, ladder, electrical, and other hazards; and notify OSHA of a fatality. The company faces \$311,300 in penalties.

Texas Underground Tank Contractor Cited for Excavation Hazards

UST Systems, Inc., was cited for exposing workers to excavation hazards while preparing a trench for an underground storage tank. Inspectors found that the company allowed workers to enter the trench without proper protections or training on the dangers of unsupported soil walls. UST Systems faces \$35,844 in penalties.

Roofing Contractor Cited for Exposing Employees to Fall Hazards

OSHA cited Crown Roofing, LLC, for exposing employees to fall hazards, including installing roofing materials without the use of a fall protection system. The roofing contractor was issued the maximum allowable penalty of \$129,336. The inspection was initiated as part of the Regional Emphasis Program. Crown Roofing has been cited 13 times since 2014 for similar hazards.

Plumbing Contractor Admits to Violating Trench Safety Requirements

Arrow Plumbing, LLC, admitted to willfully violating OSHA standards by failing to use trench protection techniques at a construction site. An employee suffered fatal injuries when an unprotected trench collapsed. Under terms of a settlement agreement, the company agreed to implement several safety enhancements. These include hiring a safety consultant to implement a trench safety program; conduct safety and health audits; provide extensive training for employees; and reporting trenching-related incidents and near misses to OSHA. The company will also pay a civil penalty of \$225,000.

Construction Company for Trenching and Excavation Hazards

The Washington Division of Occupational Safety and Health issued six citations and \$126,400 in penalties to Colf Construction, for exposing workers to trenching and excavation hazards during a highway bridge project. Inspectors determined the company failed to: ensure workers were protected from cave-ins; conduct daily inspections, remove workers from hazardous areas, and provided safe exits.

Hawaii Cites Electrical Contractor for Safety and Health Violations

The Hawaii Occupational Safety and Health Division issued three citations and \$88,725 in penalties to Hawaiian Electric Co., Inc., after a foreman came in contact with energized equipment and sustained a near-fatal shock and burns. Inspectors concluded that the company failed to have an effective safety and health program, train workers on the control of hazardous energy, and conduct an inspection to identify hazards before starting work.

BITS & PIECES

Six Steps for Expert Contractors

The Associated Builders and Contractors found that addressing these six steps, resulted in companies that were safer than the industry standard, and able to lower their Total Recordable Incident Rate

1. **Substance Abuse Program** - Have and enforce a written Substance Abuse Program.
2. **New Hire Safety Orientation** - The best orientation training is at least three hours long. Remember that good initial training is far easier, and more cost effective then to needing to retrain later.
3. **Site-Specific Safety Orientation** - Enlist senior company officers to give a closing summary. It is important for employees to see senior staff are invested in the safety of its employees.
4. **Toolbox Meetings** - Conduct 15 – 30 minute meetings at the job site, on a single topic.
5. **Replace Near miss with Good Catch** - Help reinforce a culture of trust and remind employees that reporting problems won't result in discipline.
6. **Site Safety Committee** - Conduct frequent inspections and share your findings. Safety is by and large communication.

In order to deliver these steps, the leadership must be present, and uncompromising. The best Safety leaders have courage, are comfortable being out in front, they enjoy challenging and transforming the status quo.

2019 Lead Training Schedule

LEAD EXPERTS

Type, Length and Price	Location	Course Month / Dates									
<u>Contractor Initial - 40 Hour</u> \$865 Per Trainee	Toledo Cleveland Columbus	May 20 – 24	Sep 9 – 13	Nov 4 – 8							
		Apr 22 – 26	Jun 17 – 21	Aug 5 – 9	Oct 7 – 11	Dec 9 – 13					
		May 20 – 24	Sep 9 – 13	Nov 4 – 8							
<u>Contractor Refresher - 8 Hour</u> \$225 Per Trainee	Toledo Cleveland Akron	Jul 30	Sep 17								
		Apr 16	May 14	Jun 11	Jul 16	Aug 13	Sep 24	Oct 22	Nov 12	Dec 17	
		Jun 28	Oct 15								
<u>Worker Initial</u> \$665 Per Trainee	The Contractor Initial and Refresher courses shown above satisfy Ohio Department of Health's requirements for Worker Classes.										
<u>Worker Refresher</u> \$225 Per Trainee	A Worker enrolling in these classes will be charged the lower fee shown in this section. Please call if you have <u>any</u> questions.										
<u>Inspector Initial - 24 Hour</u> \$515 Per Trainee	Toledo Cleveland Columbus	Jun 3 – 5	Aug 19 – 21	Oct 28 – 30							
		May 6 – 8	July 22 – 24	Sep 30 – Oct 2	Nov 18 – 20						
		Jun 3 – 5	Aug 19 – 21	Oct 28 – 30							
<u>Inspector Refresher - 8 Hour</u> \$225 Per Trainee	Toledo Cleveland Columbus	**Risk Assessor Refresher classes shown below satisfy the Inspector Refresher requirements of the Ohio Department of Health**									
<u>Risk Assessor Initial - 16 Hour</u> \$350 Per Trainee	Toledo Cleveland Columbus	Jun 6 – 7	Aug 22 – 23	Oct 31 – Nov 1							
		May 9 – 10	Jul 25 – 26	Oct 3 – 4	Nov 21 – 22						
		Jun 6 – 7	Aug 22 – 23	Oct 31 – Nov 1							
<u>Risk Assessor Refresher - 8 Hr</u> \$225 Per Trainee	Toledo Cleveland Akron	Jul 29	Sep 16								
		Apr 15	May 13	Jun 10	Jul 15	Aug 12	Sep 23	Oct 21	Nov 11	Dec 16	
		Jun 27	Oct 14								
<u>Renovation, Repair and Painting Certification Initial - 8 Hour</u> \$209 Per Trainee	Toledo Cleveland Akron	Jul 1	Sep 19								
		Apr 18	May 16	Jun 13	Jul 18	Aug 15	Sep 26	Oct 24	Nov 14	Dec 19	
		Jun 24	Oct 18	Dec 30							
<u>Renovation, Repair and Painting Refresher (Grandfather) - 4 Hr</u> \$109 Per Trainee	Toledo Cleveland Akron	Jul 2	Sep 20								
		Jun 14	Jul 19	Aug 16	Sep 27	Oct 25	Nov 15	Dec 20			
		Jun 25	Dec 31								

If You Have Any Special Needs or Need a Reasonable Accommodation, Please Contact Us Immediately!

New Cleveland location: 23209 Miles Rd., Warrensville Hts. / EPA RRP accredited under Section 402 of TSCA

Class dates can be changed, rescheduled or cancelled at any time due to demand. Please call the office for updates.

**YOU ARE NOT ENROLLED IN ANY CLASS UNTIL YOU RECEIVE WRITTEN CONFIRMATION FROM US.
Certificates will not be issued if you are late to class. Certificates are held until paid in full.**

Licensing courses approved by the Ohio Depart. of Health, ODH Requires Refreshers Taken within Two Years of Previous Class

On Site Classes Available, Closed Enrollment - Your Location / Your Students - Priced per Day, Call for More Information

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