

THE LEAD ABATEMENT ADVISOR

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SPECIALIZING IN MOLD, ASBESTOS AND
LEAD TOPICS

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ASBESTOS FOUND IN CHILDREN'S TOYS

Four brands of children's crayons and two kids' crime scene fingerprint kits were found to contain asbestos, according to a report released Wednesday.

The tests were commissioned by the Environmental Working Group (EWG) action fund, a government-certified laboratory and confirmed by another government-certified laboratory.

Of the 28 boxes of crayons tested, four tested positively for asbestos. Several were marketed under the names of the popular characters Mickey Mouse, Power Rangers and Teenage Mutant Ninja Turtles.

As contaminated crayons are used, they can release microscopic asbestos fibers. The average child uses 730 crayons by age 10, according to a news release from EWG.

Crime scene fingerprint kits were also tested and two of the 21 were found to contain asbestos.

The kits, which instruct children to use dusting powder to identify fingerprints on surfaces, could contaminate children by way of airborne asbestos fibers.

According to the news release, the contaminated crayons were purchased from February to May 2015 from PartyCity and Dollar Tree, in a suburban county near San Francisco. The crime scene toys were purchased through Amazon.com and ToysRUs.com.

The risk of asbestos exposure from the items tested is low, federal regulators said, but scientists and health officials agree that no level of asbestos is safe, the news release noted.

"Asbestos in toys poses an unacceptable risk to children, today as it did in 2000 and 2007, the last time tests found the deadly substance in these children's products," Dr. Philip Landrigan, professor of pediatrics and preventive medicine at Mount Sinai Hospital in New York, said in the news release. Landrigan is an internationally recognized asbestos expert and former senior adviser to the U.S. Environmental Protection Agency on children's environmental health.

The crayons and toys that contained asbestos were made in China and imported in the U.S., according to the package labels.

According to the National Institutes of Health (NIH), breathing in high levels of asbestos over a long period of time can lead to build-up of the fibers in the lungs, which causes scarring, inflammation, and breathing disruption. Long-term consequences include lung cancer and cancer affecting the lining of the lungs or abdomen.

SUPREME COURT DECLINES LEAD PAINT CASES

The U.S. Supreme Court has declined to review a lower court ruling that a Milwaukee teen can sue lead paint manufacturers based on their various contributions to the risk of lead poisoning, even without proof a particular company's product caused his illness.

"This is the final word on whether the Thomas decision is constitutional," said attorney Peter Earle, who represents the plaintiff, Ernest Gibson, now 18, referring to the 2005 Wisconsin Supreme Court opinion whose author was later defeated by a challenger backed by business interests outraged by the case.

"These companies unlawfully injured thousands of children and are now being held accountable."

Lead carbonate makers say risk contribution theory is arbitrary and irrational because it eliminates the traditional tort requirement that a plaintiff prove a defendant caused the injury and second, that the theory changes the rule of liability after the conduct at issue. The 7th Circuit sent Gibson's case back to federal court in Milwaukee for further proceedings. It echoed Milwaukee County Circuit Judge David Hasher's decision in March that it was unconstitutional for the Legislature to (in 2013) make its 2011 law undoing risk contribution theory retroactive.

It found that Gibson had a "vested right" to pursue claims of negligence and strict liability against the makers of white lead carbonate before the Legislature's 2013 action.

U.S. District Judge Rudolph Randa had thrown out Gibson's lawsuit in 2010 on the grounds that the "risk contribution theory" violated the substantive due process rights of the defendants- makers of lead carbonate pigment.

The theory was fashioned by the Wisconsin Supreme Court decision Thomas vs. Mallett, written by then-Justice Louis Butler, who was later defeated for re-election, based partly on a backlash by business interests against the ruling.

Under the Thomas case, a lead poisoning plaintiff doesn't have to prove a particular manufacturer caused the injury, only that a manufacturer made or marketed white lead carbonate pigment at the time a house where the plaintiff lived existed. Then it becomes the manufacturer's burden to prove it either didn't cause the injury, or that its products were not used in the region where the house was located.

Gibson's case, along with 173 others, can now start moving forward. Earle said while Supreme Court action might lead to settlements, "we think some will never settle." Trials are expected early next year.

HOME IMPROVEMENT RETAILERS TO ELIMINATE TOXIC CHEMICALS

A study released early this year found that most vinyl flooring tested contained toxic phthalates. Exposure to phthalates are linked to asthma, harm to male reproductive organs, brain development, and the immune system. Phthalates can migrate out of flooring materials and get into the air and dust inside homes.

The flooring samples tested were purchased from major home improvement retailers. Researchers found that 58 percent contained phthalates, at levels which exceed U.S. Consumer Products Safety Commission (CPSC) children's product standards. Several states, including California, Washington and Maine require warnings or disclosure for several phthalates in consumer products.

- The poorest performing retailers: **Lumber Liquidators** and **Ace Hardware**, had phthalates in 100 percent of the flooring samples tested.
- **Lowe's (48 percent), Menards (23 percent) and build.com (25 percent)** also had products tested which contained phthalates.
- Among flooring brands, **Armstrong and Designer's Image** stood out for having zero of tested tiles with phthalates in the surface layer.

Home Depot changed their policy in May, requiring its suppliers to eliminate ortho-phthalates in all virgin vinyl flooring by the end of 2015. As of their first quarter of 2015, Home Depot had accomplished 85 percent of the phase-out.

Lowe's after a similar commitment from The Home Depot stated "With more than 90 percent of our virgin product offering sold today currently phthalate-free, the remainder of the virgin product will be free of ortho-phthalates by the end of 2015."

Menards the nation's third largest home improvement retail chain, confirmed in July, that it was joining Home Depot and Lowe's in pledging to stop sales of vinyl flooring containing toxic phthalates by the end of the year. Menards disclosed that "it would stop selling vinyl flooring containing a toxic chemical." Menards said it planned to stop selling any products containing phthalates at its home improvement stores by the end of year. "

Ace Hardware said that the flooring it sells from its distribution center is free of ortho-phthalates, but that Ace stores are not required to purchase their entire inventory from distribution centers. "We are committed to environmental education and stewardship – for our customers, our company and our communities," the company said in a statement.

Lumber Liquidators has stated they were working on mitigating the level of phthalates in their virgin, vinyl flooring. "Since the summer of 2014, we began adjusting our product standards and are actively transitioning to work with suppliers who support this goal," the company said in an emailed statement.

CHEAP FLOORING COSTS LUMBER LIQUIDATORS 15 MILLION

Lumber Liquidators has suspended sales of Chinese laminate flooring after facing accusations that the products contained dangerous levels of formaldehyde.

Concerns have grown that Lumber Liquidators' Chinese suppliers falsely marked some laminate flooring products as compliant with California's safety standards. The company also said on Thursday that it had hired Louis J. Freeh, the former director of the Federal Bureau of Investigation, to help review its compliance policies.

Concerns stem from a "60 Minutes" report, which said that the company's Chinese suppliers had deliberately mislabeled products as compliant with California's rules. The report said some products contained levels of formaldehyde, a known human carcinogen, that in some cases were more than 13 times the state's limits.

The retailer has said that its products are safe as used in homes, but its stock has sunk roughly 50 percent this year. Lumber Liquidators has been supplying worried consumers with indoor air quality test kits. On Thursday, the company said that 11,000 kits had been returned, and 3,400 had been analyzed. More than 97 percent of those results were within the guidelines set by the World Health Organization. While the air quality kits can measure overall formaldehyde levels in the air, they cannot pinpoint its source.

No federal standard exists for formaldehyde in wood products, although the Environmental Protection Agency is close to issuing a final rule.

"Despite the initial positive air quality testing results we have received, we believe it is the right decision to suspend the sale of these products," said Robert M. Lynch, Lumber Liquidators' president and chief executive.

The retailer said it had formed a team of people to investigate its Chinese laminate and would halt sales of the flooring until that review was complete.

"We will work diligently to meet the needs of our customers and to ensure their satisfaction," Mr. Lynch added.

The costs of supplying indoor air quality tests, legal fees and expenses reached \$15 million within a month of the report, the company said last month when it released its first-quarter earnings, posting loss of \$7.8 million. The retailer faces lawsuits from customers and an investigation by the Consumer Product Safety Commission into whether its laminate products are safe.

OSHA UPDATE

Proposed changes for recordable injury and illness

OSHA proposed a rule that clarifies an employer's obligation to maintain accurate records of each recordable injury and illness throughout the required five-year period.

"Accurate records are not simply paperwork, but have an important, in fact life-saving purpose," said OSHA Assistant Secretary of Labor, Dr. David Michaels. "They will enable employers, employees, researchers and the government to identify and eliminate the most serious workplace hazards - ones that have already caused injuries and illnesses to occur."

The proposed amendments add no new compliance obligations. Published in the July, members of the public can submit comments on the proposed rule until September.

Ohio Health News

- The Ohio Lead Advisory Council's annual report includes updated lead fact sheets for every county based on 2013 data. A total of 4,719 children had lead poisoning in 2013. An additional 3,161 children tested at 5 or above but were not included because the test was not confirmed with a venous test. The report will soon be posted.
- 57 units have been completed as of the beginning of the year for the HUD Lead-Based Paint Hazard Control Grant administered by the Ohio Department of Health. Of the \$2.5 million grant, \$845,575 has been expended. The cleaning project study involving Section 3 workers is underway
- ODH is finalizing contracts with delegate agencies for lead poisoning related services. Contracts include investigations for children testing between 5 and 9 micrograms per deciliter but no risk assessments. An investigation will mean a phone call to the parent or guardian to discuss the lead level and provide education.
- ODH recently awarded \$5,000 grants to each of 20 health departments to support healthy homes awareness activities. Health department grantees are Cleveland, Canton City, Adams County, Belmont County, Steubenville, Columbus, Delaware County, Erie County, Licking County, Lorain City, Madison County, Marion, Portage County, and Richland County.

EPA UPDATE

Lead Test Kits

EPA is meeting to discuss lead test kits referenced in the Lead Renovation, Repair and Painting (RRP) rule. EPA is seeking information related to: the existing market for lead test kits referenced in the RRP rule, the development or modification of lead test kits, and alternatives for lead-based paint field testing.

Updating Asbestos Demolition Releases

EPA has [released a report](#) for updating asbestos release under the Asbestos Demolition Standard. It says bluntly that the agency's guidelines for demolishing crumbling old buildings are woefully out of date.

EPA's Alternative Asbestos Control Method (AACM), established in 1973, allows demolition without removal of asbestos, requiring only that the asbestos-containing materials were well-soaked to prevent the fibers from becoming airborne during demolition.

Testing on AACM remediation, the inspector general's office found "The demolition of buildings that are structurally unsound and in imminent danger of collapse, and constructed with an asbestos-containing joint compound or Transite, can release significant amounts of asbestos into runoff wastewater. The amount of asbestos released into runoff wastewater can often exceed the legally reportable quantity for asbestos. Under the EPA's asbestos demolition standard, demolishing buildings that are structurally unsound and in imminent danger of collapse can release enough asbestos into the environment to pose a potential risk to human health."

The report made a number of recommendations including an evaluation of the potential health risk of asbestos fibers in untreated wastewater from demolitions; implementing timely actions based on the report and conducting regulatory reviews; and communicating with other EPA offices to discuss and share information.

Interventions for Children Affected by Lead

The Centers for Disease Control and Prevention (CDC) released a new report, "[Educational Interventions for Children Affected by Lead](#)". The report outlines available data describing the effects of lead, summarizes the Individuals with Disability Education Act (IDEA), and provides information on how these provisions relate to children affected by lead.

CITATIONS & PENALTIES

Employer exposes 3 workers to asbestos dangers

Three workers removing thermal pipe insulation were exposed to these serious risks because their employer failed to protect them properly. OSHA found that the employer, First Capital Insulation Inc. regularly exposed employees to asbestos hazards.

First Capital Insulation faces a \$490,000 penalty for seven willful violations, including allowing workers to remove asbestos improperly; failing to make sure their employees' respirators fit correctly; and not decontaminating employees and their clothing before leaving the work site.

Judge upholds citations issued for lead exposure and bloodborne pathogens

Drivers and loading-dock workers at UniFirst Corp. were exposed to hazards that involved bloodborne pathogens and lead. Administrative Judge Carol Baumerich issued a ruling that all citations and penalties against the company from a 2011 OSHA inspection. UniFirst had contested the citations.

"UniFirst's plain indifference to OSHA's requirements compromised the safety and health of its workers," said Robert Kulick, OSHA's regional administrator. "The judge's decision in this case sends a strong message to UniFirst and other employers: Those who ignore their legal responsibility to provide safe and healthy workplaces for employees will be held accountable."

OSHA cited the company for violations of its Bloodborne Pathogens Standard, including failure to conduct proper training and provide Hepatitis B vaccinations to drivers and loading-dock workers. These workers picked up and sorted dirty lab coats and other laundry from customers who regularly drew and/or tested blood. The workers were exposed to lab coats and laundry potentially contaminated with blood or improperly disposed of contaminated needles or syringes mixed in with the laundry. The company was also cited for exposing workers to lead hazards because employees were picking up laundry that had been contaminated with lead. Lead was subsequently found on work surfaces at the facility.

Judge Baumerich found that UniFirst's management routinely and intentionally falsified training sign-in sheets, required employees to sign training sign-in sheets without receiving training, forged employee signatures, and allowed training to be conducted by managers who were not competent in the subjects they taught.

The judge determined that the majority of the company's employees neither received the Hepatitis B vaccine nor signed the form declining the vaccine. In some cases, employees were not given the option to receive the vaccine for months, and in some instances years, upon gaining employment at the facility. The judge also found that the company did not comply with OSHA standards requiring the use of biohazard bags.

Judge Baumerich concluded that employees did not receive training on the hazards of lead exposure until after the OSHA inspection began. She determined that without the proper training, employees would not know that laundry could be contaminated with lead or how to handle potentially contaminated laundry and to wear appropriate personal protective equipment.

Wire producer exposes workers to lead hazards and amputation

OSHA has cited Bekaert Corp. for 12 violations, proposed penalties total \$76,000. Citations include the company's failure to prevent lead accumulation and contamination, and failure to guard machines to shield workers from cutting blades and moving parts during operation.

The second, a repeat violation, was for failing to guard machines to prevent exposure to hazards such as pinch points, and rotating and moving parts. A similar violation at the facility was cited in a 2011 inspection.

"Without protections, moving machine parts can lead to workers losing limbs," said OSHA Area director, Carlos Reynolds. "It is the responsibility of the employer to find and fix these hazards to keep workers safe."

Deaths of four workers prompts deeper look at DuPont Safety Practices

In November 2014, a worker was overcome at a Louisiana, DuPont chemical manufacturing facility when a supply line unexpectedly released more than 20,000 lbs. of methyl mercaptan, a deadly chemical. Three co-workers came to the worker's aid in an attempted rescue, but all four were asphyxiated fatally by the colorless, flammable, and highly toxic gas.

OSHA issued citations to DuPont for three willful, one repeat, and four serious violations at their chemical manufacturing plant, with penalties totaling \$273,000.

"DuPont promotes itself as having a 'world-class safety' culture and even markets its safety expertise to other employers, but these four preventable workplace deaths and the very serious hazards we uncovered at this facility are evidence of a failed safety program," said OSHA Assistant Secretary of Labor Dr. David Michaels. "Nothing can bring these workers back to their loved ones."

OSHA has also placed the company in its Severe Violator Enforcement Program. The program concentrates on employers who have demonstrated indifference towards creating a safe and healthy workplace by committing willful or repeated violations, and failing to abate known hazards. It also mandates follow-up inspections to ensure compliance with the law.

DuPont was earlier this year for eight serious and one repeat violation regarding the fatalities with a penalty of \$99,000. In addition, the company was cited at their Darrow, Louisiana facility in November 2014 and Deepwater, New Jersey facility in December 2014 for similar violations. The company has contested these citations.

DuPont employs about 63,000 people with operations in about 90 countries globally. The Louisiana, facility employs 313 workers who manufacture pesticides and other chemicals for the company.

BITS & PIECES

Least Competent People

Tree-trimmer David Fleischer, 21 (and son of the company owner), had to be rescued by firefighters after he apparently violated the cardinal rule in the business by cutting lower branches first – until he was stranded at the top of the tree. “He’s a good boy,” said (company owner) Izzy Fleischer, “but he is still learning.”

Q: What’s mighty curious about the sentence, “Show this bold Prussian that praises slaughter, slaughter brings rout”?

A: Writer, Alfred Alvarez recounts in his novel “Night,” A psychiatrist studying problem-solving during sleep posed this in a newspaper.

A day or two later a reader reported a dream in which actor Michael Caine presides over a crazy stage show where a comic Elizabethan figure kneels and puts his head in a guillotine. The figure peers up apprehensively and rolls his eyes. The audience roars with laughter, then the figure struggles to his feet, saying, “Shhh! Laughter is a capital offense!” More riotous laughter, then the figure doffs his hat and bows. The dreamer glances at Caine for a clue, but he says he must “dash,” waves and exits.

The dreamer awoke now with the answer. If the first letter of each word is lopped off, the trick sentence becomes, “How his old Russian hat raises laughter, laughter rings out.”

It was a remarkable dream says Alvarez, making its point several ways. Not only is the figure about to be decapitated, but he terms laughter a capital offense.” The “dash” and hat-doffing further hint at the separation of letters. Plus, the uproarious laughter expressed in mime what the transformed sentence says: “Laughter rings out.” “In other words, the problem was unconsciously solved before the dreamer discovered it,” Alvarez writes.

Quotables

“A nation should be just as full of conflict as it can contain.”

-Robert Frost

“If you attack the establishment long enough and hard enough, they will make you a member of it.”

-Art Buchwald

2015 LEAD TRAINING SCHEDULE LEAD EXPERTS

Type, Length and Price	Location	Course Dates
<u>Contractor Initial - 40 Hour</u> \$795 Per Trainee <u>Contractor Refresher - 8 Hour</u> \$195 Per Trainee	Toledo Cleveland Columbus Toledo Cleveland Akron	Sep 28–Oct 2 Aug 24–28 Oct 26–30 Dec 7–11 Aug 3–7 Oct 6 Aug 18 Sep 22 Oct 20 Nov 24 Dec 15 Sep 3 Nov 13
<u>Worker Initial</u> \$595 Per Trainee <u>Worker Refresher</u> \$195 Per Trainee	The Contractor Initial and Refresher courses shown above satisfy Ohio Department of Health's requirements for Worker Classes. 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> \$475 Per Trainee <u>Inspector Refresher - 8 Hour</u> \$195 Per Trainee	Cleveland Toledo Cleveland Columbus	Sep 14–16 Nov 16–18 **Risk Assessor Refresher classes shown below satisfy the Inspector Refresher** **requirements of the Ohio Department of Health**
<u>Risk Assessor Initial - 16 Hour</u> \$320 Per Trainee <u>Risk Assessor Refresher - 8 Hr</u> \$195 Per Trainee	Cleveland Toledo Cleveland Akron	Sep 17–18 Nov 19–20 Oct 5 Aug 17 Sep 21 Oct 19 Nov 23 Dec 14 Nov 12
<u>Renovation, Repair and Painting Certification Initial - 8 Hour</u> \$189 Per Trainee	Toledo Cleveland Akron	Aug 31 Oct 8 Aug 20 Sep 10 Oct 14 Nov 9 Dec 3 Sep 4 Nov 30
<u>Renovation, Repair and Painting Refresher (Grandfather) - 4 Hr</u> \$95.00 per Trainee	Toledo Cleveland Akron	Sep 8 Oct 9 Dec 2 Aug 21 Sep 11 Oct 15 Nov 10 Dec 4 Aug 7 Sep 9 Oct 7 Nov 5 Dec 17

IF YOU HAVE ANY SPECIAL NEEDS OR NEED A REASONABLE ACCOMMODATION, PLEASE CONTACT US IMMEDIATELY

EPA RRP accredited classes for certification under Section 402 of TSCA

**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 Department of Health
 ODH Requires Refreshers Taken During Second Year of License Period

RRP CLASSES ARE ADDED AS CLASSES FILL UP – CALL FOR ADDITIONAL DATES

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

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