



**DATE:** March 20, 2023  
**TO:** PRR Lead Task Force  
**FROM:** Helen Cleary  
**RE:** Lead Task Force Meeting Summary – March 14, 2023

On March 14, 2023, thirteen (13) members of the Phylmar Regulatory Roundtable – PRR Lead Task Force met to discuss comments to present to the Occupational Safety and Health Standards Board (OSHSB) during the meeting on March 16, 2023. PRR Comments can be found [here](#). The audio and video of the Planning Committee meeting can be found [here](#).

Many thanks to the members of the 2023 Phylmar Regulatory Roundtable Lead Task Force: Bonnie Burns, Breanna Skinner, Brian Anzalc, Claude Golden, Dave Fearer, Dave Woodard, Edna Lehnert, Hillary Thomas, Jamie Carlile, Jim Weber, Jo Forchione, John Malone, Justin Singh, Marc Hendon, Michelle Stewart, Mike Cooper, Nan Cargile, Ofelia Perez, Paul Costa, Peter Sarmicanic, Richard Parr, Rod Collins, Roxana Ramirez, and Sandy Tran. To all of you, your service is much appreciated.

*Please review the Task Force's Action Items:*

**ACTION ITEM:** PRR Staff to send a "PRR Member Comments\_Cal/OSHA Lead Proposal" document to solicit input from Task Force members for PRR's written comments. Document will include an overview of the proposed changes and specific questions for Task Force members.

**Completed** – emailed to Lead TF members on Monday March 20, 2023.

**ACTION ITEM:** TF members to review and provide responses to the "PRR Member Comments\_Cal/OSHA Lead Proposal" document prior to the next TF meeting on March 28, 2023. These responses will be used to formulate PRR's written comments.

**ACTION ITEM:** PRR Staff to draft comments for OSHSB meeting and Inside OSHA publication.

**Completed** – Thank you to the TF members who provided input and feedback! Link to PRR's comments are in these notes. PRR was quoted by [Inside OSHA](#); article was sent to publication's distribution list on Monday March 20, 2023.

**ACTION ITEM:** John Malone to send minutes of the November 2015 Advisory Committee meeting.

**Completed** – Thanks John!

### Rulemaking Status

On March 3, 2023, the OSHSB [noticed](#) the proposed amendments to the lead standard and the 45-Day Public Comment period opened. Written comments are due and the hearing is scheduled for April 20, 2023.

The following rulemaking documents can be accessed by clicking on their link:

- [Notice / Informative Digest](#)
- [Proposed Regulation](#)
- [Initial Statement of Reasons](#)

#### TF Meeting Highlights

PRR Staff informed the task force that the Lead Proposal Package was released March 3<sup>rd</sup>, opening the 45-day comment period which allows PRR until April 20<sup>th</sup> to provide written comments. In addition, the hearing is scheduled during the April 20<sup>th</sup> Board meeting; PRR will attend and provide testimony to the Board at the hearing. After the public comment period closes, the Division will review all of the submitted comments and make necessary adjustments. If significant changes are made to the draft, the Board is required to provide an additional 15-day notice for the new amendments and accept written comments.

If adopted by the Board, the rulemaking package will be submitted to the Office of Administrative Law (OAL) for review. OAL has 30-working days to review and adopt the rule. Following OAL adoption, it is filed with the Secretary of State. Unless a specific date is requested or included in the proposed text, the new rules become effective on one of four quarterly dates, based on when the rule is filed.

PRR Staff informed the task force that a Cal/OSHA Advisory Committee meeting will be held March 23, 2023, in Oakland, CA; the lead proposal may be a topic of discussion, brought up by stakeholders. [Katie Hagen](#), Director of the Department of Industrial Relations (DIR), commented at the last Advisory Committee meeting in November 2022 that if stakeholders had questions or issues with the lead regulation they can contact her office directly.

One member asked PRR Staff if she had heard anything on legal suits challenging the standard. PRR confirmed that she had not. She did confirm that construction groups were upset by the proposed new standard and submitting recommendations.

One task force member commented that his company spoke up to express the challenges they will face with the proposed standard at the last Lead Advisory Committee meeting in 2015. The Division recognized in the meeting that this company did have extenuating circumstances where

the standard did not fit well. The Division said they would come back and review these issues, but the company has not heard a word from the Division and not one change has been made.

One member spoke up and commented that in construction, if you are not in a defined trigger level, you default into trigger Level 3. Level 3 is where you have to assume worst case scenario.

In comparing various versions of the proposed standard, PRR Staff noted that not much has changed from version to version. In addition, one main difference between the construction and general industry standard was the use of trigger tasks in construction and Presumed Hazardous Lead Work (PHLW) in general industry. She asked if any members were interested in General Industry versus Construction standard. Majority of Task Force members stated construction was the issue.

PRR Staff requested the task force members offer specific examples of the challenges their companies are facing with the new standard. PRR asked for specifics on what members are looking to change or request. Several members suggested they need more time to gather and analyze the data for the reduced levels. One member said the new standard says you have to have a 95% confidence level of accuracy when monitoring (§1532.1 (d)(9) Accuracy of measurement); where current methods do not have that level of confidence Cal/OSHA is requiring in the proposed standard.

One member suggested framing the discussion on the feasibility of implementing the standard in a construction environment which is completely different than General Industry. The construction industry is defined by soil, lead removal, and other variables. In other words, a company would have to over protect on a very short exposure for an unknown exposure.

PRR Staff clarified with the task force that the requirements of this proposed standard are designed for workers exposed to lead on a daily basis, but yet it will affect job tasks of workers not typically exposed to lead. One member suggested the standard was written from a fixed workplace standpoint (rehab or demo a building) where there is a known exposure to that particular worksite.

With regards to the request for more time, PRR Staff confirmed members were asking for more time to fully explore exposure related to soil disturbance activity and debris disturbance activity, and more time to complete the exposure assessment, (i.e., complete the results, and identify the trigger and exposure levels).

PRR Staff suggested asking for more time to actually come up with a feasible solution.



Email Helen with feedback or questions ([hcleary@phylmar.com](mailto:hcleary@phylmar.com)).

**Adjournment:** 11:00 am

**Next Meeting:** March 28, 2023; 10am – 11am