



DEPARTMENT OF VETERANS AFFAIRS
DEPUTY ASSISTANT SECRETARY FOR
HUMAN RESOURCES MANAGEMENT AND LABOR RELATIONS
WASHINGTON DC 20420

FEB 01 2010

Mr. William H. Wetmore
Chair, Grievance and Arbitration Committee,
AFGE-NVAC #53
80 F Street, NW
Washington, DC 20001-1583

Dear Mr. Wetmore:

We acknowledge receipt of your December 1, 2009, grievance regarding safety regulations involving more than one Police Cadet at more than one facility. In your grievance, you claim that the VA has failed to take samples and conduct tests for lead and noise exposure at the VA Law Enforcement Training Center (LETC), in Little Rock, Arkansas. You also stated that the agency failed to provide to union information, specifically a copy of the actual lead and swipe samples, which is or ought to be "routinely maintained" by the agency. You requested written copies of lead and noise testing and sampling along with the procedures used to conduct such testing. You allege that the LETC had a practice of requiring and directing a variety of police cadets from across the nation to dry sweep and shoot lead bullets without proper safety protocols and environmental controls in place. You further state that the agency failed to provide written notice to affected police cadets, in compliance with Occupational Safety and Health Administration (OSHA) regulations, specifically you cite to the provisions of 29 C.F.R. 1910.1035(d)(5) and 29C.F.R. 1910.1025(d)(8)(ii).

As a remedy, you ask that the agency: (1) demonstrate compliance with 29 C.F.R. 1910.1035(d) (5) and 29 C.F.R. 1910.1025(d) (8) (ii) by providing the union with names and locations of those potentially exposed individuals and expected communication with those individuals; (2) provide the national union with actual written copies of the monitoring test and samples/methods including noise and lead air, when the employees were not utilizing a respirator; and (3) take any and all such other actions or actions as shall under the circumstances and applicable provisions, law, regulations and rules result in any and all affected employees being made whole.

Please note: there is no existing OSHA provision designated as 29 C.F.R. 1910.1035(d) (5). Therefore, this response cannot and does not address the allegations concerning 29 C.F.R. 1910.1035(d) raised in the grievance.

In response to your grievance, attached are the written copies of air monitoring tests conducted by OSHA in 2009. As you can note from the results, the 2009 test results indicate the exposure limits were well below permissible limits established by OSHA. Since the exposure

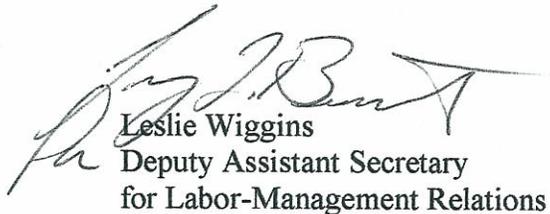
2.

Mr. William H. Wetmore

limits were well below OSHA's permissible limits, there was no requirement to notify employees in accordance with 29 C.F.R. 1910.1025(d) (8) (ii). Additionally, no noise tests were conducted by OSHA; therefore, there are no testing results to provide you. Accordingly, we are denying your grievance with regards to the request for noise test results. Regarding your request concerning methods, the agency does not have this information since the agency did not conduct the test; this information can be obtained through OSHA. Regarding your assertion that the LETC required police cadets to dry sweep, the agency has complied with OSHA's directives regarding dry sweeping and will continue to follow OSHA requirements concerning the maintenance of the LETC. Therefore, we are granting your grievance in part by providing you with actual written copies of the air monitoring tests conducted by OSHA, and denying your grievance as it relates to "providing the union with names and locations of those potentially exposed police cadets and expected communication to these individuals" since no exposure exceeding the permissible limits was found.

If you have any questions or concerns; please contact Larry Bennett at (202) 461-4126. If you need additional information from OSHA concerning this matter, please feel free to contact Mr. David Trigg, OSHA Assistant Area Director at (501) 224-1841. Mr. Trigg is the person that conducted the testing.

Sincerely yours,


Leslie Wiggins
Deputy Assistant Secretary
for Labor-Management Relations

Enclosures

OSHA Testing 2009 Report.

1. Reporting ID 627100	2. Inspection Number 123448474	3. Sampling Number ▶ 911935930
4. Establishment Name VA LAW ENFORCEMENT TRAINING CENTER		
5. CSHO ID Y6217	6. Sampling Date 23 JUN 2009	7. Shipping Date 24 JUN 2009
8. Date Result Received		
9. Job Title Not applicable		10. Occupational Code
11. Number Exposed		
12. Frequency of Exposure		

Exposure Summary

14. Substance Code	15. Rqstd	16. Smpl Type	17. Exp Type	18. Exp Level	19. Units	20. PEL	21. Adj	22. Severity	23. Citation information							
									No Cit	FTA	Over Exp	Eng	PPE	Trng	Med	OTH

TWA calculated on actual time sampled
 The I. H. is free to make changes on the Form 91B and submit them directly to IMIS

26. Analyst's Comments (Analytical Method) The reporting limit is 20.0 ugs. Samples were not blank corrected.	OSHA ID-121	27. Chain of Custody	Init.	Date
		a. Seals Intact	Y	
		b. Rec'd In Lab	DJK	26 JUN 2009
		c. Rec'd by Anal.	JA	14 JUL 2009
		d. Anal. Completed	JA	20 JUL 2009
		e. Calc. Checked	ALW	22 JUL 2009
		f. Supr. OK'd	JR	22 JUL 2009

28 Submission number	LR6923	LR6924	LR6925	LR6926	LR6927	LR6928
29 Lab Sample No. (Minutes/Type)	D63359 W	D63360 W	D63361 W	D63362 W	D63363 W	D63364 W

30. Analyte	31. Analysis Results/ 32. Sample included in calculations of					
1591 Lead, Inorganic (as Pb)	X	ND	X	ND	X	X
			884.0000	131.0000	188.0000	288.0000

Because the results for air samples are used in further calculations, the number of figures reported in section 31 may not reflect the actual precision of the analysis. Calculated confidence limits (UCL & LCL) should be rounded to no more than three significant figures. The precision of analysis for wipe samples and for bulk material samples justify rounding results to no more than two significant figures.

The Sampling and Analytical Error (SAE) is the current value for the specific chemical(s) and should be used for the calculations. Blank values are reported for reference only. Appropriate blank corrections have been applied to the samples by the Salt Lake Technical Center. Blank results are less than the reporting limit(s) unless otherwise noted.

33. Analyte Code	SAE Value
1591	

- L MILLIGRAMS PER LITER (URINE)
- C PICO CURIES PER LITER (RADON GAS)
- F FIBERS PER CUBIC CENTIMETER
- M MILLIGRAMS PER CUBIC METER
- Y MILLIGRAMS
- N NONE
- D MICROGRAMS PER DECILITER (BLOOD)
- P PARTS PER MILLION
- X MICROGRAMS
- % PERCENT
- E FIBERS PER MM2
- G MILLION PARTICLES PER CUBIC FOOT (MPPCF)

Sampling Number: 911935930

BM/S Bar Meters per Second

ND The results are below the detection limits.

Analyte codes are chosen by the laboratory. The I. H. should review them for applicability, if there are any questions call the laboratory for appropriate analyte codes (ie. ICP uses fume analyte codes when the IH may have sampled for dust).

1. Reporting ID 627100	2. Inspection Number 123448474	3. Sampling Number 913321089
4. Establishment Name VA LAW ENFORCEMENT TRAINING CENTER		
5. CSHO ID Y6217	6. Sampling Date 23 JUN 2009	7. Shipping Date 24 JUN 2009
9. Job Title Laborers, except construction (8769)		10. Occupational Code
11. Number Exposed		
12. Frequency of Exposure		

Exposure Summary

14. Substance Code	15. Rqstd	16. Smpl Type	17. Exp Type	18. Exp Level	19. Units	20. PEL	21. Adj	22. Severity	23. Citation information								
									No Cit	FTA	Over Exp	Eng	PPE	Trng	Med	OTH	
1591	Y	P	T	0.01100	M	0.050		.22									

TWA calculated on actual time sampled
The I. H. is free to make changes on the Form 91B and submit them directly to IMIS

26. Analyst's Comments (Analytical Method) Lead reporting limit Sug. Reported sample results have not been adjusted based on field blank sample results D63352 1591 D63352: Based on time on/off on 91A, total time changed to 280 minutes and air volume to 560 liters.	27. Chain of Custody	Init.	Date
	a. Seals Intact		Y
	b. Rec'd In Lab	DJK	26 JUN 2009
	c. Rec'd by Anal.	DE	06 JUL 2009
	d. Anal. Completed	DE	09 JUL 2009
	e. Calc. Checked	ALW	10 JUL 2009
	f. Supr. OK'd	JR	10 JUL 2009

28 Submission number LR6931
29 Lab Sample No. D63352 (Minutes/Type) 280 P

30. Analyte 31. Analysis Results/ 32. Sample included in calculations of

1591 Lead, Inorganic (as Pb) 0.0110 M

Because the results for air samples are used in further calculations, the number of figures reported in section 31 may not reflect the actual precision of the analysis. Calculated confidence limits (UCL & LCL) should be rounded to no more than three significant figures. The precision of analysis for wipe samples and for bulk material samples justify rounding results to no more than two significant figures.

The Sampling and Analytical Error (SAE) is the current value for the specific chemical(s) and should be used for the calculations. Blank values are reported for reference only. Appropriate blank corrections have been applied to the samples by the Salt Lake Technical Center. Blank results are less than the reporting limit(s) unless otherwise noted.

33. Analyte Code SAE Value
1591 0.0912

L	MILLIGRAMS PER LITER (URINE)	D	MICROGRAMS PER DECILITER (BLOOD)
C	PICO CURIES PER LITER (RADON GAS)	P	PARTS PER MILLION
F	FIBERS PER CUBIC CENTIMETER	X	MICROGRAMS
M	MILLIGRAMS PER CUBIC METER	%	PERCENT
Y	MILLIGRAMS	E	FIBERS PER MM2

N NONE

G MILLION PARTICLES PER CUBIC FOOT (MPPCF)

EM/S Bar Meters per Second

Analyte codes are chosen by the laboratory. The I. H. should review them for applicability. if there are any questions call the laboratory for appropriate analyte codes (ie. ICP uses fume analyte codes when the IH may have sampled for dust).

Exposure Calculations

Sample # 913321089 measured amount 0.011 milligrams

Convert milligrams \rightarrow micrograms as PEL is in μg

$$0.011 \text{ milligrams} \times \frac{1000 \mu\text{g}}{\text{mg}} = 0.011 \times 1000 \mu\text{g} = 11 \mu\text{g}$$

Calculate volume in m^3 = Sample t x flow rate = # Liters

$$280 \text{ min} \times 2 \text{ l/min} = 560 \text{ L}$$

Convert L to m^3

$$\# \text{ L} \div 1000 \frac{\text{m}^3}{\text{L}} = \text{m}^3$$

$$560 / 1000 = .56 \text{ m}^3$$

now determine $\mu\text{g}/\text{m}^3$

$$11 \mu\text{g} \div .56 \text{ m}^3 = 19.64 \mu\text{g}/\text{m}^3$$

Actual exposure 1 sampling period

$$\frac{c \times t}{\text{Act t}} = \frac{19.64 \mu\text{g}/\text{m}^3 \times 280 \text{ min}}{280 \text{ min}} = 19.64 \mu\text{g}/\text{m}^3$$

8hr TWA Exposure $\frac{(C_1 T_1) + (C_2 T_2) + \dots + (C_n T_n)}{480 \text{ min}}$

$$\frac{19.64 \mu\text{g}/\text{m}^3 \times 280 \text{ min}}{480 \text{ min}} = \frac{5499.2 \mu\text{g}/\text{m}^3}{480} = 11.46 \mu\text{g}/\text{m}^3$$