Memorandum

To: France Lemieux, Chair, Joint Committee on Drinking Water Additives – System Components

From: Michael Schock and Julius Ballanco, Co-chairs, DWA Task Group on Optional Lead Requirement

Date: May 13, 2019

Subject: Report on Task Group Activities

The DWA Task Group on Optional Lead Requirements had the following charge: This task group was formed at the 2018 DWA-SC Joint Committee meeting (November 29, 2018) to consider a proposal for an optional, more stringent requirement under NSF/ANSI/CAN 61 for lead release for sensitive populations using the following approaches: a lower Q value, an additional requirement for the average lead release of test samples Day 3, or both. These were the concepts that received the largest support from the exploratory Task Group formed after the 2017 DWA-SC Joint Committee meeting.

The Task Group has a large voting membership, with 26 individuals identified as voting members. Like all Task Groups, there is no balance in membership. Of the 26, 14 members represent either manufacturers or manufacturers’ associations (PMI and ASA), 5 represent third party certified and testing laboratories, and 7 represent independent engineers, EPA, and enforcement agencies.

For the first conference call of the Task Group, the Co-chairs prepared a document with recommended standard text to be considered. Two options were presented in the draft document - one proposal would add requirements to the body of NSF 61, the other would add an optional annex to the standard. The consensus of the Group was to work on an optional annex to the standard. We should point out that this was the only consensus reached by the Task Group.

Once the choice was made to pursue an optional annex, work began to develop the requirements. The Task Group was presented with the following options to identify a product as meeting the low lead provisions:

A. Final Q and Day 3 value
B. Final Q or Day 3 value
C. Final Q
D. Day 3 value

The Task Group supported Option A during the first conference call. However, following the conference call, there were numerous e-mails circulating opposed to requiring Day 3 values. In essence, the support appeared to be Option C, Final Q.

The second conference call was slated for determining the values to require for the optional low lead annex. The Co-chairs put forward the values shown in the attached draft of the optional annex. Other values were requested; however, none were presented.

The manufacturers indicated a desire to discuss not having the optional annex at all. The comments centered on the requirements not being technically justified. However, the co-chairs and some members
of the Task Group pointed out numerous contrary technical arguments to those of the manufacturers. The manufacturers further stated that this is the wrong method to use for evaluating the optional low lead certification criterion, and the consumer will not understand the Q value.

In subsequent discussion, the Co-chairs were of the opinion that all of the arguments against a low lead annex were responded to and contradicted by technical arguments from those supporting the inclusion of optional requirements. It was also pointed out that in the Task Group formed in 2017, the manufacturers opposed adding additional test requirements for evaluating low lead in end point devices for schools. During that Task Group evaluation previous year, the manufacturing interests stated that the current test protocol should be used with different Q values, not a new test requirement.

When a straw ballot was taken of the voting members regarding the acceptance of the proposed lower Q value for the annex, all of the manufacturers, manufacturers’ associations, and two certifiers voted against having an annex. The others voted for the values in the draft annex.

The next discussion was whether to include a Day 3 value in the annex. The same discussion ensued with the manufacturers, manufacturers’ association, and two certifiers, opposed to a Day 3 value, or basically opposed to the optional annex. The other voted to include the Day 3 values as shown in the draft.

Co-chair Ballanco pointed out to the group that, while the manufacturers, manufacturers’ associations, and two certifiers voted against the draft, it does not mean that the draft will not be considered by the Joint Committee. He explained that the Co-chairs have the power to move the draft forward to the Joint Committee with an explanation of what transpired at the Task Group level. It was further pointed out that since the Task Group is not a consensus group, any final decision rests with the Joint Committee, which is a consensus group.

Ballanco indicated that the draft will be straw poll balloted through the website with negative votes requiring a justification for their vote. Ballanco also indicated that, regardless of the outcome of the vote, the draft would be forwarded to the Chair of the Joint Committee with a recommendation from the Co-chairs since the opposition presented no other values, no other test methods, and simply opposed the inclusion of any optional annex. He emphasized that the Task Group is only advisory. Both co-chairs reserved the right to respond to technical arguments offered in opposition, in areas of their own expertise, as part of the record of the TG to be passed on to the Joint Committee.

Therefore, we are presenting you with the outcome of the vote in the attached matrix. You will find that the straw poll electronic ballot vote breakdown and total numbers did not change much from the conference calls. All but one of the manufacturers, both manufacturers’ association and three certifiers voted negatively with responses as to why they opposed the annex. There were 7 votes to support the lower Q value and the Day 3 requirement. Finally, there were three abstentions, including one of the manufacturers and one certifier.

Upon receiving the comments from the straw poll electronic ballot, the Co-chairs carefully read and responded to each comment. The comments and responses are presented in an attached document entitled, DWA Task Group on New Optional Lead Requirements, Straw Ballot Comments with Responses from Co-chairs.
The Co-chairs recommend that you ballot the Joint Committee on the attached draft annex. We also recommend that you include this memorandum with the ballot, so the Joint Committee understands the support and opposition to the optional annex on low lead requirements for end point devices. The Co-chairs encourage the Joint Committee to support the adoption of this new optional annex, for reasons stated in the response document.