

**DRINKING WATER ADDITIVES JOINT COMMITTEE**  
NOVEMBER 28 & NOVEMBER 29, 2007  
NSF INTERNATIONAL, ANN ARBOR, MICHIGAN  
DRAFT MEETING SUMMARY

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**California Lead Requirements (DWA-2007-4)**

R. Sakaji introduced himself and informed the JC that he was giving this presentation on behalf of Richard Sykes (East Bay MUD), the author of the issue paper. He began by giving the background history leading up to the signing of Senate Bill AB1953 which determines that products designated “lead-free” must have a 0.25% or less lead content. R. Sakaji explained that the compliance date for that requirement is January 1, 2010. He noted that there is no specified testing required under the statute. The purpose of this proposal is to amend NSF/ANSI 61 to include a voluntary certification to meet the California definition of “lead-free”. He pointed out that it is proposed as an Annex to emphasize the fact that it is voluntary, but what this does is provides a protocol for the verification of the lead content. It does not, however, contain any additional leachate testing requirements. R. Sakaji explained that alloys containing less than 0.25% lead do not require the use of the calculation for verification.

R. Sakaji addressed some questions regarding homogeneity and lead distribution in components. He confirmed that this certification does assume that lead is evenly distributed throughout the component, and therefore no specific point would be examined. Rather, products are evaluated on their maximum lead content in the alloy used for each component. He also stated that the intent was to evaluate the product based on the component composition as given by manufacturer; and further, it would also be sufficient to use alloy information from alloy provider. Tom Palkon noted that these products would still be required to meet the requirements of Standard 61 for certification.

Another question that was raised was regarding product compliance as addressed by the statute. R. Church asked if the statute was silent on the subject of compliance, to which R. Sakaji responded that the responsibility of determining compliance was given to the California Department of Public Health (CDPH). It also requires the plumbing code to be changed, details of which were provided in the issue paper. The note in the statute references the California Health and Safety Code, which in turn references NSF/ANSI 61. Therefore, in order to meet the plumbing code, NSF/ANSI 61, and the proposed annex, would have to be met.

Some members questioned whether the levels set for “lead-free” were health based. J. Bourque suggested that the JC make decisions only when data from a current study at Health Canada is published. F. Lemieux stated that the study looks at health effects data for the purpose of deriving lead reduction strategies. R. Sakaji stated that the way the annex is written, it references any content-based standard. It was currently structured for California, but other states are not precluded from taking a similar approach. He stated that other references used when writing the proposal were the CDC and EPA, who from a health standpoint take the stance that there is no “safe” level of exposure.

Regarding other states adopting a similar practice, R. Sakaji stated that there has been indication that other states will adopt content standard, but it is unsure it will be the same limit of 0.25%. However, the annex was written to allow flexibility for other states’ levels. C. Selover expressed concern that a national standard such as NSF/ANSI 61 would include an annex with requirements specific to one state. He suggested that a note that other requirements may apply would be more appropriate. R. Sakaji stated that the body of the standard would reference Annex G. J. DeBoer clarified that the annex is generic in that it does not explicitly refer to California, and therefore could be used for other states if they were to adopt similar legislation. I. Moch asked if another state published a similar law whether another annex would have to be written. R. Sakaji explained that if the lead content level were the same as written, it would not require an additional annex. I. Moch expressed the

opinion, however, that California should not mix political and technical requirements. He suggested that waiting for a national consensus on a lead content standard would be desirable.

When asked how the requirement applies to plastic pipe, R. Sakaji stated that plastic pipe would also require verification that there is no lead. T. Palkon asked how the components included are determined. R. Sakaji stated that all wetted surface areas must be included in the calculation, including all hoses, side sprayers, etc. While this may lead to a high number of possible combinations for different products, each combination would be required to get separate certification to the lead content requirement.

C. Selover noted that currently there are some definitions that say "lead free" is 4% lead content and others at 8%, which creates confusion in the market. He stated that this legislation was a logical approach to fix the definition. However, the problem is that nothing in statute speaks to compliance. He explained that he was involved in the introduction of another bill this year to deal with that issue, which addressed other things used to meet performance requirements, including issues such as the formula, washing processes, etc. He stated that the benefit of third party certification is in having a stronger position to deal with lawsuits that might arise. He agreed that while East Bay MUD is trying to address these problems, the proposal still needs some work, and he recommended referring it to the existing lead task group for revision.

L. Mercer inquired as to whether it has been agreed that the exemptions will be tied back to law, since AB1953 does not exclude products such as those used in bathing applications. R. Sakaji stated that there have been discussions within the CDPH drinking water program and the opinion is that they are committed to seeing certification follow those exemptions in order to expedite meeting the 2010 deadline. B. Bernados clarified that what little jurisdiction there is being vague, they have relied on the water works standards, which do cite NSF/ANSI 61. He also stated that in legal matters, the attorney generals seek the opinion of the CDPH, so their opinion will preside. R. Sakaji added that anything falling under the water works standards, therefore, would be required to meet NSF/ANSI 61. Regardless of one's opinion on the law, B. Bernados reminded the group that it is in effect and that all faucets must meet the criteria by January 2010. He is in support of the annex because it allows for consistency to meet that standard.

Franco DiFolco expressed his discomfort in adding design requirements to a performance standard such as NSF/ANSI 61. He asked if the manufacturers would be relied on to provide surface area and lead content data and whether that leads to increased liability on the part of the certifier. He also added that if it were not verified, it might have no value. R. Sakaji confirmed that the idea is that the role of the certifier is indeed to verify. F. DiFolco suggested clarifying that in the language.

J. Ballanco stated that he was also concerned about the effects of adding politically driven requirements to a health effects standard. He stated that he would support this effort if it were proposed as a separate document. He also stated that when he first read the bill, he interpreted it as meaning that each component would have to be less than 0.25% lead, and opined that attorneys would also read it this way. He suggested defining "lead-free" in the definition section of the standard.

S. Martin agreed that this is a necessary step, and added that the industry has found it encouraging that the annex covers some of the things that proposed legislation. He stated that there are still issues, including location of lead and jurisdiction over this requirement. On the most recent Lead Task Group (LTG) conference call, it was stated that the jurisdiction of the California DPH ended at the meter. Jurisdiction downstream of the water meter should also be consulted such as the California Building Commission.

The group discussed the politics of the proposal. J. Kempic explained that the MCLG for lead is zero. This, while a mechanism to reduce lead exposure from the approach of a content standard, is still very much a health effects issue. He reminded those present that much of the section 9 requirements were driven by requirements set in 1996. J. Kempic recommended that there be a differentiation between "no lead" and "lead-free".

R. Church stated that while the idea of putting a prescriptive requirement in the standard does not appeal to him, he acknowledged the need for it. He stated that it is the case that lead issues are tied to politics, and this is not any different an approach than has been taken in the past. He proposed adding additional information to the annex regarding the health effects of lead. On the contrast, it was argued that if it is thought that this is not a beneficial law, the JC should not support it by adding a compliance protocol to the standard. R. Sakaji stated that since the law will be taking effect in January 2010, this is the best way to help manufacturers meet the requirement.

R. Sakaji stated that he was asked to get a motion from the committee to ballot this item. J. DeBoer asked C. Selover to present his related issue paper before further deciding what action to take.

### **Lead Requirements for Products with Coatings (DWA-2007-31)**

C. Selover explained his issue, and suggested that one of the other related items that the JC needs to address with regard to the proposal for annex G is how it will deal with coatings. In his proposal, he suggested 1) proof of durability as a criterion, and 2) reconciliation of exclusions with what is included in sections 4, 8, and 9 so that all are in harmony. He suggested the lead task group be charged with following up on this.

**Motion:** C. Selover moved to send this issue to a task group. R. Church seconded.

**Discussion:** R. Sakaji stated that he would prefer this be balloted first and then referred to a task group later if necessary. J. Ballanco stated his preference to direct the task group to develop a document independent of NSF/ANSI 61.

Concern was expressed that this does not address anything beyond faucets adequately. It was predicted that other product types would have a difficult time complying since they are only one component.

A. Kireta, Jr. stated that he would like to see the California Building Commission involved in the work of the task group. S. Remedios stated that many additional task group members should be included as well.

L. Mercer stated that the language needs to address acid washing. B. Chapin stated that he would like to see specific language excluding plastic products from this option.

R. Sakaji expressed great concern that the deadline would be more likely met if this did not go to a task group. He asked the manufacturers to keep in mind the compliance date in mind. C. Selover reassured the Committee that there is a high sense of urgency among manufacturers as well who will need to comply. He stated that he would amend his motion to include all of the comments made.

P. Greiner stated that one benefit of balloting is obtaining the opinions of all members (including those not present); however, the benefit in establishing a task group immediately is that they can begin resolving issues immediately. R. Church suggested a straw poll to get everyone's comments up front. C. Selover seconded the idea, stating that the task group could request comments without a ballot.

B. Bernados stated that he would prefer to know if this approach was not going to be viable so that CDPH can determine if it needs to take another approach (yet another reason a ballot is favored). R. Weed stated that as a member of the Lead Task Group, he would prefer the task group make the necessary modifications before going to ballot in order to increase approval by the JC.

B. Bernados made a friendly amendment for the motion to include a time frame for the task group. K. Kells seconded the amendment. C. Selover accepted the amendment and stated that the goal should be to ballot the language no later than the end of June 2008. It was stated that this also left open the option of creating a standard separate from NSF/ANSI 61.

**Revised motion:** to refer this issue to the Lead Task Group with a deadline for a recommendation to ballot by June 30, 2008.

**Vote:** All in favor.

Additional volunteers for the Lead Task Group included: B. Bernados, B. Chapin, J. Bourque, J. Hebenstreit, J. Baldwin, L. Mercer, J. Wallace, R. Sykes, S. Tefft. B. Bernados agreed to recruit a representative from the California Building Standards Commission.

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