



MEMORANDUM

**From:** Lance Agnes, Chair, Lead Task Group  
**To:** Drinking Water Additives Joint Committee  
**Date:** May 9, 2008  
**Subject:** Lead Content Requirements

Attached is a summary of the results of the straw ballot and all comments received. Based on the results, the Lead Task Group (LTG) is moving forward with a normal ballot for placement of the requirements in Standard 61. The proposed requirements in this ballot are the same as provided with the straw ballot with the exception of several minor, editorial changes. As before:

- Mandatory language is proposed for inclusion in Section 3 relative to use of lead as an intentional additive in all water contact materials and is consistent with certification policies purportedly used by most ANSI accredited certifiers.
- The language regarding the weighted average lead content requirement of 0.25% and the methodology for calculation is still included as an optional requirement and contained in Annex G. As before, whether or not this optional annex is used, all products are still required to meet the full extraction test requirements of Standard 61.

Although not unanimous, the consensus of the LTG was to move this forward and the following comments are being provided to address many of the concerns raised by DWA JC members during the straw ballot. Please take these into consideration when voting.

1. Several objections relate to this only addressing a "Single State" requirement. While California is the initiator here, Vermont, Washington State, Massachusetts and the US Congress all have legislative activity relating to lead content limitations. During our TG discussions, there was talk about a series of Annexes to deal with different state requirements. From a manufacturing, distribution and consumer availability of product standpoint, this would make interstate commerce virtually impossible to implement and also extremely difficult to enforce. We should provide leadership in creating a reasonable standard relating to lead content that reduces human exposure to lead in drinking water.
2. Several arguments are made about a lead content limitation not being a health effect requirement. LTG members would disagree. At EPA workshops (specifically July 2005), in any preamble to either legislation or regulation, and in Annex F of Standard 61, citations are made about blood lead levels and learning disabilities measured at very low levels of blood lead. While there are a number of confounding factors, such as socio-economic influences, that make it difficult to discern true cause and effect, eliminating potential exposure to lead as a potential contributor to these health effects seems to be a health effect standard.
3. Arguments are made that NSF 61 is performance based and a lead content limitation is prescriptive. Certifiers currently place restrictions on the allowable lead content in of many water contact materials by policies that have no basis in performance. [As a side note, the limitation is proscriptive not prescriptive. It says only what you cannot use in excess. Brass is not the only choice of material, nor is leaded brass. There are lots of options in both material and design. Unfortunately, many of them will cause significant disruption both up and down the supply chain from the raw material to the consumer.]

## Results of the Annex G Straw Ballot

### Voting Statistics

Number of votes cast (excluding abstentions) 28

Eligible members who have voted 29 of 36 81%

Eligible members who have not voted 7 of 36 19%

### Voting Summary by Option (min 2/3 affirmative required)

Options with highest number of votes are bold

| Option             | # Votes   | % of Total |
|--------------------|-----------|------------|
| <b>Affirmative</b> | <b>20</b> | <b>71%</b> |
| Negative w/Comment | 8         | 29%        |
| Abstain            | 1         |            |

Percent of DWA JC members voted affirmative: **55.5%** (20/36 = .555)

### Comment Summary

| Voting Member                  | Company Affiliation      | Comment   |
|--------------------------------|--------------------------|---|
| <b>Negatives with comments</b> |                          |   |
| Robert Powell                  | Pinellas County          | On balance I find the arguments against inclusion of Annex G in NSF 61 more persuasive than those in favor. The key points in my view are that this is a "single state issue" at this point and there is currently no scientific evidence that the lead content approach California is pursuing is more protective than existing NSF performance standards.   |
| Jim Cleland                    | MI Dept. of Env. Quality | I agree that this is essentially a "single state option" and am voting as such.   |
| Tim Muldoon                    | Kingscote Chemicals Inc. | At this time I would agree this is a stste by state issue.  |
| Julius Ballanco                | J.B. Engineering         | I am opposed to adding this section to NSF 61. I believe that such an inclusion will lower the quality of the standard. NSF 61 is a health effects document. It is not a material standard. The proposed annex is a material requirement designed to help combat the law that California enacted. This law has no health basis. This committee should not respond to inappropriate political decisions by elected officials. If we start with California, we could have annexes for every state to respond to their politicians. Then we would have to consider foreign countries since NSF 61 is used outside the United States.   |
| Mike Briggs                    | IAPMO                    | While guidelines should be established for a lead content evaluation, The existing NSF/ANSI 61 document is not the appropriate place for such guidelines. Several reasons have been given, but regional requirements for commerce do not belong in a national performance standard.<br><br>A separate standard would be appropriate for the contents of Annex G.  |
| Franco Di Folco                | CSA International        | I am still uncomfortable supporting the Addition of Annex G to the NSF/ANSI 61 standard for several reasons:<br><br>1. The NSF 61 standard is a performance based standard. Annex G is written as design requirements and does not include any performance requirements.<br><br>2. California has not officially stated how they will enforce this bill or if they would accept Annex G as a suitable vehicle for demonstrating compliance.<br><br>3. Other states (including California) have had and enforced prescriptive requirements for lead for years, which have never been part of NSF 61 standard.<br><br>4. The language proposed, states that the manufacture has the option of meeting the |

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|-----------------------------------|---------------------------------------|--|
|                                   |                                       | <p>requirements of Annex G or not. This would lead to confusion in the field.</p> <p>A separate stand alone document for these requirements should be established.</p>   |
| Brennan,<br>James                 | Arch Chemicals                        | <p>I'm concerned that this proposal is an over reactions to one state's actions and we'll find ourselves vascillating on this issue in the future. Not a good strategy for a "standards" organization.</p> <p>I'm not even sure we want to initiate a new standard now, for the same reasons.</p> <p>Regulation lead exposure is an important issue and we will want to move in that direction. However, the only thing I like less than doing nothing, due to indcision, is doing the wrong thing, due to insufficient information.</p> <p>Let's revisit the question of whether NSF needs to act now on lowering the standards for lead content. If so, how can we be proactive without over reacting?</p> |
| Winton,<br>Richard                | Underwriters<br>Laboratories,<br>Inc. | <p>Annex G is inconsistent with the scope of NSF 61. NSF 61 is a comprehensive, nationally and internationally recognized, technically sound, test-based standard.</p> <p>In contrast, Annex G has been crafted to afford manufacturers a means of demonstrating compliance with a material content requirement promulgated in legislation of a single state that is narrowly focused on one contaminant to the exclusion of all others, whose basis as appropriately protective of public health has been questioned and whose provisions are still unclear.</p>  |
| <b>Affirmatives with comments</b> |                                       |  |
| Carrier,<br>Richard               | Health Canada                         | <p>Any entity or person can propose changes to the standard to address a need, so the validity of CA requesting a change or addition is not in question here. That being said, it is important that some mechanism exist to ensure that the requirements under NSF61 are clearly communicated and identified on the label. The overriding requirements for certification are found in the body of standard 61 and Annex G is a voluntary/supplementary requirement. It is important that this is clearly stated in Annex G and in the introduction of the standard to avoid confusion.</p>   |
| Craig Selover                     | Masco Corp.                           | <p>Annex G is neither performance nor prescriptive in nature. While it does not match the leachate performance of the regular sections of Std 61, it restricts lead content, but allows for a variety of means with which to comply. This is flexible enough for me to prefer inclusion in Std. 61. Note that most certifiers already prohibit hose, plastic and elastomer formulations which contain lead.</p> <p>Plumbing Codes already require compliance with Std 61. I expect requirements similar or the same as California to be very common, and placing Annex G in Std 61 will keep things simpler than referencing a separate standard in the Codes.</p>   |