February 27, 2008

Mr. Lance Agnes
Chairman
NSF Lead Task Group for Standard 61
C/o Sarah Kozanecki
NSF International
789 N. Dixboro Road
Ann Arbor, MI 48105

Dear Mr. Agnes:

I am writing to express East Bay Municipal Utility District's (EBMUD) very strong concern about developments taking place within our Task Group and the process to revise NSF Standard 61 to ensure that industry can comply with California's 2006 statute for removing lead from drinking water plumbing. The goal of the legislation was to eliminate the potential for lead contamination from plumbing products by eliminating the use of lead for any components in contact with drinking water. The Task Group has succeeded in validating the formula for calculating lead content and we have generally agreed on most of the specific language. However, I am very concerned that we could end up with a certification process that will allow the current lead-based brass fittings and fixtures to continue to be installed in California, which would undermine the intent of California's landmark law to rid drinking water plumbing of lead.

NSF and the Task Group are in the midst of developing a certification process that will provide manufacturers a means to demonstrate compliance with California's new lead statute for drinking water plumbing. This 2006 California statute (commonly called "AB 1953") established a lead content standard of 0.25% for plumbing components that come into contact with drinking water. Manufacturing a faucet or fitting that contains virtually no lead is the best method for ensuring the safest possible drinking water supply and reducing lead exposure through drinking water plumbing.

Unfortunately, one issue has arisen that is not consistent with requirements of the AB 1953 standard and that threatens to sideline the important and hard work that the Task Group has completed to date. Some manufacturers are proposing to allow acid washing the surface of lead-containing components rather than eliminating lead from the plumbing components in contact with drinking water, as is required by California's new law. This approach offers no improvement over the status quo because it would allow the same leaded materials that are used today to also be used after the AB 1953 standard goes into effect in 2010. This is completely contrary to the requirements of California's new law that clearly requires the virtual elimination of lead from drinking water plumbing by removing the lead from the components in contact with drinking water. Acid washing not only does not remove the lead from the component, but it will be extremely difficult to verify that such a measure would be effective over the life of any given

plumbing product. It is therefore important that the revised standard not allow acid washing. I have provided this opinion at our Task Group meetings and I think it is important to reinforce it now in writing.

As signed into law by Governor Schwarzenegger, AB 1953 provided more than a three-year grace period for this new standard to be put into effect. The grace period was included in the law at the suggestion of the metals manufacturing companies that supported the new lead content standard. They recognized that the industry would need an appropriate amount of time to make the transition to using widely available lead-free brass alloys and other lead-free materials.

In an effort to assist a smooth and timely transition to the use of lead-free materials by the drinking water plumbing industry, EBMUD submitted an issue paper to NSF in late August 2007, recommending amendments to several sections of NSF/ANSI 61. The EBMUD issue paper suggested a simple, clear process for plumbing manufacturers to certify that their products comply with California's safer new lead standard for drinking water plumbing.

EBMUD was pleased that NSF agreed to consider the issue paper and that NSF quickly directed the Lead Task Group to evaluate EBMUD's proposal in light of California's new statute. The Task Group has held, and EBMUD has participated in, seven conference calls since November 2007, in an effort to adopt a simple certification process for the industry to follow.

EBMUD applauds the efforts of the Task Group participants who have worked diligently to address the requirements of AB 1953. The Task Group has resolved the technical and policy issues regarding implementation of a modified standard to address the 0.25% lead content requirement specified in AB 1953. However, we do not agree with participants who want to include acid washing as an option for compliance and we have grave doubts that coatings can be included and reliably certified. Both of these options only deal with the lead in the surface of the brass and there is insufficient information to determine whether there are ways to certify the effectiveness of long-term protections against lead leaching from either of these two options under real world conditions. The acid wash process is not standardized and it will be virtually impossible to prove that the lead-containing brass will not be exposed to drinking water over time. Coatings present similar challenges in that their long-term durability is not documented and thus there is no way to ensure the leaded surface that lies beneath the coating will not come into contact with drinking water. It is important to note that no exceptions were provided for coatings or acid washing in California's new law. If the Task Group continues with serious consideration of these methods now, we fear that the integrity of the NSF process will be drawn into question and the rigorous work the Task Group has completed will be severely undermined.

NSF's and the Task Group's role is to evaluate the issue paper, which seeks to carefully and accurately allow manufacturers to certify compliance with the California law. NSF and the Task Group do not have the authority or responsibility to modify existing law and we cannot put forward a revision to Standard 61, which is inconsistent with that law, otherwise, our efforts will be of no use to the manufacturers and regulators. AB 1953's lead standard is the law, and the language and intent of this law are clear. In the interest of public health, NSF must act now to

adopt the amendments to NSF/ANSI 61, without the coating or acid wash provisions. Continuing lengthy discussions on the efficacy of coatings and acid washes is a digression that can serve only to stall the efficient implementation of the new lead standard and jeopardize the work of the Task Group.

The Task Group has completed its work on the critical components of the necessary amendments. EBMUD strongly urges the Task Group to submit the completed ballot to the Drinking Water Additives Joint Committee so that the ballot process can begin.

I appreciate your leadership of the Task Group and look forward to working with the group to complete revisions and submit the ballot to the Joint Committee. Should you have any questions, please contact me at 510-287-1629.

Sincerely,

Richard Sykes
Manager of Maintenance and Construction
East Bay Municipal Utility District

cc: Mr. John DeBoer
Mr. Dave Purkiss