

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Department of Health TITLE NUMBER: 64

RULE TYPE: Legislative; CITE AUTHORITY Ch.16, Art.1, Sec. 9a

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 57

TITLE OF RULE BEING PROPOSED: Plumbing Requirements

DATE OF PUBLIC HEARING: August 14, 1987 TIME: 2:00 PM

LOCATION OF PUBLIC HEARING: Department of Health
P&G Building, First Floor Conference Room
2019 Washington Street, East
Charleston, WV 25305

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Department of Health
Regulatory Development Sec.
Room 7, P&G Building
2019 Washington Street, E.
Charleston, WV 25305

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

David K. Heydinger
David K. Heydinger
Director

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Plumbing Requirements

Type of Rule: Legislative Interpretive Procedural

Agency Health Address 1800 Washington Street, East
Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$ 0	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates.

The provisions of the proposed new rule can be administered with existing personnel and equipment.

3. Objectives of these rules:

Notify public of possible lead contamination of drinking water; prohibit use of lead pipe and leaded solder in public water supply systems; comply with federal requirements which insures that existing federal funding will not be cut.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None. (Up to 5% of existing federal funding under the Safe Drinking Water Act may be lost if proposed rule is not promulgated.)

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

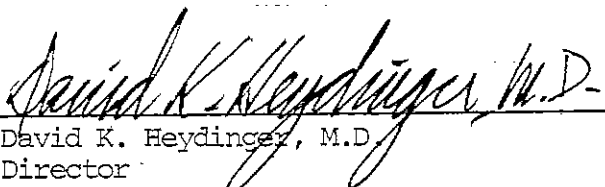
Negligible cost to public water suppliers for public notification process (cost of direct mailing and newspaper notice) and replacement of any existing lead pipe and use of lead-free solder.

C. Economic Impact on Citizens/Public at Large.

Some potential cost savings related to illness or disability due to lead contamination of water.

Date July 1, 1987

Signature of Agency Head or Authorized Representative



David K. Heydinger, M.D.
Director
Department of Health

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WEST VIRGINIA BOARD OF HEALTH

RULE ABSTRACT

Rule Title: Plumbing Requirements

CSR Title & Series: 64 CSR 57 Type: Legislative

Objective/Summary: This proposed new legislative rule establishes standards regarding the use of lead free plumbing in public water supply systems. Public notice regarding potential lead contamination is required. This new rule will bring West Virginia into compliance with P.L. 99-339, the Safe Drinking Water Act Amendments of 1986. Failure to comply with the Federal statute by June 19, 1988 may result in the loss of up to 5% of Federal funds for state program grants for operating public water systems.

For further information contact: Kay Howard, Regulatory Development Section, telephone (304) 348-3223 or Robert Paul, Division of Environmental Engineering, telephone (304) 348-0578, Department of Health, 1800 Washington Street, E., 25305.

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(PROPOSED)

TITLE 64

WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF HEALTH

Plumbing Requirements

Series 57

198_

For Public Hearing
August 14, 1987

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[PROPOSED]
WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF HEALTH

Plumbing Requirements

64 CSR 57

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[PROPOSED]
TITLE 64
WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF HEALTH
Series 57

Title: Plumbing Requirements

Section 1. General

1.1. Scope - This legislative rule establishes standards regarding lead contamination of public water supplies and plumbing connected to public water supply systems.

1.2. Authority - This legislative rule is issued by the State board of health under the authority of Chapter 16, Article 1, Section 9a of the West Virginia Code and is related to Chapter 16, Article 1, Sections 9 and 9a of the West Virginia Code.

1.3. Filing Date -

1.4. Effective Date -

1.5. Supersession and Repeal of Former Regulations - None.

Section 2. Application and Enforcement

2.1. Application - This rule applies to all public water supply systems in West Virginia and to all plumbing, whether public or private, which is connected to a public water supply system.

2.2. Enforcement - This rule shall be enforced by the director.

Section 3. Definitions

3.1. Director - The director of the State department of health or his or her lawful designee.

3.2. Lead free - Not more than 0.2% lead when used with respect to solders and fluxes and not more than 8% lead when used with respect to pipes and fittings.

3.3. Public Water Supply - Any water system or supply which regularly supplies or offers to supply, piped water to the public for human consumption, if serving at least an average of twenty-five individuals per day for at least sixty days per year; or which has at least fifteen service connections, and shall include: (a) any collection, treatment, storage, and distribution facilities under the control of the owner or operator of such system and used primarily in connection with such system, and (b) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water system shall not include a system which meets all of the following conditions: (1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities); (2)

which obtains all of its water from, but is not owned or operated by a public water system which otherwise meets the definition; (3) which does not sell water to any person; and (4) which is not a carrier conveying passengers in interstate commerce.

Section 4. Use of Lead Free Pipes, Fittings, Solder and Flux Prohibited.

4.1. Only lead free solder, flux, pipe and fittings may be utilized in the installation or repair of a public water supply system or plumbing which is connected to a public water supply system.

4.2. Leaded joints necessary for the repair of cast iron pipes shall be exempt from the prohibition stated in Section 4.1 of this rule.

Section 5. Public Notice Requirements

5.1. By June 19, 1988, each public water supply system shall issue notice to consumers that may be affected by lead contamination of drinking water where such contamination results from lead content in the construction materials of the public water distribution system or from corrosivity of the water supply sufficient to cause leaching of lead. The owner or operator of each public water supply system shall issue subsequent notices annually for five years from the initial notice or the effective date of this rule.

5.2. Notice shall be provided by mail delivery (direct mail or with the individual water bills), supplemented by newspaper notice.

5.3. Contents of the notice shall provide a clear and readily understandable explanation of the potential sources of lead; the potential adverse health effects; the reasonably available methods of mitigating lead content in drinking water; any steps the system is taking to mitigate lead content in drinking water; and the necessity, if any, for seeking alternative drinking water supplies. Each notice shall contain the telephone number of the owner or operator of the public water supply system.

5.3.1. Information concerning potential adverse health effects shall include the following language:

Lead has no known useful function in the body. It is a well-known toxin causing damage to the nervous system, the blood-forming processes, the gastrointestinal system and the kidneys. Recent studies have shown that lead can also cause cognitive damage (e.g., damage to perception, memory, and judgment), stunt children's growth and raise blood pressure in adult males, even at low levels of exposure. These health effects can range from relatively subtle biochemical changes at low lead body burden levels to severe retardation at high levels.

or even death at higher levels. Young children and fetuses are most at risk of damage from exposure to lead.

5.3.2. Each notice should advise consumers to use only the cold water faucet for drinking, cooking with, or preparing baby formula, and to run the water until it gets as cold as it is going to get before each use. If there has recently been major water use in the household, such as showering or bathing, flushing toilets, or doing laundry with cold water, this should take 5-30 seconds; if not, flushing could take as much as several minutes. Each notice should also advise consumers to check to see if lead pipes, solder, or flux have been used in plumbing that provides tap water and to ensure that new plumbing and plumbing repairs use lead free materials.

Section 6. Severability - The provisions of this rule are declared to be severable. If any provision of this rule shall be held invalid, the remaining provisions shall remain in effect.

Section 7. Penalties - Any individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency, or any entity recognized by law who violates any provision of this rule shall be subject to the penalties found at West Virginia Code, Chapter 16, Article 9a:

"Any individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency, or any entity recognized by law who shall violate any provision of this section, or any of the regulations or orders issued pursuant thereto, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than two hundred dollars, and each day's violation shall constitute a separate offense. In addition thereto, the state board of health or the state director of health, or his authorized representative may seek injunctive relief in the circuit court of the county in which all or part of the public water system is situated for threatened or continuing violations. For a willful violation of this section, or of any of the regulations or orders issued thereunder, an individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency, or entity recognized by law, upon finding thereof by the circuit court of the county in which the violation occurs, shall be subject to a civil penalty of not more than five thousand dollars, and each day's violation shall be grounds for a separate penalty."

Section 8. Administrative Due Process - Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the Rules of Procedure for Contested Case Hearings and Declaratory Rulings, West Virginia Procedural Rules, 64 CSR 1.