

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

FILED
1989 JUN 27 AM 10:15
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Department of Health TITLE NUMBER: 64

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: 57

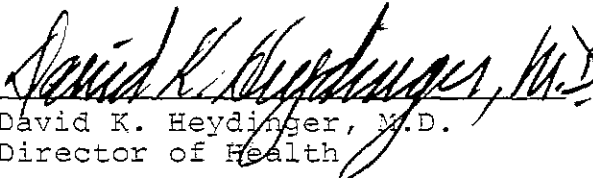
TITLE OF RULE BEING PROPOSED: Plumbing Requirements

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 2853

SECTION 64-2-1 (jj), PASSED ON April 8, 1989

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: July 1, 1989


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

[PROPOSED]
LEGISLATIVE RULES
DEPARTMENT OF HEALTH
PLUMBING REQUIREMENTS

64 CSR 57

INDEX

	Page
Section 1. General	1
Section 2. Application and Enforcement	1
Section 3. Definitions	1
Section 4. Use of Lead Pipes, Fittings, Solder and Flux Prohibited	2
Section 5. Public Notice Requirements	2
Section 6. Penalties	3
Section 7. Administrative Due Process	4
Section 8. Severability	4

[PROPOSED]
TITLE 64
LEGISLATIVE RULES
DEPARTMENT OF HEALTH

SERIES 57
PLUMBING REQUIREMENTS

§64-57-1. 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 - June 22, 1988

1.4. Effective Date - June 22, 1988

1.5. Supersession and Repeal of Former Regulations - None.

1.6. Final Approval - This rule was approved by the State Board of Health on April 29, 1988.

§64-57-2. 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.

§64-57-3. 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 distri-

bution 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.

§64-57-4. Use of Lead Pipes, Fittings, Solder and Flux Prohibited, Exemption

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. This provision shall not require the replacement of existing plumbing which is connected to a public water system as of June 22, 1988, provided repairs made after June 22, 1988 shall comply with the provisions of this rule.

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.

§64-57-5. Public Notice Requirements

5.1. By June 19, 1988, each public water supply system shall issue notice as described herein 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.

5.2. Notice shall be provided by mail delivery (direct mail or with the individual water bills), hand delivery or by three newspaper notices, one for each of three consecutive months and the first no later than June 19, 1988.

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 decreasing lead content in drinking water; methods to determine if materials containing lead have been used in homes or the water distribution system and how to minimize exposure to water likely to contain high levels of lead; any steps the system is taking to decrease 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:

"The United States Environmental Protection Agency (EPA) and the West Virginia Department of Health set drinking water standards and have determined that lead is a health concern at certain levels of exposure.

There is currently a standard of 0.050 parts per million (ppm). Based on new health information, this standard may be lowered in the future.

Part of the purpose of this notice is to inform you of the potential adverse health effects of lead. This is being done even though the lead content of your water may not exceed the current standard.

The EPA and the Department of Health are concerned about lead in drinking water. Too much lead in the human body can cause serious damage to the brain, kidneys, nervous system and red blood cells. The greatest risk, even with short-term exposure, is to young children and pregnant women.

Lead levels in your drinking water are likely to be highest:

- if your home or water system has lead pipes; or
- if your home has copper pipes with lead solder, and
- if the home is less than five years old, or
- if you have soft or acidic water, or
- if water sits in the pipes for several hours."

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.

§64-57-6. 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."

§64-57-7. 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, 64 CSR 1.

§64-57-8. 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.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

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Special Assistant

(Plus all the volunteer
help we can get)

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

1992 APR 13 AM 7:54

FILED

TO: Kay Howard

AGENCY: Board of Health

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: January 13, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 57 TITLE: Plumbing Requirements

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Kay Howard
TITLE OF PERSON SIGNING: Director, Regulatory Development Section
DATE: 4/9/92

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____
TITLE OF PERSON SIGNING: _____
DATE: _____