

North Dakota State Plumbing Board  
December 12, 2013 Testimony

1. Whether the rules resulted from 2013 statutory changes made by the Legislative Assembly. The rules did not result from a 2013 statutory change made by the Legislative Assembly.
2. Whether the rules are related to any federal statute or regulation. If so, please indicate whether the rules are mandated by federal law or explain any options your agency had in adopting the rules. The purpose of the proposed amendment is to comply with Federal Law. The proposed amendment addresses the definition of lead free as stated in Public Law 111-380.
3. A description of the rulemaking procedure followed in adopting the rules, e.g., the type of public notice given and the extent of public hearings held on the rules. The 2013 Administrative Rules Manual was followed. The public notice was sent to the North Dakota Newspaper Association on August 30, 2013. The request was to publish the notice in all the County newspapers on or before September 17, 2013. All newspapers complied except the Griggs County Courier and the Adams County Record. They published the notice on September 30, 2013. On September 5, 2013 the full notice and copy of the proposed rules were sent to Legislative Council. The public hearing was held on October 8, 2013 in conjunction with the North Dakota State Plumbing Board's regular quarterly meeting. The board approved the amendment contingent upon the Administrative Rules Committee's approval. After the 10 day public comment period, no public comment was received. On October 21, 2013 the appropriate information was sent to the Attorney General. The Attorney General's opinion dated October 28, 2013 found the administrative rules to be in compliance.
4. Whether any person has presented a written or oral concern, objection, or complaint for agency consideration with regard to these rules. If so, describe the concern, objection, or complaint and the response of the agency, including any change made in the rules to address the concern, objection, or complaint. Please summarize the comments of any person who offered comments at the public hearings on these rules. No public comment was received.
5. The approximate cost of giving public notice and holding any hearing on the rules and the approximate cost (not including staff time) of developing and adopting the rules. The publication cost of the notice was \$1737.00.
6. An explanation of the subject matter of the rules and the reasons for adopting those rules. The reason for adopting the rules is to comply with Federal Law to adopt amendments to the Safe Drinking Water Act. It redefines lead free in the Safe Drinking Water Act Section 1417(d) to lower the maximum lead content of the wetted surfaces of plumbing products such as pipes, pipe fittings, plumbing fittings and fixtures anticipated to be used for human consumption from 8.0% to a weighted average of 0.25%.
7. Whether a regulatory analysis was required by North Dakota Century Code (NDCC) Section 28-32-08 and whether that regulatory analysis was issued. Please provide a copy. A regulatory analysis was not required.
8. Whether a regulatory analysis or economic impact statement of impact on small entities was required by NDCC Section 28-32-08.1 and whether that regulatory analysis or impact statement was issued. Please provide copies. A regulatory analysis or economic impact statement of impact on small entities was not required.

9. Whether these rules have a fiscal effect on state revenues and expenditures, including any effect on funds controlled by your agency. If so, please provide copies of a fiscal note. [The 2013 proposed amendment to the N.D.A.C. 62-03.1-02-02\(6\), does not have a fiscal impact.](#)

10. Whether a constitutional takings assessment was prepared as required by NDCC Section 28-32-09. Please provide a copy if one was prepared. [A constitutional takings assessment was not required.](#)

11. If these rules were adopted as emergency (interim final) rules under NDCC Section 28-32-03, provide the statutory grounds from that section for declaring the rules to be an emergency and the facts that support that declaration and provide a copy of the Governor's approval of the emergency status of the rules. If these rules were adopted as emergency (interim final) rules, what steps were taken to make the rules known to persons who can reasonably be expected to have a substantial interest in the rules? [These rules were not adopted as emergency rules.](#)

Public Law 111-380  
111th Congress

An Act

To amend the Safe Drinking Water Act to reduce lead in drinking water.

Jan. 4, 2011

[S. 3874]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

Reduction of  
Lead in Drinking  
Water Act.  
42 USC 1201  
note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Reduction of Lead in Drinking Water Act”.

**SEC. 2. REDUCING LEAD IN DRINKING WATER.**

(a) **IN GENERAL.**—Section 1417 of the Safe Drinking Water Act (42 U.S.C. 300g-6) is amended—

(1) by adding at the end of subsection (a) the following:

“(4) **EXEMPTIONS.**—The prohibitions in paragraphs (1) and

(3) shall not apply to—

“(A) pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

“(B) toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.”; and

(2) by amending subsection (d) to read as follows:

“(d) **DEFINITION OF LEAD FREE.**—

“(1) **IN GENERAL.**—For the purposes of this section, the term ‘lead free’ means—

“(A) not containing more than 0.2 percent lead when used with respect to solder and flux; and

“(B) not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures.

“(2) **CALCULATION.**—The weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula: For each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce

wetted components shall be used to determine compliance with paragraph (1)(B). For lead content of materials that are provided as a range, the maximum content of the range shall be used.”.

42 USC 300g-6  
note.

(b) EFFECTIVE DATE.—The provisions of subsections (a)(4) and (d) of section 1417 of the Safe Drinking Water Act, as added by this section, apply beginning on the day that is 36 months after the date of the enactment of this Act.

Approved January 4, 2011.

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LEGISLATIVE HISTORY—S. 3874:

CONGRESSIONAL RECORD, Vol. 156 (2010):

Dec. 16, considered and passed Senate.

Dec. 17, considered and passed House.

