

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 631. PUBLIC WATER SUPPLY OPERATION**

Before the Water Quality Management Advisory Council on January 11, 2022
Before the Environmental Quality Board on February 18, 2022

RULE IMPACT STATEMENT

Subchapter 1. Introduction

252:631-1-3 Adoption of U.S. EPA regulations by reference [AMENDED]

DESCRIPTION: The gist of this rule and the underlying reason for the rulemaking is to update the rule concerning the date of the incorporation by reference of certain federal regulations from July 1, 2020, to July 1, 2021. The federal regulation updates being incorporated include EPA finalizing changes to existing regulations to protect the public from lead in plumbing materials used in public water systems or residential or nonresidential facilities providing water for human consumption. The rule changes codify aspects of the Reduction of Lead in Drinking Water Act of 2011 (RLDWA) and the Community Fire Safety Act of 2013 (CFSA). The RLDWA amended section 1417 of the Safe Drinking Water Act (SDWA), which prohibits the use and introduction into commerce of certain plumbing products that are not “lead free.” The RLDWA revised the definition of lead free to lower the allowable maximum lead content of plumbing products and established a statutory method for calculating lead content. EPA also established new requirements for manufacturers or importers that introduce into commerce products that must meet lead free requirements to certify such products as being in compliance with the lead free requirements in Section 1417 of the SDWA, as amended. EPA expects that these requirements for lead content in plumbing materials used in new installations and repairs will result in fewer sources of lead in drinking water and, consequently, will reduce adverse health effects associated with exposure to lead in drinking water. The final rule became effective October 1, 2020, and the compliance date for the product certification requirements in 40 CFR 143.19 is September 1, 2023.

CLASSES OF PERSONS AFFECTED: Classes of persons affected are those who introduce plumbing products into commerce and those who use plumbing products in the installation or repair of public water systems. This will also affect customers of those systems, both in-state residents and out-of-state visitors, as well as incarcerated persons.

CLASSES OF PERSONS WHO WILL BEAR COSTS: There is no anticipated increase in costs as a result of these rule changes.

INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES: DEQ has not received any information from other public or private entities concerning the cost impacts of the proposed regulations.

CLASSES OF PERSONS BENEFITTED: Those who are served by public water supply systems will be exposed to fewer sources of lead in drinking water and, consequently, this will reduce adverse health effects associated with exposure to lead in drinking water.

PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS: There is no anticipated increase in costs as a result of these rule changes.

PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS: It is unlikely that the proposed rulemaking will have an economic impact on political subdivisions (e.g., municipalities and rural water associations) since many of the provisions were self-implementing. Political subdivisions that have an inventory of older spare parts, may be unable to use those parts moving forward.

POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS: DEQ has not identified any foreseeable adverse effect on small businesses (e.g., commercial entities that provide drinking water from their own public water supply system and accredited laboratories). However, it is possible that small plumbing businesses could have unusable inventory. This is unlikely since the requirements in this rule were self-implementing in the Congressional Act.

LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE: There are no proposed fee changes associated with this rulemaking.

PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE: There are no anticipated additional costs to the DEQ to implement and enforce the proposed rules.

PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE: There are no probable costs to other agencies associated with this rulemaking.

SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE: There is no new funding necessary to implement and enforce this rule.

PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED: None anticipated; the proposed rule does not alter neither the DEQ's fee structure nor the duties of DEQ or other agencies.

COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE: DEQ does not anticipate the need for additional cooperation with political subdivisions associated with this rulemaking.

EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS: No measures were identified to minimize compliance costs associated with this rulemaking as minimal or no increased costs are anticipated.

DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE: DEQ has determined there are no less costly or non-regulatory methods of achieving the purpose of the proposed regulations.

DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT: Those who are served by public water supply systems will be exposed to fewer sources of lead in drinking water and, consequently, this will reduce adverse health effects associated with exposure to lead in drinking water.

IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK: This rulemaking helps ensure that only lead free plumbing products and components of public water systems are used in repairs and new installations in potable use applications. The benefit is the resulting incremental reduction in exposure to lead in drinking water.

DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED: There has been no determination of any detrimental effect on the public health, safety, and environment.

PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE): DEQ has not received any quantifiable or qualitative data of the impacts of the proposed updates.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: November 15, 2021