

SUBJECT: Pipe Fittings Under the Lead Ban

SOURCE: Peter Lassovszky

Section 1417(d)(2) of the SDWA defines "Lead free" as "...when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead." What is covered under the category of pipe fittings? Can pipe fittings be interpreted to mean elements other than pipes, fluxes or solders that might be found in a water distribution system?

Response:

The Office of General Counsel's (OGC) interpretation of the scope of the lead ban is best addressed by citing a portion of a March 16, 1988, memorandum from Doris Nagel (law clerk) to Margaret Silver (attorney). The memo concerns the application of the lead ban to "Packers" used in drinking water wells. The memo reads as follows:

...While there is no explicit indication that Section 1417 was intended to prohibit the use of lead in materials other than solders, fluxes, or pipes, there is also no indication that Congress did not intend to prohibit such use. The legislative history suggests that Congress never focused on the various parts of a water supply system that may contribute lead to the drinking water; rather, Congress appeared concerned with reducing the health effects of lead without imposing large costs or causing major disruptions in service by applying the ban to existing facilities...

Furthermore, the OGC memorandum states that the legislative history and language in Section 1417 makes it clear that the main focus of Congress was to keep lead out of new water supply systems. Although the term "pipe fittings" is not specifically listed under Section 1417(a)(1) as being prohibited, it is addressed under the definition of "lead free" found in Section 1417(d)(2). To conclude, based upon the legislative history, and the language of Section 1417, the OGC believes "...that it is reasonable to interpret Section 1417 as banning the use of lead packers in drinking water wells." Since "pipe fittings" are included under the lead ban, and OGC interprets the use of lead packers as being banned under Section 1417, it is reasonable to suggest that various other elements common to water distribution systems - such as joints, valves, meters and fire hydrants - must be lead free as well.