

**CITY OF OAKLAND**  
**BILL ANALYSIS**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2008 APR 10 PM 5:41

**Date:** April 24, 2008  
**Bill Number:** SB 1334, As Amended  
**Bill Author:** Calderon

**DEPARTMENT INFORMATION**

**Contact:** Ray Derania, Interim Building Official  
**Department:** Community and Economic Development Agency – Building Services  
**Telephone:** 510/ 238-4780 **Facsimile:** 238-2263 **E-mail:** rderania@oaklandnet.com

**RECOMMENDED POSITION:** (SUPPORT, SUPPORT IF AMENDED, NEUTRAL,  
WATCH, OPPOSE, NOT RELEVANT)

The Community and Economic Development Agency recommends SUPPORT for SB 1334, as amended.

**Summary of the Bill**

As originally proposed, Senate Bill 1334 (Calderon) would amend existing regulations in California Health and Safety Code section 116875 which limits lead content in valves, faucets, pipes, fittings, brazing solder, and related manufactured products sold in California that are used to convey and dispense water for human consumption. This bill requires manufactures who sell these products in California to use approved independent testing to analyze and certify the amount of lead (measured by weight) which is contained in these products. On April 7 in a Senate hearing, an amendment to SB 1334 was proposed by the bill's author that includes linking this bill to the enactment of companion lead poisoning legislation (Senate Bill 1395 - Corbett). With this change in SB 1334, the East Bay Municipal Utility District, Alameda County Board of Supervisors, and the Alameda County Lead Poisoning Prevention Program, among many agencies throughout the state, have reversed their previous opposition to the bill and now support it passage.

**Positive Factors for Oakland**

According to the staff analysis by the Senate Health Committee (attached), SB 1334 would strengthen current law by requiring that lead content be certified by an independent third-party testing firm in accordance with protocols used by the California Department of Toxic substances Control and would not interfere with the department's exercise of its independent authority to protect public health. The Plumbing Manufactures Institute states this bill would pro-actively help prevent consumers from unknowingly purchasing water faucets and other fixtures that do

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Rules and Legislation Committee  
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comply with the pending lower lead content standard (AB 1953 – Chan) which takes effect on January 1, 2010. This bill will not directly impact the City's budget.

**Negative Factors for Oakland**

As amended, SB 1334 has no negative factors for Oakland.

**PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:**

**Critical** (top priority for City lobbyist, City position required ASAP)

**Very Important** (priority for City lobbyist, city position necessary)

**Somewhat important** (City position desirable if time and resources are available)

**Minimal** or  **None** (do not review with City Council, position not required)

**Known Support:** Alameda County Board of Supervisors  
Alameda County Lead Poisoning Prevention Program  
East Bay Municipal Utility District

**Known Opposition:** at this time, the change of position of previous opponents is not known

**Attach bill text and state/ federal legislative committee analysis, if available.**

Respectfully submitted,




**DAN LINDHEIM**

Director

Community and Economic Development Agency

Approved For Forwarding To The  
Rules And Legislation Committee

  
Office Of The City Administrator

**Introduced by Senator Calderon**

February 20, 2008

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An act to amend Section 116875 of the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1334, as introduced, Calderon. Drinking water: pipes and fittings: lead content.

Existing law, with certain exceptions, prohibits the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free, as defined, in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption. Existing law, commencing on January 1, 2010, revises this prohibition to, with certain exceptions, apply to any pipe or plumbing, fitting, or fixture intended to convey or dispense water for human consumption.

Existing law prohibits the introduction into commerce of any pipe, pipe or plumbing fitting, or fixture that is not lead free, except for a pipe that is used in manufacturing or industrial processing. Existing law defines lead free as not more than 8% lead when used with respect to pipes and fittings, and not more than 4% by dry weight with respect to plumbing fittings and fixtures. Existing law, commencing on January 1, 2010, revises the term "lead free," for purposes of manufacturing, industrial processing, and conveying or dispensing water for human consumption, to refer not to the lead content of pipes and pipe fittings, plumbing fittings, and fixtures, but instead, to refer to a weighted average lead content of the wetted surface area of the pipes, fittings, and fixtures of not more than 0.25%, to be determined pursuant to a prescribed formula.

This bill would also require that the plumbing material be certified for compliance with these provisions by an independent 3rd party, as provided.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 116875 of the Health and Safety Code,  
2 as amended by Section 1 of Chapter 853 of the Statutes of 2006,  
3 is amended to read:

4 116875. (a) No person shall use any pipe, pipe or plumbing  
5 fitting or fixture, solder, or flux that is not lead free in the  
6 installation or repair of any public water system or any plumbing  
7 in a facility providing water for human consumption, except when  
8 necessary for the repair of leaded joints of cast iron pipes.

9 (b) No person shall introduce into commerce any pipe, pipe or  
10 plumbing fitting, or fixture, that is not lead free, except for a pipe  
11 that is used in manufacturing or industrial processing.

12 (c) No person engaged in the business of selling plumbing  
13 supplies, except manufacturers, shall sell solder or flux that is not  
14 lead free.

15 (d) No person shall introduce into commerce any solder or flux  
16 that is not lead free unless the solder or flux bears a prominent  
17 label stating that it is illegal to use the solder or flux in the  
18 installation or repair of any plumbing providing water for human  
19 consumption.

20 (e) For the purposes of this section, "lead free" means not more  
21 than 0.2 percent lead when used with respect to solder and flux  
22 and not more than 8 percent when used with respect to pipes and  
23 pipe fittings. With respect to plumbing fittings and fixtures, "lead  
24 free" means not more than 4 percent by dry weight after August  
25 6, 2002, unless the department has adopted a standard, based on  
26 health effects, for the leaching of lead.

27 (f) *All pipe, pipe or plumbing fittings or fixtures, solder, or flux*  
28 *shall be certified by an independent American National Standards*  
29 *Institute (ANSI) accredited third-party, including, but not limited*  
30 *to, NSF International, as being in compliance with this section.*

31 (⊕)

1 (g) This section shall remain in effect only until January 1, 2010,  
2 and as of that date is repealed, unless a later enacted statute, that  
3 is enacted before January 1, 2010, deletes or extends that date.

4 SEC. 2. Section 116875 of the Health and Safety Code, as  
5 added by Section 2 of Chapter 853 of the Statutes of 2006, is  
6 amended to read:

7 116875. (a) No person shall use any pipe, pipe or plumbing  
8 fitting or fixture, solder, or flux that is not lead free in the  
9 installation or repair of any public water system or any plumbing  
10 in a facility providing water for human consumption, except when  
11 necessary for the repair of leaded joints of cast iron pipes.

12 (b) (1) No person shall introduce into ~~commerce~~*any commerce*  
13 *any* pipe, pipe or plumbing fitting, or fixture intended to convey  
14 or dispense water for human consumption through drinking or  
15 cooking that is not lead free, as defined in subdivision (e). This  
16 includes kitchen faucets, bathroom faucets, and any other end-use  
17 devices intended to convey or dispense water for human  
18 consumption through drinking or cooking, but excludes service  
19 saddles, backflow preventers for nonpotable services such as  
20 irrigation and industrial, and water distribution main gate valves  
21 that are two inches in diameter and above.

22 (2) Pipes, pipe or plumbing fittings, or fixtures that are used in  
23 manufacturing, industrial processing, for irrigation purposes, and  
24 any other uses where the water is not intended for human  
25 consumption through drinking or cooking are not subject to the  
26 requirements of paragraph (1).

27 (3) For all purposes other than manufacturing, industrial  
28 processing, or to convey or dispense water for human consumption,  
29 “lead free” is defined in subdivision (f).

30 (c) No person engaged in the business of selling plumbing  
31 supplies, except manufacturers, shall sell solder or flux that is not  
32 lead free.

33 (d) No person shall introduce into commerce any solder or flux  
34 that is not lead free unless the solder or flux bears a prominent  
35 label stating that it is illegal to use the solder or flux in the  
36 installation or repair of any plumbing providing water for human  
37 consumption.

38 (e) For the purposes of this section, “lead free” means not more  
39 than 0.2 percent lead when used with respect to solder and flux  
40 and not more than a weighted average of 0.25 percent when used

1 with respect to the wetted surfaces of pipes and pipe fittings,  
2 plumbing fittings, and fixtures. The weighted average lead content  
3 of a pipe and pipe fitting, plumbing fitting, and fixture shall be  
4 calculated by using the following formula: The percentage of lead  
5 content within each component that comes into contact with water  
6 shall be multiplied by the percent of the total wetted surface of the  
7 entire pipe and pipe fitting, plumbing fitting, or fixture represented  
8 in each component containing lead. These percentages shall be  
9 added and the sum shall constitute the weighted average lead  
10 content of the pipe and pipe fitting, plumbing fitting, or fixture.

11 (f) For the purposes of paragraph (3) of subdivision (b), “lead  
12 free,” consistent with the requirements of federal law, means not  
13 more than 0.2 percent lead when used with respect to solder and  
14 flux and not more than 8 percent when used with respect to pipes  
15 and pipe fittings. With respect to plumbing fittings and fixtures,  
16 “lead free” means not more than 4 percent by dry weight after  
17 August 6, 2002, unless the department has adopted a standard,  
18 based on health effects, for the leaching of lead.

19 (g) *All pipe, pipe or plumbing fittings or fixtures, solder, or flux*  
20 *shall be certified by an independent American National Standards*  
21 *Institute (ANSI) accredited third-party, including, but not limited*  
22 *to, NSF International, as being in compliance with this section.*

23 ~~(g)~~

24 (h) This section shall become operative on January 1, 2010.

BILL ANALYSIS

SENATE HEALTH COMMITTEE ANALYSIS  
Senator Sheila J. Kuehl, Chair

BILL NO: SB 1334  
AUTHOR: Calderon  
AMENDED: As Introduced  
HEARING DATE: April 2, 2008  
REFERRAL: Health and Environmental Quality Committees  
FISCAL: Appropriations  
CONSULTANT: Moreno/cjt

SUBJECT

Drinking water: pipes and fittings: lead content

SUMMARY

Requires all pipe, pipe or plumbing fittings or fixtures, solder, or flux to be certified as lead-free (as defined under current law) by an independent third-party accredited by the American National Standards Institute (ANSI), including, but not limited to, NSF International.

CHANGES TO EXISTING LAW

Existing law:

Existing law defines "lead free," as of January 1, 2010, for the purpose of manufacturing, industrial processing, and conveying or dispensing water for human consumption, to refer to a weighted average lead content of the wetted surface area of the pipes, fittings, and fixtures of not more than 0.25 percent, to be determined pursuant to a prescribed formula. Existing law prohibits, commencing January 1, 2010, the introduction into commerce any pipe, pipe or plumbing fitting, or fixture that is not lead free, except for a pipe that is used in manufacturing or industrial processing.

This bill:

SB 1334 would requires all pipe, pipe or plumbing fittings or fixtures, solder, or flux to be certified as lead-free as defined under current law) by an independent American National Standards Institute (ANSI) accredited third-party, including, but not limited to, NSF International.

FISCAL IMPACT

Unknown.

## BACKGROUND AND DISCUSSION

According to the author, current law would be strengthened by requiring products covered by the law to be certified as compliant by an independent ANSI accredited third-party. Such a requirement would provide a measure of protection so that California consumers purchasing products will not be buying plumbing products that have more than .25 percent lead. The author states that recent experiences with high levels of lead found in consumer products, including toys and other items, illustrate the necessity for a certification requirement.

### Background

Lead is a highly toxic substance, and exposure to it can produce a wide range of adverse health effects. There are many ways in which humans are exposed to lead, including through deteriorating paint, household dust, bare soil, air, drinking water, food, ceramics, home remedies, hair dyes and other cosmetics. Young children under the age of six are especially vulnerable to lead's harmful health effects, because their brains and central nervous system are still being formed. Even very low levels of exposure can result in reduced IQ, learning disabilities, attention deficit disorders, behavioral problems, stunted growth, impaired hearing, and kidney damage in children. According to the Centers for Disease Control and Prevention (CDC), there is no level of lead in a child's blood that can be specified as safe, and the CDC has emphasized the need to make primary prevention of lead poisoning, through interventions that control or eliminate lead hazards before children are exposed, a high priority for health, housing, and environmental agencies. It is estimated that 14 percent to 20 percent of total childhood lead exposure is from drinking water. It takes a significantly greater level of exposure to lead for adults than for children to sustain adverse health effects. However, in adults, lead can increase blood pressure and cause fertility problems, nerve disorders, muscle and joint pain, irritability, and memory or concentration problems.

### AB 1953 (Chan) of 2006

Since 1997, state and federal law has prohibited pipes and pipe fittings used to convey drinking water from containing more than eight percent lead, and faucets and faucet fittings from containing more than four percent lead. AB 1953 (Chan - Chapter 853, Statutes of 2006) reduces the amount of lead that can be present in pipes and pipe fittings, plumbing fittings, and fixtures intended to convey water for human consumption to .25 percent beginning in 2010. AB 1953 does not apply to pipes or fittings used to convey water in manufacturing or industrial processing, irrigation, or other uses where the water is not intended for human consumption, such as toilet fixtures, hose bibs, or showers and bathtub plumbing. AB 1953 did not contain new enforcement or surveillance provisions.

### NSF/ANSI Standard

According to its website, ANSI is a private, non-profit organization that administers and coordinates the U.S. voluntary standardization and conformity assessment system. ANSI includes representatives of



industry, standards developing organizations, trade associations, academia, professional and technical societies, government, and labor and consumer groups. ANSI intends to provide a forum where the private and public sectors work together towards the development of voluntary national consensus standards and the related compliance programs. It is the sole U.S. representative of the major non-treaty international standards organizations such as the International Organization for Standardization (ISO) and, via the U.S. National Committee (USNC), the International Electrotechnical Commission (IEC) and is also a member of the International Accreditation Forum, as well as numerous regional bodies.

Pipes and plumbing fixtures are often labeled "NSF/ANSI Standard 61," which is a lead performance standard set by the National Sanitation Foundation (NSF). The standard is not based on the percentage of lead in a product; rather, it is intended to reflect the amount of lead introduced by the product into water when water passes through it. The NSF Standard 61 has been useful in reducing lead in pipes; however, it does not accurately reflect the problem resulting from increased corrosion of pipes, which permits more lead to leach from a pipe into water. There are at least four labs which are authorized to certify plumbing products to NSF/ANSI standards, including standard 61. These four include NSF, Underwriters Lab, CSA International, and the International Association of Plumbing and Mechanical Officials (IAPMO).

#### Related legislation

SB 1395 (Corbett) would require the Department of Toxic Substances Control (DTSC), as part of its ongoing program for reducing toxic substances in the environment, to randomly select drinking water faucets, plumbing fittings, and fixtures to test and evaluate to determine compliance with existing law that requires faucets, fittings, and fixtures to be lead free. This bill would require the DTSC, based on available resources and staffing, to determine the appropriate number of faucets, fittings, and fixtures to be tested and evaluated, as well as the locations from which to select the faucets, fittings, and fixtures. SB 1395 is scheduled to be heard in the Senate Committee on Health on April 2, 2008.

#### Prior legislation

Last year, SB 651 (Calderon) would have revised the lead-free statute to require that the plumbing materials be certified for compliance with these provisions by the ANSI and would have required the Department of Public Health (DPH) to adopt emergency regulations as may be necessary and proper to carry out the provisions of AB 1953, as amended by SB 651, which would become effective immediately and become operative as of January 1, 2010. This bill was held by the Senate Committee on Environmental Quality without recommendation.

#### Arguments in support

The Plumbing Manufacturers Institute (PMI) writes that this bill would work pro-actively to help prevent consumers from unknowingly purchasing water faucets and other fixtures that do not comply with the new state standard that takes effect on January 1, 2010. PMI further states that SB 1334 would provide a measure of protection so that California

consumers purchasing products, including drinking water faucets, will not be buying products that have more than .25 percent lead as set forth in the law.

#### Arguments in opposition

The opposition writes that SB 1334 would unlawfully delegate statutory authority to NSF, a private organization whose members include faucet industry representatives. The opposition further states that this bill would delegate this authority before NSF even completes its work and that by placing the authority for implementation with the very people that must comply with AB 1953's safe lead standard, SB 1334 would allow AB 1953's safer lead standard to be unraveled.

The opposition asserts that when the Legislature voted for and the Governor signed AB 1953, it was assumed that the new, safer lead standard for faucets could be implemented "as is," without the need for any exception and that. If enacted, SB 1334 would effectively repeal the tough lead content standard that was enacted a mere two years ago.

#### COMMENTS

1. Author's amendment: The author requests that the Committee approve the following amendment:

On page 4, line 19:

~~(g) All pipe, pipe or plumbing fittings or fixtures, solder, or flux shall be certified by~~ A product covered by this section shall be submitted to an independent American National Standards Institute (ANSI) accredited third-party, including, but not limited to, NSF International, as being in compliance with this section and the product shall be analyzed and certified by that entity as being in compliance with this section. Certification shall include random audits.

(h) The methodology used by the ANSI accredited third-party to determine compliance with this section shall be consistent with this section and shall be approved by the Department of Toxic Substances Control. The department shall act expeditiously in carrying out this subdivision.

(i) Certification made by an independent American National Standards Institute (ANSI) accredited third-party pursuant to this subdivision shall have no impact on the jurisdiction, authority or actions of the State Department of Public Health.

(j) The Department of Public Health shall retain final authority in administering the provisions of the California Safe Drinking Water Act.

#### POSITIONS

Support: Plumbing Manufacturers Institute (sponsor)  
Chicago Faucet Company

Oppose: Arc Ecology  
Action Now  
Alameda County Board of Supervisors

Alameda County Lead Poisoning Prevention Program  
Alameda County Youth Development, Inc./George P.  
Scotlan Youth & Family Center  
APEN (Asian Pacific Environmental Network)  
Bay View Hunters Point Community Advocates  
Breast Cancer Fund  
Butte Environmental Council  
California Association of Sanitation Agencies  
California Church IMPACT  
California Communities Against Toxics  
California Environmental Rights Alliance  
California Food Policy Advocates  
California League of Conservation Voters  
California Municipal Utilities Association  
California Pan-Ethnic Health Center  
California Rural Legal Assistance Foundation  
California Safe Schools  
California Special Districts Association  
Center for Environmental Health  
Choices for Children  
Citizens for a Better Alpaugh  
Clean Water Action  
Comite Pro Uno  
Commonweal  
Community Water Center  
Consumer Action  
Consumer Federation of California  
County of Alameda  
East Bay Municipal Utility District  
Environment California  
Environmental Defense Fund  
Environmental Justice Coalition for Water  
Environmental Working Group  
Food and Water Watch  
Fort Ord Environmental Justice Network  
Healthy Children Organizing Project Kids in Common  
Latino Issues Forum  
Los Angeles Pump & Valve  
Marin Municipal Water District  
Mujeres de la Tierra  
Native American Health Center  
Natural Resources Defense Council  
Pacific Coast Federation of Fishermen's  
Associations  
Planning and Conservation League  
Public Trust Alliance  
PUEBLO (People United for a Better Life in Oakland)  
Residents of Pico Rivera for Environmental Justice  
San Francisco Bay Physicians for Social Responsibility  
Sierra Club California  
Society for Positive Action  
Southern California Watershed Alliance  
Winnemem Wintu Tribe

-- END --

BILL NUMBER: SB 1334

AMENDED IN SENATE APRIL 7, 2008

INTRODUCED BY Senator Calderon

FEBRUARY 20, 2008

An act to amend Section 116875 of the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1334, as amended, Calderon. Drinking water: pipes and fittings: lead content.

Existing law, with certain exceptions, prohibits the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free, as defined, in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption. Existing law, commencing on January 1, 2010, revises this prohibition to, with certain exceptions, apply to any pipe or plumbing fitting, or fixture intended to convey or dispense water for human consumption.

Existing law prohibits the introduction into commerce of any pipe, pipe or plumbing fitting, or fixture that is not lead free, except for a pipe that is used in manufacturing or industrial processing. Existing law defines lead free as not more than 8% lead when used with respect to pipes and fittings, and not more than 4% by dry weight with respect to plumbing fittings and fixtures. Existing law, commencing on January 1, 2010, revises the term "lead free," for purposes of manufacturing, industrial processing, and conveying or dispensing water for human consumption, to refer not to the lead content of pipes and pipe fittings, plumbing fittings, and fixtures, but instead, to refer to a weighted average lead content of the wetted surface area of the pipes, fittings, and fixtures of not more than 0.25%, to be determined pursuant to a prescribed formula.

*Existing law requires the State Department of Public Health to develop building standards to implement the above-described provisions, and requires these standards to be enforced by the appropriate state and local building and health officials.*

This bill would also require that the plumbing material be certified for compliance with these provisions by an independent 3<sup>rd</sup> party, as provided, *and would specify that, notwithstanding this requirement, the department shall retain its authority in implementing the above-described provisions.*

*The bill would provide that its provisions shall only become operative if SB 1395, of the 2007-08 Regular Session, is enacted and becomes operative on or before January 1, 2009.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 116875 of the Health and Safety Code, as amended by Section 1 of Chapter 853 of the Statutes of 2006, is amended to read:

116875. (a) No person shall use any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except when necessary for the repair of leaded joints of cast iron pipes.

(b) No person shall introduce into commerce any pipe, pipe or plumbing fitting, or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing.

(c) No person engaged in the business of selling plumbing supplies, except manufacturers, shall sell solder or flux that is not lead free.

(d) No person shall introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

(e) For the purposes of this section, "lead free" means not more than 0.2 percent lead when used with respect to solder and flux and not more than 8 percent when used with respect to pipes and pipe fittings. With respect to plumbing fittings and fixtures, "lead free" means not more than 4 percent by dry weight after August 6, 2002, unless the department has adopted a standard, based on health effects, for the leaching of lead.

(f) (1) All pipe, pipe or plumbing fittings or fixtures, solder, or flux shall be certified by an independent American National Standards Institute (ANSI) accredited third-party, including, but not limited to, NSF International, as being in compliance with this section.

*(2) (A) The certification described in paragraph (1) shall, at a minimum, include testing of materials in accordance with the protocols used by the Department of Toxic Substances Control in implementing Article 10.1.2 (commencing with Section 25214.4.3) of Chapter 6.5 of Division 20.*

*(B) The certification required pursuant to this subdivision shall not interfere with either the department's exercise of its independent authority to protect public health pursuant to this section, or the Department of Toxic Substances Control's exercise of its independent authority to implement Article 10.1.2 (commencing with Section 25214.4.3) of Chapter 6.5 of Division 20.*

*(3) It is the intent of the Legislature that this subdivision only provide guidance and assistance to the entities that use an independent ANSI accredited third-party to demonstrate compliance with this section. Any tests developed by an independent ANSI accredited third-party in accordance with this subdivision shall have no weight of authority under California statute.*

*(4) Notwithstanding paragraph (1), the department shall retain its independent authority in administering this article.*

(g) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 2. Section 116875 of the Health and Safety Code, as added by Section 2 of Chapter 853 of the Statutes of 2006, is amended to read:

116875. (a) No person shall use any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except when necessary for the repair of leaded joints of cast iron pipes.

(b) (1) No person shall introduce into commerce any pipe, pipe or plumbing fitting, or fixture intended to convey or dispense water for human consumption through drinking or cooking that is not lead free, as defined in subdivision (e). This includes kitchen faucets, bathroom faucets, and any other end-use devices intended to convey or dispense water for human consumption through drinking or cooking,

but excludes service saddles, backflow preventers for nonpotable services such as irrigation and industrial, and water distribution main gate valves that are two inches in diameter and above.

(2) Pipes, pipe or plumbing fittings, or fixtures that are used in manufacturing, industrial processing, for irrigation purposes, and any other uses where the water is not intended for human consumption

through drinking or cooking are not subject to the requirements of paragraph (1).

(3) For all purposes other than manufacturing, industrial processing, or to convey or dispense water for human consumption, "lead free" is defined in subdivision (f).

(c) No person engaged in the business of selling plumbing supplies, except manufacturers, shall sell solder or flux that is not lead free.

(d) No person shall introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

(e) For the purposes of this section, "lead free" means not more than 0.2 percent lead when used with respect to solder and flux and not more than a weighted average of 0.25 percent when used with

respect to the wetted surfaces of pipes and pipe fittings, plumbing fittings, and fixtures. The weighted average lead content of a pipe and pipe fitting, plumbing fitting, and fixture shall be calculated by using the following formula: The percentage of lead content within each component that comes into contact with water shall be multiplied by the percent of the total wetted surface of the entire pipe and pipe fitting, plumbing fitting, or fixture represented in each component containing lead. These percentages shall be added and the sum shall constitute the weighted average lead content of the pipe and pipe fitting, plumbing fitting, or fixture.

(f) For the purposes of paragraph (3) of subdivision (b), "lead free," consistent with the requirements of federal law, means not more than 0.2 percent lead when used with respect to solder and flux and not more than 8 percent when used with respect to pipes and pipe fittings. With respect to plumbing fittings and fixtures, "lead free" means not more than 4 percent by dry weight after August 6, 2002, unless the department has adopted a standard, based on health effects, for the leaching of lead.

(g) (1) All pipe, pipe or plumbing fittings or fixtures, solder, or flux shall be certified by an independent

American National Standards Institute (ANSI) accredited third-party, including, but not limited to, NSF International, as being in compliance with this section.

*(2) (A) The certification described in paragraph (1) shall, at a minimum, include testing of materials in accordance with the protocols used by the Department of Toxic Substances Control in implementing Article 10.1.2 (commencing with Section 25214.4.3) of Chapter 6.5 of Division 20.*

*(B) The certification required pursuant to this subdivision shall not interfere with either the department's exercise of its independent authority to protect public health pursuant to this section, or the Department of Toxic Substances Control's exercise of its independent authority to implement Article 10.1.2 (commencing with Section 25214.4.3) of Chapter 6.5 of Division 20.*

*(3) It is the intent of the Legislature that this subdivision only provide guidance and assistance to the entities that use an independent ANSI accredited third-party to demonstrate compliance with this section. Any tests developed by an independent ANSI accredited third-party in accordance with this subdivision shall have no weight of authority under California statute.*

***(4) Notwithstanding paragraph (1), the department shall retain its independent authority in administering this article.***

***(h) This section shall become operative on January 1, 2010. The certification requirement described in subdivision (g) shall not be construed in any manner as to justify a delay in compliance with the lead-free standard set forth in subdivision (e).***

***SEC. 3. This act shall only become operative if Senate Bill 1395, of the 2007-08 Regular Session, is enacted and becomes operative on or before January 1, 2009.***

Introduced By

Approved For Form And Legality

OFFICE OF THE CITY CLERK  
OAKLAND

\_\_\_\_\_  
Councilmember

2008 APR 10 PM 5:41

\_\_\_\_\_  
City Attorney

**OAKLAND CITY COUNCIL**

**RESOLUTION No. \_\_\_\_\_ C.M.S.**

**RESOLUTION SUPPORTING SENATE BILL 1334 (CALDERON), AS AMENDED,  
WHICH WILL AMEND CALIFORNIA HEALTH AND SAFETY CODE SECTION  
116875 AND REQUIRE INDEPENDENT TESTING OF LEAD CONTENT IN  
PRODUCTS CONVEYING AND DISPENSING WATER FOR HUMAN  
CONSUMPTION**

**WHEREAS**, Senate Bill 1334 (Calderon), as amended on April 7, 2008, to link its enactment with the enactment of Senate Bill 1395 (Corbett), is currently pending in the California legislature; and

**WHEREAS**, California Health and Safety Code section 116875 currently regulates the levels of lead (amount by weight) contained in faucets, pipes, fittings, solder, and related manufactured products sold in California and used to convey and dispense water for human consumption; and

**WHEREAS**, said statute does not currently regulate the methodology used or the analyzers employed by manufactures to determine the levels of lead in said manufactured products; and

**WHEREAS**, said bill, as amended, will require that said lead testing shall be in accordance with the protocols used by the California Department of Toxic Substance Controls; and

**WHEREAS**, the Alameda County Board of Supervisors, the Alameda County Lead Poisoning Prevention Program, the East Bay Municipal Utility District, and the Building Services Division of the Community and Economic Development Agency have recommended that SB 1334, as amended, be enacted by the California Legislature; now, therefore, be it

**RESOLVED**: That the Council of the City of Oakland proclaims its support of California Senate Bill 1334 (Calderon), as amended, and authorizes the City Administrator to instruct the Legislative Lobbyist for the City to support the passage of SB 1334, as amended.

**IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2008**

**PASSED BY THE FOLLOWING VOTE:**

**AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT DE LA FUENTE**

**NOES -**

**ABSENT -**

**ABSTENTION -**

**ATTEST: \_\_\_\_\_**

**LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California**