



**P**resently the lead and copper regulations that public water supplies are most familiar are 40 CFR §141.80 thru §141.91. These regulations are entitled "Control of Lead and Copper" and are sometimes referred to as Subpart I of Part 141 entitled "National Primary Drinking

Water Regulations". These regulations are also shown in the sidebar below.

On January 4, 2017, the United States Environmental Agency (EPA) in Washington, D.C. issued a statement informing the citizens that the EPA Administrator Gina McCarthy signed proposed, additional regulations on

lead and copper. The proposed regulations were published in the Federal Register on January 17 and can be found at this link: <https://www.gpo.gov/fdsys/pkg/FR-2017-01-17/pdf/2017-00743.pdf> and are outlined in the accompanying sidebar on the following page.

The proposed, additional regulations are to be the new Subparts B of Part 143 entitled "Use of Lead Free Pipes, Fittings, Fixtures, Solder, and Flux for Drinking Water". This Subpart takes the place of and continues some of the present §141.43 regulation and will add additional regulations. The proposed, additional regulations are 40 CFR §143.11 through §143.20.

If the new proposed, additional regulations are made into final regulations, there will be significant impact on Kansas water supply systems. This article will discuss some selected regulations and their impact.

### **§143.20 Compliance Provisions**

The federal government employees are very serious about the compliance with these regulations. This regulation states that noncompliance with the Safe Drinking Water Act or this subpart on lead may be subject to enforcement

## **Most of Present Regulations on Lead and Copper**

### **40 CFR Part 141 National Primary Drinking Water Regulations "Subpart I – Control of Lead and Copper"**

Mainly from 56 FR 26548, June 7, 1991

- §141.80 General requirements
- §141.81 Applicability of corrosion control treatment steps to small, medium-size and large water systems
- §141.82 Description of corrosion control treatment requirements
- §141.83 Source water treatment requirements
- §141.84 Lead service line replacement requirements
- §141.85 Public education and supplemental monitoring requirements
- §141.86 Monitoring requirements for lead and copper in tap water
- §141.87 Monitoring requirements for water quality parameters
- §141.88 Monitoring requirements for lead and copper in source water
- §141.89 Analytical methods
- §141.90 Reporting requirements
- §141.91 Recordkeeping requirements

Each regulation can be found on the internet by searching the specific regulation, e.g. 40 CFR 141.86. Also, these regulations can be found at the EPA website and the Cornell Law School website. These regulations can be easily found at <https://www.law.cornell.edu/cfr/text/40/part-141/subpart-I>

action including injunctive relief, civil or criminal penalties.

Also, the EPA Administrator may ask for additional information in a specified format within a specific time to determine if a person has acted or is acting in compliance with Section 1417 that has to do with using “lead free” products.

It is obvious that some federal government employees believe that severe penalties are needed and should be used to ensure compliance with these regulations.

### §141.13 Use Prohibitions

This regulation states that no person may use any pipe, any pipe or plumbing fitting or fixture, any solder or any flux that is not lead free as defined in §143.12 in the installation or repair of (1) any public water system; or (2) any plumbing in a residential or non-residential facility providing water for human consumption.

Here “person” might mean homeowner, public water supply employee, plumber, and any other citizen.

### §141.14 State Enforcement of Use Prohibitions

The Kansas Department of Health and Environment (KDHE) receives a Public System Water Supervision grant to administer federal regulations on drinking water. As a condition of receiving a “full allotment” of that grant, this regulation states that the state must through state or local plumbing codes or other enforcement measure enforce the “no-lead” requirements. This enforcement applies to all persons and includes all residential and non-residential facilities.

To monitor, police, and prosecute the “no-lead” requirements, the state might have to pass a statewide plumbing code enforced by KDHE. KDHE might require all public water supplies to pass, implement and enforce KDHE / EPA approved

## Proposed New, Additional Regulations on Lead

**Proposed 40 CFR Part 143 Other Safe Drinking Water Regulations**

**“Subpart B – Use of Lead Free Pipes, Fittings, Fixtures, Solder and Flux for Drinking Water”**  
from 82 FR 4822, January 17, 2017

- §143.11 Definitions
- §143.12 Definition of Lead Free and Calculation Methodology
- §143.13 Use Prohibitions
- §143.14 State Enforcement of Use Prohibitions
- §143.15 Introduction into Commerce Prohibitions
- §143.16 Exempt Uses and Labeling of Certain Exempt Use Products
- §143.17 Required Labeling of Products that Must Meet Lead Free Requirements
- §143.18 Required Labeling of Solder and Flux that is Not Lead Free
- §143.19 Required Certification of Products
- §143.20 Compliance Provisions

Seventeen pages of introduction / explanation and four pages of these proposed regulations from the Federal Register can be found at:

<https://www.gpo.gov/fdsys/pkg/FR-2017-01-17/pdf/2017-00743.pdf>



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plumbing codes. Some other enforcement measures could be implemented by KDHE. If the state chooses not to enforce such, then EPA will have that responsibility. Public water supplies with “plumbing codes” will have a new, additional responsibility and will be held accountable by aforementioned §143.20.

**Comments**

The other proposed regulations can be reviewed and are of interest to all public water supplies and the persons that operate them. The aforementioned selected regulations show additional, significant responsibilities and possible penalties for water supply personnel and elected officials.

The proposed regulations reduce the maximum lead content of pipes, pipe fittings, plumbing fittings, and fixtures to 0.25 percent lead. These regulations require the maximum lead content of solder and flux be no more than 0.2 percent lead. Again, no person may use any such items in the installation or repair of any public water system or any plumbing in a residential or

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nonresidential facility providing water for human consumption.

In the Federal Register it is stated the implementation of these regulations “is not a significant regulatory action and was therefore not submitted to Office of Management and Budget (OMB) review”. Many in Kansas may disagree with that statement.

In the Federal Register it is stated that the implementation of these regulations “does not significantly or uniquely affect small governments” and “places no federal mandates on state, local, or tribal governments”. Just sayin’ doesn’t make it so.

In the Federal Register it is stated that the public has until April 17, 2017, to make comment to EPA about these proposed regulation.

Kansas water supplies have been sampling for lead and copper for more than two decades. KDHE's annual reports show that most public water supplies are in compliance with the Lead and Copper Rule. The new regulations do not show that added benefit will result from the implementation and enforcement of these proposed regulations.

At the KRWA Annual Conference in Wichita March 28 – 30, Andrew Hare of KDHE will make a presentation on Lead and Copper Rule Requirements and Compliance at 10:45 A.M., Wednesday March 29. I encourage readers to attend the presentation if you want important information on sample site plans, monitoring requirements, materials evaluation due June, and consumer notification requirements.

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