



Environmental Council of the States

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February 12, 2020

Mr. David Ross
Assistant Administrator, Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail code: 4101M
Washington, DC 20460

Via email and regulations.gov: EPA-HQ-OW-2019-0300

RE: Comments on Proposed Lead and Copper Rule Revisions

Dear Assistant Administrator Ross:

The Environmental Council of the States (ECOS) thanks EPA for its extension of the comment period for the proposed rule, *National Primary Drinking Water Regulations: Proposed Lead and Copper Rule Revisions*. ECOS appreciates both the challenge and importance of updating the 1991 Lead and Copper Rule (LCR) as the results of these revisions will affect state and territorial water programs that will implement the changes. The extra time has allowed states to develop more meaningful and thorough feedback. ECOS submits the following comments that reflect the position of the states as a group. Please look to state letters for additional information, more technical comments, and state-specific issues.

Clarifications

States have identified a number of terms and concepts in the proposed rule that would benefit from additional clarity. Clear definitions are important for ensuring the rule can be implemented with consistency across the country. To improve the rule, clear definitions of the following terms are needed: lead service lines, property owner, customer and consumer, residents and non-residents, monitoring and sampling periods, and optimized and re-optimized. States also suggest replacing the phrase “find and fix” with “sampling site assessment” or some other equivalent phrasing. Until the definitions of these terms are clarified, states are unable to fully comment on the substance and impact of the rule.

Given the complexity and magnitude of this proposed rule and its impact to states, we recommend the clarification of these terms either through the revision and republication of the rule, or with the development of a supplemental notice. This would enable states to provide more thorough and fully informed comments on the rule.

Implementation Guidance and Training

Prompt, clear, and effective guidance and technical support will be necessary for states to successfully implement this rule. ECOS requests that EPA collaborate closely with states to develop and publish all implementation and data management guidance documents as soon as possible, and at least six months prior to the rule’s effective date. Consistent with ECOS Resolution 11-8, *On the*

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Use of Guidance, timely guidance is necessary for states to effectively draft state regulations, program their data management systems, and implement the revised rule.

Due to the complexity of the proposed rule, ECOS requests detailed guidance and training for both states and water suppliers on all aspects of the new requirements. Topics that states have already identified that will require guidance and training include: corrosion control treatment (CCT) evaluations and re-evaluations, CCT requirements, lead service line (LSL) inventory development, LSL replacement plan development, public education and outreach activities, Tier 1 public notification, monitoring requirements, monitoring for lead in schools and child care facilities, and the small water system compliance flexibility. The guidance and training should include the technical aspects of effective CCT evaluations and simultaneous compliance assessments, including the use of pipe scale studies, and templates and case studies where applicable.

Any new or modified rule has significant data management implications. Prior to the rule's effective date, states will need adequate time and resources to adjust their business processes, train staff, and implement new or modified data management systems. ECOS urges EPA to give substantial weight to these considerations and challenges during the rulemaking process. EPA should engage with states as early as possible to enable timely development of the data management infrastructure and processes necessary to meet the rule's requirements. This engagement is vitally important both for states that currently rely on the state version of the Safe Drinking Water Information System (SDWIS/State) and those states using an alternate system. ECOS requests that EPA provide detailed data and business rule requirements as soon as possible and at least six months prior to the rule's effective date. ECOS also urges EPA to engage with states in identifying the best solution for reporting new LCR data elements to EPA; this may include updating the existing SDWIS Fed Reporting Services to accommodate the new data. The uncertainty surrounding the "pause" to SDWIS modernization means that states must continue to maintain their existing data management systems. EPA should commit to continued support for SDWIS/State until such time as a transition to a modernized SDWIS solution is complete. Please see ECOS Resolution 13-4, *Environmental Performance and Outcomes Data and Metrics*, concerning additional considerations regarding the costs and burdens associated with new data reporting requirements.

Public Risk Communications

In addition to providing technical support, states request that EPA develop some common communication and public messaging resources. This set of resources would help the states and EPA more clearly and consistently convey information to the public. Some key topics to address include the significance of action levels and trigger levels and their relationship, or lack thereof, to health-based numbers.

Partnership

States, as key partners in implementing our country's environmental programs, value a strong working relationship with EPA. ECOS asks that EPA maintain a degree of flexibility in federal requirements regarding proactive state adoption and implementation of this federal rule. ECOS requests that the final rule allow states to implement standards that may be more stringent than the federal standard.

ECOS also asks that EPA consider the above comments in conjunction with the comments received from the Association of Clean Water Administrators on their concerns regarding how the rule affects surface waters under the purview of the Clean Water Act, and also with the comments from the Association of State Drinking Water Administrators which are more extensive and provide greater technical detail from state drinking water experts.

Environmental Council of the States

ECOS members look forward to continuing to work with the Agency to improve the protection of public health and the environment by reducing exposure to lead in drinking water. If you have any questions regarding this correspondence, please contact me at dwelsh@ecos.org or 202-266-4920.

Sincerely,

A handwritten signature in blue ink that reads "Donald A. Welsh". The signature is written in a cursive style with a light blue circular highlight behind it.

Donald Welsh
Executive Director
Environmental Council of the States