

On February 11, the House Committee on Energy and Commerce held a hearing on the Environmental Protection Agency's (EPA) new proposed Lead and Copper Rule Revisions (LCRR). The committee heard from seven individuals representing various public health, drinking water, and municipal organizations, including: Dr. Mona Hanna-Attisha, Director, Pediatric Public Health Initiative, Michigan State University; Cathy Tucker-Vogel, Public Water Supply Section Chief, Kansas Department of Health and Environment on behalf of the Association of State Drinking Water Administrators (ASDWA); and Cindy R. Bobbit, Commissioner of Grant County, Oklahoma on behalf of the National Association of Counties (NACo).

The overall consensus of the speakers was that the rule does not go far enough to protect public health, and additional funding must be provided for local authorities to comply.

Hanna-Attisha said: "The EPA's proposed revisions to the Lead and Copper Rule [LCR] are minimalistic and insufficient....The current LCR revisions take a small step in the right direction, but fail to change the rule's underlying structural problem – it does not reflect the science of lead exposure, which tells us there is no safe level. It also does not recognize, nor address, that the confusion intrinsic to the LCR itself played a detrimental role in perpetuating the [Flint] crisis....the millions of lead pipes in the country need to be replaced as soon as possible, and now is the time for EPA to mandate it."

Tucker-Vogel offered four suggestions to improve the proposed rule, which summarize many recommendations of the other organizations: (1) remove all lead service lines (LSLs), and begin with a complete inventory of all LSLs; (2) reduce exposure from lead in drinking water by establishing Tier 1 sampling sites at locations with LSLs, appropriate corrosion control treatment, and water quality monitoring; (3) work to increase transparency and public education; and (4) provide additional funding for states, EPA and water utilities to improve data collection, management, and implementation of the rule. ASDWA estimates that the current proposed revisions to the rule will cost states \$50M annually.

Bobbit said: "Regardless of whether a community is rural or urban, our residents rely on safe and reliable water systems. However, counties are facing a growing number of challenges resulting from aging infrastructure, increased federal and state requirements, and rising costs to meet infrastructure needs and environmental mandates." She highlighted the fact that though many counties have delegated authority to regulate water quality, long-term budget investments, are challenging. Thus, unfunded mandates are a significant hurdle to complying with new or tightening regulations. She also emphasized the need for counties to have clear, understandable and practical policies to administer national drinking water standards successfully.

NACo supports additional funding for the EPA Drinking Water State Revolving Fund (DWSRF), Water Infrastructure Improvements for the Nation (WIIN) Act grant programs, and Water Infrastructure Finance and Innovation Act (WIFIA) financing program, HUD Community Development Block Grants, and USDA Rural Development Water and Waste Disposal loan and grant program. See hearing and written testimonies: <https://energycommerce.house.gov/committee-activity/hearings/hearing-on-epas-lead-and-copper-proposal-falling-short-of-protecting>.

Public comment on the proposed rule closed on February 12. Thirteen WSWC member states submitted comments, including: Arizona, California, Colorado, Kansas, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Washington, and Wyoming. Many states expressed similar concerns, summarized by the comments submitted by Marie Owens, Director, Division of Drinking Water (DDW), Utah Department of Environmental Quality: "Utah DDW supports EPA's decision to revise the Lead and Copper Rule, as the Proposed Revisions are generally more protective to public health than the existing Lead and Copper Rule. Utah DDW has concerns over the economic impact the proposed revisions would have on Primacy Agencies and Water Systems. In addition, Utah DDW seeks support, guidance, and clarification on certain aspects of the proposed revisions."

WSWC member states expressed concern with the revised rule as being too burdensome and costly, and requiring more resources to implement than the states currently have. It is almost impossible for small water systems to implement, potentially leading to EPA taking over primacy authority for those systems. Also the mandated use of a phosphate-based control inhibitor could result in violations of National Pollutant Discharge Elimination (NPDES) Permits required under the Clean Water Act. Further, the addition of a "trigger level" complicates public education and notification, especially as neither the action level (15 ppb) nor trigger level (10 ppb) are health-based standards. Many states also requested additional guidance, flowcharts, decision trees, and training if the proposed revisions are to be adopted with the current language.

Toby Baker, Executive Director, Texas Commission on Environmental Quality, commented: "Although public discussion often mistakes the action level as having significance in terms of health impacts, EPA has consistently emphasized that

the health-based maximum contaminant level goal for lead in the current LCR is zero and that there is no safe level of lead exposure. While the future Lead and Copper Rule Revisions will maintain treatment technique requirements to reduce lead exposures, a health-based benchmark for lead in drinking water could help determine appropriate actions to communicate and mitigate risk, particularly at the household level.”

The North Dakota Department of Environmental Quality (NDDEQ) commented: “NDDEQ does not feel that the proposed LCRR is functional in rural states like North Dakota with small water systems. Small water systems in North Dakota do not have the resources to handle the substantial increase in regulatory requirements that the LCRR mandates. The proposed LCRR simply will not work for small systems in North Dakota, and the NDDEQ is concerned that these water systems will no longer be able to remain in compliance with the LCR due to paperwork rather than health-based concerns.”

Darrin Polhemus, Deputy Director, Division of Drinking Water, California State Water Resources Control Board, commented: “In general, the proposed language in the LCRR unfortunately does not simplify the 1991 LCR, which was an original stated goal of the revisions. The LCRR regulatory language and requirements proposed are more extensive, more difficult to follow, track, and implement for states and water utilities.... To this end, we recommend that the focus on LCRR should be the removal of lead from our drinking water infrastructure.”

John Wiesman, Secretary of Health, Washington Department of Health, commented: “While we support the overall efforts to remove leaded components out of public water systems, we find the proposed rule language confusing and believe it would be difficult to implement as written. We recommend taking time to revise many portions of the rule to limit repetition and clearly state requirements for public water systems based on system size and tap sample results. We also have concerns on how the state’s drinking water system database would be able to track compliance with this new rule.”

Most commenting states also concurred with the suggestions submitted by ASDWA, with some states heavily involved in developing those suggestions.