STATE OF WASHINGTON

DEPARTMENT OF HEALTH

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U.S. Environmental Protection Agency
EPA Docket Center
Office of Ground Water and Drinking Water Docket
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: National Primary Drinking Water Regulations for Lead and Copper: Improvements (Docket ID No. EPA–HQ–OW–2022–0801)

The Washington State Department of Health (DOH) offers the following comments in response to the U.S. Environmental Protection Agency's (EPA) proposed rulemaking for the above-mentioned Lead and Copper Rule Improvements (LCRI), published on December 6, 2023 (Federal Register Vol. 88, No. 233).

Overall, DOH supports EPA's efforts with the proposal to address potential disproportionate impacts of lead in drinking water in communities, including through proposed lead service line replacement and public education. DOH recognizes the transition to and implementation of the LCRI will likely require significant additional state resources.

Regarding the need for additional resources

EPA upgrades to the federal Safe Drinking Water Information System or its modernization will ensure DOH can effectively implement the various components of the rule. Training, education, review, tracking of the lead service line inventory and replacement plan, and changes in the monitoring and reporting requirements specified in the LCRI will likely require an increase in resources to effectively implement. DOH recognizes that changes in the LCRI will help to ensure the public is better informed about the status of their water systems. But the public education and public notification requirements will likely require increased tracking due to the multiple public notification requirements. Simplifying public education and public notification requirements by streamlining the timelines within the rule may lessen the impact on staffing resources and public water systems.

Similarly, changes in monitoring and reporting requirements may increase staff time to review and approve monitoring plans and ensure systems are sampling at correct locations and correctly calculating and reporting their 90th percentiles. When these changes are coupled with the lower action level, DOH anticipates additional resources will need to be dedicated to the Lead and Copper Program.

Regarding proposed changes associated with lead service line inventory (LSLI) validation (141.84(b))

DOH does not agree with the need for a validation process for inventories that identify non-lead service lines based on records, construction date, or pipe size. DOH supports the state's ability to determine if inventories based on records should be subject to further validation.

If EPA keeps the validation process, DOH recommends EPA only require a validation process on non-lead service lines installed prior to the lead ban date. Systems have already used the statistical approach for the initial LSLI or have all non-lead based on construction date should not be required to further validate their LSLI.

Regarding proposed changes associated with system size definitions (141.2)

DOH appreciates that EPA is proposing to correct an error from LCRR to define small water systems as those serving 10,000 persons or fewer. However, the use of similar terms with different definitions may create some confusion and increases the likelihood of error. DOH recommends using consistent definitions of water system size within the SDWA. Examples that could cause confusion, include:

- There is a definition of small water systems (serving 10,000 persons or fewer) that only applies to Subpart I; and
- The Small Water System Compliance Flexibility is identified for small community water systems serving 3,300 or fewer.

If there are going to be different size ranges, those categories should have different names to avoid confusing the regulated community. DOH recommends defining a very small water system as serving 3,300 or fewer so that the definition of small water system and small water systems compliance flexibility are not confused.

Regarding proposed changes associated with adding connectors to the LSLI (141.2; 141.84; 141.85; 141.86; 141.90)

DOH is concerned with the addition of a new required connector category for water systems that have already begun or completed record review activities to develop their LSLIs. This new category will require another records review to determine this information.

Regarding proposed changes associated with the requirement to provide notification of all lead and copper tap results within three calendar days (141.85(d))

DOH supports EPA’s efforts to ensure customers receive both lead and copper test results. However, DOH is concerned with the proposed requirement that water systems deliver tap sample results within three calendar days of learning of the results. DOH recommends that water systems have 30 days to provide customers with the results of their lead and copper test samples. 30 days is consistent with Tier 2 notification for contaminants that are not acute. This will allow water systems to mail out test results to customers and ensure thorough and accurate information is provided.

Keeping three calendar days in the proposal could also create challenges for states. Requiring three days for results that are not over the action level could set up a situation in which a state would need to prioritize spending resources to assist water systems with this requirement over more broadly impactful issues related to Tier 2 notices. Additionally, this may add challenges in our efforts to ensure that water systems use their limited resources on efforts that are critical to addressing higher public health risks.

If EPA keeps three calendar days, DOH suggests the rule specify three business days. Three calendar days could create a challenge when a water system receives results on a Friday before a holiday weekend. The system will require staff to work additional hours to meet the three calendar days and may not be able to deliver the results in time, subsequently falling out of compliance.

Regarding proposed changes associated with lead in schools (141.90(i); 141.92)

DOH supports community water systems working with schools, early learning, and childcare centers to reduce a child's overall exposure to lead in the environment. All outlets that can be used for drinking and cooking should be routinely sampled and those outlets that exceed the action level should be taken out of service and remediated.

DOH is concerned the proposed LCRI is not the appropriate platform for mitigating exposure in schools and childcare facilities.

DOH supports allowing states to issue waivers to community water systems from the requirement for lead sampling in schools, early learning, and childcare facilities. DOH requests if the state requires sampling at all outlets available for drinking and cooking and requires outlet above the action level be taken out of service immediate, states should then be able to issue waivers to community water systems, even if the sampling frequency in the LCRI is not met.

Regarding the requirement for large system with lead service lines or galvanized requiring replacement to complete a pipe loop study (141.82)

DOH disagrees that all large systems would need to complete a harvested pipe loop study to identify optimal corrosion control treatment. Pipe loop studies are difficult, time consuming, and costly. It could ultimately delay installation of corrosion control treatment and increase costs to reduce the lead at customers taps. Coupon tests and other analysis can identify optimal corrosion control without these costly studies. States should have the flexibility to identify when additional studies are needed based on information provided by the water system on coupon studies, partial system-tests and other analyses based on analogous systems.

Additionally, harvesting lead or galvanized service lines from the system disrupts scale and increases exposure risk similarly to when systems conduct partial service line replacement or do other work that causes lead releases.

Thank you for this opportunity to provide comments regarding the LCRI.

Sincerely,

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Washington State Department of Health