



July 23, 2021

Dr. Jennifer McLain
Office of Groundwater and Drinking Water
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20009

Re: Additional Input from ASDWA on Potential Lead and Copper Rule Revisions (LCRR) on Lead Service Line Inventories and Replacements

Dear Dr. McLain,

The state and territorial primacy agencies are co-regulators with the Environmental Protection Agency (EPA) in the development and implementation of drinking water regulations. As such, ASDWA's members have a unique relationship with EPA when compared to other drinking water stakeholders such as the regulated community, i.e., the water systems. This relationship provides unique opportunities and challenges in the regulatory development process, especially for complex rules such as the Lead and Copper Rule Revisions (LCRR).

ASDWA's members appreciate the time and resources the Agency has expended on the LCRR, as it is a significant rulemaking that improves public health protection. The final LCRR as promulgated on January 15, 2021, has some areas that deserve some additional review and stakeholder engagement. ASDWA's previous comments (dated April 8, 2021) supported the proposed delay of the LCRR effective date to December 16, 2021, as well as the delay of the compliance date to September 16, 2024.

ASDWA supports EPA's ongoing "Regulatory Freeze Pending Review" to allow for additional stakeholder engagement, as well as providing an opportunity for ASDWA to provide additional input on specific topics. This letter addresses issues related to lead service line (LSL) definitions, LSL inventories, and LSL replacement plans based on LCRR review by several states, and review and approval by the ASDWA Board. Other letters will address additional LCRR issues that warrant additional consideration by EPA.

ASDWA continues to support regulatory requirements in the final LCRR for water systems to develop an LSL inventory or demonstrate absence of LSLs. ASDWA recognizes that these inventories will evolve over time, given that the initial inventories will likely be based on a water system's paper and electronic records, which will vary substantially given the timeframes

of construction in a water system's service area. However, developing an inventory that is as accurate as possible over several years is critical to ultimately replacing all lead service lines across the country.

Timeline

ASDWA recommends that a revised final LCRR include updated timelines for the submission and review and approval of the LSL inventories, review and approval of the updated compliance sampling plans (if revisions are necessary) based on the inventories, the start of the new sampling at the new compliance sampling locations, and lead service line replacement plans. The current timeline of three years after promulgation for the submission of all inventories, all compliance sampling plans, and all replacement plans is not feasible. The current LCRR, with these three concurrent review and approvals, places too much of a workload on the primacy agencies. In [ASDWA's comments on the proposed LCRR](#), these three concurrent review and approvals were approximately 45% of the total staff hours for primacy agencies' LCRR implementation, and all of these reviews and approvals are at the beginning of the primacy agencies' LCRR implementation, assuming timely approvals of LCRR primacy packages.

Furthermore, given the sheer number of inventories and plans to be reviewed and approved by states it will be challenging to complete by the timeframes required in the LCRR. ASDWA and EPA have estimated 50,098 inventories, 16,265 replacement plans, and 67,210 compliance sampling plans, for a total of 133, 573 reviews and approvals. ASDWA recommends an extended initial implementation timeframe for inventories, updated compliance sampling plans, and replacements plans. Developing all of these is a significant effort by the water systems, as well as a significant effort for reviews and approvals. Adequate time for these important tasks is critical. This workload must be spread out over time in the LCRR.

ASDWA recommends the following general principles for submissions and approvals:

- Three years after the initial compliance date for submissions of initial LSL inventories;
- Six months after initial submission of inventories for submission of replacement plans;
- A year for review and approval of inventories (meeting regulatory components and not accuracy of the inventories) and submission of updated compliance sampling plans; and
- Compliance monitoring based on the updated compliance sampling plan begins as determined by the state. In the meantime, the system's compliance sampling should continue on the existing schedule.

ASDWA recommends that EPA also consider staggered submission dates for inventories and compliance sampling plans by system size or type (CWS, NTNCWS) so that the states are not overwhelmed by submissions. Staggered submission dates would also allow for the evolution of

knowledge on how to develop the inventories and replacement plans, as these two are new regulatory requirements.

LSL Definitions

As previously recommended, ASDWA requests EPA develop a clear definition of LSLs in the revised final LCRR, as the inclusion of galvanized service lines (GSLs) in the final LCRR is confusing. It will be very challenging, if not impossible, for water systems to determine if a GSLs was ever connected to lead. For example, a GSL could have previously been connected to a lead connector, which has since been removed, and now the GSL is significant source of lead. However, a system with no record of it having been connected to lead a system may falsely consider the lack of records proof that the GSL was never connected to lead and not count it as an LSL under the definition. Substantial effort could be wasted trying to resolve this uncertainty. ASDWA recommends EPA include GSLs as LSLs in all cases, or at a minimum, if the water system is unable to demonstrate that the GSL was never downstream of an LSL or lead connector, the system must presume the presence of an upstream LSL or connector. Alternatively, GSLs could be inventoried separately from lead service lines and be maintained as a Tier 3 sample site. GSL could then be included in the LSL replacement plan, with the replacement plan prioritizing LSLs, GSL known to be downstream of LSL or lead connector, and then GSLs.

Lead goosenecks, pigtails, and connectors should be included as items in the inventories but separate from the service lines. More detailed information on the materials used for the goosenecks, pigtails, and connectors will likely be found as water systems conduct repairs and/or replace water mains over time. Systems will need to have some way to identify and track lead goosenecks, pigtails, and connectors to identify compliance monitoring sites. These should be included in the LSL inventory to streamline requirements.

Lead Status Unknown Service Lines

EPA should consider developing a goal for the percent of unknown service lines to be identified annually in inventories. The current incentives for water systems to identify the material of unknown service lines if they do not have a lead trigger level (TL) or action level (AL) exceedance are limited to notifications to customers if they have an unknown line as well as if an unknown line is disturbed. This is insufficient to drive identification of service lines of unknown material. Another option would be tying identifying unknown service lines to monitoring frequency. For example, any system with 50% or more unknown service lines will be moved to standard (6 month) monitoring until they meet some threshold (ex. 25%) of service lines of known material, and that percentage threshold could increase over time. EPA should explore ways to effectively encourage water systems to reduce the number of service lines of unknown material, regardless of their 90th percentile for lead.

State water programs anticipate a large portion of water systems will have limited information about the private side service line material, with some states expecting zero information to be

available at the water system level. At the same time, many states expect a moderate to substantial number of water systems will want to certify they have no LSLs. However, systems may not be able to do so due to a lack of information, particularly on the private side of the service line. States need greater clarification and specificity on inventory requirements for water systems without LSLs. Water systems with only non-LSLs are required to conduct an initial inventory, but they are not required to provide inventory updates to the state, or the public. The requirement to make the inventory publicly accessible could be solely a statement that the system has no LSLs, along with a general description of the methods used to make that determination. What information is needed to verify no LSLs exist in the system? Could a certification of no LSLs be based solely on building and plumbing codes? Should a threshold of certainty, such as 95% confidence, be required or recommended for water systems to certify they have no lead service lines in their system? What action should be taken if that system finds an LSL? Additional discussion between states and EPA is warranted on these questions.

LSL Replacement Rates

As previously discussed in written comments, ASDWA recommends that if a water system's 90th percentile exceeds the lead AL, the system be required to replace a percentage (example, 20%) of its LSLs every three years, including unknown LSLs in this calculation. ASDWA recommends that any system with LSLs with a 90th percentile below the AL (and remains below the AL) also be required to replace a lower percentage (example, 10%) of its LSLs every three years. This eliminates the need for a goal-based replacement rate to be determined by the state after a trigger level exceedance. ASDWA does not support goal-based LSLR percentages that are based on system size, and/or would require negotiations and back-and-forth discussions, as these negotiations and discussions are an unnecessary burden on states.

Need for Additional Discussion, Guidance, and Clarification

Beyond the issues identified above, several LCRR issues need additional guidance and clarification from EPA:

1. **Reporting Requirements:** states need more clarity of what data elements will be reported to EPA for LSL inventories and replacements. While state water programs need water systems to submit their full inventory to the state, including location identifiers, to ensure compliance, EPA should not need all those data points. ASDWA recommends summaries of the inventories should be submitted by the state to EPA, with the full inventories available upon request. This summary submitted by the state to EPA would include summary statistics of LSL counts by system size and type and provide for each system the number of service lines of each material. Additional guidance is needed on what EPA anticipates states will need to report to the Agency on LSL inventories and replacement plans. ASDWA requests a one-page summary from EPA on what data is expected to be collected by the system, what the systems submit to the state, and what the states submit to EPA to satisfy the LSL inventory and replacement requirements.

2. **Handling Uncertainty:** States need guidance from EPA on what constitutes confirmed or verified non-lead. What level/type of certainty is acceptable for compliance? How do systems provide this to states and EPA?
3. **Inventories for Small Systems:** States request EPA develop a spreadsheet or template that small systems may use for their LSL inventories. Additional training will be needed, particularly for small systems. Further discussion between states and EPA is needed.
4. **Replacement Plans:** ASDWA requests EPA provide additional information on what is sufficient for each of the seven elements identified for the LSL replacement plans (strategy for determining the composition of lead status unknown service lines in its inventory; procedure for conducting full lead service line replacement; strategy for informing customers before a full or partial lead service line replacement; for systems that serve more than 10,000 persons, a lead service line replacement goal rate recommended by the system in the event of a lead trigger level exceedance; procedure for customers to flush service lines and premise plumbing of particulate lead; lead service line replacement prioritization strategy based on factors including but not limited to the targeting of known lead service lines, lead service line replacement for disadvantaged consumers and populations most sensitive to the effects of lead; and a funding strategy for conducting lead service line replacements which considers ways to accommodate customers that are unable to pay to replace the portion they own). The more information and examples EPA can provide in guidance the better, particularly for the disadvantage customer strategy as this will be a new area of examination for many water systems. Without EPA guidance, the states will need to develop their own guidance based on various interpretations of the LCRR requirements and consistency across the regions/states will suffer.
5. **Unique Situations:** For some water systems ownership of a service line is entirely public or entirely private. Water systems where the service line is entirely privately owned may face additional challenges in meeting the LSL inventory and replacement requirements of the LCRR. Further discussion is needed on how to assist water systems with unique public/private service line boundary issues.
6. **Available Funding:** ASDWA requests EPA continue to work on providing resources to water systems detailing available funding options for lead service line inventory development and replacement beyond the [current webpage](#). This could include a lead service line funding clearing house, webinars, factsheets, and more.

ASDWA appreciates the opportunity to provide this additional input in the LCRR review process. If you have any questions about these comments, please feel free to contact myself (aroberson@asdwa.org) or Wendi Wilkes (wwilkes@asdwa.org).

Sincerely Yours,



J. Alan Roberson, P.E.
Executive Director

Cc: Anita Thompkins – EPA OGWDW
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