



May 17, 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 Sampling and Monitoring

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 several sampling and monitoring issues, based on LCRR review by several states, and review and approval by the ASDWA Board. Future letters will be forthcoming over the next few weeks with additional input on LCRR issues that warrant additional consideration by EPA.

Sampling for both the first and fifth liter for a compliance sample is an important component of the LCRR, in order to accurately reflect the lead in the drinking water in the home. For sampling locations with lead service lines (LSLs), ASDWA recommends analyzing both the first and fifth liters for lead and copper. Michigan revised its Lead and Copper Rule in 2018 to require analysis

of both the first and fifth liters and to use the higher number for compliance determinations. Michigan presented the results of the initial round of compliance monitoring data at an ASDWA-sponsored webinar on April 21st, and Michigan's initial round of compliance monitoring data supports this recommendation. Based on Michigan's 90th percentile compliance determinations using the highest number from the first or fifth liters, 31 systems had Action Level Exceedances (ALEs) from homes with LSLs. If Michigan had only used the fifth liter data, then out of the 31 ALEs that Michigan reported, only 22 of those systems would have had an ALE. Therefore, 9 communities in Michigan would have experienced levels of lead at 10% or more homes served by lead service lines in excess of 15 ppb in the first draw liter from their taps without representation of this risk.

ASDWA also recommends analysis of both the first and fifth liters for follow-up sampling that would be conducted as part of the investigation at a site with a compliance sample above the lead action level of 15 ppb. In both cases, there is no additional analytical costs for analyzing both lead and copper for both the first and fifth liters.

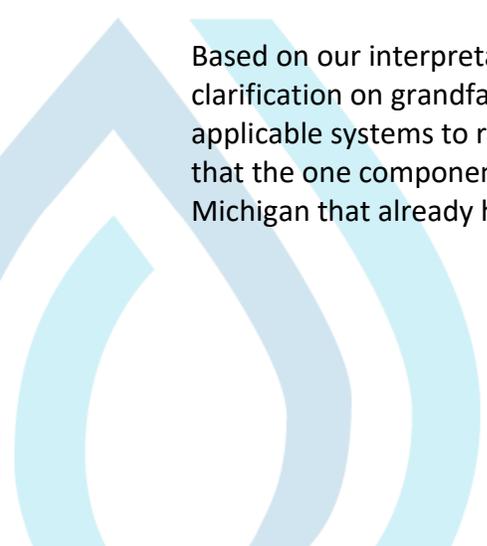
Analyzing both the first and fifth liters will minimize sampling confusion, recognizing the additional burden on the sampler (the homeowner or the tenant). The logistics of shipping additional bottles (and possibly shipping empty bottles back [liters 2 and 3 and 4]) and appropriately educating the samplers will be a significant undertaking for all involved.

ASDWA also recommends that non-transient, non-community (NTNC) systems that have Tier 4 sites (copper with lead solder) be a higher priority than Tier 5 (representative). NTNC systems are not nearly as likely to have Tier 1 (lead service lines) or Tier 3 (galvanized downstream of lead), but these systems might have copper lines with lead solder.

ASDWA is requesting that EPA clarify how a lead gooseneck upstream of non-galvanized material and lead premise plumbing materials would be treated under LCRR tiering criteria. Based on our interpretation of the LCRR, it appears these two service line configurations would fall into Tier 5. However, this does not make sense from a public health perspective, as these materials would be lower priority than copper with lead solder, and equal priority with plastic.

ASDWA's members are concerned that the LCRR makes it challenging to find copper compliance sampling sites based on the current tiering criteria. ASDWA is requesting that EPA consider adding a tier 1 prioritization for homes with lead service lines and copper plumbing.

Based on our interpretation of the regulatory language for grandfathering, ASDWA requests clarification on grandfathering existing sampling schedules to eliminate the need for all applicable systems to return to semi-annual sampling in January 2025. Additionally, it appears that the one component of grandfathering language in the final LCRR is to allow states like Michigan that already have systems sampling from lead service line sites using 5th liter



sampling to allow those samples to count without having to start the compliance sampling process over again. ASDWA supports this grandfathering.

ASDWA reiterates its previous support for EPA to include galvanized service lines in the final LCRR due to the studies that have shown that a lead scale builds up on galvanized service lines that are downstream of a lead service line, and this scale can create increased exposure to lead in drinking water. However, the final LCRR creates complications and confusion for the combinations of lead service lines, galvanized service lines, lead goosenecks and pigtails, and service lines of unknown materials. The final LCRR is unclear about implementation in §141.84 versus §141.86 for the different combinations of what might be upstream of a galvanized service line (lead service line, lead service line that was replaced 20 years ago, lead gooseneck or pigtail, or unknown) and how each combination would fit into the inventory, tiering for the compliance sampling plan, and the lead service line replacement plan. A change in the definitions for lead service lines and galvanized service lines, or additional information and guidance is needed to clarify these requirements for water systems.

ASDWA appreciates the opportunity to provide this additional input in the LCRR review process and more letters will be forthcoming over the next few weeks. If you have any questions about these comments, please feel free to contact me at [aroberson@asdwa.org](mailto:aroberson@asdwa.org) or at (703) 915-4385.

Sincerely Yours,



J. Alan Roberson, P.E.  
Executive Director

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