

## Note to Docket

### Note to Docket EPA-HQ-OW-2022-0801

#### ***Small Business Administration Office of Advocacy Environmental Roundtable on the Proposed Lead and Copper Rule Improvements (LCRI)***

##### Overview

*On January 9th, 2024 the EPA provided an overview of the LCRI in an environmental roundtable hosted by the Small Business Administration Office of Advocacy on the proposed improvement to the National Primary Drinking Water Regulation (NPDWR) for Lead and Copper (LCR) that was open to the public. The purpose of the briefing was to provide a high level overview of the proposed rule and for participants to discuss the rule amongst themselves and the Office of Advocacy. Steve Via from the American Water Works Association also presented and participated in the roundtable. Participants were advised by the EPA that comments for the EPA must be submitted to the docket during the public comment period and that participants could also engage with EPA at the January 16, 2024 public hearing. Participants were also advised that EPA could not provide responses to their comments at this meeting.*

The EPA provided a high level overview of the following topics of the LCRI proposal:

- *Background on lead in drinking water*
- *Key Provisions in the Proposed LCRI*
  - *Achieving 100% Lead Pipe Replacement within 10 years*
  - *Locating Legacy Lead Pipes*
  - *Improving Tap Sampling*
  - *Lowering the Lead Action Level*
  - *Strengthening Protections to Reduce Exposure*
- *Available funding sources*
- *Public comment period and public hearing*

Meeting Participants discussed following topics:

- Why EPA selected 10 years as the service line replacement deadline and suggestion for a setting a longer deadline.
- Cost of replacement for small entities and how systems pay for replacement, such as raising water rates.
- Availability of and access to funding for service line replacement.
- Rule complexity and time for a small entity to read and understand the rule.
- Concern about implementing the LCRI while complying with other regulations and normal, ongoing system operations.
- Rule costs and benefits.
- Complying with this and other rules (PFAS and DBP) on top of their current workload
- School sampling requirement
- Tribal water systems

Attendees/Organization

- *Small Business Administration Office of Advocacy*
- *Public participants (including small water systems)*
- *American Water Works Association*

Attendees/EPA

- *Hannah Holsinger*
- *Michael Goldberg*



# Proposed Lead and Copper Rule Improvements

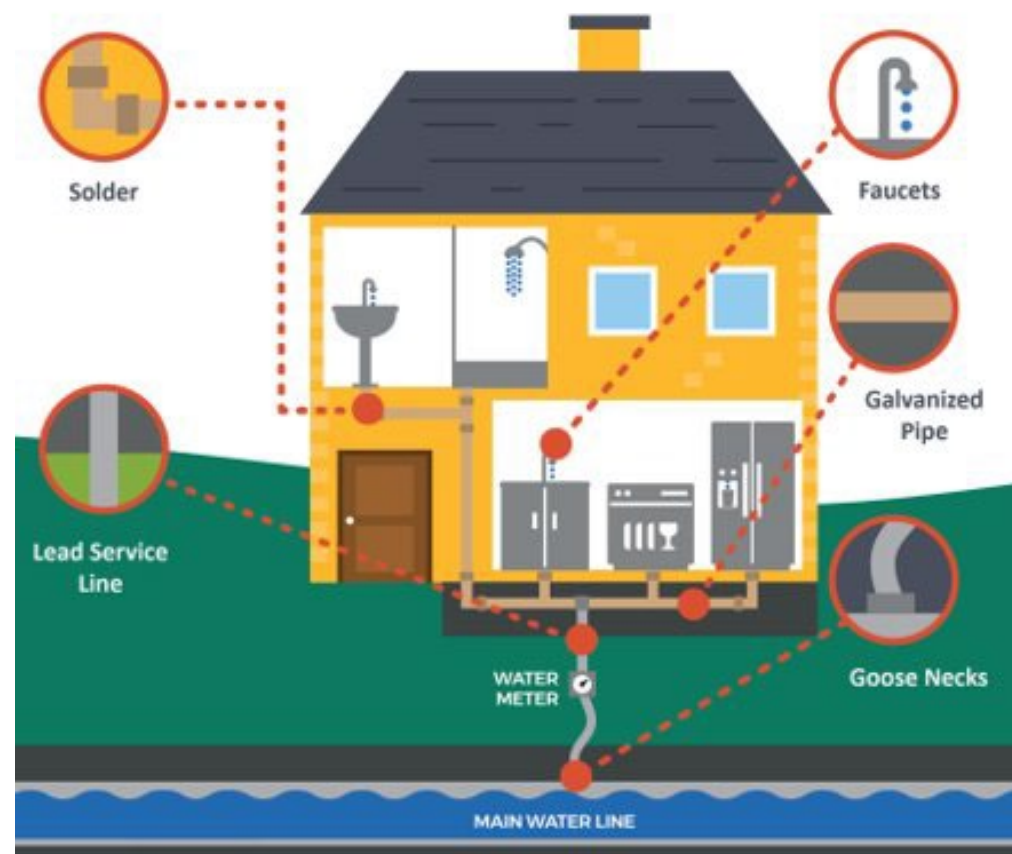


January 9, 2024



# Lead in drinking water

- Lead in pipes, solder, and faucets can dissolve in water or break off as particles.
- When present, lead service lines are the most significant source of lead in drinking water.
- In children, exposure to lead can cause serious health effects like lower IQ, learning and behavioral problems.
- In adults, health effects can include higher risk of heart disease, high blood pressure, and kidney or nervous system problems.



# Key Provisions in the Proposed LCRI

- Achieving 100% Lead Pipe Replacement within 10 years
- Locating Legacy Lead Pipes
- Improving Tap Sampling
- Lowering the Lead Action Level
- Strengthening Protections to Reduce Exposure



# Achieving 100% Lead Pipe Replacement within 10 years

- The proposed LCRI would require all water systems to replace lead services lines under their control, with the vast majority completing replacement within 10 years.
- While corrosion control can be effective at reducing lead exposure, removing lead pipes provides even greater public health protection by eliminating the key source of lead.
- Water systems would be required to replace all lead pipes regardless of whether they exceed the lead action level.



# Locating Legacy Lead Pipes

- Knowing where lead pipes are is critical to replacing them efficiently and equitably.
- Water systems are currently required, under the 2021 LCRR, to provide an initial inventory of their lead service lines by October 16, 2024.
- Under the proposed LCRI, all water systems would be required to regularly update their inventories, validate inventories, create a service line replacement plan, and identify the materials of all service lines of unknown material.

# Improving Tap Sampling and Lowering the Lead Action Level

- Water systems would be required to collect first liter and fifth liter samples at sites with lead service lines and use the higher of the two values calculating the system's 90th percentile lead level.
- EPA is proposing to lower the lead action level from 15  $\mu\text{g}/\text{L}$  to 10  $\mu\text{g}/\text{L}$  and eliminate the trigger level to reduce complexity.
- When a water system's lead sampling exceeds the action level, the system would be required to inform the public and take action to reduce lead exposure.
  - For example, the system would be required to install or adjust corrosion control treatment to reduce lead that leaches into drinking water.



# Strengthening Protections to Reduce Exposure and Improving Transparency and Trust

- Water systems with multiple lead action level exceedances would be required to conduct additional outreach to consumers and make filters available to all consumers. The filters must be certified to reduce lead.
- The proposed rule would require water systems to communicate more frequently and proactively about lead service lines and the system's plans for replacing these lines.
- The proposed rule would revise the Consumer Confidence Report language to increase clarity about the health effects of lead, the water system's efforts to sample for lead in schools and child care facilities, and how consumers can access the water system's lead service line replacement plan.
- Systems would be required to notify the public within 24 hours if systemwide lead levels exceed the proposed lower action level, and EPA would continue to require systems to collect follow-up samples at sites with higher levels of lead.

# Available Funding Sources

- The Bipartisan Infrastructure Law (BIL) provides for significant investments in safe drinking water infrastructure and drinking water programs.
- EPA is working to ensure the funds are available to drinking water systems, especially those within disadvantaged communities.
- Specific funds to potentially support implementation of the LCRI drinking water regulation:
  - \$11.7 billion: Funding to supplement the Drinking Water State Revolving Loan Fund (DWSRF)
  - \$15 billion: Funding for lead service line replacement projects and associated activities directly connected to the identification of and planning for the replacement of lead service lines.
- The WIIN Voluntary School and Child Care Lead Testing and Reduction Grant Program provides funding to States for lead testing and remediation in schools and child care facilities. This funding is for States, not water systems.

# Frequently Asked Questions



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## Which systems does the proposed LCRI apply to?

- The proposed LCRI applies to community water systems (CWSs) and non-transient non-community water systems (NTNCWSs). The proposed rule does not apply to transient non-community water systems (TNCWSs).

# Frequently Asked Questions

## What are the proposed requirements for replacing lead and GRR service lines?

- EPA is proposing mandatory full service line replacement of lead and GRR service lines under a water system's control, with limited exceptions, regardless of the system's 90th percentile lead level.
- The proposed LCRI would set a national minimum average annual service line replacement rate of at least 10 percent, with compliance assessed in accordance with a three-year rolling average, equating to a 10-year replacement deadline. As proposed, States must require systems to replace service lines by an earlier deadline if they determine that an earlier deadline is feasible.
- The proposed LCRI provides, in limited circumstances, additional time for some systems to complete system-wide full service line replacement.

# Frequently Asked Questions

## How does the proposed LCRI define “under the control” of the water system?

- The proposed LCRI would require water systems to replace lead and GRR service lines, and any lead connectors encountered, that are “under the control” of the water system.
- EPA is proposing to treat a service line and lead connector as under the system’s control wherever a water system has adequate access (e.g., legal access, physical access) to conduct full service line replacement or replacement of the lead connector.
- EPA is not proposing to delineate the prerequisites or elements of “access” that a system would need to conduct full service line replacement because of the wide variation of relevant State and local laws and water tariff agreements as well as the potential for these to change over time. Instead, EPA emphasizes the many requirements proposed in the LCRI, in addition to funding and non-regulatory actions, that can increase a system’s likelihood of obtaining any necessary access to conduct a full service line replacement, such as providing transparency in the service line replacement plan. For example, EPA is proposing to require the water system to identify in its service line replacement plan any State or local laws or water tariff agreement requirements pertaining to its ability to gain adequate access.

# Frequently Asked Questions

## How does the proposed LCRI define “under the control” of the water system? (Continued)

- EPA is proposing that, where customer consent is required by State or local law or water tariff agreement, the system would be required to make a reasonable effort to obtain property owner consent.
- EPA is proposing that a reasonable effort includes a minimum of at least four attempts to engage the customer using at least two different methods. If the water system is unable to obtain customer consent when required, the water system would not be required to conduct full service line replacement because, under those circumstances, the full service line would not be “under the control” of the operator of the system. The proposal also includes requirements and flexibilities to increase access and expedite full service line replacement.

# Frequently Asked Questions

## **Under what circumstances can the service line replacement deadline be deferred?**

- EPA is proposing two pathways for water systems to defer their service line replacement deadline past 10 years.
- The first is proposed for systems with a high proportion of lead and GRR service lines in their distribution system relative to their total number of households served. EPA has proposed 0.039 replacements per household per year as a deferral threshold (equivalent to 39 service line replacements per 1,000 households). Systems with a higher per-household replacement rate would be eligible for a deferred replacement deadline.
- The second proposed pathway is for systems that would otherwise be required to replace greater than 10,000 service lines per year under the proposed 10-year replacement requirement.



# Frequently Asked Questions

## What are the small system flexibilities under the proposed LCRI?

- The proposed LCRI reduces the eligibility threshold for CWSs to those serving 3,300 people or fewer, from 10,000 people or fewer under the 2021 LCRR.
- EPA is proposing to eliminate service line replacement as a standalone compliance option because all systems would be required to conduct mandatory full-service line replacement of lead and GRR service lines, regardless of their 90th percentile lead level.
- Under the proposed LCRI, NTNCWSs and CWSs serving 3,300 or fewer people that exceed the lead action level of 10 ppb may choose implementation of POU devices or full replacement of lead-bearing plumbing materials in lieu of CCT with State approval.

# Public Comment Period and Public Hearing



# Public Comment Period and Public Hearing

- The proposed LCRI was published in the Federal Register on December 6, 2023.
- EPA invites the public to review the proposed LCRI and supporting information and provide written input to EPA through the public docket.
- The public docket can be accessed at <http://www.regulations.gov> under Docket ID No. **EPA-HQ-OW-2022-0801**.
- Written comments must be received on or before February 5, 2024.
- During the public comment period, EPA will hold a virtual public hearing on the proposed LCRI on January 16, 2024.



EPA's LCRI Website:

<https://www.epa.gov/ground-water-and-drinking-water/lead-and-copper-rule-improvements>

