

Rural Water Policy Advisory [2/26/2018]

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NRWA's Regulatory Committee Crafting Recommendations for Revisions to the Lead and Copper Rule (LCR): EPA has asked NRWA for recommended changes to the rule by March 8 ([EPA announcement](#)). On Wednesday, February 21, the EPA provided the Regulatory Committee with a presentation on options for changes to the rule focused on the following "Key Areas for Rule Revisions":

- Lead Service Line Replacement,
- Corrosion Control Treatment,
- Tap Sampling,
- Public Education and Transparency and
- Copper Requirements (see EPA's [presentation slides](#)).

Before Wednesday's presentation and ensuing discussion, the Regulatory Committee provided EPA with our main questions and contentions with the rule including the following points:

1. It is our understanding the Agency believes there is no reliable alternative to determining compliance or efficacy of corrosion control treatment (such as water quality parameters, sampling at the limit of the distribution systems – meter/curb stop, etc.) other than the current in-home tap monitoring scheme. Is that an accurate characterization (**Steve with Illinois Rural Water Association**)?
2. Is it possible to decouple the current in-home tap sampling with the treatment requirements for the water utility and rely on waste quality parameter testing for the treatment compliance – while allowing the tap samples to reflect changes that may need to be made within particular homes and with assistance from additional public agencies (**John with Mass Rural Water Association**)?
3. The current in-home tap sampling scheme can reflect/find lead concentrations (including exceedances of the AL) in the sample that are only a result of that particular faucet. Is a regulation that can consider the impact of a faucet on the public drinking water system's compliance exceeding the authority of the Safe Drinking Water Act as the Act limits the rule's scope to contaminants "in public water systems (**Gary with Florida Rural Water Association**)?"
4. In small public water systems, we are experiencing homeowners who do not want to participate in sampling. Do you think public support of the rule is necessary for the effective implementation of the rule? And is this a consideration for the Agency in potentially increasing the number of samples required in any revision (**Jana with Alaska Rural Water Association**)?
5. In some small community water systems, private homeowners were responsible for the entirety of their lead service lines (LSL). During construction/installation, it was their choice to save on certain construction costs within their home. Under a potential mandatory LSL scheme, however, homeowners who did not realize the construction cost savings may resent being required to pay for another homeowner's replacement LSL. Is there anything being contemplated to prevent this unintended consequence of mandatory LSL replacement (**Al with Montana Rural Water Systems association**)?
6. What is your reaction to the recommendation that, in addition to the current first draw sample for OCCT compliance, a subsequent running water sample be taken to find out the quality of the water that the people are actually drinking? The sampling would include removal of the aerator and require roughly 5-10 minutes of running water to ensure that the water impacted by the household plumbing had been removed (**Jim with New Jersey Water Association**).

The Regulatory Committee convened a conference call on Friday to discuss what participants believe were the EPA's responses to the questions and possible policy recommendations for NRWA's comments to the Agency. Participants expressed what they believed were helpful insights and answers from the EPA. For example, much of the discussion focused on rural water's issues with the current tap sampling requirements. It was reported that tap sampling is not necessary to gauge the efficacy of corrosion control treatment (CCT) and that other sampling could be used for gauging CCT efficacy. However, EPA does believe that tap sampling is necessary to determine the level of lead in drinking water exposure to the customer. Also, EPA does interpret the Safe Drinking Water Act (SDWA) to authorize the Agency to craft a regulation that extends to how the water provided by the utility affects the quality of the water all the way to the customer's tap. This assertion was in reply to question # 3 (above) that argued the SDWA only authorizes EPA to regulate the quality of drinking water "[in the water in public water systems.](#)" Some participants did not find this legal interpretation persuasive as a justification for the current LCR rule. Even if it is stipulated that the SDWA allows the Agency to extend a regulation all the way to the tap, under the current LCR the Agency is not making a finding that any particular water measurement in the public system is related to what will be customer exposure at the tap. This means that the Agency is not making a finding of any problems or contamination in the utility's drinking water before it enters the home.

Another issue raised with using tap sampling for compliance is that the exceedance of the current action level (in a utility implementing CCT) results in the removal of some portion of the utility's level service lines and which can potentially result in increased lead in drinking water exposures, especially with regard to a mandatory removal of only a portion of a customer's lead service line. In reply to question #4, the Agency did appear open to changing the current in-home, first draw, tap sampling scheme to allow for alternative in-home sampling at different times of the day and during normal use. This could better determine the actual exposure to the customer in the water they are drinking versus the status quo which attempts to find the highest concentrations possible. It was our understanding that the Agency intends to respect local determinations and ordinances that define private property in any new mandate for removal of lead service lines. This was raised in question #5 which observed that the public should not be forced to pay for certain homeowners' modifications to service lines that are not owned by the public. It is a challenge to reconcile this observation with what is being reported in the press that the new rule will require removal of all lead service lines ([news](#)).

The Regulatory Committee will be reviewing an initial "strawman" version of comments to submit to EPA for LCR changes this week. If you believe that any particular recommendation should be a priority for NRWA, please forward those suggestions to the Regulatory Committee ([contact](#)).

[National Rural Water Association](#)

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