



Environmental Council of the States

1250 H Street NW, Suite 850 | Washington, DC 20005
(202) 266-4920 | www.ecos.org

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Radhika Fox
Assistant Administrator, Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Via email and [regulations.gov](https://www.regulations.gov): EPA-HQ-OW-2022-0801

Re: Comments on *National Primary Drinking Water Regulations for Lead and Copper: Improvements*

Dear Assistant Administrator Fox:

Members of the Environmental Council of the States (ECOS) appreciate the opportunity to comment on the proposed *National Primary Drinking Water Regulations for Lead and Copper: Improvements (LCRI)*. ECOS appreciates EPA's efforts on the challenging and important work of updating the 1991 Lead and Copper Rule (LCR). In the following comments, ECOS encourages additional resources for states to adjust to the proposed LCRI requirements. ECOS suggests that U.S. EPA develop timely guidance for states on messaging and implementation and further engage with states on data management. ECOS also offers ideas for strategic targeted filter distribution and lead sampling requirements. The results of these revisions will affect the state and territorial water programs that will implement the changes, and ECOS advocates for the position of the states as a group. Please look to state letters for additional information, technical comments, and state-specific issues.

Funding for Lead Service Line Replacement

While the Bipartisan Infrastructure Law (BIL) is delivering funding that will make significant progress in removing lead service lines (LSL), it will not be adequate to meet the needs for lead pipe removal around the country. The BIL invests \$15 billion towards LSL replacement through the Drinking Water State Revolving Fund (DWSRF). ECOS has long touted the importance of the DWSRF and continues to urge Congress to fully fund the DWSRF to support drinking water infrastructure improvements, including, but not limited to, LSL replacement. Water infrastructure improvements are critical to the provision of clean and safe drinking water, and are especially pressing in communities with populations disproportionately impacted by environmental issues. As stated in [ECOS Resolution 16-5, Addressing Serious Needs Regarding Drinking Water and Clean Water Infrastructure Investment](#), ECOS supports efforts to prioritize efficient, affordable, and timely awards to those communities.

Despite the historic BIL investments, additional funding is needed to meet the estimated \$45 billion cost of replacing the country's lead pipes, including to support increased workload for state primacy agencies. States and EPA should continue to work together to advocate for the additional needed funding to meet this critical public health goal.

Elizabeth Biser
North Carolina Department of
Environmental Quality
ECOS President

Jon Niermann
Texas Commission on
Environmental Quality
ECOS Vice President

James Kenney
New Mexico Environment
Department
ECOS Secretary-Treasurer

Myra Reece
South Carolina Department of
Health and Environmental Control
ECOS Past President

Ben Grumbles
ECOS Executive Director

Public Education and Messaging

While the elimination of LSLs will significantly reduce the risk of lead contamination of drinking water, EPA should take care to continue to include the importance of effective corrosion control in its messaging since other potential sources of lead in drinking water remain. EPA should develop guidance and draft templates for various Public Education and Public Notices as soon as possible, and no later than six months prior to the compliance deadline. The guidance and templates will help the states and EPA more clearly and consistently convey information to the public. EPA should seek out examples from states on effective messaging to include in its guidance and templates.

Implementation Guidance and Training

Prompt, clear, and effective guidance and technical support will be necessary for states to successfully implement this rule. ECOS requests that EPA collaborate closely with states to develop and publish all implementation and data management guidance documents as soon as possible, and no later than six months prior to the rule's effective date. Consistent with [ECOS Resolution 11-8, On the Use of Guidance](#), timely guidance is necessary for states to effectively draft state regulations, update and align their data management systems, and implement the revised rule.

Due to the complexity of the proposed rule, ECOS requests detailed guidance and training for both states and water suppliers on new requirements. Topics that states have identified that will require guidance and training include corrosion control treatment (CCT) optimization, re-optimization, and optimal water quality parameter designation; review and approval of CCT studies; the types of reports and records each agency needs to track and in what format; monitoring for lead in schools and childcare facilities; tap monitoring requirements including the stagnation requirements, acceptable sample tap descriptions, and criteria for state invalidation of samples; and small water system compliance flexibility. ECOS recommends the Office of Water work with states and ORD on developing the necessary guidance and training.

Data Management

Any new or modified rule has significant data management and resource implications. Prior to the rule's effective date, states will need adequate time and resources to adjust their business processes, train staff, and implement new or modified data management systems. States, tribes, and EPA have adopted an [E-Enterprise for the Environment Digital Strategy, September 2023](#) and provided expectations around [operationalizing the principles](#) of the EE Digital Strategy. Consistent with these principles and the EE Digital Strategy, EPA should engage with states as early as possible to enable timely development of the data management infrastructure and processes necessary to meet the rule's requirements. Due to the modernization of the Safe Drinking Water Information System (SDWIS), state agencies need to understand what functionality changes will occur during the transition to the Drinking Water State-Federal-Tribal Information Exchange System (DW-SFTIES), and on what timeline. EPA should plan to provide guidance and instruction to states with adequate time to plan for changes to SDWIS and to be able to effectively implement a new rule. ECOS also urges EPA to engage with states in identifying the best solution for reporting new data elements to EPA. Please see [ECOS Resolution 13-4, Environmental Performance and Outcomes Data and Metrics](#), concerning additional considerations regarding the costs and burdens associated with new and ongoing data reporting requirements and [ECOS Resolution 11-2, Respectful Use of Data](#), concerning collaborative data stewardship with joint governance processes related to data quality, change management, data context and presentation, testing data reporting tools, and data releases. ECOS also recommends EPA review existing data reporting requirements for any that

are obsolete or no longer necessary to minimize overall data management and reporting burden to states.

Filter Distribution

For drinking water systems with three or more Action Level Exceedances, states suggest that rather than having filters distributed to the entire service area, systems should be able target that distribution to customers with greater risk of exposure only. Those would include locations with LSL, galvanized requiring replacement, or unknown lines. Providing filters to customers with known, non-lead lines could hurt public confidence in the drinking water system, add extra cost and burden to the system, and may unnecessarily incur costs that divert funding from activities with the greatest environmental and public health benefits. ECOS recommends amending this requirement and providing states with the authority to require additional filter distribution at their discretion based on available sampling, data, CCT, and other factors.

Lead Sampling in Schools and Childcare Facilities

ECOS recommends EPA change the proposed provision to allow states to issue waivers to community water systems from the requirement for lead sampling in schools and childcare facilities during the five-year period after the LCRI compliance date if the facility was sampled for lead after January 1, 2021. States suggest changing the sampling date to January 1, 2014, which coincides with the Reduction of Lead in Drinking Water Act and would include sampling efforts that resulted from funding from America's Water Infrastructure Act of 2018 and the Water Infrastructure Improvements for the Nation Act.

ECOS continues to advocate for early, meaningful, and substantial state and territorial engagement as co-regulators in EPA's development and implementation of federal environmental statutes and related rules, as noted in [ECOS Resolution 14-3, Federal Financial Resources for State Environmental Programs](#). ECOS asks that EPA consider the above comments in conjunction with the comments from individual states and those from the Association of State Drinking Water Administrators, which are more extensive and provide greater technical detail from state drinking water experts.

ECOS members look forward to continuing to work with EPA to improve the protection of public health and the environment by reducing exposure to lead in drinking water. If you have any questions regarding this correspondence, please contact me at bgrumbles@ecos.org or 202-266-4920.

Sincerely,



Ben Grumbles
Executive Director
Environmental Council of the States