



AMERICAN PUBLIC WORKS ASSOCIATION

Your Comprehensive
Public Works Resource

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February 10, 2020

Mr. David Ross, Assistant Administrator
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Mail Code 4101M
Washington, DC 20460-0001

**RE: National Primary Drinking Water Regulations: Proposed Lead and Copper Rule
Revisions, Docket No. EPA-HQ-OW-2017-0300**

Dear Mr. Ross:

The American Public Works Association (APWA) appreciates the opportunity to submit comments on the Environmental Protection Agency's (EPA) public comments for the proposed Lead and Copper Rule (LCR) revisions. APWA was grateful to participate in the regulatory briefing at EPA headquarters on October 25th of this year, and we look forward to continuing the conversation about revising the LCR.

APWA sought the input from our membership who are clean water practitioners throughout the U.S. Based on this input APWA would like to make the following key recommendations:

- 1) EPA should request from Congress, and Congress should provide, substantial increases in federal funding and financing programs for investment in water infrastructure. The funding levels EPA has requested in previous years for programs that are recommended for use in the replacement of lead service lines are not sufficient to meet the needs for a nationwide effort to replace those lines.
- 2) EPA should make replacement of lead service a top priority by realigning the goals of programs for funding and financing investment in water infrastructure. Calibrating the project selection criteria and processes for these programs to give extra weight to lead

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service line replacement projects would signal the Agency's emphasis on the issue. Additionally, EPA must work with state primacy agencies with jurisdiction over drinking water to ensure that states make the same realignment.

Background and Previous Comments

Protecting the nation's drinking water is essential to public health and the quality of life our citizens enjoy. APWA's over 30,000 members play a critical role in providing clean and safe water to communities large and small, urban and rural. Chief among their responsibilities are the planning, design, construction, operation, and maintenance of water supply systems of all sizes. Our members include public works professionals from cities, counties, and special districts, as well as their private sector partners. Our members take their responsibilities seriously, and they are committed to a partnership with federal, state, regional, and local partners in assuring a sustainable future for clean water.

As you know, recent events have made lead exposure in drinking water a key subject for communities across the nation. The membership of APWA is committed to reducing lead contamination in our nation's drinking water. Moreover, our members will work to provide EPA information and expertise on how to best proceed in achieving that goal in all communities, both large and small, rural and urban.

Our members were pleased to see that EPA took our previous comments from March of 2018 to heart and included our suggestions in these proposed revisions to the LCR. Specifically, APWA called for making a full inventory of lead service lines an Agency priority. The goal should be to allow water utilities to use the inventory to assist in replacement of those lines in their service area. These proposed revisions have done so by requiring systems to prepare and update a publicly available inventory. By making such an inventory public, APWA is hopeful that property owners, upon finding lead service lines on their owned assets, will move quickly to remediate the problem and avoid devaluation of those assets. However, there is concern among APWA members that such a public inventory will lead to a surge in requests from customers to replace lead service lines, and that many communities will not be able to handle those requests without additional federal resources.

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Additionally, our previous comments called for strengthening treatment requirements by requiring corrosion control treatment in systems with known lead service lines. EPA has recommended doing so by requiring such treatment based on tap sampling results.

The comments submitted by APWA in March of 2018 identified the problem of partial lead service line replacements and the significant evidence that a partial lead service line replacement could result in increased lead levels in homes. The proposed revisions to the LCR issued in October 2019 would require water systems to replace the publicly owned portion of the lead service line when a customer chooses to replace the private portion. Such a requirement would limit the number of partial lead service line replacements that are conducted around the country.

Finally, our comments called for better water sampling reliability to improve the efficacy of samples provided. The proposed revisions issued by EPA in October 2019 require water systems to follow new improved sampling procedures while also adjusting sampling sites to better target areas with elevated lead levels.

The Need for Additional Federal Funding and Financing

At the October 25th regulatory briefing, EPA officials encouraged the use of existing federal resources in lead service line replacement, including the Drinking Water State Revolving Fund (DWSRF), the Water Infrastructure Finance and Innovation Act (WIFIA) program, and grant programs enacted under the Water Infrastructure Improvements for the Nation Act. These programs, in tandem with local water rates, appear to be the only funding sources EPA recommends using for lead service line replacement. Simply put, existing federal programs at current funding levels are not enough to meet the need. EPA already estimates that the existing need for investment in water infrastructure is nearly \$744 billion over the next 20 years.

Replacement of lead service lines on a nationwide scale would exacerbate the funding problem. A conservative estimate of 6 million lead service lines replaced at an average cost of \$4,700 each would total \$28.2 billion. In a worst-case scenario, that cost would balloon to \$123 billion. These figures also may not account in full for permitting, municipal oversight, EPA oversight,

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reconstruction costs, prevailing wage laws, future compliance costs, and economic impact of the construction itself. Unless those funding figures are increased, communities will need to raise water rates substantially to fund lead service line replacement.

Case Studies of Municipal Lead Service Line Replacement

One case study of a municipality trying to replace existing lead service lines is Eau Claire, Wisconsin. In 2016, the Wisconsin Department of Natural Resources (WDNR) established a two-year, \$27.8 million grant program to help communities like Eau Claire. Thirty-five communities received funding through this program. Eau Claire received an allocation of \$800,000, received from WDNR, to the task of reimbursing customers for replacing the 1,200 privately owned lines in the city. However, the \$800,000 was only enough to fund reimbursements for 350 replacements. On a statewide level, the allocation of \$11.8 million of that two-year grant program would only fund replacement of 4,000 lead service lines, leaving 172,000 in place throughout the state. Eau Claire is one of the few communities that can fund replacement of the publicly owned portion of lead service lines through water rates. Communities that are unable to do so will have to rely on state and federal funding.

Another example of a community that worked proactively to replace lead service lines is Grand Rapids, Michigan. With 24,000 lead service lines in use, the city found that it could replace all lead service lines over a 40-50-year timeline at a cost of \$48 to \$60 million. This timeline would have minimal impact on water rates with an increase of around 0.25%. However, the State of Michigan passed its own lead and copper rule in 2017, and the City changed its own policy regarding lead service lines in order to get ahead of the state rule. The City would now pay the entire cost of replacing such a line if there was a leak in the public portion of the line. To do so, and in a timelier manner (20 years), would cost \$160 to \$200 million, requiring significant increases in water rates, roughly 10-15%. The communities that would be most impacted by such rate increases, in Grand Rapids and nationally, are the very communities most likely to have lead service lines in use. Buildings constructed from the turn of the 20th century to the 1970's were likely built with lead service lines. These communities often mandated the use of lead pipes in building codes due to their durability. Additionally, these communities have often seen industries and residents leave, leading to lower employment rates and higher rates of poverty. As a result,

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the communities are the least likely to be able to afford such rate increases. In order to protect these communities from unaffordable rate hikes a significant increase in federal investment will be needed.

National Inventory of Lead Service Lines

While APWA fully supports EPA requiring communities to create and regularly update a full inventory of lead service lines, we also recognize that doing so will require a substantial amount of investment. That money will most likely come out of existing local government budgets already being used to operate, maintain, and rehabilitate water infrastructure, as well as funding required treatment techniques. As such, communities will be using funding that would otherwise go to replacing the lead service lines simply to locate the lead service lines.

EPA Actions to Meet the Need for Investment in Water Infrastructure

It is clear from our examples that while APWA and its members fully support EPA, the regulations laid out in the proposed revisions to the LCR, must also be supported with substantially increased federal resources. Additionally, APWA urges the Agency to recalibrate those federal programs designed to fund lead service line replacement in order to ensure the most effective and efficient use of federal dollars.

APWA stands ready to assist the EPA in requesting substantial increases in federal funding from Congress. In legislation recently passed to fund the federal government, the DWSRF program was funded at \$1.3 billion for Fiscal Year 2020, while the WIFIA program was funded at \$50 million. These numbers are in addition to \$20 million for programs to reduce lead in drinking water, \$25 million for small and disadvantaged communities, and \$25 million for lead testing in schools. These figures also represent substantial increases over the Agency request for FY20. In order to meet the potential need for \$123 billion in funding needed to replace all lead service lines, the Agency must request additional dollars from Congressional appropriators and make the case for the absolute need for such funds.

Moreover, the Agency must reprioritize the goals of the programs listed previously in order to direct needed funding towards lead service line replacement. The Agency sets priorities for each

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notice of funding availability for the WIFIA program and would be well served to make lead service line replacement the top priority for the next funding cycle. With the leveraging power the program boasts a Congressional appropriation of \$50 million could meet the nearly \$5.5 billion funding cap placed on such an appropriation. While this figure would only scratch the surface of the total need, it would be a significant initial investment. Additionally, the Agency could direct state primacy agencies that administer the DWSRF program to give additional weight to lead service line replacement projects in order to see that those are funded expeditiously.

On behalf of public works professionals throughout the U.S., we thank you for the opportunity to comment and urge you to give serious consideration to the above comments. We are committed to working with the Agency on our common goal of providing clean drinking water throughout our country. If you have any questions, please contact Sean Garcia in our Washington, D.C. office at sgarcia@apwa.net or at 202-218-6734.

Sincerely,

William E. (Bill) Spearman III, P.E.
President

Scott D. Grayson, CAE
Chief Executive Officer

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