

**TO:** House Subcommittee on Environment & Climate Change  
**FROM:** National Rural Water Association (Mike Keegan, keegan@ruralwater.org)  
**DATE:** February 10, 2020  
**RE:** Hearing on EPA's Lead and Copper Rule proposal

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We appreciate the Committee's attention to small and rural community issues under the U.S. Environmental Protection Agency's (EPA) November 13, 2019, Lead and Copper Rule Revisions (LCRR). Our member utilities have the very important public responsibility of complying with all applicable EPA regulations and for supplying the public with safe drinking water and sanitation every second of every day.

Ninety-four percent of the 67,923 U.S. public drinking water systems regulated under the rule serve less than 10,000 persons (63,529). Over 27,000 of the "community water systems" regulated by the rule serve less than 500 persons (list by state<sup>i</sup>). Small and rural communities will have more difficulty complying with the new rule due to limited economies of scale and lack of technical expertise. It is important for EPA to recognize that small local water supplies are operated and governed by people whose families drink the water every day and people who are locally elected by their community. Some of the smallest communities rely on volunteers to operate their local drinking water supplies.

The LCRR will include more federal procedural and process requirements than any existing drinking water rule.

**EPA Rule/Mandate** *(Number of Federal Register Pages)*

Arsenic Rule *(91 pages)*

Chemical Rules *(27 pages)*

Lead and Copper Rule *(64 pages)*

Radionuclides Rule *(47 pages)*

Uranium Rule *(77 pages)*

Filter Backwash Recycling Rule *(20 pages)*

Ground Water Rule *(88 pages)*

Enhanced Surface Water Treatment Rule *(44 pages)*

Long Term 1 Surface Water Treatment Rule *(33 pages)*

Long Term 2 Surface Water Treatment Rule *(134 pages)*

Stage 1 Disinfection Byproducts Rule *(87 pages)*

Stage 2 Disinfection Byproducts Rule *(134 pages)*

Surface Water Treatment Rule *(57 pages)*

Total Coliform Rule *(26 pages)*

Public Notification Rules *(23 pages)*

Federal Operator Certification *(7 pages)*

Security Vulnerability Assessment *(27 pages)*

Current EPA reporting data shows 21,352 federal violations for "monitoring" under EPA's Revised Total Coliform Rule; 71,076 federal violations for "monitoring and reporting" with all EPA drinking water rules; 46,564 federal violations for "other" which is basically a violation for how the community distributes federally mandated public notices to its citizens; 4,864 violations for "reporting" under the Revised Total Coliform Rule and 8,522 federal violations for "treatment techniques" which are primarily under the Surface Water Treatment Rule, Ground Water Rule, Disinfection Byproducts Rule, and the Lead and Copper Rule. All of these violations are for errors

in completing the procedures or processes with the complex federal drinking water rules. None of these violations is for a finding of contamination.

EPA's LCRR proposal is based on a fundamentally flawed-premise that allows for the effects of a private homeowner's plumbing (i.e. a specific faucet) on the water passing through that fixture to trigger very burdensome and possibly unrelated and unnecessary requirements and effects on the entire community (i.e. treatment installation or adjustments, removal of underground water lines, corrosion control studies, unnecessarily alarming public notices, and unwarranted distrust in the public's water safety). This flawed-premise is compounded by the current rule's construction that prevents state certified operator (water sampling technicians) from conducting the in-home tap sampling, and instead relies on untrained and disinterested homeowners to conduct the very complex and prescriptive testing. This results in widespread erroneous testing that can cascade into a tumultuous chain of events as note above. The regulation as proposed fails to cure the original failure of the LCR (the relevance of an in-home tap sample result to water quality *in the water public system*). It tends to create a false positive condition concerning the entire community water system. The affected community, under the pressure to avoid further violation, must perform certain affirmative measures like; add chemicals to the drinking water supply, mandate the distribution of unnecessarily alarming notices to the public and places the community in violation of the federal regulatory structure when there was very possibly never a safety issue in the community's drinking water, but instead only in private homes.

In addition to the fundamentally flawed-premise of the relevance of in-home sampling conducted by unqualified and disinterested homeowners, the LCRR proposal includes a matrix of **new** prescriptive federal regulations including corrosion control studies, community-wide alarming public notices, find-and-fix mandates, pitcher filters use, lead service line inventories, etc. According to the American Water Works Association, "*These 35 new items of additional paperwork submittals required by the proposed LCRR, in addition to current paperwork requirements under the existing LCR. They represent substantial increases to the paperwork burden placed on water systems and state primacy agencies.*"<sup>ii</sup> Again, these new requirements are mandated with the penalty of civil enforcement and public opprobrium without an initial clear finding of contamination in the local drinking water supply. These new mandates expand federal regulatory authority over locally governed utilities' practices for the prevention of contamination, public education, and operations & maintenance of the community water supply. The federal government should not usurp local governed utilities' policies for these operations without a clear and obvious finding of contamination or exceedence of a federal public health standard (a so-called maximum contaminant level - MCL).

To ensure the greatest possible public health protection, any new rule should be a shared responsibility, meaning locally governed water utilities and local populations should agree that the resulting policies are necessary, tailored to local conditions, and result in a commensurate public health benefit. This intergovernmental collaborative should be incorporated into the details of the rule in monitoring schemes, lead service line replacement plans, efficacy of corrosion control treatment, public education, remedies to high household tap samples, and the provision of pitcher filters to certain customers. In all these key rule elements, provisions should be included to ensure any uniform federal remedy does not usurp any solution that is preferable to the local citizens and more protective of public health.

Thank you for the opportunity to comment and participate.

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<sup>i</sup> <http://www.ruralwater.org/docs/lcrr%20data.htm>

<sup>ii</sup> AWWA Comments, December 13, 2019