



February 12, 2020

Via regulations.gov EPA-HQ-OW-2017-0300

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

**Re: Southeast Florida Utility Council Comments
Proposed Lead and Copper Rule Revisions**

Dear Mr. Ross,

The Southeast Florida Utility Council (SEFLUC) is an organization whose members provide potable drinking water and wastewater services to over 6 million customers in south Florida. SEFLUC provides a communication, networking, and support structure to allow member utilities to continue to provide superior quality water supply and wastewater management services to their customers in a cost-effective manner. SEFLUC commends EPA for its effort in developing the proposed revisions to the Lead and Copper Rule (LCR), which were published in the Federal Register on November 13, 2019.

SEFLUC supports the intent behind the proposed LCR revisions of mitigating public health hazards of lead in drinking water. Our members are committed to providing safe, reliable, and superior quality drinking water to their customers and have a long record of compliance with LCR requirements. The proposed LCR revisions are extensive and complex and impose significant new requirements on SEFLUC members. It is important the proposed revisions are tailored to address drinking water safety concerns in a manner that protects the health and safety of our customers without placing undue and unnecessary burdens on our members.

SEFLUC supports LCR regulations which protect public health and safety; are technically and financially feasible to implement; provide flexibility in addressing lead risks according to the particular circumstances; provide clarity regarding the scope and application of the regulations; and promote public awareness regarding drinking water safety and the many protections in place used to ensure their drinking water is reliable and safe.

SEFLUC respectfully submits the following comments regarding significant areas of concern our members have identified with the currently proposed LCR revisions:

1. Trigger Level

SEFLUC members are concerned whether 10 µg/L is a reasonable threshold to trigger additional monitoring and planning actions by a Community Water System (CWS). Any trigger level should be demonstrated as feasible in combination with the other elements of the proposed treatment technique. In particular, before a trigger level is implemented, EPA must demonstrate that there is a clear administrative, public health, or technology-based rationale for selection of the trigger level. This is of concern when a triggering event could result in system-wide re-optimization to corrosion control treatment (CCT) which may not be beneficial or warranted based on the particular duration, frequency, and location of the triggering sample.

The establishment of a trigger level in addition to the existing action level has the potential to cause confusion among our customers as to the meaning of each of the levels. Because of the confusion, public confidence in a drinking water provider's ability to address lead concerns will decrease, and require a CWS to redirect resources to address concerns regarding trigger level sampling instead of developing responsive solutions.

2. Sampling

In establishing the LCR revisions, EPA should be cognizant of the significant variation in water systems in different regions of the country. For example, in south Florida there are few, if any, lead service lines (LSLs) and the CWS's point of service to the customer is located at or near the edge of the right of way. In addition, CWSs in south Florida have well established corrosion control processes in place.

Furthermore, the proposed LCR revisions should address sampling by a CWS in circumstances where unknown service lines result in uncertainty regarding service line materials resulting in fewer known LSLs than the required number for Tier 1 or Tier 2 sampling sites. Clarification should be provided in § 141.86(a) to indicate how systems with insufficient known LSLs will be required to meet the intent of the proposed revision and ensure that tap sampling sites are served by LSLs.

EPA has requested comment on "whether the regulation should specify a minimum tap sampling frequency of once every six months or once per year following the source water change or significant treatment change." The appropriate tap sampling frequency depends on the characterization of "significant" treatment changes and the potential for the change to impact corrosion control. The sampling frequency may also depend on the extent of corrosion control evaluation and testing performed in planning the source water or treatment change. It is requested that the EPA specify a minimum annual tap sampling frequency following certain types of source water and treatment changes. This will allow state agencies and CWSs to identify scenarios in which sampling once every 6 months or annually is appropriate based on the type of change proposed and the associated risk profile.

3. Corrosion Control

SEFLUC suggests the proposed protocol for evaluating corrosion control does not provide appropriate flexibility to CWSs. In efforts to provide safe and reliable drinking water, CWSs must take into account water quality, operational constraints, and environmental factors. The proposed LCR revisions are overly

prescriptive and may prevent a CWS from operating their system in a manner based on sound science. Additionally, corrosion control reevaluations should be based on a trend analysis of exceedances, as opposed to an individual high lead level.

The LCR revisions should provide flexibility to the responsible state agencies in working with CWSs to establish appropriate corrosion control schemes. The current proposal does not provide flexibility to water systems which must balance water quality, operational constraints, and environmental factors in evaluating corrosion control measures. Rather than the currently proposed one-size-fits-all approach, EPA, state primacy officials, and CWSs should have flexibility to use the best available science to make site-specific decisions regarding the most appropriate evaluation technique. The currently proposed approach is particularly concerning given the limited timeframes specified for completion of corrosion control studies. In addition, given the great variety of corrosion testing techniques, definitions regarding corrosion testing techniques should be clarified in the proposed LCR revisions.

4. LSL Inventory

SEFLUC agrees that identifying potential LSLs within CWSs is an important tool to address lead exposure from drinking water. The proposed LCR revisions should focus on establishing an initial LSL inventory based on best available information and the inventory should be expanded over time through ongoing system activities. The proposed LCR revisions must address burdens placed on CWSs due to the significant time and cost associated with developing an LSL inventory.

According to the proposed rule, an LSL inventory must be completed and made available to the public on the utility's website within three years of the promulgation of the regulation. As currently described, the customer side of the service line is included in the inventory and unless verified by the customer as non-lead, the service must be included in the plan and reclassified. This requirement puts the utility in the difficult position of having to secure information over which it may not have control, and of potentially creating the perception of a problem where none exists due to the classification of unknown lines as potential LSLs (due to lack of response from private owners). In places like south Florida where CWSs do not typically have LSLs, the confusion created through the potentially misleading identification of unknown service lines should be addressed through alternative approaches that can be informative while avoiding unnecessary expense.

The inventory requirements should also consider the context of time and manner of construction of the distribution system in evaluating the likelihood of LSLs existing. For example, water systems constructed after the Safe Drinking Water lead ban, or other state or local policies regarding use of lead should be considered in making a presumption or certification that no LSLs exist. This would allow efforts to be focused in areas where LSLs are more likely to be identified. For these reasons, it is requested that EPA provide a common standard in the rule for designating unverified service lines as "unknown" or "non-lead" and specify which sources of information are acceptable to make a "non-lead" designation.

The significant costs imposed through the time-limited inventory requirements would necessitate redirection of CWS resources from other tasks or potentially require additional funds to be obtained through rate increases to customers. Instead, any LSL inventory should be tailored to account for each CWS's circumstance and the overall likelihood of an LSL being identified.

5. LSL Replacement

The proposed LCR revisions regarding LSL replacement apply to both the customer and system-owned portions of LSLs, such that the inability to achieve replacement of customer-side LSLs do not count toward the mandatory rate or goal-based replacement rate. Instead, the CWS should only be required to replace the portion of the LSL owned and controlled by the CWS. There is no practical manner or mechanism for a CWS to mandate a customer replace their LSL or verify if the replacement actually took place. Instead, the rule should include a mechanism to recognize and incentivize partial LSL replacements to achieve the LCR's objectives.

The LSL replacement goals should also take into account circumstances where there are a significant number of unknown service lines. Systems with few known LSLs and numerous unknown service lines would face significant challenges in meeting an aggressive rate of replacement under the proposed LCR revisions. In addition, alternative approaches could be implemented to address customer owned LSL replacements such as revisions to state laws or regulations providing property owners with incentives.

6. Reporting Requirements

SEFLUC supports the American Water Works Association's December 13, 2019 letter regarding the removal of unproductive reporting burdens on CWSs. In particular, AWWA identifies 35 significant new paperwork requirements under the proposed LCR revisions. These additional reporting requirements in many cases do not provide a corresponding benefit to public health.

The LCR should maintain and clarify the proposed provisions for water systems to develop standard operating procedures for LSL replacement and public education. Such procedures should include recordkeeping of activities undertaken to comply with the LCR requirements. These records would be subject to review by the state upon request and adequate summaries could be provided to the state periodically to demonstrate good-faith adherence to SOPs. SEFLUC suggests replacing the proposed requirements for documentation of "refusal" to participate in either lead service line replacement, school sampling, or childcare facility sampling with provisions in the above-mentioned SOPs with recordkeeping of steps taken to engage property owners, schools, and childcare facilities. Finally, the LCR should more effectively use existing opportunities to review compliance with the LCR provisions, lead and copper data summaries, and effectiveness of corrosion control treatment.

7. Monitoring in Schools and Childcare Facilities

The proposed LCR rule requires CWSs to conduct lead in drinking water testing at 20% of K-12 schools and licensed childcare centers within their service areas each year, excluding facilities built after 2014. We agree that reducing lead exposure to children is of critical concern; however, CWSs are not necessarily in the best position to bear the sole responsibility regarding these concerns. First, CWSs typically have no regulatory authority over local schools or childcare centers or the plumbing within these facilities where lead components are most likely found. In many instances, legal and regulatory requirements are already in place to assure drinking water testing occurs, and that testing is conducted by an entity other than the CWS. Instead, the rule should focus on collaboration between federal and state partners to assist schools in testing for lead and remediating issues. A CWS should be prepared to provide outreach, support, and education to assist schools in ensuring best practices are implemented, but other state and local entities are in a better position to implement testing requirements for school facilities.

8. Public Notifications

There are many portions of the proposed rule that require notice, education, and outreach. Though communication with the public is critical, it is important the communication be delivered in a manner facilitating a customer's understanding of the significance and context of the information provided. In particular, the notification requirements should be more consistent with existing Consumer Confidence Report requirements. For example, the requirement to provide community-wide Tier 1 public notice based on a 90th percentile concentration greater than 15 µg/L is inconsistent with Congress' instruction to provide such notice to the public after a lead level exceedance "that has the potential to have serious adverse effects on human health as a result of short-term exposure," as EPA has acknowledged that this concentration is not a health-based standard. Likewise, exceedances specifically due to a customer's internal plumbing system should only be addressed directly with that customer, as system-wide notifications in those circumstances will only cause public confusion.

Thank you for your consideration of these comments. SEFLUC members look forward to continuing to work with EPA and other stakeholders regarding this important issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Todd Hiteshew".

Todd Hiteshew
Chair, Southeast Florida Utilities Council