May 11, 2018

FACT SHEET

Natural Resources Defense Council (NRDC) and Newark Education Workers (NEW) Caucus Notice of Intent to Sue NJDEP and the City of Newark over Failure to Properly Implement the Lead and Copper Rule (LCR) (April 24, 2018)

NRDC/New Caucus Claims:

I. Newark residents are exposed to dangerous levels of lead in the City's drinking water. City and State officials are in violation of the Safe Drinking Water Act's (SDWA) LCR.
II. The City is in violation of the LCR's sampling requirements.

EPA's Role

EPA's Position: EPA is reviewing the claims contained in the Notice of Intent. *However, it appears the claims are based on past implementation deficiencies that NJ is currently addressing through implementation of their LCR Corrective Action Plan.*

EPA Oversight on NJDEP LCR Implementation:

- June 2015: Region 2 met with NJDEP after our 2014 inspection of Trenton's large drinking water system identified LCR implementation issues that could be typical of all large water systems in the state. NJDEP outlined their plan to request data from all the large systems and set optimal WQPs.
- April 2016: Region 2 conducted an LCR file review on 55 small and medium Public Water Systems (PWS) with Action Level Exceedances (ALEs). *Based on findings from the file reviews conducted at systems with recorded ALEs and inspections, it was determined that implementation of the LCR by public water systems in the State was inadequate.*
- September 2016: EPA issued a report with its findings and recommendations.

NJDEP Response to EPA Oversight:

- *November 2016: NJDEP submitted a corrective action plan to correct the identified deficiencies, required public water systems to reevaluate and reestablish compliance with the LCR, and committed additional staff for implementation.*
  - December 2016: NJDEP completed evaluation of large systems.
  - October 2017 (current): The corrective action plan is currently being implemented, and includes the evaluation of all sampling pools and Water Quality Parameters (if applicable) for all systems in NJ.

Newark, NJ

Response to EPA Oversight: Prior to April 2016, Newark had no documented ALEs as specified in the LCR.

- In 2017 Newark collected required LCR samples at new, Tier 1 locations, which resulted in an ALE. Tier 1 sites, single family structures with copper with lead solder constructed between 1983 and 1988, lead pipes including goosenecks and pigtails, or lead service lines (LSLs).
- *NJDEP and Newark are taking the required actions after the 2017 ALE.*

Lead Service Line Replacement in Newark, NJ

- June 30, 2018: Newark will apply to use the SRF program to replace 7% or 1,600 of its 18,000-20,000 lead service lines (LSLs).
- This will be funded through the SRF with a $1,000,000 cap, with 90% principal forgiveness.
- In Newark, LSLs are owned by the homeowner.

National LCR Compliance Issues

- Most discrepancies involve a lack of documentation of PWS-required actions taken post-ALE; missing WQPs, initial source water monitoring, public education certifications, optimal CCT recommendations and any necessary treatment installation verifications.
- Many PWSs lack documented sampling plans.
- Other deficiencies involve inconsistent determination and reporting of violations.

- There were several instances of sample invalidation decisions that did not appear to meet the allowable criteria to do so.