EPA NATIONAL DRINKING WATER ADVISORY COUNCIL

Together We Can Protect Drinking Water

December 15, 2015

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Ms. Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington D.C. 20460

Dear Administrator McCarthy:

On behalf of the National Drinking Water Advisory Council (NDWAC or Council) and with unanimous agreement, I am pleased to provide recommendations for the long term revisions to the Lead and Copper Rule (LCR). The eventual long term revisions to the LCR will be an important opportunity for removing sources of lead in contact with drinking water and thereby reducing exposure to lead from drinking water.

Recognizing that there is no safe blood lead level, revisions to the LCR alone are not sufficient to address this critical issue. A comprehensive shared responsibility exists between federal, state and local government, public and private utilities, and customers. With other partners, such as the Housing and Urban Development (HUD), the Environmental Protection Agency (EPA or Agency) should lead a comprehensive collaborative national effort to reduce lead in drinking water.

The removal of all lead service lines will require significant financial resources and time. During this time it is essential to have in place a robust effort of consumer education and engagement to assure ongoing protection from exposure to lead in drinking water. Also, prior to adoption of the new rule the highest level of compliance with the existing rule must occur.

Please know the Council valued and considered in our deliberations and recommendations all public comments and opinions received.

The following discussion provides historical context and the Council's overarching strategic thoughts about reducing lead in drinking water. Under the Safe Drinking Water Act (SDWA) EPA sets public health goals and enforceable standards for drinking water quality.[1] The LCR is a

[1] EPA establishes National Primary Drinking Water Regulation (NPDWRs) under SDWA. NPDWRs either establish a feasible Maximum Contaminant Level (MCL) or a treatment technique, "to prevent known or anticipated adverse effects on the health of persons to the extent feasible."

treatment technique rule. Instead of setting a maximum contaminant level (MCL) for lead or copper, the rule requires public water systems (PWSs) to take certain actions to minimize lead and copper in drinking water, to reduce water corrosivity, and prevent the leaching of these metals from the premise plumbing and drinking water distribution system components and when that isn't enough, to remove lead service lines.

The current rule sets an action level, or concentration, of 0.015 mg/L for lead and 1.3 mg/L for copper. An action level is not the same as an MCL. A MCL is based on health effects; whereas an action level is a screening tool for determining when certain treatment technique actions are needed. Because the LCR is a treatment technique rule, the action level is based on the practical feasibility of reducing lead through controlling corrosion. In the LCR, if the action level is exceeded in more than ten percent of tap water samples collected during any monitoring period (i.e., if the 90th percentile level is greater than the action level), it is not a violation, but triggers other requirements that include water quality parameter monitoring, corrosion control treatment (CCT), source water monitoring/treatment, public education, and lead service line replacement (LSLR).

In early 2004, EPA commenced review of the implementation of the LCR. EPA released a Drinking Water Lead Reduction Plan in 2005, which outlined short-term and long-term goals for improving implementation. In 2007, EPA promulgated regulations that addressed the short-term revisions to the LCR that were identified in the 2005 Plan. The Agency has continued to work on long term issues that required additional data collection, research, analysis and full stakeholder involvement – with the eventual goal of promulgating long term revisions.

Seeing the need for additional stakeholder input, EPA requested that the NDWAC form a Lead and Copper Rule Working Group to consider several key questions and issues. The members of the Working Group brought diverse perspectives and expertise in preparation of the report developed and submitted for the NDWAC's consideration. The Council appreciates the extensive hard work and dedication of the Working Group members over many months and numerous face-to-face meetings. The Council recognizes the Working Group's respectful consideration of varying and detailed opinions and technical information.

With the following enhancements and considerations, the Council forwards the report to you in its entirety (attached) and unanimously agrees with its recommendations. Please note that the full economic ramifications of these possible long term revisions are not yet quantified and accordingly were not a significant part of the Council's deliberations.

The Council considers these recommendations an integrated package, rather than a menu of choices from which some options can be selected and combined with others. This package reflects a concerted attempt to strengthen public health protection, which includes utilizing the multiple approaches and resources available to PWSs to achieve the greatest public health value, including proactively engaging residents in opportunities to improve drinking water through the removal of lead in water.

The Council considers that the driving proactive principle to improve public health protection is removing full lead service lines from contact with drinking water to the greatest degree possible and minimizing the risks of exposure to the remaining sources of lead in the meantime. In framing the revisions, priority should be given to sensitive populations (pregnant women, infants and children). Additionally, environmental justice concerns including low-income populations should be considered by all levels of government. Following significant discussion, the Council emphasizes that the PWSs "control" means "ownership".

The NDWAC supports the Working Group's report with the following enhancements:

- Creating a national clearinghouse of information for the public and templates for PWSs, tailoring the Consumer Confidence Report, immediately engaging the health community to understand contribution of water to overall exposure to lead, adding targeted outreach and remedies to consumers with lead service lines;
- Improving consumer confidence in drinking water;
- Requiring corrosion control re-evaluation if changes to source water or treatment are planned;
- Clarifying the expectations for small- and medium-systems not requiring CCT under the current rule;
- Closing the science gaps and providing guidance in sampling methodologies and techniques to ensure the samples provide the desired information;
- Considering alternate ways to demonstrate steady-pace improvement in LSLR in addition to percentage targets;
- Investigating the need for a maximum number of customer-requested samples, and establishing criteria for satisfying the minimum number of samples;
- Establishing a health-based, household action level that triggers a report to the consumer and to the applicable health agency for follow up;
- Separating the requirements for copper from those for lead and focusing new requirements where water is corrosive to copper; and
- Establishing appropriate compliance and enforcement mechanisms.

Although leadership by the Agency is essential, reduction of exposure to lead in drinking water cannot be achieved by EPA regulation alone. The attached report includes recommendations for renewed commitment, cooperation and effort by government at all levels and by the general public. We urge EPA to play a leadership role not only in the revisions to the LCR but also in educating, motivating, and supporting the work of other EPA offices; federal, state and local agencies and other stakeholders.

On behalf of NDWAC, thank you for the opportunity to provide these recommendations. We look forward to providing further assistance as EPA considers these important issues.

Sincerely,

Jill D. Jonas

Jill D. Jonas
Chair,
National Drinking Water Advisory Council

cc: Joel Beauvais, Acting Deputy Assistant Administrator, Office of Water
Peter Grevatt, Director, Office of Ground Water and Drinking Water

Enclosure