



# Information Alert

*State-Federal Relations Division*

## **EPA Finalizes Updates to its Lead and Copper Rule**

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The Environmental Protection Agency (EPA) [finalized](#) updates to its Lead and Copper Rule (LCR) on Dec. 22, the first update since 1991. The updates aim to minimize lead and copper in drinking water by instituting a new trigger level requiring action as well as requiring the development of publicly available listings of lead service lines.

### Background

First issued in 1991, the LCR was designed to control lead and copper in drinking water, requiring both corrosion control and public awareness actions if lead or copper concentrations exceed the specified action levels. Lead is a “toxic metal that can be harmful to human health even at low exposure levels.” The most vulnerable populations include pregnant individuals, young children and infants. Low levels of exposure can cause “damage to the central and peripheral nervous system, learning disabilities, shorter stature, impaired hearing, and impaired formation and function of blood cells.”

In 2016, EPA published [a white paper](#) outlining potential revisions to the LCR, [noting](#) that “the regulation and its implementation [were] in urgent need of an overhaul.” The agency suggested a variety of potential revisions—strengthening public education surrounding the health effects of lead and copper, requiring proactive lead service line (LSL) replacements, improving corrosion control treatment, strengthening sampling requirements, and increasing transparency and information sharing. One of the key questions was how fast LSLs that tested with concentrations above 15 parts per billion (ppb) should be replaced. [According to EPA](#), proactive replacement of LSLs could cost between \$2,500 and \$8,700 per line, potentially costing more than \$80 billion nationally as the agency has estimated there are between 6 million and 10 million LSLs throughout the country.

### New Final Rule

The final rule does not vary much from the proposed revisions issued in [October 2019](#) and focuses on six key areas:

1. Requires water systems to prepare and update a publicly available inventory of LSLs or absence of LSLs within three years of the final rule publication. That inventory must be updated annually, or triennially based on tap sampling frequency.

2. Requires water systems to “find and fix” sources of lead when a sample at a tap sample site exceeds 15 ppb.
3. Requires corrosion control treatment based on tap sampling results and establishes a new trigger level of 10 ppb—more on that new trigger level is below.
4. Requires water systems to notify consumers within 24 hours if a sample collected from their home is above 15 ppb, and requires they conduct regular outreach to homeowners with LSLs.
5. Requires water systems to replace water-system-owned portions of the LSL if a customer replaces their portion of the line within 45 days of notification of the private replacement.
6. Requires water systems to follow new sampling procedures and adjust sampling sites for lead and copper.

Notably, the final rule keeps with the proposed rule and does not change the existing action level of 15 ppb, but instead finalizes a new lead trigger level of 10 ppb. This would require water systems to consult with state regulators to identify actions that would reduce levels in drinking waters; i.e., additional planning, monitoring and treatment requirements.

If a water system tests above this new trigger level (10 ppb), but below the existing action level (15 ppb), it must set an annual goal for conducting replacements and conduct outreach to encourage resident participation in replacement programs. Additionally, if a water system is above the existing action level it will be required, annually, to fully replace a minimum of 3% of the known or potential LSLs in the inventory at the time of which the action level was exceeded. This is a reduction as previously, water systems were required to remove 7% of known or potential LSLs if the action level is exceeded at more than 10% of the taps sampled.

The new rule will also now require water systems to take drinking water samples at 20% of elementary schools and 20% of child care facilities annually, as well as at secondary schools for one five-year testing cycle. However, this excludes facilities built or with complete plumbing replacement after January 2014. Because the current rule only requires testing if the facility is itself a regulated water system —i.e., has its own private well or water system —this addition has sparked concern that the rule institutes an unfunded mandate on state and local governments. The Association of Drinking Water Administrators (ASDWA), in its February 2020 comments on EPA’s proposal, provided the agency an [updated](#) version of its 2018 [Costs of States Transaction Study for potential long- term revisions to the Lead and Copper Rule](#). It estimated the costs of states’ staff time alone for the adoption, implementation and compliance with the rule would be between 76% and 99% of the current Public Water System Supervision Program funding. EPA responded that the burden models were “significantly higher ... than those estimated by EPA.” Using the data provided by ASDWA, among others, EPA recalculated costs for the final rule, which are “higher estimated total costs” when compared to the proposed rule. According to EPA, state primacy agencies alone could see an increased cost ranging from \$19 million to \$22 million. Further, a number of national educational associations found in an analysis of the proposed rule that this new unfunded mandate could cost upwards of \$28 million in national annualized costs for elementary and child care facility testing alone. The economic analysis can be [found](#) in Section VI of the Final Rule.

For more information on the rule and how it differs from the current LCR, see [EPA's comparison](#) or contact NCSL staff Kristen Hildreth ([kristen.hildreth@ncsl.org](mailto:kristen.hildreth@ncsl.org)) or Ben Husch ([ben.husch@ncsl.org](mailto:ben.husch@ncsl.org)) .

**Other Resources:**

[Pre-publication Federal Register Notice of the Final Rule](#)

[EPA Fact Sheet: LCR Overview](#)

[Webpage: Funding and Case Studies on Lead Service Line Replacement](#)

[Funding and Technical Resources of Lead Service Line Replacement in Small and Disadvantaged Communities](#)