



February 7, 2020

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave N.W.
Washington, D.C. 20460

Robin Vos
Assembly Speaker
Wisconsin
President, NCSL

Martha R. Wigton
Director
House Budget & Research
Office
Georgia
Staff Chair, NCSL

Tim Storey
Executive Director

RE: National Primary Drinking Water Regulations: Proposed Lead and Copper Rule Revisions, Docket ID No. EPA-HQ-OW-2017-0300

Dear Administrator Wheeler:

On behalf of the National Conference of State Legislatures (NCSL), the bipartisan organization representing the legislatures of our nation's states, commonwealths and territories, we appreciate the opportunity to provide input on the proposed revisions to the Lead and Copper Rule (LCR). We applaud the agency's efforts to address lead in vulnerable populations, children specifically, in this proposed rulemaking and look forward to working together with the agency to further strengthen the state-federal partnership in ensuring clean and safe drinking water for our citizens.

State Consultation

We are encouraged by the administration's actions to revise the LCR, especially given national developments regarding lead contamination in drinking water systems. However, as states currently possess the ability to obtain/retain primary enforcement responsibility (primacy) for public water system supervision under the Safe Drinking Water Act, we urge the U.S. Environmental Protection Agency (EPA) to work in tandem with primacy states in the proposed revisions to water testing requirements, recognizing the potential of contaminations based on source, storage and delivery of the water. To ensure the protection of human health, we also urge EPA to base any and all potential revisions on scientifically sound principles.

Increased Costs to States and Need for Adequate Funding

By EPA's own admission in the preamble section on Primacy Agency Costs, implementation and administrative costs are potentially significant for various state activities related to the rule. For instance, one requirement that EPA is placing on states is the inventory of Lead Service Lines, which carries with it a substantial cost for states. As the agency moves forward in finalizing this rule, we strongly urge the consideration of the potential costs such changes would impose on states and their existing programs. We urge EPA to avoid creating new unfunded federal mandates. We also urge the agency to ensure that states receive adequate and timely federal financial and technical assistance to implement the rule's mandated objectives—existing funding mechanisms are not sufficient to implement this rule. NCSL urges EPA to request additional funding from Congress as part of the annual budget process moving forward.

As partners in protecting the nation's water resources, it is essential that state governments have a clear understanding of any financial obligations required to enforce any potential revisions to the LCR, including costs to state facilities, municipalities, and schools as a result of implementing and complying with any such

revisions. We urge the agency to consult with and ensure states have a clear understanding of such newly acquired costs.

Statutory Timelines and Compliance Deadlines

While EPA works to finalize these changes to the LCR, NCSL strongly encourages the agency to take into account states' legislative session schedules as the suggested revisions are substantial for states. This is necessary to ensure states have adequate time to make any necessary legislative changes to comply with revisions to the rule. State legislatures' in-session dates vary significantly across the nation, and although a special session may be held post adjournment, such sessions are often limited in scope and can cost tens of thousands of dollars per day. Additionally, depending upon the timeline for finalizing the proposed rule, many states will not be able to address the rule until the start of their next legislative session, which for many would not start until January 2021 and are statutorily limited to a set number of days. For additional information on state legislative calendars and processes for special legislative sessions, please visit NCSL's website or contact NCSL staff Selena Saucedo (303-856-1529 or selena.saucedo@ncsl.org).

NCSL looks forward to continuing dialogue as the agency works to finalize revisions to the LCR. If you have any questions, please do not hesitate to contact NCSL staff Kristen Hildreth (202-624-3597 or kristen.hildreth@ncsl.org) or Ben Husch (202-624-7779 or ben.husch@ncsl.org).

Sincerely,



Representative Stephen Handy
NCSL Natural Resources and Infrastructure
Committee Co-Chair
Utah House of Representatives



Representative Andrew McLean
NCSL Natural Resources and Infrastructure
Committee Co-Chair
Maine House of Representatives