



# The Western Coalition of Arid States

## WESTCAS

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February 12, 2020

Andrew R. Wheeler  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Mail Code: 1101A  
Washington, DC 20460

Electronically submitted to: <https://www.regulations.gov/>

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Subject: Docket ID No. EPA-HQ-OW-2017-0300 - U.S. Environmental Protection Agency's National Primary Drinking Water Regulations: Proposed Lead and Copper Rule Revisions

Dear Administrator Wheeler:

On behalf of the Western Coalition of Arid States (WESTCAS), I appreciate the opportunity to provide comments on the proposed revisions to the Lead and Copper Rule for drinking water.

WESTCAS was formed in 1992 when water and wastewater service providers joined together to share their talents and resources---assuming the name Western Coalition of Arid States or WESTCAS. A grassroots organization, WESTCAS is dedicated to encouraging the development of water programs and regulations which assure adequate supplies of high-quality water for those living in the arid regions, while protecting the environment.

WESTCAS has current members in Arizona, California, Colorado, New Mexico, and Nevada, representing both water suppliers, as well as wastewater discharges, and users of recycled water in the Colorado River Basin. WESTCAS and its members understand lead is a well-recognized public health concern in many parts of the U.S. and success to-date to control environmental lead exposures are a tremendous success story, including the reduction of lead in drinking water accomplished under the Safe Drinking Water Act. As a nation we need to continue to make progress eliminating lead exposure.

***The Voice of Water Quality in the Arid West***

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Reduction of lead in drinking water requires a collaborative effort by the water system, customers, consumers, state regulators, federal agencies, financing authorities, plumbers, code officials, local government, and many others. WESTCAS agrees with EPA that in keeping with the Safe Drinking Water Act, water systems should take steps within their authority to reduce lead in drinking water.

WESTCAS supports the detailed 148 pages of comments submitted by the American Water Works Association (AWWA). In addition to AWWA's comments, WESTCAS hopes the following general comments will help EPA finalize a rule that when implemented will avoid unintended consequences:

1. **Lead Service Line Inventories.** EPA should clearly state in the rule that lead service line inventories are intended to guide proactive actions based on available information like that described in the proposed rule and additional data collected in the course of routine water system activities. Moreover, water systems, or portions therein, constructed following the Safe Drinking Water Act Lead Ban or other state or local policies with like effect, should be able to certify that lead service lines are not present rather than complete the inventory-related activities in the rule. These inventories should not include privately owned service lines. The proposed rule is not the correct vehicle to address this issue as it would place an undue financial burden on water systems and present real limitations for water systems unable to obtain access to private properties.
2. **School and Childcare Lead Testing.** Water systems should be prepared to assist schools and childcare facilities in the communities they serve upon request. Lead exposure in K – 12 schools and childcare facilities is important and must be addressed by those facilities. WESTCAS supports action based on EPA's **Memorandum of Understanding on Reducing Lead Levels in Drinking Water in Schools and Child Care Facilities** with sector associations and its federal agency partners. The best strategy to address lead in schools and childcare facilities is through a holistic risk reduction strategy as described in the *Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts*, which should be implemented through the Department of Education, Health and Human Services, and EPA in collaboration with relevant state agencies. In addition, several arid west states including Arizona and California have lead reduction programs for drinking water that can serve as a model for EPA. As such, primacy states already implementing school and daycare tap water monitoring and lead service line inventory and replacement programs should be grandfathered into the revised rule and be waived from any new provisions in the revised rule. EPA should ensure the revised rule does not result in unnecessary regulatory duplication.

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3. **Corrosion Control Treatment.** Corrosion control is a critical tool in managing lead in drinking water that must be implemented taking many more considerations than are reflected in the proposed rule into account. EPA must allow water systems to identify and manage corrosion control using an array of tools to support timely and cost-effective decision-making rather than the rigid framework proposed. Evaluation of corrosion control should begin with an assessment of whether the system is currently implementing its corrosion control strategy effectively rather than immediately revisiting what corrosion control strategy is appropriate. The proposed rule should not remove calcium hardness from the list of options to evaluate for corrosion control treatment (CCT) studies. Corrosion control is a complex science and a full tool-box approach including all potential options is needed.

The one-size all approach mandating orthophosphate treatment evaluations is inappropriate and unnecessarily prescriptive. This change will result in more water systems identifying orthophosphate as the optimized corrosion control treatment and be required to utilize it regardless of the unintended consequences. As noted in the proposed rule, “(using) orthophosphate for corrosion control can increase the phosphorus loading to wastewater treatment facilities. Increased phosphorus loading may be a concern for wastewater systems with phosphorus discharge limits or for systems that discharge into water bodies where phosphorus is the limiting nutrient.” (84 Fed. Reg. at 61693).

This acknowledged concern fails to identify the increased phosphorus entering receiving waters from water systems using orthophosphate due to outdoor irrigation, pipe leaks, and fire-fighting and routine operation and maintenance activities. This source of phosphorus entering the environment is often greater than the amount water systems contribute to wastewater treatment facilities, particularly in arid areas served by WESTCAS agencies. There is no economically or technically feasible method to prevent this type of phosphorus loading to receiving waters.

Water systems need the flexibility to determine which CCT options are feasible in their area and include only those options in their CCT studies. In many arid west states, forcing water systems to switch to orthophosphates could result in violations of Clean Water Act National Pollutant Discharge Elimination Permits. Orthophosphate may not be the best option in regions where water bodies are impaired by nutrients under section 303(d) of the Clean Water Act. Water systems should not be put in the position where meeting requirements of the Safe Drinking Water Act would result in violations to the Clean Water Act.

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When required first-draw tap samples from compliance monitoring are above the action level, water systems should engage that household to help determine what source of lead is contributing to high values and what remediation options are available to the household. Lead service lines are not widely used in arid west states but individual faucets containing brass components can cause elevated first flush lead results. Evaluation of corrosion control practice should not be based on individual high lead values but should be part of a trend analysis to inform response to action level exceedances. (Zinc) orthophosphate does not reduce brass corrosion in general or the release of lead in particular. The requirement in EPA's proposed rule to examine orthophosphate as a corrosion control treatment would not address this source of lead contamination.

Additional language in the description of corrosion control treatment requirements also needs clarification (84. Fed. Reg. at 61749.) The proposed language does not address large water systems without corrosion control treatment that are deemed to have optimized corrosion control. WESTCAS requests that large systems without corrosion control treatment be considered optimized and not required to install treatment. (*Id.* at 61747.) Further clarification is also needed about whether partial corrosion control treatment (i.e., corrosion control of some but not all sources of treated water) is viewed as no corrosion control or should be treated in some other manner not currently specified. WESTCAS requests that language be included to specify that new groundwater wells drawing from the same aquifer as existing approved groundwater wells, demonstrated to have comparable pH and alkalinity as existing wells should not trigger a re-optimization of corrosion control. (*Id.* at 61747).

4. **Public Notification.** The requirement to notify customers within 24 hours of the exceedance of a lead "action level" based on a single tap sample (p. 61701) is unworkable. It often takes longer to verify a sample result and CWS do not want to be in the position to report to customer's information that is possibly incorrect. California's DDW recommends informing residents within two working days. EPA should allow at least two working days to report results to customers. This will enable water systems to verify results before reaching out to customers. When lead is not detected, it is recommended sample results be provided to residents 30 days after monitoring results are received and verified by the water system. The proposed rule requires Tier 1 notification when a water system exceeds the action level (p. 61710). These levels are not health-based standards and could occur as a result of identified simple changes in sampling locations or replacement of a faucet. Issuing a Tier 1 notification is not appropriate in these situations and could cause a lack of public confidence in the safety of their drinking water based on an isolated sampling event. WESTCAS recommends EPA allow water systems to provide targeted notice to those customers impacted by the lead exceedance through methods approved by state agencies. Water systems should have two business days rather than 24 hours to provide this notice.

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**W E S T C A S**

WESTCAS appreciates the opportunity to submit these comments. Please feel free to contact me at [westcas@westcas.org](mailto:westcas@westcas.org) if you have any questions, or if you would like any additional information concerning these comments.

Sincerely,



Steve Bigley  
President

SB/mdf

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