

## "Next Generation" Drinking Water Protection

- **Time to transition to a new approach:**
  - Now is the time to modernize state and federal implementation of drinking water regulations and programs. Consideration should be given to transitioning to a more holistic approach using collaborative partnerships and problem-solving to address both challenges presented by existing regulations and challenges with emerging issues that warrant regulating. Another strategy that would help meet this challenge would be to streamline the regulatory process for setting Maximum Contaminant Levels (MCLs.) Currently there are established national primary drinking water regulations (NPDWRs) for just over 90 compounds, while there are 72,000 chemicals in the TSCA inventory.
  - Broaden EPA's coverage of drinking water systems to include all systems.<sup>1</sup>
    - An unintended consequence of the existing limitations of the EPA SDWA has been a lack of regulatory oversight for smaller systems (less than 15 connections and/or service to less than 25 individuals.<sup>2</sup> These systems often serve low income, environmental justice communities.
- **Place Value on States as Co-regulators:**
  - IF EPA truly values states as co-regulators of safe drinking water, then states should be engaged as early as possible in the regulatory process, involved in the discussion of the development of new national Drinking Water Health Advisories (HAs), MCLs and/or regulations in a collaborative process. At a minimum, EPA should make the process more transparent to co-regulators.

## Lead and Cooper Rule (LCR) Input

- **Re-evaluate the Purpose/Objective of the Rule:** EPA must first take the opportunity in the upcoming revision to re-evaluate the purpose and objectives of the Rule.
  - The current LCR focuses on the need for public water systems to implement measures to ensure that the drinking water provided to homes is non-corrosive to a point that lead and copper components of the system's OR customer's plumbing do not contribute to elevated lead and copper levels. The premise of the Rule is that if a public water system provides drinking water that meets the actions level in 90% of the first draw samples at their Tier 1 sites, the water is effectively non-corrosive to the point of being protective of customer health. Although no draft language has been circulated for comment, it appears that there may be a change

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<sup>1</sup> Note: the current EPA SDWA only covers systems with more than 15 service connections or more than 25 people served.

<sup>2</sup> Note: DHEC made the decision to cover ALL systems in SC that serve more than one connection.

in regulatory philosophy. Will the revised LCR remain a treatment technology standard OR become a health-based standard OR a hybrid of the two (i.e., establish a health-based household action level that triggers a report to the consumer and applicable health agency)? These are very different approaches and involve very different methods of implementation and challenges to achieve the goals of protecting public health.

- Treatment technology standards and health based standards are not necessarily mutually exclusive. The current treatment technology standard, when followed, is also protective of public health. A hybrid of these may be a good compromise that would most importantly be protective of health, but would also not penalize water systems for lead issues associated with private property. An example could be having a technology based action level in addition to a health-based MCL
- EPA has received a significant amount of feedback from states in response to its LCR increased oversight initiative. Many states have taken positive measures to strengthen implementation of the current LCR. This information should be shared and used to consider changes to the LCR as well as shared as *Best Practices* under the current Rule.
- **Engage a Diversity of Stakeholders in the Rule-making Process:**
  - EPA should engage coalitions of diverse stakeholders at the state and regional levels (state environmental and health agencies, EJ communities, utilities, federal organizations, etc.) and provide opportunities for them to provide feedback to the EPA in its development of the proposed rule. The process should be modeled after the Clean Power Plan "robust" rule making process, where stakeholders were engaged early and prior to EPA putting "pen to paper."
  - Engage new collaborative partners, such as DoE, Department of Housing and Urban Development and health protection partners, such as CDC and state health agencies early in the rule making process.
- **Use Sound Science/Risk in Guiding Public Health Protection for Drinking Water:**
  - Science/Risk must be used to drive federal and state rule-making processes, including the LCR Rule revisions and implementation. For example, lead should be regulated consistently with other contaminants that have the same hazard classification.
  - Children under age six are the most vulnerable population related to lead exposure. Special attention should be given to testing of drinking water at **schools and daycares**, whether the source water comes from a public water system or a well.
  - It is also important to recognize that drinking water is not the primary source of lead exposure in our country (other sources include lead paint, lead in soil from the use of lead in fuel, lead in consumer products like batteries, etc.). Effective public health protection should focus on "holistic" strategies to eliminate lead exposure. State health department lead programs should share data and work closely with the state agency responsible for drinking water compliance with the LCR.

- **Further Evaluate Mandatory Lead Line Replacement:**
  - The mandate for water systems to replace lead service lines under their control may not eliminate lead exposure because there is often lead beyond the meter (on private property and in homes). EPA should also consider research related to quantifying increased risk for elevated blood lead levels resulting from partial replacement of lead service lines.
  - Allow water systems the option of more cost effective compliance measures, like purchasing point of use controls for customers instead of focusing on removal/replacement of all lead service lines (which would NOT eliminate exposure to lead in homes built prior to 1986 or in cases where people are purchasing fixtures (for example, brass) manufactured in other countries). This provides more immediate risk reduction and public health protection at much lower cost(s). This flexibility would also allow systems to use different approaches in dealing with complex issues, such as cost and access to private property.
- **Address Implementation Challenges with LCR:**
  - **Smaller and rural water systems** who often provide drinking water to lower income and overburdened communities are the ones who face the biggest challenges of complying with this Rule.
    - Consider establishing state small-system assistance programs to provide technical assistance for LCR implementation to small water systems at the state level (modeled after the Small Business Assistance Program (SBAP) established under the CAA 1990 Amendments).
  - **Collection of High Quality Data that is Representative of Exposure:** It is in the best interests of water systems, regulators and the public for quality data, representative of true exposure(s), to be collected. In a series of workshops conducted around the state of South Carolina, this issue was the single, most significant concern voiced by public water systems.
    - Data quality is the largest concern under the current Rule, primarily because systems lose chain of custody of the sample containers and do not have a way to ensure that the sample collection instructions are followed. Approaches, such as allowing water system personnel to collect samples or certification of homeowners collecting samples, should be evaluated.
- **Increase Focus on Education/Outreach and Risk Messaging:**
  - Risk Messaging is arguably as important an ingredient in the reduction of risk of exposure as is any type of engineering or administrative control.
  - EPA should conduct National PSAs and wider public education regarding the risk(s) of lead exposure and ways that the public can reduce or even eliminate their exposure to **all** sources of lead. [Examples: flushing or filtration.]
  - More public education needs to be conducted to instruct the general public on how they can determine whether their home is at risk of having elevated lead levels, and the simple steps that can be taken to reduce or eliminate exposure. More emphasis must be placed on actions that citizens and landlords can take.

## Emerging Contaminants Input

- **Re-evaluate HA Process:**
  - Health Advisories (HAs) are *de facto* MCLs in that states cannot just ignore them, but must go through the same steps as used in implementing an MCL or new regulation. The difference is that with regard to HAs, states cannot enforce water system exceedances.
  - Use the evaluation of Drinking Water regulation as an opportunity to modernize the Agency's approach. For example, if drinking water contaminants are known to come from a particular source or sources, work with other environmental regulatory programs, such as RCRA/CERCLA, to address mitigation at the source instead of issuing HAs. More emphasis could also be placed on source protection.
- **Enhance/Improve Risk Messaging:**
  - Increase federal and state capacity (personnel, training, etc.) for risk communication and improve risk communication strategies.
  - In the recent issuance of the PFOS/PFOA Health Advisories, the EPA made it clear that messaging was left up to the states. It was pointed out by multiple states in the conference call held by EPA that this could and likely would result in conflicting risk messaging across state and other co-regulator jurisdictional boundaries.
  - As a state and co-regulator of the Safe Drinking Water Act, states should have an opportunity to be engaged with EPA and other stakeholders to develop the appropriate risk messaging **prior** to the formal issuance of future HAs.
- **Coordinate with Federal Regulatory Partners:**
  - When exposure to a contaminant is known to be from sources in addition to drinking water, then there should be a coordinated, unified, federal response to them. The HA for PFCs recognizes that drinking water only represents 20% of exposure potential to these chemicals. Other sources are regulated by FDA, Consumer Product Safety, etc. Ideally, when the HA is released, there is a joint release from these regulators of other sources of exposure to the same hazard(s).

## Environmental Justice Input

- **Targeted Oversight and Assistance:**
  - Targeted oversight of smaller, rural systems is needed in order to provide safe drinking water to low income and overburdened communities.

- Provide compliance assistance to small water systems that need to better understand and implement requirements of sometimes complex drinking water regulations.
- EPA should consider establishing a grant program to assist low-income homes with water and sewer bills, similar to the Low Income Home Energy Assistance Program (LIHEAP).
- **Identify Collaborative Partners:**
  - Look for new collaborative partners who are already engaged with EJ communities in Housing and Urban Development, State and Local Health Departments, Centers for Disease Control and Prevention, etc.
  - Encourage larger systems to mentor smaller systems who don't have the same level of technical resources and who may be more likely to serve more vulnerable communities.
  - Identify "best practices" or opportunities to reduce costs by sharing certified operators and other resources among smaller rural systems.
- **Use of EJ Tools:**
  - Encourage the use of EPA's EJ tools to identify drinking water projects for funding from state and federal sources.
  - Identify and track 'Best Practices' in The Drinking Water State Revolving Funds (SRF) and other funding mechanisms that have targeted systems serving environmental justice communities.
- **Education of Rural Town/City/County Council Members:**
  - If a municipality owns and operates a drinking water system, every member of the governing body should receive some minimum level of education and training so that responsibilities are clearly understood and can be carried out. Local leaders and decision makers need to understand the challenges associated with operating drinking water systems.