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Lead and Copper Rule/Safe Drinking Water Act: U.S. Environmental Protection Agency Finalizes Strengthening Provisions

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The United States Environmental Protection Agency ("EPA") announced on October 8th a pre-publication version Federal Register Notice of what it denominates as the final "Lead and Copper Rule Improvement" ("LCRI").

EPA's rationale for the final rule is the health effects associated with exposure to lead in drinking water and advancements in the existing practices utilized by drinking water systems.

EPA initially promulgated in 1991 a rule to control lead in drinking water. The agency utilized its Safe Drinking Water Act ("SDWA") authority. The SDWA is applicable to all public water systems except those that do not regularly serve at least 25 of the same people at least six months of the year.

The SDWA requires that EPA identify drinking water contaminants. Once identified, it is required to develop rules that either set maximum permissible levels for the contaminants or establish protocols to treat the water to minimize the levels of contaminants.

The states can be delegated the ability to enforce the requirements established by the SDWA. The Arkansas Department of Health implements the program in Arkansas.

The final LCRI announced by EPA on October 8th requires that drinking water systems identify and replace lead pipes within ten years.

Furthermore, it will require:

- Additional testing of drinking water (i.e., improved tap sampling).
- A lower threshold for mandating actions to address lead exposure in drinking water (i.e., lowering the lead action level from 0.015 mg/L to 0.010 mg/L).
- Enhanced communication addressing (i.e., creating a publicly available service line replacement plan) regarding:
 - Risk of lead in drinking water.
 - Location of lead pipes.
 - Plans for replacing them.

The final LCRI also provides that drinking water providers with multiple exceedances of lead action levels must undertake the following:

- Adjust treatment.

- Conduct additional community outreach.
- Make filters that are certified to reduce lead available to all consumers.

By way of summary, the final rule is intended to strengthen the existing SDWA provisions addressing lead and copper in drinking water in five focus areas:

1. Achieving lead pipe replacement within ten years.
2. Locating legacy lead pipes.
3. Improving tap sampling.
4. Lowering the lead action level.
5. Strengthening protections to reduce exposure.

A link to the LCRI can be found [here](#).