

National Drinking Water Advisory Council Lead and Copper Working Group

Draft Operational Protocols

1. MISSION

The purpose of the National Drinking Water Advisory Council (NDWAC) Lead and Copper Working Group (LCRWG) is to:

Provide advice to the NDWAC as it develops recommendations for the U.S. Environmental Protection Agency (EPA) on targeted issues related to long term revisions to the Lead and Copper Rule (LCR) under the Safe Drinking Water Act (SDWA). EPA's goal for the LCR long term revisions is to improve the effectiveness of corrosion control treatment in reducing exposure to lead and copper and to trigger additional actions that equitably reduce the public's exposure to lead and copper when corrosion control treatment alone is not effective. In particular the working group will make recommendations on:

- Updating the sample site selection criteria and sampling procedures for lead and copper tap monitoring.
- Implementing requirements to ensure that corrosion control treatment is optimized to most effectively reduce lead and copper levels at consumers' taps.
- Revising the lead service line replacement (LSLR) requirements.
- Requiring copper consumer education.

When developing their recommendations, the LCRWG should consider sources of lead throughout drinking water distribution systems, including through components used to reroute drinking water during periods of service interruptions (such as emergency repairs).

Within these general topics, the LCRWG will explore specific technical issues concerning how to implement the goals for LCR revisions, provide information, share perspectives on advantages and disadvantages of options under consideration by EPA and suggest additional options, and provide group advice where consensus is reached and alternatives where consensus is not reached in the time available.

The LCRWG will make its report to the NDWAC, which in turn will provide advice on these issues to EPA. EPA will consider this advice in developing a proposed rule for public comment and will report back to the NDWAC on its response to the recommendations. The proposed rule may include elements not discussed by the LCRWG and NDWAC.

2. PARTICIPANTS

- a. Representation. Working group individuals were selected based on the expertise and experience needed to provide balanced advice to the NDWAC and hence to EPA on issues related to long term revisions to the LCR. Selected members of the NDWAC will be included in the working group in order to facilitate the flow of information between the working group and NDWAC.
- b. Alternates. Working group members are expected to participate in all meetings or conference calls to the greatest extent possible. In the event that this is impossible, any working group member may designate one alternate to participate in his or her place. The alternate must be a peer of the member, and must have similar expertise and perspective, and or the ability to fully represent the member. Only the working group member or his or her designated alternate may participate in working group meetings. If neither the member nor his or her designated alternate can attend, there will be no representative at the table for that particular seat. In an emergency, a representative of the organization with which the member is affiliated may sit in on behalf of a member (the Designated Federal Official (DFO) should be notified as soon as possible), but this will be allowed only once throughout the duration of the working group. Alternates can not vote.
- c. Replacement of Members. In the event a working group member can no longer serve, EPA will consider his or her replacement based on the expertise and experience needed to provide balanced advice to the NDWAC.

3. DECISION MAKING

- a. Consensus. The working group will strive to reach consensus, where possible. Consensus is defined as “all can live with the recommendation.” Working group decisions will be made with the concurrence of all members present at a given meeting, except for agreement on any final products delivered to the NDWAC which will require consensus of all members. If consensus cannot be reached a report will be drafted by working group members assisted by the facilitator. The report will describe the issues where consensus was not reached and provide the perspective of all working group members who contribute material to the report. This report will be submitted to the NDWAC as part of the product delivered to the NDWAC.

EPA recognizes the complex and controversial nature of the subject matter that will be discussed by the working group and would not expect consensus to be reached on all issues. For areas where consensus can be reached, EPA will carefully consider such consensus recommendations along with the rationale provided. Where consensus cannot be reached, the working group would be expected to present alternatives and the range of views expressed, along with a

discussion of the potential pros and cons associated with the various alternative approaches.

- b. Agreement and Product(s). Agreement of the working group on any written document or other product(s) of the working group intended for delivery to the NDWAC will be considered products of the working group. Pre-consensus draft materials should not be considered nor characterized as products of the working group.

4. PROCEDURES

- a. FACA. The working group is established by the NDWAC, a Federal Advisory Committee established under, and complying with the requirements of the Federal Advisory Committee Act (FACA).
- b. Notice of Open Meetings. Consistent with FACA requirements, meetings of the NDWAC working group will be announced in the *Federal Register* prior to each meeting (at least 15 days) and will be open to the public.
- c. Meeting Summaries. Draft summaries of the working group meetings will be developed by EPA in collaboration with the facilitator for approval by working group members. Meeting summaries will be made available to the public only after approval by the working group members. Completed meeting summaries will be loaded onto the EPA web site (www.epa.gov).
- d. Agendas. Meeting agendas will be drafted by the facilitator in consultation with the NDWAC working group members and EPA. Agenda items will be identified at each meeting for the subsequent meeting. A draft agenda will be distributed in advance of each meeting for review by working group members. It will be reviewed at the beginning of each meeting and will be refined, if necessary, and approved.
- e. Relationship to NDWAC. This working group has been formed to address specific issues (see mission statement) and to make recommendations to the NDWAC (not directly to EPA). The working group is not authorized to make decisions for the NDWAC. All NDWAC members will be notified of the date and time of working group meetings, and will be provided with agendas and written summaries for all working group meetings/conference calls.
- f. NDWAC Receipt of Working Group Products. The recommendations or other products of the working group must be made to the full NDWAC at one of its scheduled meetings. The NDWAC will consider the recommendations and may either pass them on to EPA unchanged, or may amend them to reflect their own recommendations, or may, after discussion, choose not to forward them at all.

- g. Facilitator. A neutral facilitator will facilitate the working group meetings and working with working group members and EPA to ensure that the process runs smoothly. The facilitator serves at the will of the working group, NDWAC and EPA and may be dismissed or replaced by another as determined by the working group, NDWAC and EPA. The role of the facilitator typically includes: developing draft agendas, focusing meeting discussions, working to resolve any impasses that may arise, reviewing meeting summaries, working with working group members to support between-meeting activities, working with working group members and EPA to identify subject matter experts as needed to speak to the group, working with the EPA staff in locating and circulating background materials and other appropriate functions.
- h. Electronic Communication. Electronic communication mechanisms will be utilized to the greatest extent possible for the sharing of information outside of working group meetings, including distribution of meeting agendas and summaries and webinars for some technical presentations. For any working group member who is unable to participate in electronic communication, other means of communication will be utilized (fax and hard copy mail). The purpose of electronic communications is to reduce paperwork, delay and expense of mailing or faxing and travel.
- i. Attendance at Meetings. All working group members are expected to make a good faith effort to attend working group meetings and participate in conference calls.
- j. Caucus. Any subset of working group members may confer privately during or after a working group meeting as needed. The facilitator may also confer privately with working group members during or after meetings.
- k. Observers. Working group meetings are open to observation by the public. Observers are any non-working group attendees at meetings. Only the working group members (or their designated alternate) and EPA representatives will be seated at the table and participate in discussions unless the facilitator acknowledges an observer.
- m. Public Comment. Meeting agendas will set aside time for the specific purpose of taking public comment. Observers will be asked to indicate their interest in making public comment ahead of time on a sign-up sheet provided at each meeting for this purpose.
- n. Changes to Procedural Protocols. These Procedural Protocols may be revised with the consensus of the working group and with approval by the Designated Federal Officer.

5. SAFEGUARDS FOR THE PARTIES

- a. Good Faith. All parties agree to act in good faith in all aspects of the working group deliberations. In order to encourage the free and open exchange of ideas, views and information prior to decision-making, Members agree not to use specific offers, positions or statements made by another member for any purpose other than this process. It is the hope that other attendees at working group meetings also voluntarily comply with this provision. Personal attacks and prejudiced statements will not be tolerated.
- b. Right to Withdraw. Any party may withdraw from the working group at any time without prejudice. However, it is requested that the member wishing to withdraw communicate the reasons for withdrawal.
- c. Others' Positions. Members agree not to characterize the position of any other party in public statements or in discussions with the media (even if that party withdraws from the working group). To the extent feasible, members will refer others to approved meeting summaries for information about the working group's discussions.
- d. Interactions with the Press. Recognizing that the way in which working group discussions or the statements or positions of working group members are publicly characterized may affect the optimal functioning of the working group, wherever possible working group members (and their alternates) will refer inquiries from the press regarding the overall process of the working group and its deliberations to the facilitator(s) or to approved meeting summaries. If a working group member does engage in discussion with the press, they will refrain from characterizing the views of, or attributing comments to, other working group members.

6. SCHEDULE

The working group is expected to meet up to five times (in Washington, D.C.) and to hold several webinars or conference calls between December 2013 – Fall 2014.