



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

STATE OF NEVADA
Department of Conservation & Natural Resources

Joe Lombardo, *Governor*
James A. Settelmeyer, *Director*
Jennifer L. Carr, *Administrator*

December 15, 2023

Martha Guzman
Regional Administrator
U.S. EPA Pacific Southwest, Region 9
75 Hawthorne St.
San Francisco, CA 94105

RE: Request/approval for an Extension Agreement

Dear Administrator Guzman:

The State of Nevada is writing to request a two-year extension, up to and including December 18, 2025, to submit final primacy revisions of the Lead and Copper Rule Revisions (LCRR). EPA is authorized to grant this under 40 CFR 142.12(b)(2) and (3) upon the terms described in subsections (i) - (v) of this letter, which have been agreed to by the staff of the Nevada Division of Environmental Protection (NDEP), Bureau of Safe Drinking Water (BSDW) and EPA. This extension is being requested for the following reasons:

- For efficiency, NDEP-BSDW intends to group two or more program revisions into a single legislative or regulatory action, being the LCRR and Lead and Copper Rule Improvements (LCRI), but lacks delegated regulatory authority to enforce the new or revised requirements until that rulemaking process is completed.
- Until recently, NDEP-BSDW's position for implementation of the Lead and Copper Rule (LCR) was vacant for an extended period-of-time, limiting NDEP-BSDW ability to do program development while implementing existing authority for the adopted LCR rules.

During this two-year extension of time, and as resources permit, NDEP-BSDW will work with EPA to implement the LCRR. Specifically for LCRR, the NDEP-BSDW will be working with EPA to implement the requirements in 40 CFR 141.84(a), 40 CFR 141.85(e), 141.202(a)(10), along with the associated reporting requirements in 40 CFR 141.90(e), 141.90(f)(4), and 141.31(d)(2) within the scope of its current authority and capability, as more fully described below.

- i) Informing public water systems (PWSs) of the new EPA (and upcoming state) requirements and the fact that EPA will be overseeing implementation of the requirements until EPA approves the state revision.

NDEP-BSDW	EPA	EPA Comments	NDEP-BSDW Comments
X		Provide copies of regulations and guidance to other state agencies, PWSs, technical assistance providers, associations, or other interested parties. For LCRR, specifically, provide copies of the following regulations, 40 CFR 141.84(a), 40 CFR 141.85(e),	NDEP-BSDW efforts so far: Frequently Asked Questions (FAQ) document developed and initial training for LSL Inventories provided in mid-2023. Outreach efforts continue as new guidance is provided by EPA.

X	X	Educate and coordinate with state staff, PWSs, the public and other water associations about the requirements of this regulation.	NDEP-BSDW will work with the EPA to coordinate LCRR education. NDEP-BSDW requests that EPA provide initial education to NDEP-BSDW staff and other interested parties by presenting at conferences (e.g., Nevada Rural Water Conference) and webinars. After initial training, NDEP-BSDW will conduct future education for PWS and other interested parties with guidance from the EPA when requested.
X	X	Notify affected systems of their requirements under the LCRR related to 40 CFR 141.84(a), 141.85(e), 141.90(e), and 141.90(f)(4), as well as the Tier 1 Public Notice (PN) requirements for a lead Action Level exceedance (ALE) pursuant to 40 CFR 141.202(a)(10) and 141.31(d)(2).	<p>Regarding notice of the requirements in 40 CFR 141.84(a), 141.85(e), 141.90(e), and 141.90(f)(4): NDEP-BSDW will request EPA's review of outreach materials and participation at initial trainings. NDEP-BSDW will take the lead in sending communications to the PWSs after receiving EPA input on notification materials.</p> <p>Regarding Tier 1 PN requirements under 40 CFR 141.202(a)(10) and 141.31(d)(2): NDEP-BSDW will rely on EPA to provide more guidance and criteria to develop a joint notification process. NDEP-BSDW will work with EPA to notify PWSs of the requirements and provide guidance and PN templates. Guidance related to the trigger date for issuing and templates for PN are needed. PN templates should consider the different scenarios under which a lead Action Level Exceedance (ALE) may occur (i.e., source water/treatment changes impacting system broadly verses long-stagnation at unused faucets, poor sample collection impacting individual customer) to ensure the public is properly informed of the situation without undue alarm.</p>
X		Other: Website created with guidance	NDEP-BSDW efforts so far: Website created, https://ndep.nv.gov/water/drinking-water/information-for-public-water-systems/lead-and-copper . Website will be updated as new guidance is developed.

- ii) Collecting, storing and managing laboratory results, public notices and other compliance and operation data required by EPA regulations.

NDEP-BSDW	EPA	EPA Comments	NDEP-BSDW Comments
X	X	<p>Devise a tracking system. For LCRR, specifically, develop a tracking system for PWS inventory reporting pursuant to the associated requirements in 40 CFR 141.90(e), the initial and annual notices of known or potential lead service lines in accordance with 40 CFR 141.85(e) and 141.90(f)(4), and the Tier 1 PN for a lead ALE pursuant to 40 CFR 141.31(d)(2) and 141.202(a)(10).</p>	<p>Regarding the reporting requirements in 40 CFR 141.84(a), 141.85(e), 141.90(e), and 141.90(f)(4): NDEP-BSDW has upgraded to SDWIS 3.5 and will use SDWIS for tracking the submittals. NDEP-BSDW intends to upgrade to SDWIS 3.6 prior to October 2024. NDEP-BSDW will develop a tracking system in concert with EPA but will be using SDWIS for storing submission data. This includes initial and annual inventory updates.</p> <p>If and when NDEP-BSDW receives additional funds, NDEP-BSDW will determine if additional electronic tools are needed for LCRR and LCRI implementation and tracking.</p> <p>Regarding Tier 1 PN pursuant to 40 CFR 141.202(a)(10) and 141.31(d)(2): NDEP-BSDW plans to use SDWIS as the tracking tool for this requirement. Updated Data Entry Instructions (DEI) and reporting timeframes to EPA are needed to develop a tracking system that meets the Tier 1 PN regulatory requirements. In part, a method to enter a PN received without creating an “orphan enforcement action” should be included in the DEI.</p>
X	X	<p>Keep PWSs informed of the associated reporting requirements in 40 CFR 141.90(e), 141.90(f)(4), 141.31(d)(2) and 141.202(a)(10) during development and implementation.</p>	<p>NDEP-BSDW has sent out several communications and given presentations to PWS regarding the current reporting requirements and deadlines.</p> <p>Further communication from NDEP-BSDW will be sent out periodically as deadlines approach and when new information from EPA is provided. Guidance regarding submittal of lead testing in schools and childcare facilities from the EPA will also be needed so NDEP-BSDW can properly inform PWS.</p>

X	X	Track violations and enforcement information in a state database system, such as SDWIS-State. For LCRR, specifically, track initial inventory and enforcement information.	NDEP-BSDW has upgraded to SDWIS 3.5 and will use SDWIS for tracking the submittals and will use the LCRR Data Entry Instructions. Enforcement information will be a joint effort between NDEP-BSDW and EPA depending on the type of violation or enforcement information.
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iii) Assisting EPA in the development of the technical aspects of the enforcement actions and conducting informal follow-up on violations (telephone calls, letters, etc.). Notifications to EPA Region 9 (R9) in this section are to be made via electronic letter to the Drinking Water Section managers in the Water Division and the Enforcement and Compliance Assurance Division.

NDEP-BSDW	EPA	EPA Comments	NDEP-BSDW Comments
X	X	Make initial compliance determinations of potential treatment technique and/or monitoring/reporting violations. For LCRR, specifically, confirm submitted initial inventories by the compliance deadline of October 16, 2024, review initial inventories for adequacy with the required elements in 40 CFR 141.84(a), and review if public education (PE), PN and associated reporting requirements have been met in accordance with 40 CFR 141.85(e), 141.90(f)(4), 141.31(d)(2) and 141.202(a)(10).	<p>Regarding compliance requirements in 40 CFR 141.85(e), 141.90(f)(4), 141.31(d)(2): NDEP-BSDW and EPA will perform joint reviews of initial submittals to ensure reviews are complete and meet EPA's expectations until the review process is agreed upon by NDEP-BSDW and EPA. Once the process is agreed upon, NDEP-BSDW will take the lead on reviews. NDEP-BSDW will confirm the submittal of the inventories and document the receipt date in SDWIS and the PWS files.</p> <p>After a review process is established with EPA staff, NDEP-BSDW will: (1) take the lead on the review of LSL Inventories for completeness and enter completion and/or violations into SDWIS-State; (2) submit migration files to EPA quarterly. A process for LSL inventory reviews is anticipated to be in place by October 16, 2024.</p> <p>Regarding 141.202(a)(10): NDEP-BSDW will rely on EPA to provide more guidance and criteria to develop a joint implementation process. During the development process, NDEP-BSDW and EPA will make joint determinations until a process is fully developed. Once a process is agreed upon, NDEP-BSDW will take the lead in making compliance determinations and informing EPA.</p>

X		<p>Notify EPA R9 of a potential treatment technique and/or monitoring/reporting violation within 60 days of the incident that triggered the violation. For LCRR, specifically, notify EPA R9:</p> <ul style="list-style-type: none"> • by December 16, 2024 if a PWS did not submit to <u>NDEP-BSDW</u> an initial inventory in accordance with 40 CFR 141.84(a) and associated reporting requirements in 141.90(e), • by January 15, 2025 if a PWS did not complete the initial PE of known or potential lead service lines containing lead in accordance with 40 CFR 141.85(e), and • by August 31, 2025 if a PWS did not demonstrate to <u>NDEP-BSDW</u> that it completed the required PE of known or potential lead service lines in accordance with 141.90(f)(4). 	<p>NDEP-BSDW will notify the EPA R9 of any potential treatment technique and/or monitoring/reporting by the required dates.</p> <ul style="list-style-type: none"> • by December 16, 2024 if a PWS did not submit to NDEP-BSDW an initial inventory in accordance with 40 CFR 141.84(a) and associated reporting requirements in 141.90(e), • by January 15, 2025 if a PWS did not complete the initial PE of known or potential lead service lines containing lead in accordance with 40 CFR 141.85(e), and • by August 31, 2025 if a PWS did not demonstrate to NDEP-BSDW that it completed the required PE of known or potential lead service lines in accordance with 141.90(f)(4).
X	X	<p>Notify EPA R9 as soon as practical, but no later than 24 hours, after <u>NDEP-BSDW</u> learns of a lead ALE where the PWS did not complete a Tier 1 PN in accordance with 40 CFR 141.202(a)(10), and the PWS did not notify <u>NDEP-BSDW</u> in accordance with 40 CFR 141.31(d)(2).</p>	<p>NDEP-BSDW will work with EPA to develop a joint implementation process. At minimum during the development process, EPA will need to provide NDEP-BSDW with the:</p> <ul style="list-style-type: none"> • EPA Contact Information for business day and after hours' notifications. • Define what constitutes "learns of a lead ALE". • Data Entry Instructions for tracking that PN is being issued in SDWIS.
X	X	<p>Issue informal warning letters¹ to PWSs for treatment technique and/or monitoring/reporting violations with a copy to EPA R9 within 30 days after notifying EPA R9 of the incident that</p>	<p>Regarding 40 CFR 141.84(a), 141.85(e), 141.90(e), 141.90(f)(4), 141.31(d)(2): NDEP-BSDW will develop a process in concert with EPA for the issuance of Notice of Violation (NOV), until NDEP-</p>

¹ During any period where a state, tribe or territory does not have primacy for a National Primary Drinking Water Rule, issuing a Notice of Violation (NOV) under SDWA 1414(a)(1)(A) is not required. Without primacy, the states, tribes and territories would not have legal authority to cite an NOV as a prelude to enforcement. However, they could provide informal warning letters. EPA may issue formal NOV's for treatment technique and monitoring/reporting violations under their legal authority.

		triggered the potential violation. For LCRR, specifically, issue warning letters for treatment techniques and/or reporting violations related to the initial inventory, PE, PN and associated reporting requirements in accordance with 40 CFR 141.84(a), 141.85(e), 141.90(e), 141.90(f)(4), 141.31(d)(2) and 141.202(a)(10).	BSDW adopts regulations to enforce LCRR. Once NOV letter is issued, NDEP-BSDW will mail/notify PWS and EPA. Regarding notice requirements of 40 CFR 141.202(a)(10): NDEP-BSDW will rely on EPA to provide more guidance and criteria to develop a joint implementation process including PN template that includes potentials for long-stagnation at unused faucets.
X	X	Provide immediate technical assistance to PWSs with treatment technique and/or monitoring/reporting violations to try and bring them into compliance.	Depending on the type of TA needed, NDEP-BSDW will request resources from contracted TA providers. EPA may need to assist with resources when NDEP-BSDW does not have the requested TA available.
X	X	Other: EPA provide to the state EPA led Issuance of Formal Enforcement.	To track EPA led issuance of Formal enforcement, develop a process with NDEP-BSDW to enter the proper enforcement codes into SDWIS State.

iv) Providing technical assistance to PWSs.

NDEP-BSDW	EPA	EPA Comments	NDEP-BSDW Comments
X	X	Conduct training within the state for PWSs on LCRR initial inventory and PE requirements per 141.84(a) and 141.85(e); as well as Tier 1 PN for a lead ALE per 40 CFR 141.202(a)(10).	Regarding training on 40 CFR 141.84(a) and 141.85(e): NDEP-BSDW requests that EPA provide training at conferences (e.g., Nevada Rural Water Conference) annually and as needed. NDEP-BSDW efforts so far: FAQ developed and initial training for LSL Inventories provided in mid-2023. Outreach efforts continue as new guidance is provided by EPA. Regarding Tier 1 PN for a lead ALE per 40 CFR 141.202(a)(10): EPA assistance is requested to train NDEP-BSDW staff and develop a joint process to train the regulated community. Once a process is agreed upon, NDEP-BSDW will provide training to the regulated community.
X	X	Provide technical assistance through written and/or verbal correspondence with PWSs.	NDEP-BSDW and OFA will provide access to technical assistance (TA) to address LCRR. NDEP-BSDW will continue to identify TA opportunities as

			<p>new guidance and training materials are provided by EPA.</p> <p>NDEP-BSDW efforts so far: FAQ developed and initial training for LSL Inventories provided in mid-2023. EPA contractor is providing technical assistance with NDEP-BSDW being the technical lead on the project.</p>
X	X	Provide on-site technical assistance to PWSs as requested and needed to ensure compliance with the regulation.	<p>NDEP-BSDW will provide on-site TA through TA contractors and NDEP-BSDW staff as needed. EPA assistance may be requested if a resource is needed in an area where NDEP-BSDW staff do not have expertise.</p> <p>NDEP-BSDW efforts so far: TA provider contracts are providing on-site TA. Use EPA TA providers where available.</p>
X	X	Coordinate with other technical assistance providers and organizations to provide accurate information and aid in a timely manner.	<p>NDEP-BSDW will provide TA through TA contractors and NDEP-BSDW staff as needed. EPA assistance may be requested if a resource is needed in an area where NDEP-BSDW staff do not have expertise.</p> <p>To date, NDEP-BSDW worked directly with contractor to provide PWS training. NDEP-BSDW attended TA vendor training to provide state input on PWS questions. Future training materials will be reviewed by NDEP-BSDW and/or EPA to ensure accuracy with regulatory requirements. NDEP-BSDW staff will attend training provided to PWS as time allows.</p>
X	X	Other: EPA TA providers work in Nevada	<p>NDEP-BSDW requests that EPA work closely with NDEP-BSDW to track and prioritize TA to avoid confusion in the regulated community. NDEP-BSDW plans to utilize Nevada Infrastructure Financing System (NIFS) to track TA, https://ndepifs.ndep.nv.gov/.</p> <p>NDEP-BSDW requests that EPA communicate available TA and TA assignments to NDEP-BSDW.</p>

v) Providing EPA with all information prescribed by the State Reporting Requirements in 40 CFR 142.15.

NDEP-BSDW	EPA	EPA Comments	NDEP-BSDW Comments
X	X	Report violations and enforcement information to the Safe Drinking Water Information System (SDWIS) each quarter. For LCRR, specifically, report information related to initial inventory, PE, PN and associated reporting information in accordance with 40 CFR 141.84(a), 141.85(e), 141.90(e), 141.90(f)(4), 141.31(d)(2) and 141.202(a)(10). EPA will enter enforcement codes for federal administrative orders.	<p>Regarding NDEP-BSDW reporting requirements under 40 CFR 141.84(a), 141.85(e), 141.90(e), 141.90(f)(4), 141.31(d)(2): NDEP-BSDW will report data through quarterly SDWIS State uploads which are part of SDWIS 3.5. EPA will need to provide directions on how the federal enforcement codes will be entered/migrated into SDWIS State.</p> <p>Regarding 141.202(a)(10): NDEP-BSDW will rely on EPA to provide more guidance and criteria to develop a joint implementation process. During the development process, NDEP-BSDW understands that EPA will enter enforcement codes for federal administrative orders. NDEP-BSDW requests that EPA notify NDEP-BSDW if federal administrative orders are issued.</p>
X	X	Report in SDWIS the number of lead, galvanized requirement replacement, and lead status unknown service lines for each PWS in accordance with 40 CFR 142.15(c)(4)(iii)(D). Optionally, also report the number of non-lead service lines for each PWS	NDEP-BSDW will provide the reporting elements made available in SDWIS 3.5. Any additional reporting elements will need to be agreed upon by NDEP-BSDW and EPA R9.

vi) For states whose request for an extension is based on a current lack of program capability to implement the new or revised requirements, taking the following steps to remedy the capability deficiency. **Note**, this section is not necessary for states that are grouping two or more program revisions into a single legislative or regulatory action.

NDEP-BSDW	EPA	EPA Comments	NDEP-BSDW Comments
		Acquire additional resources to implement these regulations (Add a list of specific steps being taken as an attachment.)	N/A
		Provide quarterly updates describing the status of acquiring additional resources.	N/A
X		Other:	NDEP-BSDW plans to incorporate LCRR and Lead and Copper Rule Improvements (LCRI) into one regulatory amendment.

NDEP-BSDW looks forward to working with EPA during this extension period to ensure communication with the regulated community is effective and clear. Ensuring that implementation is seamless, from a water system’s perspective, is critical during this planned transition from federal to state primacy.

I affirm that the **NDEP-BSDW** will implement provisions of the **LCRR** as outlined in this letter.


12/15/23
Date

Jennifer L. Carr, PE, CPM, CEM
 Administrator
 Nevada Division of Environmental Protection

I have consulted with my staff and approve your extension for the aforementioned regulation. I affirm that EPA Region 9 will implement provisions of the **LCRR** as outlined in this letter and in the associated enclosures.

Martha Guzman, Regional Administrator **Date**
 EPA Region 9

This Extension Agreement will take effect upon the date of the last signature and will remain in effect **through December 18, 2025.**

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