



TESTIMONY

**Testimony NJDEP Public Hearing Testimony:
Proposed Amendments and New Rule N.J.A.C.
7:10-5.9 Docket Number: 11-25-12**

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Good Morning, Commissioner Ed Potosnack

My Name is Deandrah Cameron, Policy Manager at New Jersey Future. We promote sensible and equitable growth, redevelopment, and infrastructure investments. As a land use policy and planning organization, we promote policies for cost-effective, sustainable water systems and support policies promoting access to clean drinking water for all New Jerseyans.

New Jersey Future strongly supports the State's goal of greatly reducing lead exposure, and the proposed rules will help New Jersey move toward that goal in many ways. However, several technical and practical concerns must be addressed to ensure successful implementation by water suppliers.

First, the most significant challenge is the speed of implementation.

The proposal sets compliance deadlines up to 6 months earlier than the Federal Lead and Copper Rule Improvements (LCRI), with compliance as early as July 2027. New Jersey Future urges the Department to assess the effectiveness of the compliance timelines and to provide utilities with the necessary planning window to anticipate the following challenges, especially for overburdened water systems. Many requirements, such as shifting from triennial to annual monitoring within 30 days or submitting new sampling plans within 90 days of the effective date, do not allow sufficient time for municipal budgeting and contracting.

Implementation Timelines:

- The current proposal mandates a shift for many systems from triennial to annual monitoring. Furthermore, it requires a fifth-liter sample at all sites with lead or unknown service lines, using the higher of the first-draw or fifth-liter result for the 90th percentile calculation.
- The requirement to collect samples specifically in the sixth calendar month following a replacement is overly restrictive compared to the federal 3-to-6-month window when coupled with a shorter implementation window.
- Following an individual site exceedance, utilities must resample every 60 days until two consecutive results are below the action level. As utilities cannot manage internal premise plumbing or homeowner solder, this creates a perpetual monitoring loop for factors outside the supplier's control.

Lead Service Line (LSL) Replacement:

- Lead Status Unknowns: the department should consider excluding "unknown" lines from the 10% replacement mandate until their material is verified, as treating all unknowns as replacement targets creates unrealistic infrastructure burdens in the early years and imposes cost barriers. However, this change should not provide an incentive to delay verification of line materials. One option would be to have the 10% replacement mandate apply initially to only known LSL (including galvanized), and then to all known LSL and unknown service lines.
- Suppliers are responsible for the full replacement of the line, including the privately owned portion. While New Jersey Future agrees with the "good faith effort" requirement (four attempts via two methods), the Department should clarify the "last resort" protocols for partial replacements during emergencies to avoid compliance violations when owners refuse access. The department should also recognize that this issue is most difficult when the supplier has no organizational relationship with the municipality that can (and should) mandate compliance by property owners. Where the supplier is a municipal entity, "good faith effort" should include a municipal ordinance mandating property owner permission as a condition of the certificate of occupancy.

Corrosion Control and Investigative Tools:

The Department to assess the effectiveness of the compliance timelines and provide utilities with the necessary planning window to anticipate the following changes:

- The proposal shortens the deadline for installing corrosion control treatment to 12 months, half the federal 24-month standard.
- The mandate for pipe-scale analysis and sequential monitoring in most systems is highly prescriptive. There is significant concern about the limited laboratory capacity for scale analysis. The Department should consider adding a clause allowing "other technologies as approved by the Department" to enable innovation.
- Systems serving between 3,301 and 20,000 people face the same rigorous demonstration study requirements as the largest utilities. The cost of these studies may be better utilized in direct LSL replacement.

Public Notification (The 1-Hour Rule)

The requirement to notify the mayor and municipal clerk within one hour of learning of a lead action level exceedance is too restrictive. Lead is generally a chronic health issue rather than an acute one. The department should also recognize that a one-hour window risks the dissemination of inaccurate or panicked information; a 24-hour notice period would allow for verified messaging and coordination with local health agencies, and it should consider a more feasible window.

Schools and Child Care Facilities:

- The Department should clarify the requirements for the sampling cycle; there is a conflict in the language between "shall sample" (N.J.A.C. 7:10-5.9(i)) and "shall offer to test" (N.J.A.C. 7:10-5.9(i)2).
- The Department should clarify that the Department of Children and Families (DCF) is responsible for identifying unregistered child care facilities, especially when determining the primary use of private residences, which water systems do not have expertise in.

New Jersey Future encourages the Department to adopt the above considerations to create a strong incentive for LSL replacement, while ensuring the technical constraints are realistic across all system sizes.

Thank you for your time and consideration.