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DRAFT: Strategic Plan for Targeted Outreach to
Populations Affected by Lead
Water Infrastructure Improvements for the Nation
(WIIN) Act
Safe Drinking Water Act 1414 (c)(5)

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Executive Summary

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Background

The Water Infrastructure Improvements for the Nation (WIIN) Act was passed on December 16, 2016. The WIIN Act amends Section 1414(c) of the Safe Drinking Water Act, (“Notice to Persons Served”), by adding a new Section 1414(c)(5) “Exceedance of Lead Level at Households” (see [Appendix A](#)). This section directs EPA to develop a strategic plan within 180 days after enactment, in collaboration with public water systems and states with primary enforcement responsibility (primacy agencies). The purpose of the strategic plan is to identify how EPA, primacy agencies, and owners and operators of public water systems will provide targeted outreach, education, technical assistance, and risk communication to populations affected by the concentrations of lead in a public water system, including dissemination of information specified in Section 1414(c)(5)(C). The deadline to complete the strategic plan is June 14, 2017.

Required elements of the Strategic Plan

Section 1414(c)(5)(B) requires EPA to forward data and information to public water systems and the primacy agency when EPA develops, or receives data from a source other than a primacy agency or water system, indicating that the drinking water of a household exceeds the action level for lead. (See Figure 1 for a flow diagram of the process). The process described in Section 1414(c)(5)(B) is initiated by EPA receiving data indicating the drinking water of a household served by a public water system has concentrations above the lead action level¹. EPA will work with the primacy agency to ensure that information is distributed to the affected household(s).

If EPA receives data from a source other than from a primacy agency or public water system that indicates the drinking water of a household exceeds the lead action level, EPA is required to contact the primacy agency and the public water system to share this information. If the public water system fails to notify the household(s), EPA will work with the Governor to develop a plan to disseminate the required notification. In those instances, where neither the public water system nor the Governor disseminate the information, EPA will take steps to conduct the notification.

In addition to the requirement to disseminate the required data, the WIIN Act also includes required information to be shared along with the results (see [Appendix B](#)). The required information in the WIIN Act is similar to the Lead and Copper Rule (LCR) public education requirements, although the triggering events and timelines are different.

Both WIIN and the LCR require outreach containing public education materials on:

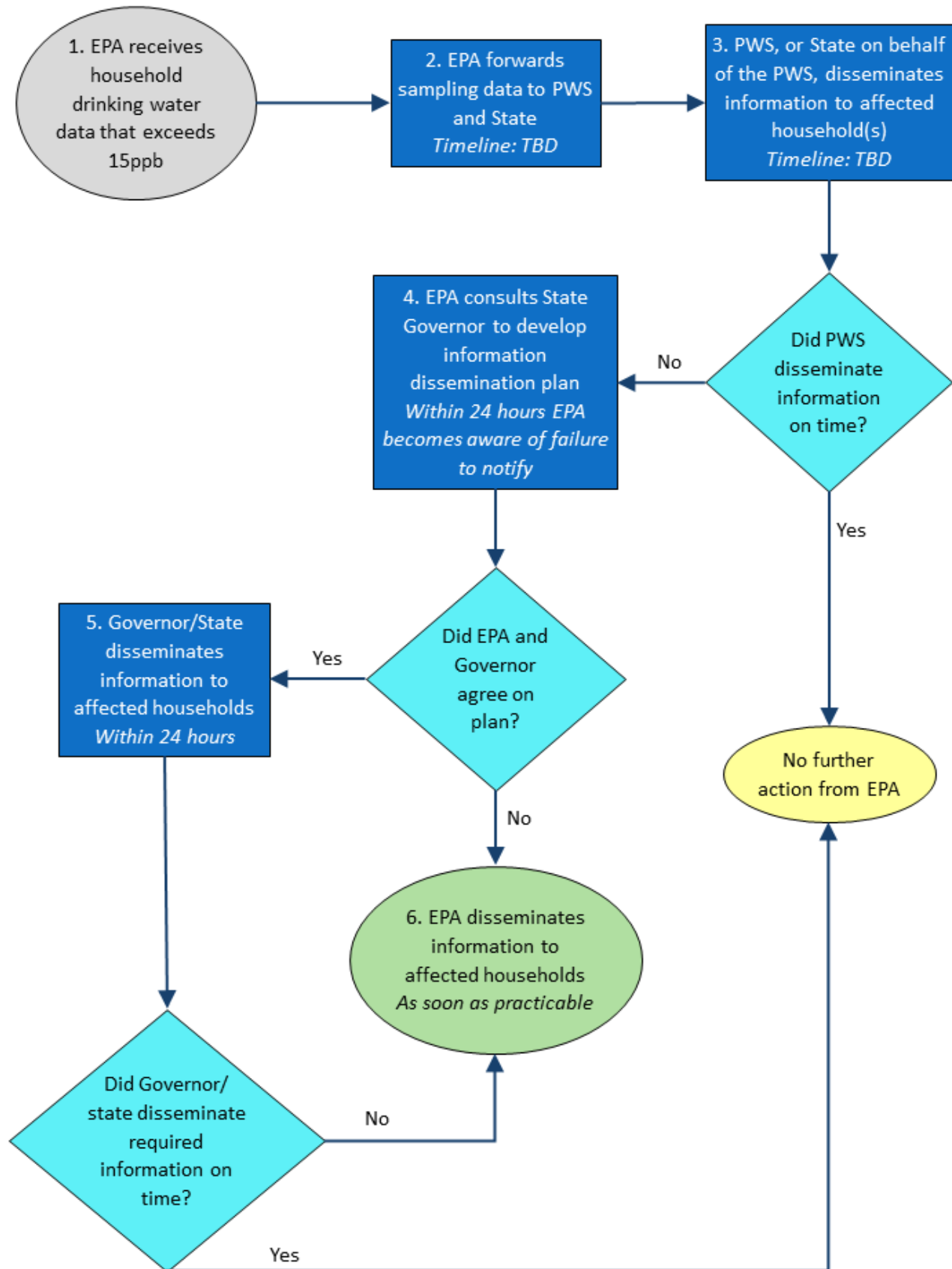
- adverse health effects,
- public water system actions to reduce lead levels, and
- steps to reduce exposure.

The LCR also requires notification of tap sample results, and additional education requirements as specified in 40 CFR 141.85 when a system has a lead action level exceedance. Another important distinction between LCR and section 1414(c)(5)(B), LCR is triggered by action level exceedances in the distribution system, whereas section 1414(c)(5)(B) is triggered by an action level exceedance in households.

¹ Lead action level is currently set at 0.015 mg/L (40 CFR 141.80(c)(1))

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Figure 1. Flow Diagram Illustrating 1414(c)(5)(B) – Click on numbered steps to go to associated discussion and find more detailed information.



Steps to Disseminate Information to Households

In the event that EPA develops, or receives from a source other than from a primacy agency or public water system, data that meets the requirements of SDWA Section 1412(b)(3)(A)(ii), the steps listed below will need to be taken.

1. EPA Develops or Receives Data

EPA develops or receives data², other than from a primacy agency or a public water system, indicating that one or more households that are served drinking water by a public water system contain lead in their drinking water that exceeds the lead action level³.

I. The EPA employee will collect the following information:

- a. Sample Location/Address
- b. Date of Sample Collection
- c. Protocols followed to collect the Sample
- d. Name of Laboratory
- e. Analytical Method
- f. Name of public water system, if known
- g. Do you have a POU/POE?
- h. Other suggested information to collect?

EPA is seeking feedback

On what information to collect as discussed in Sections 1.I.a. - 1.I.h.

EPA will document sampling protocols, analytical methods and other information to understand the data. To help with this, EPA intends to develop a data collection template to gather information listed above. Any EPA employee that receives applicable data shall:

- a. Complete the template found in [Appendix B](#).
The employee that received the data should document protocols that were used to collect and analyze the data, including any samples, and send notification to relevant drinking water point of contact, including to the Office of Ground Water and Drinking Water.

EPA is seeking feedback

On the protocols/processes as described in Section 1.II.a.

2. EPA Forwards Data to the Public Water System (PWS) and Primacy Agency

EPA will forward the data and information on any sampling techniques to the primacy agency in which the affected household is located.

- I. The WIIN Act currently notes that forwarding data will occur in a time period determined by the Administrator.
- II. The WIIN Act instructs EPA to have an “appropriate employee” forward the data to the public water system and the primacy agency.

EPA is seeking feedback

On an appropriate timeframe to forward data to the primacy agency upon completion of the verification of sampling collection protocols and sample analysis (Section 2.I.)

² Data must meet the requirements of section 1412(b)(3)(A)(ii), “data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).”

³ Lead action level, 40 CFR 141.80, or a prescribed level of lead established for public education or notification in section 1412.

EPA will contact the State's Drinking Water Administrator. The State's Drinking Water Administrator in turn will contact the public water system and include EPA in any correspondence the primacy agency sends to the public water system.

EPA is seeking feedback

On EPA's role as discussed in Section 2.

3. The Owner/Operator of Public Water System Shall Disseminate

If a public water system receives the data referenced above and has not, since the date of the test, notified the affected households with respect to the concentration of lead in the drinking water, as well as indicating that the lead concentration exceeds the lead action level, the water system shall disseminate the required information.

- I. The public water system will disseminate the results and the required information to the homeowner in a timeframe determined by EPA.
 - a. What should EPA take into account to determine timeframes? For example:
 - i. Public water system size
 - ii. Public water system capacity
 - iii. Other suggestions
 - II. Information may be delivered directly to the household(s) by mail or door-to-door.
 - III. Once the public water system has disseminated the required information, they will notify EPA and the primacy agency with a confirmation.
 - a. Examples of forms and/or methods for confirmation may include:
 - i. Email
 - ii. Form letter template - see [Appendix B](#) for example confirmation template.
 - iii. Other suggestions
 - IV. If the public water system fails to disseminate the required information, the primacy agency may disseminate the information.
- On an appropriate timeframe to disseminate the results and the required information to the homeowner
 - Methods for communication
 - Sending a confirmation to EPA and example formats
 - Primacy agency potentially sending out the notices on behalf of the public water systems
- Discussed in Sections 3.I. - 3.IV.

EPA is seeking feedback

Steps to Disseminate Information to Households in the Event of Failure to Do So by the Primacy Agency or Public Water System

4. EPA Consultation with State Governor

If the PWS public water system does not disseminate the required information within the time period established by EPA, not later than 24 hours after EPA becomes aware that the public water system did not notify the affected households, the EPA Administrator (or designated representative, see below) must consult with the State's Governor to develop a plan, in accordance with the strategic plan to disseminate the required information to affected households no later than 24 hours after the consultation.

- I. EPA has 24 hours to consult with the Governor after becoming aware of the public water system's failure to disseminate the information.

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- II. The EPA representative and Governor will have 24 hours to develop a plan in accordance with the strategic plan.
 - a. The Administrator may delegate the duty to consult to an employee of the Agency who, as of the date of the delegation, works in the Office of Water at the headquarters of the Agency.

5. State Governor/State Primacy Agency to Disseminate Information

After the conclusion of the consultation period, if the Governor and the EPA representative agreed on a plan, the Governor or primacy agency will have up to 24 hours to disseminate the required information to affected household, and then notify EPA by sending a confirmation. (See [Appendix B for template of certification.](#))

6. EPA to Disseminate Information

If EPA and the Governor do not agree on a plan during the consultation period, EPA is required to distribute information to the affected households as soon as practicable.

- I. Notifications must include the mandatory language that is included in Appendix B, or use the included template

Appendix A: Water Infrastructure Improvements for the Nation (WIIN) Act

(5) EXCEEDANCE OF LEAD LEVEL AT HOUSEHOLDS. —

(A) STRATEGIC PLAN.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall, in collaboration with owners and operators of public water systems and States, establish a strategic plan for how the Administrator, a State with primary enforcement responsibility, and owners and operators of public water systems shall provide targeted outreach, education, technical assistance, and risk communication to populations affected by the concentration of lead in a public water system, including dissemination of information described in subparagraph (C).

(B) EPA INITIATION OF NOTICE. —

(i) FORWARDING OF DATA BY EMPLOYEE OF THE AGENCY.—If the Agency develops, or receives from a source other than a State or a public water system, data that meets the requirements of section 1412(b)(3)(A)(ii) that indicates that the drinking water of a household served by a public water system contains a level of lead that exceeds the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 1412) (referred to in this paragraph as an ‘affected household’), the Administrator shall require an appropriate employee of the Agency to forward the data, and information on the sampling techniques used to obtain the data, to the owner or operator of the public water system and the State in which the affected household is located within a time period determined by the Administrator.

(ii) DISSEMINATION OF INFORMATION BY OWNER OR OPERATOR. —The owner or operator of a public water system shall disseminate to affected households the information described in subparagraph (C) within a time period established by the Administrator, if the owner or operator—

(I) receives data and information under clause (i); and

(II) has not, since the date of the test that developed the data, notified the affected households—

(aa) with respect to the concentration of lead in the drinking water of the affected households; and

(bb) that the concentration of lead in the drinking water of the affected households exceeds the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 1412).

(iii) CONSULTATION. —

(I) DEADLINE.—If the owner or operator of the public water system does not disseminate to the affected households the information described in subparagraph (C) as required under clause (ii) within the time period established by the Administrator, not later than 24 hours

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after the Administrator becomes aware of the failure by the owner or operator of the public water system to disseminate the information, the Administrator shall consult, within a period not to exceed 24 hours, with the applicable Governor to develop a plan, in accordance with the strategic plan, to disseminate the information to the affected households not later than 24 hours after the end of the consultation period.

(II) DELEGATION. —The Administrator may only delegate the duty to consult under subclause (I) to an employee of the Agency who, as of the date of the delegation, works in the Office of Water at the headquarters of the Agency.

(iv) DISSEMINATION BY ADMINISTRATOR. —The Administrator shall, as soon as practicable, disseminate to affected households the information described in subparagraph (C) if—

(I) the owner or operator of the public water system does not disseminate the information to the affected households within the time period determined by the Administrator, as required by clause (ii); and

(II) (aa) the Administrator and the applicable Governor do not agree on a plan described in clause (iii)(I)2 during the consultation period under that clause; or

(bb) the applicable Governor does not disseminate the information within 24 hours after the end of the consultation period.

(C) INFORMATION REQUIRED. —The information described in this subparagraph includes—

(i) a clear explanation of the potential adverse effects on human health of drinking water that contains a concentration of lead that exceeds the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 1412);

(ii) the steps that the owner or operator of the public water system is taking to mitigate the concentration of lead; and

(iii) the necessity of seeking alternative water supplies until the date on which the concentration of lead is mitigated.

Appendix B: Templates and Resources

Data Template

Form for EPA to receive/evaluate data and transfer to primacy agency and public water system

Information to include/collect:

- when and where was the sample taken? – address and location/source within household
- Sample collection methods and analysis
- Name of public water system, if known
- Do you have a POU/POE?
- Other suggested information to collect?

EPA is seeking feedback

On information to collect, including if stakeholders support a template/data sheet.

Required Information

Information and language to include when notifying households impacted by elevated lead

- A clear explanation of the potential adverse effects on human health of drinking water that contains a concentration of lead that exceeds the lead action level; should include the following:
 - Example: Standard Health Effects Language for Public Notification (from Appendix B of 40 CFR 141)
 - Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.
- The steps that the owner or operator of the public water system is taking to mitigate the concentration of lead; and
- The necessity of seeking alternative water supplies until the date on which the concentration of lead is mitigated.

EPA is seeking feedback

On information suggested/example language to include.

Confirmation Template

EPA is seeking feedback

Template for primacy agency/public water system to send confirmation to EPA after disseminating information.

On method of confirmation for public water systems and primacy agencies after disseminating information.

Example (using as a placeholder), From Revised PN Handbook EPA 816-R-09-013, March 2010

Sample Certification "Box"

PWS Name: [give system name]
PWS ID #: [provide PWS number]
For Violation: [describe violation or situation]
Occurring on: [insert date].

The public water system indicated above hereby affirms that public notice has been provided to consumers in accordance with the delivery, content, and format requirements and deadlines in [regulatory citation].

- ☐ Consultation with primacy agency (if required) on [insert date].
- ☐ Notice distributed by [insert method] on [insert date].
- ☐ Notice distributed by [insert method] on [insert date].
- ☐ Content - required elements.

Signature of owner or operator

Date

More Information

EPA is seeking feedback

Lead and Copper Rule: <https://www.epa.gov/dwreginfo/lead-and-copper-rule>

On if there are additional resources that can provide more information.

Appendix C: Stakeholder engagement

This appendix will summarize stakeholder engagement in the final draft.

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