

Key Messages on Lead and Copper Rule
February 28, 2019

- Communities fully support replacing lead lines

Several legal problems need to be resolved. For example:

- The rule requires utilities to pay for replacing service lines it does not own on private property. Michigan's Constitution prohibits using public money for improvements on private property.
- The Michigan Supreme Court has ruled that fees charged by utilities must be in proportion to the service provided to specific customers. So, even if a utility funded the initial cost of the lead line replacement on private property with ratepayer money, it would have to bill the benefiting customer directly to recover the cost, or else risk being sued for violating the Supreme Court's ruling.
- In short, complying with the rule risks violating the Constitution. Complying with the Constitution risks violating the rule. This is untenable.

Several practical problems also need to be resolved. For example:

- Many homeowners are unable to afford the estimated \$5,000 needed to replace their lead line. We are concerned that, however unintentional, the rule will result in water shutoffs.
- The rule makes partial replacement of lead lines illegal. But some homeowners will refuse/are refusing to have their property dug up and/or allow entry to their premises.
- In the infrequent cases where lead levels in drinking water are higher than expected, the source could be indoor plumbing; regardless of whether the service line contains lead or not. This is confusing to the public.
- The estimated cost of this new state requirement is \$2.5 billion. Yet, the state has not provided any funding.
- The enormous cost and method of the program will impact critical service projects needed to provide safe drinking water.

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