



February 5, 2024

The Honorable Michael S. Regan  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Re: Docket ID No. EPA-HQ-OW-2022-0801, National Primary Drinking Water Regulations for Lead and Copper: Improvements

Dear Administrator Regan,

The Center for American Progress (CAP) is submitting these comments in response to the proposed rulemaking on National Primary Drinking Water Regulations for Lead and Copper: Improvements. CAP – an independent, nonpartisan policy institute dedicated to improving the lives of all Americans – is committed to advancing policies that strengthen health, promote equity, and tackle environmental and racial injustice.

We commend the Environmental Protection Agency's (EPA) efforts to remove and fully replace all lead service lines (LSLs) within 10 years, including by prohibiting partial LSL replacement in most cases. The proposed improvements to the National Primary Drinking Water Regulations for Lead and Copper will drive progress by adding critical regulatory authority to the financial investments made through the Infrastructure Investment and Jobs Act (IIJA), the largest investment in clean drinking water in the nation's history.<sup>1</sup> While ambitious, the goal is critical to protecting the health of the estimated 22 million people across the nation who are exposed to lead in drinking water, who are disproportionately people of color and people from low-income households.<sup>2</sup> There is no safe level of lead exposure at any age, but exposure is particularly dangerous for young children who are at a vulnerable stage of brain and biological development. Though implementation will be costly, the benefits far exceed the costs. According to the EPA's analysis, costs are estimated at \$2.1 to \$3.6 billion a year, while benefits are estimated at \$37 billion solely in annual U.S. health care cost savings.<sup>3</sup>

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<sup>1</sup> United States Environmental Protection Agency, Water Infrastructure Investments, available at <https://www.epa.gov/infrastructure/water-infrastructure-investments>.

<sup>2</sup> National Resources Defense Council, "How Exactly Does Lead Exposure Harm the Brain?" September 28, 2023, available at <https://www.nrdc.org/stories/how-exactly-does-lead-exposure-harm-brain>.

<sup>3</sup> National Resources Defense Council, "Getting the Lead Out: Removing Lead Pipes Would Yield Hundreds of Billions of Dollars in Health Benefits," October 25, 2023, available at <https://www.nrdc.org/resources/getting-lead-out-removing-lead-pipes-would-yield-hundreds-billions-dollars-health>

In addition to expediting the removal of LSLs, we applaud that the proposed rule offers further protections through its provisions to increase requirements around water testing, LSL inventories, and communication with communities about lead exposure risks.

The proposed rule takes important steps to protect vulnerable communities from lead health risks. However, we urge the EPA to consider the following opportunities to strengthen the rule, issues that we elaborate on in a recent CAP publication:<sup>4</sup>

### **1. Address private-side LSL replacement costs**

Full LSL replacements are essential to protecting community health, as partial replacements are ineffective at reducing overall lead exposure and can sometimes inadvertently exacerbate the problem by dislodging lead from remaining LSLs and lead connectors. We support the proposed rule's inclusion of a requirement for water systems to conduct full LSL replacements, including the portion of LSLs that fall on private property, between the curb box and water meter.<sup>5</sup> However, the proposed rule does not include a requirement for water systems to cover the cost of replacing the portion of LSLs that fall on private property. Requiring property owners to bear any part of the costs of an LSL replacement presents a barrier to efficiently conducting full LSL replacements. Even when shared with the city or water system, these financial burdens can be cost prohibitive for low-income homeowners. Uncertainties about whether cities and water systems have the authority to work on private property may also undermine efforts to complete widespread and efficient replacements. State and local laws and water tariff agreements vary widely in how they impact water systems' access to conducting full LSL replacement work, and permission is often needed from the property owner. Additionally, many remaining LSLs service properties that are occupied by renters, and replacement projects often require coordinating with the property owners, who may be unresponsive or difficult to reach.

The EPA should create resources to share success stories and guidance for building trust with communities to carry out replacement projects, addressing the costs of private-side replacements, and overcoming other barriers to conducting full LSL replacements. The EPA may also consider a requirement for systems to cover the full cost of replacement at no cost to the customer. Newark, New Jersey, for instance, has received attention for reducing lead exposure by using public bonds to fund the portions of LSL replacements that occur on private property. The city also passed an ordinance permitting the replacement of lines on private property without the

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<sup>4</sup> Jill Rosenthal, Allie Schneider, Hailey Gibbs, and Mariam Rashid, "How Federal Investments in Safe Drinking Water Infrastructure Are Improving Public Health," Center for American Progress, February 5, 2024, available at <https://www.americanprogress.org/article/how-federal-investments-in-safe-drinking-water-infrastructure-are-improving-public-health/>.

<sup>5</sup> United States Environmental Protection Agency, Planning and Conducting Lead Service Line Replacement, available at <https://www.epa.gov/ground-water-and-drinking-water/planning-and-conducting-lead-service-line-replacement>.

homeowners' permission.<sup>6</sup> Pittsburgh, Pennsylvania, has used a combination of grant and state funding to conduct full LSL replacements across the city at no cost to the customer,<sup>7</sup> and Milwaukee, Wisconsin, has recently eliminated the private-side cost share for full LSL replacements, which previously required customers to pay approximately \$1,600.<sup>8</sup>

## **2. Reduce the allowable lead action level to below five parts per billion**

The proposal to reduce the allowable lead action level from 15 parts per billion, set in 1991, to 10 parts per billion, is a welcome improvement; however, with no safe level of lead exposure in drinking water, CAP urges the EPA to lower the acceptable level to between zero and 5 parts per billion, as recommended by public health advocates, including the American Academy of Pediatrics.<sup>9</sup> As the EPA knows, there is no safe level of lead exposure – with young children particularly developmentally and biologically vulnerable to the health consequences of lead exposure – and the Agency has a responsibility to notify and educate the public on health risks that they may be experiencing through their water supply. Moreover, national standards have historically allowed for lead contamination in faucets, fountains, and other plumbing in schools and child care facilities. Taking stricter action besides more frequent testing by lowering the action level to between zero and 5 parts per billion would create a lower trigger point at which water systems are required to inform the public and take actions to reduce lead exposure, such as adjusting corrosion control treatment, alongside ongoing work to replace all lead pipes. A lower action level, determined by a health-based limit on lead exposure, would ensure that customers are informed about lower but still dangerous lead levels and have access to water filters to help protect their health while they are still waiting for LSL replacement to occur.

## **3. Enhance communication about community health risks**

The current rule includes important new and expanded requirements for water systems to notify and communicate with the public about lead health risks. We encourage the EPA to require that water systems also share LSL inventories with the public so that community members can better understand their exposure risks. We also strongly encourage that all lead-related communication with the public include materials in multiple languages, be written at a 6th-grade reading level, be widely distributed, including at community gathering spaces (e.g., libraries, schools, community centers)

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<sup>6</sup> Sophia Campbell and David Wessel, "What would it cost to replace all the nation's lead water pipes?" Brookings Institution, May 13, 2021, available at <https://www.brookings.edu/articles/what-would-it-cost-to-replace-all-the-nations-lead-water-pipes>.

<sup>7</sup> PGH2O, "Lead Line Replacement Programs," available at <https://www.pgh2o.com/projects-maintenance/lead-line-replacement-programs>, last accessed January 2024.

<sup>8</sup> MTMJ-TV Milwaukee, "Proposed Milwaukee ordinance change would eliminate homeowner cost for lead service line removal," December 8, 2023, available at <https://www.tmj4.com/news/local-news/proposed-milwaukee-ordinance-change-would-eliminate-homeowner-cost-for-lead-service-line-removal>.

<sup>9</sup> American Academy of Pediatrics Council on Environmental Health, "Prevention of Childhood Lead Toxicity," *Pediatrics* 2016;38(1):e20161493, available at <https://publications.aap.org/pediatrics/article/138/1/e20161493/52600/Prevention-of-Childhood-Lead-Toxicity>.

and be tailored to the needs of different populations. The EPA also should encourage municipalities to prioritize communications about lead risks and lead pipe removal for elementary schools and child care setting administrators, as well as prioritize the distribution and installation of certified lead-free water filters for those settings. These should be done in alignment with the recommendation of the American Academy of Pediatrics that water in schools should not exceed lead concentrations of 1 part per billion.<sup>10</sup> The EPA also should encourage water systems to collaborate with local public health departments, medical providers, community-based organizations, and others to ensure that outreach and resources reach critical community members and partners to maximize impact.

#### **4. Support water systems in accessing existing funds for LSL replacement projects**

Some water systems may be unaware of the existing funding sources to support LSL replacement projects. This is especially problematic considering that some states and communities have taken an ambitious approach to LSL removal have encountered workforce shortages that have hindered their speed of removal. In many areas, previous short-term investments that covered one- or two-year-long projects were insufficient in order to grow and invest in the workforce through sustained higher compensation. IJJA investments, both for lead replacement projects and apprenticeship programs, may support the training, hiring, and retention of qualified workers, including contractors and plumbers. These investments may have positive ramifications for local economies, in addition to expediting LSL replacement project timelines and promoting public health. We recommend that the EPA invest in outreach, especially to agencies and water systems serving smaller rural communities and communities of color that are most exposed to LSLs and provide guidance for water systems to access these funds.

The proposed rulemaking on National Primary Drinking Water Regulations for Lead and Copper: Improvements is a significant and ambitious step toward improving health and equity.

We appreciate your consideration of these recommendations to improve the proposed rulemaking and to protect community and population-level health more comprehensively. If you have any questions about the aforementioned research, analysis, or recommendations, please reach out to Laura Rodriguez, Vice President for Government Affairs, at [lrodriguez@americanprogress.org](mailto:lrodriguez@americanprogress.org)

Sincerely,

**Jill Rosenthal**, MPH, Director of Public Health Policy

**Hailey Gibbs**, PhD, Senior Policy Analyst, Early Childhood Policy

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<sup>10</sup> Ibid.