

**Re: Lead and Copper Rule Revisions (LCRR) Virtual Engagements
Docket No. EPA-HQ-OW-2021-0255**

July 30, 2021

Radhika Fox, Assistant Administrator for Water
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460-0001

Dear Assistant Administrator Fox:

The undersigned 147 organizations submit these comments on behalf of our millions of members and activists to urge EPA to withdraw the recently promulgated and flawed final rule revising the Lead and Copper Rule (“LCR”) of the Safe Drinking Water Act (“SDWA”), National Primary Drinking Water Regulation for Lead and Copper, 86 Fed. Reg. 4198 (January 15, 2021) (“LCRR”), and promptly replace it with a more health-protective rule.

Lead is a powerful neurotoxin that is especially dangerous for children. Exposure to lead is a significant environmental risk in this country that disproportionately affects disserved communities. Drinking water can make up a substantial portion of a person’s total exposure to lead; indeed, formula-fed infants can receive most of their exposure to lead from drinking water used in the formula. It is therefore imperative that EPA takes the steps necessary to prevent lead contamination of tap water. Consistent with President Biden’s proposal, EPA must overhaul the LCR to ensure that 100 percent of all lead service lines are removed within 10 years.

The LCR has long been criticized, even by former senior EPA officials, as an extremely ineffective environmental regulation.¹ Unfortunately, the LCRR—the first major revision to the LCR in 30 years—failed to meaningfully address the rule’s main weaknesses, ensuring communities across the country will continue to be exposed to dangerously high levels of lead in their water well into the 21st century. Indeed, the LCRR took significant steps *backwards* with respect to remediation, slowing down the rate at which utilities must replace lead service lines. It also permitted small water utilities, which comprise 92 percent of regulated water utilities, to avoid replacing lead service lines *altogether* in many circumstances. And even though EPA acknowledges there is no safe level of lead in drinking water, the LCRR maintained the misleading and non-health protective “lead action level” of 15 parts per billion, which, as EPA is aware, falsely leads people to believe that water testing with lower lead levels during one-time sampling is safe.²

EPA must withdraw the LCRR and propose new revisions, relying on the best available science and the input it has been receiving from affected communities. Specifically, the agency

¹ See Letter from Cynthia Giles, former Assistant Adm’r, EPA Off. of Env’t & Compliance Assurance, to David Ross, Assistant Adm’r, EPA Off. of Water (Feb. 4, 2020), <https://www.environmentalprotectionnetwork.org/wp-content/uploads/2020/02/Giles-LCR-comment-2-4-20.pdf>.

² See EPA, Off. of Water, Lead and Copper Rule Revisions White Paper 11 (2016), https://www.epa.gov/sites/production/files/2016-10/documents/508_lcr_revisions_white_paper_final_10.26.16.pdf.

should set a Maximum Contaminant Level for lead as close to zero as possible, as required by the SDWA. If EPA decides it cannot set an MCL and instead retains a treatment technique, the current model must be revamped so that it meets the SDWA's requirement of "prevent[ing] known or anticipated adverse effects on the health of persons to the extent feasible."³ EPA should also shift its focus to prevention, rather than testing and fixing given the dangers associated with lead, the variability of lead in drinking water, and the long-term benefits and cost savings associated with such an approach. A new LCR must, at a minimum:

- **Mandate full and equitable removal of lead service lines to be completed within 10 years for all water systems.** To accomplish this, an LCR must:
 - tightly limit -- and over time eliminate -- the number of service lines permitted to be characterized as "lead status unknown" in a lead service line inventory;
 - prioritize replacement in communities disproportionately exposed to lead from other sources.
- **Accurately detect lead levels** by requiring more representative sampling that captures highest levels of lead at most at risk homes, as the rule was meant to do.⁴
- **Require corrective actions to be health protective.** To accomplish this, an LCR must:
 - require system-wide action at as low a lead level as feasible, no higher than 5 parts per billion;
 - ensure that customers served by small water systems are protected by regulatory standards as stringent as those applying to larger utilities.
- **Establish a prevention-oriented approach to stop lead contamination of water in schools and child care facilities.** To accomplish this, an LCR must:
 - shift away from relying mainly on a "test-remediate" paradigm where our kids go to learn and play each day;
 - use all appropriate policy levers to drive utilities, schools and child care centers to equip *all* water outlets used for cooking and drinking at schools and childcare facilities with point of use filters certified to remove lead.
- **Meaningfully inform and remain accountable to the public** by:
 - broadening and strengthening public education and notification requirements to explain lead level variability, the prevalence of lead in drinking water, the associated health effects of lead in water, and the limits of the LCR to all affected persons, and encourage use of filters;
 - mandating creation of community advisory councils for each utility centered by residents unaffiliated with corporate interests, modeled on Michigan's Lead and Copper Rule.

EPA must make the LCR as health protective as feasible and allow for tightly prescribed variances only where necessary.

While we understand that preparing these necessary new revisions to the LCR requires substantial work, we urge EPA to make such revisions a high priority and complete the work as

³ 42 U.S.C. § 300g-1(b)(7)(A).

⁴ Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper, 56 Fed. Reg. 26,460, 26,514 (June 7, 1991) (codified at 40 C.F.R. pts. 141 & 142).

close as possible to December 16, 2021, the date on which it intends to make a decision about the fate of the LCRR. We also encourage EPA to consider carefully which, if any, revised provisions of a new Lead and Copper Rule should go into effect sooner than three years from the rule's promulgation, as the SDWA authorizes the agency to do.⁵

We appreciate your engagement with communities over the past few months on the dire issue of lead in drinking water and look forward to seeing the results of that engagement.

Sincerely,⁶

Earthjustice
Environment America Research & Policy Center
Natural Resources Defense Council
Campaign for Lead Free Water
A Community Voice - Louisiana
Advocates for Clean & Clear Waterways
Alabama Rivers Alliance
Alliance for the Great Lakes
Alliance of Nurses for Healthy Environments
Altamaha Riverkeeper
Arbor Hill Environmental Justice
Arizona PIRG
Black Autonomy Network Community Org
Black Millennials 4 Flint
Black Warrior Riverkeeper
Blue Ridge Environmental Defense League
Cahaba River Society
Cahaba Riverkeeper
CAIR New Jersey
CALPIRG
Camden Coalition of Healthcare Providers
Center for Biological Diversity
Center for Neighborhood Technology (CNT)
Childhood Lead Action Project
Choctawhatchee Riverkeeper
Citizen Action of New York
Citizens for Clean Water Sycamore
Clean and Healthy New York
Clean Water Action/Clean Water Fund

⁵ See 42 U.S.C. § 300g-1(b)(10) (“A national primary drinking water regulation promulgated under this section . . . shall take effect on the date that is 3 years after the date on which the regulation is promulgated *unless the Administrator determines that an earlier date is practicable.*” (emphasis added)).

⁶ Please note that some of the undersigned organizations are petitioners, or lawyers representing petitioners, in litigation against EPA regarding the LCRR. More specifically, Earthjustice represents Newburgh Clean Water Project, the NAACP, Sierra Club, and United Parents Against Lead, and NRDC counsel represent NRDC. See *Newburgh Clean Water Project v. EPA*, Nos. 21- 1019, 21-1020 (D.C. Cir.). We are copying EPA’s counsel for that litigation on this letter.

Clean Water for North Carolina
Community Action Works
Concerned Citizens of Northampton County/Clean Water for North Carolina
Conservation Voters of PA
CoPIRG
CUMAC
Defend Our Health
East CHICAGO Calumet Coalition Community Action Group
East Chicago Calumet Coalition Community Advisory Group (C.A.G.) of USS Lead Superfund
Site in East Chicago, IN.
Environment California
Environment Colorado
Environment Connecticut
Environment Florida
Environment Georgia
Environment Maine
Environment Massachusetts
Environment Missouri
Environment New Jersey
Environment North Carolina
Environment Oregon
Environment Texas
Environment Virginia
Environment Washington
Environmental Stewardship
Environmental Transformation Movement of Flint
Environmental Working Group
Flint Rising
Food & Water Watch
For Love of Water (FLOW)
Freshwater Future
Friendship Missionary Baptist Church
Great Neck Breast Cancer Coalition
Green & Healthy Homes Initiative, Inc.
GreenLatinos
Homes for All Newark
Illinois Council of Trout Unlimited
Illinois Environmental Council
Illinois PIRG
Immigrants & Minorities Unify Services Association
Isles, Inc.
Lake Erie Waterkeeper
Latino Action Network Foundation
League of Conservation Voters
Little Village Environmental Justice Organization
Local Environmental Action Demanded (LEAD) Agency, Inc.

Louisiana Environmental Action Network
Maryland PIRG
MASSPIRG
Massachusetts Rivers Alliance
Merrimack Citizens for Clean Water
Metropolitan Planning Council
Michigan Environmental Council
Michigan League of Conservation Voters
Michigan Welfare Rights Organization
Midwest Environmental Advocates
Milwaukee Riverkeeper
N-E-W Cycles Laboratory, University of Michigan
NAACP
NC League of Conservation Voters
NCPIRG
New Jersey Citizen Action
New Beginnings UMC
New Jersey Future
New Jersey League of Conservation Voters
New Jersey Policy Perspective
New Jersey Work Environment Council
New York League of Conservation Voters
Newark Water Coalition
Newburgh Clean Water Project
NJ Conservation Foundation
NJPIRG
NMPIRG
Northern Manhattan Improvement Corp. Legal Services
Nourishing Our Mind
NYSAAP, A Coalition of Chapters 1, 2 & 3
Ohio Environmental Council
OSPIRG
Pacific Environment
PennEnvironment
PennPIRG
Pennsylvania Council of Churches
People's Water Board Coalition
Portland Advocates for Lead-free Drinking Water
Protect Our Aquifer
Raritan Riverkeeper
RE Sources
River Guardian Foundation
River Network
Riverkeeper
Rural Coalition
Shelby County Lead Prevention & Sustainability Commission

Sierra Club
Southeast Environmental Task Force
St. Joseph's Carpenter Society
Sunrise Movement PPB
Sunrise Stockton University
Tennessee Riverkeeper
TexPIRG
The Alliance for the Great Lakes
The Center for Environmental Transformation
The Passaic River Coalition
The Water Collaborative of Greater New Orleans
Think Group
U'Genius Tech
U.S. PIRG
United Parents Against Lead & Other Environmental Hazards (UPAL)
Ward 6 Public Schools Parent Organization
WashPIRG
Water You Fighting For?
Waterkeeper Alliance
Waterkeepers Chesapeake
West Virginia Rivers Coalition
Wisconsin Conservation Voters
Wisconsin Environment
Women for a Healthy Environment
Women's Voices for the Earth
Zero Waste Washington

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