

February 11, 2020

Mr. Andrew Wheeler  
Administrator of the Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Re: National Primary Drinking Water Regulations: Lead and Copper Rule Revisions RIN 2040-AF15

On behalf of the undersigned organizations, I write to submit comments in response to the Environmental Protection Agency's (EPA) revisions to the Lead and Copper Rule (LCR). In general, we appreciate the EPA's efforts to update the rule that protects the nation's supply of drinking water and support the inclusion of new provisions that would require Community Water Systems (CWS) to test for lead in drinking water at public schools and childcare facilities. However, we are also concerned that the revised rule does not go far enough to ensure the safety of our students' drinking water, and are worried that the regulation fails to outline effective lead testing procedures for CWS that serve public schools and childcare facilities. Furthermore, we believe these shortcomings could create confusion for school leaders who must interpret test results and, inform, and remediate lead that is found in their districts.

In recent years, crises such as Flint Michigan have reminded the public of the danger that lead toxicity poses to drinking water, as well as spurred national activism around this issue. Unfortunately, it is often overlooked that childhood lead exposure has remained a critical health issue for more than 44-years, and affected tens of millions of U.S. children.<sup>1</sup> Children can be exposed to lead in their homes from deteriorating lead paint and the contaminated dust and soil it generates, to lead in water from lead water pipes or plumbing.<sup>2</sup> However, research is clear that once a child's health or cognition has been impaired by lead, the effects can be long-lasting and even permanent. Although schools can mitigate these effects through special-education and tertiary prevention approaches — which are strategies that restore individuals to an optimal level of functioning after the damage is done — primary prevention strategies that eliminate lead sources before children are exposed to them remain the pre-eminent and only effective public health solution to childhood lead poisoning.

Considering this, it is time that the EPA acknowledges that we are past the point of addressing this problem through band-aid solutions in the form of new drinking water testing provisions, and instead, recognizes that our children are not safe without the complete removal of all lead

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<sup>1</sup> Educational Services for Children Affected by Lead Expert Panel. Educational interventions for children affected by lead (Pg 1). Atlanta: U.S. Department of Health and Human Services; 2015.

<sup>2</sup> Ibid

service lines where kids live, learn, and play. If done correctly, this action will (1) protect our children from the danger of lead, (2) reduce special education costs associated with addressing the effects of lead on childhood development, and (3) improve national student achievement.

With regards to mandating that CWS test for lead in schools at least once every five years, this is a small, long overdue step in the right direction. However, we are concerned about the lack of federal funding that is available to implement these new testing provisions for LEAs that act as their own CWS as well as the lack of funding for districts that must improve their water quality.

According to EPA, approximately 7,000 schools control their water supply (such as a well) and are regulated under the LCR. For these entities, the new provisions of the LCR could create financial hardships for LEAs with limited resources. In addition, there is no federal funding available to schools for lead remediation. We believe that EPA as well as Congress can and must do more to fund efforts to improve water quality in schools. While the Lead Testing in School and Child Care Drinking Water Grant Program does provide financial resources for testing, there is no standalone funding stream for districts to remediate lead in water when it is found. At a minimum, we advise the EPA to include a list of federal and state funding resources for LEAs that independently conduct their lead testing and for districts that are found to have lead in drinking water.

Next, we take issue with how this proposal could result in the dissemination of erroneous information about the safety of a school's drinking water to district leaders, school personnel, students and parents; and the standard of lead toxicity required for action. In 1991 when EPA established the 15ppb action level, the agency acknowledged that there was no safe level of lead exposure.<sup>3</sup> Since then, we've learned much more about the health risks from lead exposure. For example, the EPA and Center for Disease Control (CDC) have stated the health effects of lead are even more detrimental for children – with research indicating that even low lead blood levels in children highly correlate to physical and neurological disabilities.<sup>4</sup> Therefore, while it is understandable that the EPA initially instituted the 15ppb action level in 1991 under the rationale that it was a realistic metric of compliance, given what research shows are the health effects of lead on children, it is incomprehensible that the EPA has not adopted a more stringent action threshold in the 28-years since its implementation.

By promulgating an ineffective action level for lead testing in public schools and childcare facilities, the EPA is essentially sending the message to school leaders that if their water

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<sup>3</sup> Basic Information for Lead in Drinking Water, U.S. EPA available at <https://www.epa.gov/ground-water-and-drinkingwater/basic-information-about-lead-drinking-water>

<sup>4</sup> U.S. Environmental Protection Agency, "Basic Information about Lead in Drinking Water," EPA.gov, updated December 2016, accessible at <https://www.epa.gov/ground-water-anddrinking-water/basic-information-about-lead-drinking-water>.

contains less lead than the 15ppb threshold that their drinking water is safe, which as stated above is untrue. Thus, the regulation as its currently written sets superintendents who are looking to be transparent with lead testing results up for failure because a passing grade on a federal lead test does not indicate that a LEAs' supply of drinking water is safe for consumption. For instance, if a superintendent receives a notice that they are compliant by a CWS the drinking water at the school could still contain 10 ppb of lead. A superintendent's job is to foster educational excellence and student achievement, which requires that students are mentally and physically healthy enough to learn. However, this becomes nearly impossible to achieve when federal rules are unclear and use non-evidence-based indicators to assess health and well-being. We urge the EPA to adopt a 1 ppb standard for lead in schools' drinking water, consistent with recommendations of the American Academy of Pediatrics and make it clear that anything above 1 ppb in schools, childcare facilities and any other place children live and drink water (including homes) can cause serious health issues for children.

Similarly to the EPA's action level, there are also flaws with the proposed regulation's lead testing procedures for CWS. Under the proposed regulation, CWS would be required to collect samples from five drinking water outlets at each school and two drinking water outlets at each childcare facility served by the CWS. While this is a step in the right direction, it is not enough since evidence suggests that if a district's faucets, fountains or plumbing were installed before 2014, the water is likely at risk of containing lead.<sup>5</sup> Knowing that two faucets contain lead tells a school leader that two faucets contain lead—nothing more. The tests that are conducted by CWS must be comprehensive. As such, we recommend that all taps used for cooking or drinking at school should be tested for lead at least once per year, with both first and second draw samples taken.

Furthermore, one test per tap is not enough to be sure that lead is not present in drinking water since the corrosion and breaking off of lead particles from pipes is highly variable. According to Environment America's 2019 report, "Get the Lead Out," multiple water tests from one tap can result in highly variable lead levels between samples. For example, in a lead sampling study conducted in 2013, researchers concluded that a single sample from a water tap could not accurately reflect the levels of lead flowing through the fixture.<sup>6</sup> Consequently, this means that depending on multiple variables (e.g., weather, time of day, or location of an outlet), LEAs may receive inaccurate results from federal lead testing. Therefore, if the goal of this proposed regulation is to provide school system leaders with accurate information with

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<sup>5</sup> Reduction of Lead in Drinking Water Act, National Service for Environmental Publications U.S. EPA, December 19 2013, <https://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=P100M5DB.txt>

<sup>6</sup> Miguel A. Del Toral, Andrea Porter and Michael R. Schock, "Detection and Evaluation of Elevated Lead Release from Service Lines: A Field Study," *Environmental Science and Technology* Vol 47, No 16, July 2013, page 9304, accessible at <http://pubs.acs.org/doi/abs/10.1021/es4003636>.

regards to the prevalence of lead in their schools, then it is imperative that CWS test all water drinking outlets in a district multiple times a year.

When this regulation is finalized, we recommend that the EPA have a plan in place that involves the U.S. Department of Education to communicate and disseminate the *3T's for Reducing Lead in Drinking Water in Schools* guidance and encourage CWS to distribute the guidance to districts when they send them the results of their testing. In addition, the 3Ts guidance should be updated to provide information to school districts concerning schedules for testing school drinking water for lead, actions to take if lead is found in the drinking water, and costs of testing and remediation.

Overall, we recognize that the EPA has taken steps toward improving lead testing in schools. That said, the proposed regulation still falls short of creating meaningful change. However, by removing all lead service lines in schools and childcare facilities, making funding materials more available to districts, amending the action level to 1ppb, improving testing procedures for CWS, and increasing LEAs' access to lead testing guidance, this proposal has the potential to ensure the safety of drinking water at public schools and childcare facilities and improve national student achievement.

Sincerely,

AASA, The School Superintendents Association  
AESA, Association of Educational Service Agencies  
American Federation of Teachers  
Council of Administrators of Special Education  
Education Reform Now Advocacy  
Learning Disabilities Association of America  
National Association of Pediatric Nurse Practitioners  
National Association of Secondary School Principals  
National Association of State Directors of Special Education  
National Center for Learning Disabilities  
National Education Association  
National PTA  
National Rural Education Association  
National Rural Education Association Committee  
Organizations Concerned About Rural Education