



CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

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### **BlueGreen Alliance's Comments on the Proposed Lead and Copper Rule Improvements**

The BlueGreen Alliance unites labor unions and environmental organizations to solve today's environmental challenges in ways that create and maintain quality jobs and build a clean, thriving, and equitable economy. Our partnership is firm in its belief that we don't have to choose between a good job and a clean environment—we can and must have both. We are excited to offer our comments on the proposed Lead and Copper Rule Improvements (LCRI) and specifically on proactive and equitable lead service line replacement (LSLR). LSLR represents a significant and scalable opportunity to support and create good, union jobs, improve the health of communities, and address environmental injustice by prioritizing those communities that have been disproportionately impacted by toxic legacy substances like lead.

The proposed rule makes several key improvements in how lead in drinking water is regulated. However, our recommendations include revisions to key provisions, as well as new provisions to ensure the final rule results in long-lasting and equitable public health benefits and supports the creation of good jobs.

As stated in the Biden-Harris Lead Pipe and Paint Action Plan, replacing lead pipes "*will put American plumbers and pipefitters to work replacing all of America's lead pipes and service lines and making other critical upgrades. All families, children, and Americans should be able to turn on the faucet at home or school and drink clean water—including in low-income communities and communities of color that have been disproportionately affected by dangerous lead pipes...*"<sup>i</sup> We couldn't agree more. Below are recommendations to ensure the final rule delivers exactly that.

- **Remove exceptions to the 10-year lead pipe removal mandate.** Lead in water is an urgent public health matter and replacing all lead service lines (LSL) within ten years is not only feasible, but necessary. As written, the proposed rule only requires *most* water systems to replace

lead lines within ten years. This leaves behind large municipalities—such as New York City and Cleveland—with some of the highest densities of LSLs and allows a much slower replacement timeline that will continue to impact generations of children. It is a fundamental injustice that communities with the most lead service lines would be subject to lead exposure for decades more than the rest of the country. For example, in Chicago the proposed rule would allow 40+ years to fully replace LSLs with the current exception in the proposed rule. A second provision would allow close to 2,100 water systems across the country that have a relatively high percentage of lead pipes to take 20+ years to replace lead pipes.<sup>ii</sup> It is unnecessary to build such exceptions into the proposal itself and the BlueGreen Alliance urges the U.S. Environmental Protection Agency (EPA) to require all LSLs to be replaced within ten years without exception.

- **Ban cost sharing and mandate water systems fully pay for removal of lead service lines.** While the proposed rule requires full LSLR (both public and private side), it does not require the utility to pay for the private side. Therefore, any property owner who will not or cannot afford to pay for their side could end up with a partial lead service line replacement even though only full LSLR will count towards the mandate. At best, partial replacements are a waste of money because they do not reduce lead in water; at worst, they substantially increase lead levels for months if not years.<sup>iii</sup> Not only are partial replacements a predictable consequence contradictory to the intent of requiring full LSLR, but it is also an environmental justice (EJ) issue. Both in theory and in practice, lower-income communities suffer because property owners cannot afford to replace the pipes, or in the case of renters, landlords refuse to pay for replacement. This is what happened in Washington D.C. when the utility was not required to pay for the full replacement and lower-income neighborhoods and individuals were left with lead in their pipes. A study conducted by the Environmental Defense Fund (EDF) found lower rates of full LSLR in wards and census tracts with lower median household incomes and a higher percentage of residents self-identified as African American/Black.<sup>iv</sup> We recommend EPA follow the example of Michigan’s Lead and Copper Rule and require full LSLR at no cost to the property owner to ensure maximum uptake.<sup>v</sup>

- **Lower the action level to 5 parts per billion (ppb).** We are happy to see that trigger levels were eliminated in the proposed rule and that the action-based level was lowered from 15 to 10 ppb. However, as stated in the Lead Pipe and Paint Action Plan the EPA, Centers for Disease Control and Prevention (CDC), and countless experts “agree that there is no known safe level of lead in a child’s blood.”<sup>vi</sup> Therefore, we continue to advocate lowering the action-based level to a maximum of 5 ppb. EPA’s sister agency, the Federal and Drug Administration, already sets 5 ppb as the allowable limit for lead in bottled water and EPA—at minimum—should set the action level to do the same for tap water. Ideally, the EPA should move to a Maximum Contaminant Level (MCL) which sets a limit on the amount of lead in drinking water. Action levels are appropriate when it is not technically or economically feasible to determine the level of a contaminant in the water, but it is feasible to determine the amount of lead in water. Both the LCRI and past EPA regulations direct utilities to determine the level of lead in the water. In the LCRI the action level rests on water sampling for lead, and previously EPA did set an MCL for lead in 1975. Given the feasibility of measuring lead in water and the similarities between dynamics of lead in water and other substances for which EPA has established MCLs, the agency should set a stringent limit. Moving away from an action level will offer clarity and greater protection from this harmful substance.
- **Incentivize prevention measures for schools and daycares.** The proposed rule only requires water systems to offer very limited testing for most schools and childcare centers: a single lead test at just five locations in each school and just two locations in a childcare center—once in the first five years—with no mandatory retesting or required notice to parents and staff. Even federally regulated schools and childcare centers would only have to remediate taps where tests show lead concentrations at 10 ppb or more. This is beyond insufficient to *detect* lead let alone *prevent* lead exposure. In cases where full abatement of lead pipes will take many years—such as in schools and childcare centers—we recommend that the new rule facilitate plans to ensure that appropriate water filters are installed in taps used for cooking and drinking water. These devices are relatively quick and

inexpensive to install and offer vital interim assistance in preventing lead contamination.

In addition to the above proposed revisions to the proposed LCRI, we continue to advocate for the following elements that were entirely absent from the proposed rule:

- **Discourage or disqualify use of polyvinyl chloride (PVC) pipes to replace lead pipes.** We cannot replace one harmful pipe material with another. Vinyl chloride is a known human carcinogen and PCV pipes are considered the most hazardous pipe materials by the Healthy Building Network (HBN). HBN research shows that, of available potable water pipe materials, PVC contains “the highest levels of chemicals of concern.” In addition, they are typically installed using hazardous solvents.<sup>vii</sup> Furthermore, EPA’s Office of Chemical Safety and Pollution Prevention recently included vinyl chloride as a high priority substance for risk evaluation under the Toxic Substances Control Act.<sup>viii</sup>
- **Provide guidance on choosing the safest, most durable pipe materials.** Other plastic piping materials can also leach estrogenic substances and other chemicals of concern and are more permeable to gasoline and other solvents.<sup>ix</sup> In addition to the problems with plastic water pipes, the information on lead in solders and fluxes and the problem of low PH water causing copper leaching should be part of an EPA education package on replacing lead service lines.<sup>x</sup> The EPA should provide guidance on choosing the safest and most durable option to prevent future health risks.
- **Recycle old lead pipes at U.S. facilities.** Currently, there are no provisions in the proposed rule regarding disposal of lead pipes. It is important to ensure that addressing environmental injustices in the U.S. does not create environmental injustice elsewhere in the world. Most of the lead scrap from the U.S.—including LSLs—is exported to countries with weaker environmental standards for recycling. In 2021, 50% of lead scrap exports went to India and Mexico for recycling. The other half went to more than 40 other countries including China, Ecuador, Guatemala, Bangladesh, and Indonesia. These countries have much weaker pollution controls for air emissions, occupational

exposures, and few resources for enforcement. The removal of old lead pipes in the U.S. should not contribute to environmental injustices in other countries that have weaker environmental standards. Because U.S. standards are more stringent, it is important that EPA require all LSLs to be recycled at a U.S. facility.<sup>xi</sup>

We urge EPA to finalize a strong LCRI that contributes to the Biden-Harris vision of a lead-free future by replacing ALL lead service lines in the U.S. in the next decade and look forward to working alongside the EPA to make that vision a reality.

## ENDNOTES

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- <sup>i</sup> The White House, FACT SHEET: The Biden-Harris Lead Pipe and Paint Action Plan, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/16/fact-sheet-the-biden-harris-lead-pipe-and-paint-action-plan/>
- <sup>ii</sup> Natural Resources Defense Council (NRDC), What's Great and What Needs Fixing in EPA's Proposed Lead Rule, 2023. <https://www.nrdc.org/bio/erik-d-olson/whats-great-and-what-needs-fixing-epas-proposed-lead-rule>
- <sup>iii</sup> Natural Resources Defense Council, The Hidden Costs and Dangers of Partial Lead Pipe Replacements, 2018. <https://www.nrdc.org/bio/cyndi-roper/hidden-costs-dangers-partial-lead-pipe-replacements#:~:text=According%20to%20the%20Centers%20for,levels%20for%20some%20period%20of>
- <sup>iv</sup> Environmental Defense Fund, Lead Pipes and Environmental Justice, 2020. [https://www.edf.org/sites/default/files/u4296/LeadPipe\\_EnvironJustice\\_AU%20and%20EDF%20Report.pdf](https://www.edf.org/sites/default/files/u4296/LeadPipe_EnvironJustice_AU%20and%20EDF%20Report.pdf)
- <sup>v</sup> State of Michigan, Lead and Copper Rule Revision Summary, 2018. <https://www.michigan.gov/egle/-/media/Project/Websites/egle/Documents/Programs/DWEHD/Community-Water-Supply/Lead-Copper/lead-copper-rule-summary.pdf>
- <sup>vi</sup> The White House, FACT SHEET: The Biden-Harris Lead Pipe and Paint Action Plan, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/16/fact-sheet-the-biden-harris-lead-pipe-and-paint-action-plan/>
- <sup>vii</sup> Healthy Building Network, What to Know When Selecting Water Pipes, 2021. <https://healthybuilding.net/blog/585-what-to-know-when-selecting-water-pipes>
- <sup>viii</sup> Federal Register, Initiation of Prioritization Under the Toxic Substances Control Act (TSCA); Request for Comment, December 2023. <https://www.federalregister.gov/documents/2023/12/18/2023-27641/initiation-of-prioritization-under-the-toxic-substances-control-act-tsca-request-for-comment>
- <sup>ix</sup> Environmental Science and Pollution Research, Do estrogenic compounds in drinking water migrating from plastic pipe distribution system pose adverse effects to human? An analysis of scientific literature, 2017. <https://doi.org/10.1007/s11356-016-8032-z>
- <sup>x</sup> Healthy Building Network, Potable Water Piping Product Guidance. <https://informed.healthybuilding.net/product-guidance/13-water-pipes>
- <sup>xi</sup> Basel Action Network, Lead Pipes Removed in the U.S. May Result in Poisoning Abroad, 2022. <https://www.ban.org/news/2022/4/20/lead-pipes-removed-in-the-us-may-result-in-poisoning-abroad>