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U.S. Environmental Protection Agency
EPA Docket Center
Office of Water Docket
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

SUBMITTED ELECTRONICALLY

Re: Safe Drinking Water Act Lead and Copper Rule Revisions – Review
[EPA–HQ–OW–2021-0255]

Clean Water Action and Clean Water Fund respectfully submit these comments regarding the Environmental Protection Agency (EPA) Review of National Primary Drinking Water Regulations: Lead and Copper Rule Revisions (LCRR). See also previous comments submitted in February 2020, May 2020 (Science Advisory Board Review), and April 2021 (extension of effective and implementation dates.) We also offered comments verbally during three virtual Community Roundtables (Newark NJ, Pittsburgh PA, and Malden MA) and verbally and through the “chat” function during the virtual National Stakeholder Roundtable.

We agree with EPA that lead exposure, including through drinking water, is a public health issue of paramount importance. While many aspects of the current LCRR reflect the importance of reducing lead at the tap, the LCRR provisions fall short in meeting the moment to address this significant opportunity to protect public health. This is particularly the case when it comes to lead services lines, which when present are the largest source of lead at the tap. **We urge EPA to revisit the decision NOT to require full replacement of lead service lines.** Fully replacing all lead service lines is an ambitious undertaking. Nevertheless, momentum toward this goal is greater than it has ever been as indicated by water system activities, state policy developments, Congressional interest, and EPA’s own proposal. Our February 2020 comments on the Proposed

LCR revisions address this in more detail.¹ If anything, there is more reason now than even at the time we submitted our February 2020 comments for EPA to seize the opportunity to address this largest source of lead in drinking water. As we noted in our comments during the EPA Science Advisory Board (SAB) review of the LCRR in May 2020², analysis of low-level lead exposure and cardiovascular disease that was not included in EPA consideration of the LCRR would add over \$200 billion in health benefits from lead service line replacement. In numerous ways, the LCRR suggests that fully replacing lead service lines is an appropriate goal and is achievable. Yet EPA stopped short of requiring all lead service lines to be fully replaced.

We draw attention to other lead service line replacement and inventory issues addressed in previous comments:

EPA should require water systems to cover the cost of replacement regardless of ownership or whether the line is located under private or public property. The environmental justice review commissioned by EPA as part of the rulemaking process found that LCRR provisions that presume customers must pay for things, including covering part of the cost of lead service line replacement, will leave low-income people with disproportionately higher health risks.³ The potential for the benefits of full lead service line replacement to be inequitably distributed is also not consistent with the intent of the 1994 Executive Order on Environmental Justice⁴ if customers are required to cover these costs because of the inevitable uneven distribution of the long-term benefit of full LSL replacement.

We are calling on EPA to requirement full replacement. If the current LCR framework is retained, EPA should not reduce the percentage of lead service lines that must be replaced annually by regulated water systems that exceed the Action Level. The LCRR itself

¹ Clean Water Action/Clean Water Fund comments on Proposed Revisions to the LCR, February 2020. <https://www.cleanwateraction.org/publications/clean-water-action-comments-epas-proposed-revisions-safe-drinking-water-acts-lead-and>

² Clean Water Action/Clean Water Fund comments on the EPA Science Advisory Board review of the proposed LCRR, May 2020. <https://www.cleanwateraction.org/publications/clean-water-action-clean-water-fund-comments-lead-and-copper-rule-sab>

³ Abt Associates, *Environmental Justice Analysis for the Proposed Lead and Copper Rule Revisions*, October 22, 2019, Docket No. EPA-HQ-OW-2017-0300-0008

⁴ Executive Order 12898 (59 FR 7629, February 16, 1994), <https://www.epa.gov/laws-regulations/summary-executive-order-12898-federal-actions-address-environmental-justice>

includes provisions that support retaining or increasing the current 7% rate of replacement, not reducing it to 3% as is currently the case in the LCRR:

1) EPA's proposal would require all systems to conduct inventories of lead service lines and to continually improve and update them. Having reliable inventories of lead service lines already in place will enable systems to conduct replacement programs more efficiently than has generally been the case to date for water systems that experience a Lead Action Level exceedance.

2) Upon submission of the first inventories 3 years after the LCRR goes into effect, water systems are also required to submit a lead service line replacement plan. These comprehensive plans are intended to be followed should the system ever be required to commence replacement. Currently, systems that exceed the Lead Action Level often enter into a chaotic and inefficient process. Having comprehensive plans in place means that water systems required to replace lead service lines will be more prepared for all aspects of a replacement program and thus able to do replacements more efficiently and at a faster rate.

EPA should emphasize that inventories must include existing "customer-owned" partial lead service lines usually located under private property and provide guidance on meeting this requirement. EPA also requests comment on whether additional Guidance is needed related to the content or format of inventories. We agree that the inventory must include all lead service lines, including existing partials that are located under private property (or on the "customer side.") EPA should emphasize this requirement and provide Guidance for systems on how to work with existing records to determine the location of existing partials on the "customer-owned" side since water systems have in general not thought of these service lines as "theirs." It is imperative that water systems include existing partials on the "customer-owned" side in inventories, and it is equally imperative to recognize that many water systems may not have prioritized recording these as part of their distribution systems whether they exist due to partial replacements conducted in the course of routine operations or whether they result from historic replacement programs conducted only on the "system-side." We are concerned that lack of clarity on this will result in many existing partials on the "customer-owned" side being omitted from inventories and not included in full replacement programs.

A prohibition on partial lead service line replacements except in emergencies and special circumstances, with a goal of virtually eliminating this practice, would be consistent with the public health protection goals of the LCRR. EPA's proposal reflects the finding that

partial replacements do not reliably reduce lead levels at the tap, and may increase them. We support EPA's proposal that partial replacements will no longer count toward the "goal based" or "mandatory" percentage targets for replacement. We are calling on EPA to require full lead service line replacement at all regulated water systems, and partial replacements should not count toward replacement goals in that scenario. Partial replacement should absolutely not count toward lead service line replacement percentage targets, since the water would run through the portion of the line that is still lead. EPA should retain this provision in the LCRR.

In addition, EPA proposes that if a water system replaces only part of a lead service line during routine maintenance activities or during emergency repairs, the system must take a number of "risk mitigation" steps because lead levels are likely to be elevated. We support requiring these risk mitigation steps, but **EPA should do more to limit this practice**. EPA should prohibit partial lead service line replacements during routine maintenance, with provisions for temporary waivers for special circumstances where customers refuse to work with the water system or to grant access to the property.

We also reiterate our comments from February 2020 around corrosion control treatment. **EPA should take an integrated approach to its final LCR revisions by considering the water quality impacts of preferring orthophosphate for corrosion control and work with other EPA programs to ensure a holistic approach to nutrient pollution from all sources.** We do not suggest taking lightly the need to reduce exposure to lead at the tap, regardless of its source. We do ask EPA not to dismiss the need to address the unintended consequences of contributing more nutrient pollution to water bodies that in many cases are already impaired or experiencing HABs. We discuss our concerns at length in February 2020 comments on the proposed LCRR.⁵

Thank you for the opportunity to participate in the review of the LCRR.

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⁵ Clean Water Action/Clean Water Fund comments on Proposed Revisions to the LCR, February 2020.
<https://www.cleanwateraction.org/publications/clean-water-action-comments-epas-proposed-revisions-safe-drinking-water-acts-lead-and>