

# United States Senate

March 28, 2024

The Honorable Michael S. Regan  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W., Mail Code 1101A  
Washington, D.C. 20460

Dear Administrator Regan,

We write to encourage the Environmental Protection Agency (EPA) to ensure small and rural communities are considered while finalizing the proposed Lead and Copper Rule Improvements (LCRI).

Since 1991, when the Lead and Copper Rule (LCR) was first issued, the lead action level for drinking water has been 15 µg/L. Since then, the number of large drinking water systems exceeding the LCR action level has decreased by over 90 percent.<sup>1</sup> In 2019, Safe Drinking Water Information System data showed 97% of water systems had not reported an action level of lead in the prior three years.<sup>2</sup> While we celebrate this progress and continue supporting ways to improve drinking water quality, such efforts cannot be at the expense of small water systems serving rural communities.

As you know, on August 4, 2022, the EPA published a Guidance for Developing and Maintaining a Service Line Inventory requiring water systems to prepare and maintain an inventory of service line materials.<sup>3</sup> The inventories must be submitted to their state agency by October 16, 2024, for reporting to the EPA. Subsequently, on November 30, 2023, the EPA released proposed revisions to the LCRI which will, in part, require 100% lead line removal within the next 10 years. This tight time frame to replace all lead pipes in the country will place a heavy financial burden on our local communities.

Further, in many areas, a city's water system is owned by the private rate payor, not the city government or the utility. The EPA does not specify in their LCRI how it would apply in cases of private system ownership, or if individual property owners will have to foot the bill to update the pipelines on their property. Replacing pipes is an arduous process many homeowners may prefer to not undergo, particularly at the demand and time frame of the federal government. The proposed rule does not adequately account for the potential refusal of some property owners to willingly change their pipes, making the 100% replacement requirement unfeasible.

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<sup>1</sup> "Understanding the Lead and Copper Rule - US EPA." Environmental Protection Agency, September 2020. [https://www.epa.gov/sites/default/files/2019-10/documents/lcr101\\_factsheet\\_10.9.19.final\\_.2.pdf](https://www.epa.gov/sites/default/files/2019-10/documents/lcr101_factsheet_10.9.19.final_.2.pdf).

<sup>2</sup> *Id.*

<sup>3</sup> "Revised Lead and Copper Rule," Environmental Protection Agency, August 2022, <https://www.epa.gov/ground-water-and-drinking-water/revised-lead-and-copper-rule>.

The EPA itself has estimated the total cost for lead and copper pipe removal will be about \$45 billion, and industry leaders have estimated the cost to be closer to \$60 billion.<sup>4</sup> As you know, the bipartisan infrastructure law invested \$15 billion into replacing lead pipes.<sup>5</sup> Normally this would be a sizable pot of money, yet it makes just a dent in what is needed to complete this proposed mandate. Notably, the EPA is expected to be sitting on nearly \$47 billion in unobligated, unexpended funds at the end of Fiscal Year 2024.<sup>6</sup> Those billions of dollars could be spent fulfilling your agency's proposal to replace lead and copper pipes. Taxpayers should not have to foot the bill for an unfunded mandate while your agency keeps \$47 billion in congressionally-appropriated funds stashed away.

The projected cost to maintain and improve public water systems based on the EPA's burdensome mandates is an unworkable and impractical ask of small, rural communities to accomplish within 10 years. While we appreciate the importance of removing lead pipes, the EPA's focus must be on practical solutions to increase water safety without bankrupting rural America.

As the EPA develops the proposed rule, we ask you to respond to the following questions:

- In situations where the utility does not own the service lines, which is common in rural communities, will property owners be responsible for complying with this proposed rule?
- Has the EPA performed a cost analysis for small and rural communities to update wastewater systems and remain compliant?
- Did the EPA collaborate with local officials operating small and medium-sized water systems before promulgating this proposed rule?
- Does the EPA intend to require homeowners to change out their pipes to comply with this proposed rule?
- How did the EPA come to the decision to lower the lead action level from 15 µg/L to 10 µg/L?
- Has the EPA considered utilizing its remaining unobligated funds to help cover the costs of pipe replacement?
  - If yes, please provide the EPA's plan to get these funds into the hands of local communities and private owners of the water systems.
  - If not, how will the EPA be utilizing these unobligated funds?
- Please provide all materials the EPA relied on in developing the proposed rule.

We can all agree that having access to safe drinking water is fundamental for a healthy and thriving community. Across the country, hardworking folks show up every day to provide their

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<sup>4</sup> Anna Phillips, *To protect kids, EPA wants total removal of lead pipes for the first time*, THE WASHINGTON POST (Nov. 30, 2023), <https://www.washingtonpost.com/climate-environment/2023/11/30/lead-pipe-poisoning-biden-epa/>.


<sup>5</sup> *Id.*

<sup>6</sup> OFFICE OF MGMT. & BUDGET, *Balances of Budget Auth., Budget of the U.S. Gov't Fiscal Year 2024*, [https://www.whitehouse.gov/wp-content/uploads/2023/03/balances\\_fy2024.pdf](https://www.whitehouse.gov/wp-content/uploads/2023/03/balances_fy2024.pdf).

communities with safe drinking water. A heavy-handed mandate from bureaucrats in D.C. does more harm the good.

We ask that you transmit a response, outlining answers to the above questions, no later than April 29, 2024. Thank you for your prompt attention to this matter.

Sincerely,



Joni K. Ernst  
United States Senator



Mike Crapo  
United States Senator



Pete Ricketts  
United States Senator



James E. Risch  
United States Senator



Roger F. Wicker  
United States Senator



John Hoeven  
United States Senator



Kevin Cramer  
United States Senator



Cynthia M. Lummis  
United States Senator



John Barrasso  
United States Senator