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DUTCHTOWN SOUTH
COMMUNITY CORPORATION

April 12, 2021

Michael S. Regan
Administrator of the Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Re: Proposed Delay of National Primary Drinking Water Regulations: Lead and Copper Rule Revisions (Docket ID No. EPA-HQ-OW-2017-0300)

Submitted via Federal eRulemaking Portal
https://www.regulations.gov
Re: Comment to Proposed Rulemaking
Docket ID No. EPA-HQ-OW-2017-0300

Dear Administrator Michael S. Regan:

On behalf of Dutchtown South Community Corporation ("Commenters or DSCC"), Great Rivers Environmental Law Center respectfully submits to the Environmental Protection Agency ("EPA or Agency") the following comment on the Agency's proposed rule to delay the effective and compliance dates of the National Primary Drinking Water Regulations: Lead and Copper Rule

Revisions ("LCRR"). Commenters strongly support EPA's proposed delay of the LCRR dates to allow the Agency time to review some of the concerns presented in this comment and hold public hearings to discuss these serious issues with affected communities like those served by DSCC.

Dutchtown South Community Corporation is advancing neighborhood vitality through community empowerment, housing stabilization, and real estate development. DSCC's constituents are adversely affected by elevated lead levels in St. Louis schools.

Commenters request the delay in the LCRR for the underscored reasons and concerns. Further review is necessary to make sure the LCRR has effective policies that will prevent children from being exposed to lead while attending school. Unfortunately, the Commenters have firsthand knowledge of why it is crucial that more oversight is given to lead testing in schools. This comment seeks to address the concerns we have with the LCRR and why it should be delayed for further review. By using a real-life example, we hope that the Agency agrees that the LCRR should be delayed for further review. We ask the Agency to review the following: (1) the mandatory testing program; (2) setting a health-based action level; and (3) remediation requirements.

A. St. Louis Public Schools

Commenter's constituents attend and work in St. Louis Public Schools ("District"). The District is St. Louis City's only public school district. Children who attend the District are predominantly Black and a large portion of the students qualify for the National Free and Reduced Lunch Program.

In 2016, the District voluntarily tested their water in response to the Flint, MI crisis. The results showed elevated levels of lead throughout the District with some fountains testing over 200 ppb on first draw samples. In response, the District implemented the following "Water Testing Action Plan" (Figure 1) and set an internal action level at 10 ppb. The Districted hired an outside environmental consultant who collected the samples and sent the samples to a lab for analysis. It is not clear which party, the District or the consultants, preformed the repairs. After three years of implementing the Water Testing Action Plan, the consultants preformed widespread testing throughout the District. According to public record, the results showed potable water fixtures still testing over 10 ppb with some fixtures testing over 50 ppb on first draw samples.

The District and other school districts would benefit from more federal oversight and guidance. The Commenters argue that under the LCRR these issues would remain because there is no enforceable action level or remediation requirements. As the Agency can see from the Water Testing Action Plan, the District went beyond just testing potable fixtures in the building by implementing a multiyear plan to reduce elevated lead levels; yet the issue is still present according to public records.[1] With further delay and review, the Agency has the opportunity to engage with community members to address these concerns. Dutchtown South Community

[1] According to public records produced by the St. Louis Public School District, tests performed between06/04/2020 to 06/16/2020 showed first draw samples testing over 10 ppb.

Corporation urges the Agency to delay the effective date of the LCRR for six months as proposed to review the rule and initiate a new rulemaking process.

WATER TESTING ACTION PLAN

Based on manufacture's recommendations and State guidelines for lead testing, the District will follow the outlined Action Plan to ensure clean and safe drinking water for students and staff.

1. **Daily Inspections: (Preformed by Custodians)**
    a. Clean and disinfect drinking fountain and sinks.
    b. Remove lime build-up as needed.
    c. Check drinking fountain and sinks for proper operation and leaks.
        i. Submit work order to ensure repairs are made.
    d. Remove any graffiti from drinking fountain (if applicable).
2. **Six Month Inspections ***Fountains with Filters Only*** (Performed by Plumbers).**
    a. Check drinking fountains for proper operation
        i. Repair/replace bubblers as needed.
        ii. Repair/replace damaged buttons, panels, and cover plates as needed.
        iii. Check drinking fountains for leaks.
        iv. Adjust bubbler water pressure as needed.
    b. Replace inline water filter.
3. **Annual Inspections ***All Fountains*** (Performed by Plumbers).**
    a. Check fountains and sinks for proper operation
        i. Repair/replace any non-operational bubbler or faucet as needed.
        ii. Repair/replace any damaged button, panel, or cover plate as needed.
        iii. Check drinking fountains and sinks for leaks.
        iv. Adjust bubbler water pressure as needed.
    b. Replace inline water filter (if applicable).
4. **Annual Inspections: (Performed by Facilities Manager)**
    a. Update Action Plan annually as needed.
5. **Annual Inspections: (Performed by HAZMAT Consultant)**
    a. Conduct lead testing of drinking fountains and sink that had previously failed the year before.
        i. Report all findings to the Deputy Superintendent of Operations
        ii. Make repairs as needed.
6. **Three Year Inspections: (Performed by HAZMAT Consultant)**
    a. Conduct lead testing of all District drinking fountains and sink faucets.
        i. Report all findings to the Deputy Superintendent of Operations
        ii. Make repairs as needed.

Figure 1.

B. Lead in Drinking Water Sampling Program

Dutchtown South Community Corporation asks the Agency to delay the effective date of the LCRR to review the mandatory water testing program. We agree that community water systems should test school fixtures but have concerns about the scope of the testing.

First, we are concerned that secondary schools are not required to have their water sampled, but only by request. Commenters ask for the LCRR to be delayed in order to review the reasoning behind allowing secondary schools to only have to request for their water to be sampled. This is concerning because a lot of schools might not request for their water to be tested for various reasons. The Agency itself estimates that only five percent of schools would request to have their water sampled each year.[2] Lead exposure, even at low exposure rates, could cause adverse health effects in children. Commenters request this part of the rule to be reviewed to protect more children from lead exposure.

Second, Commenters ask for the Rule to be delayed to review the number of fixtures that need to be tested. Under the LCRR, only 5 samples would be taken at each school. This is contrary to the Agency's own guidelines. The 2018 *3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities ("3T Guidelines")* states, "schools and childcare facilities should not use sample results from one outlet to characterize potential lead exposure from all other outlets in their facility. This approach could miss localized lead problems that would not be identified."[3]

After reviewing records for the District, it is of the utmost importance that the LCRR require all fixtures to be sampled. For example, some schools in the District had multiple samples testing below 1 ppb and had a few samples over 10 ppb. In theory, these elevated lead samples could be missed under the LCRR's current sampling mandate.

If it is not feasible to test all fixtures in schools, Commenters ask the Agency to review other options. An example being testing a fixed percentage of fixtures. This would require larger schools with a higher number of fixtures to test more fixtures. This approach is more effective because it would decrease the odds that localized problems would be missed.

Commenters ask the Agency to delay the LCRR to further review community water system school testing and educational requirements. The LCRR allows for elementary schools to decline to participate in the monitoring or education requirements contained in § 141.92. These requirements include having their water sampled and providing information about the health

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[2] Lead and Copper Rule Revision, 86 C.F.R pg. 4268

[3] EPA (Environmental Protection Agency, *3Ts For Reducing Lead In Drinking Water In Schools And Child Care Facilities: A Training, Testing And Taking Action Approach*. United States Environmental Protection Agency. Pg. 31 (2018).

risks associated with lead. Commenters ask the Agency to delay to review and clarify these requirements and the ability for schools to decline to participate.

C. **Action Level**

Commenters ask the Agency to delay the effective date of the LCRR and engage in a new rule making process to set an action level for water fixtures in elementary and secondary schools. School districts across the country would benefit if the LCRR had an action level specifically for school fixtures. There is no safe level of lead exposure in children, with even low levels of exposure causing long term adverse health effects.[4]

Because of the lack of federal guidance in regulations or guidance documents, states and school districts have adopted staggeringly high action levels such as 20 ppb. In fact, the District selected 10 ppb as its action level because it wanted to be more conservative than the 20-ppb action level cited by the Agency in the 3T's for Reducing Lead in Drinking Water in Schools: Revised Technical Guidance, October 2006.

We support the delay in implementing the LCRR to set a school fixture action level. We ask that the Agency engage with community members and other key stakeholder such as the American Academy of Pediatrics. The American Academy of Pediatrics recommends that "state and local governments should take steps to ensure that water fountains in schools do not exceed water lead concentrations of 1 ppb."[5] While we understand that this level might not be attainable, the Agency should delay the LCRR to consult with medical professionals to determine a health-based action level.

D. **Remediation**

Commenters ask the Agency to delay the effective date of the LCRR to review the lack of remediation requirements if a sample from a school fixture is found to have an elevated lead level. Currently, the LCRR does not require any remediation if a community water system detects elevated lead levels in potable water sources found in schools. The Agency's own guidance document states, "If testing results show elevated levels of lead in drinking water, then you should implement remediation measures."[6] Commenters ask that the Agency align the LCRR with the recommendations set forth in the 3T Guidelines. Commenters ask that the Rule be delayed to determine if the LCRR can incorporate the solutions present in the "Remediation and Establishing Routine Practices" section of the 3T Guidelines. As a starting point, the Agency should review if point-of-use filters can be used as a remediation tool if elevated lead levels are detected in school fixtures.

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[4] American Academy of Pediatrics (AAP), *Lead Exposure in Children*, https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/lead-exposure/Pages/Lead-Exposure-in-Children.aspx

[5] American Academy of Pediatrics (AAP), Council on Environmental Health. *Prevention of Childhood Lead Toxicity. Pediatrics*, https://pediatrics.aappublications.org/content/pediatrics/138/1/e20161493.full.pdf

[6] EPA (Environmental Protection Agency, *3Ts For Reducing Lead In Drinking Water In Schools And Child Care Facilities: A Training, Testing And Taking Action Approach*. United States Environmental Protection Agency. Pg. 28 (2018).

E. Conclusion

Dutchtown South Community Corporation asks the Agency to delay the LCRR to engage with community members and review the concerns with the LCRR. We request that the Agency specifically review (1) the community water system testing program; (2) setting a health-based action level for school fixtures; and (3) the lack of remediation requirements.

We appreciate the opportunity to comment on this important matter.