

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 Association of School Business Officials International (ASBO), I write to submit comments in response to the Environmental Protection Agency's (EPA) revisions to the Lead and Copper Rule (LCR). ASBO International is a nonprofit education association that, through its members and affiliates, represents over 30,000 school business professionals who are the finance and operations leaders of school districts. Our members manage all aspects of school support services, including finance and budgeting; procurement and transportation; facilities and risk management; and more.

ASBO International applauds the EPA's efforts to protect our nation's drinking water supply and ensure our children have access to safe and healthy drinking water in schools—we sincerely thank the agency for its leadership on this issue. However, we have some concerns about the rule's feasibility and costs for implementation, especially for the 7,000 schools and districts that EPA noted will be impacted, because they are responsible for maintaining their local community water systems (CWS).

Public health research shows that no amount of lead is safe for children, yet conflicting state and federal standards do not reflect these findings, which is problematic for school districts. Conflicting standards send mixed messages to the public about what is safe versus unsafe levels of lead in drinking water. School districts that operate their own CWS may believe that their water supply is safe simply because it complies with a specific state or federal standard. However, if that standard is not stringent enough according to what health experts deem is safe, these districts could unknowingly allow unsafe levels to be present in their water supply. The EPA and several U.S. states use 15 parts per billion (15 ppb) as their action level standard, whereas other U.S. states adhere to a more stringent action-level standard of 10 ppb, and other states don't have a mandated program/standard¹, while the Food and Drug Administration (FDA) considers 5 ppb² to be safe for bottled drinking water. Conflicting standards make it difficult for school districts to determine which standard is best to protect their communities.

However, if the EPA were to enforce a more stringent universal standard for safe drinking water based on health expert recommendations (i.e., no lead or less than 1 ppb³), the feasibility of executing this standard is questionable. What the EPA currently deems as "certified lead free" still allows for some

¹ <https://www.hsph.harvard.edu/prc/projects/early-adopters/>

² <https://www.foodsafetymagazine.com/magazine-archive1/augustseptember-2002/bottled-water-regulation-and-the-fda/>

³ <https://www.aap.org/en-us/about-the-aap/aap-press-room/pages/With-No-Amount-of-Lead-Exposure-Safe-for-Children,-American-Academy-of-Pediatrics-Calls-For-Stricter-Regulations.aspx>

amount of lead⁴ in pipes, fittings, fixtures, solder, and flux for drinking water (a weighted average of 0.20–0.25% lead calculated across wetted surfaces). If we are to achieve meaningful change in addressing lead-in-water issues, federal and state agencies would need to agree upon an evidence-based standard that would be feasible to adhere to.

Many school districts that own their CWS are small, rural, and less-affluent districts; the EPA proposal would place an unachievable and extremely costly standard to comply. ASBO International asked some of its members to assess the potential impact of this proposal and determine its feasibility. We heard feedback from school district leaders in several states.

In Pennsylvania, approximately 500 school districts own their CWS and would struggle financially to comply with the EPA's proposal as written. Many of these districts have very old facilities and water infrastructure (dating back to 1950) and would be overburdened by the new CWS testing requirements, yet alone be able to afford lead remediation measures to improve water quality without additional financial assistance. That is not to say that the CWS requirements aren't a step in the right direction—but federal funding would be needed to meet the new requirements (and more importantly) to replace lead service lines and other infrastructure to improve water quality.

In Oregon, of its 197 school districts, approximately 80% own their CWS and would be in a similar situation to Pennsylvania schools. While these districts may be able to afford lead testing to comply with the EPA's proposed update because they have state funding available through OR's Healthy Schools Initiative, these districts would still not be able to afford lead remediation costs that could result from moving to a more stringent standard than 15 ppb without federal assistance. Meanwhile, for school districts like those in New Mexico that are located on federally-impacted lands (and don't have the ability to finance water infrastructure repair or renovation with a local tax base), they would be especially vulnerable to the EPA's proposal (not only for lead testing, but for any remediation needs that would follow).

ASBO International appreciates the EPA's desire to strengthen lead treatment procedures; expand water sampling; improve protocols for identifying lead; improve transparency, awareness, and communication on lead-in-water issues; and to encourage CWS to effectively manage lead in drinking water issues. However, we urge the EPA to acknowledge that school district resources are limited, especially in the case of small and rural districts, and without a standalone federal funding stream to help districts remediate lead, no meaningful change can be achieved here. We believe the EPA and Congress can—and must—do more to fund efforts to improve water quality in schools. While state and federal resource for lead testing are appreciated, there are no resources available to address the main problem, lead remediation.

Depending on the scope of the problem, remediation can cost dozens to hundreds of thousands of taxpayer dollars just to repair one school site. Without federal assistance, states and districts will have to have to raise local taxes to pay for these expenses. However, many district leaders' hands are tied when it comes to raising local funds, either because of local laws implementing tax caps or other restrictions, or no political will or appetite for approving bonds or other measures to finance facility repair. If districts cannot raise local funds, lead remediation expenses will come out of other areas of the district's budget, resulting in cuts to education elsewhere (e.g., teacher salaries, textbooks and supplies, art and music

⁴ <https://www.epa.gov/sdwa/use-lead-free-pipes-fittings-fixtures-solder-and-flux-drinking-water>

programs, extracurriculars, etc.). **If the EPA updates this rule, then it is critical for the EPA to work with other federal agencies and Congress to secure federal appropriations for lead remediation in our public schools and water infrastructure.**

A meaningful solution requires a holistic, research-based, and collaborative approach. Addressing childhood lead exposure is not solely a school district or CWS responsibility, but is the responsibility of local, state, and federal governments since this issue ties into a larger public infrastructure problem. Unfortunately, childhood lead exposure has remained a critical health issue for more than 40 years and has affected tens of millions of U.S. children. 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.⁵ We are heartened to see the EPA attempt to implement a proactive, holistic approach to aggressively manage lead in drinking water, however a band-aid solution in the form of new drinking water testing provisions is not enough to solve the problem. Without complete removal of all lead service lines and lead pipes, faucets, and fixtures in public schools and other infrastructure, childhood lead exposure will continue to be a problem.

A meaningful solution requires a massive, coordinated effort by federal, state, and local leaders to reinvest in our public infrastructure. We urge the EPA to work with Congress and other federal and state agencies to ensure sufficient funding is available to school districts to test for and remediate lead so that children will be safe wherever they live, learn, and play. An unfunded federal mandate will not help solve this issue.

ASBO International offers itself as a resource to provide information and insight about school finance and infrastructure issues as well as the hurdles our schools face to improving water quality across the nation. Before moving forward on this rule, we encourage the EPA to work with other federal agencies to conduct a study about lead-in-water issues in schools, what states are doing to rectify the issue, provide a cost analysis of how much it would cost to remediate schools in each state based on their current condition, and share recommendations of how local, state, and federal leaders can work together to address this critical public infrastructure challenge.

Thank you for allowing us an opportunity to weigh in on this issue. If you have any questions, please contact Elleka Yost, ASBO International Government Affairs & Communications Manager, at 866.682.2729 or eyost@asbointl.org.

Sincerely,



David J. Lewis
Executive Director/CEO
Association of School Business Officials International (ASBO)

⁵ https://www.cdc.gov/nceh/lead/publications/educational_interventions_children_affected_by_lead.pdf