



February 5, 2024

The Honorable Michael S. Regan, Administrator
US Environmental Protection Agency (EPA)
EPA Docket Center
EPA-HQ-OW-2022-0801
Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

**Re: National Primary Drinking Water Regulations for Lead and Copper Rule:
Improvements (LCRI), Docket ID No. EPA-HQ-OW-2022-0801**

Dear Administrator Regan:

On behalf of the Environmental Policy Innovation Center (EPIC), I am grateful for the opportunity to submit comments on the National Primary Drinking Water Regulations for Lead and Copper: Improvements (LCRI), Docket ID No. EPA-HQ-OW-2022-0801. I thank the Biden-Harris Administration and the US Environmental Protection Agency (EPA) for continuing to address and attempt to reduce detrimental, and largely preventable, exposure to lead through drinking water.

The Environmental Policy Innovation Center (EPIC) is a nonprofit organization whose mission is *to build policies that deliver spectacular improvements in the speed and scale of environmental progress*. We deliver data-driven policy analysis, innovation, and technical assistance to eliminate disparities across water systems and ensure more residents across the country have access to safe and accessible drinking water. *With regard to lead service line replacement, our aim has been and continues to be to ensure the country is on track to replace lead service lines quickly, equitably, and efficiently - and within the next ten years.* We are an [EPA-selected Environmental Finance Center \(EFC\)](#), connecting underserved communities throughout the country to public funds and [technical assistance](#), including for lead service line replacement (LSLR). We are a member of the [Lead Service Line Replacement Collaborative](#) and a member of the [White House Partnership to Get the Lead Out](#).

In 1991, EPA established a Maximum Contaminant Level Goal (MCLG) of zero, which is based on key toxicological and health considerations. EPIC fully agrees with and supports this MCLG, as well as with the Biden-Harris Administration, which has publicly and repeatedly stated that there is no safe level of lead in drinking water. Lead at any level is toxic and harmful to human health, a finding that has been well established through years of scientific study, including by governmental agencies including the EPA and the Centers for Disease Control and Prevention (CDC). Despite all evidence, we simply have yet to realize a society without the devastating effects of lead impacting generation after generation, with disproportionate impacts on communities of color, low-income communities, children, and other vulnerable and at-risk populations.

With this acknowledgment that no amount of lead is safe, together with the MCLG set in the 1991 Lead and Copper Rule, we have a clear goal - but one that is now thirty-three years old. ***In that time from 1991 until now, we have not made substantive progress to reach this goal because we lacked 1) the funding, 2) the momentum, and 3) a clear regulatory mandate to achieve it.*** Today, we have the potential of all three, giving us an unprecedented opportunity to achieve this goal once and for all.

In 2021, Congress appropriated \$15 billion for lead service line replacement (LSLR) in the Infrastructure Investment and Jobs Act (IIJA), commonly known as the Bipartisan Infrastructure Law (BIL). These BIL LSLR funds provide an historic infusion of supplemental federal funds to the State Revolving Funds (SRFs). BIL mandated that 49 percent of the supplemental funds be provided as grants or forgivable loans to state-defined disadvantaged communities. While this amount [does not cover the nation's full bill](#) to replace an estimated 9.2 million or more lead service lines (LSLs), it can go far, especially if we use this funding effectively and efficiently, such as through [strategic use of set aside allowances](#) from BIL LSLR funds. There is [additional federal funding available](#) in the form of Drinking Water State Revolving Fund (DWSRF) base funding, other EPA-administered federal programs such as loans authorized by the Water Infrastructure Finance and Innovation Act (WIFIA) and grants made available through the Water Infrastructure Improvements for the Nation (WIIN) Act. States and localities can also use funds appropriated through the American Rescue Plan Act (ARPA) State and Local Fiscal Recovery Fund (SLFRF), Department of Housing and Urban Development's Community Development Block Grants (CDBG), and the US Department of Agriculture's Water and Waste Disposal Loan and Grant Program for LSLR. Some states - Massachusetts, Michigan, Minnesota, New York, and Ohio, for example - have also made [state funding](#) available.

Furthermore, the EPA under the Biden-Harris Administration has launched a significant effort to provide technical assistance through an expansive network of [WaterTA](#), which includes the launch of specific programs to get the lead out such as the [EPA Lead Accelerators](#) and the [Get](#)

[the Lead Out \(GLO\) Initiative](#). As a national Environmental Finance Center with a focus on LSLR projects, EPIC is a partner in this effort to connect water systems [who have not accessed DWSRF funding before](#) to these critical water infrastructure investments.

A comprehensive assessment of the degree to which LSLR funding from the first two years of the BIL appropriations has been taken up by water systems for LSLR has not yet been tallied. There are indications, however, that available funds are not being fully taken up, in part because there has been no legal mandate to replace LSLs. For example, in its SFY24 funding cycle, Wisconsin made a total of \$108,802,624 from the first two years of its BIL LSLR allotments available to water systems as loans and principal forgiveness. The state was able to allocate only \$74,340,560 of these funds to water systems, however. The reluctance to borrow to replace lead service lines in the absence of a legal mandate may be a reason, and over the long term, represents a barrier to 100 percent replacement. ***In short, funding and other resources have been made available to help water systems replace LSLs, but a clear regulatory mandate is now needed to go hand-in-hand with this critical funding.*** The LCRI, once promulgated, provides this critical mandate.

Through this public comment, EPIC outlines: 1) provisions of the proposed rule that we believe should be included in the final rule; 2) provisions of the proposed rule that we believe should be strengthened in the final rule; and 3) other recommendations for the EPA and states that we believe are key to ensure the successful implementation of the rule.

EPIC believes, first and foremost, that promulgating the LCRI by October 16, 2024 is critical, especially if EPA is faced with a choice between a lengthy internal executive branch debate about suggested rule changes and meeting that deadline. Furthermore, adopting a final rule as soon as possible will seize and build on the significant momentum made to date through BIL and other funding, WaterTA, the [White House Lead Pipe and Paint Action Plan](#), the October 2024 lead inventory mandate in the [Lead and Copper Rule Revisions](#), and other initiatives put in place in the past few years. Delays may lead to inaction or weakening of the rule, which would squander the unique opportunity that the LCRI now presents. If there is a choice to further refine this proposed rule over a longer period *or* finalize it by October and amend it later, we believe it is most important to move this rule forward. We took a similar [position](#) with the Lead and Copper Rule Revisions in 2021, understanding how critical it is to move things forward in light of the complexities and timetables of federal rulemaking. That said, we submit comments under the current expectation that the rule can both be strengthened *and* promulgated by October 2024.

1) EPIC supports the following provisions of the LCRI and advocates for their inclusion in the final rule:

- ***Ten-year timeline to replace lead service lines.***

This mandate is essential to help water systems prioritize lead service line replacement. The timeline provides a regulatory complement to the BIL LSLR funding, which will continue to be dispersed over the next five to seven years. Given the danger that lead poses to human health and the lessons learned and momentum building around lead service line replacement, a ten-year mandate is both an achievable and necessary goal. Also, this timeline is in line with several forward-thinking states like New Jersey, whose estimated 350,000 lead service lines place it in the top ten states in the country with high numbers of lead service lines. Despite this considerable lead burden caused by the presence of LSLs, New Jersey [established](#) a state-mandated timeline of ten years, with a maximum of fifteen years, to replace its lead service lines for all of its water systems.

For those who say it cannot be done in ten years, we also point to a myriad of other [examples](#) throughout history where the country and/or the market united behind fulfilling an ambitious infrastructure goal, such as [New York City's subway system](#) which was built in four years, 1,500 miles of the [Alaska Highway](#) which were built in less than eight months, and the [Rural Electrification Act](#) which led to the electrification of 90 percent of US homes and farms in less than two decades. These examples are all from the last century; clearly, we can aim higher in 2024, especially in light of the urgency of this public health threat and the toll it has taken and continues to take on our society.

- ***Mandate to replace lead service lines and galvanized lines requiring replacement (GRR), regardless of a water system's 90th percentile Action Level.***

A focus on all water systems replacing LSLs and GRRs, regardless of their 90th percentile Action Level, is a step in the right direction, and acknowledges that until they are replaced, LSLs will always pose a threat to public health. This also ensures we are moving towards the permanent solution of replacement and acknowledges that no testing protocol involving a representative sample set can capture the water quality situation inside every home and over time.

- ***Requirement of exact addresses as identifiers in public lead service line inventories.***

Including exact street addresses as a requirement in publicly accessible lead service line inventories ensures greater transparency around where LSLs and GRRs exist. Addresses will make more people aware of their own risk of lead in drinking water, and we support this strengthened requirement for building accountability and trust with the public.

- ***Elimination of the Trigger Level (TL) set in the Lead and Copper Rule Revisions.***
The Trigger Level set in the Lead and Copper Rule Revisions (LCRR) created unnecessary confusion and undue complexity, and we support its elimination from the LCRI.
- ***Updated tap sampling protocol requiring systems to collect 1st and 5th liter samples.***
EPIC recognizes the importance of ensuring stagnant water in premise plumbing and LSLs is part of the sampling protocols and the higher of the first and fifth liter samples is used when calculating the 90th percentile. We support this.
- ***Requirement to track and replace connectors when encountered.***
Lead connectors are another source of lead in drinking water, and must be replaced. The LCRR did not include goosenecks, pigtails, or connectors in the definition of lead service line so that, according to the EPA, water systems would not include *only* connectors in the replacement rate goal and mandatory LSLR requirements. With the LCRI, EPA is proposing to streamline and simplify the definition of connector to include goosenecks and pigtails, defined as a short segment of piping not to exceed two feet, and to replace them when encountered. We support this change.

2) In order to further strengthen this rule and provide the most feasible but protective LCRI, EPIC recommends the following improvements:

- ***Set a minimum starting replacement rate and incentivize faster and increasing replacement rates over time.***
EPA is proposing an average annual replacement rate of at least ten percent across a rolling three-year period, unless the water system is eligible for a shortened replacement rate or deferred replacement rate, set in the first three years at the end of the third year. EPA should instead set a minimum starting annual replacement rate that is re-evaluated every year, acknowledging that efficiencies can be gained over time. And while states are empowered to set shortened deadlines and faster annual replacement rates in the new rule, they should be incentivized to do so. Over time, and with greater resources, funding, and incentives mobilized, we are confident we will see faster rates overall and replacement rates *over* 10,000 LSLs per year in some of our largest cities. Faster rates are ultimately key to how more water systems will comply with the timeline, and incentives for faster rates of replacement – rather than opportunities for delay – must be built into the planned implementation of the regulation. Also, as entire water systems, regions, and states replace 100 percent of their lead lines, more resources, attention, incentives, and momentum can be directed to the remaining ones still not in compliance.

- ***Eliminate the deferral system and proactively guide systems towards compliance.***

The goal of replacing lead service lines in ten years is not new for this administration and is in fact something that has been stated repeatedly since 2021 by President Biden, Vice President Harris, the EPA, and various administration officials. Starting with the LCRR in 2021, many water systems are already updating their LSL inventories in order to comply by October 16, 2024, applying for BIL funding, using ARPA and other funding for LSLR, and breaking ground on LSLR construction activities. In addition, once the rule is published, assuming it is in October 2024, it will be made effective 60 days after with a three-year window before enforcement of the new rule commences. The ten-year deadline in fact falls roughly fourteen years from now by 2038, depending on the exact promulgation date, not ten years.

The proposed rule provides for two deferral mechanisms, analyzed by EPA, that would allow some systems more than ten years to replace all LSLs. The first proposed deferral mechanism would defer compliance for systems where replacements exceed 0.039 replacements per household per year. The second deferral mechanism would defer compliance for systems with over 100,000 known LSLs, provided the system replaces LSLs at a rate of 10,000 annually. EPIC does not recommend a system that replaces lead pipes in most of the country in ten years while residents of other locations, many of whom are low-income and communities of color, are forced to drink lead-contaminated water for much longer. EPIC also does not recommend a system of deferrals based on static replacement rates. ***In short, the focus should be on efficiency and incentives, rather than on deferrals.*** We address each of these deferrals in turn.

EPIC recommends against implementing the first deferral mechanism, related to a threshold of greater than 0.039 replacements per households served, estimated to be 716 to 2,174 of all water systems, or 1.4 to 4.4 percent, as outlined in [EPA's analysis](#). EPA's analysis indicates that 95-99 percent of systems should *be able* to comply without triggering the proposed deferral mechanisms. As more and more systems do comply, we believe that ensuring the remaining systems replace their LSLs will be less daunting as time goes on than it appears today - with efficiencies, incentives, and other resources, such as EPA's WaterTA network, directed towards those systems in danger of noncompliance.

With regard to the second deferral mechanism, rather than give an immediate deferral to the [cities with the highest numbers of LSLs](#), estimated at four large systems with over 100,000 LSLs, we would encourage EPA and state primacy agencies to work with these systems to create annual plans that aim to increase replacement rates, incorporate greater efficiencies and cost savings, and set achievable annual replacement rate targets that are above 10,000 per year. These large systems, therefore, could start out with a 10,000 or

more annual rate, move to a 12,00-14,000 or more annual rate, and end on a 15,000-16,000 or more annual rate, which would put even the country's largest systems with the most LSLs on a path to replace lead pipes in a faster timeline than what they would be allowed under the proposed deferral based on a static 10,000 LSLR annual rate. EPA's analysis, while well researched, is also based on information today, which is likely to change over time.

As more and more systems replace all their LSLs over the next several years, even more resources can be concentrated on the remaining systems still not in compliance. By 2032-2033, roughly five years before the compliance deadline, EPA should review its own analysis, in addition to possible efficiencies, new technologies, and new information, and provide additional guidance to water systems to help put lagging systems on track with the deadline.

- ***Prioritize the most impacted populations.***

Given that some municipalities may take all ten years to replace all of their LSLs, and that those taking longer include systems that are not in compliance or the largest systems, we strongly support EPA's recommendation of mandating a "replacement prioritization strategy (including but not limited to local communities particularly or disproportionately impacted by lead, populations most sensitive to the effects of lead, and high risk areas identified through lead data)." An LSLR plan *accompanied by* an EPA-mandated equity-based plan should provide transparent prioritization criteria based on health and socioeconomic factors, to ensure the lowest income and most vulnerable populations and neighborhoods with the fewest resources are not the last to have their lead service lines replaced, which is a real danger. EPA should provide guidance for developing these plans including a template and examples of possible indicators that can be used (e.g. elevated blood lead levels). EPA should also provide technical assistance to help systems design and implement prioritization plans, given how important they are to replacement efforts. Some cities, e.g. Buffalo, NY and Milwaukee, WI, have already developed these types of prioritization plans as a critical step in their LSLR plans.

- ***Expand the definition of service line to include a reference to ownership.***

The proposed LCRI removes the reference to private property in the definitions of "lead service line" and "full service line replacement," and we believe this needs to be rectified. New York State's Fiscal Year 2023-2024 Budget (Part UU of the state transportation, economic development, and environmental conservation budget, or TED), for example, expanded the service line definition to include private property as... "may be owned by the water system, a property owner, or both." We believe EPA needs to adopt a similar definition for a service line that includes a [reference to private property](#).

- ***Remove the “access” exception to compliance.***

EPA should not allow systems to avoid complying with the rule by claiming that they do not have access to a property. As noted by other advocates such as [Unleaded Kids](#), removing references to private property as described above, coupled with an unclear definition of “access” creates an unnecessary loophole that, if included, may make it impossible for us to reach 100 percent replacement. We recommend that EPA provide [model language](#) that would aid state and local governments in gaining access to private property and achieve full LSLR regardless of ownership.

Some states and municipalities allow for LSLR to proceed where the occupant of the premises provides permission and access, even if the property owner has not done so. For example, by [enacting local ordinances](#), both [Newark, NJ](#) and [Benton Harbor, MI](#) were able to gain access to properties where landlords were unreachable, and [New Jersey](#) has adopted state legislation clarifying that such measures are consistent with state laws. And, where efforts to obtain permission have been unsuccessful, local ordinances mandating [LSLR in certain circumstances](#) - including where the LSL is included in a LSLR project planned by the water system – can provide the basis for a court order requiring property owners and occupants to provide the access needed to enable the planned LSLR to be completed. Such measures are necessary both to ensure that no LSLs which pose a risk to current or future residents are left behind and also to ensure greater LSLR cost efficiencies, as failure to obtain permission can lead to project delays and related added costs. EPA should be doing more to provide guidance to states and water systems on how to make full LSLR mandatory regardless of service line ownership or access being voluntarily granted.

- ***Replace the full length of the lead service line at no cost to the resident.***

EPIC supports mandatory replacement at no cost to the resident as a key to achieving full replacement in ten years. We also recognize that, despite the many funding opportunities available through the federal and state governments, many current funding streams now available are finite resources (e.g. BIL LSLR funding), which is also why mandating prioritization plans with LSLR plans is critical to ensuring those most in need, most at risk, and most vulnerable have their lead service lines replaced while funding is available. In the end, many water systems will inevitably need to use ratepayer revenue to fill in the gaps. Without a clear mandate and path for water systems to be able to pay for LSLR on private property with public funds, municipal bonds, and ratepayer dollars, some water systems will remain hesitant to replace LSLs on private property. This is a barrier that water systems will continue to point to and, particularly when combined with the impact of “access” challenges, may lead to inequities in whose lead service lines are replaced, favoring higher income over lower income neighborhoods. EPA should provide guidance,

ideally in this rule, and work with states to make clear that it is permissible to use ratepayer funds and municipal staff to replace private-side LSLs.

- ***Mandate the use of a standardized inventory template.***

We support more publicly accessible information, more detailed information requirements, and transparency around inventories. In August 2022, the EPA issued [inventory guidelines and an inventory template](#). Without a mandate to use this template from EPA, however, there is a spectrum of LSL templates now in use, with some states using EPA's and some developing their own. The state-developed templates also vary greatly in quality and types of information being collected. There should be a standard and required template of data and formatting to ensure that the inventories can be quickly and easily reviewed by states and updated to better track LSLR progress. If this standardization does not occur, there is a risk that this data will be difficult to track and maintain due to the high variability in how the information is recorded. We therefore encourage EPA to mandate the use of one inventory template to ensure more standardization, which will facilitate tracking of replacement, provide clearer and more accessible data to residents, and help prioritize funding.

- ***Require more inventories to be publicly accessible online.***

We support the EPA's mandate to make inventories and LSLR plans publicly accessible. While water systems serving over 50,000 persons would be required to publish inventories and LSLR plans online in the proposed rule, we believe that threshold should include medium systems defined in this rule as systems that are serving 10,000 to 50,000. This is possible not only for large systems such as [Newark, NJ](#); [New York, NY](#); and [Washington D.C.](#), but also for medium ones such as [Platteville, WI](#) and [Benton Harbor, MI](#). Increasing inventory data transparency for more water systems is crucial for residents to make informed decisions to safeguard their health, and can encourage more community participation and engagement in LSLR programs. EPA and states, in turn, can also compile and publish water systems' inventories online.

- ***Require lead-certified filters be provided at no cost to the resident.***

EPA proposes to require systems with three or more action level (AL) exceedances in a five-year period to make filters available to customers. We believe a better health-based approach would ensure lead-certified filters are more widely available *immediately* for any systems with AL exceedances to ensure a focus on protecting public health. We also suggest that EPA explicitly require lead-certified filters to be provided at no cost to the resident and that EPA and states facilitate the procurement of filters to ensure an adequate supply where they are needed.

- ***Revise the definition of customers to include occupants, tenants, and renters.***
 The term “customers” is generally interpreted by water systems as individuals who receive water bills. This narrow definition excludes residents of non-owner occupied dwellings, such as tenants and renters. We suggest EPA use an expanded definition in this rulemaking to include all occupants of a household regardless of whether they pay the water bill. Expanding this definition will enable systems to contact occupants who can encourage owners to grant access for LSL replacement or provide access themselves, where laws provide that occupants can provide access even where the property owners’ permission has not been secured, as noted above. Occupants can also be notified directly for lead test results related to home and system-wide lead monitoring information.
- ***Require systems to provide schools and childcare facilities with point-of-use lead-certified filters.***
 We support more stringent testing in schools and childcare facilities and recommend that EPA also require water systems to provide lead-certified filters to all public schools and childcare facilities while testing protocols are carried out. Increasing transparency is crucial to advance water equity, which is why we recommend results from schools and childcare center tap sampling be made publicly available immediately. Lastly, we urge the EPA to consider whether the “filter first” approach being adopted by many communities constitutes a more cost-effective and public health-protective approach than testing schemes.
- ***Further lower the Action Level (AL).***
 For many water contaminants, EPA sets a non-enforceable Maximum Contaminant Level Goal (MCLG) based on health, which is then (ideally) followed by a Maximum Contaminant Level (MCL), which is an enforceable drinking water standard. As stated earlier in this public comment, the MCLG for lead in drinking water is zero, established in the 1991 Lead and Copper Rule. That is why many public health experts recommend setting an MCL for lead in drinking water, and also setting it as close to zero - the goal - as possible. Notably, the US Food and Drug Administration (FDA) set a standard of 5 ppb of lead in bottled water. In 2016, the American Academy of Pediatrics recommended that water fountains in schools do not exceed lead concentrations of [1 ppb](#). We believe that the same protections should be carried to lead coming from home faucets and the level of lead in drinking water should be as close to the MCLG as feasible. While we appreciate the proposal to lower the AL from 15 ppb to 10 ppb, data in the LCRI suggests that utilities can achieve a level of 5 ppb. We do not support an extended federal review of further revisions of this (or other provisions) that would preclude the promulgation of the LCRI by October 2024, because we believe 100 percent replacement of lead service lines in ten years is a critical step to achieving zero lead in drinking water.

- ***Require lead service lines be replaced with copper, not plastic.***

Without clear guidance on the types of materials deemed acceptable to replace lead service lines, we run the risk of swapping one harmful material for another. While plastic can be a low-cost alternative, there are concerns about plastic pipes including the [possibility of chemicals leaching into water](#). Plastic pipes also are susceptible to melting and contamination of the distribution system with toxic chemicals in the event of fires, and there are issues surrounding their durability. The creation of plastic - as well as plastic throughout its life cycle - also generates significant greenhouse gas emissions (GHG). The [Healthy Building Network](#) recommends “copper pipes without solder, fluxes or other filler metals.” EPA [should mandate the use of copper pipes](#) in the replacement of lead ones.

- ***Continue to strengthen public notification about the risk of lead in water.***

We applaud the EPA for continuing to strengthen public notification through the LCRI, and encourage further strengthening to protect the public health of all US residents and to build trust with the community throughout this ten-year timeline and beyond. Even with LSLR, there is still a risk of lead in water through premise plumbing. Any risk of lead in water means there is a corresponding risk to public health, so this should be made clear to all consumers. Many water systems and municipalities, especially medium and small ones, lack staff focused on or trained to provide communications and public education on these issues, however. Therefore, EPA should provide strong guidance to help water systems and municipalities develop and implement effective communication plans, including the provision of ready-to-use and accessible communication materials in multiple languages and formats.

Clear and accessible information about the potential risks of lead in water is important to build trust, including for communities to trust communications indicating that their water is safe. Widespread distrust of water safety, spurred in part by failures to effectively communicate when risks are present, can lead residents to spurn their tap water in favor of purchased bottled water, even where the tap water is, in fact, safe to drink. This presents [another face of water inequity](#), as low-income households are both less likely to trust the safety of their water and least able to afford to purchase bottled water.

3) As we scale up to replace 9.2 million or more lead pipes in ten years, there is more that can be done to support the successful implementation of the LCRI, related to and even beyond this current rulemaking, including the following recommendations:

- ***EPA should provide more guidance and resources to support states.***

Much of the implementation success across water systems will stem from whether states - both primacy agencies and SRF agencies - have the funding, resources, and staffing they need and how much innovation and outside-the-box thinking states embrace. We recommend that EPA ensure that states receive the support they need to make meaningful changes that result in streamlined processes and faster LSLR. We also encourage the addition of federal funding streams, aside from SRFs, be made available for LSLR.

- ***EPA should provide guidance to states on the equitable allocation of BIL LSLR funds.***

Policies that need to be considered include how states rank LSL inventory and replacement projects for DWSRF assistance; how states define disadvantaged communities (DACs) for the distribution of BIL LSLR funds, including allowing applicants to assess DAC metrics for LSLR projects in accordance with the area in which LSLs will be replaced (rather than for entire service areas of the water system); caps on the amount of principal forgiveness SRF applicants can receive for LSLR projects; and interest rates offered on loans from the BIL LSLR funds. While federal law grants wide discretion to states to define these policies, EPA has the authority to actively engage states on these issues when reviewing states' Intended Use Plans that set out how states intend to allocate SRF assistance prior to issuing federal capitalization grants to states.

- ***EPA should encourage states to maximize their strategic use of set-asides from BIL LSLR funds.***

States can [maximize the strategic use of set asides](#) from BIL LSLR funds to both improve the efficiency and equitable outcomes of LSLR projects and improve the loan-to-principal forgiveness ratio for LSLR project awards. States should use set aside funds to provide direct support to water systems to inventory and track the replacement of LSLs; support community education and outreach to facilitate the efficient, equitable implementation of LSLR projects; develop a local workforce for LSLR projects and achieve efficiencies in procurement and other factors that can reduce the per-pipe costs for LSLR projects.

- ***EPA should encourage states to ensure that BIL LSLR funds are equitably allocated to underserved communities in line with Justice40 goals.***

The Biden Administration’s Justice40 Initiative promulgates a goal of directing 40 percent of the overall benefits of certain federal investments to disadvantaged communities that are marginalized, underserved and overburdened by pollution. In addition, BIL mandates that 49 percent of BIL LSLR funds must be provided as grants and forgivable loans to state-defined disadvantaged communities. States should examine and reform how they define disadvantaged communities to align with Justice40 goals, as well as reform other policies (e.g. caps on principal forgiveness) that limit disadvantaged communities’ effective use of SRF funds. States should also develop methods and requirements to systematically collect and publicly report data to assess and track whether their allocation of SRF funds fulfills Justice40 goals. Regardless of whether each state takes steps to report on whether their SRF funding allocations comply with Justice40 goals, however, EPA should independently assess the Justice40 performance of state SRF programs.

- ***EPA should encourage states to adopt policies that provide longer planning windows for LSLR projects.***

Applying for funding is often cited as a barrier to accessing public funds for water infrastructure – including for LSLR – due to the time, resources and capacity needed to complete an application. Moreover, SRF funds are typically allocated to local projects in annual cycles. Uncertainty about how much funding will be awarded, including how much will be provided as repayable or forgivable loans, makes it difficult for water systems to plan how to braid SRF funds with other sources of funding, procure supplies and contractors in the most efficient manner or anticipate investments needed for workforce development. States should do more to minimize these burdens on water systems, including by enabling SRF funding awards to cover large multi-year LSLR projects, instead of requiring municipalities to reapply for piecemeal funding each year.

- ***EPA should encourage states to facilitate regional approaches to LSLR.***

Regional approaches to address water infrastructure challenges have helped water systems - particularly those serving smaller communities and/or those with limited technical, managerial, and financial capacities - to address persistent water infrastructure challenges more quickly and efficiently. Regional approaches to LSLR can provide similar benefits. Regional approaches include information and resource sharing, equipment sharing, and peer networks; exploring the use of multi-system funding applications; multi-system procurement and contracting for lead service lines inventories and replacement; sharing templates for bid and contracting documents; and developing statewide technical assistance programs.

- ***EPA should encourage states to take the lead on workforce development and procurement of materials for LSLR.***

States can also take the lead on launching workforce development strategies such as apprenticeship and training programs, developing protocols for procurement and contracting, and addressing supply chain issues to enable purchasing at bulk rates. We believe states' involvement in these strategies addresses some of the feasibility concerns at the water system level, and will increase efficiencies.

- ***EPA should encourage states and water systems to explore CBP3s and innovative models adapted to LSLR.***

EPIC suggested employing innovation and efficiencies related to LSLR in a [2021 report](#), in which we highlighted Community-Based Public Private Partnerships (CBP3s) and pay for success contracting for LSLR. Our [2022 best practices report](#) and our [2021 Water Data Prize results](#) also focused on innovations, efficiencies, and equity in LSLR programs. In 2023, EPIC joined [Wausau, WI](#) and [Community Infrastructure Partners](#) to launch a new CBP3 model involving the public and private sectors to replace lead service lines while prioritizing community-based benefits. This approach aims to generate superior results in terms of speed, efficiency, cost-effectiveness, and equity, with an alliance that includes not only EPIC but also Water Finance Exchange (WFX), Laborers' International Union of North America (LIUNA), 120Water, and BlueConduit, and complemented by local partners such as H2N, Daar, and the Medical College of Wisconsin. In addition to replacing lead service lines, this CBP3 model incorporates key elements such as community outreach, workforce development, local business development, and public health and will serve as a regional hub. More water systems should follow this and other models that create economies of scale, and states should incentivize and encourage them too.

This is an all-hands-on-deck effort, the likes of which may not have been seen in the water sector before. As an organization focused on speed, with an affinity for new technologies and innovation, EPIC believes that all levels of government need to embrace and incentivize efficiencies in all aspects of the LSLR process, and in ways that we have not even yet identified or done before, to ensure the funding goes further and the replacement efforts go faster. In closing, we simply cannot wait decades while new generations of children and other vulnerable residents of this country, disproportionately located in BIPOC and lower income communities, continue to be poisoned by lead in drinking water while the solution is readily available. The Biden-Harris Administration understands this perhaps more than any previous administration, and the LCRI - coupled with the funding now available - is the opportunity to move towards a goal of lead-free at a scale and pace that matches the urgency of this problem.

On behalf of the Environmental Policy Innovation Center (EPIC), I sincerely appreciate the Biden-Harris Administration's incredible progress, momentum, and leadership towards the goal of safe drinking water - free of lead contamination - for all. Towards that end, I hope that you will take the recommendations offered here into serious consideration as you promulgate the LCRI later this year.

Sincerely,

A handwritten signature in black ink, appearing to read "Maureen Cunningham". The signature is fluid and cursive, with a large initial "M" and "C".

Maureen Cunningham
Chief Strategy Officer & Director of Water
Environmental Policy Innovation Center (EPIC)

cc: Bruno Pigott, EPA/OW
Jeffrey Prieto, EPA/OGC
Jennifer McLain, EPA/OGWDW
Eric Burneson, EPA/OGWDW
Hannah Holsinger, EPA/OGWDW/SRMD
Jeffrey Kempic, EPA/OGWDW/SRMD
Michael Goldberg, EPA/OGWDW/SRMD