

Implement and amend the Lead and Copper Rule

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One of Biden's infrastructure goals depends on keeping but amending his predecessor's regulation.

Water pipes made from the toxic metal, lead, connect approximately [6-10 million homes](#) in America to their water supply. We don't know exactly how many or the precise locations of millions of them.

There are chemicals added to drinking water that can help keep the lead from leaching into water that flows through the pipes to kitchen taps, and ultimately, into the bodies of children and families. However, whether from human error, poor maintenance, routine construction, criminal negligence, and any number of other disturbances, things go wrong - frequently leading to tragic exposure to lead in places like Flint, [Newark](#), [Detroit](#), and Washington DC, but also all the time in individual homes across the country. Even when undisturbed and dosed with the right anti-corrosion additives, [lead water pipes](#) are still the most significant source of lead in drinking water.

Lead pipes leave millions of people drinking through what is essentially a lead straw. They have no place in the modern world. One of President Biden's most important infrastructure commitments is to put resources into a national effort to remove [100 percent of all lead service lines](#).

However, it is a mistake for the EPA to suspend a flawed but important [regulation](#) called the revised Lead and Copper Rule that was finalized during the waning days of the Trump administration.

On March 16, EPA suspended the revised rule until June, and has now [proposed delaying](#) the rule's effective date to December 2021. Unfortunately, this delay also extends the mandatory three-year period for water utilities to comply with the rule. Were EPA to fully suspend and start a new revision process for the rule, it would likely require a minimum of a year to complete (or as long as 3-6 years as is typical of more complex rulemaking processes).

If EPA fully suspends this rule, it will be much harder to meet the administration's ambitious goals.

To be clear, the last administration's revised Lead and Copper Rule [has major failings](#). In particular, it does not do enough to proactively require lead water pipe replacement and does not demand fast enough lead pipe replacement when testing makes clear that corrosion control is insufficient. Lead pipe replacement shouldn't be a last resort. It should be happening even when water tests don't show high levels of lead circulating in drinking water because testing doesn't happen regularly enough to ensure that changes in water chemistry don't result in exposure. The last administration's revised rule takes no step to require lead pipe replacement in absence of testing that documents corrosion control was insufficient.

But while there are major flaws in the revised rule, they can be fixed by keeping the current revisions in place and its timelines in place, and by simultaneously starting a new revision process. In other words, EPA doesn't have to suspend and replace; instead, EPA can implement the revised rule and simultaneously work to amend the regulation.

Why is that procedural nuance important?

Because the revised rule also includes many significant positive changes in policy that affect the timeline for reducing Americans' exposure to toxic lead. For example, most communities in America with lead water pipes still don't know where these pipes are - and they cannot dig up and replace lead pipes if they don't know where they are.

If the revised rule had been allowed to go into effect, it would have required almost all water utilities to inventory and map those lead pipes by approximately January 2024 - when there will still be one year left in President Biden's first term. The current delay now pushes back that deadline to the month before his term ends. Not only does this delay complicate the work needed to get lead pipes replaced, but it also potentially saps critical momentum from this unique moment when we have a President who has personally committed to removing lead water pipes.



Worse, if EPA maintains the suspension of the current revised rule and starts a major new revision, that delay gets even longer. It could be five years or more before many people learn whether their home has toxic lead pipes. Delaying inventories by years also makes it impossible to replace pipes - again, they can't be removed if utilities don't know where they are.

The suspension of the [revised rule](#) also harms people who, starting in 2024, would have begun learning about their ongoing exposure to lead because that is the year when new testing, sampling and notification requirements would kick in. For example, the revised rule requires the utility to send a disclosure notice to every homeowner or renter with a lead pipe within three days of its discovery and every single year going forward until the pipe is replaced. If the action level for the whole system is exceeded, then every customer must be notified within 24 hours. These requirements would start providing public health benefits in 2024, but not if they are suspended.

A better course of action is for EPA to withdraw their proposed extension and let the revised rule come into effect now. But they should also announce immediately that they are starting an accelerated revision process focused on replacement requirements for lead pipes documented in inventories. EPA could add deadlines or work with the White House to incorporate the action and process into an executive order so the priority for this action is clear.

In the meantime, it's also a fantastic step that EPA has already taken, to [host listening sessions](#) to hear from communities and people most affected by lead in drinking water. Those listening sessions fit well with an 'implement and amend' strategy.

Finalizing an amendment to the pipe replacement portions of the revised rule will still take an additional 12-16 months or longer, but the public health outcome is a better one. In the interim, with the existing revised rule in place and an amendment process underway, the result would be that the best parts of the revisions move forward while EPA amends the weak parts. This also means that better testing, better disclosure, better communications, and better inventories will happen sooner. More lead pipe replacement can still happen under new policy and deadlines set through amendments.

This seems like a better set of steps to ensure that more families have safe drinking water sooner. If EPA considered this option, but decided they cannot do anything other than a full suspension of the rule, it would be great to understand why.