October 16, 2024

TRANSMITTED ELECTRONICALLY

The Honorable Kathy Hochul, Governor of New York
The Honorable Letitia James, Attorney General of New York
The Honorable James V. McDonald, MD, MPH, Acting Commissioner of Health of New York
The Honorable Ben Walsh, Mayor of Syracuse
The Honorable Robert Brandt, Commissioner of Water of Syracuse
The Honorable Kathryn Anderson, MD, PhD, MSPH, Commissioner of Health of Onondaga County

Dear Governor Hochul, Attorney General James, Commissioner McDonald, Mayor Walsh, Commissioner Brandt, and Commissioner Anderson:

The city of Syracuse (City), substantially exceeded the federal lead action level for lead in drinking water according to an August 2024 notification from the Syracuse Department of Water (Water Department).

We the undersigned Syracuse-based community groups, along with state and national organizations having members in Syracuse, write to convey our deep concern about the current safety of our drinking water in the 14,000 Syracuse homes still using lead service lines (as well as other pipes that could release lead into tap water, including galvanized steel and service lines of unknown material). Given our residents' high reliance on lead service lines, the test results strongly indicate that Syracuse is in a water safety crisis. We believe much more should be done immediately to make the public aware of the severity of lead-contaminated drinking water in Syracuse and to effectively respond comprehensively to the crisis.

We note the following concerns in the present moment:

- **The Water Department's communications to the public failed to note that the most recent testing results are now among the highest recorded lead levels by a large water system in recent decades (more than double the available measurements in Flint, Michigan).** In the July 2024 test results for Syracuse (released in August), 10 percent of homes sampled showed a level of 70 parts per billion (ppb) or higher. Those numbers are more than double the comparable analysis (the 90th percentile) of contamination measured by independent testing in Flint in August and September 2015 (we recognize it is possible that rule-compliant testing could have revealed higher levels in Flint). Flint's levels were recorded when Flint was not using any chemical treatment to reduce lead contamination in its water.

- **Syracuse's most recent test results are more than double the levels of one of the country's worst lead levels for a larger city—in Newark, New Jersey, in 2017.** Newark's results were followed by legal action and public outcry that resulted in remediation of all lead pipes in less than three years, and point-of-use filters were provided to tens of thousands of the city's residents in the interim.

- According to press accounts, 27 of the approximately 100 homes checked in the most recent round of testing in Syracuse exceeded the U.S. Environmental Protection Agency's (EPA) Action Level. **This means that a significant percentage of the roughly 14,000 homes in Syracuse served by lead service lines (including galvanized steel pipes) are likely to have high lead levels at the tap.**

- We also note that the Water Department reported in 2022 and 2023 that its testing found a 90th percentile lead level at or just above the EPA lead action level of 15 ppb, meaning about 10 percent of homes exceeded 15 ppb. Moreover, according to data recently received through the state Freedom of Information Law, **one home in 2024 had a staggering 2,520 ppb of lead, and another in 2023 was reported to have 776 ppb of lead**.

Immediate action is needed to address this problem. We note that in similar cases of lead contamination of tap water, the EPA has issued emergency orders pursuant to Section 1431 of the Safe Drinking Water Act. The EPA issued such orders, for example, in (1) Flint, Michigan, and (2) Clarksburg, West Virginia, and (3) took action to ensure that the lead contamination in Benton Harbor, Michigan, was addressed in response to a citizen petition for a section 1431 order.

As we all know, there is no safe level of lead ingestion, and 70 ppb is more than four times the federal EPA action level for lead, set at 15 ppb. Additionally, the EPA's recently issued Lead and Copper Rule Improvements regulation has reduced the lead action level to 10 ppb, effective in three years, in order to be more health protective; Syracuse's lead level exceeds this by sevenfold.

The EPA has repeatedly said that there is no safe level of lead; even low levels of lead ingestion can cause poisoning. The federal action level, even according to the EPA, is not a health-protective level, whether it be 15 or 10 ppb. And as noted earlier, because the current lead action level is insufficiently stringent, the EPA has just lowered the action level to 10 ppb (which is more protective but would not achieve the EPA's health-protective "Maximum Contaminant Level Goal" of zero).

We urge authorites and specifically the city of Syracuse and the county and state health departments to address this critical situation proactively by immediately taking the following actions:

1. **Declare a state of emergency[1], which can make additional funding available, and fully inform all Syracuse residents about the potential risks posed by lead in their drinking water, particularly for vulnerable populations such as infants (especially formula-fed infants), young children, pregnant people, and the elderly.**

   Plainly explain the protective measures people should take for themselves and their families, including advising that anyone with known or suspected lead or galvanized steel pipes avoid consuming unfiltered water.

   The City may need to design specific engagement tools, including small information sessions and widely distributed fact sheets, along with social media postings, videos, and press releases. Everything possible should be done to provide accessible information for residents with disabilities and with limited access to traditional media or limited literacy.

   Syracuse's public education requirement, as triggered by the action level exceedance under the federal Lead and Copper Rule, means that information resources must also be translated into the dominant languages of Syracuse's communities, including Arabic, Burmese, Chinese, Dari, Farsi, French, Haitian Creole, Italian, Karen, Kinyarwanda, Nepali, Pashto, Russian, Somali, Spanish, Swahili, Ukrainian, Urdu, and Vietnamese and making translation services readily available.

2. **Provide point-of-use filters that have been independently certified for lead removal.** These should be given to all homes with lead or galvanized steel service lines or service lines of unknown materials. Priority should go to providing these filters to such homes with children age six or younger, pregnant people, or otherwise at-risk people, such as people with elevated blood pressure or cardiovascular disease. This priority should include assisting residents with installation of filtering devices and providing the right educational resources to ensure proper use and maintenance of filters.

[1] Declaring a state of emergency is appropriate given the health harms caused by lead and the levels of lead in the water. In addition, an emergency declaration opens up additional options for providing government funding for lead pipe replacement and related services.

3. **Provide residents with more detailed information about low- or no-cost programs for getting their families and children seen by a doctor or tested for lead.**[2]

4. **Proactively reach out to homes that were found to have a lead service line as the City completes its lead pipe inventory.** Notify residents promptly when new lead service lines are discovered and when they are expected to be replaced.

5. **Publicly disclose detailed plans for how the City will comply with its obligations under the new Lead and Copper Rule Improvements, including the public release of its lead service line inventory due on October 16, 2024**.

6. **Explain the City's detailed plans to:**
    a. Identify and explain to the public the causes of the elevated lead levels found in the most recent round of testing;
    b. Conduct a full array of outreach and public education and provide for ongoing engagement of the community in developing and implementing its lead service line replacement plan;
    c. Conduct further water quality parameter monitoring and update the Water Department's optimal corrosion control treatment plan; and
    d. Replace lead service lines safely, equitably, and efficiently, in active and ongoing consultation with the community.

7. **Immediate and public release of the results for all lead tap water sampling, including locations and levels detected, for the past three years.**[3] This should include:
    a. Whether each of the locations tested were Tier 1 sites, as required by the EPA's rules;
    b. Whether the monitoring protocols were consistent with the EPA's rules and its February 2016 guidance for tap water lead testing; and
    c. Whether the locations changed from year to year, and if so, why.

[2] N.B. Although it is widely acknowledged that the only "safe" blood lead level is zero (the absence of lead), the CDC recommends children with blood lead levels of 3.5 micrograms per decaliter as the blood lead reference value. See CDC Updates Blood Lead Reference Value (April 2, 2024) https://www.cdc.gov/lead-prevention/php/news-features/updates-blood-lead-reference-value.html.
[3] Our coalition requested these data on September 19 and 20, 2024 via Freedom of Information Law requests from the City of Syracuse and the New York State Health Department.

8. **Schedule a virtual public meeting with municipal officials, state health officials, EPA officials, and the signatories to this letter in order to gain clarity on the city's, state's, and EPA's proposed action plans for addressing the lead contamination in Syracuse's drinking water.**

Given the urgency of this problem, and ongoing lead poisoning through paint and other sources, we look forward to your detailed response no later than Friday, October 25, 2024. If we do not hear back from you with the requested information and action steps by that date, we will consider publicly filing a request that the EPA issue an emergency order pursuant to section 1431 of the Safe Drinking Water Act, due to the imminent and substantial endangerment posed to the health of persons served by Syracuse's water system. In such a case, we may ask that the EPA order the city to carry out the steps outlined above and potentially take other actions immediately and express our concern about the city's response to date.

Please contact Oceanna Fair (ofair@leadfreedomcny.org) and Valerie Baron (vbaron@nrdc.org) with any questions. Thank you for your prompt attention to this matter.

Sincerely,

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/s/ Valerie Baron
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/s/ Lee Cridland
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