NOT YET SCHEDULED FOR ORAL ARGUMENT

United States Court of Appeals
for the District of Columbia Circuit

No. 24-1376

AMERICAN WATER WORKS ASSOCIATION,

Petitioner,

v.

ENVIRONMENTAL PROTECTION AGENCY; LEE M. ZELDIN, in his official capacity as Administrator, United States Environmental Protection Agency,

Respondents.

NATURAL RESOURCES DEFENSE COUNCIL; NEWBURGH CLEAN WATER PROJECT; SIERRA CLUB,

Intervenors for Respondents.

(For Continuation of Caption See Inside Cover)

On Petition for Review of Final Agency Action of the United States Environmental Protection Agency in No. EPA-89FR86418.

BRIEF OF *AMICUS CURIAE* BLUEGREEN ALLIANCE IN SUPPORT OF RESPONDENTS

TRISHA ANDERSON
MARTIN TOTARO
HELIA BIDAD
HECKER FINK LLP
1050 K Street, NW, Suite 1040
Washington, DC 20001
(212) 763-0883
tanderson@heckerfink.com
mtotaro@heckerfink.com
hdidad@heckerfink.com

Counsel for Amicus Curiae

March 13, 2026

COUNSEL PRESS (800) 4-APPEAL • (390946)

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,

Amicus Curiae for Petitioner,

COMMONWEALTH OF MASSACHUSETTS; DISTRICT OF COLUMBIA; STATE OF CALIFORNIA; STATE OF CONNECTICUT; STATE OF ILLINOIS; STATE OF MARYLAND; STATE OF MINNESOTA; STATE OF NEW JERSEY; STATE OF NEW YORK; STATE OF NORTH CAROLINA; STATE OF WISCONSIN,

Amici Curiae for Respondents.

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to D.C. Circuit Rule 28(a)(1), counsel for the BlueGreen Alliance certify as follows:

A. Parties and Amici

All parties and intervenors appearing in this case are listed in Petitioner's opening brief. The Chamber of Commerce of the United States of America is amici in support of Petitioner. Additional amici may file briefs in support of Respondent.

B. Rulings under Review

The final agency action under review is referenced in Petitioner's opening brief.

C. Related Cases

Related and consolidated cases appear in Petitioner's opening brief.

RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, the BlueGreen Alliance certifies that it is a not-for-profit organization and that no publicly held entity owns an interest in the BlueGreen Alliance. BlueGreen Alliance does not have members who have issued shares or debt securities to the public.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases:

Statutes & Other Authorities:

GLOSSARY OF ACRONYMS AND ABBREVIATIONS

Pursuant to D.C. Circuit Rule 28(a)(3), the following is a glossary of acronyms and abbreviations used in this brief.

APA	Administrative Procedure Act
EPA	U.S. Environmental Protection Agency
RTC	Response to Comments
The Final Rule	National Primary Drinking Water Regulations for Lead and Copper: Improvements (LCRI), 89 Fed. Reg. 86,418 (Oct. 30, 2024)
The 2021 Rule	National Primary Drinking Water Regulations: Lead and Copper Rule Revisions, 86 Fed. Reg. 4198 (Jan. 15, 2021)
The 1991 Rule	Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper, 56 Fed. Reg. 26,460 (June 7, 1991), as amended, 65 Fed. Reg. 1950 (Jan. 12, 2000)
TSD	Technical Support Document

INTEREST OF *AMICUS CURIAE* AND AUTHORITY TO FILE

BlueGreen Alliance is a not-for-profit organization dedicated to unifying labor unions and environmental organizations into a powerful force to fight climate change, protect the health of people and the environment, stand against economic and racial inequality, and create and maintain good-paying, union jobs in communities across the country. BlueGreen Alliance has been on the frontlines of lead service line pipe replacement projects across the country.

The Court's decision will have far-reaching impacts on both the labor force and overall environmental health, both of which implicate BlueGreen Alliance's interests. BlueGreen Alliance submits this brief to aid the Court by ensuring it has a complete and accurate understanding of the feasibility of the Final Rule.

All parties have consented to the filing of the brief.[1]

INTRODUCTION AND SUMMARY OF ARGUMENT

There is no amount of lead in drinking water that is safe to consume. Petitioner accordingly does not dispute the significant harm lead contamination poses to public health, particularly to the health of young children in their formative developmental years. To address that public-health crisis, and after thorough consideration of public

[1] Per Federal Rule of Appellate Procedure 29(a)(4)(E), no party's counsel authored this brief in whole or in part, and no person contributed money to fund the preparation or submission of this brief.

comments, EPA issued a Final Rule requiring lead service line replacement with a generous 10-year compliance period, an exception for water systems to obtain a deferral, and a requirement that States consider whether a shorter timeframe is feasible for particular water systems. *See National Primary Drinking Water Regulations for Lead and Copper: Improvements (LCRI)*, 89 Fed. Reg. 86,418 (Oct. 30, 2024) (Final Rule).

Petitioner argues that the 10-year compliance period is arbitrary and capricious on the ground that it is impractical. But EPA's timeline has proven to be feasible by numerous lead service line replacement projects in localities across the country. Cities such as Newark, Flint, and Cleveland have been able to marshal resources and labor to conduct and complete lead service line replacement projects, all while supporting local unions and creating local jobs. Case studies demonstrate how new labor opportunities and strategies, faster-than-expected recruitment of the necessary workforce, and union training programs—such as those supported by BlueGreen Alliance—will ensure the technical feasibility of lead service line replacements. Case studies also show that the replacement line projects are affordable, because of easy-to-implement strategic efficiencies in project planning and available funding sources.

The Final Rule recognizes that EPA's preexisting approach to ensuring drinking water is safe from lead contamination has been insufficient. The Final Rule,

which is backed by science and on-the-ground case studies, supports EPA's mandate under the Safe Drinking Water Act to prevent the adverse effects of lead-contaminated drinking water "to the extent feasible." 42 U.S.C. § 300g-1(b)(7)(A). Because EPA acted reasonably when applying its expertise to address an indisputably serious public-health issue, the Petition for Review should be denied.

ARGUMENT

I. EPA's Final Rule Reasonably Addresses the Undisputed Problem That Any Amount of Lead in Drinking Water Is Unsafe.

Faced with the insufficiency of its existing regulatory efforts and overwhelming evidence that even minimal amounts of lead in drinking water harm humans, EPA issued the Final Rule, which adopts a balanced approach that respects EPA's mandate to protect the public from drinking water contaminated by lead while allowing regulated entities a generous 10-year period to comply with the Final Rule's requirements.

A. Lead in Drinking Water Is Harmful to Human Health.

The Safe Drinking Water Act charges the EPA with regulating public water systems to protect the public from drinking water contaminants. *See* 42 U.S.C. §§ 300f-300j-26. The Act requires that treatment techniques for contaminants in drinking water prevent "known or anticipated adverse effects on the health of persons to the extent feasible." *Id.* § 300g-1(b)(7)(A). The science is clear that *any* amount of lead is harmful to human health. For example, EPA, the Centers for

Disease Control and Prevention, the American Academy of Pediatrics, the World Health Organization, and other expert organizations all agree that lead in drinking water poses significant health hazards. *See, e.g.*, EPA, *Basic Information About Lead in Drinking Water* (Feb. 24, 2026), https://perma.cc/LQN5-DF2S; CDC, *About Childhood Lead Poisoning Prevention* (Aug. 21, 2025), https://perma.cc/87Z8-5756; Am. Acad. of Pediatrics, *Lead Exposure in Children* (May 12, 2025), https://perma.cc/6LA4-WY4F; World Health Org., *Lead Poisoning* (Sep. 27, 2024), https://perma.cc/T55F-7LPH. "Even low levels of lead in blood are associated with developmental delays, difficulty learning, and behavioral issues," which "can be permanent and disabling." CDC, *About Childhood Lead Poisoning Prevention*, *supra*. "Among other effects, lead exposure can cause damage to the brain and kidneys and can interfere with the production of red blood cells that carry oxygen to all parts of the body." Final Rule 86,419. And "[i]n children, even low levels of lead exposure can cause cognitive health effects like lower intelligence quotient (IQ) as well as learning and behavioral problems," while "[i]n adults, health effects include elevated risk of heart disease, high blood pressure, kidney or nervous system problems, and cancer." *Id.*

Since the 1970s, EPA has been trying to protect the public from those consequences by remediating lead in drinking water. *See National Interim Primary Drinking Water Regulations*, 40 Fed. Reg. 59,566 (Dec. 24, 1975). But those

decades-long efforts, which focused on monitoring taps and treating corrosion, have failed to adequately remove lead from drinking water. *See National Primary Drinking Water Regulations for Lead and Copper: Improvements (LCRI): Proposed Rule*, 88 Fed. Reg. 84,878, 84,909 (Dec. 6, 2023). Even when the corrosion control treatments are used, for example, lead service lines remain a constant source of lead exposure. *See id.* And where lead service lines are in use, they are the primary source of lead in drinking water. *See id.*

Partial removal of lead-containing pipes is not an effective way to remove lead from drinking water. To the contrary, "[p]artial replacement of lead-containing pipe is now recognized to be a source for elevated concentrations of lead in water." Timothy Dignam et al., *The Control of Lead Sources in the United States, 1970-2017: Public Health Progress and Current Challenges to Eliminating Lead Exposure*, 25 J. Public Health Mgmt. & Practice S13-S22, at 6 (2019); *see also* RTC at 9-388 (similar). Partial removal "can disrupt the buildup of minerals coating the pipes, thus releasing lead-containing minerals into the water." Dignam et al., *supra*, at 6.

B. EPA Reasonably Chose To Promulgate a Rule with a 10-Year Compliance Period.

In light of the persistent, widespread, and identifiably harmful threat of lead in this country's drinking water as well as the failure of prior regulatory efforts to address that threat, EPA adopted a Final Rule that requires water systems to fully

replace all lead service lines under their control within 10 years. When evaluating that decision, this Court should apply the APA's "highly deferential" arbitrary and capricious standard. *Am. Trucking Ass'ns, Inc. v. Fed. Motor Carrier Safety Admin.*, 724 F.3d 243, 245 (D.C. Cir. 2013) (citation omitted). Where, as here, "an agency's decision is primarily predictive," the "limited" role for courts is to "require only that the agency acknowledge factual uncertainties and identify the considerations it found persuasive." *Rural Cellular Ass'n v. FCC*, 588 F.3d 1095, 1105 (D.C. Cir. 2009). As a result, the Court should "defer to the EPA's scientific judgment while examining the record to ensure the Agency has considered the relevant factors and reasonably explained how it reached its conclusions." *Am. Farm Bureau Fed'n v. EPA*, 559 F.3d 512, 520 (D.C. Cir. 2009) (per curiam); *see also Ctr. for Biological Diversity v. EPA*, 749 F.3d 1079, 1087-88 (D.C. Cir. 2014) ("[W]e will give an extreme degree of deference to the agency when it is evaluating scientific data within its technical expertise." (citations modified)). An agency need not have "conclusive findings" to regulate "a pollutant it reasonably believes may pose a significant risk to public health." *Am. Farm Bureau Fed'n*, 559 F.3d at 533. In addition, an agency can rely on comments and its years of experience regulating certain entities as support for its decision. *See, e.g.*, *Advocs. for Highway & Auto Safety v. Fed. Motor Carrier Safety Admin.*, 41 F.4th 586, 607 (D.C. Cir. 2022); *see also Cboe Glob. Mkts., Inc. v. SEC*, 155 F.4th 704, 722 (D.C. Cir. 2025).

The Final Rule comfortably meets those standards. EPA acknowledged that "modeling or projecting future service line replacement rates is highly uncertain" because of the "complexity of service line replacement and the numerous variables that affect replacement rates, many of which are specific to each water system or even each site within a water system." Final Rule 86,457. In the face of that uncertainty, EPA based its feasibility analysis "on available data from replacement programs that have already been conducted by real world systems" and concluded that the existing data "provides the soundest basis for evaluating the technical possibility and affordability of mandatory service line replacement requirements and for establishing a deadline in a national rule covering a wide variety of systems." *Id.* 86,457-58. Petitioner offers no reason to upset the agency's decision to base future estimates of costs and benefits on prior line-replacement efforts.

The arguments Petitioner does offer cannot withstand scrutiny. Petitioner objects to a 10-year deadline as too short, Pet. Br. 45-50, but "[r]egulation, like legislation, often requires drawing lines," *Mayo Found. for Med. Educ. & Rsch. v. United States*, 562 U.S. 44, 59 (2011), and agencies have "wide discretion in making line-drawing decisions" as long as the line is not "patently unreasonable," *Nat'l Shooting Sports Found., Inc. v. Jones*, 716 F.3d 200, 214-15 (D.C. Cir. 2013) (quotation marks omitted). EPA acknowledged that "[s]ome commenters suggested a shorter deadline, such as five years or eight years," while "[o]ther commenters

suggested longer deadlines (such as 15 years)." Final Rule 86,459. But "[a]fter consideration of all the comments and the available data, the EPA determined that 10 years is a[] feasible deadline for most systems." *Id.* And EPA set "a pathway for a small percentage of systems to obtain a deferred deadline, while requiring States to set a faster rate where feasible." *Id.* at 86,467.

To support its contrary view, Petitioner claims that 10 years is too short because there will not be enough workers to implement the Final Rule. Pet. Br. 45-47. EPA, however, considered the concerns of some commenters "about the availability of workers to conduct service line replacement within 10 years" as well as the views of other commenters urging that "the labor market can meet the demand created by the mandatory service line replacement provisions." Final Rule 86,469; *see* RTC at 1-1 to 1-6 (EPA's Response to Comments explaining that the agency comprehensively reviewed and responded to issues raised in the public comments, such as those dealing with availability of necessary labor and materials, the rule's costs, public health benefits, and the timeline for mandatory full line replacement). For example, EPA credited the comments of the Laborers' International Union of North America, a trade union that "highlighted its numerous training programs and affirmed its capacity to develop the workforce to complete [lead service line replacement] within the next 10 years." Final Rule 86,469. EPA also reviewed relevant studies and data, such as data on "the projected job growth in labor markets

that are relevant to service line replacement." *Id.* ("Those findings exceed the EPA estimate using anecdotal evidence that it will take the full-time equivalent of 17,000 crews to replace 8.8 million lead and [galvanized requiring replacement] service lines per year with replacement efforts involving approximately 3.6 percent of the pipe worker labor force and 3.5 percent of the excavator workforce."). After reviewing expert testimony and available data and evidence, EPA reasonably concluded that "the skilled workforce is sufficiently robust to meet the demands" of lead service-line replacement. *Id.*

EPA also adequately considered costs. In the preamble, EPA considered and rejected comments suggesting that "replacement of all [lead service lines] in 10 years would not be affordable for water systems." Final Rule 86,460. EPA based its analysis "on the fastest feasible rate established by already completed service line replacements" and found that "10-year service line replacement was demonstrated to be technically possible and reasonably afforded for approximately 98 percent of systems." *Id.* Further, contrary to Petitioner's claim, Pet. Br. 42-45, "EPA did not consider the availability of external funding in its calculation of household costs in the economic analysis," with its cost analysis not relying on the availability of such additional funding, *see* Final Rule 86,460. And while Petitioner primarily relies on arguments regarding alleged hardship to small water systems, Pet. Br. 36-39, the Safe Drinking Water Act requires EPA to evaluate feasibility "relative to 'what may

reasonably be afforded by large metropolitan or regional public water systems.'" *id.* at 86,433 (citation omitted). In any event, EPA did explain that smaller systems "require less time and fewer resources, making 100 percent replacement relatively easier to complete for small systems than for large systems with similar percentages" of lines that need to be replaced. *Id.* at 86,459. Further, "EPA has launched several technical assistance programs specifically to assist with service line replacement," undermining Petitioner's argument that compliance with the 10-year deadline would be infeasible. *Id.* at 86,467.

Petitioner's cost estimates, moreover, were notably "two times the previous average cost estimate provided by [EPA] and 23% larger than the previous average provided by [Petitioner], which were both presented in the Lead and Copper Rule Revisions . . . Economic Analysis in 2020." Elin Warn Betanzo & Vanessa Speight, *Lead Service Line Replacement Costs and Strategies for Reducing Them* 5, 15-16 (Feb. 2024) (filed as an attachment to the Natural Resources Defense Council's comment to the proposed rule), https://perma.cc/9KZA-48HJ. EPA assessed Petitioner's cost estimates and determined that even with those inflated estimates there were still substantial net benefits from the Final Rule. *See* Econ. Analysis 6-9, EPA-HQ-OW-2022-0801-2649. And in any event, while the Safe Drinking Water Act requires EPA to choose the most protective treatment technique available, *see* 42 U.S.C. § 300g-1(b)(4)(D); Final Rule 86,434, it does not mandate that EPA

demonstrate that benefits outweigh costs, *see City of Portland v. EPA*, 507 F.3d 706, 712 (D.C. Cir. 2007).

Nor is Petitioner correct that EPA failed to justify its departure from the 2021 Rule. *See* Pet Br. 50-51. Agencies may issue new rules to fix deficiencies in prior rulemakings. *See, e.g.*, *Mississippi v. E.P.A.*, 744 F.3d 1334, 1343 (D.C. Cir. 2013) (per curiam) ("Following [Petitioner's] approach would bind EPA to potential deficiencies in past reviews . . . . We decline [Petitioner's] invitation to enter that funhouse and will defer as long as EPA reasonably explains its actions."). As the Final Rule demonstrates, EPA thoroughly explained why it would require full-line replacement to more comprehensively address failures in prior regulatory efforts that had focused, ineffectively, on monitoring taps and treating corrosion. *See* Final Rule 86,446-47, 85,454.

In sum, after considering all the available evidence, public comments, and EPA's years of expertise, the agency chose a 10-year compliance period. In doing so, EPA met its obligations by reaching a reasonable "judgment based on the evidence it had." *FCC v. Prometheus Radio Project*, 592 U.S. 414, 427 (2021).

II. Case Studies from Across the Nation Confirm That the EPA's Adoption of a 10-Year Compliance Period Is Not Arbitrary and Capricious.

EPA's reliance "on available data from replacement programs that have already been conducted by real world systems," Final Rule 86,457, is firmly supported by the record as well as the experiences of other water systems replacing

lead service lines, *see* Env't Def. Fund, *Transparency in Action: Map of Public LSL Replacement Programs* (Nov. 10, 2025), https://perma.cc/N5XC-JFQ9 ("Over 250 water utilities across the country have established public [lead service line] replacement programs to protect public health at a community-wide scale, and nearly 20 have completed their program."). The examples relied on by EPA, as well as evidence marshaled from other real-world water systems, confirm that EPA did not act arbitrarily or capriciously when it determined that compliance with the Final Rule is both "technically possible and affordable," *City of Portland*, 507 F.3d at 712 (defining "feasible").

A. Compliance with the Rule Is "Technically Possible."

Case studies from around the country show that localities have been able to timely implement full lead service line replacement. These efforts have been supported by the development of new strategies for acquiring and training the necessary workforce, including through union workforce training programs, all of which demonstrate the feasibility of complying with the Final Rule. BlueGreen Alliance will continue to work to support unions and localities in taking advantage of these best practices and to advocate for policy and funding resources that can further enhance feasibility.

First, localities have created opportunities and commitments to replace the lines with new labor sources. In St. Paul, Minnesota, for example, the local utility

committed to replacing all lead pipes servicing private property in the city at no cost to homeowners. *See* Frederick Melo, *St. Paul Regional Water Hires 30 New Employees to Speed Lead Line Replacement*, Yahoo! Finance (Mar. 18, 2023), https://finance.yahoo.com/news/st-paul-regional-water-hires-102300222.html. To meet this commitment, the utility agreed to increase its workforce by at least 10 percent and has developed a new recruitment and training program to support its efforts. For instance, it replaced low-wage, temporary summer jobs with a trainee program. *Id.*; *see* RTC at 9-132 (comment of Laborers' International Union of North America). Over 170 applicants applied for the trainee positions. Melo, *supra*. The program also took advantage of potential efficiencies by prioritizing project areas where streets were already scheduled to be "opened up for road reconstruction or utility replacement by the city." *Id*. The utility's most recent report stated that 1,964 lines had been removed since the program started in 2022. St. Paul Reg'l Water Servs., *Water Quality Report* 5 (2025), https://perma.cc/9RYJ-798T. And the utility was "on track to remove 2,300 [additional] lead service lines" in 2025. *Id.* The utility will achieve its overall goal by approximately 2032. *See id.*; *see also* Final Rule 86,440 (cataloguing other local initiatives).

Similarly, in Benton Harbor, Michigan, the engineering firm supporting the city's efforts to replace lead service lines developed new strategies to meet the labor demand. To help provide local jobs while securing the necessary labor force, the

firm hosted three job fairs to recruit job applicants. Mich. Sustainable Bus. F., *How They Replaced Benton Harbor's Lead Lines in 18 Months* (June 23, 2025), https://perma.cc/3UXN-WEDH. The firm hired five installation contractors and assigned separate portions of the city to each of the contractors. *Id.* Benton Harbor employed a neighborhood-by-neighborhood approach to planning the replacements, which led to increased efficiency and decreased labor demands. *See* Betanzo & Speight, *supra*, at 50. By adopting this neighborhood-scale approach, the experience in Benton Harbor showed how a locality "can bring down the cost of [lead service line replacement] by consolidating work in a single area, completing more [lead service line replacements] and inventory excavations by the same crews on the same workdays." *Id.* Instead of traveling to various locations throughout a city to replace lines as one-off projects, a neighborhood-scale approach allows for efficient inventory of lead and non-lead lines. *Id.* Because lead service line replacements can require repavement of surface streets after construction, this approach also helps to reduce labor needs by "provid[ing] the opportunity for a full street paving project . . . after all service lines are replaced or verified non-lead on a given street." *Id.* To provide live updates on its progress and promote accountability, Benton Harbor also developed an accessible dashboard for the public to view. *See* City of Benton Harbor, *Benton Harbor LSLR Status Dashboard*, ArcGIS (Dec. 4, 2023), https://perma.cc/8Q7G-SVJL. As of December 4, 2023, the project became

100 percent complete—in approximately two years. *See id.*; State of Mich., *City of Benton Harbor Water Efforts*, https://perma.cc/FRJ4-8B2W; Final Rule 86,440.

Other case studies have similarly shown that lead service line replacements can proceed quickly and efficiently. In Newark, New Jersey, for example, replacement efforts have progressed faster and with more efficiency than expected. *See* Final Rule 86,612 ("[I]n Newark, New Jersey, almost all [lead service line replacements] were removed in a short period of time."). One of Newark's lead service line replacement contractors scheduled to replace 1,000 lines in 9 months completed *all* the lines in its contract in only 180 days. *See* Betanzo & Speight, *supra*, at 52. At the height of the program's efficiency, 120 lines were replaced each day. *See id*. These results were replicated across Newark's lead service line replacement program, allowing the city to replace over 23,000 lines in just under three years—instead of the estimated eight years. *See* Newark Water & Sewer, *How Newark is Leaps Ahead of the EPA's New Lead and Copper Rule* (Dec. 5, 2024), https://perma.cc/NP4B-RNYK.

Second, unions have also played a role in addressing labor needs for lead service line replacement by creating and implementing workforce training programs. In Newark, for example, the Heavy and General Construction Laborers Local 472 funded and hosted several apprenticeship classes to help train residents in Newark. *See* Jersey Water Works, *Wells of Opportunity: Training Residents and Prioritizing*

Local Hiring for Water Infrastructure Projects in Newark 3-4 (Nov. 2020), https://perma.cc/3UT8-M7WF; *see also* Final Rule 86,469. According to the union, "over 50 people went through the apprenticeship and about 36 passed and got jobs." Jersey Water Works, *supra*, at 4. Most were unemployed prior to joining the program. Union investment in developing these training programs is critical because union jobs attract more applicants due to the potential to earn middle class salaries and have permanent union jobs. *See Trusting the Tap: Upgrading America's Drinking Water Infrastructure: Hybrid Hearing Before the Subcomm. on Env't and Climate Change of the H. Comm. on Energy and Com.*, 117th Cong. 79-80 (2022) (statement of Kareem Adeem, Dir. of Water and Sewer Utility for Newark, N.J.).

Similarly, the West Virginia and Appalachian Laborers' District Council has committed to training and supplying labor for lead service line replacements. The Council represents 4,000 members and has a workforce waiting list of over 400 people who are committed to joining the union to work on lead service line replacements. *See* Jessie King, *Safe Drinking Water Is a Bipartisan Promise (Opinion)*, Charleston Gazette-Mail (Feb. 14, 2026), https://archive.ph/hLH01. The Council is currently training hundreds of apprentices, including on pipeline safety and techniques, and has reported that interest in apprenticeships continues to grow. *Id.* These case studies demonstrate the role that unions can play in meeting the labor need for lead service line replacement.

Third, BlueGreen Alliance will continue facilitating apprenticeships and trainings to help build the workforce needed for lead service line replacement. BlueGreen Alliance has been on the frontlines of collaborating with unions on replacement programs and advocating for policies addressing the issue. BlueGreen Alliance regularly advocates for increased support and funding for lead service line replacement. The experience of BlueGreen Alliance staff show that "[c]ollaboration between utilities and unions has been key to meeting workforce demands and achieving successful lead service line replacement." BlueGreen All., *Progress Being Made on Lead Pipe Replacement Across Midwest Cities, But Work Remains* (Oct. 22, 2025), https://perma.cc/99FK-DHEH. BlueGreen Alliance is committed to drawing on its years of experience educating and collaborating with unions to develop recruitment and training opportunities to address labor needs for lead service line replacements in localities across the country.

As these examples show, the 10-year deadline EPA chose, after evaluating the evidence before it, reasonably accounts for the way in which lead service line replacement is implemented on the ground. Water systems nationwide can secure an adequate work force to remove lines that continue to poison the country's water.

B. Compliance with the Rule's Deadline Is "Affordable."

Implementation efforts have already established that EPA did not act arbitrarily or capriciously when it concluded that compliance with the Final Rule is

affordable. Real-world examples show that compliance has become increasingly affordable due to economies of scale and efforts to maximize efficiency. In addition, though not relied upon in EPA's decisionmaking, *see* Final Rule 86,460, external funding has also provided financial assistance for localities to replace lead service lines.

First, case studies show how efficient planning and economies of scale lead to cost reductions. *See* Final Rule 85,459 ("[S]ystems can take advantage of the economy of scale present in installing and maintaining these treatments."). With time and experience, improved efficiency of crews can increase the rate of replacements per crew per day, leading to additional cost reductions. *See* Betanzo & Speight, *supra*, at 28. Moreover, the neighborhood-scale approach discussed above—which consolidates lead service line replacement in a single area—also leads to reduced costs. *See id.* at 50 (citing Elin Betanzo & Noah Attal, *Independent Verification and Validation of DC Water's Lead Free DC Lead Service Line Removal Plan: Final Report* (Sep. 2022), https://perma.cc/XNJ9-6V7E). Because projects are consolidated to "a single area, [it is possible to] complet[e] more [lead service line replacements] and inventory excavations by the same crews on the same days." *Id*. And "[c]ompleting all the work at one time reduces the cost of multiple paving projects." *Id*.; *see* Final Rule 86,454 ("Water systems that conduct full service line replacement in coordination with planned infrastructure work may

realize public health benefits, efficiencies, and cost savings."); *id.* at 86,461. One study, for example, estimated that the District of Columbia could reduce the cost of replacements by $29 million if it consolidated its efforts at the neighborhood scale. Betanzo & Speight, *supra*, at 50.

Localities can also achieve economies of scale in the public engagement efforts that are a necessary component of the lead service line replacement process. Outreach—for example, "scheduling appointments, signing forms, getting access to building interiors, and conducting follow up activities"—presents a critical component of lead service line replacement programs because it serves the function of informing and engaging households that will be affected. Betanzo & Speight, *supra*, at 43; Final Rule 86,521 (describing how studies of lead service replacement programs in Trenton, New Jersey, Chelsea, Massachusetts, and Detroit, Michigan "demonstrat[e] how effective public education and community engagement can be to support service line replacement efforts"). Cumulative costs of outreach efforts are likely to benefit from economies of scale, with reduce costs over time as water systems focus on the most efficient ways to inform the public about the need to replace lead service lines. Betanzo & Speight, *supra*, at 43. And information spreads through informal channels as well. *Id.* at 50-51 ("With high neighborhood activity increasing conversations and awareness between community members, there may be a reduced need for outreach efforts aimed at convincing customers to participate

in the [lead service line replacement] program."); *see* Final Rule 86,452 ("EPA expects th[e] outreach [efforts] will support communication between property owners and the water system to improve access.").

Second, although not necessary to justify the Final Rule, external funding from different sources continues to be available and increases the affordability of lead service line replacements. *See* Final Rule 86,460 ("[T]here is significant funding available to support service line replacement, and the EPA expects that the additional funding . . . will increase the affordability of the achieved replacement rates."). A variety of funding sources exist, including the Drinking Water State Revolving Fund, the Small, Underserved, and Disadvantaged Communities Grant Program, the Reducing Lead in Drinking Water Grant, Water Infrastructure Finance and Innovation Act, and the HUD Community Development Block Grant. *See* EPA, *Identifying Funding Sources for Lead Service Line Replacement* (Feb. 10, 2026), https://perma.cc/3A5U-8489. Another federal funding source, the 2021 Bipartisan Infrastructure Law, set aside approximately $15 billion for lead service line replacement nationally over 5 years. Press Release, *EPA Announces More than $184 Million for Ohio Lead Pipe Replacement to Advance Safe Drinking Water as Part of the Biden-Harris Administration Investing in America Agenda* (May 2, 2024), https://perma.cc/SFH8-4N2E. For example, of the $184 million the law set aside for Ohio, $19 million was set aside for Cleveland Water to replace lead service lines.

Courtney Astolfi, *Cleveland Water to Replace Lead Service Lines with $19M from Bipartisan Infrastructure Law*, Cleveland.com (Dec. 6, 2022), https://archive.ph/fwxWK.

In Flint, Michigan, external funding for lead service line replacements came from both federal and non-federal funding sources. *See* Final Rule 86,458. The city received almost $100 million in state funding to help with lead service line excavation, replacement, and restoration. *See* Jason Lorenz, *State of Michigan Partners with City of Flint to Fund and Complete Yard and Road Restoration at 1,901 Homes Excavated for Lead Service Line Replacement*, City of Flint (May 29, 2024), https://perma.cc/L6XW-CG5C. The copper industry itself worked with the city to lower sourcing costs by approximately $1 million. *See* Copper Dev. Ass'n, *Case Studies: A Look at Five Communities Replacing Lead Service Lines* 5 (last accessed Mar. 2, 2026), https://perma.cc/TZF6-K2J9. And in 2025, Flint finished its replacement of lead service lines after a decade. *See* Margie Kelly, *Flint Finishes Lead Pipe Replacement in Historic Milestone*, NRDC (July 1, 2025), https://www.nrdc.org/press-releases/flint-finishes-lead-pipe-replacement-historic-milestone.

CONCLUSION

This Court should deny the Petition for Review.

Dated: March 13, 2026

Respectfully submitted,

/s/ Trisha Anderson
Trisha Anderson
Martin Totaro
Helia Bidad
HECKER FINK LLP
1050 K Street NW
Suite 1040
Washington, DC 20001
(212) 763-0883
tanderson@heckerfink.com
mtotaro@heckerfink.com
hbidad@heckerfink.com

Counsel for Amicus BlueGreen Alliance

CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limit of Federal Rule of Appellate Procedure 29(a)(5) because it contains 4,829 words. This document complies with the typeface requirements of Rule 32(a)(5) and the typestyle requirement of Rule 32(a)(6) because this document has been prepared using Microsoft Word in 14-point Times New Roman, a proportionally spaced typeface.

Dated: March 13, 2026

/s/ Trisha Anderson
Trisha Anderson

Counsel for Amicus BlueGreen Alliance

CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2026, I electronically filed the foregoing response brief with the Clerk for the United States Court of Appeals for the D.C. Circuit by using the CM/ECF system. A true and correct copy of this brief has been served via the Court's CM/ECF system on all counsel of record.

Dated: March 13, 2026

/s/ Trisha Anderson
Trisha Anderson

Counsel for Amicus BlueGreen Alliance