ORAL ARGUMENT NOT YET SCHEDULED

No. 24-1376

UNITED STATES COURT OF APPEALS
FOR THE D.C. CIRCUIT

AMERICAN WATER WORKS ASSOCIATION,

Petitioner,

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY, *et al.*,

Respondents,

NATURAL RESOURCES DEFENSE COUNCIL, *et al.*,

Respondent-Intervenors.

On Petition for Review of Final Action by the
U.S. Environmental Protection Agency
89 Fed. Reg. 86,418 (October 30, 2024)

BRIEF FOR AMICUS CURIAE GREEN & HEALTHY HOMES INITIATIVE, INC. IN SUPPORT OF RESPONDENTS

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March 13, 2026

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to D.C. Circuit rule 28(a)(1), *amicus curiae* the Green & Healthy Homes Initiative, Inc. submits this certificate as to parties, rulings, and related cases.

A. Parties and *Amici*

In addition to the parties and intervenors listed in the Opening Brief of Petitioner and the Page Proof Brief for Respondents, other *amici* are: the Chamber of Commerce of the United States of America, the Commonwealth of Massachusetts, District of Columbia, States of California, Connecticut, Illinois, Maryland, Minnesota, New Jersey, New York, North Carolina, and Wisconsin. Other parties may join as *amici.*

B. Rulings Under Review

The action under review is EPA's rule, "National Primary Drinking Water Regulations for Lead and Copper: Improvements," 89 Fed. Reg. 86, 418 (Oct. 30, 2024).

C. Related Cases

An accurate statement regarding related cases appears in the Opening Brief of Petitioner.

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29(a)(4)(A), the Green & Healthy Homes Initiative, Inc. states that it does not have parent companies and that no publicly held company has a 10% or greater ownership in the organization.

Dated: March 13, 2026

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D.C. CIRCUIT RULE 29(d) STATEMENT

Counsel for *amicus curiae* the Green & Healthy Homes Initiative, Inc. certifies pursuant to Circuit Rule 29(d), that a separate brief is necessary to provide the Court with the organization's institutional knowledge regarding the disproportionate impacts of lead poisoning. The Green & Healthy Homes Initiative, Inc. has implemented programs to reduce lead exposure and has worked with dozens of jurisdictions to protect public health, particularly for economically disadvantaged communities. This work is directly relevant to the agency action under review. Thus, *amicus curiae*, through counsel, certifies that it would not be practicable to file a joint brief.

Dated: March 13, 2026

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STATEMENT OF INTEREST

The Green & Healthy Homes Initiative, Inc. (GHHI) is a non-profit organization that engages in educational, policy, outreach, technical assistance, and housing intervention initiatives across the United States to advocate for healthy, safe, and resilient homes nationwide. GHHI maintains offices in Baltimore, Maryland; Detroit, Michigan; Lancaster, Pennsylvania; Memphis, Tennessee; Providence, Rhode Island; and Trenton, New Jersey for its healthy and energy efficient housing direct services in low-income communities. GHHI works with over 75 jurisdictions and healthcare systems nationally to protect public health and advance housing stability in economically challenged communities through the design and adoption of integrated, whole house service delivery models.

GHHI implements programs and policies nationally to eliminate childhood lead poisoning, including measures addressing housing-based lead exposure that have resulted in a 99% decline in childhood lead poisoning in the State of Maryland since 1993. GHHI submits this brief to highlight the unique dangers and disparate impacts lead poses to children, low-income families, and communities of color, and to underscore the importance of promptly eliminating the use of lead service lines in the United States via implementation of the National Primary Drinking Water Regulations for Lead and Copper: Improvements, 89 Fed. Reg. 86,418 (Oct. 30, 2024).

Neither party's counsel authored this brief in whole or in part, and neither party nor party's counsel contributed money that was intended to fund preparing or submitting the brief. No other individual or organization contributed money that was intended to fund preparing or submitting the brief. All parties have consented to the filing of this brief.

INTRODUCTION

Lead is a heavy metal neurotoxin dangerous to the human body in any amount.[1] Even low-level exposure can have serious long-term health effects, including neurological damage, cardiovascular disease, cancer, and death.[2] And although no one is safe from lead poisoning, children suffer the most. Half of the country's children have a detectable level of lead in their blood, putting them at risk of irreversible neurological and physical damage long before they reach adulthood.[3] Studies and national data also show that low-income families and communities of

[1] EPA, EPA/600/R-23/375, *Integrated Science Assessment for Lead* (Jan. 2024).

[2] Bruce P. Lanphear et al., *Low-Level Lead Exposure and Mortality in US Adults: A Population-Based Cohort Study*, 3 The Lancet Pub. Health e177 (2018); Ana Navas-Acien et al., *Lead Exposure and Cardiovascular Disease—A Systematic Review,* 115 Env't Health Persps. 472 (2007).

[3] Marissa Hauptman et al., *Individual- and Community-Level Factors Associated with Detectable and Elevated Blood Lead Levels in U.S. Children: Results from a National Clinical Laboratory*, 175 JAMA Pediatrics 1252, 1252-60 (2021).

color are disproportionately exposed to lead and, in many cases, suffer disparate impacts from those exposures, often compounding existing health risks.[4]

Lead dangers start at home. Deteriorated lead-based paint and dust are the primary sources of residential exposure, but drinking water is also a substantial contributing culprit.[5] EPA has estimated that drinking water can be responsible for up to 20% of an average person's total lead exposure.[6]

Most lead in drinking water leaches from lead service lines connecting water mains to homes.[7] These lines are common. By 1900, more than 70% of U.S. cities with populations greater than 30,000 people had installed lead piping in their water infrastructure.[8] Lead service lines continued to be widely used throughout the country until as late as the 1980s.[9] Today, millions of lead service lines still carry

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[4] Brandi M. White et al., *Racial/Ethnic Differences in Childhood Blood Lead Levels Among Children <72 Months of Age in the United States: A Systematic Review of the Literature*, 3 J. Racial and Ethnic Health Disparities 145 (2016).

[5] Ronnie Levin et al., *Lead Exposures in U.S. Children, 2008: Implications for Prevention*, 116 Env't Health Persps. 1285, 1285 (2008).

[6] *See* 89 Fed. Reg. at 86,429 (citing 56 Fed. Reg. 26,548 (1991)).

[7] Levin, *supra* note 5, at 1285.

[8] Richard Rabin, *The Lead Industry and Lead Water Pipes "A Modest Campaign"*, Am. J. Pub. Health 1584, 1585 (2008).

[9] *Id* at 1590.

lead-tainted drinking water into homes nationwide. The longer it takes to replace lead service lines, the more people are poisoned in the interim.

These exposures are preventable. EPA's National Primary Drinking Water Regulations for Lead and Copper: Improvements ("the Rule") is a crucial step toward remediating lead poisoning's toxic legacy and preventing future harms. In addition to imposing measures to ensure that overburdened communities are able to mitigate their lead exposures, it finally imposes a timeline sufficient to ensure that lead service lines are fully replaced proactively and promptly. Given the progress that has already been made in states and municipalities across the country and the historic $15 billion in funding provided by Congress in the Infrastructure Investment and Jobs Act to accelerate lead service line replacement, now is the time to ensure that lead service lines are finally replaced nationwide. Lead service lines cause harm every day, and there is no time to waste. The petition should be denied.

ARGUMENT

I. Lead exposure disproportionately burdens children, low-income families, and predominately non-white communities.

No one is safe from lead poisoning. But children, low-income families, and non-white communities are all disproportionately exposed and endangered. These

risks are intersectional: non-white children in low-income families experience the greatest harms from lead exposures.[10]

A. Children

Lead accumulates in the human body even before birth, transferring from mother to baby during pregnancy.[11] After birth, lead can pass through breast milk.[12] Later, many children are exposed to lead on surfaces and toys they touch or bring to their mouths through natural childhood behaviors. Since children have a smaller body mass than adults, they also absorb more lead relative to their size.[13] As a result,

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[10] *See* Anne E. Nigra et al., *Geospatial Assessment of Racial/Ethnic Composition, Social Vulnerability, and Lead Water Service Lines in New York City*, 131 Env't Health Persps. 87015-1, 87015-6 (2023); Deniz Yeter et al., *Disparity in Risk Factor Severity for Early Childhood Blood Lead among Predominantly African-American Black Children: The 1999 to 2010 US NHANES*, 17 Int'l J. Env't Rsch. Pub. Health 1552, Figure 3 (2020) (observing that Black children living in poverty had blood lead levels four times higher than children in other racial groups).

[11] Vanda Risova, *The Pathway of Lead Through the Mother's Body to the Child*, 12 Interdisciplinary Toxicology 1 (2020).

[12] *Id.*

[13] CDC, *People at Increased Risk for Childhood Lead Poisoning*, https://www.cdc.gov/lead-prevention/risk-factors/?CDC_AAref_Val=https://www.cdc.gov/nceh/lead/prevention/populations (last visited Mar. 11, 2026).

approximately 500,000 children in the United States have elevated blood lead levels.[14]

Children are not only more likely to be exposed to lead, they are also more likely to be harmed by lead exposure.[15] Exposure to lead during infancy and childhood can slow growth, damage the brain, hinder cognitive development, and result in neurological damage.[16] The cognitive damage caused by even low levels of exposure can cause compounding harms, such as learning disabilities, attention deficit disorders, and behavioral and social problems, which in turn affect performance in school and can ultimately reduce lifetime earnings.[17]

Childhood lead exposure can also have cascading social effects. Children who are exposed to lead are more likely to drop out of school and more likely to become

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[14] CDC, *About Childhood Lead Poisoning Prevention*, https://www.cdc.gov/lead-prevention/about/index.html (last visited Mar. 11, 2026).

[15] CDC, *Lead Exposure Symptoms and Complications*, https://www.cdc.gov/lead-prevention/symptoms-complications/index.html#cdc_symptoms_compare-lead-in-the-blood-and-bod (last visited Mar. 11, 2026).

[16] Bruce P. Lanphear et al. *Low-Level Environmental Lead Exposure and Children's Intellectual Function: An International Pooled Analysis*, 113 Env't Health Persps. 894 (2005); Richard L. Canfield et al., *Intellectual Impairment in Children with Blood Lead Concentrations Below 10 Microg Per Deciliter*, 348 New England J. Med. 1517 (2003).

[17] *See* Elise Gould, *Childhood Lead Poisoning: Conservative Estimates of the Social and Economic Benefits of Lead Hazard Control*, 117 Env't Health Persps. 1162, 1164 (2009).

involved in the juvenile justice system.[18] Studies have also identified strong associations between lead exposure during early childhood and criminal behavior later in life.[19]

Historically, efforts to eliminate lead poisoning have been largely reactive: lead service lines were typically identified for replacement only after drinking water was discovered to contain dangerously high levels of lead.[20] This slow approach harmed children the most. Research shows that lead causes the most serious damage before birth and in early childhood, when the brain's primary structures are still forming.[21] This damage is permanent and irreversible: once exposure occurs, the harm has been done.[22] Primary prevention approaches—like those contemplated in

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[18] Jacqueline MacDonald Gibson et al., *Early Life Lead Exposure From Private Well Water Increases Juvenile Delinquency Risk Among US Teens*, 119 Proceedings of the Nat'l Acad. of Scis. 1, 10 (2021).

[19] *See, e.g.*, *Maria Jose* Talayero et al., *The Association Between Lead Exposure and Crime: A Systematic Review*, 3 *PLOS Global Publ. Health* e0002177 (2023); Herbert L. Needleman et al., *Bone Lead Levels and Delinquent Behavior*, 275 J. JAMA 363, 367 (1996).

[20] *See* Emily A. Benfer, *Contaminated Childhood: How the United States Failed to Prevent the Chronic Lead Poisoning of Low-Income Children and Communities of Color*, 41 Harv. Env't L. Rev. 493, 515 (2017).

[21] David Rosner & Gerald Markowitz, *Building the World That Kills Us: The Politics of Lead, Science, and Polluted Homes, 1970 to 2000*, 42 J. Urb. Hist. 323, 340 (2016).

[22] *Id.*

the Rule—are thus essential to protect children from lead poisoning during critical periods of brain development.[23]

B. Low-income families

Lead poisoning has been called a "signature disease of poverty."[24] People of all ages in low-income families are both disproportionately exposed to lead and less able to mitigate the damage from lead exposure. Indeed, in the United States, people living in or near poverty have higher odds of having blood lead levels exceeding the national average.[25]

The statistics on lead poisoning in children in low-income families are particularly stark. Studies have found that children living in the highest-poverty areas are several times more likely to have elevated blood levels than those living in the lowest-poverty areas.[26] Children in low-income families are not only at greater risk of lead poisoning, they may also experience more significant developmental harms from lead exposure. One study, for example, observed that children in low-

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[23] *See* CDC, *Preventing Childhood Lead Poisoning*, https://www.cdc.gov/lead-prevention/prevention/index.html (last visited Mar. 11, 2026).

[24] David Rosner & Gerald Markowitz, *supra* note 21, at 326.

[25] Michael Ricciardi, *The Impact of Poverty Status on Blood Lead Levels Among Individuals in the United States from 2017-2018: An Analysis of the National Health and Nutrition Examination Survey*, 86 J. of Env't Health 8 (2024).

[26] Leland F. McClure et al., *Blood Lead Levels in Young Children: US, 2009-2015*, 175 J. of Pediatrics 173 (2016); Hauptman et al., *supra* note 3.

income families exposed to lead experienced more persistent harms and harms of greater magnitude than did children in higher-income families, even at similar levels of exposure.[27]

Once again, most of these exposures occur at home because low-income families are often more likely to live in homes that contain lead paint, lead dust, and other lead-based hazards.[28] Relevant here, low-income families are also more likely to live in communities with lead service lines. Indeed, a 2020 report prepared by the Government Accountability Office studied four U.S. cities and found that in each city, neighborhoods with "older homes, higher percentages of multi-unit housing, higher percentages of people in poverty, higher percentages of unemployed people, and higher percentages of people without a vehicle" were more likely to have lead service lines than other communities.[29] The report also identified a correlation

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[27] Andrew T. Marshall et al., *Association of Lead-Exposure Risk and Family Income with Childhood Brain Outcomes,* 26 Nature Med. 91, 94 (2020); *accord* CDC, Educational Services for Children Affected by Lead Expert Panel, *Educational Interventions for Children Affected by Lead* at 9 (April 2015).

[28] *See, e.g.,* Marissa Hauptman et al., *Neighborhood Disparities and the Burden of Lead Poisoning*, 94 Pediatric Res. 826 (2023); F. Gary Dewalt et al., *Prevalence of Lead Hazards and Soil Arsenic in U.S. Housing*, 78 J. Env't Health 22, 24 (2015); Michael Weitzman et al., *Housing and Child Health*, 43 Current Problems in Pediatric and Adolescent Healthcare 187 (2013).

[29] U.S. Gov't Accountability Off., *Drinking Water: EPA Could Use Available Data to Better Identify Neighborhoods at Risk of Lead Exposure* at 62 (Dec. 2020), https://www.gao.gov/assets/gao-21-78.pdf.

between the prevalence of lead service lines and rented housing[30]—a particularly concerning statistic because, before promulgation of the Rule, information about lead risks in drinking water was usually provided only to homeowners, preventing renters from taking steps necessary to reduce their exposure risks.[31]

In addition to facing disparate access to lead-safe housing, low-income families also often suffer from unequal access to healthcare and other resources, including preventative testing and post-exposure remediation and intervention. This reality compounds existing risks. Early lead testing is critical to protect children from lasting harms, but there are "major gaps in how we currently test for and detect child lead poisoning" in high-risk communities.[32] Socioeconomic barriers to lead testing include access to health insurance, parents' job schedules, and medical costs; for example, the full cost of one standard lead blood test is $70 to $120 per child.[33]

Financial barriers can also limit access to educational interventions that can help mitigate the potential developmental delays caused by lead poisoning among

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[30] *Id.*

[31] Hang Lu et al., *Research to Move Toward Evidence-Based Recommendations for Lead Service Line Disclosure Policies in Home Buying and Home Renting Scenarios*, 16 Int. J. Env't Rsch. & Pub. Health 963, 965 (2019) (noting that disclosure requirements for lead service lines often depend on landlords providing essential information to tenants).

[32] Christina Sobin et al., *Improving Equitability and Inclusion for Testing and Detection of Lead Poisoning in US Children*, 101 Milbank Q. 48, 50 (2023).

[33] *See id.* at 54.

children.[34] Research shows that children with developmental delays benefit most from early intervention.[35] Disparities in access to treatment to address the effects of lead poisoning during critical developmental windows can have lifelong consequences for children in low-income families in terms of educational outcomes and lost lifetime earnings.[36]

C. Predominantly non-white communities

Study after study shows that Hispanic and Black families in the United States are both disproportionately exposed to and disproportionately affected by lead poisoning.[37] Many of the nation's lowest income communities of color suffer from an older, substandard housing stock, where deferred maintenance, the lack of lead

[34] *See* CDC, Educational Services, *supra* note 27, at 9-13.

[35] *See id.* at 16.

[36] *See* Joanna Balza et al., *Effectiveness of Educational Interventions for the Prevention of Lead Poisoning in Children: A Systematic Review*, 40 Rev. Env't Health 115 (2024).

[37] *See, e.g.*, Heather Moody et al., *The Racial Gap in Childhood Blood Lead Levels Related to Socioeconomic Position of Residence in Metropolitan Detroit*, 2 Sociology of Race and Ethnicity 200 (2016); Nigra, *supra* note 10; White, *supra* note 4; Yeter, *supra* note 10.

specific housing laws, and inadequate enforcement of existing housing standards exacerbate disparities in lead poisoning rates.[38]

Disinvestment and longstanding discrimination have also resulted in fewer lead safe housing options and can make escape from lead exposure difficult. For one, racially discriminatory housing policies—including restrictive covenants, redlining, and predatory lending—have left and continue to leave fewer opportunities for minority families to move out of older, deteriorated, or lead-contaminated housing.[39]

Even prior efforts to remove lead service lines have perpetuated inequality. Data from service line replacement projects conducted between 2008 and 2019 in Washington, D.C., showed that when partial service line replacement was allowed as an alternative to full replacement, low-income neighborhoods—which were also disproportionately Black—were much more likely to receive partial replacement by default.[40] Partial replacement can be dangerous because it can disrupt the mineral

[38] Emily Benfer et al., *Health Justice Strategies to Eradicate Lead Poisoning: An Urgent Call to Action to Safeguard Future Generations*, 19 Yale J. of Health Policy, Law, and Ethics 146 (2020).

[39] *See* Hope Kerpelman, *Let Them Eat Paint: Childhood Lead Paint Poisoning as the Denial of Constitutional and Civil Rights*, 51 Colum. Hum. Rts. L. Rev. 828, 844-45 (2020).

[40] Karen J. Baehler et al., *Full Service Line Replacement: A Case of Equity in Environmental Remediation*, 14 Sustainability 352, 18 (2022).

deposits coating the insides of lead pipes and release lead particles into the water.[41] In some cases, partial replacement can increase lead in drinking water for months and provide no long-term benefits.[42] This pattern can result in additional months or years of vulnerability to lead exposure.

Adding insult to injury, studies have also shown that Black Americans often face a twofold health risk: not only are they more likely to be exposed to lead, they are also more likely to have serious diseases that are aggravated by that exposure. For example, one study analyzed EPA water supply records for patients initiating dialysis for kidney disease and found that Black patients were exposed to "significantly higher water lead levels" than were white patients.[43] The same study recognized that Black Americans have higher rates of kidney disease, an ailment that can result in an "exaggerated susceptibility" to lead toxicity.[44]

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[41] Timothy Dignam et al., *Control of Lead Sources in the United States, 1970-2017: Public Health Progress and Current Challenges to Eliminating Lead Exposure*, 25 J. Pub. Health Mgmt. and Practice S13, S18 (2019).

[42] Environmental Defense Fund, *Lead Pipes and Environmental Justice* 3 (2020), https://www.edf.org/sites/default/files/u4296/LeadPipe_EnvironJustice_AU%20and%20EDF%20Report.pdf.

[43] John Danzinger et al., *Associations of Community Water Lead Concentrations with Hemoglobin Concentrations and Erythropoietin-Stimulating Agent Use among Patients with Advanced CKD*, 32 J. Am. Soc'y Nephrology 2425, 2429 (2021); *see id.* (observing that "[c]ommunity water lead levels were highest among Black patients and those without health insurance").

[44] *Id*. at 2431.

II. The Rule will protect the people and communities most affected by lead exposure on an appropriately urgent timeline.

The Rule is an essential response to the dangers facing all Americans from lead poisoning. Per EPA, the Rule will "protect up to 900,000 infants from low birthweight," "prevent up to 2,600 children from experiencing" attention deficit disorders, "reduce up to 1,500 cases of premature death from heart disease," and prevent cognitive declines in millions of Americans every year.[45]

The Rule will also take essential steps to address the reasons why some families and communities are disproportionately exposed to and harmed by lead. For example, ensuring that water systems create service line replacement plans that specifically consider "community-specific factors," like "populations disproportionately impacted by lead and populations most sensitive to the effects of lead" will ensure accountability and transparency.[46] Requiring those plans to be made available to all people served by lead service lines—and not just consumers who have historically received that information—will ensure that renters and other

[45] EPA, *EPA's Final Lead and Copper Rule Improvements Technical Fact Sheet: Summary of Benefits and Costs* at 1 (Oct. 2024); *see* U.S. EPA, *Economic Analysis for the Final Lead and Copper Rule Improvements* at ES-6 (2024), https://www.epa.gov/system/files/documents/2024-10/508_lcri_final_ea_10-21-2024.pdf.

[46] 89 Fed. Reg. at 86,471.

non-owners are informed about lead-related risks.[47] Likewise, mandating full, rather than partial, lead service line replacement in nearly all circumstances will ensure that replacement efforts effectively prevent future lead exposures.[48]

But the Rule's 10-year default replacement timeline is one of its most crucial features. At this point, the risks of lead exposure from lead service lines have been known for more than a century. Indeed, the dangers of lead pipes began to appear in scientific discourse as early as the late 19th century. Around 1890, for example, Massachusetts advised its cities to avoid the use of lead pipes.[49] But the response has been slow moving ever since. Statutes addressing the dangers of lead—including the Safe Drinking Water Act—were not passed until the 1970s. After that, it took more than 15 years for Congress to amend the Safe Drinking Water Act to ban the installation of new lead service lines.[50] And although EPA regulations made some improvements, as noted above at p.7, they were largely reactive—requiring lead

[47] *Id.* at 86,478-79.

[48] *See id.* at 86,454-55; *cf. supra* at pp.12-13 (discussing the problems associated with partial replacements).

[49] Rabin, *supra* note 8, at 1585.

[50] 42 U.S.C. § 300g-6.

service line replacement only if tests revealed a specific level of lead contamination.[51]

By now, children, low-income families, and communities of color have waited long enough for a reliable lead service line replacement program. Every day that lead service lines remain in commission is another day of potential exposures resulting in substantial educational, social, and economic costs.[52] Without accelerated action to remove more lead from our living environments, a substantial portion of the U.S. population will continue to face irreparable harm from lead exposure.[53] The Rule appropriately recognizes this urgency.

III. Nationwide lead service line replacement can proceed quickly with the Rule's support.

Full lead nationwide service line replacement is a significant undertaking. But public water systems, states, and municipalities across the country have already charted the path forward by conducting service line inventories, preparing lead service line replacement plans, and starting service line replacement programs, proving that full replacement is possible and also amassing resources that can guide

[51] *See* 40 C.F.R. § 141.84 (1991).

[52] *See supra* Part I.

[53] Michael J. McFarland et al., *Half of US Population Exposed to Adverse Lead Levels in Early Childhood*, 119 Proceedings of the Nat'l Acad. of Scis. 1, 3 (2022).

future efforts. Those successes, along with the substantial federal funding available to pursue replacement, underscore the exigency to complete this work.

A. States and municipalities nationwide have already made meaningful progress.

Municipalities across the United States have already recognized the urgent need to replace lead service lines. In 2020, 115 communities had already set a public goal to eliminate lead service lines in their water systems.[54] Today, that number has increased to over 250.[55] Seventeen states have adopted policies supporting lead service line replacement.[56] Together, these states represent approximately two-thirds of the nation's known lead service lines.[57]

Replacement goals coincide with replacement progress. In 2016, Spokane, Washington announced a concerted effort to remove all lead service lines in the

[54] EDF, *Recognizing Efforts to Replace Lead Service Lines* 13 (2020), https://www.edf.org/sites/default/files/2024-08/Final%20LSL%20Replacement%20White%20Paper.pdf.

[55] EDF, *Transparency in Action: Map of Public LSL Replacement Programs*, https://www.edf.org/national-map-LSL-replacement-programs (last visited Mar. 12, 2026).

[56] *See* EDF, *Recognizing Efforts to Replace Lead Service Lines, supra,* at 2.

[57] *See* EPA, *Service Line Inventory*, https://sdwis.epa.gov/ords/sfdw_pub/r/sfdw/sdwis_fed_reports_public/service-line-inventory (last visited Mar. 12, 2026) (figure reflects total lines identified in the seventeen states, divided by the number of lines confirmed to contain lead).

city.[58] After just two years, every lead service line had been identified and replaced.[59] Around the same time, Green Bay, Wisconsin began a similar campaign and committed to finishing the process within five years.[60] By 2020, every lead service line in Green Bay was replaced.[61] Likewise, Newark, New Jersey, replaced more than 23,000 lead service lines as part of an aggressive three-year program completed in 2023.[62]

That same year, Detroit, Michigan began its own comprehensive service line replacement effort.[63] By the end of 2023, the city had replaced 2,060 lines.[64] Initially,

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[58] *See* Marlene Feist, *City Eliminates Remaining Lead Service Lines* (Jul. 27, 2018), https://my.spokanecity.org/news/releases/2018/07/27/city-eliminates-remaining-lead-service-lines/.

[59] *Id.*

[60] *See* Wisconsin Department of Natural Resources, *Get The Lead Out* (Spring 2021), https://dnr.wisconsin.gov/wnrmag/2021/Spring/LeadPipes.

[61] Wisconsin Public Radio, *Green Bay Has Officially Replaced All City's Lead Pipes* (Oct. 7, 2020), https://www.wpr.org/environment/green-bay-has-officially-replaced-all-citys-lead-pipes.

[62] N.J. Dep't of Env't Prot., *Newark Lead Service Line Replacement Compliance Audit* 3-4 (Aug. 2025), https://dep.nj.gov/wp-content/uploads/newarklead/docs/newark-lsl-replacement-audit-summary.pdf.

[63] *See* City of Detroit, *Lead Service Line Replacement Program*, https://detroitmi.gov/departments/water-and-sewerage-department/dwsd-projects/making-detroit-lead-safe/lead-service-line-replacement-program (last visited Feb. 19, 2026).

[64] EPA, *Technical Support Document for the Final Lead and Copper Rule Improvements* 2 (2024) [hereinafter *Technical Support*].

Detroit was on track to finish replacing all lead service lines in 38.5 years.[65] But Detroit had greater plans: the city aimed to increase its replacement rate to 10,000 lead service lines per year by the end of 2024.[66] It went on to replace approximately 8,000 lines that year—a four-fold increase that puts Detroit on track to finish replacing all lead service lines in about 9.6 years.[67]

Spokane, Green Bay, Newark, and Detroit are far from alone. It would be near-impossible to recount every effort toward full lead service line replacement as the work is already progressing nationwide and plans are being implemented to meet the 2037 deadline.[68] With these programs come increased efficiencies when operating at scale. Between 2021 and 2024, for example, the lead service line replacement rate across Michigan more than doubled.[69]

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[65] *Id*.

[66] City of Detroit, *Detroit to Replace 5,000 Lead Service Lines This Year, Ramping Up To 10,000 Per Year Starting in 2024* (May 12, 2023), https://detroitmi.gov/news/detroit-replace-5000-lead-service-lines-year-ramping-10000-year-starting-2024.

[67] *See* City of Detroit, *DWSD Scales Up Lead Service Line Replacement To 8,000 Per Year, Thanks To $85M In EGLE Grants* (May 10, 2024), https://detroitmi.gov/news/dwsd-scales-lead-service-line-replacement-8000-year-thanks-85m-egle-grants.

[68] *See, e.g.*, *Technical Support*, *supra* note 64, at 2-4 (listing select LSLR projects); EDF, *Recognizing Efforts to Replace Lead Service Lines* at 14-33.

[69] Michigan Department of Environment, Great Lakes, and Energy, *Lead Service Line Replacement Progress*, https://www.michigan.gov/egle/about/organization/drinking-water-and-

Even in cities and towns where lead service lines have yet to be replaced, substantial progress has been made to inventory the lines—"a necessary step to replacing them."[70] Multiple states have statutorily mandated inventories,[71] and many water systems have begun local inventories.[72]

Recent studies also highlight the progress that has already been made. In 2022, EPA estimated there were 9.3 million active lead service lines, with other estimates ranging from 6.1 to 12.8 million.[73] Today, applying the same methodology to far more complete inventories that have been submitted across the country, EPA has revised downward its current estimate to only 4 million lead service lines remaining active nationwide that need to be replaced.[74] These national efforts demonstrate the urgency and feasibility of replacement.

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environmental-health/community-water-supply/lead-and-copper-rule/lslr-progress (last visited Feb. 19, 2026).

[70] Elena Humphreys, *Cong. Rsch. Serv., R47717, Lead Service Lines (LSLs) Replacement: Funding Developments* 2 (2023).

[71] *Technical Support*, *supra* note 64, at 13.

[72] *Id.* at 14.

[73] Baehler, *supra* note 40, at 2.

[74]EPA, *EPA Announces $3 Billion in New Funding for States to Reduce Lead in Drinking Water* (Nov. 25, 2025), https://www.epa.gov/newsreleases/epa-announces-3-billion-new-funding-states-reduce-lead-drinking-water.

B. The Rule ensures continued forward momentum and prevents further harm.

The Rule ensures that service line replacement efforts continue to progress. Its mandates and timelines ensure that lines are replaced in all communities without regard to income or composition, and that replacement efforts proceed on a timely basis. This top-down schedule is essential. Otherwise, competing funding priorities may cause additional delays or the diversion of funding, further injuring those historically under-resourced communities that are more likely to be affected by the continued existence of lead service lines.[75]

Passage of the Infrastructure Investment and Jobs Act makes this the perfect time to finish removing lead service lines nationwide. This Act dedicated an unprecedented $15 billion toward lead service line replacement through the Drinking Water State Revolving Fund, which provides financial assistance throughout the lead service line replacement process.[76] And alongside direct funding to water systems across the country, the Act supports federal programs to guide communities through replacement: Lead Service Line Replacement Accelerators and the Get the

[75] *Cf.* Baehler, *supra* note 40, at 2.

[76] *See* Humphreys, *supra* note 70, at 6.

Lead Out Initiative, which will provide assistance to hundreds of communities nationwide as replacement proceeds.[77]

At this point, hundreds of states and communities across the United States have committed to eliminating lead service lines. Congress committed billions of dollars to support these efforts. Given the progress that has already been made, full replacement within 10 years is not only feasible, it is also in sight. Just as important, the health implications and societal cost of any delays in replacing lead service lines could not be clearer. *See supra* Part II. Implementation of the Rule is necessary to safeguard all Americans exposed to poisoned drinking water from lead service lines on a daily basis. It will also finally protect the people and communities most in need of prompt action, namely, children, low-income families, and majority minority communities. We have waited long enough: now is the time to act and permanently remove this known toxin from our homes.

CONCLUSION

For all these reasons, the petition should be denied.

Respectfully submitted,

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[77] *See* EPA, *Lead Service Line Replacement Accelerators*, https://www.epa.gov/water-infrastructure/lead-service-line-replacement-accelerators (last visited Feb. 19, 2026); EPA, *Get the Lead Out Initiative*, https://www.epa.gov/water-infrastructure/get-lead-out-initiative (last visited Feb. 19, 2026).

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CERTIFICATE OF COMPLIANCE

This brief complies with the word limitation of Federal Rule of Appellate Procedure 29(a)(5) and 32(a)(7)(B). The brief contains 4,639 words, excluding the portions exempted by Federal Rule of Appellate Procedure 32(f) and D.C. Circuit Rule 32(e)(1).

This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6). The brief has been prepared in proportionally spaced typeface using Microsoft Word and 14-point Times New Roman font.

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