

116TH CONGRESS  
1ST SESSION

# S. 2086

To amend the Safe Drinking Water Act to improve transparency under the national primary drinking water regulations for lead and copper, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 11, 2019

Ms. DUCKWORTH (for herself and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Safe Drinking Water Act to improve transparency under the national primary drinking water regulations for lead and copper, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Opportunity  
5 for Lead Exposure Accountability and Deterrence Act of  
6 2019”.

1 **SEC. 2. NATIONAL PRIMARY DRINKING WATER REGULA-**  
 2 **TIONS FOR LEAD AND COPPER.**

3 The Safe Drinking Water Act is amended by insert-  
 4 ing after section 1417 of such Act (42 U.S.C. 300g-6)  
 5 the following:

6 **“SEC. 1417A. NATIONAL PRIMARY DRINKING WATER REGU-**  
 7 **LATIONS FOR LEAD AND COPPER.**

8 “(a) LEAD AND COPPER RULE.—

9 “(1) IN GENERAL.—The national primary  
 10 drinking water regulations for lead and copper (in  
 11 this section referred to as the ‘lead and copper rule’)  
 12 shall include each of the requirements described in  
 13 this section.

14 “(2) REVISION.—The Administrator shall revise  
 15 the lead and copper in accordance with this sec-  
 16 tion—

17 “(A) not later than 9 months after the  
 18 date of enactment of the National Opportunity  
 19 for Lead Exposure Accountability and Deter-  
 20 rence Act of 2019; and

21 “(B) thereafter, in accordance with section  
 22 1412(b).

23 “(b) SAMPLING.—

24 “(1) APPLICABILITY.—This subsection applies  
 25 with respect to sampling by a public water system

1 of lead or copper in drinking water, irrespective of  
2 whether such sampling—

3 “(A) is required by the lead and copper  
4 rule; or

5 “(B) is voluntary sampling initiated by  
6 customers of the public water system.

7 “(2) REPORTING.—Subject to paragraph (3), a  
8 public water system shall report the results of sam-  
9 pling to the Administrator or the State exercising  
10 primary enforcement responsibility, as applicable,  
11 and shall include in such reporting—

12 “(A) the number of residential and non-  
13 residential facilities at which the sampling was  
14 conducted;

15 “(B) subject to paragraph (4), the address  
16 of such residential and nonresidential facilities;

17 “(C) previous samples taken at such resi-  
18 dential and nonresidential facilities and the re-  
19 sults of those samples;

20 “(D) where such information exists, the  
21 material composition of the service lines at such  
22 residential and nonresidential facilities;

23 “(E) the dates on which the respective  
24 sampling occurred;

1           “(F) the highest and median lead and cop-  
2 per levels detected;

3           “(G) the 90th percentile lead and copper  
4 levels (as such percentile is calculated under  
5 section 141.80 of title 40, Code of Federal Reg-  
6 ulations, and any successor regulations) de-  
7 tected;

8           “(H) the number and value of all samples  
9 above the lead or copper action levels;

10          “(I) the disinfectants and corrosion inhibi-  
11 tors being used and the target doses at the  
12 water treatment plant;

13          “(J) any changes since the previous report  
14 under this section in the type, method, or quan-  
15 tity of treatments being used in the water sam-  
16 pled;

17          “(K) the history of violations, and fines re-  
18 ceived, by the system;

19          “(L) the number of samples invalidated  
20 and the reason for their invalidation; and

21          “(M) if sampling is conducted at residen-  
22 tial facilities other than those with lead service  
23 lines, an explanation of why such sampling was  
24 conducted.

1           “(3) PUBLIC AVAILABILITY OF REPORTS.—A  
2 public water system shall make publicly available  
3 any report that is required by this section or by the  
4 lead and copper rule.

5           “(4) PRIVACY.—A public water system shall  
6 give the owner of each residential and nonresidential  
7 facility at which sampling data is collected the op-  
8 tion to be identified only by block number and street  
9 name.

10           “(5) SAMPLING PROTOCOL; INSTRUCTIONS.—  
11 The Administrator shall—

12           “(A) develop a protocol for sampling for  
13 compliance with the lead and copper rule;

14           “(B) in such protocol—

15           “(i) prohibit the use of techniques  
16 that minimize the detection of lead or cop-  
17 per in drinking water;

18           “(ii) require sampling under this sec-  
19 tion to occur not less than once per year;

20           “(iii) include criteria for site selection  
21 that prioritize testing at high-risk build-  
22 ings;

23           “(iv) require sampling at all drinking  
24 water taps in all schools served by the pub-  
25 lic water system; and

1                   “(v) require the sampling methodology  
2                   to be scientifically based; and

3                   “(C) develop instructions for compliance  
4                   with such protocol for dissemination to public  
5                   water systems and customers thereof.

6                   “(c) ACTION LEVEL EXCEEDED.—

7                   “(1) INVESTIGATIONS.—The Administrator (or  
8                   the State exercising primary enforcement responsi-  
9                   bility) shall require on-site investigations on where  
10                  the source of lead is for all individual samples with  
11                  a lead or copper concentration above the action  
12                  level—

13                  “(A) to be completed by the public water  
14                  system or local health department within 10  
15                  business days of the sample result; and

16                  “(B) to include additional samples at addi-  
17                  tional locations to identify the potential scope of  
18                  elevated lead or copper levels.

19                  “(2) NOTIFICATION.—Whenever a public water  
20                  system detects a lead or copper concentration level  
21                  above the action level, the system shall—

22                  “(A) within 2 calendar days of detecting  
23                  such an exceedance that is specific to one or  
24                  more facilities, notify the persons at such facili-  
25                  ties; and

1           “(B) within 10 calendar days of completion  
2 of sampling for a monitoring period applicable  
3 under section 141.86 of title 40, Code of Fed-  
4 eral Regulations (or any successor regulation),  
5 make a report on any exceedance detected pur-  
6 suant to such sampling publicly available.

7           “(d) PUBLIC EDUCATION.—The lead and copper rule  
8 shall require testing results—

9           “(1) to be in a standardized format;

10           “(2) to be posted on the website of the Admin-  
11 istrator, the State exercising primary enforcement  
12 responsibility, and the public water system; and

13           “(3) to include—

14           “(A) the provisions of consumer confidence  
15 reports under section 1414(c)(4) relating to  
16 lead and copper;

17           “(B) reports under subsection (b)(2) on  
18 the results of sampling;

19           “(C) lead service line replacement mate-  
20 rials and financial assistance forms; and

21           “(D) how a consumer can request a water  
22 test.

23           “(e) SERVICE LINE INVENTORY.—A public water  
24 system shall—

1           “(1) develop, maintain, and beginning not later  
2           than 3 years after the date of enactment of the Na-  
3           tional Opportunity for Lead Exposure Accountability  
4           and Deterrence Act of 2019 make publicly accessible  
5           an inventory of the material composition of the serv-  
6           ice lines at all residential and nonresidential facili-  
7           ties, including—

8                   “(A) online maps showing the locations of  
9                   lead service lines; and

10                   “(B) where information is available, a his-  
11                   tory of services performed on such lines, includ-  
12                   ing partial line replacement;

13                   “(2) give the owners of such residential and  
14                   nonresidential facilities the option to be identified  
15                   only by block number and street name; and

16                   “(3) in developing such inventory, take meas-  
17                   ures to minimize any disturbance to service lines  
18                   that might release contaminants.

19           “(f) SERVICE LINE OWNERSHIP.—A public water  
20           system shall collect, maintain, and beginning not later  
21           than 3 years after the date of enactment of the National  
22           Opportunity for Lead Exposure Accountability and Deter-  
23           rence Act of 2019 make publicly accessible all legal docu-  
24           ments establishing the ownership of service lines at resi-  
25           dential and nonresidential facilities.



1 “(g) SERVICE LINE REPLACEMENT.—

2 “(1) IN GENERAL.—Whenever a public water  
3 system replaces a lead service line, the lead and cop-  
4 per rule shall—

5 “(A) require the system to replace the line  
6 from the transmission line to where the line en-  
7 ters the facility; and

8 “(B) prohibit partial replacement.

9 “(2) PRIORITIZATION.—The lead and copper  
10 rule shall require any public water system engaged  
11 in replacing lead service lines to prioritize such re-  
12 placement at high-risk buildings.

13 “(h) DEFINITIONS.—In this section:

14 “(1) The term ‘high-risk buildings’ means—

15 “(A) residential and nonresidential facili-  
16 ties with lead service lines—

17 “(i) that have galvanized pipes;

18 “(ii) that have low water use; or

19 “(iii) whose lead service lines are  
20 among the longest served by the public  
21 water system; and

22 “(B) residential facilities at which one or  
23 more pregnant women or children reside.

1           “(2) The term ‘lead service line’ means a serv-  
 2           ice line that is not lead free (within the meaning of  
 3           section 1417).

4           “(3) The term ‘publicly available’ means that a  
 5           report is—

6                   “(A) written in plain language that is cul-  
 7                   turally and linguistically appropriate; and

8                   “(B)(i) published on a publicly accessible  
 9                   website of the public water system; or

10                   “(ii) if the system does not maintain a  
 11                   publicly accessible website, distributed by car-  
 12                   rier route to the persons served by the sys-  
 13                   tem.”.

14   **SEC. 3. TO LOWER THE ACTION LEVEL FOR LEAD IN DRINK-**  
 15                   **ING WATER.**

16           Section 1412(b) of the Safe Drinking Water Act (42  
 17   U.S.C. 300g-1(b)) is amended by adding at the end the  
 18   following new paragraph:

19                   “(16) LEAD IN DRINKING WATER.—The Ad-  
 20                   ministrators shall revise the national primary drink-  
 21                   ing water regulation for lead to ensure that—

22                           “(A) not later than December 31, 2022,  
 23                           the action level for lead in drinking water is not  
 24                           more than 10 parts per billion; and

1                   “(B) not later than December 31, 2028,  
2                   the action level for lead in drinking water is not  
3                   more than 5 parts per billion.”.

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