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6 EPA'S LEAD AND COPPER PROPOSAL:

7 FALLING SHORT OF PROTECTING PUBLIC HEALTH

8 TUESDAY, FEBRUARY 11, 2020

9 House of Representatives

10 Subcommittee on Environment and Climate Change

11 Committee on Energy and Commerce

12 Washington, D.C.

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16 The subcommittee met, pursuant to call, at 10:30 a.m., in
17 Room 2322 Rayburn House Office Building, Hon. Paul Tonko [chairman
18 of the subcommittee] presiding.

19 Members present: Representatives Tonko, Clarke, Peters,
20 Barragan, Blunt Rochester, Soto, DeGette, Matsui, McNerney, Ruiz,
21 Dingell, Pallone (ex officio), Shimkus, McMorris Rodgers,
22 McKinley, Johnson, Long, Flores, Carter, Duncan, and Walden (ex
23 officio).

24 Staff present: Jacqueline Cohen, Chief Environment Counsel;
25 Adam Fischer, Policy Analyst; Anthony Gutierrez, Professional
26 Staff Member; Rick Kessler, Senior Advisor and Staff Directory,

27 Energy and Environment; Brendan Larkin, Policy Coordinator; Tim
28 Robinson, Chief Counsel; Nikki Roy, Policy Coordinator; William
29 Clutterbuck, Minority Staff Assistant; Jordan Davis, Minority
30 Senior Advisor; Tyler Greenberg, Minority Staff Assistant; Peter
31 Kielty, Minority General Counsel; Mary Martin, Minority Chief
32 Counsel, Energy & Environment & Climate Change; and Peter Spencer,
33 Minority Senior Professional Staff Member, Environment & Climate
34 Change.

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49 Mr. Tonko. The Subcommittee on Environment and Climate
50 Change of the Committee on Energy and Commerce will now come to
51 order. I recognize myself for 5 minutes for the purposes of an
52 opening statement.

53 In 2004, EPA initiated a review of the lead and copper Rule
54 following the lead crisis in Washington, D.C. 16 years later,
55 we are still waiting for EPA to finalize its long-term revision.

56 The intention at that time was to take action to prevent the
57 next crisis. Since then, we have witnessed one water crisis after
58 another, upturning the lives of millions in Flint, in Newark,
59 in Pittsburgh, and other communities which have had to suffer
60 at least partially due to an unproductive standard, unprotective
61 standard.

62 Last year, EPA proposed its long-awaited revision for the
63 Lead and Copper Rule. The deadline for public comment is
64 tomorrow. I expect we will hear today that the proposal still
65 needs work and, in my opinion, it falls far short of the meaningful
66 protective action necessary to get lead out of our drinking water
67 systems.

68 Today's panel includes witnesses representing health
69 experts, environmental advocates, state regulators, local
70 governments, and utilities. I appreciate everyone's perspective
71 and hope we can find some common ground around which a goal can
72 be developed, a common that we share in those efforts in ensuring
73 that Americans have safe drinking water. The Lead and Copper
74 Rule was first promulgated in 1991, so we have known for decades

75 that there is no safe level of lead for children. We also know
76 that the impaired brain development these children experience
77 from lead exposure will follow them the rest of their lives.

78 Unlike other contaminants, lead enters into drinking water
79 from within the system. It can be found in millions of service
80 lines and fixtures within homes. Action to get the lead out of
81 our water systems starts with identifying existing service lines
82 and making that information publicly available. I support EPA's
83 proposal to require inventories of service lines, but identifying
84 these lines must be followed with full replacement, removing lead
85 service lines and prohibiting unsafe partial replacements.

86 Many of the communities currently responding to lead
87 contaminations are doing this at no cost to residents.
88 Unfortunately, the proposed Lead and Copper Rule revision does
89 not require proactive service line replacement. It also fails
90 to establish a health-based household lead action level or even
91 reduce the current action level of 15 parts per billion.

92 The proposal does include a new trigger level for utilities
93 to begin to plan for future action at 10 parts per billion. But
94 we already have challenges with risk communication and lead
95 contaminations and, in practice, this new level adds complexity
96 to an already complicated rule without directly improving public
97 health outcomes. I know replacing all lead service lines will
98 not be easy or cheap. That is why I strongly support additional
99 federal funding to ensure that state and local governments,
100 schools, daycares, and water utilities have the resources

101 necessary to map and replace water infrastructure containing lead
102 as quickly as possible.

103 Today, we will also hear about other aspects of the proposal
104 including treatment requirements, sampling procedures, public
105 notification, and monitoring at schools and child care
106 facilities. Ultimately, the revision as proposed will not
107 require the action needed to get lead out of our drinking water
108 systems. This EPA proposal has further demonstrated the major
109 deficiencies of the Safe Drinking Water Act which have prevented
110 EPA from setting enforceable standards that are truly protective
111 of public health.

112 The past 24 years of SDWA, including recent considerations
113 of PFOS, have made it clear that the regulatory framework for
114 standard setting has left Americans dangerously exposed. I look
115 forward to today's discussion on EPA's proposal and hope that
116 we can continue to explore the reforms necessary to ensure the
117 Safe Drinking Water Act is able to guarantee the safe water that
118 our constituents expect, our constituents require, and our
119 constituents deserve. With that I will now recognize Mr.
120 Shimkus, our ranking member of the Subcommittee on Environment
121 and Climate Change, for 5 minutes for his opening statement,
122 please.

123 Mr. Shimkus. Thank you, Mr. Chairman.

124 Mr. Chairman, lead is a potent neurotoxin, exposure to which
125 is known to have serious educational deficits in children. Our
126 country has made significant strides in reducing harmful exposure

127 to lead by removing it from gasoline and paint. Even still,
128 preventing lead from entering drinking water remains a serious
129 issue and it deserves this committee's attention.

130 Over the last 15 years, breakdowns in oversights,
131 engineering, enforcement, leadership have caused and highlighted
132 some of the more troubling incidents of increased levels of lead
133 in drinking water. In Washington, D.C., in Flint, Michigan, and
134 in Newark, New Jersey, and every community we represent, our
135 constituents should be drinking safe water from their taps.

136 What is troubling to me today is not that we are addressing
137 the subject, but that we are not giving it the serious attention
138 it deserves. Almost 3 months ago, the Environmental Protection
139 Agency issued its first major revision of the Lead and Copper
140 Rule since 1991. This is obviously long overdue and I am glad
141 they at least released this in November. This updated rule has
142 been greatly anticipated by the regulated stakeholders and the
143 general public and since its release many have expressed strong
144 feelings about its contents and whether it does too much or not
145 enough. Meaningful oversight is imperative, but that is not what
146 is happening here today. Why?

147 To the best of my knowledge, the decision to have this hearing
148 was made just over 7 days ago, an amount of time that barely meets
149 the requirements of the committee's rules. This might be less
150 of a problem if this were an easy subject which we all agreed
151 upon, but it is not. It is a highly technical, emotionally
152 charged matter that demands time and attention to be done right.

153 Moreover, it seems we are continuing a pattern of complaining
154 about the Agency without affording them the opportunity to explain
155 themselves.

156 The EPA has been clear with us in the past that a weeks'
157 notice isn't sufficient to provide members a detailed context
158 and answers that we expect. I understand the Agency offered to
159 provide us a witness on other dates if the committee wanted them.

160 It appears they did not. I am not the only one who thinks the
161 EPA was unwanted here today. The Agency itself has publicly
162 asserted some of these same points in a press statement, which
163 they released this morning, which I would ask unanimous consent
164 to place into the record, Mr. Chairman.

165 Mr. Tonko. We will review it.

166 Mr. Shimkus. Had EPA been here, I would want to ask where
167 the Agency sees pipe replacements versus optimized corrosion
168 control, considering from 1991 to 2001 the number of large systems
169 exceeding the action level for lead dropped by 90 percent. I
170 would ask how the 2012 amendments tightening the amount of copper
171 and brass in fixtures was impacting drinking water levels. I
172 would ask what time, effort, and resources EPA planned in
173 undertaking to assist water systems especially in rural and
174 low-income areas to comply with the proposed rule as well as make
175 information available for managing the rule. And I would ask
176 how the Agency expects communities to pay for new mandates.

177 The reality is, this rule will increase costs and the
178 Drinking Water State Revolving Fund will not be able to meet all

179 these needs. Moreover, the funds should not be viewed as way
180 to federally subsidize rates, and I want to ask about the Agency's
181 thinking on this question too. These are just my questions, but
182 they are worthy of a live, public discussion that addresses these
183 and other concerns raised in the testimony.

184 For our witnesses that are here today, thank you for being
185 with us. Most of you are not local and had to rearrange your
186 schedules to make hotel and travel arrangements, written
187 testimony, furnish your comments to the Agency on this rule, and
188 travel here in a few days' time. We appreciate your sacrifice
189 under the expedited timeframe and we look forward to what you
190 have to tell us.

191 Before I yield back my time, I want to ask unanimous consent
192 to have the following letter inserted in the hearing record from
193 the honorable Dominick Longobardi, mayor of Floral Park, New York,
194 president of the Hempstead, New York, board of directors, and
195 member of the American Public Works Association board of
196 directors. We believe his views are important and should be
197 included in the hearing record, even though we were refused an
198 additional witness.

199 With that, Mr. Chairman, I yield back my time.

200 Mr. Tonko. Okay. We will submit that, without objection.

201 [The information follows:]

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203 *****COMMITTEE INSERT*****

204 Mr. Shimkus. Thank you.

205 Mr. Tonko. The release from the EPA seems to have some
206 inaccuracies in it, so perhaps we should have the staff go through
207 it and --

208 Mr. Shimkus. Okay. That would be fine.

209 Mr. Tonko. Okay.

210 Mr. Shimkus. So we will just hold that off until further
211 review.

212 Mr. Tonko. Right. So the gentleman yields back. The
213 chair now recognizes Representative Pallone, chair of the full
214 committee, for 5 minutes for his opening statement, please.

215 The Chairman. Thank you, Mr. Chairman.

216 Today's hearing focuses on a widespread and pressing public
217 health crisis, lead contamination in drinking water. Safe
218 drinking water is a fundamental right and duty of our federal
219 government. Every American should be able to turn on their tap
220 confident that the water coming out is safe, and this should be
221 true for all communities and it must be safe for pregnant women,
222 infants, children, and the elderly.

223 But we are falling short and failing communities like
224 Washington, D.C., Flint, Michigan, and Newark, in my home state
225 of New Jersey. The Environmental Protection Agency has an
226 important opportunity to strengthen our protections against lead
227 by revising the Lead and Copper Rule, but, unfortunately, the
228 Trump EPA's recent proposal squanders that opportunity. Lead
229 is a known toxin and Congress banned lead pipes in '86, but those

230 pipes remain in the ground leaching lead into the drinking water
231 that comes into our homes and schools.

232 Since 1991, EPA has set the maximum contaminant level goal
233 for lead and drinking water at zero, but nearly 30 years later
234 EPA is still saying we can't achieve that goal or even get close
235 to it. To make matters worse, the Trump EPA's proposed rule would
236 not even set us on the path to achieving the goal of lead-free
237 water because it doesn't require aggressive replacement of lead
238 service lines.

239 And the proposal also falls short of providing the certainty
240 and clarity states and localities need in implementing the Lead
241 and Copper Rule. It ignores the lessons of Flint, so it will
242 fail to prevent the next Flint. It also doesn't properly reflect
243 some of the lessons from the drinking water issue in Newark, New
244 Jersey, where aggressive lead pipeline replacement appears to
245 be working.

246 Any final rule that fails to aggressively replace lead
247 service lines will fail to solve the problem of lead in drinking
248 water and those shortcomings should be addressed as EPA works
249 to finalize this important rule. Ultimately, if EPA were to
250 finalize this proposal, there is a real possibility that 30 years
251 from now we could be no closer to ensuring lead-free water for
252 the American people and we can't allow that to happen.

253 The inactivity over the last 30 years certainly highlights
254 the weaknesses in the Lead and Copper Rule. The fact is that
255 the Safe Drinking Water Act instructs EPA to set drinking water

256 standards based on cost-benefit analysis not public health and
257 this is a fundamental flaw in the statute that leaves vulnerable
258 populations and disproportionately exposed communities
259 unprotected.

260 This hearing is the beginning of work in this subcommittee
261 to explore how the Safe Drinking Water Act should be reformed.

262 I thank Chairman Tonko for undertaking this work. The Safe
263 Drinking Water Act should absolutely ensure that drinking water
264 is safe and that means health protective not defined by
265 cost-benefit analysis. Chairman Tonko and I have worked together
266 repeatedly over the years to provide more funding for drinking
267 water infrastructure. That funding, not only helps
268 cities and towns modernize their infrastructure and protect
269 public health, but it also creates jobs.

270 We will continue to work to provide the resource water
271 utilities need, the resources that those utilities need to address
272 lead and other threats to public health. The cost of replacing
273 lead service lines should be addressed through infrastructure
274 funding and financing. It should not dictate how safe our water
275 can be. Now the science is clear, there is no safe level of lead
276 exposure. The time for action is overdue. EPA has to strengthen
277 this proposal to protect public health, including the health of
278 vulnerable populations, and we in Congress should strengthen the
279 Safe Drinking Water Act to do the same.

280 So, I just want to welcome Kim Gaddy from Clean Water Action
281 of New Jersey for joining us today. I look forward to hearing

282 from Kim and from all our witnesses about ways we can strengthen
283 the Safe Drinking Water Act for the future to better protect the
284 American people. And I now yield the rest of my time to
285 Congresswoman Dingell from Michigan.

286 Mrs. Dingell. Thank you, Chairman Pallone, for yielding.
287 I would like to briefly recognize an important witness here
288 today, Dr. Mona Hanna-Attisha, from the great state of Michigan,
289 who has done some truly amazing work to help bring critical
290 attention to the dangerous levels of lead in Flint, Michigan's
291 drinking water, and she has become a national champion.

292 Dr. Mona, as the kids call her, thank you for being here.
293 We are all grateful to you for all the work that you have done
294 during the Flint water crisis and all the good that you continue
295 to do as a pediatrician, professor, and public health advocate.
296 There is much that the committee can learn from her today and
297 it is an honor to have you here.

298 This is actually a very true story. I met Dr. Mona early
299 on, like before any of you had heard about Flint water, and it
300 was the first sick child that I met. And you all can picture
301 me doing this, I was going to take the child in my arms, put him
302 in the car, and take him to the best hospital I could in the
303 country. And she said, "Okay, Debbie. Take a deep breath. It
304 is systematic. There are a lot more kids like this."

305 And she has taught me much ever since that first day I met
306 her. Welcome, and I welcome all the witnesses for being here
307 today. I yield back.

308 The Chairman. I yield back.

309 Mrs. Dingell. It is a true story.

310 Mr. Tonko. The gentleman yields back. The chair now
311 recognizes Representative Walden, ranking member of the full
312 committee, for 5 minutes for his opening statement, please.

313 Mr. Walden. Good morning, Chairman.

314 Mr. Tonko. Good morning.

315 Mr. Walden. And I will say at the top of this, we have
316 another subcommittee meeting concurrent with this one so I will
317 be, some of us will be going back and forth. But we all believe
318 the issue of lead exposure in drinking water is of great concern
319 to the safety of our citizens, safety of our children, to our
320 communities, and our overall health and well-being.

321 The question is, how do we tackle this issue in a way that
322 makes the most sense for public health in a broad sense, in a
323 constitutionally permissible manner, and the best leverage is
324 finite public and private resources on this task. No matter how
325 simple people want to make this issue from engineering to policy
326 choices, the Lead and Copper Rule and its proposed revisions is
327 one of the most technical and challenging drinking water rules
328 that EPA has. It is really hard work.

329 Lead is typically not present in drinking water sources nor
330 is it removed at the treatment plant. Moreover, as raised in
331 testimony of the witnesses from the Association of Metropolitan
332 Water Agencies, even if every lead service line in the country
333 were replaced, lead-tainted home plumbing fixtures and piping

334 would continue to present lead exposure issues is my
335 understanding. So getting EPA to agreement in 1991 on the
336 existing Lead and Copper Rule was no small feat, and the fact
337 that its revisions have taken 3 decades to formally propose is
338 both frustrating, but not surprising. While they are not here
339 to accept congratulations, Administrator Wheeler and the staff
340 in the EPA's Office of Ground Water and Drinking Water deserve
341 great credit for finally getting a proposal out the door when
342 many had given up on its prospects all together. As we all know
343 though, the proposed rule is still very early in the process.

344 Tomorrow, the public comment period closes and the EPA will be
345 busy digesting and assembling responses to the many issues the
346 public is raising on this rule, which I expect today to be just
347 a brief preview.

348 While I wish we had the oversight hearing at a time when
349 the EPA and a broader set of witnesses could be heard, it is
350 important that we learn these issues on the front end to understand
351 their impacts when decided by the EPA. So I am especially
352 interested in learning more from Mr. Estes-Smargiassi -- did I
353 get close on that?

354 Mr. Estes-Smargiassi. That was good.

355 Mr. Walden. Oh, good. Well, don't expect me to do it twice
356 and get it right -- and other municipal officials about the impact
357 the mandates this proposed rule will place on drinking water
358 systems, particularly unfunded mandates because that is something
359 we have to be aware of. The Drinking Water State Revolving Fund

360 program in the Safe Drinking Water Act owes its existence entirely
361 to a congressional desire to address unfunded mandates posed by
362 federal regulations, not to subsidize rates or chase other
363 collateral goals.

364 I also want to understand from these same folks whether this
365 rule strikes the correct balance between addressing lead pipes,
366 their treatment or replacement in a cost-effective way for
367 citizens and local governments, so we must also be careful not
368 to avoidably have federal law and state and local requirements
369 conflict with each other and make simultaneous compliance
370 impossible. We have all seen that happen before in different
371 areas. In addition, because continued disturbances that rattle
372 pipes in turn shakes new lead into the system, I also want to
373 better appreciate what economic and practical impact this rule
374 might have on local planning related to other emergency services
375 like fire safety, sewage, and telecommunications.

376 And, finally, I am interested in learning from Commissioner
377 Bobbitt as a rural elected official. I think we must look at
378 the cost of this rule to taxpayers, states, communities, and the
379 federal government. Every finite dollar we spend here is one
380 dollar less we can spend on other public health priorities, and
381 we have a lot of those.

382 So, Mr. Chairman, thanks again for having this panel. And
383 I want to welcome our witnesses and some of you, I know, are making
384 return appearances and we appreciate that. We are fortunate to
385 have the level of expertise that many of you bring to this subject

386 and I look forward to the question and answer period to get behind
387 your written statements. So thanks again for your participation.
388 We share a goal here and hopefully we will get a good outcome.
389 And with that I yield back and I have to go to the other sub.
390 Mr. Tonko. The gentleman yields back. We thank him. And
391 the chair would like to remind members that pursuant to committee
392 rules, all members' written opening statements shall be made part
393 of the record.

394 I agree with Representative Walden's assessment that this
395 is an expert panel that we are very much helped by your presence
396 here today, so thank you for joining in this discussion which
397 will lead us to, I think, strong advocacy.

398 I now will introduce the witnesses for today's hearing.
399 We begin with Dr. Mona Hanna-Attisha, Director of Pediatric Public
400 Health Initiative with C.S. Mott Endowed Professor of Public
401 Health, Division of Public Health, Associate Professor of the
402 Department of Pediatrics and Human Development at Michigan State
403 University with the College of Human Medicine. So, quite
404 the credentials.

405 Next, we have Kim Gaddy who is with the Environmental Justice
406 efforts. She is an organizer with Clean Water Action of New
407 Jersey. She has joined us in the past, so welcome on the return.

408 Ms. Angela Licata, I believe -- is that pronunciation
409 correct? -- New York City Department of Environmental Protection,
410 and she is appearing on behalf of the Association of Metropolitan
411 Administrators.

412 Next, we have Ms. Cathy Tucker-Vogel, Public Water Supply
413 Section Chief with the Kansas Department of Health and
414 Environment, and she is appearing on behalf of the Association
415 of State Drinking Water Administrators.

416 Mr. Steve Estes-Smargiassi, Director of Planning and
417 Sustainability at Massachusetts Water Resources Authority, and
418 he is appearing on behalf of the American Water Works Association.

419 And we then have the honorable Cindy Bobbitt, Commissioner
420 of Grant County, Oklahoma and she is appearing on behalf of the
421 National Association of Counties.

422 And, finally, Ms. Mae Wu, Senior Director of Health & Food,
423 Senior Attorney, Healthy People & Thriving Communities Program
424 with the Natural Resources Defense Council.

425 Again, to each and every one of you, thank you for taking
426 the time and for informing us. Before we begin, I would like
427 to explain the lighting system. In front of you are a series
428 of lights. The light will initially be green. The light will
429 turn yellow when you have 1 minute remaining. Please begin to
430 wrap up your testimony at that point. The light will turn red
431 when your time has expired.

432 At this time, I recognize Dr. Hanna-Attisha for 5 minutes
433 to provide her opening statement, please.

434 STATEMENTS OF MONA HANNA-ATTISHA, M.D., DIRECTOR, PEDIATRIC
435 PUBLIC HEALTH INITIATIVE, C.S. MOTT ENDOWED PROFESSOR OF PUBLIC
436 HEALTH, DIVISION OF PUBLIC HEALTH; KIM GADDY, ENVIRONMENTAL
437 JUSTICE ORGANIZER, CLEAN WATER ACTION OF NEW JERSEY; ANGELA
438 LICATA, DEPUTY COMMISSIONER, NEW YORK CITY DEPARTMENT OF
439 ENVIRONMENTAL PROTECTION; CATHY TUCKER-VOGEL, PUBLIC WATER
440 SUPPLY SECTION CHIEF, KANSAS DEPARTMENT OF HEALTH & ENVIRONMENT;
441 STEVE ESTES-SMARGIASSI, DIRECTOR OF PLANNING AND SUSTAINABILITY,
442 MASSACHUSETTS WATER RESOURCES AUTHORITY; HONORABLE CINDY
443 BOBBITT, COMMISSIONER, GRANT COUNTY, OKLAHOMA; AND, MAE WU,
444 SENIOR DIRECTOR HEALTH & FOOD, SENIOR ATTORNEY HEALTHY PEOPLE
445 & THRIVING COMMUNITIES PROGRAM

446

447 STATEMENT OF MONA HANNA-ATTISHA

448 Dr. Hanna-Attisha. Good morning.

449 Mr. Tonko. Good morning.

450 Dr. Hanna-Attisha. I would like to begin by thanking
451 Chairman Paul Tonko, Ranking Member John Shimkus, and all the
452 distinguished members of the subcommittee for the opportunity
453 to present today. A special thank you to Michigan Congresswoman
454 Debbie Dingell for all of her leadership and support of Flint
455 kids during the crisis and since.

456 Like all of you, I also took an oath. As a pediatrician,
457 I literally put my hand up and dedicated my career to serve and
458 to protect the children entrusted in my care. Much of that work
459 centers around the child in front of me to make sure that they

460 are healthy today but, more importantly, my work as a pediatrician
461 is nestled in protecting and promoting the promise of our
462 children. Yet in Flint, there was something in our water,
463 something that you couldn't see or taste or smell that was
464 threatening the tomorrows of all of our children.

465 In a breakdown of democracy and driven by austerity, our
466 drinking water was changed without proper corrosion control
467 treatment. The corrosive water leached lead from our
468 infrastructure into our water in the hundreds and thousands of
469 parts per billion. It has been said that pediatricians are the
470 ultimate witnesses to failed social policies. It is in our exam
471 rooms where we see the everyday consequences of policy decisions
472 like Medicaid cuts and action on gun violence and lax public health
473 protections.

474 Our children disproportionately share, bear the burden of
475 these consequences both in their bodies and in their blunted
476 potentials. And as a pediatrician in Flint, I can attest that
477 once again our children were the victims of a failed policy,
478 specifically the Lead and Copper Rule that provided the vehicle
479 of loopholes, minimal oversight, confusion, and nonhealth-based
480 standards that helped create and perpetuate our crisis.

481 I wish there was a magic pill that could take away what
482 happened, but when it comes to lead the treatment is prevention.

483 Lead is an irreversible neurotoxin with lifelong multisystem,
484 multigenerational impacts. There is no safe level. Children
485 should never be exposed to lead. What we should be practicing

486 is what we call in public health, primary prevention. And that
487 is why in Flint, after our citywide exposure, our only option
488 has been to move forward to create a sanctuary where children
489 can recover and thrive. Critical to our recovery has been
490 the congressionally supported Flint Lead Exposure Registry with
491 funding set to expire next year absent congressional action.
492 The Flint Registry has been an essential resource for identifying
493 individuals exposed to our crisis, connecting them to public
494 health promoting resources, and sharing best practices with
495 similarly impacted communities.

496 Flint's crisis is an extreme case, but not the first, not
497 the last, and not the worst. A positive ripple effect of our
498 crisis has been the growing awakening across our country that
499 our drinking water regulations never intended for us to consume
500 lead-free water. A troubling number of our cities across the
501 country are now recognizing and struggling with elevated lead
502 in their drinking water.

503 On behalf of children everywhere, we need a stronger Lead
504 and Copper Rule that catches policy up with science, rights
505 historic wrongs, and prioritizes public health over a minimal
506 compliance. Unfortunately, the proposed revisions are a missed
507 opportunity and fail to rebuild trust in our nation's drinking
508 water.

509 With further details in my written testimony, I recommend
510 that the EPA make the following improvements: One, lower the
511 action level and remove the trigger level; two, mandate removal

512 of all lead pipes and ban partial line replacements; three,
513 improve sampling to better detect lead and water, especially the
514 contribution from service lines; and four, improve communication,
515 public health, and transparency.

516 Michigan has decided that we can do better and we revised
517 our state Lead and Copper Rule in 2019. It exceeds national
518 standards. It is now implemented and Michigan's Lead and Copper
519 Rule now better locates service lines through mandatory
520 inventory, improves education and transparency, mandates the
521 replacement of lead lines, and more optimally samples for lead
522 and will eventually lower the action level. Our nation can learn
523 from Michigan and do better.

524 In conclusion, in 1969 a scientist warned that the problem
525 of lead is so well defined, so neatly packaged with both causes
526 and cures known that if we don't eliminate the social crime, our
527 society deserves all the disasters that have been forecast for
528 it. We have come a long way, but we have more to go. We have
529 not eliminated the social crime and as a pediatrician I continue
530 to diagnose in the bodies of our children the consequences of
531 our collective inaction and paralysis. Thank you for the
532 opportunity to testify and I look forward to your questions.

533 [The prepared statement of Dr. Hanna-Attisha follows:]

534

535 *****INSERT 1*****

536 Mr. Tonko. Thank you, Doctor.

537 And now we recognize Ms. Gaddy. You are recognized for 5
538 minutes, please, and again, welcome.

539

540 STATEMENT OF KIM GADDY

541

542 Ms. Gaddy. Good morning, Chairman Tonko and Ranking Member
543 Shimkus and all members present as well as Congressman Pallone
544 from my home state of New Jersey. My name is Kim Gaddy and I
545 am the Environmental Justice Organizer for Clean Water Action
546 of New Jersey.

547 Clean Water Action is a national organization working in
548 14 states on environmental and health issues with a focus on
549 drinking water and water pollution. Thank you for the
550 opportunity to address the subcommittee today. Although I live
551 in Newark, I am also here to lift up the voices of residents in
552 environmental justice communities to speak about the needs of
553 all communities in New Jersey and to comment on how this
554 Environmental Protection Agency can improve its proposal to
555 revise the Safe Drinking Water Act Lead and Copper Rule.

556 Our experience with elevated lead levels in Newark points
557 to the need for clear federal requirements for water systems and
558 state primacy agency. We also sorely need increased federal
559 investment in water infrastructure in EPA and state
560 implementation and enforcement and in promoting improved
561 managerial, operations, and communications capacity for water

562 systems.

563 In Newark, we experienced the difficulty of communicating
564 health risk and technical information. At a time when residents
565 needed the clearest possible information, some felt that city
566 officials were not being transparent. The role of our state
567 agency in overseeing our water system's compliance with
568 regulations was not obvious to residents, nor was the role of
569 the EPA regional office.

570 Rules and procedures for water systems need to be
571 straightforward and the states' responsibilities need to be well
572 defined as well. Newark has taken significant steps to reduce
573 the risk of lead at the tap including partnering with the state
574 to fully replace, at no cost to the homeowners, 18,000 lead service
575 lines in 3 years. New treatment has been installed and is
576 expected to reduce lead levels by the end of the year. Filters
577 and replacement cartridges have been made available to impacted
578 residents as well as free water testing.

579 We are relieved to see progress, but we think this crisis
580 could have been avoided and if we can prevent similar problems
581 in other New Jersey communities and around the country we must
582 act now. Revisions to the Lead and Copper Rule are not the only
583 solution, but they can help to prevent communities from
584 experiencing what we have gone through in Newark.

585 While water chemistry and treatment play a role in whether
586 lead leaches from pipes and fixtures, removing sources of lead
587 in contact with water is the best way to reduce lead at the tap.

588 Lead service lines are the largest source of lead in tap water.
589 EPA has missed an opportunity to address this source of lead
590 by requiring full lead service line replacement at all regulated
591 water systems. This is an ambitious undertaking, but momentum
592 toward full replacement has never been greater.

593 Water systems across the country are prioritizing
594 replacement and some have committed to fully replacing all lead
595 service lines, including Newark. States are taking action to
596 support this activity and New Jersey as well. EPA's own proposal
597 signals throughout that full lead service line replacement is
598 a desirable goal that is achievable. EPA proposes that water
599 systems submit lead service line replacement plans that include
600 a wide range of details that would be involved in setting up a
601 replacement program.

602 While EPA's proposal envisions these plans being used in
603 the event of elevated lead levels, the requirements suggest that
604 EPA has determined that all systems with lead service lines are
605 able to develop such plans. Many other aspects of the proposal
606 indicate that EPA knows that full lead service line replacement
607 is the most obvious way. Clean Water Action is calling on EPA
608 to require full lead service line replacement at all water systems
609 with a baseline goal of 10 years. Had such a requirement been
610 in place, perhaps Newark could have been spared the crisis that
611 erupted in the wake of Lead Action Level exceedances. We need
612 to start now to get the lead out of contact with drinking water
613 to prevent elevated lead levels and similar crises in other

614 communities in New Jersey and across the country.

615 As we learned in Newark, full replacement programs are
616 impeded when customers are required to pay for replacement of
617 the portion of the line on the customer's side. It is more
618 equitable and efficient for water systems to cover this cost.

619 When Newark's lead service line replacement program started,
620 the homeowner was originally going to contribute \$1,000 toward
621 the cost of the full replacement while less than the cost in homes'
622 owners.

623 In Newark, over 75 percent of residents are renters who did
624 not receive water bills or information about replacement programs
625 and other issues. I am a Newark renter who experienced this
626 firsthand. We know that there is no safe level of lead. We know
627 that there is no safe level of lead. We know that health impacts
628 of lead are of particular concern of children under 6. That is
629 why we are urging EPA to strengthen its proposal and urging
630 Congress to support a vision of modernized drinking water systems
631 by making bold investments now. Thank you.

632 [The prepared statement of Ms. Gaddy follows:]

633

634 *****INSERT 2*****

635 Mr. Tonko. Thank you very much.

636 Next, we will move to Ms. Licata, please, for 5 minutes with
637 your opening statement. Thank you.

638

639 STATEMENT OF ANGELA LICATA

640

641 Ms. Licata. Chairman Tonko, Ranking Member Shimkus, and
642 members of the subcommittee, the Association of Metropolitan
643 Water Agencies, or AMWA, appreciates the opportunity to offer
644 our thoughts today on EPA's proposed revisions to the Lead and
645 Copper Rule. I am Angela Licata, deputy commissioner of the New
646 York City Department of Environmental Protection, or DEP. Each
647 day, DEP delivers more than one billion gallons of fresh, clean
648 water to the taps of millions of customers throughout New York
649 State. That is nine million people.

650 I also serve as vice president of AMWA's board of directors.

651 AMWA is an organization representing the nation's largest
652 publicly-owned drinking water systems. AMWA's members
653 collectively serve more than 155 million Americans with quality
654 drinking water, and the Association has developed detailed
655 comments in response to EPA's proposed revisions to the Lead and
656 Copper Rule.

657 These comments, which will be formally submitted to EPA this
658 week, are the basis of the Association's testimony today. And
659 please note that I address you as a representative of the AMWA
660 board of directors and that tomorrow New York City will submit

661 its own written comments to EPA. AMWA's comments outline a number
662 of places where we agree with EPA's approach, but identify
663 numerous areas where we believe there is room for improvement.

664 Addressing lead in drinking water is a particularly vexing
665 challenge, because unlike most other contaminants lead is
666 typically not present in drinking water sources. Instead, lead
667 may be introduced into the drinking water of communities when
668 the water reacts with lead in buried service lines and premise
669 plumbing in homes.

670 Making things even more complicated is the fact that
671 homeowners are responsible for their interior plumbing and
672 ownership of service lines are typically divided between the
673 public water system and the private homeowner. There is no easy
674 solution that can quickly eliminate this problem. Even getting
675 rid of every lead service line in the nation would not eliminate
676 exposure to lead as lead solder in plumbing fixtures would remain
677 in millions of homes throughout the country.

678

679 In terms of the proposed Lead and Copper Rule revisions,
680 AMWA believes the most effective regulations must be achievable,
681 practical, and enforceable. AMWA appreciates that the proposal
682 avoids setting mandates such as a deadline for the replacement
683 of all service lines nationwide. While removing all lead service
684 lines is a worthy aspiration and should be a goal, in reality,
685 doing so would take decades, cost billions of dollars, and require
686 the cooperation of millions of individual homeowners. It would

687 prevent water systems from allocating their limited budgets to
688 other initiatives that may deliver greater public health benefits
689 such as other emerging contaminants such as PFOS and dealing with
690 aging infrastructure and resilience to climate change.

691 We also support aspects of the rule that require water
692 systems to complete an inventory that specifies the composition
693 of service lines and that require large systems to post these
694 inventories online. Armed with this information, individual
695 homeowners will be empowered to direct their water system to
696 replace the publicly-owned portion of the lead service line when
697 the homeowner simultaneously replaces their privately-owned lead
698 line. AMWA has a number of suggestions to make this process
699 as seamless as possible, but we generally agree with the intent.

700 AMWA also agrees with steps the proposal takes to discourage
701 partial lead service line replacements such as making them
702 ineligible to count towards mandated replacement rates. AMWA
703 agrees that a total ban on partial replacements would be
704 ill-advised. For example, emergency water replacement work may
705 require a water system to replace the publicly-owned portion of
706 the household's lead service line. Because customer consent to
707 replace the private portion of the lead service line cannot always
708 be quickly obtained, it would be impractical to completely ban
709 partial replacements in these circumstances.

710 Other parts of the proposed rule require improvement and
711 we harbor deep concerns requiring a water system to notify all
712 customers within 24 hours of any 90th percentile lead action level

713 exceedance. This goes far beyond the mandate set by Congress
714 in the 2016 WIIN Act, which only requires this urgent notification
715 if the exceedance has the potential for serious adverse human
716 health effects as a result of short-term exposure. We believe
717 an urgent notification in the absence of such health risks could
718 unnecessarily alarm the public.

719 We also have strong concerns with aspects of the proposed
720 rule that would require water systems to obtain and distribute
721 high quantities of pitchers that may not readily be available,
722 prompt adjustments to a water system's corrosion control based
723 on only a small number of samples showing elevated lead levels,
724 and task water systems with compelling school and child care
725 centers to give water quality testing in their facilities.

726 In closing, AMWA supports achievable, practical,
727 enforceable action to reduce public exposure to lead in drinking
728 water. This concludes my statement and I will be happy to answer
729 any questions you may have.

730 [The prepared statement of Ms. Licata follows:]

731

732 *****INSERT 3*****

733 Mr. Tonko. Thank you very much, Ms. Licata.

734 And next, we will go to Ms. Tucker-Vogel. You are recognized
735 for your opening statement of 5 minutes, please.

736

737 STATEMENT OF CATHY TUCKER-VOGEL

738

739 Ms. Tucker-Vogel. Good morning, Chairman Tonko, Ranking
740 Member Shimkus, and members of the subcommittee. Thank you for
741 inviting me to speak today. I am the president-elect of the
742 Association of State Drinking Water Administrators whose members
743 include the fifty state drinking water programs, five territorial
744 programs, the District of Columbia, and the Navajo nation.

745 ASDWA members have primary oversight responsibility for
746 implementing the Safe Drinking Water Act, and provide technical
747 assistance, support, and oversight of drinking water systems
748 which is critical to ensuring safe drinking water. I am also
749 chief of the Public Water Supply Section within the Kansas
750 Department of Health and Environment. Today, I will discuss
751 ASDWA's perspective on EPA's proposed Lead and Copper Rule
752 revisions and how to strengthen the rule to more effectively
753 address lead in drinking water and protect public health. I would
754 also like to note that this testimony reflects recommendations
755 of ASDWA and may not necessarily reflect the position of the Kansas
756 Department of Health and Environment.

757 Lead in drinking water has long been a concern for
758 communities across the nation. Although considerable progress

759 has been made in reducing lead in water since implementation of
760 the 1991 Lead and Copper Rule, large-scale crises in Flint,
761 Michigan and Washington, D.C. stand as proof that lead continues
762 to be a public health concern. States' water systems and the
763 public need national leadership to continue making progress in
764 reducing exposure to lead through drinking water.

765 As was key issues on the LCRR include the following: First,
766 it is time to get the lead out. Replacing all lead service lines
767 is the long-term solution for reducing exposure to lead in
768 drinking water. The first step towards removal is an inventory
769 of all service lines. ASDWA supports regulatory requirements
770 for water utilities to develop a lead service line inventory and
771 replacement plan or demonstrate the absence of lead in their
772 distribution systems. EPA must clarify its lead service line
773 definition for galvanized lines, goosenecks, and pigtails and
774 should include unknown service lines as lead.

775 ASDWA also recommends strengthening the rule to require a
776 minimum of ten percent lead service line replacement over a 3-year
777 period for any system with lead service lines, and a twenty percent
778 replacement over 3 years for systems that exceed the lead action
779 level. Second, continue to reduce exposure from lead in drinking
780 water. To reduce lead exposure, ASDWA recommends improved
781 sampling, corrosion control treatment, and water quality
782 parameter monitoring to ensure appropriate water quality is
783 maintained, particularly when water sourcing or treatment
784 processes are changed. ASDWA recommends sample site

785 assessments proposed as "find and fix" be included in the final
786 rule to ensure there is appropriate corrosion control throughout
787 the distribution system. In addition, ASDWA recommends systems
788 have an "upon request" rather than a mandatory lead testing
789 program for schools and child care facilities. Third, work to
790 increase transparency and clarify public notification.

791 Public access to lead service line inventories will
792 demonstrate transparency and is critical to helping utilities
793 be a trusted source of information. Tier 1 public notification
794 has historically applied to acute maximum contaminant level
795 violations where immediate action is necessary to protect public
796 health. The proposed change in the LCRR for action level
797 exceedance alters the logic for Tier 1 public notification for
798 acute MCL violations.

799 And fourth, additional funding for states, EPA, and water
800 utilities is essential. The significant increase in the
801 complexity of the proposed rule places additional burdens on
802 states. EPA proposed several new program requirements with
803 significant tracking, review, and approval components. Adding
804 to the burden, there is not a data system that exists at the state
805 or federal level that supports implementation of the rule.

806 Without additional funding and a functioning data management
807 system, implementing the LCRR will be impossible for most states.

808 Increased funding for EPA and for states is vital to support
809 the implementation of the LCRR. Finally, funding is needed to
810 assist water systems with lead service line replacements. State

811 Revolving Fund programs provide loans, but there are competing
812 priorities for this subsidy including emerging contaminants and
813 aging infrastructure.

814 In conclusion, ASDWA thanks the subcommittee for holding
815 this hearing on these important topics and commends EPA for moving
816 forward with the LCRR. ASDWA looks forward to continuing
817 dialogue with Congress and our federal agency partners. I will
818 be happy to take questions at the appropriate time. Thank you.

819 [The prepared statement of Ms. Tucker-Vogel follows:]

820

821 *****INSERT 4*****

822 Mr. Tonko. Thank you, Ms. Tucker-Vogel.

823 Now we will move to Mr. Estes-Smargiassi for 5 minutes for
824 your opening statement, please.

825

826 STATEMENT OF STEVE ESTES-SMARGIASSI

827

828 Mr. Estes-Smargiassi. Chairman Tonko, Ranking Member
829 Shimkus, and members of the subcommittee, the American water Works
830 Association appreciates the opportunity to offer our thoughts
831 on EPA's proposed revisions to the Lead and Copper Rule. My name
832 is Steve Estes-Smargiassi. I am director of Planning and
833 Sustainability for the Massachusetts Water Resource Authority,
834 the regional wholesale water and sewer provider to three million
835 people in 61 cities and towns in the metro Boston region.

836 I have been involved in our region's collaborative efforts
837 on lead for over 25 years, serve on EPA's National Drinking Water
838 Advisory Council's workgroups on the Lead and Copper Rule, and
839 chair AWWA's Lead and Copper Technical Advisory Workgroup. The
840 AWWA strongly supports full removal of all lead service lines.

841 Indeed, our board of directors voted to endorse the 2015
842 recommendations made by the National Drinking Water Advisory
843 Council, NDWAC. I will quote from them.

844 "AWWA supports the NDWAC recommendations to reduce lead in
845 drinking water through the complete removal of lead service lines
846 while ensuring optimum corrosion control measures. Support of
847 the NDWAC recommendations underscores the importance of

848 protecting the public from lead exposure through the development
849 of collaborative, community-based approaches to remove all lead
850 service lines in their entirety. Effective lead service line
851 replacement requires solutions that successfully address the
852 often-shared ownership of these lines, the associated financial
853 burden, and other barriers and risks."

854 EPA's proposed revisions are an important step forward.
855 We have offered what we hope are constructive comments on the
856 ninety pages of the Federal Register Notice to make the rule clear,
857 implementable in the field, and enforceable. We believe that
858 the proposed rule requirements for immediate development of
859 inventories of all lead service lines, making those inventories
860 publicly available, immediate development of plans for the full
861 removal of all lead service lines, no partial lead service line
862 replacements except under the narrowest of circumstances, and
863 provision of an annual notice to every home with a lead service
864 line will go a long way towards the future where there aren't
865 lead service lines connecting our water mains to our customers'
866 homes. Regulatory mandates though are only one part of solving
867 this problem. One obstacle to full lead service line replacement
868 is the cost, particularly the cost of the portion on private
869 property. My agency has tried to remove that obstacle by creating
870 a hundred-million-dollar fund for our member communities, but
871 the ability of lower income families to afford even a loan can
872 be an issue. Congress has appointed 45 million dollars for
873 assistance to low-income homeowners. We hope that you will

874 continue to direct substantial funds to this critical need.

875 Another obstacle is creating and sustaining community
876 interest. We all know that a crisis creates short-term momentum,
877 but more effort is needed to keep going until that last service
878 line is removed. In one of our gateway cities, Chelsea, we have
879 been working with our local Clean Water Action organizers to do
880 door-to-door canvassing to encourage residents to participate
881 in that community's replacement efforts. Neighbors speaking the
882 same language become trusted sources of information and
883 assistants in navigating the program.

884 I mention this to stress that every program will be
885 different. A national lead service line removal program is
886 actually 50,000 local programs tailored to local circumstance.

887 Any regulatory approach needs to account for that. A
888 frustration that we all encounter in dealing with lead is the
889 siloing of programs. The Department of Housing and Urban
890 Development has programs to pay for lead paint removal. When
891 they are done, they call the home lead-free without checking for
892 or allowing for the removal of any lead service line. That cries
893 out for a legislative push towards integration of those efforts.

894 Until recently, our state's lead poisoning prevention
895 program like most others didn't test the water or check for lead
896 service lines. My agency is now providing training and lab
897 services to make that happen. Again, these types of structural
898 program problems could be solved nationally with coordinated
899 efforts by HUD, HHS, and Department of Education. A final

900 note on risk communication. Lead is a powerful neurotoxin
901 affecting children's development, and thus it is one of the most
902 sensitive and alarming of the topics that we talk to our customers
903 about. Where and when there is a risk, we need to coordinate
904 with trusted partners in the medical and public health professions
905 to clearly communicate that risk. Rushing that task and failing
906 to do it effectively fails our customers, preventing those who
907 need to take action from doing so and unnecessarily alarming
908 others.

909 I hope that AWWA's written comments and those of my
910 colleagues here on the panel have been helpful to the committee
911 and I welcome any questions.

912 [The prepared statement of Mr. Estes-Smargiassi follows:]

913

914 *****INSERT 5*****

915 Mr. Tonko. Thank you, Mr. Estes-Smargiassi.

916 And we will now move to Commissioner Bobbitt, please, for
917 5 minutes with your opening statement, please.

918

919 STATEMENT OF CINDY BOBBITT

920

921 Ms. Bobbitt. Chairman Tonko, Ranking Member Shimkus, and
922 distinguished members of the subcommittee, thank you for the
923 opportunity to testify on this important issue. My name is Cindy
924 Bobbitt and I am a county commissioner from Grant County, Oklahoma
925 and honored to testify on behalf of the National Association of
926 Counties.

927 Today, I would like to offer the county perspective for your
928 consideration as you assess challenges and opportunities around
929 eliminating lead contamination in our drinking water. First,
930 while our responsibilities vary from state to state, county
931 governments serve as both regulators and regulated entities when
932 it comes to the Clean Water Act and work every day to ensure the
933 health and safety of our residents. We operate jails, hospitals,
934 9-1-1 emergency systems, build roads and bridges, and run
935 elections.

936 But one of the most important things we do is maintain and
937 operate water systems to provide clean drinking water. We often
938 do this through partnerships especially in rural communities like
939 mine. Grant County has a population of 4,500. We have eleven
940 water systems and we are responsible to ensure water quality

941 standards and meet the needs of all. This includes protecting
942 our water systems and water quality during disasters and major
943 flooding events when we have them. Counties across the country
944 share our federal partners' concern and are committed to do all
945 we can to eliminate lead contamination in all of America's
946 drinking water.

947 Second, due to limited local resources and mounding
948 regulations, counties are challenged to make long-term budget
949 investments. Regardless of size, fiscal constraints are the
950 reality for most counties and we are mandated to provide a growing
951 number of services while operating under greater state and federal
952 restrictions on how we generate revenue. In fact, 45 states limit
953 counties' ability to raise additional revenue.

954 According to the EPA, administering the proposed rule is
955 estimated to cost local water systems between 130 and 270 million
956 dollars annually and up to eight billion dollars over 30 years.

957 There are between six and ten million lead service lines in our
958 country and preliminary findings show that the average cost to
959 replace a single line is \$4,700. Using these figures, replacing
960 all lead service lines would cost local water systems between
961 26 and 47 billion dollars, creating an enormous, unfunded mandate
962 for local governments.

963 Counties support the goal of replacing all lead service lines
964 in the U.S., but it is important that our federal partners
965 recognize the growing number of federal and state requirements
966 on local governments and understand the full picture of county

967 public priorities. Communities like mine with low-income
968 populations are often more at risk of lead exposure due to our
969 older housing infrastructure. These counties are really limited
970 in raising additional revenues. Raising taxes in my county
971 and placing financial burden on our people who have a median income
972 of \$28,000 is not an answer to pay for additional federal mandates,
973 so counties are once again faced with tough choices. Fund our
974 schools, hospitals, justice and emergency management systems,
975 and pave our roads. Which of these public services should we
976 cut to provide this? At the end of the day, it is not about
977 replacing a red line or a blue line. It is about replacing
978 hazardous water lines regardless of geographic location and
979 social and economic conditions.

980 Third, counties need early, consistent, and meaningful
981 engagement with our federal partners to help develop clear and
982 practical legislation and regulations that we can implement at
983 the local level. Water systems across the U.S. are rapidly
984 reaching the end of their life spans. It will cost up to a
985 trillion dollars by 2030 to upgrade the nation's drinking water
986 infrastructure. We encourage Congress and our federal agency
987 partners to continue meaningful consultation with states and
988 local governments on this rule to reduce the risk of unfunded
989 mandates to produce successful strategies for implementing
990 federal policies.

991 Thank you again for the opportunity to testify and provide
992 the county perspective on this proposed rule. We stand ready

993 to work with our federal partners to develop policies to ensure
994 every American has access to clean water. I will be happy to
995 answer questions.

996 [The prepared statement of Ms. Bobbitt follows:]

997

998 *****INSERT 6*****

999 Mr. Tonko. Thank you very much, Commissioner.

1000 And finally, Ms. Wu, you are recognized for 5 minutes,
1001 please, with your opening statement.

1002

1003 STATEMENT OF MAE WU

1004

1005 Ms. Wu. Thank you, Chairman Tonko.

1006 Mr. Tonko. You are welcome.

1007 Ms. Wu. Ranking Member Shimkus and members of the
1008 subcommittee, my name is Mae Wu. I am the senior director of
1009 Health & Food at the Natural Resources Defense Council. And as
1010 you have heard there is no safe level of lead and, in fact, over
1011 the past few years every state in the nation with the exception
1012 of Hawaii has had at least one water system that has had levels
1013 in its water that has exceeded EPA's action level and so millions
1014 of Americans have been threatened with elevated levels of lead
1015 in their water. About 3 years ago, while government
1016 officials were refusing to ensure that Flint residents had access
1017 to reliable sources of bottled water and properly installed
1018 filters, Danielle found out that her young son Theo had levels
1019 of lead in his blood that exceeded the CDC recommendations for
1020 children under the age of 6. She found out also she had no lead
1021 paint in her home but she did have troubling levels of lead in
1022 her water, so even though it was expensive for her family, they
1023 switched to bottled water. So Theo has been diagnosed with
1024 attention deficit disorder and other health problems and his

1025 behavioral problems have caused him to be expelled from preschool,
1026 so as you can imagine, it has been a life-altering experience
1027 for this family.

1028 And you might think that Theo is one of the young victims
1029 of Flint, but in fact all of this happened in Newark. And the
1030 Flint babies who were raised on lead-contaminated drinking water
1031 have now started reaching school age and the city has found that
1032 the percentage of kids that have qualified for special education
1033 has doubled in this time.

1034 So the Lead and Copper Rule and its implementation are
1035 broken. It has been broken for a long time, at least 20 years
1036 when Washington, D.C. started struggling with its own lead in
1037 drinking water crisis. And so, at this point tweaks aren't going
1038 to get it done. We need a major overhaul of the Lead and Copper
1039 Rule. And so, NRDC will be submitting tomorrow detailed comments
1040 about the revisions, but I wanted to just highlight a few of the
1041 recommendations that we have today.

1042 First, EPA should streamline this complicated and confusing
1043 Lead and Copper Rule. They need to set an enforceable standard
1044 for lead like they do for most of the other drinking water
1045 contaminants. It shouldn't be a treatment technology or
1046 treatment technique that relies on corrosion control, but really
1047 just a maximum contaminant level for lead. Unfortunately, EPA
1048 has doubled down on this existing difficult to implement,
1049 difficult to enforce nonhealth-based action level and has further
1050 complicated matters with an unenforceable and non-health based

1051 trigger level, so that needs to change.

1052 Second, recently, actually, NRDC received an internal memo
1053 from Region 5 of EPA that talked about a lot of the problems with
1054 the Lead and Copper Rule. And one of the things it mentions and
1055 a lot of the things that you have heard today is that EPA's
1056 revisions have ignored the elephant in the room, which is no matter
1057 how well corrosion control is run, unless you remove all of the
1058 lead service lines, and that means including the part that runs
1059 on private property, you are going to continue to have exposure
1060 to lead.

1061 And so, full lead service line replacements have to be
1062 required and they have to happen within 10 years. We just can't
1063 wait any longer. And, unfortunately, under EPA's revisions it
1064 could take 33 years or more if a system has triggered the
1065 requirement to even start replacing its lines. The other thing
1066 they need to do is ban the partials. These are, partial
1067 replacements are dangerous. They have actually been shown to
1068 show higher levels of lead than just leaving an undisturbed lead
1069 service line in place and they need to be banned and prohibited.

1070 And the reason why partial lead service lines happen is
1071 oftentimes because the homeowners can't afford the thousands of
1072 dollars up front and on short notice that would be required to
1073 pay for those lead service line replacements or they are renters
1074 and their landlords refuse to pay for it. And so, the cost cannot
1075 be put on individual homeowners because, really, what we are doing
1076 is exacerbating the already disparate burdens that are put on

1077 moderate and low-income families. And it really is worth the
1078 cost because for every dollar that is invested in lead service
1079 line replacements you get ten dollars of benefits back.

1080 And, finally, the tap water samples that are used in the
1081 Lead and Copper Rule have to reflect the highest levels of lead
1082 that is in the water. Data have shown that when you look at a
1083 series of sequential one-liter samples of water that actually
1084 it is the later sample, so when you are looking at the fifth liter
1085 or higher where you see the highest levels of lead.

1086 And so, you can actually find that those liters will have
1087 action level exceedances when that first liter didn't exceed the
1088 action level, but EPA again relies on this less contaminated first
1089 draw of water and it ends up underestimating lead and showing
1090 maybe that things are fine when there actually is a problem.

1091 So, thank you for this opportunity and I look forward to
1092 your questions.

1093 [The prepared statement of Ms. Wu follows:]

1094

1095 *****INSERT 7*****

1096 Mr. Tonko. Thank you, Ms. Wu. And thank you to the entire
1097 panel for your opening statements and for your appearance here
1098 today. We are going to move to member questions. Before we do,
1099 we were asked to admit a news release from the Department of EPA
1100 that would be included in the official record. We will admit
1101 this press release to the record pursuant to the gentleman's
1102 request.

1103 [The information follows:]

1104

1105 *****COMMITTEE INSERT*****

1106 Mr. Tonko. But I must point out inaccuracies in the
1107 document. In the release, the EPA claims that my colleagues and
1108 I deliberately chose to exclude them. That is simply not true.
1109 We shall have -- we would have welcomed EPA's testimony here
1110 today. The release also suggests that other witnesses on the
1111 panel, those appearing here today, must have received more notice
1112 of the hearing date. That is also not true. No witnesses
1113 received more notice than the EPA. We greatly appreciate the
1114 efforts that our witnesses today have made to testify here and
1115 we will again acknowledge working with the EPA on what is a very
1116 serious issue.

1117 So now to member questions and I will start by recognizing
1118 myself for 5 minutes. The area of safe drinking water which
1119 obviously is a fundamental right and a fundamental duty of our
1120 federal government is our focus here today. The public and many
1121 of my colleagues may look at the Safe Drinking Water Act and assume
1122 that it ensures drinking water that is, indeed, safe. This is
1123 a reasonable assumption but, unfortunately, one that is not
1124 entirely accurate.

1125 I am referring to the fact that drinking water standards
1126 set under the Safe Drinking Water Act are not health-based
1127 standards, but are actually based on cost. The recent proposed
1128 revision to the Lead and Copper Rule is no exception. I would
1129 like to read a short quote from the proposed Rule, and I quote,
1130 "The EPA established the lead action level in 1991 based on
1131 feasibility and not based on impact on public health. The

1132 proposed trigger level was also not a health-based standard."

1133 So, Dr. Hanna-Attisha, do you think that we should have a
1134 health-based standard for lead in drinking water?

1135 Dr. Hanna-Attisha. Absolutely. That is an excellent
1136 question. The EPA has actually set something called the "maximum
1137 contaminant level goal" for lead and water which recognizes that
1138 there is no safe level of lead and that is set at zero parts per
1139 billion. The FDA, which regulates bottled water, has a standard
1140 of lead in bottled water of five parts per billion.

1141 The American Academy of Pediatrics recognizing no safe level
1142 of lead has recommended a maximum level of lead in schools and
1143 child care facilities and that water at one part per billion.

1144 We need to be moving towards a health-based standard that
1145 recognizes the well-known and undisputed science that there is
1146 no safe level of lead.

1147 Mr. Tonko. Thank you so much, Doctor.

1148 And, Ms. Gaddy, do you agree?

1149 Ms. Gaddy. Yes, most definitely. It is crucially
1150 important that this issue that a lot of our residents face in
1151 environmental justice communities, it is a health injustice and
1152 then there are cumulative impacts that we suffer from on a daily
1153 basis. And just because of the ZIP code that we reside in there
1154 are other issues attached with water issues, so we definitely
1155 need this to be a health-related concern with a sense of urgency.

1156 Mr. Tonko. Thank you. And to anyone on the panel, what
1157 would a Lead and Copper Rule look like if it were based just on

1158 health protection instead of cost? Anyone?

1159 Ms. Wu, I think you wanted to respond.

1160 Ms. Wu. Well, it would look like some of the things we have
1161 outlined, which is it would take away all the lead service lines
1162 that are the cause of the problem and it would ensure that people's
1163 homes, that the water that is coming into their homes is safe
1164 to drink.

1165 Mr. Tonko. Okay, anyone else? Doctor?

1166 Dr. Hanna-Attisha. Sure, I would just reiterate that so
1167 in lead, the public health and the pediatric and the medical
1168 community advocate something called "primary prevention," which
1169 is in public health means we are never supposed to expose a child
1170 to lead, so it would be putting in the place the recommendations
1171 that eliminate that exposure. Eliminate lead from our service
1172 lines, maximize corrosion control so that lead never gets into
1173 our drinking water and then we never have to wait to find in our
1174 children.

1175 Mr. Tonko. Do any of our reps from water organizations want
1176 to -- yes, Ms. Licata?

1177 Ms. Licata. Yes. I really believe that it would firmly
1178 look at a more integrated approach. I think you have heard from
1179 the testimony today that an interdisciplinary approach among
1180 agencies as well the water providers is really necessary in order
1181 to address this problem. One of the comments that was made
1182 earlier is that the utility can't simply assume authority based
1183 on the rule. There are prohibitions against our addressing some

1184 of the private sector, we can't force our way into schools, so
1185 we would really have to look at this in a more holistic manner
1186 and really integrate the approach.

1187 Mr. Tonko. Thank you.

1188 Feasibility is an important consideration in adapting
1189 regulations, of course, because a regulation that cannot be
1190 implemented will not improve public health. But we have seen
1191 across our environmental laws that protective regulations can
1192 drive innovation, making better technologies feasible for lead
1193 in drinking water. We have EPA saying that what is feasible in
1194 2020 is no better than what was feasible in 1991. Ms. Wu,
1195 do you agree with that or can we do better than 15 parts per
1196 billion?

1197 Ms. Wu. Yes. I do think we can do a lot better, and I think
1198 as you look at examples of the cities across the country who are
1199 starting to do full lead service lines replacements at no cost
1200 to the homeowners it shows that it is feasible and it can be done
1201 and it should be done.

1202 Mr. Tonko. Do you know what some of the other countries
1203 might do in regard to lead levels?

1204 Ms. Wu. Other countries?

1205 Mr. Tonko. Yeah.

1206 Ms. Wu. I am not.

1207 Mr. Tonko. Okay.

1208 Oh, Doctor?

1209 Dr. Hanna-Attisha. My understanding is that the World

1210 Health Organization has an action level of ten parts per billion.

1211 Mr. Tonko. Okay. Thank you very much.

1212 I will now recognize Mr. Shimkus, subcommittee ranking
1213 member, for 5 minutes to ask questions, please.

1214 Mr. Shimkus. Thank you very much. I am going to go by Dr.
1215 Mona. And if the World Health Organization says ten parts per
1216 billion, why not zero? Why aren't they saying zero if everyone
1217 says there is no safe level?

1218 Dr. Hanna-Attisha. I completely agree. It should be zero.

1219 Mr. Shimkus. Okay. There must be a reason.

1220 Let me, I wanted to start with, point out those two young
1221 children back there in the second row. Can you introduce them,
1222 because I think they are related to you.

1223 Dr. Hanna-Attisha. I have my daughter Nina who is an eighth
1224 grader in Michigan who is studying U.S. History, so we thought
1225 we would get a hands-on lesson. And my nephew Zachary who lives
1226 in northern Virginia and wanted to see his aunt testify.

1227 Mr. Shimkus. Well, let's welcome them here.

1228 [Applause.]

1229 Dr. Hanna-Attisha. Thank you.

1230 Mr. Shimkus. I am a former teacher, so this is like --

1231 Dr. Hanna-Attisha. I also have a Flint kid with me, Jasmine,
1232 over here, who works with us at Michigan State University.

1233 Mr. Shimkus. All right, Civics 101 right here.

1234 Mr. Tonko. A Flint kid. That is okay.

1235 Mr. Shimkus. So let me thank you for that.

1236 Let me go to Mr. Estes-Smargiassi. I am a former Army
1237 Infantry officer and we have the KIS theory, Keep It Simple.
1238 This is very complex. Could you -- you went over a lot of this
1239 debate and can you kind of explain why it is a difficult process,
1240 in Infantry language, and then maybe follow up with the
1241 practicality of an MCL for lead.

1242 Mr. Estes-Smargiassi. So, let me sort of start off with
1243 corrosion control and then talk about lead service lines. One
1244 of the things we worry about in any change in regulation is that
1245 any change in treatment, any change in source water, anything
1246 we do in the water system we have to evaluate all the rest of
1247 the factors. In fact, a number of the situations where we have
1248 seen elevated lead it wasn't because, in some cases it was, but
1249 in other cases it was not because folks were negligent about
1250 thinking about lead. It is that they were very active about
1251 thinking about another contaminant, whether it be disinfection
1252 byproducts or giardia, cryptosporidium, and those changes to fix
1253 one problem can cause another.

1254 As much as we would like to think we fully understand
1255 corrosion in water, EPA's experts and academic experts frequently
1256 disagree with each other and frequently don't have a practical
1257 answer for whether a tweak in one thing will cause a deficit in
1258 something else and we worry about that.

1259 Mr. Shimkus. And we have seen that too just on power
1260 utilities where we try to get a cleaner burning to kill the
1261 particulate matter but nitrous oxide goes up, so it is one event

1262 affects another and that is why I appreciate that. That is
1263 difficult.

1264 So I was going to go back to Mr. Estes-Smargiassi, Ms.
1265 Tucker-Vogel, and Ms. Licata. Some of my colleagues have
1266 publicly dismissed this proposed rule. Given the challenges from
1267 your perspective, do you see the administration's proposal as
1268 generally addressing the right issues and, if not, at least
1269 suggesting a serious and workable proposal? Let's go to
1270 Ms. Licata first.

1271 Ms. Licata. I think there are a lot to begin to work with
1272 in this rule and we would really look forward to working with
1273 the administration on it. Particularly, we like the part of the
1274 no partial replacements unless you have a significant emergency
1275 repair. We think that that makes great sense.

1276 Mr. Shimkus. Okay, let me go to Ms. Tucker-Vogel real quick,
1277 same question. Anything good, you know, about the rule?

1278 Ms. Tucker-Vogel. In the proposed rule?

1279 Mr. Shimkus. Right.

1280 Ms. Tucker-Vogel. Yes. I think requiring the lead service
1281 line inventories is a good first step and I think, you know, it
1282 is fundamental to the rest of the rule.

1283 Mr. Shimkus. Okay, let me go to Mr. --

1284 Ms. Tucker-Vogel. If you don't know where the lead is, you
1285 can't fix anything else.

1286 Mr. Shimkus. Okay, thank you.

1287 Mr. Estes-Smargiassi?

1288 Mr. Estes-Smargiassi. Inventories, plans to remove them,
1289 and letting every homeowner know that they have a lead service
1290 line if they have one and encouraging them to replace it.
1291 Information is power.

1292 Mr. Shimkus. Yeah, time is short. So let me go -- who has
1293 submitted formal comments for the rule yet? Raise your hand if
1294 you have submitted formal comments.

1295 Is that a yeah? So you have not submitted them yet?
1296 Tonight?

1297 And you have, Ms. Gaddy? Okay.

1298 Ms. -- so some of you here are testifying, haven't submitted
1299 to the rule. NRDC is going to, I guess, so, and it is due, so
1300 if you are going to do it, you better get it in.

1301 Is a rule better than, a revised rule better than no rule?

1302 In other words, you know when the last rule was written, or
1303 promulgated, 1991. I was here during the Obama administration,
1304 came in 2009, left in 2017. Did they promulgate a new Lead and
1305 Copper Rule? The answer is no, they did not. So cut the
1306 administration a little slack for trying to do something versus
1307 nothing. And I yield back my time.

1308 Mr. Tonko. The gentleman yields back. The chair now
1309 recognizes Chairman Pallone for 5 minutes to ask questions,
1310 please.

1311 The Chairman. Thank you, Mr. Chairman.

1312 Many of you state in your testimony and I saw serious concerns
1313 about EPA's long overdue proposal for the Lead and Copper Rule,

1314 so I wanted to highlight a few of these concerns that we can work
1315 with EPA to address them in the final rule. And the first concern
1316 is that this proposal does not do enough to prevent lead
1317 contamination, so let me try to run through this quickly.

1318 Dr. Hanna-Attisha, why is prevention so important when it
1319 comes to lead exposure?

1320 Dr. Hanna-Attisha. Sure. That is a great question and it
1321 is really fundamental to why we are all here. Why is lead bad?

1322 It is like we have mentioned, a potent, irreversible neurotoxin,
1323 so what that means it attacks the developing brains of children.

1324 It impacts cognition, lower IQ levels, it impacts behavior,
1325 causes things like developmental delays, attention problems,
1326 focusing problems, hearing loss, growth problems; it has been
1327 linked to impulsivity and criminality. We also now know
1328 it has multigenerational impacts. There is a recent book out
1329 on lead that called lead a multi-headed hydra because wherever
1330 you turn there is like a new research study that says there is
1331 something bad, another bad thing.

1332 The Chairman. When you say "multigenerational," you mean
1333 it can hand it down from one parent to their children?

1334 Dr. Hanna-Attisha. Absolutely. Research from Detroit
1335 shows the epigenetic impact of lead. Grandmothers exposed to
1336 lead, you can see those DNA changes --

1337 The Chairman. Okay.

1338 Dr. Hanna-Attisha. -- in their grandchildren. We also
1339 know that children exposed to lead as adults can manifest with

1340 high blood pressure, kidney disease, early dementia, gout, and
1341 have other life-altering consequences.

1342 The Chairman. Sounds pretty bad. I mean, I obviously don't
1343 think this proposal does enough to remove lead service lines.

1344 What should we do to prevent exposure through drinking water?

1345 Dr. Hanna-Attisha. I think once again the many things we
1346 have talked about we should find where the lead is and we should
1347 get it out. We should get rid of our lead in our service lines.

1348 It is going to be very difficult to get rid of the lead in our
1349 home fixtures and faucets, but we can minimize that risk with
1350 better corrosion control treatment, with better public education;
1351 people can use filters if they choose, if they are concerned.

1352 Better testing, better transparency.

1353 So like many of the things here, we need to -- this rule
1354 should be based on the concept of primary prevention, public
1355 health, not on feasibility and what saves money.

1356 The Chairman. Now let me ask Ms. Gaddy. Do you think a
1357 community can solve lead contamination without removing lead
1358 service lines?

1359 Ms. Gaddy. No. We must start first with removing all the
1360 lead service lines and making sure that individuals are informed
1361 that where they exist and then provide the necessary finances
1362 for them to be removed.

1363 The Chairman. Now, of course, I am thinking of Newark and
1364 our state which is undertaking this aggressive replacement of
1365 all lead service lines, and I think we can see in coming years

1366 that that decisive action would offer robust protection for public
1367 health. Yet, this LCR proposal maintains a structure of the old
1368 rule where action is only required after a problem is found and
1369 I think we would have to do everything we can to prevent lead
1370 contamination, not just remedy it.

1371 So let me ask Ms. Wu. When should lead service lines be
1372 replaced? Does it make sense to wait until monitoring shows that
1373 there are leaching and, you know, do you think that EPA should
1374 adopt a proactive lead service line replacement requirement
1375 instead of this reactive approach?

1376 Ms. Wu. Absolutely. I think we need to start pulling them
1377 out of the ground now. And as we have seen the monitoring and
1378 waiting for monitoring, as all the flaws in that mean that we
1379 might think there is no problem because it is not showing up in
1380 the liter that we are looking at, where actually you do have a
1381 big problem. So this wait and see is the worst way to do it.

1382 We have to be proactive about it.

1383 The Chairman. I am going to run out of time, but I want
1384 to ask about this trigger level below the action level. The
1385 proposal takes a small step by introducing a trigger level below
1386 the action level, but it seems kind of confusing to me.

1387 So let me go back to you, Ms. Wu. Do you think the EPA should
1388 require corrective action for lead levels below 15 parts per
1389 billion?

1390 Ms. Wu. Yes. I mean, as we know --

1391 The Chairman. Basically, I am asking whether you think the

1392 trigger level is enough or should the action level be lower?

1393 Ms. Wu. No, it needs to be lower. It needs to go as low

1394 as possible. Five would be way better. Zero would be great.

1395 The Chairman. All right.

1396 Ms. Wu. But yes, it needs to be lower.

1397 The Chairman. Let me just ask in the 30 seconds, Dr.

1398 Hanna-Attisha, do you agree with what she said and, Ms. Gaddy,

1399 do you agree?

1400 Dr. Hanna-Attisha. Yes.

1401 The Chairman. Ms. Gaddy?

1402 Ms. Gaddy. Yes.

1403 The Chairman. Okay, so that is it. I mean, I think that

1404 we all agree that EPA should lower the action level and require

1405 proactive lead service line replacement. I don't think we can

1406 undo the effects of lead exposure so we have to do everything

1407 we can to prevent it. And as costly as lead service line

1408 replacements are, the alternative is far more costly for impacted

1409 communities.

1410 And I just want to thank you, you know, for your testimony.

1411 I yield back, Mr. Chair.

1412 Mr. Tonko. The gentleman yields back. The chair now

1413 recognizes Representative McKinley for 5 minutes, please.

1414 Mr. McKinley. Thank you, Mr. Chairman.

1415 Several of you have come close but then you stopped. We

1416 have been doing research to try to find out how many homes were

1417 built that still exist since prior to 1986, because in 1986 we

1418 had the ban on lead pipes and solder and the like, lead solder
1419 in our homes. But I can't get a number of homes that are still
1420 out there that where families are at risk, and so if you can get
1421 that.

1422 But, Ms. Wu, I thought you came close a little bit to it
1423 too, was do we have a number? Is there a -- what are the metrics
1424 on the projection, because there would be tens of millions of
1425 homes. If we have about a hundred million homes out there, I
1426 am going to say maybe 40 or 50 of them, we could figure out that.

1427 That is what I am trying to find out. How many homes out there
1428 have exposure?

1429 So what is the projection to remove the lead-based pipes,
1430 fixtures, solder in a residential home? Does any of you have
1431 that number or is this just something we just whine about?

1432 Ms. Wu. Well.

1433 Mr. McKinley. I guess none of you -- one of you just take
1434 a shot at this.

1435 Mr. Estes-Smargiassi. Yes. The best estimate we had for
1436 lead service lines is between six and ten million homes have lead
1437 service lines. That number obviously could be improved if --
1438 narrow up the range. In addition to that --

1439 Mr. McKinley. You are saying service lines that are coming
1440 into the house. I want to know how many are in the house that,
1441 physically, homes built prior to 1986 would have. We would have
1442 a lot of homes in there would not have copper necessarily in it.

1443 Mr. Estes-Smargiassi. Many tens of millions.

1444 Mr. McKinley. Yes, tens of millions.

1445 Mr. Estes-Smargiassi. Many tens of millions more.

1446 Mr. McKinley. Tens of millions. So I am trying to find
1447 out what is the projected cost? Is it five thousand dollars a
1448 house, ten thousand dollars a house? I don't know what that --
1449 I know what it would be for mine because I have had the estimate
1450 on it.

1451 But I would like to know for -- so, here is what I am going
1452 for. We give, and we have been talking about this for years.

1453 I am an engineer, a licensed engineer, and we have been dealing
1454 with this in homes and apartments all over in our project. Why
1455 aren't we offering a tax credit? Why aren't we offering a tax
1456 credit for people to be able to remove these, or grants?

1457 Now one question came up, it was a question what are other
1458 countries doing? I believe it is Ireland, is offering grants
1459 to remove lead pipelines in homes, so in America why aren't we
1460 doing this? Look, we give tax credits for residential energy
1461 tax credits that deals with high-efficiency boilers, furnaces,
1462 solar panels. We would have historic preservation tax credits.

1463 We have tax credits for mortgages, state and local income taxes.

1464 We have tax credits for home office deductions. But we don't
1465 offer one to remove lead-based pipe which is far more dangerous
1466 to people.

1467 Now, Ms. Wu, you said it was a 10:1 ratio. Maybe it is.

1468 I don't know what that is. That might be able to support, give
1469 us some strength if we were to go for that to be able to promote

1470 something that it will pay for itself if we were to use a tax
1471 credit.

1472 So I want to also want to engage you, because I think if
1473 we can get to that -- and many of you referred to it as the elephant
1474 in the room. To me, the elephant in the room is the homeowner
1475 and his pipeline. You get him engaged, him or her, engaged in
1476 this debate by cleaning theirs up and then saying, but it is you,
1477 communities -- I am sorry, Ms. Bobbitt -- the counties to do
1478 it, I think we can get more pressure put on the counties and
1479 everyone to do this.

1480 But if we put pressure on the counties to do it, then it
1481 is going to put pressure on, and they are going to resist it because
1482 for whatever reason they can't afford to do it in their homes.

1483 So I want to give them -- if we offer all these tax credits for
1484 everything else, why in God's name aren't we doing the same thing
1485 for lead-based pipe in our homes, and we ought to be able to do
1486 that. So, is there any thoughts on that?

1487 Ms. Gaddy. Well, I just wanted to add, I know in the city
1488 of Newark the average cost is \$7,000 to replace a lead service
1489 line. We have 18,000 lines that are being replaced that will
1490 cost about \$126 million.

1491 Mr. McKinley. That is a service line. I am talking about
1492 inside the house, which is going to be more expensive. You might
1493 have to rip out some walls. You are going to have some problems
1494 in there. So, some other comments?

1495 Dr. Hanna?

1496 Dr. Hanna-Attisha. So, service lines were restricted in
1497 1986. Most communities weren't actively putting them in except
1498 for Chicago, which mandated using lead service lines to deliver
1499 drinking water. However, our home fixtures were allowed to have
1500 lead in them until 2014. So lead was allowed in brass fixtures
1501 until 2014. It is going to be very difficult to rip all of that
1502 out and that is why in addition to lead service line replacement
1503 we need that optimal corrosion control and other preventive
1504 measures.

1505 Mr. McKinley. Okay, my time has expired. But I didn't see
1506 any of you saying I like the idea of tax credits. Sorry. I yield
1507 back.

1508 Mr. Tonko. Does anybody want to talk about that tax credit,
1509 just say yes or no before we go to our next --

1510 Ms. Bobbitt. I think a tax credit would be very good.

1511 Mr. Tonko. Okay, thank you.

1512 There you go, so we got one.

1513 Mr. McKinley. Thank you for your cooperation.

1514 Mr. Tonko. So we have made Representative McKinley somewhat
1515 happy, so okay. The chair now recognizes the vice chair of the
1516 full committee, Representative Yvette Clarke, for 5 minutes,
1517 please.

1518 Ms. Clarke. Thank you very much, Mr. Chairman, and I thank
1519 our ranking member, Mr. Shimkus, for convening this timely hearing
1520 on the EPA's recently proposed revisions to the Lead and Copper
1521 Rule. Thank you as well to all of our witnesses for being here

1522 today.

1523 Brooklyn, New York, which is where I hail from, is very
1524 fortunate to have some of the cleanest drinking water in the nation
1525 thanks in no small part to the work of our Department of
1526 Environmental Protection and our upstate partners. But even in
1527 Brooklyn, we are not exempt from this national crisis that has
1528 called our drinking water system into question, particularly in
1529 our public schools where drinking fountains have had to have been
1530 shut off to prevent our children from lead exposure. Much of
1531 our infrastructure is very old and many of our buildings were
1532 constructed during the time period when lead was used in service
1533 lines without even a second thought.

1534 So I wanted to raise a couple of questions, but let me start
1535 by letting the committee know that I received an internal memo
1536 from my colleague, Congresswoman Diana DeGette, and it is a 2017
1537 EPA memorandum that discusses lessons learned in implementing
1538 the Lead and Copper Rule in the older industrial cities of the
1539 upper Midwest, lessons that I am afraid that have gone unheeded
1540 by the EPA in drafting this new particular proposal. Copies of
1541 this memo was provided to the Democratic and Republican offices
1542 of this committee last night, and I ask that the memo be entered
1543 into the record.

1544 Mr. Tonko. Without objection.

1545 [The information follows:]

1546

1547 *****COMMITTEE INSERT*****

1548 Ms. Clarke. According to the memo, sampling just the first
1549 liter of water to come out of the tap rather than the fifth or
1550 tenth liter, missed the peak lead values 100 percent of the time.

1551 So, Ms. Wu, could you elaborate on this and tell us whether this
1552 problem has been solved in this upcoming proposal?

1553 Ms. Wu. Yeah, unfortunately, it hasn't been solved and EPA
1554 continues to rely on the first liter. Whereas, you know, the
1555 studies have shown that the water that comes out from, say, the
1556 fifth liter and on is actually closer to the lead service line
1557 and more reflective of what is happening in the lead service lines.

1558 Ms. Clarke. Okay. The memo points out that neither the
1559 states nor small or medium water systems have the expertise to
1560 establish optimal water quality parameters that will ensure lead
1561 levels are well controlled.

1562 Ms. Wu, is this problem addressed in the EPA's proposal?

1563 Ms. Wu. No. That is also not addressed.

1564 Ms. Clarke. The memo points out that a lot of water systems
1565 don't know where their lead service lines are and thus may be
1566 missing high lead levels when they go out to sample.

1567 Ms. Wu, is this problem addressed in the EPA's proposal?

1568 Ms. Wu. It is not fully or well addressed in the revisions.

1569 Ms. Clarke. So this memo says even the best centralized
1570 treatment used by a public water system may not prevent the release
1571 of lead particles, particles that can be up to 97 percent lead.

1572 Ms. Wu, is this problem addressed in the EPA proposal?

1573 Ms. Wu. No. That problem is not fixed in the proposal.

1574 Ms. Clarke. The memo points out there may be elevated lead
1575 levels in homes even if the overall system has not had an action
1576 level exceedance. So, even though Chicago's water overall is
1577 above the action level, there may be more than 4,000 homes drinking
1578 water containing 15 parts per billion of lead, which is the action
1579 level, and one thousand homes drinking water with more than 100
1580 parts per billion of lead. Ms. Wu, is this problem addressed
1581 in the EPA's proposal?

1582 Ms. Wu. No. That problem has not been addressed.

1583 Ms. Clarke. So this report came out in 2017. None of this
1584 has been included in this upcoming proposal. These are things
1585 we already know.

1586 So, Mr. Chairman, we have had a tragic history in this country
1587 with lead and drinking water. Unfortunately, it seems as though
1588 the EPA does not seem to have learned from that history. Mr.
1589 Chairman, I would like to again make sure that this put into the
1590 record, and I would like to thank all of our witnesses for being
1591 here and lending the expertise. With that, Mr. Chairman, I
1592 yield back.

1593 Mr. Tonko. The gentlelady yields back. The chair now
1594 recognizes the ranking member of the full committee, Mr. Walden,
1595 for 5 minutes, please.

1596 Mr. Walden. Thank you, Mr. Tonko, I appreciate that.

1597 And again, thanks to the panel.

1598 Mr. Estes-Smargiassi, do the proposed revisions to the Lead
1599 and Copper Rule create a more deliberative process regarding

1600 corrosion control and system management than currently exists
1601 under the Lead and Copper Rule?

1602 Mr. Estes-Smargiassi. The proposed rules add a fair amount
1603 of additional detail on how systems ought to think about this.

1604 They have focused on medium size and smaller systems rather than
1605 just large systems, so there is additional focus on corrosion
1606 control as one of the, if you will, the legs of the stool that
1607 we need here along with lead service line replacement and public
1608 education. It adds a lot of complexity which does concern us,
1609 but I think the thrust of encouraging corrosion control makes
1610 sense.

1611 Mr. Walden. Okay, let's see. Commissioner Bobbitt,
1612 according to your testimony, it appears that counties have many
1613 responsibilities and roles within your communities regarding
1614 public health protections. I think we all know that. Would you
1615 please explain what some of these are though?

1616 Ms. Bobbitt. Yes. Thank you for that question. We are
1617 responsible for about anything that touches our counties, our
1618 people, so we take care of 9-1-1, roads and bridges, we run
1619 elections, we do so many things and it is important. We are also
1620 very smart and we work in partnership, and that is why it is real
1621 important for us is to work in partnership with our federal, state,
1622 and local governments, because as counties we all need to be at
1623 the table to figure out what we need to do for our clean water.

1624 Mr. Walden. Again, back to Mr. Estes-Smargiassi and Ms.
1625 Tucker-Vogel. What are your views as to what will help accelerate

1626 line replacement and will encourage replacements of
1627 customer-owned lines? I talked about that in some of my opening
1628 comments.

1629 Mr. Estes-Smargiassi. So one thing that will help
1630 accelerate it is knowledge, so the requirements for inventory
1631 and public education and notice to homeowners is going to make
1632 it more likely that folks who have a lead service line are
1633 encouraged to remove it. There has been a fair amount of
1634 conversation here about funding. That is probably the big gap
1635 in all of this. My numbers say if we are just thinking about
1636 lead service lines, we are talking about 30 to 80 billion dollars
1637 across the country.

1638 Mr. Walden. Wow.

1639 Mr. Estes-Smargiassi. This proposal also adds in the
1640 galvanized lead service lines preceded by lead gooseneck. In
1641 my region, there is about twice as -- that adds, doubles the
1642 number. So if we look at it that way here, we might be talking
1643 about something on the order of \$160 billion to deal with this.

1644 The places where we have had real success have been where there
1645 has been external money applied.

1646 Mr. Walden. Sure.

1647 Mr. Estes-Smargiassi. Flint did a great job.

1648 Mr. Walden. Yeah.

1649 Mr. Estes-Smargiassi. With a lot of money from this
1650 organization here.

1651 Mr. Walden. Yeah.

1652 Mr. Estes-Smargiassi. If somebody gave us a couple hundred
1653 million dollars, we would be able to move a lot faster in doing
1654 ours.

1655 Mr. Walden. Mr. Tonko has the checkbook. Ask him. He is
1656 happy to do that, I am sure.

1657 So you may have covered this. I was out of the room at the
1658 other hearing. But what do you tell the average homeowner? What
1659 is my responsibility as homeowner? How do I know whether that
1660 service line coming in or not is something I should replace?
1661 Is it my responsibility? At what point do I start, when the water
1662 gets to my house or there to the street? Who can take that on?

1663 Ms. Tucker-Vogel. So, I think it varies from utility to
1664 utility.

1665 Mr. Walden. Okay.

1666 Ms. Tucker-Vogel. And also from state to state. But in
1667 general terms, the responsibility for the service line from the
1668 meter to the foundation of the house typically lies with the
1669 homeowner.

1670 Mr. Walden. Got it.

1671 Ms. Tucker-Vogel. Now sometimes the meter might be in the
1672 house, so then there again it is just whatever the policy of the
1673 water utility might be at that point. But to go back to your
1674 question of how do we communicate with and educate people about
1675 what their materials are, the inventories are the first and
1676 fundamental part of that both on the utility-owned side of the
1677 meter and the privately-owned.

1678 Mr. Walden. But how does a homeowner know? How do I know
1679 in my home?

1680 Ms. Tucker-Vogel. Well, it is going to take an educational
1681 effort that has got to be part of the rule.

1682 Mr. Walden. Is there a simple test? I mean if you are
1683 painting there, you can scrape some of the paint and you can,
1684 you know, do the lead test. I have done that. But you can't
1685 do that --

1686 Ms. Tucker-Vogel. Well, keep in mind the lines are buried.

1687 Mr. Walden. Right. No, I know.

1688 Ms. Tucker-Vogel. So sometimes depending on how the lines
1689 are connected to the meter, sometimes you can tell there at the
1690 meter set and you can do a little scratch test and see whether
1691 it is lead or not.

1692 Mr. Walden. Oh, all right.

1693 Ms. Tucker-Vogel. But there again, it is going to vary
1694 depending upon how it is constructed.

1695 Mr. Walden. And on copper lines, I know they used to use
1696 lead solder, right? Is that an issue people should be worried
1697 about as well?

1698 Ms. Tucker-Vogel. It could be. There again it depends.
1699 They don't use lead solder anymore.

1700 Mr. Walden. Yeah, good.

1701 Ms. Tucker-Vogel. So as long their water is not really
1702 corrosive it is probably okay.

1703 Mr. Walden. That is the issue is --

1704 Ms. Tucker-Vogel. I have lead solder on my copper pipes
1705 in my house, so it is, but, you know, they are old and my utility
1706 uses corrosion control.

1707 Mr. Walden. Got it. Okay, thank you. Thank you all. And
1708 thank you, Mr. Chairman. I appreciate it.

1709 Mr. Tonko. You are welcome. The gentleman yields back.
1710 The chair now recognizes Representative Blunt Rochester for 5
1711 minutes, please.

1712 Ms. Blunt Rochester. Thank you, Mr. Chairman, and thank
1713 you, Ranking Member and to the panel. I am sorry I have been
1714 running back and forth up and down the stairs. I am on at the
1715 same time in another hearing.

1716 So I would love to, I might have to submit some questions
1717 for the record, but I want to first thank you and just express
1718 that yesterday we know the President released his fiscal year
1719 2021 budget. And a budget, it really a representation of your
1720 values and your priorities.

1721 The proposed budget would lead people to believe that we
1722 don't value our environment as much as we do or our health, and
1723 based on the last 3 years, this is not really a surprise. The
1724 administration has rolled back or is in the process of rolling
1725 back nearly 100 safeguards for our air, water, and health. And
1726 for the 4th year in a row, the Trump administration has proposed
1727 deep, draconian cuts to EPA's overall budget, this year reducing
1728 it by nearly 27 percent. Since EPA was created in 1970
1729 under a Republican administration, our health and our environment

1730 are not partisan issues. It has made our air and our water
1731 cleaner, prevented millions of asthma attacks and
1732 hospitalizations and avoided hundreds of thousands of premature
1733 deaths. So when looking at this Lead and Copper Rule proposal,
1734 it goes against the very essence of what the EPA is supposed to
1735 do, protect our environment and protect our health.

1736 And, unfortunately, when the EPA fails to do its jobs, those
1737 impacts fall disproportionately on the poor and communities of
1738 color. What happened in Flint is, sadly, just one example of
1739 what is happening all over this country including the state of
1740 Delaware. We know how horrible lead is for our health, even at
1741 low-level exposures.

1742 Children and pregnant women are especially vulnerable and
1743 this new rule fails to protect the millions of Americans who drink
1744 their water from systems with lead and copper pipes, and that
1745 is unacceptable. It also fails to require adequate procedures
1746 for notifying a community of a contamination which is a
1747 fundamental right and especially important for environmental
1748 justice communities.

1749 Ms. Gaddy, in your testimony, you highlight that Newark,
1750 New Jersey had difficulty communicating health risk and technical
1751 information concerning lead levels to the public. We hear a lot
1752 about the concern for creating a panic if in revealing lead level
1753 exceedances too quickly. Do you think that the people impacted
1754 by contamination in Newark should have been notified sooner?
1755 And in your experience in Newark, does panic arise from too much

1756 information or too little?

1757 Ms. Gaddy. Yes. Well, thank you for that question. And
1758 I do think that too many of our residents were not informed of
1759 the situation early enough and then when information came out
1760 it was too much to comprehend at one time so then there was a
1761 sense of panic. In order for individuals to fully engage and
1762 understand what is happening and how serious this is to their
1763 health you had to first kind of explain what the problem was.

1764 It was 15,000 service lines at first, it wasn't everybody in
1765 the city.

1766 So when you begin to say, well, only these groups of
1767 individuals can receive a filter or are in jeopardy, their health
1768 is jeopardized by a potential lead, so now the other 50,000 in
1769 that particular ward or 75 in another ward is like why not me?

1770 And so then it created this whole confusion. But there was a
1771 lack of transparency up front as well. I do believe that there
1772 were missteps along the way. There was a lack of communication
1773 between the administration and the health department.

1774 Ms. Blunt Rochester. Right.

1775 Ms. Gaddy. Because this was a health issue that should have
1776 been addressed from the health department as well as with the
1777 water department and because there was disconnects along the way
1778 individuals didn't connect that this is something that is
1779 poisoning my family.

1780 Ms. Blunt Rochester. Thank you. Thank you.

1781 And I am going to shift to Dr. Hanna-Attisha. Following

1782 along those same lines, do you agree that it is important to inform
1783 residents? And also, what is the difference that a timely notice
1784 can make in exposure to lead to children and to the harm that
1785 could be done?

1786 Dr. Hanna-Attisha. Absolutely. We definitely need more
1787 transparency, more communication. After Flint happened, in a
1788 bipartisan manner Congress passed the EPA notification bill which
1789 says that if there is lead in the water people should be informed
1790 of it. It is kind of crazy that we needed a bill for that to
1791 happen, but this is a step in the right direction. People need
1792 to know if there is a concern so that they can take the proper
1793 measures to protect themselves.

1794 Ms. Blunt Rochester. And I am going to ask Dr. Wu, does
1795 this proposal ensure that EPA will notify people impacted by lead
1796 contamination as soon as possible?

1797 Ms. Wu. No, it could do a lot more to make sure they get
1798 notification in time.

1799 Ms. Blunt Rochester. And in your testimony you highlight
1800 that sampling requirements are weak and that repeated sampling
1801 frequently identifies lead levels that were not identified in
1802 previous sampling efforts. You propose that sampling should be
1803 taken from every tap in schools and child care facilities twice
1804 a year. What is your recommendation for frequency of sampling
1805 done outside of schools and child care facilities?

1806 Ms. Wu. Well, for the frequent -- first and foremost, the
1807 most important part is to take the samples that are from the liter

1808 that shows what is happening in the thing, or in the lead service
1809 line, right, and so that is most important. And then the
1810 frequency of sampling is, you know, more frequent is always going
1811 to be better.

1812 Ms. Blunt Rochester. Thank you. My time has expired and
1813 I yield back.

1814 Mr. Tonko. The gentlewoman yields back. The chair now
1815 recognizes the gentleman from Missouri, Representative Long, for
1816 5 minutes, please.

1817 Mr. Long. Thank you, Mr. Chairman.

1818 Thank you all for being here on this important subject.
1819 And, Ms. Tucker-Vogel, unfunded and underfunded mandates have
1820 always been a concern for states and proposed revisions to the
1821 Lead and Copper Rule offer no additional funding for states'
1822 implementation of federal requirements. What impact would this
1823 rule have on the state finances for drinking water programs and
1824 enforcement?

1825 Ms. Tucker-Vogel. Well, it will have a significant impact.

1826 I think if you look at the full testimony that we submitted and
1827 also our comments that as was submitted, with the Lead and Copper
1828 Rule you will find that the increase is significant, and without
1829 additional funding from EPA I am not sure how we will be able
1830 to fully implement the rule. Also, replacement of the lead
1831 service lines both on the public and private side, there will
1832 be additional funding required for that as well.

1833 Mr. Long. Assuming that the public water system's

1834 supervision grants are fully funded at \$150 million per year,
1835 would states be able to fully implement the proposed rule as well
1836 as all of the other items that are required to do part of their
1837 primary enforcement responsibilities?

1838 Ms. Tucker-Vogel. So I would like to reiterate that states
1839 will not be able to implement this rule at all if we don't have
1840 a functioning data management system, which we currently do not
1841 have either at the federal or state level. Our safe drinking
1842 water information system, otherwise known as SDWIS, currently
1843 does not have the capability for us to track all of the new
1844 requirements that are in the proposed regulations. So that is
1845 a significant issue for states.

1846 Mr. Long. Okay, thank you.

1847 And, Commissioner Bobbitt, according to your testimony, it
1848 appears that counties have many responsibilities and roles within
1849 your communities regarding the public health protections. And
1850 I know that Chairman Walden earlier, Ranking Member Walden on
1851 this committee I guess, but Ranking Member Walden asked you a
1852 little bit about this. But with competing demands, how do you
1853 prioritize all the services in your community?

1854 Ms. Bobbitt. Thank you for that question. That is a great
1855 question because it is a very difficult task. But like everybody
1856 else, we have to balance our budget the same as you do in your
1857 home and at your budget and the same as a federal government has
1858 to balance their budget and our state has to balance their budget,
1859 so do counties, so we have to prioritize. Obviously, we look

1860 at safety first and we are always very proactive about looking
1861 at what is impacting our environment. So we have to prioritize,
1862 but we do look at safety first.

1863 Mr. Long. Okay, thank you.

1864 And, Ms. Tucker-Vogel and Ms. Licata, both of you raised
1865 concerns about the proposed regulatory revisions regarding making
1866 public water systems responsible for testing drinking water at
1867 school and child care facilities which we all want, of course.

1868 Ms. Licata, what technical coordination and/or funding
1869 challenges might this approach pose for water system operators?

1870 Ms. Licata. Yes, so we as a utility for New York City are
1871 greatly interested in supporting the schools and daycare centers
1872 to the best of our abilities with testing and the knowledge of
1873 what may exist within their facilities and where they may have
1874 their lines. We think that there could be additional funding
1875 for those types of facilities. We do know that the Congress in
1876 2016 through the WIIN Act created a grant program. There is about
1877 \$45 million that may have been provided at this point, but we
1878 do need EPA to stand up a program that could administer the
1879 funding. We have heard it is a drop in the bucket, but the very
1880 next step is to stand up a program that would allow for potentially
1881 grants to be administered.

1882 Mr. Long. Okay, thank you.

1883 And, Ms. Tucker-Vogel, why should state education
1884 departments and child care licensing agencies be responsible for
1885 drinking water matters when they are in the schools?

1886 Ms. Tucker-Vogel. So state education departments and
1887 schools are responsible for the safety of the children that are
1888 in their care, both in the schools and in child care facilities.

1889 I think it is important to note that drinking water operators
1890 at water utilities don't have the expertise that it takes to look
1891 at premise plumbing. So once you start looking at premise
1892 plumbing within large institutional buildings, it is a very
1893 different expertise that is required than what is required to
1894 operate a drinking water system. And I don't think our operators
1895 at this point have that level of expertise to address premise
1896 plumbing issues.

1897 Mr. Long. Okay. And with that I yield back 5 seconds.
1898 Thank you all.

1899 Mr. Tonko. Thank you. The gentleman yields back. The
1900 chair now recognizes the gentleman from Florida, Mr. Soto, for
1901 5 minutes, please.

1902 Mr. Soto. Thank you so much, Mr. Chairman. You know,
1903 getting lead out of our water is pretty fundamental. It has been
1904 a challenge for thousands of years for humanity. I was reading
1905 the other day that the fall of the Roman Empire was even
1906 contributed in part because there was lead in their pipes that
1907 drove people insane. And then we had lead in our piping until
1908 the 1920s in a lot of cities, but until the 1980s -- I couldn't
1909 believe that. Until the 1980s and national plumbing codes, there
1910 was lead.

1911 We know this is a hard issue. We have had issues like

1912 asbestos that we are working on and PFAS and even getting lead
1913 out of gasoline in the '70s and '80s, but we can't avoid it because
1914 it is hard. I worry about my own state where 80 percent of the
1915 children with lead poisoning were not tested by the local health
1916 departments according to Pediatrics medical journal. And then
1917 I just met with my Florida rural water folks last week and they
1918 are volunteering to help out schools and daycares because there
1919 is no state money to be able to test our many of thousands of
1920 schools in Florida. So, first, I wanted to ask everybody's
1921 response. We saw the President's budget this week, a 26 percent
1922 cut to EPA. Those 50 programs that are targeted for cuts are
1923 radon, clean water, and the lead program. So it would be great
1924 to hear what that would mean to each of your communities if we
1925 had a 26 percent cut to the existing lead programs that we already
1926 are funding in the 2020 budget.

1927 And we will start from left to right with you, Ms.
1928 Hanna-Attisha.

1929 Dr. Hanna-Attisha. So the lead programs, the safety net
1930 programs, all these programs that are critical for the health
1931 and development of our children and of our families, they are
1932 already underfunded. If you look at our lead program, the
1933 Childhood Lead Poisoning Prevention Program with the CDC, they
1934 got some of their funding restored with some of the Flint dollars
1935 that came in. But that is still not at what it needs to be to
1936 properly identify the children that are exposed, but really to
1937 focus our work on primary prevention not only getting the lead

1938 out of our homes, but getting the lead out of our plumbing.

1939 We talk a lot about cost. Cost has come up many times today
1940 and we are not talking about the cost of doing nothing. We well
1941 know the cost of inaction. There have been studies from the Pew
1942 and Robert Johnson Foundation and even studies in Michigan that
1943 tell us the burden of not eliminating lead exposure. It costs
1944 us about 80 billion dollars a year when we look at decreased
1945 economic productivity, special education costs, criminal justice
1946 costs, healthcare costs, and behavioral healthcare costs. That
1947 is the cost of continuing to kick the can and continuing not to
1948 eliminate these kinds of exposures.

1949 Mr. Soto. Sure.

1950 Ms. Gaddy, what would a 26 percent cut to the lead program
1951 mean for places like Newark that you have been talking about today?

1952 Ms. Gaddy. Well, there would be a lot of services that
1953 residents would not receive and again I concur with Dr. Hanna
1954 as well. Not only the lead in our drinking water, but lead paint
1955 chips, dust, all of those things and those programs need proper
1956 funding from EPA. It also means that individuals over their
1957 lifetime, children will be exposed to more illnesses based on
1958 the lack of safe and affordable drinking water, the lack of
1959 individual air issues that is also associated with it.

1960 I mean one in four children in Newark have asthma. We have
1961 cumulative impacts of just total, so many toxins, the air we
1962 breathe, the water we drink, the food we eat, so a 26 percent
1963 cut would hurt us tremendously in our community and the damages

1964 will be irreversible. So children will have a lifelong of health
1965 effects from an early age until they are adults.

1966 Mr. Soto. Sure.

1967 Ms. Licata, what would it mean for New York City to have
1968 that kind of cut to the lead program?

1969 Ms. Licata. We would be very concerned about deep cuts to
1970 EPA, but I would, frankly, be most concerned about deep cuts to
1971 the SRF programs for the states because my utility relies greatly
1972 on that source of financing which really allows us to access the
1973 markets at a very good rate. And, frankly, I think with respect
1974 to budget cuts there, I think we are hearing today that we do
1975 need some out-of-the-box opportunities to address the costs
1976 associated with removing lead from homes, and I hope that we can
1977 talk about that some more.

1978 Mr. Soto. Sure.

1979 Ms. Tucker-Vogel, what would it mean for Kansas if we had
1980 a 26 percent cut to the lead program for EPA?

1981 Ms. Tucker-Vogel. So, well, first, I am here representing
1982 ASDWA, but the lead program is not in the drinking water program
1983 in the state of Kansas and I doubt that that is the case in most
1984 of the state drinking water programs, that that lead program
1985 located in another part of an agency.

1986 So I would echo the concern though about cuts to both the
1987 public water supply supervision grant and the SRF programs which
1988 do directly impact the state drinking water programs and allow
1989 us to work towards reducing lead in drinking water.

1990 Mr. Soto. Thanks. My time has expired.

1991 Mr. Tonko. And perhaps the other witnesses can respond in
1992 writing to answer, acknowledge Representative Soto's question,
1993 which was very good. The gentleman yields back.

1994 Next, the chair will recognize the gentlewoman from
1995 Michigan, Representative Dingell, for 5 minutes, please.

1996 Mrs. Dingell. Thank you, Chairman Tonko.

1997 And I am sorry to all the panel. There are two hearings
1998 that are equally important especially for Michigan because it
1999 is autonomous vehicles downstairs, but we have all been bouncing
2000 up and down because we care deeply about both issues, but I thank
2001 the chairman for holding this hearing.

2002 And as you have heard all morning and as you know, this really
2003 matters in Michigan. And I would reinforce again, it is on each
2004 one of us here in Congress and the government to ensure that no
2005 city in America ever experiences what Flint experienced. Again,
2006 we have witnessed it. I have seen the children. I am following
2007 the children.

2008 It matters on the adults too, but as I talked about earlier
2009 when I introduced Dr. Mona, I will never forget those kids when
2010 I first -- and the desperation of those parents. And it is really
2011 clear that government at all levels failed the people of Flint.

2012 Now we have a moral obligation to fix it, and I have felt that
2013 from the very day that I first went to Flint and the ACLU, before
2014 it ever became public, started talking to me about what happened.

2015 And that is why a strong, proactive, and clear federal Lead and

2016 Copper Rule is needed for the long term to protect Americans all
2017 across the country.

2018 I am going to address my first set of questions to Dr. Mona.
2019 I call her Dr. Mona because the kids call her Dr. Mona, and I
2020 should maybe be more respectful, but I trust kids more than I
2021 trust adults some days. Sorry. But in your testimony, you
2022 stated that EPA's proposed revisions to the Lead and Copper Rule
2023 are minimalistic and insufficient, which I agree with. Given
2024 your expertise and your experience in Michigan, I want to direct
2025 a series of questions to you. First, can you describe for the
2026 committee why there is no safe level of lead?

2027 Dr. Hanna-Attisha. Yeah, we talked about that briefly
2028 before. It is a neurotoxin. It impacts cognition and
2029 development and behavior and has life-altering,
2030 multigenerational, multisystem consequences. Very clear
2031 science, which we have known for hundreds of years back when the
2032 Romans used lead, now tells us there is no safe level.

2033 Mrs. Dingell. So having said that and we have talked a
2034 little about it and we keep dancing it, but we have got to stay
2035 on it. What do we do to protect our most vulnerable, which is
2036 our children and pregnant women?

2037 Dr. Hanna-Attisha. Right.

2038 Mrs. Dingell. What is the most direct thing we do?

2039 Dr. Hanna-Attisha. That is a great question and that is
2040 how this rule really should be focused on and that should be that
2041 focus on primary prevention, doing everything we can to not expose

2042 children. Not only does it make health sense and development
2043 sense, we also know it makes economic sense.

2044 Mrs. Dingell. So what makes lead in drinking water
2045 different than, say, lead from a lead pencil or from paint?

2046 Dr. Hanna-Attisha. That is a great question and that is
2047 something that I had to learn as a pediatrician despite caring
2048 for hundreds of children with lead poisoning both in Flint, and
2049 in Detroit prior. Lead is different. Lead in water is different
2050 than other traditional sources of lead. Lead paint and lead dust,
2051 kids are highest risk of exposure to those household sources when
2052 they are crawling and walking, usually when they are toddlers.

2053 They walk around, they crawl, they find a paint chip they put
2054 in their mouth and paint chips are actually sweet and so they
2055 continue to eat them.

2056 Lead in water impacts a different age group. It impacts
2057 the unborn, has well-known maternal fetal impacts including
2058 miscarriage, fetal death, prematurity, small birth weight, and
2059 it most impacts babies on formula. We have so many babies in
2060 Flint who are formula-fed. We have low breastfeeding rates and
2061 they were using this lead-tainted water to mix their formula which
2062 is a powder.

2063 So the age group of exposure is different than the other
2064 sources of lead, and also unlike the other sources lead in water
2065 is in a vehicle meant for us to ingest. Like, we are not meant
2066 to eat dust and paint, kids do it, but we are meant to drink water.

2067 It is a medical and public health necessity for us to consume

2068 water and when lead is in it, we can't see it, we can't taste
2069 it, and we don't know it is in there.

2070 Mrs. Dingell. So now let's take it to another step. So
2071 what is the difference between lead exposure in schools and in
2072 daycare versus exposure in homes, and what do we need to make
2073 sure the kids are getting safe drinking water in schools?

2074 Dr. Hanna-Attisha. Sure. That is a great question. So
2075 lead in schools and child care facilities are a little bit
2076 different than lead in homes. Usually there is not lead service
2077 lines to these bigger buildings, the lead is coming from fixtures
2078 and faucets. Lead in schools usually is increased because there
2079 is long periods of water non-use, for example, weekends,
2080 overnight, breaks, which concentrate the exposure of lead so that
2081 first kid that comes in on a Monday morning and turns on the
2082 drinking faucet, they are going to get a gush of lead in their
2083 water. So that is what makes it a little different. And we have
2084 poorly invested in the infrastructure of our schools, and this
2085 is another reiteration reminder of why we need more capital
2086 investment in our schools to get them caught up.

2087 Mrs. Dingell. Thank you. I yield back, but I will have
2088 some questions for the record, Mr. Chairman. Thank you to all
2089 of you. Thank you.

2090 Mr. Tonko. The gentlewoman yields back and the chair now
2091 recognizes the gentleman from California, Dr. Ruiz.
2092 Representative Ruiz for 5 minutes, please.

2093 Mr. Ruiz. Thank you very much, Mr. Chairman, for holding

2094 this hearing on such an incredibly important topic. Thank you
2095 all for being here and for your advocacies and your voice in this
2096 public health dilemma. The health and safety of our children
2097 is the most important aspect of keeping lead out of drinking water,
2098 the health and safety of our children. Okay, the health
2099 and safety of our children should be our objective, not some
2100 cost-benefit equation and feasibility and for an agency. Lead
2101 is a potent toxin, a known threat to public health with serious
2102 impacts on cognitive development in children and there is a broad
2103 consensus that no level of lead is safe. No level of lead is
2104 safe. As a parent of twin 4-year-olds, would I consider a certain
2105 level safe for my children to drink? Would I accept a certain
2106 amount of lead for my children to drink if the medical community
2107 is saying no level of lead is safe to drink? I would definitely
2108 not. I am a physician, so I am going to ask Dr. Hanna-Attisha,
2109 you are a pediatrician, correct? Can you tell us what health
2110 impacts you found in your patients during the Flint lead crisis?
2111 What led you to even test for this?

2112 Dr. Hanna-Attisha. That is a great question, and it is part
2113 of the nuances of lead. So I shared kind of the consequences
2114 of lead exposure, but those don't present right away. Kids don't
2115 come into the clinic with those acute symptoms. I wish they did.
2116 I wish a kid who was exposed to lead had like purple
2117 glow-in-the-dark spots, but they don't, and in pediatrics we call
2118 it a silent pediatric epidemic. It is pernicious. It is
2119 invisible.

2120 We don't acutely see symptoms of exposure, which is why,
2121 unfortunately, we are then left to screen children at the ages
2122 of 1 and 2 because that is when they are most at risk for household
2123 lead exposure for lead in their blood, but when we do that it
2124 is too late. And when we do that, we are literally using our
2125 children as detectors of environmental contamination. We should
2126 be screening the water and their environment.

2127 Mr. Ruiz. Is that a mandatory screening or is that your
2128 practice or is that a state mandate?

2129 Dr. Hanna-Attisha. It is different in every state, but it
2130 is a Medicaid mandate that if a child is on Medicaid they have
2131 to be screened at the ages of 1 and 2. Some states still do
2132 universal screening, but it is based on risk.

2133 Mr. Ruiz. Okay, and so how do these patients on lead
2134 present? What is the symptoms of lead, acute lead toxicity?

2135 Dr. Hanna-Attisha. So acute lead toxicity, which we rarely
2136 see anymore, this was something that was much more common when
2137 we had lead in gasoline and a lot of lead in our paint, are symptoms
2138 of seizures and tremors and acute neurological symptoms and often
2139 death. But now what we see is what we don't see. It is this
2140 kind of silent, invisible consequences and they present later
2141 on in life with problems focusing, problems paying attention,
2142 problems in school, learning disabilities, growth issues, hearing
2143 issues, so these are the consequences of exposure. And when we
2144 do diagnosis them it is often years after the exposure and which
2145 makes it then very difficult to do anything about it, but also

2146 very difficult to prove causation.

2147 Mr. Ruiz. Are those reversible?

2148 Dr. Hanna-Attisha. They are not.

2149 Mr. Ruiz. Okay. So they are permanent?

2150 Dr. Hanna-Attisha. Yes. Lead is a permanent, irreversible
2151 neurotoxin, which is why we are never supposed to expose children
2152 to it. Not all children who are exposed will have consequences
2153 and it depends on a lot of other risk factors including nutrition.

2154 Mr. Ruiz. And so that is why prevention is so important

2155 --

2156 Dr. Hanna-Attisha. Yes, prevention.

2157 Mr. Ruiz. -- when it comes to lead and not reactionary
2158 policies of once you see there is a lot of lead then we are going
2159 to act, after a child consumes the amount of lead for a certain
2160 period of time.

2161 In my district, the Coachella Valley Water District does
2162 not have any lead service lines, and even so they work with schools
2163 and daycare facilities to proactively test for lead in their water
2164 pipes and drinking fountains to ensure the safety of children.

2165 I want to talk about the cumulative impacts. So as a
2166 pediatrician, can you tell us what happens to a child who is
2167 exposed to lead both through contaminated drinking water and
2168 through paint in their home?

2169 Dr. Hanna-Attisha. Yeah. That is a great question. The
2170 burden of lead exposure does not fall equally on our nation's
2171 children as we have heard. It is a form of environmental

2172 injustice or environmental racism. Predominantly poor and
2173 minority children are exposed to lead just like many other
2174 contaminants, and it is not just lead in their water. It is also
2175 lead in their deteriorating homes. It is lead in the soil because
2176 of industrial legacy uses of lead. So there is cumulative
2177 exposures that are all synergistic and additive and that impact
2178 the child. This is one.

2179 Mr. Ruiz. Synergistic and additive. Do you think it is
2180 important the EPA consider these cumulative impacts when setting
2181 action levels and requirements for lead in drinking water?

2182 Dr. Hanna-Attisha. Absolutely. And I think the EPA should
2183 also take the opportunity to lower the standards for all sources
2184 of lead exposure, not just water.

2185 Mr. Ruiz. Okay. So I think it is clear that a drinking
2186 water standard that fails to protect low-income children or
2187 children of color is not good enough.

2188 Ms. Gaddy, do you agree?

2189 Ms. Gaddy. Yes, I agree. And cumulative impacts is
2190 something that most individuals who live in certain ZIP codes
2191 suffer from that environmental degradation on a daily basis and
2192 it needs to be addressed.

2193 Mr. Ruiz. So today is the anniversary on the executive order
2194 on environmental justice, and the steps laid out in that executive
2195 order are as important as ever and the example of lead exposure
2196 shows why. I have legislation that I have introduced to codify
2197 the executive order and I appreciate that the chairman of this

2198 committee and this subcommittee included many of these provisions
2199 in the Clean Future Act and also, it also looks at cumulative
2200 impacts.

2201 So, Ms. Gaddy, do you support codifying the requirements
2202 of the environmental justice executive order?

2203 Ms. Gaddy. Yes. And I am going to be at that hearing.
2204 It started at 12:30 today. I am late, but I definitely support
2205 it.

2206 Mr. Ruiz. Excellent. So I thank the witnesses for
2207 traveling to be here today and I thank the chairman for calling
2208 this important hearing and I look forward to working with all
2209 of you to move important environmental justice legislation
2210 forward.

2211 Mr. Tonko. The gentleman yields back and the chair now
2212 recognizes the gentleman from South Carolina, Representative
2213 Duncan, for 5 minutes, please.

2214 Mr. Duncan. Thank you, Mr. Chairman. I yield as much time
2215 to the gentleman from Illinois as he needs.

2216 Mr. Shimkus. I thank my colleague.

2217 A couple points that we need in clarification. My
2218 colleagues from Delaware and Florida mentioned the importance
2219 of a budget and that it does set priorities and you all answered
2220 appropriately. More money is better, less money is not. But
2221 it is instructive that as of yesterday my Democratic colleagues
2222 have said on the House that they are not going to submit a budget.

2223 So that would be pretty disappointing too, don't you think, if

2224 there is not even a budget submitted by the legislative branch
2225 of the House?

2226 I am not going to draw you into the politics of this, but
2227 you can see how that is, if you are going to throw a punch you
2228 have got to be willing to take a punch and it is not -- budgets
2229 are important. They are not going to submit one, so it is
2230 difficult for me to accept the premise of attacking an executive
2231 budget that at least has presented one.

2232 Dr. Mona, appreciated the comments last time. You mentioned
2233 the unborn child. They are exponentially challenged by lead,
2234 would you say?

2235 Dr. Hanna-Attisha. Yes.

2236 Mr. Shimkus. And you would claim them to be a vulnerable
2237 population in themselves?

2238 Dr. Hanna-Attisha. yes.

2239 Mr. Shimkus. And should they be protected?

2240 Dr. Hanna-Attisha. They should be protected with strong
2241 lead in water regulations.

2242 Mr. Shimkus. Thank you very much and I appreciate that.

2243 It just -- I am glad my colleague, Cathy McMorris Rodgers, is
2244 here because she offered a motion to recommit on the floor a couple
2245 weeks ago. We were debating another exciting issue, which was
2246 PFOS, and she wanted to enact into the law a protection for the
2247 unborn children under the PFOS standard. It was rejected on the
2248 floor, but it is important. I appreciate that testimony.

2249 Who of you here have people in your government entity that

2250 does not have water connected to any system?

2251 Oh, Ms. Bobbitt, okay. So what do they do for water?

2252 Ms. Bobbitt. They have water wells, private water wells
2253 at their homes.

2254 Mr. Shimkus. Private water, and are they tested?

2255 Ms. Bobbitt. We work in partnership with the Oklahoma Water
2256 Resources Board and our health department and they are available
2257 to be tested --

2258 Mr. Shimkus. Available, but they don't have to be tested.

2259 Ms. Bobbitt. No, they are not mandated.

2260 Mr. Shimkus. That is correct. So, but of course all the
2261 people in your district are rich, right? We wouldn't classify
2262 them as low income.

2263 Ms. Bobbitt. Right, we have a median of \$28,000. I don't
2264 know that --

2265 Mr. Shimkus. I would say you have a lot of low-income
2266 people.

2267 Ms. Bobbitt. Yes.

2268 Mr. Shimkus. So not all low-income people live in
2269 metropolitan areas, do they?

2270 Ms. Bobbitt. No.

2271 Mr. Shimkus. So if you have to make a decision, and I do
2272 this all the time. I have a rural area, 33 counties. Driving
2273 north to south would probably take you 6 hours, a lot of parts
2274 of rural America. If you have to make these tough decisions as
2275 you highlighted earlier, right, you have got to make decisions

2276 of hospitals, EMT, all this other stuff. Is it more important
2277 for you to try to connect people on safe drinking water or rip
2278 out service lines that aren't above the lead limits?

2279 What would be -- if you are going to make a decision as to
2280 what you need to do to service your constituents and you had to
2281 prioritize, is it better to rip out these lines that aren't higher
2282 in lead or is it better to connect to these people who don't have
2283 safe drinking water?

2284 Ms. Bobbitt. We would work in partnership. So, obviously,
2285 we are not going to go in there and mandate any lines be ripped
2286 out. We are going to work in partnership. We need to come to
2287 the table together to figure out what works best to serve
2288 everybody.

2289 Mr. Shimkus. Okay. Here is my -- let me rephrase this
2290 question. You are given a limited pot of money and the government
2291 says, okay, this money is to rip out lines, service lines to homes
2292 that are maybe still even under 10 parts per billion, or you could
2293 connect with the same money people who don't have connection in
2294 rural America. What do you think you would do?

2295 Ms. Bobbitt. We would connect.

2296 Mr. Shimkus. Absolutely. And we do have programs that help
2297 do that. Rural development, I work with them closely. And for
2298 you city dwellers, we have communities that aren't connected to
2299 water. And so when we address this issue of more money to do,
2300 and we want to get it safe but we want to make sure that we can
2301 still connect everybody so that then you have at least a baseline.

2302 And that is what the rural people are going to be concerned
2303 about is that we are going to put in more rules, more regulations
2304 and they are not going to be able to fulfill the promise of safe
2305 drinking water to all Americans. My time has expired and I yield
2306 back.

2307 Mr. Duncan. I yield back.

2308 Mr. Tonko. And the gentleman from South Carolina yields
2309 back. The chair now recognizes the gentlewoman from California,
2310 Representative Barragan, for 5 minutes, please.

2311 Ms. Barragan. Thank you. I want to thank the chair for
2312 holding this critically important hearing on the EPA Lead and
2313 Copper Rule proposal, which I believe falls short, very short
2314 of protecting public health from lead poisoning. And I want to
2315 thank the panelists for being here, all of you who have been
2316 working on this issue.

2317 I don't quite understand why we debate the health and safety
2318 of our children and whether it reaches a certain level and it
2319 is bad enough now we can do something about it, when we know the
2320 medical community is saying that lead, any amount of lead, is
2321 bad for their development and bad for their health. The fight
2322 for clean and affordable water is personal.

2323 I happen to represent a district in south Los Angeles where
2324 there is only four districts poorer than mine. A couple of years
2325 ago, we had brown water coming out of the faucets in Compton.

2326 And I remember somebody saying, "Well, it is only impacting 500
2327 people. Why do you care about this, Congresswoman?" I said one

2328 person who gets brown water is too many and we shouldn't be putting
2329 these value sets on people and based on where they live and how
2330 many people it impacts. Everybody deserves clean water. Now,
2331 fortunately, the water did not test positive for lead, it was
2332 other issues that we had. And it just reminds me of sometimes
2333 the attitude when we should be saying that we are not going to
2334 put up with unhealthy or unsafe water for our kids and our
2335 vulnerable populations.

2336 I remember being at an event about a year ago, maybe less
2337 than that and had a teacher come up to me and she was with a group
2338 of students, and said, "The lead in our school is testing just
2339 a tick under where action is required and we are worried about
2340 this." And it was pretty high and it felt so helpless to not
2341 be able to say anything on what could be done. But it is
2342 unacceptable and we are failing and need to do something about
2343 it, and so for communities of color and low-income communities
2344 they are certainly bearing the brunt of this.

2345 Ms. Gaddy, I want to start with you on the EPA's rule
2346 required, rather, the EPA's required environmental justice
2347 analysis of its Lead and Copper Rule finds that household level
2348 service line replacements that depend on their ability to pay
2349 will leave low-income households with disproportionately higher
2350 health risks. Given that I represent a poor district, this is
2351 of my concern. There is also the issue of small water systems
2352 that can't afford service line replacement which was the case
2353 in my district with my water issue. It had to be taken over by

2354 the county. It was the first time that was ever done in the
2355 history of the state.

2356 Can you please talk about this disparity and how Congress
2357 can work with water systems to ensure that small water systems
2358 and low-income households get the same full-service line
2359 replacements as wealthier households?

2360 Ms. Gaddy. Yes. I mean just for example in Newark,
2361 originally the residents were supposed to pay a thousand dollars
2362 towards the replacement of the lead service line and that was
2363 a huge burden, so a lot of individuals was opting out of the program
2364 because now that is taking money away that they need to provide
2365 for their family. And then fortunately enough, our mayor and
2366 the city council was able to secure the proper funding.

2367 We all agree especially in EJ communities that water is a
2368 human right and that everyone deserves a right to safe,
2369 affordable, quality drinking water and EPA should be doing more
2370 to ensure that quality drinking water is afforded to everyone
2371 throughout this country. And for those individuals who have the
2372 smaller systems, it is not an either/or. If you don't have money,
2373 you shouldn't have to buy bottled water which we know is not
2374 regulated, right, and/or protected, and you shouldn't have to
2375 pay for a lead service line.

2376 What you want is to be able to turn on the tap water and
2377 receive quality, safe drinking water that will help your family
2378 and that is not happening in EJ communities and communities of
2379 low-income people. So it is definitely something that is causing

2380 a disparity and it is a health injustice that we have to correct.
2381 And so, the money needs to be found today, action needs to be
2382 taken today to ensure that all these individuals are protected
2383 and that that burden is not unfairly put on individuals who don't
2384 have the financial means to support the right to quality, safe
2385 drinking water.

2386 Ms. Barragan. Great.

2387 Ms. Wu, I want to -- the NRDC's threat on taps report in
2388 2017 talked about the enforcement and the challenges around
2389 enforcement. Can you speak to the enforcement challenges with
2390 the rule including from how environmental justice perspective
2391 and how we can do better?

2392 Ms. Wu. Yes, so we found that for the most part there is
2393 a very low, low percentage of formal enforcements that are
2394 happening with drinking water violations in general. And we also
2395 did a report called "Watered Down Justice" that showed that there
2396 were violations happen more in minority communities and
2397 low-income communities. So the disproportionate burden is shown
2398 by the amount of violations and how long the violations stay in
2399 violation. So enforcement is a huge part of it and it is not
2400 happening in the communities that need it the most and so it is
2401 an important part of making sure that the Lead and Copper Rule,
2402 whatever it looks like, is actually properly implemented and
2403 enforced.

2404 Ms. Barragan. Great. Thank you. I yield back.

2405 Mr. Tonko. The gentlewoman yields back. The chair now

2406 recognizes the gentlewoman from the state of Washington,
2407 Representative Rodgers, for 5 minutes, please.

2408 Mrs. McMorris Rodgers. Thank you, Mr. Chairman. I am here
2409 to yield to the gentleman from Illinois, Mr. Shimkus.

2410 Mr. Shimkus. I thank my colleague for showing up and
2411 helping.

2412 So let me go with this, Ms. Gaddy. I appreciate your
2413 statement. And you mentioned, I think, and you did it just
2414 recently too about service lines being replaced under the state
2415 of New Jersey has got a plan to do that, correct, and you mentioned
2416 at no cost. I wanted to just flesh out, there is really no free
2417 lunch. You would agree with that, right? Someone is paying for
2418 this.

2419 Ms. Gaddy. Right.

2420 Mr. Shimkus. So in New Jersey, who would be paying for the
2421 replacement of these lines in this grant program you are referring
2422 to?

2423 Ms. Gaddy. Well, the bill, the individuals, the homeowners
2424 and those who -- yes.

2425 Mr. Shimkus. But it is a grant program, so the state of
2426 New Jersey, if I am right, would offer money to the homeowner
2427 for the service line.

2428 Ms. Gaddy. Correct.

2429 Mr. Shimkus. Because I don't know. I am just asking. I
2430 don't know the answer.

2431 Ms. Gaddy. Well, it is a variation.

2432 Mr. Shimkus. Okay.

2433 Ms. Gaddy. There are programs that the State came in --

2434 Mr. Shimkus. So if the State is doing it, they are getting
2435 their money how? How would the State --

2436 Ms. Gaddy. Through taxes.

2437 Mr. Shimkus. Okay, thank you. So let me go to the, you
2438 know, Ms. Tucker-Vogel, Mr. Estes-Smargiassi, and let's talk
2439 about the payer in these issues, right? Who is paying for water?
2440 How is it paid for?

2441 Ms. Tucker-Vogel. So the --

2442 Mr. Shimkus. If you don't want to answer, I will just go
2443 to the next one. So I don't have much time, you have to answer
2444 quickly.

2445 Ms. Tucker-Vogel. So the ratepayers.

2446 Mr. Shimkus. The ratepayers pay.

2447 Ms. Tucker-Vogel. Yes.

2448 Mr. Shimkus. So who are the ratepayers?

2449 Ms. Tucker-Vogel. So the water system customers, the
2450 utility customers.

2451 Mr. Shimkus. So we are either going to have the taxpayers
2452 pay and the ratepayers pay. Someone is going to pay to do this.

2453 Ms. Tucker-Vogel. Correct, and then the case of revolving
2454 loan funds, you know, the State provides those loans. But there
2455 again, they have to be paid back. They are not grants. And so,
2456 it is the ratepayers that are paying back those loans as well.

2457 Mr. Shimkus. Okay. Let me go to -- I want to ask Ms. Licata

2458 a question. You mentioned earlier, way long ago, about service
2459 lines going into schools and that you could not force the schools
2460 to -- can you talk about that real quick?

2461 Ms. Licata. Yeah. The EPA, neither the EPA or the DEP have
2462 the authority to force the schools to do the testing, right, so
2463 we would need Congress to grant EPA authority --

2464 Mr. Shimkus. What about, do you have the force to be able
2465 to replace the school --

2466 Ms. Licata. No, we do not.

2467 Mr. Shimkus. Do you have the force to be able to force a
2468 private homeowner to do this?

2469 Ms. Licata. No, we do not.

2470 Mr. Shimkus. Do you have the force to able to force an
2471 apartment complex to replace all their lead lines in an apartment
2472 complex?

2473 Ms. Licata. No, we don't.

2474 Mr. Shimkus. That is good. Thank you. And I want to
2475 finish with this. A lot of this revolves -- and thank you again,
2476 Dr. Mona. I am going to use that too because you helped identify
2477 this problem in Flint from day 1, so you get all the credit for
2478 raising this issue to our attention. Ms. Dingell was right.
2479 It was a failure at all levels. I think the people evaluated
2480 this.

2481 I just want to put this on the record so that we kind of
2482 know what really happened. And I have been on the chairman, a
2483 ranking member for 9 years. My understanding of Flint is that

2484 there were horrible decisions and actions made by federal, state,
2485 and local officials. Flint happened because of money and
2486 politics. Flint wanted off Detroit water because they felt
2487 gouged on rates. The city council set an artificial political
2488 deadline that didn't meet engineering needs for water chemistry.

2489 The State cut the city slack, because they were in
2490 receivership they didn't go after enforcement and then tried to
2491 minimize it. EPA was aware of the high-level readings, but
2492 minimized their impact to avoid causing a panic. EPA also
2493 slow-walked a legal reading of the responses. That took several
2494 months. And the biggest problem was no one told the public and
2495 that is what you lived through this experience. So we have local,
2496 state, EPA all failed the residents of Flint.

2497 So I would -- part of what you all do if you are a
2498 nongovernment organization, a public interest group, or you are
2499 a utility or with an association, we all have got to stand up
2500 to protect the residents of our communities and we can't let
2501 another level of government entity get in the way of protecting
2502 our constituents and our consumers. So I applaud you for being
2503 here and with that I will yield back to the gentlelady from
2504 Washington State.

2505 Mrs. McMorris Rodgers. I yield back.

2506 Mr. Tonko. The gentlewoman yields back. The chair now
2507 recognizes the gentleman from Texas, Representative Flores, for
2508 5 minutes, please.

2509 Mr. Flores. Thank you, Mr. Chairman. I yield my time to

2510 Mr. Shimkus.

2511 Mr. Shimkus. All right. I am almost done.

2512 So let me go back to Mr. Estes-Smargiassi. Under the
2513 proposed rule, public water systems would need to access funds
2514 quickly to cover the costs of replacing its portion of a lead
2515 service line to comply with the 45-day schedule. Estimates of
2516 lead service line vary, ranging from 2,500 to 5,500 per line,
2517 with some industries estimate at \$8,700 per line. What budgeting
2518 and financing challenges would public water systems operators
2519 face to replace lead service lines within 45 days? And this is
2520 really part of that intro to the last set of questions.

2521 Mr. Estes-Smargiassi. So the proposed rule suggests that
2522 if a homeowner replaces their portion of the line that the water
2523 system needs to replace their portion within 45 days. Certainly,
2524 financing for some utilities that where this might be an
2525 unexpected expense could be an issue. More importantly, the
2526 timing itself could be an issue. For those of us who live in
2527 the North, we don't typically open up the streets anywhere between
2528 early in November and March because the folks who plow aren't
2529 really enthused about big potholes from patches in the street.

2530 So need to have sort of -- one of the things we ask for as
2531 I think about rules is practicality. We need to have rules that
2532 work, they work under all circumstances, and where the enforcement
2533 makes sense. I wouldn't want a water system to be in violation
2534 of the rule because they couldn't do something practical even
2535 though that was their intent. We would want to see coordination

2536 between the homeowner and the city.

2537 Mr. Shimkus. So we are debating a proposed rule that has
2538 been proposed by the administration in October of last year and
2539 the deadline is tomorrow, don't forget. And it is better to be
2540 debating a proposed rule versus not talking about any rule that
2541 hasn't come down the pike in 20 years. So let me follow up with
2542 you, same panelist. Do you anticipate that the 45-day
2543 requirement would lead to a change in the frequency or types of
2544 customer request for lead service line replacement?

2545 Mr. Estes-Smargiassi. What I think we are seeing from the
2546 rule will be that with inventories and letters that more people
2547 will be interested in this and there will be a demand in some
2548 cases for the homeowner to replace their piece of the line when
2549 the city is not currently ready. It is not necessarily efficient.

2550 Systems will need to figure out how to make this work if that
2551 is the rule because we want to satisfy our customers' demand.

2552 If a customer wants to remove a lead service line, we are
2553 going to have to figure out how to manage that. But we would
2554 like to be able to create a system where if we are doing lead
2555 service lines in a neighborhood, we get all of them done and we
2556 do it efficiently and with the least disruption to the streets
2557 and so on.

2558 Mr. Shimkus. If the homeowner ultimately fails to replace
2559 their portion as intended, what might be the consequences for
2560 the homeowner and/or the public water operator?

2561 Mr. Estes-Smargiassi. So this has been the crux of the issue

2562 around lead service line replacement. Even if, and in fact I
2563 can offer concrete examples. Even where a water system is
2564 prepared to pay for a hundred percent of the lead service line
2565 replacement all the way from the main to the person's home, we
2566 don't get a hundred percent participation. We have homeowners
2567 who aren't interested in having the city come and dig up their
2568 front yard or go down in their basement for whatever reason and
2569 pull that lead service line out.

2570 So we are seeing, even in communities in my area where our
2571 funding enables the communities to put together a program that
2572 covers the whole cost that they are getting around 90 percent.

2573 They are not getting that last ten percent. Some homeowners
2574 just aren't interested. And we don't have the authority to be
2575 able to make them remove that last piece of pipe.

2576 Mr. Shimkus. Yeah, and let me ask with this. And I only
2577 have a minute left. So no one here at the panel is proposing
2578 forcing government trench-diggers to pull out lead pipes on
2579 private property, are they? Does anyone say we want to authorize
2580 the federal government to protect the individual who lives in
2581 this home that we are going to mobilize an eminent domain personal
2582 property to remove their lead pipe? Is anyone proposing that?

2583 Ms. Wu?

2584 No, thank you very much and I yield back my time.

2585 Mr. Tonko. The gentleman yields back. Several documents
2586 have been requested to be entered into the record of this
2587 proceeding. Let me just list what we have that has been approved.

2588 A letter from the United States Conference of Mayors and the
2589 National League of Cities; a letter from National Rural Water
2590 Association; a letter from American Public Water Works
2591 Association to EPA; a letter from American Public Water Works
2592 Association to the Energy and Commerce Committee; a press release
2593 issued earlier today by EPA with acknowledgment of some
2594 inaccuracies.

2595 And, finally, I would like to thank all of our witnesses
2596 for providing not only tremendous information, but I think
2597 establishing for us priorities. You know, that is what budgets
2598 are, they are priorities. We can either do a relief for those
2599 most wealthy and bloat our deficit or we can prioritize our
2600 children and their health.

2601 I remind members that pursuant to committee rules, they have
2602 10 business days to submit additional questions for the record
2603 to be answered by our witnesses. I would ask that each witness
2604 respond promptly to any such questions that you may receive.
2605 I believe a few of you didn't get to respond to Representative
2606 Soto, so if you could do that also. And at this time, the
2607 subcommittee is adjourned.

2608 [Whereupon, at 12:51:10 p.m., the subcommittee was
2609 adjourned.]