February 4, 2020

Mr. David Ross
Assistant Administrator Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Mail code: 4101M
Washington, DC 20460–0001

RE: Comments on the agency's proposed revisions to its Lead and Copper Rule in the National Primary Drinking Water Regulations, 84 Fed. Reg. 61,684; Docket No. EPA–HQ–OW-2017-0300

Dear Assistant Administrator Ross:

I was the Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance from 2009 to 2017. I am submitting these comments on EPA's proposed revisions to the Lead and Copper Rule, through EPA's Docket No. EPA-HQ-OW-2017-0300.

Overview

EPA's stated purpose in proposing a revised lead rule is to modernize and improve the rule to protect the public from lead contamination in drinking water and to address the "compelling need" to make the rule more effective and more readily enforceable. These objectives cannot be achieved by the rule as proposed. It ignores the mountain of evidence that violations of the lead rule may be as much as ten times what EPA's data claims. The nation cannot continue to base its lead in drinking water program on information that is known to be so profoundly unreliable. EPA has identified the solution – mandatory electronic reporting by drinking water systems into a data base shared by EPA and states – but inexplicably fails to adopt it. This omission is a fatal flaw in the proposed rule.

Lead rule in theory: compliance information is required to be provided to EPA.

The Lead and Copper Rule (hereafter "lead rule") is the regulation focused on controlling lead in drinking water. The need for a lead rule and the potentially devastating impacts of lead contamination on health, especially for children, are well documented.[1]

Implementation of the lead rule parallels that of other drinking water regulations. EPA sets standards to protect health that apply to all of the nation's public water systems.[2] States assume primacy under the federal rules and thus assume responsibility to oversee the performance of drinking water systems in

[1] See, EPA "Basic Information about Lead in Drinking Water," https://www.epa.gov/ground-water-and-drinking-water/basic-information-about-lead-drinking-water#health.

[2] There are over 150,000 regulated public water systems in the United States. These are systems that are required to follow the rules adopted by EPA for safe drinking water. Within that total there are about 50,000 "community" public water systems, which are public water systems that supply drinking water to the same populations year around, e.g., to people's homes. The remainder of the public water systems supply water to facilities like schools or offices ("non-transient non-community" public systems) or to locations used infrequently, like gas stations or campgrounds ("transient non-community" public systems). EPA, " Information about Public Water Systems," https://www.epa.gov/dwreginfo/information-about-public-water-systems. The lead rule applies to community and non-transient non-community public systems. For ease of reference, this comment refers to entities regulated under the lead rule as public water systems or drinking water systems/providers.

their states.[3] Public water systems are required to take the actions set out in federal and state rules. Reporting obligations flow in the opposite direction: drinking water systems are required to report to states, and states are required to report to EPA.

Although there have been some modest adjustments, the overall compliance approach of the lead rule has not changed since it was promulgated in 1991. The lead rule, similar to most drinking water rules, divides violations by drinking water systems into two categories: 1) health-based violations, and 2) monitoring and reporting violations. Health-based violations under the lead rule are violations of requirements intended to reduce the level of lead contamination in the drinking water or protect people from that contamination should it occur. They include failing to perform required water treatment, failing to remove lead pipes, and failing to inform the public about ways to protect themselves from lead. Monitoring and reporting violations are just what they sound like: failing to follow requirements for checking on contamination and failing to report required information to the public and to the state.

Health based violations are obviously significant; those are the violations most directly related to protecting people from water borne contamination. But monitoring and reporting violations are also of concern, because if a drinking water system does not monitor and report on the quality of its water, it is impossible to know if there were health-based violations.[4] Thus, monitoring and reporting violations may mask the presence of health-based violations.[5] The US Government Accountability Office (GAO) attempted to quantify this relationship and found that in fact monitoring and reporting violations were a strong and statistically significant predictor of whether a system had a health-based violation.[6]

States are required to send EPA quarterly reports informing EPA about violations by drinking water systems.[7] This obligation applies to all violations, health-based as well as monitoring and reporting. The states report to EPA through the Safe Drinking Water Information System (SDWIS).[8] EPA makes the state-reported violation data available to the public. Until 2014, EPA issued annual reports on the state of the nation's drinking water, which included a summary of the violations reported across the nation.[9] EPA gets its information about drinking water system noncompliance through state reports; the national data available on EPA's web site are exclusively based on what the states tell EPA. Both EPA and states have enforcement authority under the Safe Drinking Water Act, although EPA's safe drinking water enforcement authority is somewhat more constrained than it is under other federal environmental laws.

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[3] Wyoming is the only state that does not have primacy under the safe drinking water rules.

[4] GAO, "Unreliable State Data Limit EPA's Ability to Target Enforcement Priorities and Communicate Water Systems' Performance," GAO-11-381 (2011), at 16-17.

[5] Id. See also, EPA OIG, "EPA is Taking Steps to Improve State Drinking Water Program Reviews and Public Water Systems Compliance Data," Report No. 17-P-0326 (2017), at 2.

[6] GAO, Unreliable State Data, supra note 4, at 16.

[7] 40 C.F.R. §142.15(a).

[8] EPA developed a data system that states can elect to use to manage their own programs (SDWIS/State); the federal system to which states report is called SDWIS/Fed. See GAO, Unreliable State Data, supra note 4, at 2, 9.

[9] See, e.g., EPA, Providing Safe Drinking Water in America, 2013 National Public Water Systems Compliance Report. The data formerly included in the national reports are now provided through the Enforcement and Compliance History Online (ECHO) Drinking Water Dashboard. All of the annual reports are available on EPA's web site: EPA, " "Providing Safe Drinking Water in America: National Public Water Systems Compliance Report," https://www.epa.gov/compliance/providing-safe-drinking-water-america-national-public-water-systems-compliance-report

Lead rule in reality: states are not telling EPA about violations.

The approach described above may seem reasonable in theory, but it isn't in practice. Repeated audits of state files show that states are not telling EPA about violations. The problem is bad for all drinking water rules but the worst by far is the lead rule. A thorough EPA data audit report published in 2008 found that states were only telling EPA about 8% of the health-based lead rule violations. *Eight percent*. That means that 92% of the lead health-based violations were not reported to EPA.[10] Monitoring and reporting violation completeness was hardly better: states were not telling EPA about 71% of the monitoring and reporting violations.[11] A subsequent review by GAO of more recent EPA audit data found that 84% of the monitoring and reporting violations by community water systems were not reported or were inaccurately reported to EPA.[12] These audits describe a lead rule reporting system that is completely broken.

GAO confirmed in 2017 that the problem persists,[13] further noting that more recent detailed information is not available because in 2011 EPA discontinued audits of drinking water data due to lack of funds.[14]

What's the bottom line for lead rule violations? The most recent authoritative data found that states were not telling EPA about 92% of the lead health-based violations, and 84% of all monitoring and reporting violations. In other words, there may be somewhere between 6 and 10 times as many violations as EPA's data reveals.[15]

Unfortunately, that's not even the full extent of the problem. The above-cited dismal reporting shortfalls are only about information *in the states' files* that the states are not reporting to EPA. There is another large area of uncertainty around what drinking water providers are not telling the states. There are multiple ways that drinking water systems can avoid discovering their lead problem. For example, systems can take additional samples known to be lower in lead so that their sampling results do not exceed the level that triggers an obligation to act. This well-known practice is called "sampling out." The state drinking water administrators identified this as a "loophole" in the lead rule.[16] In another drinking

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[10] EPA, "2006 Drinking Water, Data Reliability Analysis and Action Plan for State Reported Public Water System Data in the EPA Safe Drinking Water Information System/Federal Version (SDWIS/FED)," EPA 816-R-07-010 (2008), at i, 19.

[11] Id. The EPA data verification audit does not separate monitoring and reporting violations for individual rules; the 71% figure for monitoring and reporting violations that were not identified to EPA covers all the drinking water rules, including the lead rule.

[12] GAO, Unreliable State Data, supra note 4, at 16. For statistical reasons GAO did not break out its non-reported violations data by rule, although it acknowledged that EPA's 2008 report found that the Lead and Copper Rule had the worst data quality of any drinking water rule. Id. at 67.

[13] GAO, Additional Data and Statistical Analysis May Enhance EPA's Oversight of the Lead and Copper Rule, GAO-17-424 (2017) at 20, 37.

[14] Id., at 23, 37. Since then EPA has done a small number of state program reviews, but these are not consistent or comprehensive. EPA OIG, EPA is Taking Steps, supra note 5, at 4.

[15] Although this comment looks first at the 2008 EPA data report because that report presented data specifically on the lead rule, the problem with state non-reporting of drinking water violations is long standing, and goes back to the 1990s. GAO, Unreliable State Data, supra note 4, at 3, 31.

[16] Association of State Drinking Water Administrators, letter to EPA Administrator Pruitt, Re State Drinking Water Program Comments on Long-Term Revisions to the Lead and Copper Rule, March 8, 2018, at 14, available on the ASDWA website: "Systems should not be able to test multiple times at a low-lead sampling location at the end of the monitoring period to lower their 90th percentile. Sampling multiple times at the same location in the same compliance period goes against the goals of both the existing LCR and the LT-LCR."

water rule where this same practice was studied, researchers found that it allowed almost one third of violations to go undetected.[17] Another example is testing at lower risk sites instead of higher risk locations, or falsely claiming to test at higher risk sites; these practices were documented as occurring in over half the drinking water systems included in a 2017 study.[18] There are also many other pathways to avoid discovering troubling lead levels.[19] The purpose of referencing these other topics, which other commenters will likely address in more detail, is to explain that the already horrendous record for reporting lead rule violations is probably even worse than is known. The under-reporting documented in the audits described above is about states' failure to report violations reflected in the states' files; the other problems like sampling out and false claims about test sites mean that drinking water systems probably have additional lead issues that the states know nothing about.[20]

EPA knows how serious this problem is.

EPA is well aware that drinking water violations are significantly underreported in EPA's national data. But EPA continues to issue national reports relying on what it knows is deeply flawed information, because that is the only information it has. The caveats that the data is bad are usually included, but only if you dig deep into the background information. For example, EPA's 2013 National Drinking Water Compliance Report says this:

> "EPA has evaluated state and regional program data quality by conducting data verification audits and national data quality assessments, comparing primacy agencies' files and records with information in SDWIS/FED to verify accuracy, completeness and whether appropriate compliance determinations are made (that is, in accordance with federal regulations). These audits and assessments have shown that violation data are substantially incomplete."[21]

EPA's enforcement office, which has a dashboard using SDWIS data that now serves as the national drinking water compliance report, says this in explaining why it does not describe any drinking water system as "in compliance":

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[17] See Cynthia Giles, NEXT GENERATION COMPLIANCE: ENVIRONMENTAL REGULATION FOR THE MODERN ERA, "Part 1: Rules with Compliance Built In," (2020) at 18, https://eelp.law.harvard.edu/2020/01/next-generation-compliance-environmental-regulation-for-the-modern-era/.

[18] Brenda Goodman, Andy Miller, Erica Hensley, Elizabeth Fite, "Lax Oversight Weakens Lead Testing of Water," a joint investigation by WebMD and Georgia Health News, https://www.webmd.com/special-reports/lead-dangers/20170612/lead-water-testing. The study looked at drinking water systems in Georgia serving about three quarters of the state's population. The study notes that the state "has relied on an honor system, trusting utilities to test homes that qualify under federal rules." Id.

[19] See Cynthia Giles, NEXT GENERATION COMPLIANCE, Part 1, supra note 17, at 21-24. See also EPA, Lead and Copper Rule Revisions White Paper (2016), at 12-13: "In addition, numerous stakeholders have criticized the current rule as providing too much discretion in sampling approaches and providing opportunities for systems to implement their sampling procedures to avoid exceeding the action level, even in circumstances where corrosion control has not been optimized." EPA's proposed rule does strengthen the rule in some ways, like removing the provision that allowed systems to take 50% of their samples where there is not likely to be lead contamination, but many problems remain unaddressed.

[20] These other issues also mean that there is little comfort in state-reported data on 90th percentile levels or whether systems exceeded action levels. Those numbers are, for similar reasons, also likely under-reported. See, GAO, Additional Data, supra note 13, at 47-48.

[21] EPA, 2013 National Compliance Report, supra note 9, at 3, Source and Quality of Data Used for this Report. The 2013 report is the last published end of year report; the drinking water compliance data is now available only through EPA online data systems that don't have the explanatory text that the annual reports previously provided.

> "EPA is aware of inaccuracies and underreporting of some violation data to SDWIS. Due to the known incompleteness of the data reported by states and regions, we refer to systems as having reported violations or no reported violations."[22]

These caveats say nothing about the vast scale of the data flaws. Although EPA's national reports are not technically incorrect, because they usually do say somewhere that EPA's data is based on what the states report, it is likely that most readers would get an incorrect impression about extent of lead violations nationwide.[23]

EPA has acknowledged that "primacy agencies must provide complete and accurate data to the public and to EPA. Without high quality data from primacy agencies, EPA cannot fulfill its responsibility to fully assess the state of compliance of the nation's PWSs and to communicate to the public, Congress and other oversight bodies."[24] In the last national drinking water data reliability analysis EPA sounded the alarm:

> "EPA considers non-reported violations to be a serious problem that could have public health implications at many levels. The information and the analyses based on such incomplete data in SDWIS/FED compromises our ability to determine if and when we need to take action against non-compliant systems, to oversee and evaluate the effectiveness of state and federal programs and regulations, to alleviate burden on states, and to determine whether new regulations are needed to further protect public health. Further, our response to public inquiries and preparing national reports on the quality of drinking water in a thorough and complete manner will be severely limited."[25]

Two in depth reviews by GAO documented some of the consequences of the greatly under-reported violations data. One is that it interferes with EPA's ability to focus enforcement attention on water systems with the most serious compliance problems. GAO found that if EPA had the correct data on violations 73% of drinking water systems would have received a different score under EPA's drinking water enforcement targeting tool.[26] GAO concluded that when the violations data are so incomplete, EPA's ability to focus enforcement efforts is compromised.[27] Another consequence is that poor quality data make it impossible for EPA to conduct statistical analysis on violations to help detect water systems with a higher likelihood of violating the lead rule.[28] Analytic tools that would help EPA identify and try to prevent the most serious lead contamination problems can't be used because the data are deficient.

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[22] EPA, Enforcement and Compliance History Online (ECHO), Analyze Trends: Drinking Water Dashboard, Common Questions, What caveats should I know about the data in the SDWA dashboard? Data Completeness.
[23] See, e.g., EPA OIG, "EPA Claims to Meet Drinking Water Goals Despite Persistent Data Quality Shortcomings," Report No. 2004-P-0008 (2004), at 7 (finding that by using a data base that omits a large number of violations, EPA portrayed an incorrect picture of the percentage of people drinking water that met all health-based standards).
[24] EPA 2013 National Compliance Report, supra note 9, at 3-4.
[25] EPA 2006 Drinking Water Data Reliability Analysis, supra note 10, at 33. See also EPA's letter to GAO included in GAO, Additional Data, supra note 13, at 92: "EPA must have access to reliable data to monitor state and water system compliance with the LCR, and to help ensure public health protection."
[26] GAO, Unreliable State Data, supra note 4, at 22-24.
[27] Id., at 25.
[28] GAO, Additional Data, supra note 13, at 38-39.

EPA knows what has to be done to fix it.

Not surprisingly, the continuous stream of audits calling out the inaccuracy of the national data led to demands for action. Work groups were formed. Surveys were taken. New guidance and attempts to clarify and simplify were issued. EPA repeatedly exhorted states to do better. Although some states have strengthened their lead programs, it is not apparent that EPA's efforts have made an appreciable dent in the problem at a national scale. There is no reason to think that the completeness of state reporting of lead violations has appreciably changed. Nor have the dynamics that led to this dismal situation in the first place. The only thing that has changed is EPA has stopped doing the comprehensive audits that prove how bad the problem is.

As EPA was coming to the realization that attempts to fix this long-standing problem using traditional tools had failed, newly sophisticated information technologies pointed to a solution. Drinking water systems could electronically report directly into a data base that was shared by states and EPA. Direct electronic reporting to a shared database assures that the national data includes the most complete, accurate and timely information available. And it solves multiple other problems at the same time: data quality checks can be built in, violation determinations can be automated, enforcement can focus quickly on the most serious problems, and the public can have near real time access to information about a matter of significant public health concern. Direct reporting by water systems to a shared electronic database also saves the states money in the long run.[29]

By 2011 EPA was consistently pointing to electronic reporting to a shared data base as the centerpiece of its strategy to fix the glaring reporting problem.[30] EPA invested in tools to update the data systems to improve data quality and allow direct reporting and automated compliance determinations, called the Compliance Monitoring Data Portal and SDWIS Prime.[31] In 2013 EPA identified these modern data systems as "instrumental in improving data accuracy and completeness."[32] EPA's 2016 Drinking Water Action Plan listed this as the first priority for addressing oversight problems, stating that EPA would develop a national rule requiring mandatory electronic reporting for SDWA compliance data.[33] When called to task in 2017 by GAO and the EPA OIG about the continuing under-reporting of drinking water violations, particularly lead, EPA pointed to these new data systems as its solution,[34] claiming that "these two tools together [CMDP and SDWIS Prime] will facilitate direct e-reporting, which will increase data accuracy and completeness while decreasing the reporting burden for primacy agencies, utilities and laboratories."[35]

The electronic reporting system for drinking water touted by EPA had a strong precedent; EPA's NPDES e-reporting rule, finalized in 2015, required direct electronic reporting by companies discharging water pollutants to surface waters.[36] Instead of reporting limited information through states, often on paper,

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[29] GAO, Unreliable State Data, supra note 4, at 34. See also, GAO, Additional Data, supra note 13, at 30; EPA, Drinking Water Action Plan, November 2016, at 8.

[30] See GAO, Unreliable State Data, supra note 4, at 34.

[31] SDWIS Prime has subsequently encountered difficulty and is currently on hold pending review. Although this set back is unfortunate, it does not alter the need for the changes that EPA has identified.

[32] See EPA, 2013 National Compliance Report, supra note 9, at 3.

[33] EPA, Drinking Water Action Plan, supra note 29, at 8. The 2016 Action Plan stated that CMDP and SDWIS Prime will greatly strengthen transparency and oversight, while facilitating significant reductions in reporting burden for the drinking water sector. Id.

[34] GAO, Additional Data, supra note 13, at 37, 42, 92-93; EPA OIG, EPA is Taking Steps, supra note 5, at 5.

[35] GAO, Additional Data, supra note 13, at 94 (Letter from EPA to GAO).

[36] National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule, 80 Fed. Reg. 64063 (October 22, 2015).

the NPDES dischargers had to report electronically directly into a data system shared by states and EPA. This strategy eliminated the information gap that reporting through states created, saved money for states and dramatically improved the information available to EPA and the public. The NPDES e-reporting rule is powerful evidence that the fix EPA has been promoting for drinking water is feasible and cost effective.

In the run up to the first opportunity in 28 years to fix the lead in drinking water rule here's where things stood: the documented lead violations reporting gap was gigantic and interfering with EPA's ability to protect the public from lead contamination. EPA had identified the fix: direct electronic reporting by drinking water providers to a data system shared by EPA and the states. EPA invested heavily for almost 10 years in the data systems necessary to make this transition and promoted it as the solution. But instead of inserting the last missing piece through revisions to the lead rule, EPA balked.

There is only one way to make the solution EPA has identified work: it has to be mandatory. Without a federal rule requiring direct electronic reporting to a shared system, universal electronic reporting is impossible. Not in the sense of not likely or hard to do. Impossible. Many states have state laws that prohibit environmental agencies from adopting any rules that are more stringent than EPA's.[37] Without a federal regulation mandating electronic reporting, and the obligation to provide that information to a system shared by EPA and states, electronic reporting to a shared system cannot happen.[38] Making electronic reporting to a shared system mandatory is what the NPDES e-reporting rule did, after hearing from everyone that it wouldn't happen if it weren't required.[39]

EPA has a long history of developing electronic tools to help states report drinking water data more accurately and completely. They have not worked. Even states that are not legally prohibited from doing so do not embrace either electronic reporting or full sharing of data with EPA.[40] GAO said in 2011 that the tools being developed by EPA could improve data quality but evidence from prior attempts suggest that states will not use them if they are not required.[41] Many practitioners surveyed by GAO said that EPA should require electronic reporting.[42] EPA said in 2016 that electronic reporting, shared with EPA, had to be mandatory.[43] Continuing to develop electronic tools and expecting the states and drinking water systems to adopt them voluntarily flies in the face of the evidence and the law. The widely known aphorism applies here: insanity is doing the same thing over and over again and expecting different results.

The proposed lead rule doesn't solve the problem of violation under-reporting and would even make it worse.

The proposed lead rule is fatally flawed because it completely ignores this central problem: violations are much worse than the national data suggest, and EPA has no way to find out what they really are. The proposed rule doesn't attempt to refute the evidence – because really, how could you? – it just pretends

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[37] GAO, Unreliable State Data, supra note 4, at 34. See also, Environmental Law Institute, State Constraints: State-Imposed Limitations on the Authority of Agencies to Regulate Waters Beyond the Scope of the Clean Water Act, 2013 (survey of the state laws containing such prohibitions).
[38] GAO, Unreliable State Data, supra note 4, at 34.
[39] NPDES e-reporting rule, supra note 36.
[40] GAO, Unreliable State Data, supra note 4, at 31-33.
[41] Id., at 45.
[42] Id., at 34.
[43] EPA, Drinking Water Action Plan, supra note 29, at 8.

it isn't there. After 28 years of attempting to implement the lead rule, and reams of evidence that the system for identifying violations is completely broken, EPA finally is positioned to do something about it. EPA has even identified what that something has to be. And yet, nothing.

In fact, it's worse than nothing. The proposed rule will make the problem worse. The lead rule is widely acknowledged to be one of the most complex drinking water regulations.[44] All the complexity has contributed both to the unreliability of the reported lead levels and the widespread violations. Whether complexity creates real confusion, or opportunity to obfuscate, or both, does not matter. The fact is that complexity has made this rule considerably less effective. And now EPA proposes to make the rule even more complicated. New trigger levels, among many other provisions, make the rule almost impossible to understand, even by long time drinking water experts. All that additional complexity is far more likely to create chaos than clarity.[45]

The newly introduced complexity also has a significant additional effect: increased burden on government, especially state government. States are significantly underfunded and have already been staggering under the burden of overseeing drinking water rules. They are overwhelmed and overworked. It is not conceivable that at current or foreseeable funding levels they could take on all the additional new responsibilities proposed by this rule. If EPA intends to improve protection from lead contamination it should be simplifying and clarifying the rule. The proposed rule is instead sprinting in the wrong direction.

One of the first victims of the increased burden on states with no new resources will be reporting to EPA. Many states do not see that reporting as mission essential already, as all the audits make perfectly clear, so it will be among the first things jettisoned if the proposed rule becomes final.[46] The already dreadful record for state reporting of violations will get much worse.

EPA cannot achieve the rule's stated purpose without fixing this problem.

EPA has to break out of this demonstrably ineffectual system. It hasn't worked before and it isn't going to work now. Many things have been tried to no avail. EPA's own data proves that. The solution is already clear: direct electronic reporting by drinking water providers to a data system shared by EPA and states. EPA knows this is what's needed, has declared that it's the solution and has been heading in that direction. Now that EPA is at the critical point of proposing a rule to fix it, EPA has balked at the jump: making electronic reporting of lead rule violations to a shared system mandatory.[47]

EPA's statements about the purpose of the proposed rule are flatly at odds with its failure to tackle these serious and well-documented flaws in compliance reporting. All the regulatory provisions in the world don't matter if the regulated systems aren't following them. Rule improvements have little meaning if the underlying reality is that violations are rampant but largely invisible. That's why the

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[44] GAO, Additional Data, supra note 13, at 92 (Letter from EPA to GAO).

[45] Multiple commenters will likely address the problems that EPA will create by adding so much complexity to an already complicated rule. See, e.g., the comments of the Environmental Protection Network, an organization of former EPA employees.

[46] GAO, Unreliable State Data, supra note 4, at 21 (noting that entering data into SDWIS/Fed is a low priority for states' limited staff).

[47] A mandatory electronic reporting requirement can be adopted now, with a future date certain for commencement of electronic reporting, by which time the necessary electronic systems can be completed. This approach was used in the NPDES e-reporting rule.

evidence that lead violations are possibly 10 times more than EPA's data reveals is central to the entire objective of the rule. EPA says that there is a compelling need to make the rule more effective and more readily enforceable.[48] The preamble talks about implementing a "proactive holistic approach" to more aggressively manage lead in drinking water.[49] It discusses the importance of improving oversight and enforcement of the lead rule.[50] None of those objectives are achievable so long as EPA ignores the evidence that violations are both widespread and not reported to EPA and fails to implement the solution that hard experience has shown is the only answer.

Sincerely,

/s/

Cynthia Giles
Former Assistant Administrator, EPA Office of Environment and Compliance Assurance

[48] Proposed rule, 84 Fed. Reg. 61,684, 61685 (Nov. 13, 2019)
[49] Id., at 61686.
[50] Id., at 61711.