



February 5, 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 regarding school and child care testing provisions of proposed revisions to the Lead and Copper Rule in the National Primary Drinking Water Regulations, Docket No. EPA-HQ-OW-2017-0300

Dear Assistant Administrator Ross:

Environmental Defense Fund (EDF) respectfully submits the following comments regarding the school and child care testing aspects of the Environmental Protection Agency's (EPA) proposed revisions to its Lead and Copper Rule (LCR) under the Safe Drinking Water Act (SDWA). We will address other issues in separate comments. The agency published proposed revisions in the November 13, 2019, Federal Register at 84 Fed. Reg. 61,684 and is accepting comments at Docket No. [EPA-HQ-OW-2017-0300](#).

EDF's mission is to preserve the natural systems on which all life depends. We have more than two million members and a staff of 700 scientists, economists, policy experts, and other professionals around the world. Guided by science and economics, we find practical and lasting solutions to the most serious environmental problems. This has drawn us to areas that span the biosphere: climate, oceans, ecosystems and health. Our Health Program seeks to safeguard human health by reducing exposure to toxic chemicals and pollution, including accelerating lead service line replacement to reduce lead in drinking water.

I. Summary of EPA Proposal and EDF Comments

Through its proposed revisions to the LCR, EPA made the unprecedented move of proposing to require community water systems (CWSs) to test for lead in water at all schools and licensed child care facilities constructed prior to 2014 (20% a year on a five-year cycle) – unless the system can document that the facility operators refused entry or declined to participate. The rule would also require CWSs to share the sampling results with the respective facility, as well as the local or state health department. CWSs in states or localities that already have an equivalent or more stringent school or child care testing requirement would be able to receive a full or partial waiver.

This is a major shift from the current rule, which only requires testing if the facility is itself a regulated water system. While EDF fully supports testing in these facilities, we are concerned that the agency has

overlooked several major issues, especially in the child care context. Specifically, the proposal:

1. Ignores lead service lines (largest source of lead in water),
2. Relies on inadequate sampling, and
3. Is silent on remediation, which is the key to delivering exposure reductions.

We also are concerned that EPA's new requirement will not be successful in isolation. If state licensing agencies and local health departments are not requiring or promoting testing, child care facilities in particular are unlikely to cooperate, making it more challenging for CWSs to comply with the requirement. For this requirement to have greatest effect, CWSs need the support and participation of all parties involved.

Below we provide additional detail on each of these issues and specific recommendations to address them, as well as comments on the scope of the testing requirement and responses to specific EPA requests for comment. Given our experience, our comments focus primarily on child care.

II. EDF Focus on Child Care Facilities

EDF believes that addressing lead in child care facilities is a particularly important opportunity to improve public health. Though schools are also important, we've focused on child care facilities as they present a critical gap due to a number of reasons. First, children under the age of six are more susceptible to the harmful effects of lead – and those at the highest risk are infants who are fed formula reconstituted with tap water. Second, child care, especially home-based facilities, are often smaller operations than schools, and therefore more likely to have a lead service lines. Third, they are often private operations without the same public accountability as many schools, giving them less incentive to proactively test for lead in water. Finally, child care facilities often lack robust facility support that schools may have.

Therefore, EDF conducted a pilot project in 11 child care facilities to evaluate new approaches to testing and remediating lead in water. In our [2018 report](#) summarizing those results, we recommended that all child care facilities (both home-based and center-based) identify and remove lead service lines before sampling and that samples be taken from each drinking water tap to identify lead sources internal to the building.¹ Based on our experiences with the 11 facilities, we made recommendations for water utilities, child care regulatory agencies, public health departments, and the child care operators themselves. Through this project, we conducted two lead service line replacements, one in Cincinnati and one in Chicago. We found that the process was efficient and relatively cost effective in Cincinnati where the water utility has a robust program for LSL replacement, while in Chicago, which has no program to assist property owners, the process was expensive and logistically challenging – making clear the critical role that a cooperative CWS has in the process.

Following our pilot, we partnered with Elevate Energy and Illinois Action for Children to conduct a [training program for child care providers in Illinois](#) complying with the state's new testing requirements (Illinois Public Act 99-0922). The training program was certified by the state, and, as of summer 2019, it had been taken by more than 2,400 Illinois providers and was turned into a train-the-trainer program. Through that effort, we recognized that child care providers need considerable support to test for lead and respond to results, including in particular:

¹ EDF, "Putting Children first: Tackling lead in water at child care facilities." June 2018. https://www.edf.org/sites/default/files/edf_child_care_report_01-19.pdf.

- picking accredited labs that are cost effective;
- avoiding sampling pitfalls (e.g., bottle labeling scheme, chain of custody forms);
- interpreting lab results; and
- identifying an effective remediation option for their situation.

We also track state child care testing requirements across the country; by our count, 11 states currently have requirements.²

III. Scope of Child Care Testing Requirement

Within the context of EPA’s proposed rule, it is also important to recognize that many children are cared for in unlicensed (or “licensed-exempt”) child care facilities, which are not be covered by the proposed rule. According to a 2018 National Women’s Law Center report, approximately 24% of children are cared for in unlicensed home-based child care with a relative.³

Further, EPA defines “child care facilities” as “a location that houses a licensed provider of child care, day care or early learning services to children, *as determined by the State, local, or tribal licensing agency*” (§ 141.2, emphasis added). Therefore, whether a child care facility is subject to EPA’s new requirement will depend on the state’s (or local jurisdiction’s or tribe’s) own definition of a child care facility, which vary widely between these jurisdictions. In other words, there will not be consistency in facilities subject to testing across states – with some states having fewer facilities qualifying.

IV. Lead Service Lines – Recommended Changes and Reasoning

When lead service lines (LSLs) – lead pipes connecting the main under the street to the building – are present, they are the largest contributor of lead in water.⁴ While not typically found at larger buildings, child care operations (as well as small school annexes) may have LSLs.

Under § 141.84(a), the proposed rule would require all water systems to conduct an inventory of LSLs, including both the public and private sides, and notify all property owners, including schools and child care operations, of their presence on an annual basis.⁵ However, the rule does not take the extra step to prioritize these facilities for LSL replacement. As proposed, § 141.92(a)(1) would require CWSs to develop a list of all schools and licensed child care facilities it serves as a starting point for conducting testing; however, the proposal treats this list as distinct from the LSL inventory.

In addition, based on our pilot in child care facilities, EDF recommends that LSLs be identified and removed first, *followed* by sampling at each drinking water tap to identify lead sources internal to the building. Without first replacing the LSL, the first draw testing results will not provide useful information

² EDF, “Child care lead in water requirements.” <https://www.edf.org/health/child-care-lead-water-requirements>.

³ National Women’s Law Center, March 2018. “Family, Friend, and Neighbor Care: Facts and Figures.” <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2018/03/family-friend-neighbor-care-fact-sheet-final.pdf>.

⁴ Sandvig, A., Kwan, P., Kirmeyer, G., Maynard, B., Mast, D., et. al. (2008). “Contribution of service line and plumbing fixtures to Lead and Copper Rule compliance issues.” Denver, CO: AWWA Research Foundation. <https://archive.epa.gov/region03/dclead/web/pdf/91229.pdf>

⁵ See §§ 141.84 and 141.85.

to pinpoint whether the lead is coming from the LSL or a fixture. This calls into question EPA’s proposed sampling approach (discussed in section V), which ignores the presence of an LSL.

EPA should address these shortcomings by requiring CWSs to cross reference the LSL inventory and schools/child care list to 1) prioritize LSL replacements in such locations, and 2) inform the testing schedule to ensure testing occurs after LSL replacement whenever possible. Ideally the appropriate state agency would make public a list of all schools and licensed child care facilities with LSLs; however, we recognize that EPA does not have the authority to mandate this under SDWA.

V. Sampling Scheme – Recommended Changes and Reasoning

EPA has proposed an extremely limited sampling scheme. Instead of requiring all drinking water outlets to be tested, only five taps at schools and two taps at licensed child cares would need to be sampled under the proposal (§141.92 (b)(1)).

Table 1. EPA’s proposed sampling scheme

Facility Type	Number of Samples	Sample type	Locations
Schools	5	250 mL, first draw samples	<ul style="list-style-type: none"> • 2 drinking water fountains, • 1 kitchen faucet used for food or drinking preparation, • 1 classroom faucet, and • 1 nurse’s office faucet, as available.
Licensed Child Care	2	250 mL, first draw samples	<ul style="list-style-type: none"> • 1 drinking water fountain, and • 1 of either kitchen faucet used for food or drink preparation, <i>or</i> 1 classroom faucet.

The proposal runs contrary to EPA’s own voluntary guidance, [3Ts for Reducing Lead in Drinking Water Toolkit](#) (hereafter “3Ts toolkit”), that recommends that all outlets possibly used for water consumption be tested, including any “sink known to be or visibly used for consumption (e.g., coffeemaker or cups are nearby)” as well as a follow-up 30-second flush sample if the first draw sample is elevated.⁶ It is also inconsistent with many state testing requirements, which commonly mandate sampling at every drinking water outlet.⁷

Because lead contamination in fixtures is typically localized and unpredictable (as long as an LSL is not present),⁸ such a limited sampling scheme may create a false sense of security for facilities that receive negative results. For example, in our pilot project, we found that while the majority of water samples had non-detectable levels of lead, seven of the 11 child care facilities had at least one drinking water sample

⁶ See p. 31 of EPA’s 3Ts toolkit. <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100VLI2.PDF?Dockey=P100VLI2.PDF>.

⁷ See EDF’s state tracker for child care testing requirements for examples: <https://www.edf.org/health/child-care-lead-water-requirements>.

⁸ See page 31 of WKKF report, “Managing Lead in Drinking Water at Schools and Early Childhood Education Facilities.” <https://www.wkkf.org/resource-directory/resource/2016/02/managing-lead-in-drinking-water-at-schools-and-early-childhood-education-facilities>.

above EDF's benchmark for action – resulting in a total of 26 fixture replacements.⁹ On average, we tested 18 drinking water fixtures at each facility, with a range of six to 59.¹⁰ If we had chosen only two fixtures, it is unlikely we would have located and removed the lead sources.

EPA's preamble and Economic Analysis¹¹ provide no rationale for the agency's decision to use such a limited sampling scheme. Presumably the proposed testing scheme is intended to limit cost. However, much of the effort and cost associated with sampling for the CWSs revolves around getting into the facility in the first place. EPA estimates CWSs will spend 144.8 minutes (2.4 hours) per facility – identifying the facilities, coordinating sampling schedule and logistics, traveling to the facility, conducting facility walk-throughs, etc. – before sampling begins. After such an effort, it makes little sense to conduct such limited, arbitrary sampling. In contrast, EPA estimates 10 minutes to collect a sample and \$21.58 for analysis by a commercial lab. (See additional detail under section VIII.B. below.)

EPA should revise the sampling protocol at § 141.92(b) to be consistent with its 3Ts toolkit, by including all drinking water outlets and requiring a follow-up 30 second draw sample if the initial first draw sample exceeds a set threshold (see section VI below).

Finally, EPA has not provided evidence to support its decision to test for lead on a five-year cycle. This is inconsistent with the 3Ts toolkit, which recommends annual testing, as well as with some state requirements that rely on a results-driven sampling cycle (e.g., Illinois requires annual sampling until all drinking outlets test at or below 2 ppb).¹²

VI. Remediation – Recommended Changes and Reasoning

The proposal would place the burden of fixing high levels of lead on the schools and child care facilities, given that CWSs would only be required to provide facilities with the testing results along with EPA's 3Ts toolkit.

While the 3Ts toolkit is a helpful resource – with instructions for more detailed sampling, remediation options, and templates for communication with parents – ultimately facility staff will be fully responsible for determining when there is a problem and then identifying and financing appropriate solutions. From our experience, child care facilities need significant support to understand testing results and remediation options. CWSs have critical contextual information (such as local water quality or cost of remediation options like flushing or LSL replacements), that could help facilities respond to testing results in a thoughtful manner and avoid wasteful efforts. Further, family child care facilities in particular are unlikely to have the resources to immediately pursue permanent fixes (e.g., LSL replacement); therefore, education on best practices to reduce lead in water in the interim is key. EPA needs to carefully consider what types of technical assistance the CWS can offer and detail those in a final rule.

⁹ Note that nine of these replacements were bathroom sinks that may not be used for drinking.

¹⁰ This number excludes tested fixtures in bathrooms, storage/laundry rooms, and outside hose bibs.

¹¹ EPA, "Economic Analysis for the Proposed Lead and Copper Rule Revisions."

<https://www.regulations.gov/document?D=EPA-HQ-OW-2017-0300-0003>.

¹² Illinois Licensing Standards for Day Care Homes (89 IAC 406; 42 II Reg 8366), Licensing Standards for day Care Centers (89 IAC 407; 42 III Reg 8369) and Licensing Standards for Group Day Care Homes (89 IAC 408; 42 III Reg 8372). See: http://www.ilga.gov/commission/jcar/flinn/20190104_January%204,%202019%20-%20Issue%201.pdf.

In addition, relying on the facilities to take appropriate action will be particularly challenging given that the proposed rule does not establish an action level based on such testing. When EPA [updated](#) its 3Ts toolkit in October 2018, the agency removed the action level of 20 parts per billion (ppb) in the previous version, recognizing that there is no safe level of lead. The guidance states, “If testing results show elevated levels of lead in drinking water, then you should implement remediation measures,” but EPA does not define “elevated lead level” anywhere in the toolkit.¹³ While arguably appropriate for a guidance document, it is inappropriate for an agency rule not to set a level to trigger action. This will place the burden on facility staff to identify an appropriate action level for themselves – a particular challenge for understaffed and under resourced child care operations. Today, state and local testing requirements rely on action levels ranging from 1-20 ppb. In promulgating the final rule, EPA needs to set a universal level for action at schools and child care facilities.

The rule also falls short of requiring the CWSs to take advantage of the information gleaned from the schools and child care testing as it plans LSL replacement or optimizes corrosion control. At a minimum, EPA should require that this testing data be integrated in the CWS’s system-wide data for making decisions on corrosion control.

VII. Testing Requirement Runs Risk of Sounding like “One Hand Clapping”

In an effort to fill a regulatory gap, EPA proposed requiring CWSs to ensure water is tested for lead at all schools and licensed child care facilities through its LCR revisions. While an important objective, water testing at these facilities will be a challenge without the support and participation of a wide variety of actors – including the state and local education and licensing authorities, health departments, and the schools and child cares themselves.

Under § 141.92, CWSs would be legally responsible for ensuring that all schools and licensed child care facilities they serve have their water tested every five years – unless the system can document that the facility operators refused entry or declined to participate (§ 141.92(d)(2)). Where these critical partners are absent, the result may be like the sound of one hand clapping. This may well happen in many states because, under SDWA, EPA only has the authority to regulate water utilities – not schools, child care facilities, or any of the other essential players.

We maintain that EPA has an obligation to support utilities in this effort by engaging other federal agencies and national organizations to ensure cooperation, for example through updating national child care recommended guidelines (e.g., [Caring for Our Children Basics](#), [NRC Caring for Our Children national standards](#)).

¹³ See page 28 of EPA’s 3Ts toolkit. <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100VLI2.PDF?Dockey=P100VLI2.PDF>.

VIII. EDF Responses to EPA’s Request for Comment

A. “The EPA requests comment on whether it should revise the rule to require community water systems (CWSs) to offer to collect samples from schools and child care facilities every five years or to collect samples from a school or a child care facility only if requested.”

EPA considered an “upon request” option, where CWSs would only be required to provide assistance upon request from a school or licensed child care facility. Under this option, the CWS would contact each facility annually to determine its interest in the program. Compared to the mandatory option, with an estimated cost of about \$28 million, the “upon request” approach would cost just over \$10 million based on EPA’s Economic Analysis. The agency assumed that only 5% of facilities would request assistance each year.

EDF shares EPA’s concern that the “upon request” option will have minimal impact. As described by EPA, a mandatory program should result in greater participation. An “upon request” option could also present serious equity concerns – where wealthier schools and child care facilities make a disproportionate amount of such requests and therefore benefit more from the CWS’s assistance. Further, while an “upon request” program may be relatively effective for schools with public accountability, child care facilities are typically private institutions with less pressure to cooperate with water utilities and demonstrated hesitancy to participate in voluntary testing programs.¹⁴

B. “EPA solicits comment on the assumptions regarding labor required to comply with this rule, including labor required to collect and analyze samples.”

EDF is concerned that EPA may have underestimated the labor required to collect and analyze samples, in particular in the child care context. Table 2 on the next page presents EPA’s assumption on the time and cost for the CWS activities associated with the schools and child care testing requirement.

EPA assumes only 30 minutes of coordination with a facility prior to conducting a walkthrough (15 min for establishing sampling schedule and 15 minutes for coordinating logistics). We think 30 minutes underestimates the amount of time required to coordinate with a child care operation, in particular, which often have few resources and little prior experience in this area. A CWS may need to contact a child care operator or school several times before even getting a response, given that the facilities themselves have no legal obligation to participate. EPA also does not account for the time it would take a CWS to document and report under § 141.92(d)(2) the scenario where a facility is not responsive or declines to participate.

Further, EPA’s estimated 3 min/facility to provide testing results further illustrates our concern that the facilities will not receive the support they need to understand their testing results and remediation options.

¹⁴ For example, see page 12 of EDF’s report, “Putting children first: Tackling lead in water at child care facilities.” https://www.edf.org/sites/default/files/edf_child_care_report_01-19.pdf.

Table 2: Time/Cost per Activity Associated with Testing based on EPA Economic Analysis

CWS Activity	Time	Additional Cost
Systems identify schools and child cares in the service area and create a list with contact information.	<i>5 min / facility</i>	
Systems prepare and distribute an initial letter explaining the school and child care sampling program and the "3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities" (3Ts Toolkit).	<i>3 min / facility</i>	<i>\$0.39 – 0.58 / letter (mailing costs)</i>
Systems contact school or child care facility to establish their sampling schedule.	<i>15 min / facility</i>	
Systems contact schools and child care facilities before the sampling event to coordinate logistics of collecting the samples.	<i>15 min / facility</i>	
Systems conduct walkthrough at school or child care before the start of sampling.	<i>83.4 min / facility</i>	<i>\$5.29 – \$9.07 /visit (travel reimbursement)</i>
Systems travel to collect samples from the school or child care facilities.	<i>23.4 min / facility</i>	<i>\$5.29 – \$9.07 /visit (travel reimbursement)</i>
Systems collect samples from the school or child care facilities.	<i>10 min / per sample (20 min child care; 50 min schools per proposed protocol)</i>	<i>\$0 – \$1.83 /bottle</i>
Systems analyze samples from the school or child care facilities.	<i>0.44 hr / sample (in house analysis)</i>	<i>\$2.80 / sample for in house analysis (assumed CWS >100,000)</i> <i>\$21.58 / sample for commercial lab (assumed CWS >100,000)</i>
Systems provide sampling results to school or child care facilities, the Primacy Agency, and the state health department.	<i>3 min / facility</i>	<i>\$0.58 / letter (mailing costs)</i>
Systems prepare and submit annual report on school and child care facilities sampling program to the Primacy Agency and state or local health department.	<i>1 hr: CWS <100,000</i> <i>2 hrs: CWS >100,000</i>	<i>\$0.58 / annual report (mailing costs)</i>

Based on EPA's [Economic Analysis](#) for the Proposed Lead and Copper Rule Revisions. See pp. 5-107 through 5-117.

IX. Errors or Confusing Aspects of EPA's Proposed Rule and Economic Analysis

A. Inconsistency between preamble and rule language on full and partial waivers

The preamble of the proposed LCR revisions indicates that CWSs in states, tribes, or localities that already have an equivalent or more stringent school or child care testing requirement would be able to receive a waiver. The preamble states:

In this proposal, the EPA is including an opportunity for a State or primacy agency to waive school and child care facility sampling for individual CWSs to avoid duplication of effort. If a State has in place a program that requires CWSs to sample at all schools and child care facilities, or a program requiring schools and child care facilities to collect samples themselves, that is at least as stringent as the proposed LCR requirements, the State may use that program in lieu of the proposed requirement. (Preamble p. 61707)

Further, the preamble suggests that the rule would allow for partial waivers as well:

If a State or other program is limited to a subset of schools and child care facilities as defined in this proposal, then the State may consider the requirement for individual CWSs whose customers or users are already included in the State or other program as being met. For example, if a State has a required program for testing lead in drinking water in public schools but not in other types of schools or in child care facilities, then a CWS serving only public schools can receive a waiver. If that CWS serves public and non-public schools, then the CWS would be required to notify and conduct testing at the non-public schools and child care facilities and *could receive a partial waiver* to acknowledge that the CWS is not responsible for notifying and testing public schools. With a partial waiver, the CWS would be required to test at schools or child care facilities that are not otherwise covered by a program that requires testing and is at least as stringent as this proposal. (Preamble p. 61707, emphasis added)

However, the concept of a waiver (full or partial) is not articulated in the rule language itself. The following is the only rule language suggestive of a waiver:

(d) Alternative School Sampling Programs. (1) If Local or State law or regulations require schools and childcare facilities to be tested, by either the school or the water system, in a way that is at least as stringent as paragraphs (a) through (c) of this section, the water system may execute that program to comply with the requirements of this section. (§141.92(d)(1))

As written, the rule language appears not to allow for testing to be waived at all, but rather allow the CWS to comport with the local or state requirement. EPA should clarify the rule language to be consistent with the intention described in the preamble in order to allow for both full and partial waivers to avoid duplicative testing.¹⁵

B. Errors in EPA’s grandfathering analysis of existing state requirements

Through its Economic Analysis, EPA conducted a “grandfathering” analysis to identify the percentage of CWSs in states with existing lead in drinking water programs that are at least as stringent as the proposed requirements. EPA identified five states for schools (Maryland, Minnesota, New Hampshire, New York, and Washington) as well as three states for child care (New Hampshire, New Jersey, and Oklahoma) meeting this stringency test. EPA fed this information into its economic analysis by assuming that systems in those states would not incur any additional costs.

Through this analysis, EPA estimated that 7.6 - 19% of CWSs serve schools and 0 - 5.9% of CWS serve child care facilities with existing requirements sufficient to meet the proposed LCR revisions – meaning that the CWS is eligible for a waiver (pp. 5-110 and 5111, Economic Analysis). However, as described

¹⁵ Note that there is a concern that states or localities with existing requirements that are more rigorous than the proposed LCR testing may loosen their efforts and enforcement in favor of having CWSs conduct testing; they could do so by choosing not to grant a waiver.

below, EPA’s analysis likely underestimated the of percentage of CWSs that could receive a waiver, which likely resulted in an overestimate in the total estimated cost of the schools and child care testing provisions to CWSs.

First, EPA only included in this analysis CWSs in states with an existing testing requirement sufficient to meet the proposed LCR revisions. However, this likely misses many CWSs that could be eligible for a partial waiver.

Second, EPA’s analysis of state requirements appears to include errors and be incomplete. Based on our [tracking of state child care testing requirements](#), it appears that EPA missed several state child care testing requirements and erroneously included Oklahoma.¹⁶

We identified four state child care testing requirements not captured through EPA’s analysis:¹⁷

- [Connecticut](#) (1993): Sampling at a minimum of one outlet every two years.
- [Maine](#) (2018): One time testing, single outlet, only covers family child care.
- [North Carolina](#) (2019): Sampling every three years, all drinking water outlets.
- [Vermont](#) (2019): State passed a new law that updates its previous testing requirements. All drinking water outlets included; sampling schedule TBD.

EPA should consider including Vermont and North Carolina as states meeting the stringency test in its Economic Analysis.

In contrast, EPA should remove Oklahoma as a state meeting the stringency test. Oklahoma’s lead in water testing requirement only applies for child care facilities that are serviced by non-public water systems (e.g., on their own private well). The Oklahoma rule specifically requires:

(K) “[t]he water supply:

(1) is adequate, safe, sanitary, and is from a:

(A) public water supply; or

(B) non-public water supply, such as well water that meets the local and Oklahoma Department of Environmental Quality (DEQ) testing requirements. The program obtains at least bacteria (total coliform), nitrate, and lead test results every 12 months from a DEQ accredited drinking water laboratory.” (§ 340:110-3-300(k))¹⁸

Therefore, Oklahoma’s rule appears not to be relevant, because the proposed child care testing requirements in the LCR revisions only apply to CWSs (not non-public water systems). Many other states have this type of lead in water testing requirement in their child care licensing regulations (e.g., see also [Nebraska](#), [Texas](#)).

¹⁶ Note that we did not conduct a similar analysis for schools. It is possible there are errors in the schools analysis as well.

¹⁷ See: <https://www.regulations.gov/document?D=EPA-HQ-OW-2017-0300-0040>, tab “Grandfathering (Child Cares)”

¹⁸ Oklahoma Department of Human Services. Licensing Requirements for Child Care Programs. Effective Date 12/17/2018. <http://www.okdhs.org/OKDHS%20Publication%20Library/14-05.pdf>.

C. Possible typo in preamble

We think that EPA may have accidentally omitted the word “not” from the following sentence in the preamble, as the sentence is not logical as currently written:

“The results of the samples would not be used as part of the CWS’s calculation of the 90th percentile value in §141.80(c)(4) because these samples are being collected in a manner to inform whether action is needed at a specific school or child care facility and [not] whether corrosion control is effective system-wide.” (p. 61707, “not” inserted)

Thank you for considering this request. If you have any questions, please contact Lindsay McCormick at lmccormick@edf.org or 202-572-3245.

Sincerely,



Lindsay McCormick, MPH
Program Manager, Chemicals and Health



Tom Neltner, JD
Chemicals Policy Director



Sam Lovell
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