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S. 2086

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

IN THE SENATE OF THE UNITED STATES

JULY 11, 2019

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

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

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

8 “(a) LEAD AND COPPER RULE.—

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

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

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

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

23 “(b) SAMPLING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 “(B) in such protocol—

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

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

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

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

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

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

6 “(c) ACTION LEVEL EXCEEDED.—

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

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

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

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

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

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

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

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

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

13 “(3) to include—

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

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

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

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

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

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

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

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

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

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

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

1 “(g) SERVICE LINE REPLACEMENT.—

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

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

8 “(B) prohibit partial replacement.

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

13 “(h) DEFINITIONS.—In this section:

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

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

17 “(i) that have galvanized pipes;

18 “(ii) that have low water use; or

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

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

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

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

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

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

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

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

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

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

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

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

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