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National Primary Drinking Water Regulation/Safe Drinking Water Act: Environmental Organizations D.C. Circuit Court of Appeals Petition Challenging U.S. EPA Lead/Copper Rule Revisions

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Several organizations filed a Petition for Review (“Petition”) in the United States Court of Appeals for the District of Columbia Circuit challenging the United States Environmental Protection Agency’s (“EPA”) Safe Drinking Water Act (“SDWA”) National Primary Drinking Water Regulations: Lead and Copper Rule (“Lead and Copper Rule”) revisions. See No. 21-1019 (consolidated with Nos. 21-1020, 21-1076).

The organizations filing the Petition include:

- Newburgh Clean Water Project
- NAACP
- Sierra Club
- United Parents Against Lead
- Natural Resources Defense Council

(Collectively, “NRDC”)

EPA promulgated the Lead and Copper Rule in January 2021. See 86 Fed. Reg. 4198 (Jan. 15, 2021).

The SDWA is the federal law that protects drinking water supplies. The statute requires that EPA identify drinking water contaminants. The federal agency is then required to develop rules that either set maximum permissible levels for the contaminants or establish protocols to treat the water to minimize the levels of the contaminant. All owners or operators of public water systems are required to comply with the primary (health-related) standards.

The National Primary Drinking Water Regulations are standards and treatment techniques that public water systems must follow.

The states can be delegated the ability to enforce the requirements established by the SDWA. The Arkansas Department of Health implements the program in Arkansas.

The NRDC Petition outlines EPA's efforts over the past 47 years to address lead in drinking water. This includes a discussion of the November 2019 proposed rule that ultimately established the Lead and Copper Rule revisions in 2021. See 84 Fed. Reg. 6184 (Nov. 13, 2019).

The Petition arguments challenging the Lead and Copper Rule include:

- EPA defied the SDWA mandate to set a health-based, enforceable limit on lead in tap water (i.e., a maximum contaminant level) unless it is unfeasible to ascertain levels of lead in water
- A feasible, health-protective, health-based limit was arbitrarily rejected
- EPA was mandated to complete replacement of all lead service lines
- EPA reduced by one-half the rate at which water systems with high lead levels must replace their lead service lines without analyzing whether it was feasible to maintain the current rate
- EPA refused to lower the level of lead contamination which triggers public water system protective measures despite evidence that it was feasible to do so

A copy of the Petition can be downloaded [here](#).