

## Campaign for Lead Free Water<sup>1</sup>

### Summary of Washington, DC Council's last-minute weakening revisions to the "Childhood Lead Exposure Prevention Amendment Act of 2017"

#### Current law

Currently DC Code sec. 501(a)(1)(E) requires the Washington, DC Department of General Services (DGS), the agency charged with building and maintaining the District's public facilities, to "[t]est drinking water in public schools for lead and promptly take any remedial action required."<sup>2</sup> But the law lacks any further details to ensure sound implementation and optimal protection, and does not establish any particular lead-in-water concentration standard.

#### Original bill

January 2017 saw the introduction into the DC Council of the original version of the "Childhood Lead Exposure Prevention Amendment Act of 2017." The original version required officials at District schools, public charter schools, and Department of Parks and Recreation facilities to locate and mark all drinking and cooking water sources with unique bar codes, install and maintain filters certified for reducing lead at those sources, and publish a list of the sources online. The bill further required annual testing for lead at each source and, if the lead in water concentration exceeded the **one part per billion (1 ppb)** standard recommended in 2016 by the American Academy of Pediatrics (AAP),<sup>3</sup> required officials to shut off the source within 24 hours after receiving the test result, determine remediation steps, and publicize the test results and remediation steps online.

#### Late changes to the original bill approved in the final Act

In June 2017, with no public hearing, DC Councilmembers agreed to weaken the protective force of the original bill, by changing the target concentration level from 1 ppb to 5 ppb. As a result, drinking water **sources dispensing as much as 5 ppb will not be shut off or remediated** but instead will be treated as acceptable. Parents will be able to access all their school's test results online, but will not be entitled under this law to demand shut-off and remediation for sources dispensing lead in concentrations as high as 5 ppb.

#### The Campaign's position

The Campaign for Lead Free Water opposes the late changes to the bill, and cannot support the final law for two reasons: It falls short of the health-protective standard that AAP recommends, and that the

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<sup>1</sup> The Campaign for Lead Free Water is a network of individuals and organizations working in our local communities and nationally to change our public health and drinking water systems so all of us are better able to prevent harmful exposures to lead in drinking water. The Campaign was inspired when veteran advocates from the 2001-2004 Washington, DC lead-in-water crisis and cover-up joined forces with residents of Flint, New Orleans, Philadelphia, Milwaukee, and other communities working to respond to the problem of lead in drinking water. The Campaign seeks an end to the longstanding pattern of official denial and downplaying of the prevalence, severity, and dangers of lead in water.

<sup>2</sup> <https://beta.code.dccouncil.us/dc/council/code/sections/38-825.01.html>.

<sup>3</sup> <https://www.aap.org/en-us/about-the-aap/aap-press-room/pages/With-No-Amount-of-Lead-Exposure-Safe-for-Children,-American-Academy-of-Pediatrics-Calls-For-Stricter-Regulations.aspx>

District's Mayor promised to DC residents and the nation in June 2016.<sup>4</sup> And it is based on misinformation.

In adopting the weakening changes the Council claimed that DGS cannot consistently achieve 1 ppb with current filter technology. But the Council failed to disclose crucially important information it possesses: that the reason some taps tested over 1 ppb is almost certainly because DGS has been installing filters *upstream* of plumbing materials (e.g., old solder, brass faucets) likely to contain lead. In other words, the positioning of the filters has not been at the point where water is consumed. This means that, currently, children could consume lead that has leached from plumbing components *after* the water has passed through the filter. This risk is especially serious because the release of lead into water is highly variable, such that scientific research has confirmed that a tap that sampled below 1 ppb at one moment could dispense lead in the tens, hundreds, and even thousands of ppb in the next moment. Thus, children could even be exposed to acute lead poisoning from taps believed to be dispensing concentrations between 1 and 5 ppb.

Regardless, the supposed inability to achieve 1 ppb at all taps was no reason to weaken the bill. The original bill did not trigger a violation for taps dispensing over 1 ppb lead, but instead simply required that such taps be shut off and remediated, or shut off permanently if no solution could be found. That is exactly how the bill was supposed to work to protect children from being exposed to chronic lower levels of lead known to have serious adverse health effects.

The Council also publicly implied that the weakened version is providing the same level of health protection as would be provided if bottled water were used, citing the Food and Drug Administration (FDA) standard that allows up to 5 ppb of lead in bottled water. This claim is misleading and contradicts scientific studies conducted by Dr. Marc Edwards at Virginia Tech showing that, in terms of actual content, bottled water rarely contains detectable amounts of lead.<sup>5</sup> This means that the final weakened bill is in fact less protective than it would be to supply District schools, public charter schools, and Department of Parks and Recreation facilities bottled water.

### Environmental justice concerns

Despite the Council's familiarity with the federal health-based standard of zero lead-in-water,<sup>6</sup> and the 2016 AAP recommendation for a 1 ppb health-based standard for lead in school tap water, this bill *knowingly* leaves all children in the District with sub-optimal protection from lead in water. Equally concerning is that the Council's decision to allow for low-level and potentially chronic exposure of DC children to lead in school water took place:

- Over 30 years after the first recorded lead problems in DC school water, and
- Following repeated discoveries of unaddressed lead-in-water contamination by DC school parents and others, outside of the responsible agencies (e.g., in 2004, 2006, 2007, 2015).

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<sup>4</sup> <https://mayor.dc.gov/release/district-government-adopts-new-lead-testing-policy>

<sup>5</sup> Personal communication with Marc Edwards, June 10, 2017.

<sup>6</sup> The Federal regulation known as the "Lead and Copper Rule" establishes a health-based Maximum Contaminant Level Goal of 0 ppb, in recognition of the fact that there is no safe level of lead, and even small exposures have adverse health effects. In establishing this standard the U.S. EPA stated that "[t]he goal of [the] rule is to provide maximum human health protection by reducing the lead and copper levels at consumers' taps to as close to [zero] as is feasible." *Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper*, 56 Fed. Reg. 26460, 26478 (June 7, 1991).

The greatest injustice involves District residents with low income, and those who lack access to the internet or e-mail and whose schools communicate lead-in-water problems through electronic means only. In particular, such residents might never become aware of lead-in-water contamination in their children's schools. Under the original bill these children would still be protected by the 1 ppb standard and the requirement to remediate or shut off sources testing above that level. But under the current bill, only those parents who have access to the internet, the ability to monitor lead-in-water test results on a regular basis, *and* the financial means to send their children to school with bottled water if contamination problems are discovered, will be able to provide the best level of protection to their children. This sort of disparity is unacceptable and inexcusable in the District in 2017.

For all the above reasons, the Campaign for Lead Free Water does not support the final version of the Childhood Lead Exposure Prevention Amendment Act of 2017, and urges Mayor Bowser to veto the law and send it back to the Council to correct the foregoing errors and restore the Act's original protective requirements.

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