

U.S. House of Representatives
Committee on Government Reform

Lead Contamination in Drinking Water
H.R. 4268: Lead-Free Drinking Water Act of 2004

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**Written Testimony of
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Mr. Chairman and Members of the Committee,

Thank you for inviting me to appear before you today to discuss issues involving lead contamination in the District of Columbia's water system, H.R. 4268, and related issues. My testimony today will ask you to focus on the larger problem of setting priorities for public health protection, particularly for the millions of low-income households in our country.

Initially, I must emphasize that nothing in my testimony should be used to decrease our commitment to controlling the exposure of infants and children to lead. As you know, lead poisoning has been linked to developmental disabilities and other problems in small children.

I am concerned, however, about the relative allocation of our limited resources for public health protection, particularly for low-income families. The health of low-income families may be jeopardized by various environmental problems, including lead exposure. But the health of low-income families is even more severely impacted by their lack of money to pay for essential services.

The Plight of Low-Income Families

First, let's define what we mean by "low income." While there are different definitions of "low income" – for example, we could look at various percentages of the federal poverty level, recipients of assistance from certain federal programs, or other measures – using households with incomes less than \$20,000 per year is one important measure to examine. According to the 2000 census, about 22 million households - one out of every five households in this country – has an annual income less than \$20,000 per year.

Most households with incomes below this level face serious challenges in attempting to meet their family's basic needs. Many low-income families are faced with having to make serious trade-offs that directly and adversely affect the family's health.

For example, in 1998 and 1999, studies by the U.S. Census Bureau estimated that 10 million households are not able to pay the home energy bill – electricity, natural gas, fuel oil – each month.¹ The same studies found that:

- ◆ 7 million households were not able to see a dentist when necessary
- ◆ 6 million households were not able to see a doctor when necessary
- ◆ 5 million households went hungry at some point during the year
- ◆ 4 million households had their telephone service disconnected
- ◆ 2 million households had their gas or electric service disconnected

In total, more than 7 million low-income households experienced at least one, serious hardship each year, with many of those experiencing multiple hardships.

Each of these hardships has a direct bearing on the health and safety of low-income families and on the overall level of public health within a community.

A more recent study adds another important health measure: the ability to pay for child care when needed.² That study only looked at families with incomes less than 200% of the federal poverty level – roughly \$30,000 per year. It found that nearly 2 million families had to leave small children alone because they could not afford to pay for child care.

In other words, we have millions of families in this country that cannot make ends meet now. They cannot meet all of their basic needs for food, shelter, heat, medical and dental care, and child care.

What This Means for National Drinking Water Policy

The plight of low-income families raises important questions about our national drinking water policies, including:

- ◆ How much more should we ask these families to pay for drinking water?
- ◆ Will an incremental improvement in the safety of their drinking water provide benefits at least equal to the cost?
- ◆ Will the trade-offs that the family must make – reduced access to medical care, reduced ability to pay for child care, less money to spend on food and medicine and heat – result in improved or worsened public health?

Before we can talk about the impact of drinking water cost increases, we need some basic information about how many low-income households receive their water from a public water system.

¹ Kurt Bauman, Direct Measures of Poverty as Indicators of Economic Need: Evidence from the Survey of Income and Program Participation, U.S. Census Bureau Population Division Technical Paper No. 30 (1998); Kurt Bauman, Extended Measures of Well-Being: Meeting Basic Needs, U.S. Census Bureau Current Population Reports, P70-67 (1999).

² Heather Boushey, et al., *Hardships in America: The Real Story of Working Families* (Economic Policy Institute, 2001).

My analysis of data from the 2000 census shows that 75% of all households with incomes less than \$20,000 per year receive their water from a public water system. Of course, in large cities like the District of Columbia, that figure is 100%.

It is also important to know if low-income families actually pay a water bill each month, or is the cost of water service included in their rent or some other fee, like a mobile home lot charge. The census data also allow us to answer this question. Of the low-income households that receive public water, about 62% pay a water bill directly each month. The others pay the cost as part of their rent or some other fee.

According to the census, in Washington, D.C., there are about 65,000 households with incomes less than \$20,000 per year. About 11,000 of those households – one out of every six low-income households in the District – pay a water bill each month.

Another way to gain an understanding of this problem is to look at differences between low-income households that rent and those who own their homes. Nationally, about 12 million low-income families are renters and 10 million are homeowners.

About 3 million of the renters pay a water bill each month, but more than 7 million of low-income homeowners pay a water bill. From census data on the relationship among poverty, age, and housing, I estimate that almost one-third of those low-income homeowners are age 65 or older.

What does all this mean? Simply, it means that about 10 million water customers in this country have incomes that are less than \$20,000 per year. About 2 million of those customers are elderly, trying to make ends meet on fixed incomes without depleting their savings. The other 8 million represent a cross-section of our society – homeowners and renters; various family sizes and ages; in rural, suburban, and urban areas. What they have in common is an inability to meet all of their basic needs - items that are essential for the health and safety of their families – consistently from one month to the next.

Impact of H.R. 4268 on This Problem

With this background, we can begin to look at the problem of lead in drinking water. Because there are so many low-income families who will be affected by an increase in water costs, we need to be sure that the costs of paying for a new drinking water requirement will at least equal the benefits from the measure. If they don't, then we run the risk of harming the health of low-income households, because many of them will have to cut back on some other necessity – such as food, heat, medical care, or child care – in order to pay the higher water bill.

Another way to think about the problem is to ask: If we are going to spend \$x on public health protection, how can we achieve the greatest improvement in public health? The answer may be through an improvement in drinking water, but we might be able to do much better by paying for cleaner air, improved police or fire protection, enhanced medical and dental care, greater access to child care, or some other public health program.

Using this approach, I have several concerns with H.R. 4268.

First, the bill mandates a course of action without first determining the costs and benefits associated with the action. The bill would require all water utilities – regardless of size – that experience a lead reading in excess of a standard to be set by EPA to undergo a 10-year program to replace all lead-containing service lines in their system. This effort would include the replacement of the customer-owned portion of the service line, as long as the customer consents.

I do not know the total cost of such an effort. Data from several utilities shows that the cost of installing just the utility's portion of a new service line to a new home is around \$500. So I would guess that the cost of removing an existing line; replacing it with a new one; including the customer-owned portion of the line; and restoring any damage to sidewalks, pavement, landscaping; and so on, would have to cost at least \$1000 per line, and probably several times that amount in many instances.

I don't know how many utilities would be subject to this requirement or how many service lines would need to be replaced. And, very importantly, we also don't know what benefit will be derived from this effort. Will the public health benefits from reduced lead exposure more than offset the reduced access to food, heat, medical care, and child care that we can expect low-income households to experience?

Second, I am concerned about the relationship between the requirements and the funding provision in the bill. The legislation would require a utility with an elevated lead level to undertake a 10-year service-line replacement program. However, H.R. 4268 authorizes funding for only five years.

Moreover, the bill's mandate exists without regard to the actual availability of funding. Even if no grant monies are actually appropriated in a given year, or if the need greatly exceeds the appropriation, or if a utility does not receive a grant, the utility's obligation to replace service lines remains in place.

Thus, while the prospect of \$1 billion in federal funding for this program is a positive aspect of H.R. 4268, I do not know if this amount is anywhere near sufficient to meet the cost of the mandate set out in the legislation. Consequently, it is not possible to assess the impact of this legislation on the water bills paid by low-income families. Without knowing that impact, we cannot determine the ultimate public health consequences of this requirement.

Conclusion

Please do not misunderstand me. I am not saying that we should do nothing about the lead problem, either here in the District or elsewhere in the country. What I am saying is that we need to make sure that we are spending our money wisely. We need to make sure that we are using our resources to enhance the overall level of public health protection, particularly to low-income families. The 1996 amendments to the Safe Drinking Water Act require EPA to balance the costs and benefits of any proposed drinking water regulations. I continue to support that as being a reasonable approach to ensuring that we spend our dollars wisely. If we properly consider both the benefits and consequences of investments in our drinking water systems, we can improve the quality of life for 20 million low-income households in this country. Thank you again for the opportunity to be here today. I would be happy to answer any questions.

Biographical Statement Scott J. Rubin

Scott Rubin is an independent attorney and consultant, working exclusively on issues affecting the public utility industry. From 1983 until January 1994, he was an attorney and policy expert with the Pennsylvania Office of Consumer Advocate. From 1990 until he left the OCA, Mr. Rubin chaired the Water Committee of the National Association of State Utility Consumer Advocates. In that capacity, he served on EPA's Federal Advisory Committee to negotiate new regulations for disinfectants and disinfection by-products in drinking water.

Since establishing his own practice in 1994, Mr. Rubin has testified as an expert witness before public utility commissions and legislative committees in more than a dozen states in matters involving the regulation of electric, gas, water, and telecommunications utilities. Mr. Rubin has given speeches throughout the country, published technical papers, and contributed to books on issues affecting the utility industry. His clients include consumer advocates, attorneys general, labor unions, state and local governments, consumer groups, and several private businesses and research foundations. He has served on the faculties of the Annual Regulatory Studies Program at the Institute for Public Utilities at Michigan State University and the Pennsylvania Bar Institute. Mr. Rubin received his Bachelor's degree with distinction from Pennsylvania State University and his law degree with honors from George Washington University. He lives and works in Selinsgrove, Pennsylvania.

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