

Lead levels misrepresented in U.S. cities

The Washington Post, others, allege that utilities manipulate or withhold test results

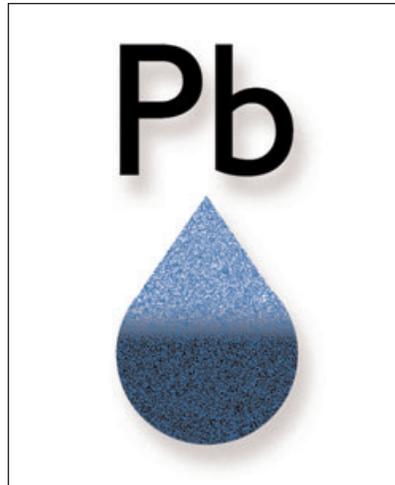
Cities across the country are manipulating the results of tests used to detect lead in water, violating federal law and putting millions of Americans at risk of drinking more of the contaminant than their suppliers are reporting.

That's the crux of the following article reprinted from the October 5, 2004, *The Washington Post* as reported by *MSNBC*. The authors are Carol D. Leonnig, Jo Becker and David Nakamura. *The Post* story continued as follows:

Some cities, including Philadelphia and Boston, have thrown out tests that show high readings or have avoided testing homes most likely to have lead, records show. In New York City, the nation's largest water provider has for the past three years assured its 9.3 million customers that its water was safe because the lead content fell below federal limits. But the city has withheld from regulators hundreds of test results that would have raised lead levels above the safety standard in two of those years, according to records.

The result is that communities, large and small, may have a false sense of security about the quality of their water and that utilities can avoid spending money to correct the problem.

In some cases, state regulators have helped the utilities avoid costly fixes. The U.S. Environmental Protection Agency, which is supposed to ensure that



states are monitoring utilities, has also let communities ignore requirements to reduce lead. In 2003, records show, the EPA ordered utilities to remedy

high lead readings, taking advantage of lax national and state oversight and regulations riddled with loopholes.

The Washington Post examined 65 large water systems whose reported lead levels have hovered near or exceeded federal standards. Federal, state and utility records show that dozens of utilities obscured the extent of lead contamination, ignored requirements to correct problems and failed to turn over data to regulators.

Jim Elder, who headed the EPA's drinking water program from 1991 to 1995, said he fears that utilities are engaging in "widespread fraud and manipulation.

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The Washington Post, Oct. 5, 2004

violations in just 14 cases, less than one-tenth of the number ordered in 1997.

Taken together, the records point to a national problem just months after disclosures that lead levels in the District's water are among the highest in the country, a problem the city's utility concealed for months. Documents from other cities show that many have made similar efforts to hide

'A real crapshoot'

"It's time to reconsider whether water utilities can be trusted with this crucial responsibility of protecting the public. I fear for the safety of our nation's drinking water," said Elder, now a water consultant. "Apparently, it's a real crapshoot as to what's going to come out of the tap and whether it will be healthy or not."

Recent attention to the dangers of the District's drinking water has prompted scientists and some members of Congress to call for revamping the lead rules in the 30-year-old Safe Drinking Water Act, which was aimed at limiting dangerous contaminants flowing out of the tap. EPA Administrator Michael Leavitt declined to be interviewed for this article, but his agency has said that a major overhaul to its regulations is unnecessary.

"We have not identified a systemic problem," EPA Acting Assistant Administrator Benjamin H. Grumbles told Congress in July. In an interview, Grumbles said, "We are going full throttle" to pinpoint lead levels across the country. "So far," he said, "we have not seen anything that closely resembles the District in the data we've received."

EPA data analyzed by *The Post* identified 274 utilities, which together serve 11.5 million people, that have reported unsafe lead levels since 2000. Those numbers

do not include cities where testing methods concealed true lead levels.

Utility officials defend their testing methods, saying they are not designed to intentionally deceive the government and that state regulators approved their practices. Others argue that they should not have to

Lynn Stovall, a Greenville, S.C., utility manager and member of the American Water Works Association, said many utilities are "hard-pressed" and need more public funding to comply with mounting regulations and improve aging plants.

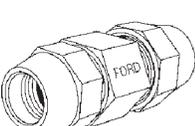
Lead exposure can cause serious health problems, including lower IQs in children and brain and kidney damage in adults.

spend millions to remove lead that often leaches from their customers' own fixtures.

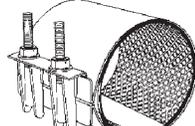
Some suppliers have worked hard to avoid lead problems. Kansas City's tested its water more frequently and treated it more aggressively than the law required. And after the District's problem surfaced, several other jurisdictions in the Washington region voluntarily tested their water and found less contamination than in the city.

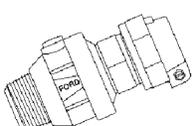
"The drinking water community faces a complex array of expensive new federal requirements and new standards," Stovall told Congress at this summer's hearing on lead.

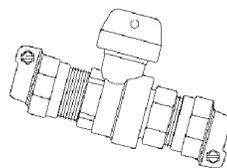
Lead exposure can cause serious health problems, including lower IQs in children and brain and kidney damage in adults. Although health experts agree that no amount of lead in drinking water is considered safe, there is some dispute about how much tainted water has to be consumed



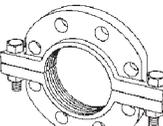
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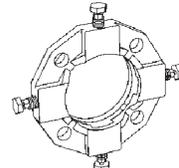






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to cause permanent damage. Because the effect is cumulative, lead in water is particularly problematic in older, urban areas where children are more likely to also be exposed to lead paint, which utilities note is a more prevalent threat.

Despite the health risk caused by lead in water, efforts to eliminate it have run up against other realities, including the high cost of replacing underground pipes that contain lead. Recognizing that states lacked the resources to carefully monitor more than 90 contaminants covered by federal law, the EPA issued lists of priorities starting in 1996. In both cases, its top concern was microbes, which can sicken large populations overnight. Lead did not make the list, and this year, the EPA dropped drinking water altogether from its enforcement priority list, records show.

Competing interests were also in play in 1991 when the EPA wrote new rules on lead. The compromise that emerged requires

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that, when lead levels exceed 15 parts per billion, utilities must inform the public, treat the water to make it less corrosive or, in some cases, replace pipes.

Because of the cost, many utilities are reluctant to act. In the District, where the D.C. Water and Sewer Authority (WASA) is under order to replace service lines, water customers are expected to pay for most of the \$350 million project over the rest of the decade.

Withholding results

Water suppliers are required by law to test for lead regularly — the largest utilities must check the water in at least 50 homes once every three years. They must follow a strict regimen, trying consistently to test the same "high

risk" homes most likely to have lead problems. High-risk homes are defined as those with lead service lines or built in the 1980s, before lead solder in plumbing was banned.

Because so few homes are tested, the results of just one or two can mean the difference between passing and failing. Utilities are required to report to regulators all their test results — good and bad.

The D.C. WASA knew in the summer of 2001 that its water contained unsafe lead levels, but it withheld six high test results and said the water was fine, records show. When it tested over the next two years, records show, WASA dropped half of the homes that had previously tested high for lead and avoided high-risk homes.

The EPA, which cited WASA for violations in June, called the utility's practices unprecedented and a "serious breach" of the law.

Documents show that water systems across the country have used similar practices.

In such cities as Boston and Detroit, records indicate that utilities have failed to test the high-risk homes they were required to check. State regulators and the EPA discovered in the spring that at least one-fourth of the locations in the Boston area were not high risk and ordered the utility to revamp its program, records show.

After several years of above-the-limit test results, New York water officials reported that tests in 2000 showed lead had fallen to safe levels. But the city had not reported all of its results.

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Records obtained under a Freedom of Information Act request revealed more than 300 withheld test results that, if reported, would have given New York water a failing grade for safety in 2001 and 2002. That would have required the city to alert the public to the problem and take expensive steps to fix it.

Christopher O. Ward, commissioner of New York's Department of Environmental Protection, said his agency is "highly confident" the city's water is safe. He said extra tests were taken to ensure that the city had a sufficient number to report to regulators, though he said the agency did not formally notify state and city regulators of this practice or seek their approval. Ward said that he believed this complied with the rules and that it was unfair now to count irrelevant results.

"In light of the issues that have recently been raised, DEP is in the process of reviewing our lead and copper monitoring to ensure that all requirements in the regulations are being met," Ward said.

In a similar situation, when WASA said the six test results it withheld were replacement or backup samples, the EPA cited the utility and said it was a violation of the law.

In Philadelphia, state and utility officials said they could produce none of the required documentation for their decision to toss out a high test result in 2002. The federal law does not allow utilities to discard high tests except under very limited circumstances, and the utilities must carefully document their reason.

Utility Director Gary Burlingame said in an interview that the high test result "didn't jibe" with past tests and that the

utility decided it should be discarded after learning the house had undergone plumbing work. Had that test been counted, records show, it would have put Philadelphia over the federal safety limit and required corrective steps.

The law prohibits throwing out tests for the reasons given in Lansing, Mich., in 2001— that homeowners did not follow directions in collecting them. Four discarded tests would have put the water over the federal lead limit, documents show. In one case, the homeowner disputed the reason the utility gave for tossing her sample — that the occupants had been away overnight.

"That's a big, fat lie," said Jennie Horiszny, an 85-year-old Lansing resident. She said she had not gone out of town and had carefully followed the utility's instructions not to run the water overnight. She remembers pouring glasses of water before going to bed in case she or her husband became thirsty — and taking the sample first thing in the morning.

"That's what the directions said to do, and that's what I did," she said. "It was a clean sample."

John Strickler, a spokesman for the Lansing water system, said, "I find it hard to believe that any of our employees would have made that up." He said the city has voluntarily embarked on an aggressive plan to replace lead service lines, in part because "we started seeing news stories" about the District's problem.

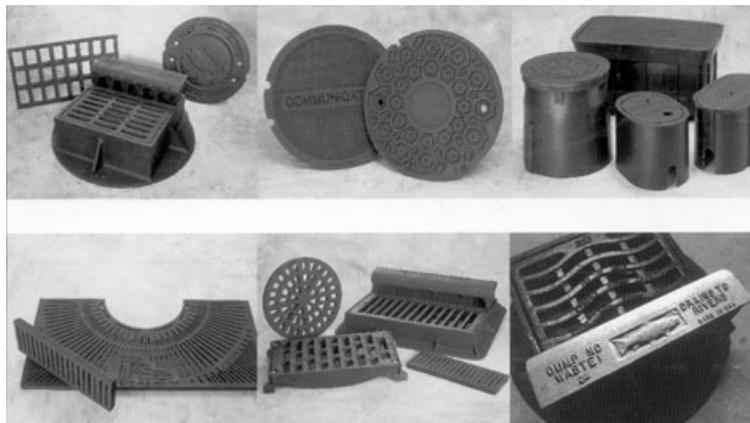
Federal law also requires utilities to try to test the same homes over time and prohibits dropping any merely because they have tested high.

After exceeding the acceptable limits in 2000, the Ridgewood, N.J., water system dumped "hot" houses that had tested high, records show. Frank Moritz Sr., director of operations for Ridgewood's water department, said that was not done by design. "Each year, we take out the previous year's list and ask if they want to participate," he said.

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But five residents whose homes showed high lead readings said in interviews that the utility never informed them of the results or asked them to test again.

"It would have been nice if someone had looked out for us," said Matthew Criscenzo, whose son was four at the time. "Obviously, this news is causing some alarm."

Bradley M. Campbell, New Jersey's commissioner of environmental protection and an EPA official in the Clinton administration, said that his agency is "actively investigating" testing irregularities uncovered by *The Post* in Ridgewood and other communities in northern New Jersey and that it could take action against some utilities. "The public has a paramount right to know" the true lead levels in those communities, he said.

Just as dropping tests can lower the official lead figures, so can adding tests.

The utility in Providence, R.I., exceeded safe lead levels in 2002. Instead of informing the public, as

required, records show that the utility waited and, the next summer, sampled 30 more homes, most of which showed very low lead and brought levels below the federal standard. Utility officials said they believed that their actions complied with the law.

check whether they are testing properly. The EPA's most recent audits point out that testing irregularities are common. Also, states frequently miss the violations or fail to force utilities to take required steps to reduce lead, according to the audits.

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June Swallow, the Rhode Island official charged with overseeing utilities, said Providence did not comply and that the state will in the future ensure that utilities test within the requisite four-month period.

Frequent irregularities

Under the Safe Drinking Water Act, states must oversee utilities to ensure that they follow the law and the EPA is required to step in when states fail to correct problems.

For the most part, states take the word of utilities, doing little to

The latest EPA audit of Hawaii's program, for instance, found in 2001 that regulators there "put an emphasis on 'helping utilities' rather than enforcing the law."

Records show that regulators rarely force communities to replace lead service lines, even in such cases as Yonkers, N.Y., where the law required it because repeated tests showed excessive lead levels.

In Seattle, the city missed a 1997 deadline to reduce lead by making its water less corrosive. The State of Washington gave it six extra years to correct the problem, allowing high lead to persist until last year. Denise Clifford, director of the state's office of drinking water, said the delay gave Seattle time to build treatment facilities that will reduce lead and other more serious contaminants.

"I know this doesn't look like a good decision to a lot of people," she said, but "there are more acute public health risks than lead."

In the interim, more than 43,000 Seattle residents – including Nimi Sandhu – gave birth, according to vital records statistics. Sandhu used unfiltered tap water to make her babies' formula, unaware of the lead levels.

"It's outrageous – the state is supposed to be protecting us," said Sandhu, whose children are 5, 4 and 10 months old. "I don't know how they can live with themselves

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knowing that they were possibly endangering children."

State officials say they are forced to engage in a form of triage.

"It's tough, given all the other priorities out there for drinking water, to oversee this rule at that level of detail," said Barker G. Hamill, chief of the New Jersey Bureau of Safe Drinking Water.

If states fail to enforce the law, the EPA is the last line of defense. But the agency devotes four times the staff to enforcing the laws that govern sewage released into rivers and lakes as it does to safeguarding the nation's drinking water supply, records show. The agency has 72 enforcement employees to oversee the nation's drinking water laws — one employee for every 2,238 water systems.

"We can't afford to do these kind of checks everywhere, and neither can the states," said Jon M. Capacasa, water administrator in the EPA's mid-Atlantic office.

Officials at EPA headquarters say the need for intervention has declined over the years, because more utilities understand and comply with the law. But sometimes the EPA is without the information it needs to act.

A March report by the agency's inspector general found that the data the EPA uses to assess water quality are "flawed and incomplete" because states are not reporting violations, despite legal requirements.

But even when it is aware of a problem, the agency does not always enforce the law, records show.

It didn't do so in Portland, Ore., for instance, where excessive lead persisted through much of the past decade. The state approved the

good job of catching most problems, those charged with enforcing it do not always agree. EPA regulators who met in the spring in Newport, R.I., noted in a three-page memo a series of loopholes that weaken the law. Among them: Nothing requires

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city's decision to launch a public education campaign on lead dangers rather than build an expensive treatment plant to comply with the law.

Lead levels climbed, and in 2002 the EPA stepped in, but not to discipline the city. Instead, the agency suggested testing more homes in the suburbs. The utility dropped more than half the homes with lead higher than the federal limit, replacing them with suburban homes that had, on average, significantly lower levels, records show.

"That change in the sampling population helped" the city slip back under the federal limit, said Mark Knudson, the Portland Water Bureau's director of operations. EPA officials said that that was not their goal and that they had recommended the changes to get a fuller picture across the area.

Although top EPA officials have contended that the law does a

utilities to notify individual homeowners that their water has high lead, and the regulation does not allow the same stiff sanctions for high lead that it does for other contaminants such as bacteria.

At headquarters, the EPA's Grumbles has said in recent weeks that he will push to ensure that cities are complying with the law when they test and that he will consider changes early next year, such as stricter rules for notifying the public. But critics fear that, without much tougher laws and enforcement, unsafe water in other communities may not come to light.

"The problems we know about are just the tip of the iceberg," said Erik D. Olson of the nonprofit Natural Resources Defense Council, "because utilities are gaming the system, states have often been willing to ignore long-standing violations and the EPA sits on the sidelines and refuses to crack down."



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