



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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March 29, 2016

Joel Beauvais
Deputy Assistant Administrator
Office of Water
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 4101M
Washington, DC 20460

Dear Deputy Assistant Administrator Beauvais,

I am writing to respond to your letter of February 29, 2016, concerning the implementation of the Lead and Copper Rule (LCR) under the federal Safe Drinking Water Act (SDWA) and the Massachusetts Drinking Water Regulations. The Commonwealth of Massachusetts shares U.S. EPA's extremely high priority to protect public health and ensure the safety of our state's drinking water. I believe that the Massachusetts Department of Environmental Protection's Drinking Water Program is among the leading states in the nation in many aspects of SDWA, and I believe that EPA Region I shares this view. Our strong efforts have been recognized by EPA in implementing the SDWA including our work on comprehensive source water protection efforts, operator certification, Lead Contamination Control Act (LCCA) programs in schools and childcare facilities, emerging contaminants, and the routine oversight of compliance activities at the 1,700 plus Public Water Systems (PWSs) in Massachusetts.

Massachusetts is committed to stringent regulatory oversight of the LCR. MassDEP works closely and cooperatively with EPA to implement the LCR and all other SDWA rules. This includes both participation in national efforts to improve the LCR and ongoing activities to ensure that PWSs are aware of and are conducting all the necessary and proper activities under the rule. These LCR activities include monitoring, installation and optimization of corrosion control, consumer notification, public education and -- when required -- lead service line replacement. As needed, MassDEP takes enforcement actions that include a requirement to provide public notice of any violations to ensure PWS compliance with the LCR. MassDEP is working diligently with the current list of 21 PWSs that have exceeded the lead action level in the most recent sampling round to ensure that they conduct all the required follow-up. We are also taking proactive steps to ensure that the customers of these 21 PWSs are aware of both the current water quality and the actions being taken to improve it. MassDEP has updated our implementation materials in concert with EPA's changes to guidance over the past decade and continues to do so today in light of new guidance.

We are eager to work with you to enhance the transparency of LCR actions to ensure public confidence in the safety of their drinking water and the roles played by local, state and federal authorities. Our efforts in this vein include partnerships with the Massachusetts Department of Public Health, local Boards of Health, the Massachusetts Department of Early Education and Care and the Department of Elementary and Secondary Education, local schools and daycares, water works associations, the Massachusetts Board of State Examiners of Plumbers and Gas Fitters, Board of Certification of Operators of Drinking Water Supply Facilities, as well as state and local elected officials.

Your letter urged action on a handful of near-term areas, and below please find a status update on each.

1. Confirm that the state's protocols and procedures for implementing the LCR are fully consistent with the LCR and applicable EPA guidance.

MassDEP's LCR protocols are routinely reviewed to ensure consistency with EPA requirements and under the guidance of the EPA Region I office we have performed a recent comprehensive review. MassDEP has reviewed its protocols to ensure consistency with EPA guidance.

2. Use relevant EPA guidance on LCR sampling protocols and procedures for optimizing corrosion control.

MassDEP uses all relevant LCR guidance from EPA. MassDEP's guidance has been updated to reflect EPA's "Clarifications of Recommended Tap sampling Procedures for Purposes of the Lead and Copper Rule" issued February 29, 2016. The "Instructions for Residents for Home Sampling," is included as part of our Chain of Custody form available on the MassDEP website at <http://www.mass.gov/eea/docs/dep/water/approvals/year-thru-alpha/e-thru-l/lcroc.doc>. We have also ensured that our LCR program is consistent with EPA's "Lead and Copper Rule Requirement for Optimal Corrosion Control Treatment for Large Drinking Water Systems" issued November 3, 2015. We will continue to evaluate our program against any other new or revised EPA guidance, including EPA's anticipated update to the 1992 "Lead and Copper Rule Guidance Manual, Volume II: Corrosion Control Treatment."

3. Post on your agency's public website all state LCR sampling protocols and guidance for identification of Tier 1 sites (at which LCR sampling is required to be conducted).

MassDEP's public website currently provides all LCR sampling protocols and guidance for identification of Tier 1 sites where LCR sampling is required. Our agency LCR implementation information is currently posted on the MassDEP website at: <http://www.mass.gov/eea/agencies/massdep/water/drinking/lead-and-other-contaminants-in-drinking-water.html#9> and <http://www.mass.gov/eea/agencies/massdep/water/approvals/drinking-water-forms.html#9>. The information has been reviewed to ensure that is readily transparent, user-friendly and follows EPA's guidance. The material posted includes both our aforementioned "Instructions for Residents for Home Sampling" as well as "Where to Collect Samples (see 310 CMR 22.06 B) for Lead and Copper Sampling and Sampling Tiers" at: <http://www.mass.gov/eea/docs/dep/water/approvals/year-thru-alpha/m-thru-s/samptier.doc>, "Identifying Sites for Lead and Copper Sampling and Preparing a Sampling Plan and Materials Survey" at <http://www.mass.gov/eea/docs/dep/water/approvals/year-thru-alpha/m-thru-s/mtrlssurv.doc> and "Lead and Copper Sampling Plan Change in Sampling Site" at <http://www.mass.gov/eea/docs/dep/water/approvals/year-thru-alpha/m-thru-s/pbcuchng.doc>.

4. Work with public water systems – with a priority emphasis on large systems – to increase transparency in implementation of the LCR by posting on their public websites and/or on your agency’s website:

- **The materials inventory that systems were required to complete under the LCR, including the locations of lead service lines, together with any more updated inventory or map of lead service lines and lead plumbing in the system; and**
- **LCR compliance sampling results collected by the system, as well as justifications for invalidation of LCR samples.**

Public Access to Materials Inventory Information: As you know, PWSs were first required to perform their materials inventories in 1991 when the LCR first came into effect. MassDEP took steps to ensure that water systems did the required materials inventory at that time, however those inventories were not required by LCR to be submitted to MassDEP nor EPA. We fully support transparency of LCR information, including improving transparency and public access to PWS inventories on Lead Service Line (LSL) and lead plumbing locations. MassDEP is currently working closely with EPA, with other states that are delegated for the SDWA, and with our SDWA Advisory Committee to determine the best approach for getting this information updated by the PWSs and voluntarily posted publicly on-line. As part of our efforts, we have identified some leading PWSs in Massachusetts whose efforts in this regard can serve as a model for PWSs elsewhere in the state. The City of Boston’s Water and Sewer Commission is a great example, and their on-line inventory information and interactive map can be found here: http://www.bwsc.org/COMMUNITY/lead/leadmaps.asp#TOP_PAGE. Note that MassDEP has also updated our Sampling Plan change form to require PWSs to certify that they are using their material survey whenever they establish new sampling sites.

Regarding LSL replacement, MassDEP continues to offer low-interest loans to municipal PWSs to support their LSL programs through our Drinking Water State Revolving Fund (SRF) program. Municipalities have in the past utilized the SRF as a way to pay for service line replacements and also for improvements to corrosion control equipment. As part of its administration of the program, MassDEP will take extra steps to highlight the availability of this funding for lead-related projects when it solicits new projects for FY17 (that solicitation goes out in June). In addition, MassDEP is taking steps to share information with PWSs statewide on LSL replacement programs. One of the largest PWSs is the Massachusetts Water Resources Authority (MWRA). The MWRA supplies wholesale water to local water departments in 48 communities in Massachusetts. On March 21st, MWRA announced they will make available \$100 million in interest-free loans to its member water communities to replace lead service lines.

Public Access to LCR Sampling Information: MassDEP fully supports enhanced transparency of and public access to PWS LCR sampling results and sample invalidation. As with the LSL goal above, MassDEP is working closely with EPA, with other states, and with our SDWA Advisory Committee to develop the best approach to achieve the goal of publicly available sampling information for all PWSs. In the short term, MassDEP will be providing additional information and training to PWSs to ensure that all understand the importance of transparency and accountability, and encourage them to implement this new recommendation

5. Enhance efforts to ensure that residents promptly receive lead sample results from their homes, together with clear information on lead risks and how to abate them, and that the general public receives prompt information on high lead levels in drinking water systems.

MassDEP requires all PWSs to comply with the promulgated LCR notification and education timelines and will work to ensure that residents receive lead results and supporting materials as promptly as feasible. MassDEP is currently enforcing the notification requirements based on the time limits in the LCR. We will be working with PWS to encourage expeditious public education and continue to provide assistance and example materials in response to action level exceedance. MassDEP has also encouraged laboratories who conduct lead sampling to promptly report results to facilitate water systems knowing about action level exceedances sooner so they can react appropriately and notify the public sooner.

Regarding schools and child-care facilities, MassDEP will continue our proactive efforts on our voluntary Lead Contamination Control Act (LCCA) program. This program provides educational information and assistance to 3,100 Early Education and Care Programs and 3,400 K-12 schools/facilities covered by the LCCA. Every five years, MassDEP requests updated information from the administrators of these facilities about lead and copper monitoring and remediation efforts at their facilities. MassDEP LCCA partners include MA Department of Public Health (DPH), MA Department of Elementary and Secondary Education (ESE), MA Department of Early Education and Care (EEC), the United States Environmental Protection Agency (U.S. EPA) and Public Water Suppliers. In addition, under MassDEP's drinking water regulations, PWSs are required by MassDEP to include two samples each LCR monitoring period from local schools and/or childcare facilities in their lead monitoring plans, as additional sample sites, over and above the required number of samples. The school or childcare samples are used by MassDEP and the local water supplier to initiate education, technical assistance and outreach to the local school or childcare facility district on the lead and copper reduction program. Information on MassDEP LCCA program is available at <http://www.mass.gov/eea/agencies/massdep/water/drinking/lead-and-other-contaminants-in-drinking-water.html#8>.

Thank you for this opportunity to discuss the LCR implementation in Massachusetts. We look forward to the continued collaboration with EPA and other partners on improved implementation of regulations and other programs to strengthen our safe drinking water programs. If you have any questions about our program, please feel free to contact Yvette dePeiza, Drinking Water Program Director, at (617) 292-5857 or yvette.depeiza@state.ma.us.

Sincerely,


Martin Sunberg
Commissioner

cc: Matthew Beaton, Secretary, Massachusetts Executive Office of Energy & Environmental Affairs
Monica Bharel, Commissioner, Massachusetts Department of Public Health
Mitchell Chester, Commissioner Massachusetts Department of Elementary and Secondary Education
Fred Laskey, Executive Director, Massachusetts Water Resources Authority
Wayne Thomas, Board of Certification of Drinking Water Supply Facilities
H. Curtis Spalding, Regional Administrator, US EPA Region 1