



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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May 4, 2023

IMPORTANT NOTICE

Re: Lead and Copper Rule (LCR) Program Updates and Training

Attention: Public Water Suppliers subject to the LCR

The Massachusetts Department of Environmental Protection, Drinking Water Program (MassDEP/DWP) is making a number of Lead and Copper Rule program updates as a result of the recent EPA LCR National Enforcement and Compliance Initiative (NECI) inspections and the need to prepare public water systems for the upcoming Lead and Copper Rule Revisions (LCRR).

Please see the attached Appendix for more information on the EPA NECI inspections.

MassDEP/DWP has updated the following documents:

1. The LCR sampling sites and sampling plan form;
2. The Certification forms for Consumer Notices, Public Notice and Public Education; and
3. The LCR homeowner result template.

In addition, MassDEP/DWP will now survey any PWS that reports a Lead Action Level Exceedance (ALE) on their plans for compliance with the LCRR.

1. LCR Sampling Sites and Sampling Plan Form Update

The revised form (LCR-LOC-MOD) does the following: (See attached example)

- Allows for verification of sampling sites to ensure PWSs are using updated information including updated material evaluations.
- Provides an electronic format that will reduce error and improve response time.
- This updated format is in line with what will be required under the upcoming LCRR.

This information is available in alternate format. Please contact Melixza Esenyie at 617-626-1282.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

LCR Sampling Site and Sampling Plan Form Update Training.

A video training on this form is available at

<https://youtu.be/hJd9MAY8CGA>.

In addition, a webinar using the video training will be held on May 17, 2023 from 10 a.m. to 11 a.m. Please register at

<https://us06web.zoom.us/join/zoom-join?secret=7383838383&pwd=7383838383>

Training Agenda

0.5 TCHs

Introduction/Overview

LCR sampling plan and sampling change request form updates

LCR sampling plan and change form - video training

Q&A

Adjourn

Prior to the webinar, please review the attached Lead and Copper Sampling Locations – Modification/Approval Request [Example Form](#) (LCR-LOC-MOD) and the pre-recorded video.

2. Consumer Notices, Public Notice and Public Education Certification Form Updates

The Certification forms for Consumer Notices, Public Notice and Public Education have been updated to remind PWS of the federal and state record keeping requirements. All LCR records are required to be maintained for 12 years. See updated forms at

<https://www.mass.gov/lists/lead-copper-forms-templates>.

3. LCR Compliance Sampling Program Homeowner Results Form Update

A date field was added to the form to capture the notification date of the LCR sample results taken at households. This form is located at <https://www.mass.gov/doc/lcr-compliance-sampling-program-homeowner-results/>.

4. Survey PWS with Lead ALE

After an LCR ALE, DWP will send the PWS a LCR Capacity and Compliance questionnaire on actions the PWS is or may be taking to stay in compliance for the foreseeable future. The purpose of the survey is to collect information on the PWS plans and needs and connect the PWS with appropriate technical assistance (TA) to ensure the system will be prepared for the LCRR and is taking advantage of any available technical assistance and funding to improve its capacity.

The survey will ask questions in the following areas, as applicable:

- a) PWS Actions taken after the Lead ALE
- b) PWS preparations for the upcoming LCRR activities required after an ALE
- c) Lead Service Lines (LSL)
- d) PWS LSL Removal Incentive Programs and Homeowner Refusal of LSL Replacements

Other Available “Getting Ready for LCRR” Resources

- **Service line inventory:** PWSs should start to develop their service line inventories using the comprehensive MassDEP service line inventory spreadsheet for the LCRR located at <https://www.mass.gov/media/2480901>.
- **Crowdsourcing App for homeowners to help identify LSL:** Please remember that the DWP developed a crowdsourcing application to assist both consumers and PWS to identify lead service lines. The App is a web-based tool for consumers to assist in the identification of LSLs and is located at <https://app.smartsheet.com/b/form/f9ee39b7972f443ca63e8b936cd7f92b>. To apply to use the app follow the instructions located at [ma-lsli-app-instructions.pdf](https://www.mass.gov/doc/ma-lsli-app-instructions.pdf) | [Mass.gov](https://www.mass.gov).
- **Outreach Tool kit for Crowdsourcing App:** For systems already using the Crowdsourcing App, the DWP developed an outreach toolkit (attached) where you can find ready-to-use social media posts with images, postcards, and informational infographics. The toolkit is located at <https://www.mass.gov/doc/lcrr-service-line-inventory-public-outreach-toolkit/>.
- **Certification form for approval for PWS that claim no LSL, galvanized requiring replacement (GRR) or unknown service lines:** To start preparing for the LCRR, the DWP has developed a certification form for PWS without LSLs, GRR or unknown service lines. If a PWS can demonstrate and certify that it has no LSLs, no GRRs and no service lines of unknown material, the PWS may complete and submit the LCRR-NONLSL-CERT form to MassDEP for review and approval. The form is located at <https://www.mass.gov/media/2588731/>. If the LCRR-NONLSL-CERT is approved by MassDEP the PWS will not be required to make the inventory publicly accessible on-line and provide routine inventory updates to the State or to the public. However, the PWS will still be required to post a statement NO LSL Statement in the CCR as applicable. You can find the NO LSL Statement template at <https://www.mass.gov/doc/lcrr-no-lead-service-lines-statement-template/>.
- **Guide on initial LCRR monitoring for PWS on current LCR reduced monitoring:** Under the LCRR, PWS will need to start standard LCRR sampling in 2025. If your system is currently on reduced monitoring, please see the LCRR Initial Monitoring Guide located at <https://www.mass.gov/doc/monitoring-frequency-guide-for-systems-subject-to-the-lcrr/> to determine if your PWS is eligible to continue on a reduced schedule.
- **Funding Opportunities for PWS to Address Lead**
 1. **Lead Service Lines Inventory and Replacement Plan Grant Program:**
MassDEP is accepting Lead Service Lines planning grant applications, on a rolling basis, while funding is available. Eligible activities for these planning programs include:
 - Lead Service Line Inventory - Completing a comprehensive Lead Service Line Inventory for both public and private portions that will be made publicly available. This comprehensive inventory project could include activities such as inspecting physical service lines, compiling paper records, initiating a consumer lead service line identification program, among others.
 - Lead Service Line Replacement Program - Preparing a Lead Service Line replacement program for the PWS that complies with the LCRR.
To apply to this grant, go to [Lead Service Line Planning Program](https://www.mass.gov/doc/lead-service-line-planning-program/) | [Mass.gov](https://www.mass.gov).
 2. **Assistance for Small Community Water Systems and Non-Transient Non-Community Systems - Lead Service Line Planning Program**

This program is available for PWS serving a population of less than 10,000. MassDEP will use the \$1.3 million of the set-asides from the DWSRF Lead Service Line Grant to contract with a qualified technical assistance provider to complete eligible planning projects working with the PWS.

Application information for this program will be available soon. For inquiries about this program please send an email to program.director-dwp@mass.gov (subject: LCRR-Small Systems Grant).

- MassDEP LCRR website: <https://www.mass.gov/info-details/lead-and-copper-rule-revisions>
- MassDEP Frequently Asked LCRR Questions: <https://www.mass.gov/doc/frequently-asked-questions-about-the-lead-and-copper-rule-revisions-lcrr>.

Thank you for all your continued work to provide safe drinking water and protect public health throughout the Commonwealth. If you have any questions on this information, please contact the Drinking Water Program at program.director-dwp@mass.gov. Subject LCR.

Sincerely,



Yvette DePeiza
Director, MassDEP Drinking Water Program
MassDEP

Attachments

- Copy of the Notice with EPA NECI Inspections Attachment
- Example of form LCR-LOC-MOD
- Outreach Tool kit for Crowdsourcing App
- Form LCRR-NONLSL-CERT

Cc: DWP Chiefs

Y/DWPArchive/LCR Updates/ 2023/05/04

Attachment EPA NECI INSPECTIONS

Background on NECI inspections

With cooperation between the Environmental Protection Agency (EPA) and Primacy Agencies (states), the EPA National Enforcement and Compliance Initiative (NECI) **using a broad range of compliance assurance approaches, ranging from technical assistance to formal enforcement**, promotes greater compliance with the Safe Drinking Water Act (SDWA) requirement to address risks at Community public water systems (CWSs) that may pose a yet to be determined threat to public health. See EPA NECI at <https://www.epa.gov/enforcement/national-compliance-initiatives>

EPA's Office of Enforcement and Compliance Assurance (OECA), the Office of Water (OW), Regional Enforcement and Compliance Assurance Divisions (ECADs), and Regional Water Divisions worked in cooperation with Primacy Agencies like the Massachusetts Department of Environmental Protection (MassDEP) to advance the common mission of ensuring public health protection. The goals of the EPA NECI include:

Goal 1. Ensure clean and safe water by improving compliance at Community PWSs regulated under the SDWA.

Goal 2. Develop a sustainable drinking water compliance assurance and enforcement program in every EPA Region to support our shared accountability with Primacy Agencies in ensuring clean and safe water and to better serve all Americans.

The measures of the NECI include:

Measure 1. Reduce by 25% the number of CWSs out of compliance with health-based standards.

Measure 2. Reduce by 25% the number of CWSs in priority status (using the Enforcement Targeting Tool (ETT)) due to persistent noncompliance with monitoring and reporting requirements.

Measure 3. Evaluate and address 50% of CWSs serving over 10,000 people to ensure compliance with National Primary Drinking Water Regulations.

Measure 4. Over the course of the NECI, increase to 50 the number of EPA personnel with credentials for conducting drinking water inspections.

It is EPA's intent to inspect a number of CWSs serving more than 10,000 in population for specific SDWA program areas each year.

In 2022, the Environmental Protection Agency (EPA) NECI team inspected several Massachusetts' CWSs serving more than 10,000 persons for LCR compliance. In 2023 EPA will again inspect several CWSs serving more than 10,000 persons for LCR compliance. **The EPA NECI inspections allows EPA to use a broad range of compliance assurance approaches, ranging from technical assistance to formal enforcement**, to evaluate PWS for compliance with SDWA rules. For information on the EPA NECI see <https://www.epa.gov/enforcement/national-compliance-initiatives>

What happened with the 2022 NECI LCR Inspections in MA?

EPA selected the LCR program for compliance evaluation and inspected 12 CWSs serving more than 10,000 in population to assess the system's compliance with the SDWA LCR, and other applicable regulations, including Massachusetts Drinking Water Regulations, 310 CMR 22.00. MassDEP/Drinking Water Program (DWP) was notified in advance of the inspection and PWSs identified for NECI inspection were provided with a short period of notification before the inspection and provided with the following list of information to be reviewed during the inspection:

1. Existing Materials Survey used to create the lead and copper monitoring sampling pools (e.g., work orders, home surveys, permits, interviews with senior personnel, and/or other documentation to identify the appropriate LCR sampling sites)
2. LCR Structure Tiering Worksheets
3. Approved lead and copper monitoring plan (3 years)
4. Lead and copper monitoring/analytical results, including chain of custody forms completed by customers, lab personnel, and/or PWS personnel) (3 years)
5. Tap sampling instructions provided to customers (3 years)
6. 90th percentile calculations (3 years)
7. Water quality parameter test results (if collected and analyzed)
8. Consumer notices of lead tap water monitoring results (3 years)
9. Consumer Confidence Reports (3 years)
10. Sampling Chain of Custody
11. Public Education notices and certifications (3 years)
12. Public Notifications (if applicable) delivered and certification (3 years)
13. Written SOPs used by your system to administer the LCR program
14. Water Quality Parameter analysis/Excursion reports
15. Lead service line replacement activities/reports (last two reports).

NECI Inspection follow-up Steps

- **In accordance with the NECI, EPA issued a report to the PWS and MassDEP/DWP for each inspection and also issued a federal notice of violation (NOV) to the PWS for identified violations. MassDEP/DWP was copied on all correspondence.** The EPA NOV was issued pursuant to Section 1414(a) of the SDWA, 42 U.S.C. § 300g-3(a) and provided MassDEP, as the primacy agency, the opportunity to work with the PWS to resolve the violations. EPA encouraged the PWS to contact the Director of the MassDEP Drinking Water Program, at their earliest convenience. If after 30 days of receipt of the NOV MassDEP did not begin an appropriate enforcement action, EPA was authorized to issue an administrative order under Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), or commence a civil action under Section 1414(b) of the SDWA, 42 U.S.C. § 300g-3(b), which may include penalties, requiring the PWS to comply with the cited requirements.
- **MassDEP reviewed the EPA NOV and within 30 days of receipt issued MassDEP's Notices of Noncompliance and Compliance Schedule Approval (NONCSA) for any identified violation of the Massachusetts LCR.**
- **In addition to following up on the specific EPA NOVs, MassDEP/DWP used the lessons learned from the NECI inspection to initiate actions to prevent similar LCR violations from happening in the future and to prepare systems for the upcoming LCRR. In the**

upcoming weeks, PWSs subject to the LCR will be receiving a detailed letter that explains the changes and updates coming to the program.

NECI 2022 Inspection results/violations:

As a result of EPA's inspections, the following LCR violations were identified during the inspections and resulted in enforcement:

- Failure to sample sites that meet the required tier classification of the LCR. Therefore, the PWS may not have sampled the required number of sites.
- Failure to follow Chain of Custody requirements when sampling for lead and copper.
- Failure to maintain updated materials evaluation.
- Failure to maintain documentation that consumer tap notification was provided to consumers.
- Failure to properly provide and maintain documentation of Consumer Notice to all program participants.
- Failure to include on the CCR information on the number of sampling sites exceeding the action level.

Lesson Learned from the 2022 LCR inspections and what to expect if your CWS serving more than 10,000 in population is identified for an EPA NECI survey in 2023.

1. Review the requested information when EPA contacts your system to initiate the inspection.
2. Review all files and Standard Operational Procedures in advance of the inspection.
3. Review your current and past sampling plans and verify that the listed materials are accurate. e.g., If you have plumbing or site information on-line, it should be dated, and the date should be the same as in your updated service line materials evaluation.
4. Remember, **records retention for LCR is 12 years**. Please remind your staff about this requirement and include it in any training for new staff.
5. Have all your files and records in order. Documentation is a key component of the LCR.
6. Pay special attention to the Chain of Custody and your sampling pool and have available any documentation of customer refusal to participate in sampling or to remove lead service lines.
7. Provide the most knowledgeable and senior staff to participate in the inspection.
8. Ensure any water quality testing equipment, such as pH meters, are properly calibrated, maintained, and include records of quality controls.
9. If unsure of answers during the inspection, PWS representatives should request time to confer with supervisors and others to provide the most accurate response.