



ENERGY AND ENVIRONMENT CABINET

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Charles G. Snavelly
Secretary

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Mr. Joel Beauvais
Deputy Assistant Administrator for Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. 4101M
Washington, DC 20460

Dear Mr. Beauvais,

Thank you for the opportunity to discuss Kentucky's experience with implementing the Safe Drinking Water Act, generally, and specifically our experience with the implementation of the Lead and Copper Rule (LCR).

A primary mission of the Kentucky Department for Environmental Protection (DEP) is to ensure that safe and reliable drinking water is delivered to the citizens and businesses of the Commonwealth. Kentucky's public water systems consistently provide high quality, safe water to the public in compliance with the Safe Drinking Water Act to an estimated greater than 95% of the citizens of Kentucky.

Kentucky is a rural state, predominated by small and medium size public water systems where many of the communities have economic challenges. Because nearly all Kentuckians are on public water, Kentucky's public water systems have extensive distribution system infrastructure that must be monitored and maintained. Of Kentucky's 409 community public water systems, 52% serve fewer than 3,300 people. Some of these communities are experiencing flat or negative population growth. Many of these systems are challenged to sustain their drinking water infrastructure while facing increasing costs and declining revenues. These communities may also face other environmental and economic challenges such as compliance with the Clean Water Act (CWA).

In light of these challenges, since 2007 the agency has periodically worked with an informal drinking water advisory workgroup, made up of representatives of small, medium and large public water systems, the Kentucky/Tennessee AWWA, the Kentucky Rural Water Association, the Kentucky Municipal Utilities Association, the Kentucky League of Cities, the Kentucky Association of Counties, the Kentucky Association of Area Development Districts, the Kentucky Rural Community Assistance Partnership, ACEC of Kentucky, the Kentucky Public Service Commission, the Kentucky Division of Compliance Assistance, the Kentucky Division of Plumbing, and the Kentucky Department of Public Health. This informal group has worked with the agency on regulation development and implementation, engineering and technical challenges relating to treatment, engineering specifications for water line extensions and

distribution system infrastructure, capacity development, data submittal protocols, and other important efforts related to drinking water. One of the results of these efforts has been improved compliance with the increasingly more complex requirements of the Safe Drinking Water Act (SDWA).

In light of the circumstances regarding lead occurrence in the drinking water in Flint, Michigan, the agency convened an additional stakeholder workgroup in March 2016 to evaluate our current program oversight and how best to ensure that a similar situation does not occur in Kentucky. Experts from a broad spectrum of Kentucky's water infrastructure have been asked to voluntarily participate in this workgroup, whose main focus will be to conduct a comprehensive review of Kentucky's implementation of the LCR and provide input to the Division of Water. Because management of a community public water system today is a complex operation that requires balancing a number of the local community's local public health challenges, seeking input from an advisory group of local operators and experts is essential to developing solutions. This collaborative effort is both proactive and necessary.

The agency anticipates that the efforts of the workgroup will result in Kentucky strengthening our current program oversight to further ensure that the LCR is being properly implemented. This workgroup was provided your letter of February 29, 2016. They also have been provided the report and recommendations of the National Drinking Water Advisory Council (NDWAC) and the NDWAC's Lead and Copper Working Group. Primary among the Kentucky workgroup's tasks is to identify any potential enhancements to the implementation of the LCR and to provide input to the agency on improvement opportunities that they agency may pursue. Attached is a copy of the invitation letter to the workgroup members. The scope of work outlined in that letter addresses the concerns raised in your letter regarding appropriately addressing lead action level exceedances, optimizing corrosion control, providing effective public health communication and outreach, and evaluating approaches to managing infrastructure, including lead service lines.

The agency recognizes that the public health concerns in Flint were primarily the result of the failure to conduct appropriate and adequate corrosion control. It is critically important that federal and state drinking water agencies continue to focus on this primary challenge, to ensure that the appropriate guidance is available to water systems and that protocols are followed at public water systems via appropriate oversight provided by state programs and EPA. Given the practical reality that the removal of lead from plumbing is years away, the need for a continuous focus on effective corrosion control is essential.

The agency has initiated near-term actions to ensure the public that we are appropriately addressing risks from lead in drinking water. For example, the agency has made publicly available all of the lead monitoring data for the past four years and provided on our website a summary of the results (attached) of the monitoring data and the LCR compliance history in Kentucky over that period.

As stated above, the workgroup will be reviewing the agency and water systems protocols and procedures for implementing the LCR, as well as EPA LCR implementation guidance. This includes sampling and corrosion protocols. The workgroup will be evaluating methods to ensure the public has transparent access to LCR sampling protocols, Tier I site locations, and LCR compliance sampling results. The workgroup is also evaluating how water systems currently make LCR compliance sample results available to homeowners and other consumers.

Additionally, both the agency and the workgroup are reviewing the LCR and applicable guidance regarding the obligations of public water systems to provide an inventory of their infrastructure and provide updates regarding materials occurring in that infrastructure, including lead service lines.

The agency shares EPA's interest and commitment in this issue and its efforts to assist states and water systems with implementing the LCR, including EPA's guidance on various related issues, including

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sampling guidance, corrosion control guidance, as well as its efforts related to data and information management.

The agency agrees with EPA that more can be done to ensure that adequate and sustained investment in drinking water infrastructure, particularly in communities that are challenged to sustain existing infrastructure. In that light, the agency encourages EPA to take a systematic approach in assessing and managing the risks from lead within the distribution system. The fiscal impact of rule changes, for example, on these systems and their customers must be considered prior to commencing new and unfunded or under-funded initiatives.

With respect to transparency, the agency agrees that making drinking water quality data information available sooner and more transparent to the public and especially affected families, is important and necessary to protect public health and to sustain the public's confidence in drinking water systems. More can be done locally and by state programs, especially given the tools of modern communication. The agency will be working with public water systems to develop tools for communicating information to a broad diversity of customers and public audiences. The agency strongly encourages EPA to fully commit to completing and bringing on line a modern drinking water data system (i.e. SDWIS Prime) that provides for timely, electronic submittal of error-free compliance data that will be transparently available to the public.

We appreciate the opportunity to inform you about Kentucky's ongoing efforts to ensure the LCR is being properly implemented and how we may improve upon those current efforts. We are aware that EPA recognizes that states and water systems are fully committed to providing safe drinking water and to being transparent with information about the quality of drinking water. We look forward to sharing with you the results of the efforts of our ongoing actions.

If you have any questions, please do not hesitate to contact Peter Goodmann, Director, Division of Water, at (502) 564-3410 ext. 4012 or reach him at Peter.Goodmann@ky.gov.

Sincerely,



R. Bruce Scott, Commissioner
Department for Environmental Protection