



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

April 1, 2016

Joel Beauvais  
Deputy Assistant Administrator  
U.S. EPA Headquarters  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue NW (4101M)  
Washington, DC 20460

Dear Mr. Beauvais:

Protecting public health and ensuring the safety of public drinking water is a top priority in Ohio. The State of Ohio is a national leader in having programs in place to ensure safe drinking water, including our nation-leading actions to protect the public from toxins associated with harmful algal blooms (HABs) and lead. Ahead of federal action, Ohio will be the first state in the country to have rules requiring public water systems to monitor for cyanotoxins from HABs and provide public notification if established action levels are exceeded. In addition, Ohio is proposing new actions public water systems must take to warn and advise the public if lead levels are too high.

Ohio is addressing gaps in the flawed federal lead and copper rule (LCR), including procedural changes to ensure we not only meet but far exceed the requirements of the federal rule. Governor Kasich also has just announced legislation establishing stringent timelines for water systems to provide consumer notices and inform the public of lead levels backed by administrative penalties. The legislation also establishes new funding mechanisms to help communities replace lead water lines and conduct corrosion control studies, and help schools replace old drinking fountains and other lead-containing fixtures. For your reference, I have attached a copy of a fact sheet summarizing key elements of the legislation and funding programs.

On February 29, 2016, you sent me a letter asking questions on how Ohio implements the LCR. My response should assure you that Ohio has a robust program and has taken steps to fill the gaps left by the current LCR.

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

The Ohio Drinking Water Program completed a comprehensive review of operating procedures in early February 2016 to ensure that, at a minimum, Ohio meets the requirements of the LCR and applicable EPA guidance. The Drinking Water Program also adopted interim operating procedures in February that far exceed the federal LCR in making compliance determinations and ensuring timely notification to the public of sampling results and when education materials are to be

provided (attached). In March, the Drinking Water Program conducted a Kaizen event to ensure consistent and timely implementation of the LCR and guidelines. This event included Drinking Water Program management and staff from Ohio EPA Central Office and all district offices. It included a comprehensive critique of every step of implementing the rule and resulted in further streamlining of standard operating procedures to ensure Ohio's implementation of the LCR exceeds federal requirements.

Last, and most significant, the legislation Ohio proposed will go well beyond those in the federal LCR to protect public health.

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

Ohio EPA staff provide technical assistance, review, comment on, and ultimately approve corrosion control plans for water systems. I understand that U.S.EPA just issued new guidance on corrosion control optimization. This guidance is welcome as previous federal guidelines are more than 20 years old and states and public water systems have had to make decisions where no clear guidance or requirements were provided by the LCR.

Ohio EPA recently modified its sampling protocols in accordance with the February 29, 2016, memorandum from Dr. Peter Grevatt, Director, Office of Ground Water and Drinking Water (OGWDW). These revised procedures were mailed to every public water system required to monitor under the lead and copper rule on March 10, 2016. Prior to this, Ohio EPA has followed existing federal guidelines and generally accepted protocols for collecting LCR samples.

Ohio EPA sample instructions can be found on our website at:

<http://epa.ohio.gov/ddagw/reporting.aspx#130597507-lead-and-copper>

**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).**

Ohio EPA maintains LCR sampling protocols and other guidance related to the LCR on its website at: <http://epa.ohio.gov/ddagw/reporting.aspx#130597507-lead-and-copper> and has done so for a number of years.

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

- **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.**

The legislation recently proposed by Governor Kasich reinforces existing requirements for materials inventories by requiring all systems to identify and map areas of their distribution systems that are known or are likely to contain lead service lines or contain buildings



served by the system with lead piping, solder or fixtures. Systems will be required to submit a copy of the map to Ohio EPA and we will work with water systems to ensure this information is posted on state and local websites. Public water systems also will be required to submit a list of their tier I sample locations, including contact information for the owner and occupant of each sampling site, so that Ohio EPA can notify consumers of their test results if the water system fails to do so within the new timelines.

Several of Ohio's public water systems are exemplary in their efforts to provide information to their citizens and serve as models for other systems in Ohio and across the country. For example, the City of Cincinnati recently upgraded its website to provide information to its customers. The site includes a searchable database for people to see if they have lead service lines, a video on how to check to see if they have a lead line coming into their home and other information on how to reduce their risks of lead exposures. This tool can be found at:

<http://www.cincinnati-oh.gov/water/lead-information/>

- ***LCR compliance sampling results collected by the system, as well as justification for invalidation of LCR samples.***

Ohio EPA maintains an interactive map on its webpage where the public has easy access to information on all public advisories issued by public water systems, including lead action level exceedances. A link is provided below. We do not currently post individual sample results. We request that U.S. EPA modify the Safe Drinking Water Information System (SDWIS) and Drinking Water Watch to accommodate listing of individual LCR sample results to support states providing this information to the public.

[http://epa.ohio.gov/ddagw/pws/advisory\\_map.aspx](http://epa.ohio.gov/ddagw/pws/advisory_map.aspx)

5. ***Enhance efforts to ensure that residents promptly receive lead sampling results from 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.***

Even before the recent introduction of legislation to tighten timeframes for providing residents information on lead testing, Ohio EPA implemented new procedures to ensure that notification of lead results exceed federal regulations. The Agency recently sent a letter to all public water systems outlining expectations that they:

- provide consumer notice of any individual sample locations with results greater than 15 micrograms per liter ( $\mu\text{g/L}$ ) within two business days after the receipt of the laboratory results;
- issue a news release within 24 hours of an ALE determination and distributing written public education materials no later than 30 days; and

- inform the county health district by the next business day of any exceedances and provide information on the availability of health screenings or blood lead level testing to their customers.

Additionally, the legislation proposed by Governor Kasich codifies requirements for both laboratories and public water systems in order to ensure timely public notice and education. It authorizes Ohio EPA to provide that public information and issue administrative penalties if the water system fails to meet the new deadlines. Specifically, this includes:

- laboratories completing their analysis within 30 business days and providing those results to the water system operator and Ohio EPA by the next business day;
- water systems providing all homeowners their test results within two business days of receiving results from the laboratory;
- water systems public noticing an ALE within two business days and completing public education no later than 30 days; and
- water systems providing information on the availability of water testing, health screenings and blood lead level testing to their customers.

### **Additional Information and Request for U.S. EPA Near-term Actions**

States have the primary responsibility for implementing and enforcing the Safe Drinking Water Act. Your February 29, 2016, letter indicates that U.S. EPA is tasked with oversight of state efforts, however, you fail to acknowledge that U.S.EPA also has responsibility for conducting research, establishing meaningful national regulations, and providing timely guidance to assist states and public water systems in implementing those regulations consistently across the country. I'm concerned that veiled behind your statements of shared federal and state commitments and responsibilities is an attempt to deflect the failures of the long-neglected federal LCR to the states. This, if true, is inappropriate as many states like Ohio have and are leading the efforts to protect public health and drinking water despite federal failures to have a clear and protective LCR program.

It is not just the recent events that have triggered discussions on the inadequacy of the LCR. The shortcomings of the federal rule are clear and have been widely known for decades. It is clear to all now that the LCR is a treatment technique rule and does not prevent exposures to lead nor is it adequate in minimizing exposure to our most sensitive populations by addressing lead in schools.

Your letter indicates U.S.EPA is working on revising the LCR and that your current expectation is to propose revision in 2017, with many more years before the rule is finalized. This is too long. I urge you to use the recommendations of the National Drinking Water Advisory Council (NDWAC) and any tools available to you to quickly revise and set clear expectations on this rule that focus first on public health protection, not just public water system performance.

In addition to the NDWAC recommendations, I also request U.S. EPA consider some additional near-term actions I believe are needed to protect public health.



- Work with the Center for Disease Control (CDC) to establish consistent language for public education material, which includes addressing young children and pregnant women. Ohio recently adopted the more proactive CDC language specifically recommending young children and pregnant women use alternative or filtered water if the lead action level is exceeded.
- Re-evaluate how to determine lead sampling locations; in particular, the omission of schools from Tier 1 sampling locations. Governor Kasich's legislative proposal provides funding to support schools testing for lead and replacing problematic drinking water fountains and fixtures. U.S. EPA guidelines need to support additional sampling at schools.
- Provide clear guidance on using consumer-requested sampling and other special purpose sampling to assess corrosion control efforts. Current guidance discourages systems from collecting these samples. Additional guidance is also needed on using multiple samples from the same location.
- Work with CDC and other research and public health institutes to establish a clearer link between lead levels in water and increased blood lead levels.

While Ohio EPA has a strong and productive history working with Dr. Peter Grevatt, Director OGWDW, and his staff to address a number of important drinking water issues including lead, a comprehensive overhaul of the program is needed immediately. Ohio is moving quickly to do this and we are committed to working with U.S. EPA to improve the LCR. We believe many of the actions we are taking in Ohio can serve as examples as to how that can be accomplished.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig W. Butler", with a long horizontal flourish extending to the right.

Craig W. Butler  
Director