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March 29, 2016

Mr. Joel Beauvais
Deputy Assistant Administrator
United States Environmental Protection Agency Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 410M
Washington, DC 20460

Re: Lead and Copper Rule Implementation
New Mexico Environment Department

Dear Mr. Beauvais:

Thank you for your letter dated February 29, 2016 sharing information on the United States Environmental Protection Agency's (USEPA) current approach to Lead and Copper Rule (LCR) implementation. New Mexico (NM) shares the USEPA's commitment to protecting public health and ensuring the safety of NM's drinking water and looks forward to a continued collaboration in strengthening our drinking water programs, particularly in light of the Gold King Mine Spill and the Flint, Michigan drinking water problems.

Your letter requested information on the actions being taken in five specific areas relating to LCR implementation. Each area is addressed below.

1. Confirm that the state's protocols and procedures for implementing the LCR are fully consistent with the LCR and USEPA Guidance.

The New Mexico Environment Department's (NMED) Drinking Water Bureau (DWB) protocols, procedures, and guidance documents are generally consistent with the LCR and USEPA Guidance. A more in-depth review of all LCR protocols and procedures is being conducted by our newly established LCR Administrator. Any necessary updates will be made during the review process to ensure consistency with LCR and USEPA guidance documents.

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

The LCR sampling protocols used by NMED for sample collection and training purposes are consistent with USEPA guidance, with one exception: NMED procedures recommend a pre-flush of each sample tap for 5-10 minutes prior to letting the water sit in the pipes for the minimum 6 hour period. This recommendation was included to prevent false-positive action level exceedences from water that may have sat in pipes for excessive amounts of time. USEPA's 2016 Revised Homeowner Tap Sample Collection Procedures specifically state that the collector should not do any pre-flushing prior to letting the water sit for a minimum of 6 hours. Due to the fact that the sitting time could be excessive in some cases and could result in false-positive action level exceedences, NMED requests that USEPA clarify the procedures to more clearly define pre-flushing requirements and to establish clear minimum and maximum time periods for the water to have been sitting in the pipes prior to collecting a LCR sample.

Corrosion control procedures are being reviewed and updated or developed and the DWB will ensure consistency with the LCR and USEPA guidance through the review process.

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

The LCR sampling protocols and guidance for identification of Tier 1 sites is currently, and has historically, posted to the DWB's webpage: (<https://www.env.nm.gov/dwb/index.htm>). These materials are also provided at training events or upon request.

The DWB is in the process of revising the LCR webpage: (https://www.env.nm.gov/dwb/contaminants/lead_and_copper.htm) to include all items suggested by USEPA to improve transparency and provide all relevant information and resources in one easily accessible location. This includes information on lead sampling results, which are provided through the NM Drinking Water Watch link that allows the public access to all data and information in NM's Safe Drinking Water Information System, as well as information on health risks associated with lead and how to abate these risks.

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 website and/or on your agency's website:

- a. The materials inventory that systems were required to complete under the LCR, including the location of lead service lines, together with more updated inventory or map of lead service lines and lead plumbing in the system; and**

The DWB currently relies on the public water systems to provide and share materials inventory and location/map of service lines information with their

customers. The DWB is exploring ways it can partner with larger systems to gather and share pertinent information pertaining to these LCR requirements.

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

All Safe Drinking Water Act compliance sampling results are available to the public via the NM Drinking Water Watch link (<https://dww.water.net.env.nm.gov/DWW/>) that allows the public access to all data and information in NM's Safe Drinking Water Information System. Any samples that are invalidated have an associated justification.

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

The public water systems are responsible for notifying homeowners of lead sampling results and the associated risks to health and abatement information. Implementing the public notification and education requirements for the LCR is challenging due to lack of information on the specific date on which the system was notified of the sampling results and also due to the lengthy holding times allowed by the LCR analytical methods. Managing and enforcing these schedules is complex and can be very difficult without a mechanism to track the receipt date. DWB implemented a new process about one year ago to try and obtain this information more readily by requiring it to be submitted with the LCR Public Notice Certification Form; however, this aspect of LCR implementation remains difficult to track and enforce with limited public water system supervision resources. DWB hopes that implementing the LCR Administrator (described below) and having one person manage these data may streamline some of these LCR activities and improve implementation.

Additional near-term actions taken or being considered by the NMED DWB include:

Direct Technical Assistance – The DWB provides technical, managerial, and financial assistance to public water systems to help maintain or return a system to compliance. This assistance is provided directly by DWB staff or through third-party assistance providers under contract with the DWB. This assistance is provided at no cost to the public water systems and is funded through the Drinking Water State Revolving Fund (DWSRF) Set-Asides. As resources allow, the DWB will offer and provide assistance to those systems with current action level exceedences.

LCR Rule Administrator - Following a major reorganization in 2014, the DWB began considering a shift in Public Water System Supervision (PWSS) implementation strategies, and in 2015 started transitioning to a "Rule Administrator" regulatory oversight implementation strategy for the PWSS Group to maximize existing limited resources. Previously, individual PWSS Compliance Officers (CO) oversaw all aspects of

compliance for all of the systems to which they were assigned, often overseeing up to 120 systems each. SDWA Rules are each individually very complex and expecting each CO to comprehensively understand and implement each rule for all of their systems was inefficient and resulted in inconsistent implementation of the regulations. Establishing Rule Administrators allows for more focused and consistent oversight of each Safe Drinking Water Act (SDWA) Rule and better service to public water systems. The DWB piloted the concept with the establishment of Surface Water Rule Administrator in July 2015, and followed with the Stage 2 Disinfection Byproduct Rule Administrator in February 2016, the Consumer Confidence Rule Administrator in February 2016, and the Lead and Copper Rule Administrator in March 2016. The DWB has already seen demonstrated improvements in the implementation of these rules and can more easily examine statewide trends to aid in prioritizing drinking water regulatory and assistance activities.

Public School Lead Sampling Project – DWB is exploring the idea of providing free lead drinking water sampling at public schools. DWB requested and received approval on March 20th to use federal DWSRF Set-Aside Local Assistance Capacity (10%) funds to pay for these samples. Logistics, sample selection criteria (school and location) and other sampling design parameters are being developed. In addition to providing a direct benefit to local NM communities, this project, if approved and implemented, could also reduce the unliquidated obligation (ULO) balance in the Local Assistance DWSRF Set-Asides and enable DWB to be better aligned with EPA's ULO Reduction goals and expected expenditure rates for DWSRF Set-Aside capitalization grants. The DWB is also considering expanding this free sampling to concerned citizens as part of this project; however, we want to make sure this project is fully vetted prior to implementation.

Partnering with NM Department of Health – The NMED DWB is collaborating with NM Department of Health to ensure that the two agencies are exchanging relevant information on the risks to public health associated with Lead exposure, especially among young children. The DWB will provide a link to the DOH's Childhood Lead Poisoning Prevention Program (<http://nmhealth.org/about/erd/eheb/clppp/>) and to any other resources as appropriate. This partnership will help ensure that customers at public water systems with action level exceedance can be informed and take appropriate actions to protect their health.

The NMED thanks you for the opportunity to share this information. Region VI Water Division staff are very supportive and helpful to NMED DWB in implementing the SDWA to ensure that public drinking water systems provide water that meets the requirements of the Safe Drinking Water Act and the NM Drinking Water Regulations. We look forward to a continued collaboration in the face of the many challenges such as the Gold King Mine Spill and the Flint, Michigan lead event that provide unfortunate reminders of the extreme importance of ensuring high quality services to the citizens we serve.

Sincerely,

Ryan Flynn, Secretary
New Mexico Environment Department

Cc: Peter Grevatt, Director
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