



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

The Honorable Shelley Moore Capito
United States Senator
Washington, D.C. 20510

Dear Senator Capito:

Thank you for your July 23, 2021 letter to the U.S. Environmental Protection Agency (EPA) Administrator Michael S. Regan regarding the recent discovery of elevated levels of lead in the drinking water of certain residences in Clarksburg, West Virginia.

Section 1431 of the Safe Drinking Water Act, 42 U.S.C. § 300i (SDWA) states that where there is an imminent and substantial endangerment to the health of persons, the EPA may take such actions as deemed necessary to protect public health. EPA has been collaborating with West Virginia Department of Health and Human Resources (WVDHHR) since June 30, 2021 when WVDHHR contacted EPA to advise the Agency of the elevated blood lead levels in some of the residents' children. WVDHHR requested EPA assistance on July 6, 2021 in getting the Clarksburg Water Board (the System) into compliance with the state's administrative order issued on July 2, 2021. There have been numerous calls between EPA and WVDHHR to ensure a coordinated response to this public health issue. EPA has also participated on multiple calls with Clarksburg Water Board (CWB) to provide guidance on compliance with their obligations under the orders.

In addition, EPA provides the following in responses to the questions raised in your letter:

- 1. Exercise immediate authorities, such as those available to the Administrator under Section 1442(d) of the Safe Drinking Water Act (SDWA), to assist with emergencies involving public water systems by providing grants to the System. If authorities under this section have not been invoked, then what authority has EPA used to provide assistance?*

EPA has clearly described the actions that CWB needs to complete to comply with the SDWA Order issued pursuant to Section 1431. We are pleased to also provide at your request a list of sources (attached) from which CWB can seek funding and other assistance. EPA's Office of Research and Development has made a water supply corrosion expert available to provide technical assistance to CWB. This expert has been on several conference calls with CWB and WVDHHR to provide advice on corrosion control treatment and the work needed to develop and implement a study to determine the optimal corrosion control treatment for CWB.



- 2. Collaborate with the State of West Virginia, including the WVDHHR, and the System to assist in complying with the Emergency Order, including efforts to coordinate sampling activities as well as provide general sampling assistance. If EPA is not presently working with the State and the System to provide sampling assistance, then how will EPA take action to provide support?*

You will be happy to know EPA has been actively and consistently collaborating with WVDHHR and CWB, offering technical guidance and expertise on all aspects of compliance with the Order, including sampling while carefully avoiding any violations of the Anti-Deficiency Act and the Federal Grant Cooperative Agreement Act. EPA, in conjunction with direction from the Center for Disease Control's Agency for Toxic Substances and Disease Registry (ATSDR), provided discretionary funding that is assisting the DHHR's Bureau for Public Health in setting up public child lead screenings with the Clarksburg Harrison County Health Department.

To assist CWB in its efforts, EPA has provided:

- an example of a recently completed sampling plan under the Lead and Copper Rule (LCR), a blank sampling plan template and instructions, and LCR guidance documents highlighting development of a sampling plan and a materials inventory;
 - technical input on appropriate sampling sites and methodology for sampling at customers' taps;
 - technical guidance on information gathering techniques CWB can use when customers request tap water sampling for lead so that CWB can efficiently develop a list of compliance sample sites based on the responses;
 - guidance about alternate methods to locate lead service lines as well as technical input highlighting the risks of partial lead service line replacement;
 - templates for consumer notifications of tap water lead test results, input into appropriate flushing times for consumers' taps, and cautionary guidance about use of over-the-counter drinking water lead test kits;
 - examples of customer notification guides to help residents identify if they have LSL on their property;
 - a corrosion control expert from our Office of Research and Development who continues to provide guidance directly to CWB on corrosion control;
 - comment to an auto-dialer message developed by CWB to notify its customers;
 - a list of laboratories in the tri-state area certified to analyze for lead in drinking water to widen the laboratories where samples are sent for analysis, in response to CWB's concern about lab capacity.
- 3. Provide bottled water and point-of-use filters to impacted residents served by the System. If EPA has not assisted in obtaining bottled water and point-of-use filters for impacted residents, then what help has EPA provided thus far?*

Section 1431 of the SDWA gives EPA authority to order those who caused or contributed to the endangerment to provide alternative water supply to the affected community. The burden to comply with the order falls on the respondent. EPA can and has supported CWB by providing technical support and expertise in all matters where CWB has sought assistance. It is not EPA's role to provide services to the recipient of an Agency enforcement action to assist the recipient in complying with that enforcement action.

Enforcement of the nation's environmental laws is an important component of EPA's mission to protect public health and the environment. EPA continues to work with CWB, their technical staff and attorneys to resolve this matter in the most expeditious manner possible.

If you have any questions, please do not hesitate to contact me or have your staff contact Chad Nitsch, Director, Office of Public Affairs, at 215-814-5434.

Sincerely,

for
Diana Esher
Acting Regional Administrator

Enclosure