UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

FEB 29 2016

Executive Director Alan Matheson
Utah Department of Environmental Quality
P.O. Box 144810
Salt Lake City, UT 84114-4810

Dear Executive Director Matheson:

There is no higher priority for the U.S. Environmental Protection Agency than protecting public health and ensuring the safety of our nation's drinking water. Under the Safe Drinking Water Act (SDWA), Utah and other states have the primary responsibility for the implementation and enforcement of drinking water regulations, while the EPA is tasked with oversight of state efforts. Recent events in Flint, Michigan, and other U.S. cities, have led to important discussions about the safety of our nation's drinking water supplies. I am writing today to ask you to join in taking action to strengthen our safe drinking water programs, consistent with our shared recognition of the critical importance of safe drinking water for the health of all Americans.

First, with most states having primacy under SDWA, we need to work together to ensure that states are taking action to demonstrate that the Lead and Copper Rule (LCR) is being properly implemented. To this end, the EPA's Office of Water is increasing oversight of state programs to identify and address any deficiencies in current implementation of the Lead and Copper Rule. EPA staff are meeting with every state drinking water program across the country to ensure that states are taking appropriate actions to address lead action level exceedances, including optimizing corrosion control, providing effective public health communication and outreach to residents on steps to reduce exposures to lead, and removing lead service lines where required by the LCR. I ask you to join us in giving these efforts the highest priority.

Second, to assure the public of our shared commitment to addressing lead risks, I ask for your leadership in taking near-term actions to assure the public that we are doing everything we can to work together to address risks from lead in drinking water. Specifically, I urge you to take near-term action in the following areas:

(1) Confirm that the state's protocols and procedures for implementing the LCR are fully consistent with the LCR and applicable EPA guidance;

(2) Use relevant EPA guidance on LCR sampling protocols and procedures for optimizing corrosion control;

(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);

(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:
    - 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; and
    - LCR compliance sampling results collected by the system, as well as justifications for invalidation of LCR samples; and

(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.

These actions are essential to restoring public confidence in our shared work to ensure safe drinking water for the American people. I ask you for your leadership and partnership in this effort and request that you respond in writing, within the next 30 days, to provide information on your activities in these areas.

To support state efforts to properly implement the LCR, the EPA will be providing information to assist states in understanding steps needed to ensure optimal corrosion control treatment and on appropriate sampling techniques. I am attaching to this letter a memorandum from the EPA's Office of Ground Water and Drinking Water summarizing EPA recommendations on sampling techniques. We will also be conducting training for state and public water systems staff to ensure that all water systems understand how to carry out the requirements of the LCR properly. Finally, we are working to revise and strengthen the LCR, but those revisions will take time to propose and finalize; our current expectation is that proposed revisions will be issued in 2017. The actions outlined above are not a substitute for needed revisions to the rule, but we can and should work together to take immediate steps to strengthen implementation of the existing rule.

While we have an immediate focus on lead in drinking water, we recognize that protection of the nation's drinking water involves both legacy and emerging contaminants, and a much broader set of scientific, technical and resource challenges as well as opportunities. This is a shared responsibility involving state, tribal, local and federal governments, system owners and operators, consumers and other stakeholders. Accordingly, in the coming weeks and months, we will be working with states and other stakeholders to identify strategies and actions to improve the safety and sustainability of our drinking water systems, including:

- ensuring adequate and sustained investment in, and attention to, regulatory oversight at all levels of government;
- using information technology to enhance transparency and accountability with regard to reporting and public availability of drinking water compliance data;
- leveraging funding sources to finance maintenance, upgrading and replacement of aging infrastructure, especially for poor and overburdened communities; and
- identifying technology and infrastructure to address both existing and emerging contaminants.

Thank you in advance for your support to ensure that we are fulfilling our joint responsibility for the protection of public health and to restore public confidence in our shared work to ensure safe drinking water for the American people.

Sincerely,

Joel Beauvais
Deputy Assistant Administrator

Enclosure

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

Alan Matheson
Executive Director

DIVISION OF DRINKING WATER
Kenneth H. Bousfield, P.E.
Director

Joel Beauvais
Deputy Assistant Administrator
Office of Water
US EPA
Washington, D.C. 20460

Dear Mr. Beauvais:

Utah agrees there is no higher priority than protecting public health and ensuring the safety of our nation's drinking water. Utah is proud to have had and retained primary responsibility for the implementation and enforcement of drinking water regulations since 1979. Our Drinking Water team has worked hard to uphold the partnership agreement we have with Region 8 EPA. The recent events in Flint, Michigan and other U.S. cities have heightened Utah's commitment to review implementation practices and policies to strengthen our safe drinking water programs.

Specifically, in answer to your request for information, Utah is completing the following near term actions:

Near Term Action #1: Confirm that the state's protocols and procedures for implementing the LCR are fully consistent with the LCR and applicable guidance

It is important to understand the LCR has been effective for over 23 years and has been revised twice. The rule has also transitioned between at least 6 different staff as the assigned Rule Manager. With all the changes in staff and regulatory language making implementation a "moving target" over time, Utah has done its best to comply with all of the requirements and will continue to assimilate all the new policy and guidance into our practices.

Over the last several years, Utah has reviewed and is documenting response procedures and protocols to various management scenarios, including: changes in treatment, addition of new sources, failure to monitor, and ALE response. Utah is also tracking corrosive water sources by querying pH and Langelier Index data.

Near Term Action #2: Use relevant EPA guidance on LCR sampling protocols and guidance for identification of Tier 1 sites (at which LCR sampling is required to be conducted).

Utah initialized the sanitary survey as the mechanism for review of the sample site plans and continued to review them triennially through calendar year 2006. As new PWSs were added, appropriate guidance was provided. We have reviewed the newest guidance provided by EPA OGWDW and will provide the guidance to Utah water systems and post it on our website.

Suggestion: It seems likely there will be regulatory changes to sample site plan requirements. Utah suggests providing the most stringent proposed version of the new requirements as soon as possible. We believe that many systems and States will be looking at this aspect of implementation and it would save resources for everyone if the criteria used now meet or exceed any future regulatory requirement.

Near Term Action #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).

Utah has historically made available sampling protocols and guidance upon request and will post the newest

sampling protocols on our website.

Suggestion: Utah has noticed differences in sampling procedure from lab to lab. It would be beneficial for EPA to produce a standardized universal sampling procedure for all labs to follow.

Near Term Action #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.***

Utah will be reaching out to the larger systems where this requirement is applicable and will be working with them to find the historical data, update and reevaluate the data, and to encourage them to post the data to increase compliance transparency.

These data are over twenty years old and likely reflected in paper files or, in many cases, archived.

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

Utah stores a majority of its lead and copper data online between SDWIS and eDocs. Labs electronically report sample data, and systems email/mail in sample results that are entered into SDWIS and scanned. Individual sample results are entered and not just the summaries. Sample invalidation documentation is being improved. Under current practice, when a sample is invalidated, the utility must describe why in writing, and the Utah DDW will respond in written form. The written documents are stored in eDocs and the invalidated sample is documented by a note in the comment section of the sample in SDWIS. Utah DDW has documented the historical invalidated samples for ALE systems in EPA's spreadsheet.

Near Term Action #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.

Utah has been implementing the consumer notification requirements to ensure homeowners receive the results of lead and copper samples collected in their homes. We will be posting on our website the public education information.

In response to the increased awareness of lead in drinking water since Flint, Utah has listed all community water systems 90th percentiles on our website. The Action Level Exceedances are included on this list and the list will be updated biannually. The Utah website is being updated with additional public education information to answer consumer concerns. Utah has also been working with EPA to provide status reports and planned actions for ALE's.

Utah agrees wholeheartedly that while there is a spotlight on lead in drinking water, we cannot forget or ignore that protection of the nation's drinking water involves both legacy and emerging contaminants. Utah welcomes the dialogue on strategies and actions to improve the safety and sustainability of our drinking water systems, including:

- Ensuring adequate and sustained investment in, and attention to, regulatory oversight at all levels of government;
- Using information technology to enhance transparency and accountability with regard to reporting and public availability of drinking water compliance data;
- Leveraging funding sources to finance maintenance, upgrading and replacement of aging infrastructure, especially for poor and overburdened communities; and
- Identifying technology and infrastructure to address both existing and emerging contaminants.

Utah is proud of our focus on ensuring a safe and sufficient supply of water to Utah citizens and stands ready to improve implementation strategies of all contaminants to achieve this end. Please do not hesitate to contact me or Ken Bousfield, Director of the Division of Drinking Water, at 801-536-4207 or kbousfield@utah.gov.

Sincerely,

Alan Matheson

Cc: Peter Grevatt, Director, Office of Ground Water & Drinking Water
Lisa Kahn, Region 8 EPA
Sarah Bahrman, Region 8 EPA
Jim Taft, ASDWA
Darrell Osterhoudt, ASDWA