

Mr. Peter Grevatt  
Director, OGWDW  
USEPA Headquarters  
Mail Code: 4601M  
1200 Pennsylvania Avenue, N. W.  
Washington, DC 20460

March 8, 2018

RE: Long-Term Lead and Copper Rule Federalism Consultation (Docket ID No. EPA-HQ-OW-2018-0007)

Dear Mr. Grevatt,

Having followed the development of potential revisions to the Lead and Copper Rule for over a decade, the Advisory Board to the Massachusetts Water Resources Authority (MWRA) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's 2018 federalism consultation on the LCR at this stage of the process.

The MWRA Advisory Board was established by the Massachusetts Legislature to represent 60 communities in the MWRA service area. Our members are the chief elected officials of each of the communities that receives water or sewer service from the MWRA. Our statutory charge is to review and comment upon the Authority's proposed capital and current expense budgets, providing a ratepayer and community perspective on the MWRA's plans and policies. As such we are keenly interested in any state or federal regulatory action that could impose burdens upon the ratepayer.

We understand that part of EPA's decision to reopen the Federalism Review was to learn how rule changes might represent unfunded mandates, and we appreciate the opportunity to offer additional perspective on behalf of our communities and the ratepayers. Knowing that others will offer detailed technical comments on many of the areas EPA has flagged for feedback, we have focused our comments on our highest priority concerns.

Reducing citizens' exposure to excessive amounts of lead and the risks associated with it is an important societal and governmental goal. Especially following the recent crisis in Flint, Michigan, there is a renewed focus on the dangers of lead in drinking water. Responsibility for reducing the risks of lead in drinking water must be appropriately shared between water suppliers – by selecting high quality sources and reducing the water's corrosiveness through treatment – and our customers – by managing the lead sources they own such as service lines and home plumbing.

Toward this end, MWRA has cultivated extremely high-quality water sources and protected them with an aggressive watershed management program. In 1996, the MWRA implemented modern corrosion control treatment, which has led to a 90% reduction in lead levels in drinking water. To assist our customers in addressing their share of this responsibility, the Advisory Board proposed what became the MWRA's \$100 million zero-interest loan program to encourage communities to move forward with full replacement of lead service lines.

These steps along with compliance with the terms of the current LCR demonstrate the MWRA's and the Advisory Board's commitment to the goal of reducing lead levels in our drinking water. We have serious concerns, however, with what the additional financial burdens the proposed revisions to the LCR would mean to the MWRA, the communities, and ratepayers.

We understand that EPA may be considering mandating a single type of corrosion control treatment for all water systems – orthophosphate. Effective corrosion control treatment is important, but every water system is different. Thus, one-size-fits-all requirements designed in Washington are invariably less effective and costlier than locally developed treatment decisions. What is best for a water system drawing water from the Mississippi River is not best for a system with extraordinarily pure water from protected watersheds like our source, the Quabbin Reservoir.

Mandating the addition of a nutrient to all water systems also puts unnecessary risk consumers. Changes to treatment could compromise the safety of the water and our ability to meet all other regulations. Too little is still known about important aspects of the science of lead in drinking water to make radical changes. We cannot experiment at full scale with treatment, and we cannot risk exposing our customers to water quality degradation.

Communities and ratepayers could be financially impacted by any requirement to replace lead service lines. Such a requirement must be sensitive to local circumstances. The MWRA's \$100 million Lead Loan Program championed by the Advisory Board is working - inventories are being improved and made public, and lead services are coming out. But what works for one community may not for another. Within the 51 communities in the MWRA water system, prevalence of lead service lines ranges from only a few to many thousands. The ability to pay for these costly replacements varies substantially; an appropriate schedule for a wealthy community with only a few dozen lead services may not work for another less affluent community with many thousands.

The ownership and access issues of lead service lines on private property, and communities' individual ability to make investments in private property, must be dealt with at the local level. We have seen many different approaches to dealing with these issues ranging from fully funded replacement, to partial funding, to long-term loans, to leaving the full responsibility to the property owner. Each community is different, and the revised regulation needs to accommodate those differences.

Moreover, changes to the LCR and the resulting costs on systems, communities, and ratepayers must not be made in a vacuum, but rather in the broader context of the substantial financial investments already being made. The MWRA region is already struggling to replace or re-line old cast iron water mains, and to repair old sewer lines to reduce inflow and infiltration. MWRA has just completed over \$900 million in court-mandated CSO projects and communities are facing new stormwater requirements. Any program to mandate lead service replacements must include local flexibility to integrate this work with ongoing infrastructure investment and scheduling across all community needs. Funds are limited, and only so many streets can be disrupted at a time. The National Drinking Water Advisory Council's (NDWAC's) recommendation for a flexible long-term approach still makes sense.

Finally, and most importantly, we emphasize that drinking water is only one potential source of excessive lead exposure. As our local health officers regularly remind us, efforts to deal with lead in water cannot take away from efforts to deal with paint, dust, and soil. If there is to be a "war on lead," which is a phrase we've heard recently, we sincerely hope that EPA is planning to bring more resources to the battlefield.

EPA must be more aggressive in working with other federal agencies to coordinate approaches and make them more cost-effective. Efforts to reduce lead in housing by HUD still don't allow lead service lines to be removed while paint and dust remediation is being funded. CDC efforts to deal with children with elevated lead levels don't include testing the water. Here in the MWRA region, we have been striving to have the various actors work together: for example, MWRA is funding water testing at homes of children with elevated BLLs and at schools. It is time for EPA and the federal agencies to step up their game, before they ask water systems to do more through unfunded mandates such as the proposed revisions to the LCR.

What we are hoping from the revised rules is a balanced approach toward lead. Treatment requirements for lead in drinking water should be balanced with the local conditions and quality of the source water. The costs of lead service line replacement must be balanced against communities' available resources, specific needs, and existing infrastructure costs. Finally, the entire issue of lead in the drinking water needs to be balanced with all the other sources of lead exposure to create a comprehensive interagency approach toward the problem.

We appreciate the opportunity to offer these comments on behalf of our 60 member communities and the three million citizens who receive service from the MWRA.

Sincerely,

Joseph E. Favaloro  
Executive Director, MWRA Advisory Board