



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGIONAL ADMINISTRATOR  
REGION 5  
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The Honorable Gary C. Peters  
Chairman  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Senator Peters:

Thank you for your January 11, 2022 letter to the U.S. Environmental Protection Agency's (EPA) Administrator Michael Regan. We share your belief that safe and reliable drinking water is of paramount importance in Benton Harbor, across Michigan, and around the country. Your letter asked several questions about public notification and public education regarding elevated lead levels in Benton Harbor's drinking water.

**Lead in Benton Harbor's Drinking Water**

The Michigan Department of Environment, Great Lakes, and Energy (EGLE) has primary responsibility for the implementation and enforcement of the Public Water System Supervision Program under the Safe Drinking Water Act (SDWA), including the National Primary Drinking Water Regulations (NPDWRs). Under the currently applicable Lead and Copper Rule (LCR), water systems are required to conduct tap sampling and report exceedances of EPA's lead action level of 15 parts per billion (ppb) to the primacy agency. If the water system has a lead action level exceedance (ALE) then it must conduct public education. EPA works closely with state partners to carry out our shared responsibilities under environmental laws.

The City of Benton Harbor (Benton Harbor) is required to report detailed compliance information to EGLE as the state primacy agency. EGLE then reports required information to EPA on a quarterly basis, including lead ALEs and violations of federal NPDWRs, via the federal Safe Drinking Water Information System (SDWIS) (see Table 1 below).

During a joint EPA and EGLE inspection of the Benton Harbor community water system in September 2021, EPA reviewed the February 2021 and August 2021 public education certifications required under the LCR. Public education materials are required to be distributed by the water system following a lead ALE. Based on certifications reviewed during the inspection, EPA identified that public education materials were not distributed to all of the required recipients. Benton Harbor did not contact all public and private hospitals, pediatricians, family planning clinics, community centers, or adult foster care facilities and did not make a good faith effort to locate and contact obstetricians-gynecologists in the 12-month period between August 2020 and August 2021.

On November 2, 2021, EPA issued an order under the SDWA to the City of Benton Harbor based on violations and deficiencies found during the September 2021 joint federal-state inspection of the water system (see EPA Unilateral Administrative Order [https://www.epa.gov/system/files/documents/2021-11/mi000600\\_bentonharbor\\_uao\\_final.pdf](https://www.epa.gov/system/files/documents/2021-11/mi000600_bentonharbor_uao_final.pdf)). The inspection indicated that the system did not meet several of the LCR public education requirements including failure to send public education materials and the required statement with the mailed water bills.

Benton Harbor confirmed to EPA on March 15, 2022, that the water system included the required public education statement for lead in the January 2022 water bills. Based on the most recent July-December 2021 monitoring results, which show a 90<sup>th</sup> percentile lead result equal to 15 ppb, ongoing public education is no longer required under the LCR.

### **WIIN Act Implementation and Notification**

To implement the Water Infrastructure Improvements for the Nation (WIIN) Act amendments to SDWA sections 1414(c)(2)(C) and (D), EPA conducted a notice and comment rulemaking. EPA promulgated the Lead and Copper Rule Revisions on January 15, 2021, which included the necessary changes to 40 CFR Part 141 Subpart Q (the Public Notification Rule). The compliance date for these requirements is October 16, 2024. To implement the WIIN Act amendments of SDWA section 1414(c)(5)(A), EPA issued the *Strategic Plan for Targeted Outreach to Populations Affected by Lead* in 2017 (available online: <https://www.epa.gov/dwreginfo/strategic-plan-targeted-outreach-populations-affected-lead>). In support of the City of Benton Harbor, EPA collected lead data as part of a filter efficacy study<sup>1</sup>. EPA followed the process outlined in the strategic plan in designing and implementing the notification strategy to provide timely notice to consumers of the study results. On November 8, 2021, EPA deployed a team of more than 15 scientists and supporting personnel to Benton Harbor to start the agency's filter study to better understand Benton Harbor's drinking water. EPA and its state partners sampled at 238 residential locations in November and December 2021. Consistent with the strategic plan, EPA provided a timely<sup>2</sup> notification of preliminary lead results to all residents, including homes with any results above 15 ppb, via phone call as well as through a mailed letter. As of January 18, 2022, EPA provided preliminary results to residents at all 238 sites. EPA will send a second letter with notification of the final results to households after the agency completes the quality assurance process in spring 2022.

We will continue to work closely with our state and local partners to provide outreach directly to the Benton Harbor community via a number of approaches, such as community resource fairs

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<sup>1</sup> Details on the filter efficacy study are available at: <https://www.epa.gov/mi/benton-harbor-drinking-water#study>.

<sup>2</sup> EPA provided notification of preliminary results via phone and letter to all residents at 238 sites. For homes with results above 15 ppb, EPA made phone calls within two business days of receiving preliminary lead laboratory results to residents of the approximately 30 homes. Preliminary results letters were sent to these approximately 30 homes within five business days, with the exception of one that was slightly later than five days.

and comprehensive updates posted on EPA’s Benton Harbor Drinking Water website: <https://www.epa.gov/mi/benton-harbor-drinking-water>. This Administration is committed to ensuring robust and meaningful community engagement at all points as the Benton Harbor water system returns to compliance. To that end, we will continue to update the website as soon as possible once new information is available.

Finally, EPA will continue to monitor the situation in Benton Harbor and take further actions as appropriate and necessary as we work to ensure that the residents of Benton Harbor are protected from exposure to lead in drinking water. Thank you for appreciating the urgent public health needs of this community. We share your commitment to ensuring that Benton Harbor residents have safe drinking water flowing from their taps. To that end, we look forward to speaking with your staff soon.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Eileen Deamer or Denise Fortin, Region 5 Congressional Liaisons, at (312) 886-3000.

Sincerely,

Debra Shore  
 Regional Administrator  
 & Great Lakes National Program Manager  
 US EPA Region 5

Table 1- Benton Harbor tap sampling results for lead.

<b>Lead 90th Percentile (ppb)</b>	<b>Sampling Start Date</b>	<b>Sampling End Date</b>
22	1/1/2016	12/31/2018
27	1/1/2019	6/30/2019
32	7/1/2019	12/31/2019
23	1/1/2020	6/30/2020
24	7/1/2020	12/31/2020
24	1/1/2021	6/30/2021
15	7/1/2021	12/31/2021

