



ASSISTANT ADMINISTRATOR FOR WATER

WASHINGTON, D.C. 20460

MEMORANDUM

SUBJECT: Additional Eligibilities for State Implementation of the Infrastructure Investment and Jobs Act Drinking Water State Revolving Fund Lead Service Line Replacement Appropriation

FROM: Jessica L. Kramer

TO: Water Division Directors, Regions I-X

I. BACKGROUND

Under the Infrastructure Investment and Jobs Act (P.L. 117-58), Congress specified eligible uses of the IIJA Drinking Water State Revolving Fund Lead Service Line Replacement (IIJA DWSRF LSLR) appropriation in the following provision: “Provided further, That the funds provided under this paragraph in this Act shall be for lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead service lines.”

This memorandum explains important flexibilities under the IIJA DWSRF LSLR appropriation to facilitate the states’ efficient and effective use of the IIJA DWSRF LSLR capitalization grants to protect public health by replacing lead service lines across the country. Discussion includes important eligibilities under the IIJA DWSRF LSLR appropriation including the use of funds for galvanized service lines. Additional discussion provides eligibilities regarding the timing for replacement of the customer-owned and system-owned portions of lead service lines. Importantly, this memorandum also describes eligible circumstances for replacing integrated components directly connected to the identification, planning, design, and replacement of lead service lines.

II. ADDITIONAL ELIGIBILITIES FOR IIJA DWSRF LSLR

The U.S. Environmental Protection Agency received and carefully considered feedback from states and systems following initial implementation of the IIJA DWSRF LSLR appropriation, particularly regarding barriers to the states’ efficient and effective use of the IIJA DWSRF LSLR capitalization grants to protect public health by replacing lead service lines across the country.

This memorandum clarifies that, consistent with the recent revisions to the Lead and Copper Rule, galvanized pipes requiring replacement service lines as defined in 40 CFR 141.2 and galvanized pipes downstream of lead components (lead goosenecks, pigtails, or other connectors) are eligible for replacement with funding from all fiscal year LSLR appropriations under the IIJA. At a state's request, the EPA will amend their FY24 IIJA DWSRF LSLR terms and conditions to remove the galvanized service line requirement that proved challenging to implement.

The more quickly a full lead service line replacement is conducted, the safer the outcome is for public health. The EPA also recognizes that in certain circumstances, simultaneous replacement of the customer-owned and system-owned portions of lead service lines may be challenging. The terms of DWSRF assistance agreements stipulate that the time between starting and completing full LSLR for individual service lines should be as short as possible and should not exceed three months. Based on implementation feedback, the EPA acknowledges that states may identify extenuating circumstances that necessitate a longer replacement timeframe in limited situations. States have the authority to make such determinations and should document their decision accordingly. Examples of extenuating circumstances may include, but are not limited to, weather delays, unexpected problems coordinating between state or local governments, or unexpected financing problems related to customer-owned lead service line replacements. Recognition of this flexibility does not override the responsibility that DWSRF assistance recipients must comply with all applicable local, state, and federal requirements for LSLR at the time of the work.

III. ELIGIBLE CIRCUMSTANCES FOR INTEGRATED COMPONENTS UNDER THE IIJA DWSRF LSLR APPROPRIATION

Given that there is no safe level of exposure to lead in drinking water, the primary intent of the IIJA DWSRF LSLR appropriation is to protect public health by reducing exposure to lead. Under the IIJA DWSRF LSLR appropriation, Congress stated that funds were available “for lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead service lines.” The EPA has previously indicated that water mains, water meters, and similar items were not eligible for replacement with LSLR funding even though these components were eligible to be replaced with other SRF sources of funds such as the IIJA General Supplemental appropriation and Base program funding. Based on state feedback, the EPA has learned that broadening the limited eligibility of integrated components under IIJA DWSRF LSLR may facilitate economically stressed communities’ ability to replace their full LSLs and protect public health. Without the additional eligibilities described below, these communities might not be able to complete the replacement at all.

Section 1459B(a)(4) of the Safe Drinking Water Act defines a lead service line as: “a pipe and its fittings, which are not lead free (as defined in section 300g–6(d) of this title), that connect the drinking water main to the building inlet.” Therefore, water mains may be directly connected to lead service lines. Water meters may be installed in a variety of locations including directly connected to a lead service line. In certain situations, the financing of replacement or installation of such components that are directly connected to lead service lines may also affect the ability of the community to replace lead

service lines. Examples of integrated components include, but are not limited to, water mains, water meters, connectors, and backflow preventers directly connected to lead service lines. States may now determine that replacement of these integrated components are “associated activities directly connected to” the primary lead service line replacement project, and thus eligible for replacement with IIJA DWSRF LSLR funds in limited circumstances due to economic stressors, where a project to replace lead service lines would be infeasible without also addressing integrated components.

The IIJA DWSRF LSLR appropriation requires that states provide 49 percent of the capitalization grant amount as additional subsidization in the form of principal forgiveness and/or grants. States must provide this additional subsidization to water systems that meet the state’s disadvantaged community criteria as described in Section 1452(d)(3) of SDWA.¹ Integrated components would only be eligible under the IIJA DWSRF LSLR appropriation if the project meets all three criteria listed below.

1. The state determines that integrated components are sufficiently financially integrated into the LSLR replacement project such that the project could not proceed without their replacement (in other words, replacement of the integrated components is directly connected to the community’s ability to do LSLR);
2. Integrated components needing repair or replacement are directly connected to a lead service line; and
3. Integrated components are in a disadvantaged community as described in SDWA Section 1452(d)(3).

States should indicate if they intend to fund LSLR projects involving replacement or installation of integrated components within their Intended Use Plan. If a state’s IUP is finalized prior to the release date of this memorandum, the state should provide a written request to the EPA region to utilize the additional eligibilities. The state must include documentation of eligibility within the project file. States may document that an LSLR project meets the eligibility criteria described above as they prefer or use an EPA-provided template, available on its website. The installation and replacement of integrated components remains eligible under the IIJA General Supplemental appropriation and Base program funding. Where possible, to ensure that the IIJA DWSRF LSLR funds are primarily directed to replacing lead service lines, state DWSRF programs are encouraged to continue to co-fund LSLR projects involving integrated components with Base or IIJA DWSRF General Supplemental capitalization grants and rely on this additional eligibility only in situations where it is truly necessary.

IV. CONCLUSION

Under Administrator Zeldin’s [*Powering the Great American Comeback Initiative*](#), the EPA’s Pillar 1 and Pillar 3 priorities are to provide clean water to every American and advance cooperative federalism. Accordingly, the EPA’s goal is for states to use the IIJA DWSRF LSLR capitalization grants to efficiently

¹ Section 1452(d)(3) of SDWA defines a “disadvantaged community” as: “...the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located.”

and effectively protect public health by funding the replacement of lead service lines across the country.

To effectively advance this outcome, DWSRF programs must utilize their allotments in a timely and expeditious fashion. The January 2024 memorandum [Maximizing Water Quality and Public Health Benefits by Ensuring Expeditious and Timely Use of All State Revolving Fund Resources](#) explains the EPA's requirements for the commitment of funds into signed final assistance agreements and the disbursement of those funds. As state DWSRF programs are aware, IIJA LSLR funds can only be used for lead service line identification and replacement projects. The flexibilities that are clarified in this memorandum should provide states additional capacity to fund lead service line replacement projects.

If a state is unable to timely and expeditiously use its allotments, the EPA encourages the program to consider the appropriate use of the [voluntary de-obligation](#) process, so that the limited funding available for LSLR can be disbursed to best maximize public health protection.