West Virginia
Drinking Water Treatment Revolving Fund

Lead Service Line Replacement Guidance Document**

Inventory Options

In an effort to assist systems with completion of their Lead Service Line Inventory (LSLI), the Department of Environmental Protection (DEP) and the Department of Health (DH) have hired two contractors to work with you to complete your inventory. The service is free of charge to you and your utility. These contractors are being funded by the Drinking Water Treatment Revolving Fund.

1. For systems with a service population of 1,000 or less, (*People served not taps*), please reach out to Mary Hutson of WV RCAP at mhutson@wvcap.org if you are in the St. Albans and Beckley Districts. If you are in the Fairmont, Kearneysville, and Wheeling Districts, please contact Chris Hannah at chris.hannah@stantec.com or Richard Gaines with Stantec at richard.gaines@stantec.com.

2. For systems with a service population of 1,000 to 10,000, (*People served not taps*), please reach out to the WV Rural Water Association at LSLI@wvrwa.org.

3. For systems with a service population greater than 10,000, please contact Kathy Emery with the DEP at katheryn.d.emery@wv.gov if you need funding to hire a contractor to complete your inventory.

Please remember that your inventory must be submitted to the DH by October 16, 2024. All inventory data must be submitted by uploading the approved Lead Service Line Inventory Spreadsheet to WV's Lead Service Line Web Portal, SWIFT Submittals. The spreadsheet, SWIFT Submittals, and SWIFT Submittals access instructions can be found at Lead Service Line Inventories (wvdhhr.org).

Failure to submit the inventory by the deadline may result in violations, additional sampling requirements, additional public notice requirements, and will likely trigger lead replacement plans. All unknowns will be considered lead until determined otherwise.

Public Notice Requirements:

Within 30 days of completed/submitted inventory you need to provide notice to any customers with an unknown, galvanized requiring replacement (GRR), or a lead service line (LSL). This notification must be repeated annually until the entire inventory is no longer lead, GRR or unknown. Please contact Dawn Slekis for a public notice template.

If you have any questions regarding the inventory or submittals, please contact Dawn Slekis at the DH at dawn.w.slekis@wv.gov or 304-352-5018.

Lead Service Line Replacement (LSLR) Eligibility

To be eligible for LSLR funding, service lines must be made of lead or galvanized pipe. Note that galvanized lines must be downstream from lead components or pipes of unknown material. (Note – For FFY 2024 funding, galvanized lines downstream from components or pipes of unknown origin are only available for base or BIL funding.) EPA expanded the eligible uses to also include the replacement of lead goosenecks, pigtails, and connectors as eligible expenses, whether standalone or connected to a lead service line. Temporary pitcher filters or point-of-use devices certified by an American National Standards Institute accredited certifier to reduce lead during or for a short time after LSLR projects are eligible. Partial service line replacements are only eligible when in conjunction with planned infrastructure projects such as water main replacement, meter replacement, etc. and when every effort has been made and have documented refusal from the homeowner to replace their LSL. The service line replacement must be fully replaced from the main to the isolation valve or first connection point inside the home if no isolation valve exists.

A partial LSLR may *only* be funded by the DWSRF where the water system shows all of the following:

1. The partial LSLR is done in conjunction with planned infrastructure work where disturbance to the service line will be unavoidable.
2. The water system has documented customer refusal showing it cannot gain access to that property to conduct a full LSLR following multiple attempts (effective on agreements executed after August 1, 2024).

The replacement of water mains is not eligible for funding under the Bipartisan Infrastructure Law (BIL) DWSRF LSLR funding because they are not service lines. Under the LSLR funding, Congress defined eligibility in this manner: “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.”

The SDWA defines a "lead service line" at 42 USC § 300j-19b(a)(4) (under the Reducing Lead in Drinking Water Grant Program) 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."

Section 1452 of the SDWA authorizes the DWSRF program. In Section 1452(h)(2) of the SDWA, 42 USC § 300j-12(h)(2), Congress explicitly references that "lead service line" definition in Section 300j-19b(a)(4) to instruct EPA to include assessments of costs to replace all "lead service lines" in the quadrennial Drinking Water Infrastructure Needs Surveys.

Eligible Project Expenses

1. Complete removal of lead service lines (public and privately owned portion) or service lines made of galvanized iron or galvanized steel (that are currently or have previously been downstream of lead components) and replacement with a pipe that meets the requirements established under 40 CFR 143 and which complies with state and local plumbing codes and or building codes.
2. Removal of lead or galvanized goosenecks, pigtails, and connectors, and replacement with an acceptable material that meets the requirements established under 40 CFR 143 and which complies with state and local plumbing codes and or building codes.
3. Replacement of curb stops, curb stop boxes, and other service line appurtenances that are removed as part of full LSLR.
4. Site restoration, including landscaping, sidewalks, driveways, etc. if the removal was necessary to replace the lead service line.
5. Permit fees if the fees are normal, required, and specific to the LSLR. It is recommended that communities waive these fees.
6. Temporary pitcher filters or point-of-use (POU) devices certified by an American National Standards Institute accredited certifier to reduce lead during or for a short time period after LSLR projects.
7. Development or updating of lead service line inventories, including locating and mapping lead service lines.
    a) Methods of investigation to develop inventories could include visual observation, water quality sampling (non-compliance), excavation, vacuum or hydro-excavation, statistical analysis, or other emerging technologies.
8. Planning and design for infrastructure projects listed above.
9. Non-routine lead sampling (if not for compliance purposes) as part of an LSLR project.

* Water meters and associated appurtenances are not eligible for LSLR funding. They are eligible for base DWTRF funding.

Project Example

Community has developed a project to do a wholesale water line replacement project in an area of their community. This project includes both main and service line replacement.

1. This project would need to be at least 2 separate projects:
   a) Contract 1 – Main line replacement would be eligible for base DWTRF funding under the terms the community would be eligible for under the current IUP.
   b) Contract 2 – LSLR would be eligible for DWTRF LSLR funding under the terms stated in the current IUP.
2. The project would need to be bid to meet the following federal equivalency requirements:
   a) DBE
   b) BABAA
      i) Suggestion for option 2 (below) – Applicant purchases and documents BABAA materials for the plumbers to access and use. This would allow the utility to make sure all documentation is available and in accordance with requirements and would be less documentation to track. State procurement requirements would need to be met.
   c) Davis Bacon – Applies if the utility hires a prime contractor. May still apply if a homeowner hires a plumber/contractor.
3. Regarding the LSLR contract, the community would have the option of (1) hiring a contractor to complete each LSLR in its entirety or (2) it could provide the homeowners a list of qualified and licensed contractors or plumbers that have been pre-selected and the homeowner could contract the work themselves and the contractor/plumber could invoice the community for payment of the work. The DWTRF can only fund the project with the community, not the individual homeowners.
   a) If option 2 is the preferred method, the community would need to do solicitation for qualified, contracted contractors/plumbers that would meet all DBE requirements. This documentation would be required to be submitted to the DWTRF prior to loan closing. Under Option 1, normal DBE solicitation measures would apply.
   b) For option 2, the applicant would need to develop a cap per replacement unless prior approval is received documenting extenuating circumstances relating to the specific LSLR.
   c) Each applicant would need to agree to comply with BABAA requirements.
   d) The community would need to provide the homeowner with a draft agreement to use when contracting with the hired company/individual that contains all of the requirements to be met.
   e) The community is responsible for making sure that all funding requirements are met prior to invoicing for the funds to reimburse the contractor/plumber.
   f) The homeowner's side of the LSLR should be completed within 3 months of the utility side replacement, but definitely within 6 months.

4. Each invoice submitted to the DWTRF for the LSLR would need to include, at a minimum.
    a) A copy of the executed agreement with the homeowner; if option 2.
    b) Pictures of the LSL *prior to, during, and after* the replacement.
    c) Invoices documenting all materials.
    d) Copy of permits and plumber/contractor license number.
    e) Address of the LSLR.
    f) The utility will need to verify and certify the installation was done correctly.
5. BABAA compliance documentation for all materials will need to be maintained by the utility and will be available for review upon DEP/EPA inspection.
6. A temporary pitcher filter or point-of-use device certified by an American National Standards Institute accredited certifier and the supplies necessary to be used for the next 6 months must be provided to each homeowner upon their LSLR. A flyer will be handed out with each filter telling the homeowner how to use the filters and with instructions regarding flushing their line. The utility is required to sample each homeowner's drinking water every 6 months until the sample meets the actionable levels for lead. Filter replacements will need to be provided to the homeowner until lead actionable levels are reached. Each project must include this in their funding package. Within 24 hours of a documented exceedance of lead, you must complete a tier 1 public notice. Please contact Dawn Slekis for additional information regarding sampling and public notice requirements.
7. A good example of a breaking point between the main line and the service line replacement would be if meter replacement were part of the project, then the contract 1 contractor would install the new meter and connect it to the old meter and the contract 2 contractor would work from the new meter to the first connection point inside the home.
8. If the lead is only on the utility side and the homeowner does not have a galvanized service line, the work can stop with the utility side replacing their lead portion of the service line.

Public Contact Information

If a homeowner initially refuses to allow their LSL to be replaced, the community must make three more additional attempts to ask the homeowner for their cooperation to complete the replacement of their lead service line. These attempts should include documentation of the necessity of the work. This information shall be uploaded to the portal with all other LSL replacement documentation and verification that this has been completed will be provided to the DWTRF program.

1. One of the attempts must be in-person.
2. Other methods can include phone, email, mail, etc. Please discuss planned methods of communication.
3. Documentation of all attempts must include information provided to the homeowner detailing the health effects of lead and that the utility will be funding the LSL replacement.

4. After a minimum of two attempts, if the homeowner signs a certification that they have been made aware of the health effects of lead and that they understand that the replacement will be made at no cost to them and they still decline to allow the utility to replace the service line, no further contact attempts will be required.

Best Practices

1. Install dielectric couplings to minimize corrosion where partial replacements are necessary.
2. Provide community engagement and training throughout the LSLR process, including how to mitigate lead exposure.
3. States and PWSs should be aware that lead service lines that are removed from the ground would generally have enough lead to exhibit the hazardous waste toxicity characteristic per 40 CFR 261.24 and would be subject to Resource Conservation and Recovery Act (RCRA) requirements when disposed of. However, if sent for recycling, lead service lines would be considered scrap metal and exempt from RCRA regulation under 40 CFR 261.6(a)(3)(ii). When selecting removal and replacement methods for lead service lines, states and PWSs must ensure compliance with all local, state, and federal waste disposal requirements. EPA strongly encourages states and PWSs to consider disposal methods that reduce all lead exposures to the greatest extent possible, including limiting the export of replaced lead pipes to countries with less stringent environmental standards (e.g., to smelters with inadequate air pollution controls).

Resources

EPA LSLR Memorandum: https://www.epa.gov/system/files/documents/2024-05/implementing-lead-service-line-replacement-projects-funded-by-the-drinking-water-state-revolving-fund-05-01-2024.pdf

DWTRF IUP:
https://dep.wv.gov/WWE/Programs/SRF/Documents/DWTRF/Fiscal%20Year%202024%20Drinking%20Water%20Intended%20Use%20Plan.pdf

* Implementing Lead Service Line Replacement Projects Funded by the Drinking Water State Revolving Fund – EPA Memorandum
https://www.epa.gov/system/files/documents/2024-05/implementing-lead-service-line-replacement-projects-funded-by-the-drinking-water-state-revolving-fund-05-01-2024.pdf

**This document is subject to change based upon EPA guidance.