

Community Water Advisory Council Guidance

Introduction:

The State of Michigan's 2018 revision to the Lead and Copper Rule (LCR) created both state-level and utility-level water advisory councils. Water suppliers and water systems with more than 50,000 customers will each be required to create a Community Water Advisory Council. The advisory council will advise the utility on communications related to lead in drinking water as well as other drinking water quality issues (see Appendix A for the Community Water Advisory Council section of the law). Specifically, the advisory council is mandated to:

- Develop plans for continuing public awareness about lead in drinking water, even when a lead action level is not exceeded;
- Review public awareness campaign materials provided by the statewide Drinking Water Advisory Council to ensure the needs and interests of the community, with consideration to the economic and cultural diversity of its residents, are addressed;
- Advise and consult with the water supply on the development of appropriate plans for remediation and public education to be implemented if a lead action level is exceeded;
- Advise and consult with the water supply on efforts to replace private lead service lines at locations where the owner declined service line replacement;
- Assist in promoting transparency of all data and documents related to lead in drinking water within the water supply service area; and
- Collaborate with local community groups to ensure that residents have the opportunity to be involved in efforts to educate the community about lead in drinking water.

In the following document, the Michigan Department of Environment, Great Lakes, and Energy (EGLE) outlines both the requirements for water system advisory councils as stated in the LCR and provide suggestions for water suppliers and systems designed to help the water system advisory council process operate smoothly.

Guidance for Development of Water System Advisory Councils

Member Composition:

Requirements:

The LCR stipulates some specific characteristics for membership on the water system advisory council. The advisory council must have at least five members, with “at least one member [being] a local resident who does not formally represent the interests of any incorporated organization.” All members must have “a demonstrated interest in or knowledge about lead in drinking water and its effects.” [Note: All material within quotation marks comes directly from the LCR.]

Suggestions:

The advisory council requirements only specify a minimum number of members, which leaves room for adding more members to the council. Water systems may consider having additional members in order to meet some of the other requirements for the advisory group, such as ensuring public education materials effectively communicate with all customer audiences. An advisory council would need to have representatives that know all customer audiences sufficiently well to meet this objective. It is also advisable to avoid too large of a group in order to ensure that an effective and meaningful meeting can occur. If you choose to have more than the required 5 members, the optimum number of members, if all will be fully engaged, is somewhere between 10 and 15.

The following may be helpful to consider when determining the number of members needed and the individuals who may be able to fill those positions:

- 1. Perspectives from all parts of the community should be represented:**
Consider the diversity of perspectives within your community and consider how to ensure representation from cultural, sectoral, economic, and geographic perspectives. Consider whether members will be appointed to represent and, therefore, empowered to seek out and bring perspectives from a specific component of the community. Consider whether there should be ex officio appointments (people who are members of the council because of the office they hold), such as the communications manager, community relations contact, and/or other positions within the water system.
- 2. Positions within the council:** The LCR specifies that a chairperson and other officers “as it considers necessary and appropriate” be appointed at the first meeting. The decision about how many and which officers to appoint should be made prior to the first meeting of the council. While not a matter of debate for the council, a short explanation of what officer positions are being appointed and why they have been selected is important for the first meeting. (See Appendix B for a suggested list of officer positions.)

3. **Terms of Service:** Establishing a term of service allows fresh perspectives and prevents burnout. When the council is first established, it makes sense to grant all members two years of service. After which, one third of the council should rotate off every year (e.g., one third of the council rotates off after their second year; one third after their third year, etc.). After the initial council members have completed their service, membership terms will be three years in duration.

Operating Principles:

Requirements:

The water supply must call the first Water System Advisory Council meeting. Advisory councils are required to meet at least once per year. Advisory council meetings must follow the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275, because they are public bodies as designated in the Act. The Michigan Attorney General has developed a helpful guide describing background to the Act, its purpose, and how meetings should generally be conducted. It can be accessed [here](#).

(https://www.michigan.gov/documents/ag/OMA_handbook_287134_7.pdf)

(See Appendix C for a list of the key components from the Open Meetings Act.)

Suggestions:

An advisory council would benefit from meeting more frequently than annually after its initial formation. For at least its first two or three years, meeting as frequently as bi-monthly (six times per year) will allow the council to build cohesion, learn about the utility and community as it relates to lead and drinking water, and implement the tasks mandated.

Advisory councils would also benefit from detailed agendas to ensure all components of its mandate are met. Below are suggestions and sample agendas for meetings:

The First Meeting:

The first meeting is important because it sets the tone for all subsequent meetings. Provide ample notice of the meeting and try to ensure all members can attend. Until a chairperson is selected, the meeting can be managed by an appropriate staff person of the water system. (See Appendix D for a sample first meeting agenda and process agenda.)

Second and Subsequent Meetings:

A standing agenda is important to provide a regular structure for ensuring all areas of the advisory council's mandate are met as well as ensuring that the council stays focused on what is required by the LCR. Circulating the agenda and any supporting materials one week ahead of time allows members to prepare for the meeting. The chairperson can also solicit additional, mandate-related, agenda items from members ahead of the meeting. (See Appendix E for a sample second and subsequent meeting agenda and process agenda.)

Appendix A

Community Water Advisory Council Requirements:

Each water supply that serves a population of 50,000 or more, and each consecutive water system that serves a population of 50,000 or more, shall create a water system advisory council. Councils shall operate as follows:

- A council shall consist of at least five members, each appointed by the community supply. To be eligible for appointment to the council, an individual shall have a demonstrated interest in or knowledge about lead in drinking water and its effects. At least one member must be a local resident who does not formally represent the interests of any incorporated organization.
- The members first appointed to a council shall be appointed within 180 days after the effective date of this rule.
- The business that the council may perform shall be conducted at a public meeting of the council and held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275.
- The first meeting of a council shall be called by the water supply. At the first meeting, the council shall elect from its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the council shall meet at least annually.
- Any writing prepared, owned, used, in the possession of, or retained by the council in the performance of an official function is subject to the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.

The council shall do the following:

- Develop plans for continuing public awareness about lead in drinking water, even when the action level is not exceeded.
- Review public awareness campaign materials provided by the statewide drinking water advisory council to ensure the needs and interests of the community, considering the economic and cultural diversity of its residents, are addressed.
- Advise and consult with the water supply on the development of appropriate plans for remediation and public education to be implemented if a lead action level is exceeded.
- Advise and consult with the water supply on efforts to replace private lead service lines at locations where the owner declined service line replacement.
- Assist in promoting transparency of all data and documents related to lead in drinking water within the water supply service area.
- Collaborate with local community groups to ensure that residents have the opportunity to be involved in efforts to educate the community about lead in drinking water.

A water system advisory council may independently seek advice, direction, and assistance from EGLE or the statewide advisory council.

Appendix B

Potential Council Roles/Responsibilities:

Chairperson:

This person is empowered to call meetings, set the agenda, and manage the meeting. These actions are typically done in consultation with other council members and support staff.

Vice-chairperson:

This person supports the chairperson by acting as chairperson when that person cannot act. Where there are strong divisions within a community, the chairperson and vice-chairperson might represent different groups in an effort to balance power.

Secretary:

This person is responsible for ensuring that complete and accurate records are kept of council meetings. They may not be responsible for directly taking notes; however, they should review them if taken by a staff person and be responsible for distributing them to the council.

Appendix C

Open Meetings Act Requirements:

Key Components of the Open Meetings Act:

Public Notice:

A council meeting cannot be held unless public notice is given as outlined in the Open Meetings Act, 1976 PA 267. A public notice must contain the council's name, telephone number, and address, and must be posted at the water system office and any other public locations the council considers appropriate. Individuals may request public notices sent to them by mail and may be required by the water system to provide reasonable printing and postage costs in order to do so. Newspapers and radio stations requesting receipt of public notices will receive those without cost.

There are different notice periods depending on the type of meeting being called:

1. For regular meetings, the council must post a calendar of meetings for the year within ten days of the first meeting for that year. The list will include the dates, times, and place(s) of its regular meetings.
2. For a change in schedule of regular meetings, the council must give public notice of a change of schedule, including new dates, times, and place(s) of regular meetings, within three days of the meeting where the change in schedule was made.
3. For a rescheduled regular or a special meeting, the council must publicly post the date, time, and place of the meeting at least 18 hours before the meeting. The public must have access to the public notice for all 18 hours.
4. A council meeting which is recessed for more than 36 hours shall be reconvened only after public notice has been posted at least 18 hours before the reconvened meeting.

Decision Making:

All decisions made by the advisory council are to be made during public sessions, they are not allowed to make decisions while in closed session.

A decision is defined in the Open Meetings Act as "a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy."

Decision making may be through simple majority or consensus building; however, all discussion while in public session must be verbal and cannot take place via email, text or other electronic means. Voting or consensus building must take place in a publicly visible manner such as roll call, show of hands, or other means.

Decision making requires a quorum of council members to be present at the meeting. Quorum is not defined in the LCR; therefore, it should be a majority of council members appointed and serving. For example, for a ten-person council a quorum would be six members present. If a member must recuse him/herself from discussion of a matter due to conflict of interest and there is a single person quorum, the council will not be able to take

action on that matter because it will lack a quorum. If a member resigns, they are considered appointed and serving until his/her resignation has been acknowledged and a successor appointed.

Under the Open Meetings Act, the ability to have closed sessions is very limited and restricted to specific circumstances and processes (that specify how to record and approve meeting minutes), which are laid out in the Attorney General's guide. It is, however, unlikely that councils will face the type of circumstances that warrant closed sessions. They are typically related to personnel/staffing matters.

Voting:

If the council makes decision by voting, all members present, including the chairperson, will have a vote unless a member has recused him/herself for the matter being discussed. Decisions occur when a majority of members present agree on a course of action. A vote cannot be taken without a quorum.

Public Access:

Meetings must take place in locations available to the public without restriction. Avoid locations where aspects, such as building security, require members of the public to identify themselves, i.e., signing in. No member of the public may be excluded from an open meeting except for "breach of peace" committed at the meeting. Members of the public cannot be compelled to record or otherwise identify themselves by name; however, the council may wish to know what members of the public are present. The Open Meetings Act guide suggests the chairperson say something similar to this:

The Board would appreciate having the members of the public attending the meeting today identify themselves and mention if they would like the opportunity to speak during the public comment period. However, you do not need to give your name to attend this meeting. When the time comes to introduce yourself and you do not want to do so, just say pass.

Further, because speaking at a public meeting is a step beyond attending, the council may establish rules for public comment that could include identifying speakers and limit the amount of time available for any one individual to speak. The public has no right to speak during the meeting except during the public comment period.

Record of the Meeting:

Meetings must be recorded, and minutes must include the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes must include all roll call votes taken at the meeting. Draft minutes must be available to the public within eight days of the meeting and approved minutes, with any corrections clearly showing what was corrected (e.g., using strikethrough) within five days of the meeting that approved them.

Quorum:

A quorum is a simple majority of members appointed and acting (one-half plus one members of the council). While a quorum is necessary for decision making, the council can still hear reports, public comments, ask questions, and comment on matters of interest when it does not have one.

Adjournment:

A meeting cannot be adjourned until the chairperson calls for a vote of the members present.

Appendix D

Sample First Meeting Agenda:

First Meeting of XX Water System Advisory Board

Date:

Location:

Convene: <<Time>>

- I. Call to Order
- II. Introductions
- III. Election of Officials
- IV. Agenda Overview
- V. Water System Briefing
- VI. Public Awareness Campaign
- VII. Public Comment
- VIII. Adjourn

Sample First Meeting Process Agenda:

(For the meeting leader to generate and use, not to be circulated.)

First Meeting of XX Water System Advisory Board

Date:

Location:

Convene: <<Time>>

Meeting Materials: <<List of supplies>>

Key for suggested meeting items:

T: Suggested amount of time

H: Suggested handouts (provide w/ agenda for advance reading)

F: Suggested areas for feedback from council

Item	Lead	Purpose/Approach
Call to Order	XX Water System staff member	<p>A solid kick-off sets the right tone. Begin on time and ensure that all members understand their time is valuable. A simple (short!) welcome and thanks on behalf of the XX Water System is also important.</p> <p>T: No more than five minutes.</p>

<p>Introductions</p>	<p>XX Water System staff member</p>	<p>Invite everyone present to introduce themselves by name, affiliation, and one or two sentences about their “demonstrated interest in or knowledge about lead in drinking water and its effects.” Encourage everyone to be brief but thorough. The lead goes first and models the process and, if possible, selects the person to right or left most likely to follow suite.</p> <p>T: Up to 20 minutes.</p>
<p>Election of Officers</p>	<p>XX Water System staff member</p>	<p>Provide a short overview of how many and which officers will be elected including why these positions were selected. Offer a description of each position including their roles and responsibilities. Ask for any questions of clarification.</p> <p>T: No more than five minutes.</p> <p>H: Consider a handout with description of council officer positions.</p> <p>Ask for nominations for <i>chairperson</i> from the council members present. Individuals can nominate themselves. If more than one person is nominated, ask each if they are willing to serve. If more than one person is nominated and willing to serve, invite them to say a few words about relevant experience or background that could help others make a decision. Offer council members to ask questions of nominees. When all questions are exhausted, call for a show of hands vote for the first nominee. Remind council members they can only vote once.</p> <p>Repeat this process for the other officers.</p> <p>With all officers in place, turn the remainder of the meeting over to the chairperson.</p> <p>T: Up to 30 minutes.</p>

<p>Agenda Overview</p>	<p>Chairperson</p>	<p>The chairperson provides an overview of the remainder of the meeting, including asking members of the public in attendance if anyone wishes to make a statement during the public comment period. Names are duly noted by the Secretary (if there is such an officer) or staff note-taker.</p> <p>At this point the council has not developed any rules regarding public comment (the chairperson could do so now) requesting a motion from the council that specifies:</p> <ul style="list-style-type: none"> ◆ Whether persons making public comment need identify themselves by name (suggest: yes); ◆ Whether there is a limit on the amount of time an individual may speak (suggest: 3 minutes); ◆ Anything else relevant to public comment rules/procedures.
<p>XX Water System Communication Briefing</p>	<p>Appropriate member of XX Water System staff</p>	<p>Provide an overview of the current state and procedures in the water system related to the following items:</p> <ul style="list-style-type: none"> ◆ Overview of current plan for continuing public awareness about lead in drinking water, even when the action level is not exceeded, including public access status of all data and documents related to lead in drinking water within the water supply service area. ◆ Current plan for remediation and public education to be implemented if a lead action level is exceeded. ◆ Plan and status of efforts to replace private lead service lines at locations where the owner declined service line replacement. <p style="text-align: right;"><i>Continued on next page.</i></p>

XX Water System Communication Briefing, cont.		<p style="text-align: right;"><i>Continued from previous page.</i></p> <p>T: 30 minutes.</p> <p>H: Consider a short handout with overview points for each of the three elements.</p> <p>F: Encourage questions of clarification from council members; identify specific areas for input or questions for the council in advance.</p>
Public Awareness Campaign -- statewide materials	Appropriate XX Water System staff member, or invited Statewide Drinking Water Advisory Council member	<p>The LCR specifies that each water system council “review public awareness campaign materials provided by the statewide drinking water advisory council to ensure the needs and interests of the community, considering the economic and cultural diversity of its residents, are addressed.”</p> <p>This would be a preliminary discussion to identify local aspects (economic, socio-cultural, etc.) that should be addressed.</p> <p>F: Input from the council could inform amendments and additions to these materials.</p> <p>T: 30 minutes.</p>
Public Comment	Chairperson	<p>Public Comment is required under the Open Meetings Act and is a good way to “Collaborate with local community groups to ensure that residents have the opportunity to be involved in efforts to educate the community about lead in drinking water.”</p> <p>T: N @ 3 minutes each.</p>
Adjourn	Chairperson	Request a motion for adjournment.

Appendix E

Second and Subsequent Meetings Sample Agenda:

<<Number>> Meeting of the XX Water System Advisory Board

Date:

Location:

Convene: <<Time>>

- I. Call to Order
- II. Introductions
- III. Meeting Overview
- IV. Water System Report
- V. Public Comment
- VI. Adjourn

Sample Process Agenda (for the meeting lead to generate and use):

<<Number>> Meeting of the XX Water System Advisory Board

Date

Location

Convene: <<Time>>

Materials: <<List of Supplies>>

Key for suggested meeting items:

T: Suggested amount of time

H: Suggested handouts (provide w/ agenda for advance reading)

F: Suggested areas for feedback from council

Item	Lead	Purpose/Approach
Call to Order	Chairperson	Start the meeting on time and thank council members, water system staff, and members of the public. T: 2 minutes.

<p>Introductions</p>	<p>Chairperson</p>	<p>Around the table and members of the public. Chair can say:</p> <p><i>The Board would appreciate having the members of the public attending the meeting today identify themselves and mention if they would like the opportunity to speak during the public comment period. However, you do not need to give your name to attend this meeting. When the time comes to introduce yourself and you do not want to do so, just say pass.</i></p> <p>T: 10 minutes.</p>
<p>Meeting Overview</p>	<p>Chairperson</p>	<p>Provide a short overview of the meeting ahead including estimated time of public comment and any specific rules that were adopted for public comment period at the first meeting.</p> <p>T: 10 minutes.</p>
<p>XX Water System Communication Report</p>	<p>Appropriate Water System staff person</p>	<p>Provide an overview of the current state and procedures in the water system related to the following items:</p> <ul style="list-style-type: none"> ◆ Overview of current plan for continuing public awareness about lead in drinking water, even when the action level is not exceeded; including public access status of all data and documents related to lead in drinking water within the water supply service area. ◆ Update on how statewide materials have been amended/updated based on feedback from previous meeting and how they are being used. ◆ Current plan for remediation and public education to be implemented if a lead action level is exceeded. <p style="text-align: right;"><i>Continued on next page.</i></p>

<p>XX Water System Communication Report, cont.</p>		<p style="text-align: right;"><i>Continued from previous page.</i></p> <ul style="list-style-type: none"> ◆ Plan and status of efforts to replace private lead service lines at locations where the owner declined service line replacement. <p>T: 40 minutes.</p> <p>Consider a short handout with overview points for each of the three elements. The presentation and handout should indicate where council input from the last meeting has been considered, integrated or, if not, explain why not.</p> <p>Encourage questions of clarification from council members; identify specific areas for input or questions for the council in advance, including related to the statewide materials.</p>
<p>Public Comment</p>	<p>Chairperson</p>	<p>Public Comment is required under the Open Meetings Act and is a good way to “Collaborate with local community groups to ensure that residents have the opportunity to be involved in efforts to educate the community about lead in drinking water.”</p> <p>T: N @ 3 minutes each.</p>
<p>Adjourn</p>	<p>Chairperson</p>	<p>Request a motion for adjournment.</p>