



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING



LIESL EICHLER CLARK
DIRECTOR

February 8, 2021

VIA EMAIL AND U.S. MAIL

Mr. Ellis Mitchell
City of Benton Harbor
200 Wall Street
Benton Harbor, Michigan 49022

WSSN: 00600
County: Berrien
Supply: Benton Harbor

Dear Mr. Mitchell:

SUBJECT: Violation Notice – Reporting for Lead and Copper

The records of the Department of Environment, Great Lakes, and Energy (EGLE), Drinking Water and Environmental Health Division (DWEHD), show that the City of Benton Harbor (City) is in violation of the Safe Drinking Water Act, 1976 PA 399, as amended (Act 399); R 325.1041 *Public education regarding lead*; and R 325.10710d *Reporting requirements for lead, copper, and corrosion control*, of the 1979 Administrative Code. The records in question are regarding the distribution of required public education material. A water supply that exceeds the lead action level in more than 10 percent of distribution system taps shall deliver the public education (PE) materials to all water customers within 60 days of notification by the department of a lead action level exceedance or within 60 days after the end of the monitoring period in which the exceedance occurred, whichever is sooner, and send EGLE a copy of the PE materials and delivery documentation within ten days after delivery.

These requirements were outlined in the Action Level exceedance letters dated January 16, 2020 and July 15, 2020. EGLE records show you did not distribute the PE materials in a manner that resulted in direct mailing to all water customers for these exceedance events. Specifically, when utilizing the Every Door Direct mailing service of the United States Postal Service (USPS), insufficient routes were chosen which resulted in areas of town that did not receive the PE documents. EGLE's investigation consisted of a review of DWEHD files and the USPS website, resulting in the attached map. If you have delivered the PE materials to all your customers by the due date, please send EGLE the PE materials and delivery documentation immediately.

EGLE's investigation is considered complete. This violation began on March 1, 2020, and will continue until you return to compliance. **To return to compliance, you must distribute the PE materials as required by Act 399 and submit a copy of the PE materials and PE distribution certificate to EGLE no later than March 1, 2021.** From conversations with City staff, there has been an effort to organize a mailing in-house rather than relying on the USPS Every Door Direct service. EGLE will continue to be available to review the PE document to ensure it contains the necessary information.

Administrative rule R 325.10403 requires that suppliers provide public notice (PN), not later than 30 days after learning of the violation, by mail or direct delivery and by any other means reasonably calculated to reach other persons regularly served by the system. EGLE is available to the City to review the PN and ensure complete distribution; this PN will be distributed along with the PE materials to all customers. The PN for these violations must be sent to all consumers by March 1, 2021, and a signed and dated copy of the issued PN must be sent to EGLE within ten

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days of distribution. These violations must be included in your 2021 Consumer Confidence Report, which is due by July 1, 2022.

EGLE is authorized under Section 7 of Act 399, MCL 325.1007, to issue fines for public water supplies that fail to meet treatment technique requirements. There is no fine for this violation notice. However, failure to distribute the PE by March 1, 2021, may result in fines. Additionally, failure to issue the PN for these violations may result in fines of at least \$1,000 per day, not to exceed \$5,000 total. Please contact me if you would like more information on DWEHD's administrative fines policy.

If you have any factual information you would like EGLE to consider regarding the violations identified in this violation notice, please provide it in a written response by February 15, 2021.

We anticipate and appreciate your cooperation in resolving this matter. If you have any questions regarding this letter, please contact me at 616-307-0261; SarkipatoE@Michigan.gov; or EGLE-DWEHD, 350 Ottawa Avenue NW, Unit 10, Grand Rapids, Michigan 49506.

Sincerely,

A handwritten signature in black ink, appearing to read "Ernie Sarkipato". The signature is fluid and cursive, with the first name "Ernie" written in a larger, more prominent script than the last name "Sarkipato".

Ernie Sarkipato, P.E.
Surface Water Treatment Specialist
Community Water Supply Section
Drinking Water and Environmental Health Division

Enclosure

cc/enc: Mr. Rob Jones, Fleis & Vandenbrink
Ms. Courtney Davis, Berrien County Health Department
Mr. Brandon Onan, EGLE

Attachment A



MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY

February 4, 2021

Map Not to
Scale

Benton Harbor Public Education Distribution

Source: eddm.usps.com

