



110 W. Taylor Street  
San Jose, CA 95110-2131

May 3, 2023

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Advice Letter No. 595

Dear Madame/Sir:

San Jose Water Company (U-168-W) (SJWC) hereby transmits for filing the following changes in tariff schedules applicable to its service area and which are attached here to:

<u>Cal. P.U.C Sheet No.</u>	<u>Title of Sheet</u>	<u>Cancelling Cal. P.U.C. Sheet No.</u>
2252-W	Preliminary Statement (Continued)	
2253-W	Table of Contents	2250-W

These tariffs are submitted pursuant to General Order No. 96-B. Pursuant to General Order No. 96-B Water Industry Rule 7.3.2.(5), this advice letter is designated a Tier II Advice Letter.

#### Purpose

SJWC is seeking authorization to establish a Lead and Copper Rule Revisions Memorandum Account (LCRRMA) to track incremental costs required to comply with the United States Environmental Protection Agency (EPA) Lead and Copper Rule Revisions (LCRR) that are not otherwise covered in SJWC's authorized rates.

#### Background

On January 15, 2021, the EPA issued the revised LCRR (**Attachment A**). This regulation introduces several new compliance and reporting requirements for water systems in the United States, some of which must be completed by October 16, 2024.

The purpose of the revised LCRR is to protect consumers from the impact of lead exposure in drinking water. Under the LCRR revision, the EPA requires water systems to conduct a comprehensive inventory of both utility-owned and customer-owned service line materials. It will require SJWC to identify any portion of a service line and categorize its findings as either lead, galvanized, non-lead (including copper, plastic or steel), or lead status unknown service lines and lines requiring replacement. SJWC will also be required to make the inventory information publicly available.

On December 16, 2021, the EPA published Docket No. EPA-HW-OW-2021-0255 in the federal register. Within the Docket, EPA committed to propose and further revise the LCRR by October 2024 with the Lead and Copper Rule Improvements (LCRI). The LCRI are expected to delay the implementation of portions of the LCRR beyond the original October 16, 2024 compliance date with the exception of the service line material inventory requirements. The LCRI may include additional modifications and requirements to the following LCRR sections:

- Timely replacement of lead service lines
- Revised tap sampling and lead action/trigger levels
- School and Child Care Center sampling
- Public education
- Corrosion control treatment

#### Memorandum Account Justification

SJWC anticipates incurring costs in order to comply with the revisions. The LCRR will require a comprehensive inventory of service line materials, which requires researching and documenting state and local plumbing codes, permits and existing records or other available historic records that indicate service line materials.

SJWC is requesting to establish a Lead And Copper Rule Revisions Memorandum Account (LCRRMA), to record costs associated with the LCRR O&M expenses and carrying costs on any capital investments incurred for any additional modifications and requirements that may result from the final LCRI. SJWC anticipates it could incur additional costs associated with full compliance of the LCRR due to the comprehensive, evolving scope of the revisions.

#### **Request To Establish A Memorandum Account**

In accordance with the Commission's Standard Practice U-27-W, establishing a memorandum account is conditional and in consideration with the following criteria which have been met by SJWC:

##### **1. The event is not under the utility's control.**

On January 2021, the EPA issued a revised LCRR to protect consumers from the impact of lead exposure in drinking water. Under the LCRR, the EPA requires water systems to conduct a comprehensive inventory of both utility owned and customer owned service line materials. The LCRR requires water systems to identify any lead and galvanized lines requiring replacement, or lead status-unknown service lines. The water system is required to make the inventory information publicly available. The EPA is not under SJWC's control, the requirement to comply with the revisions will result in new, unavoidable expenses for SJWC, both exceptional in nature and not under SJWC's control.

##### **2. The event could not have been reasonably foreseen in the utility's last general rate case.**

The EPA's revisions to the LCRR were issued in January 2021. On December 16, 2021, the EPA published Docket No. EPA-HW-OW-2021-0255 in the federal register. Within the Docket, EPA committed to propose and revise the LCRR by October 2024 with the Lead and Copper Rule

Improvements (LCRI). The LCRI are expected to delay the implementation of portions of the LCRR beyond the original October 16, 2024 compliance date with the exception of the service line material inventory requirements.

### **3. The event occurred before the utility's next scheduled rate case.**

SJWC's next general rate case application is not scheduled to be filed until January 2024 for Years 2025-2027.

### **4. The event is of a substantial nature in that the amount of money involved is worth the effort of processing a memo account.**

SJWC anticipates incurring costs in order to initiate the service line inventory requirement in compliance with the LCRR revisions required by the EPA by October 2024. SJWC anticipates additional costs will be incurred once the EPA issues the LCRI which are expected to delay the implementation of portions of the LCRR beyond the original due date of October 2024.

The LCRI may include additional modifications and requirements to the following LCRR sections:

- Field verification of lead service line inventory
- Timely replacement of lead service lines
- Revised tap sampling and lead action/trigger levels
- School and Child Care Center sampling
- Public education
- Corrosion control study and treatment

The total magnitude of costs associated with full compliance of the LCRR will undoubtedly increase due to the comprehensive, evolving scope of the rules revisions.

### **5. The Memorandum Account has ratepayer benefits.**

SJWC's customers will benefit from the establishment of this Memorandum Account because it will allow SJWC to adequately prepare its water system for compliance with the updated LCRR requirements. The revisions will concentrate on inventory of lead service lines; developing sampling plans for lead and copper compliance at customers' taps; developing of school and childcare facility inventories and sampling at these facilities; and preparing messaging for public education and customer notifications. Compliance with the regulatory requirements of the EPA's LCRR for its water systems protects consumers from the risks and impact of lead and copper exposure in drinking water.

### **Memorandum Account Treatment**

SJWC is aware that a memorandum account is not a guarantee of eventual recovery of expenses, nor is it carried as a regular account under the uniform system of accounts for water utilities. It is carried "off the books", as a memorandum account. Further, it is also known that Commission policy on memorandum account treatment has always been that the burden of proof of the

reasonableness of expenses charged to the account is the responsibility of the utility requesting reimbursement of such costs.

### **Additional Authority for Requested Memorandum Account**

The Commission approved identical (in nature) LCRRMA requests for Great Oaks Water Company pursuant to D.23-04-004 and for Golden State Water Company via Advice Letter 1894.

Effective Date  
May 3, 2023

### Protests and Responses

Anyone may respond to or protest this advice letter. A response does not oppose the filing but presents information that may prove useful to the Commission in evaluating the advice letter. A protest objects to the advice letter in whole or in part and must set forth the specific grounds on which it is based. These grounds may include the following:

- (1) The utility did not properly serve or give notice of the advice letter;
- (2) The relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies;
- (3) The analysis, calculations, or data in the advice letter contain material error or omissions;
- (4) The relief requested in the advice letter is pending before the Commission in a formal proceeding;
- (5) The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process; or
- (6) The relief requested in the advice letter is unjust, unreasonable, or discriminatory (provided that such a protest may not be made where it would require relitigating a prior order of the Commission).

A response or protest must be made in writing or by electronic mail and must be received by the Water Division within 20 days of the date this advice letter is filed. The address for mailing or delivering a protest is:

Tariff Unit, Water Division, 3<sup>rd</sup> floor  
California Public Utilities Commission,  
505 Van Ness Avenue  
San Francisco, CA 94102  
water\_division@cpuc.ca.gov

On the same date the response or protest is submitted to the Water Division, the respondent or protestant shall send a copy of the protest by mail or e-mail to us, addressed to:

Regulatory Affairs  
San Jose Water Company

110 West Taylor Street  
San Jose, CA 95110

regulatoryaffairs@sjwater.com.

The advice letter process does not provide for any responses, protests or comments, except for the utility's reply, after the 20-day comment period. Public notice is not required.

In compliance with Paragraph 4.3 of GO 96-B, a copy of this advice letter has been mailed to all interested and affected parties as detailed in **Attachment B**. ***Please note that this advice letter will only be distributed electronically to the Water Division and the attached service list.***

SJWC currently has Advice Letter 590, 591, 592, 593, and 594 pending before the Commission.

This filing will not cause the withdrawal of service, nor conflict with other schedules or rules.

Very truly yours,

NANCI TRAN  
Manager of Regulatory Affairs

**PRELIMINARY STATEMENT**  
**(Continued)**

**CC. Lead and Copper Rule Revisions Memorandum Account (LCRRMA)**

1. **Purpose**

The purpose of the LCRRMA is to track for potential future recovery any incremental expenses and carrying costs on capital investments incurred by San Jose Water Company (SJWC) that are required to comply with the United States Environmental Protection Agency's (EPA) Lead and Copper Rule Revisions (LCRR) that are not otherwise covered in SJWC's authorized rates.

2. **Applicability**

SJWC expects to incur expenses related to incremental operations and maintenance (O&M) costs, and carrying costs on capital investments that may be required. Costs may include but are not limited to the following:

- Development of service line material inventories for each of SJWC's water systems;
- Preparation of Lead Service Line Replacement (LSLR) Plans for each system;
- Replacement of service lines (if necessary);
- Preparation of a Standard Operating Procedure (SOP) for the development and ongoing maintenance of the customer service line inventories;
- Development of sampling plans for lead and copper compliance monitoring at the taps of customers, daycares and schools for each system;
- Development of school and child care facility inventories for all SJWC's systems, and reparation for and the cost of sampling in these facilities; and
- Preparation of messaging for public education and customer notifications.

3. **Accounting Procedure**

The LCRRMA does not have a rate component.

- a. A debit entry shall be made to the LCRRMA to record the costs described above in Section 2 (Applicability)
- b. Interest shall accrue to the LCRRMA on a monthly basis by applying a rate equal to one twelfth of the 3-month Commercial Paper Rate, as reported in the Federal Reserve Statistical Release, to the average of the beginning-of-month and end-of balances.
- c. A debit entry equal to the revenue of each capital expenditure at SJWC's authorized rate of return and related expenses (including return, income taxes, ad valorem tax, depreciation, and other taxes and fees).
- d. A credit entry to transfer all or portion of the balance in the LCRRMA to other adjustment clauses for future rate recovery, as may be approved by the CPUC.

4. **Effective Date**

The LCRRMA shall go into effect on the effective date of Advice Letter 595.

5. **Disposition**

Disposition of amounts recorded in the LCRRMA shall be determined in SJWC's next General Rate Case.

(To be inserted by utility)

Issued by

(To be inserted by Cal. P.U.C.)

Advice No. 595

JOHN TANG

Date Filed \_\_\_\_\_

Vice President,

Effective \_\_\_\_\_

Dec. No. \_\_\_\_\_

Regulatory Affairs

Resolution No. \_\_\_\_\_

TITLE

## TABLE OF CONTENTS

The following listed tariff sheets contain all effective rates, rules and regulations affecting the rates and service of the Utility, together with information relating thereto:

Subject Matter of Sheet	C.P.U.C. Sheet No.	
Title		1495-W
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Preliminary Statement	919-W, 1303-W, 2032-W, 2212-W, 2213-W, 2035-W, 2058-W, 2037-W, 2214-W, 2040-W, 2041-W, 2215-W, 2087-W, 2244-W, 2155-W 2216-W, 2217-W, 2237-W, 2252-W	(C)
Service Area Map Locator	1266-W	
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Rate Schedules:		
Schedule No. 1, General Metered Service	2225-W, 2176-W and 2238-W	
Schedule No. 1B, General Metered Service With Automatic Fire Sprinkler System	2226-W, 1741-W, 2183-W, 2239-W, 2240-W 2227-W, 1952-W, 1884-W and 2184-W, 2221W	
Schedule No. 1C, General Metered Service Mountain District	2228-W and 2187-W	
Schedule No. 4, Private Fire Service	1118-W and 1094-W	
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Schedule No. 10R, Service to Employees	2134-W, 2149-W, 2136-W, 2137-W	
Schedule No. 14.1 Water Shortage Contingency Plan with Staged Mandatory Reductions and Drought Surcharges	2138-W, 2139-W, 2146-W 2229-W, 2203, 2241-W, 2230-W, 2242-W	
Schedule No. RW, Raw Water Metered Service	2234-W	
Schedule No. RCW, Recycled Water Metered Service		
Schedule No. UF, Surcharge to Fund Public Utilities Commission, Reimbursement Fee		
Schedule No. CAP, Customer Assistance Program	2248-W and 2056-W	
List of Contracts and Deviations	2246-W and 2103-W	
Rules:		
No. 1 - Definitions	2064-W and 2065-W	
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No. 4 - Contracts	352-W	
No. 5 - Special Information Required on Forms	2066-W, 2067-W and 2068-W-W	
No. 6 - Establishment and Re-establishment of Credit	354-W	
No. 7 - Deposits	355-W and 356-W	
No. 8 - Notices	2069-W, 2070-W and 2017-W	
No. 9 - Rendering and Payment of Bills	2188-W, 2189-W and 2190-W	

(Continued)

(To be inserted by utility)

Issued by

(To be inserted by Cal. P.U.C.)

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JOHN TANG  
Vice President,  
Regulatory Affairs

Date Filed \_\_\_\_\_  
Effective \_\_\_\_\_  
Resolution No. \_\_\_\_\_

Dec. No. \_\_\_\_\_

**SAN JOSE WATER COMPANY**

**ADVICE LETTER NO. 595**

**ATTACHMENT A**





# Fact Sheet

## USEPA Lead and Copper Rule Revisions

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[EPA-HQ-OW-2017-0300; FRL-10019-23-OW] RIN 2040-AF15

National Primary Drinking Water

Regulations: Lead and Copper Rule Revisions:

<https://www.epa.gov/ground-water-and-drinking-water/final-revisions-lead-and-copper-rule>

*Published on January 15, 2021, U.S. Environmental Protection Agency (EPA) finalized the first major update to the Lead and Copper Rule (LCR or Rule) in nearly 30 years. EPA's new Lead and Copper Rule Revisions (LCRR) strengthen every aspect of the LCR to better protect communities and children in elementary schools and childcare facilities from the risks of lead exposure. The new Rule will get the lead out of our nation's drinking water and empower communities through information. Over the next three years, the LCRR will require community and non-transient non-community water systems throughout the United States to conduct an inventory of service lines and determine the material of those lines and fittings. The majority of the LCRR requirements are currently scheduled to go into effect January 2024. The LCRR is scheduled to become effective on June 17, 2021, however the EPA is proposing to delay implementation until December 16, 2021. The public comment period for the LCRR ended on April 12, 2021 and EPA is now determining whether to extend the effective and compliance dates.*

### Background

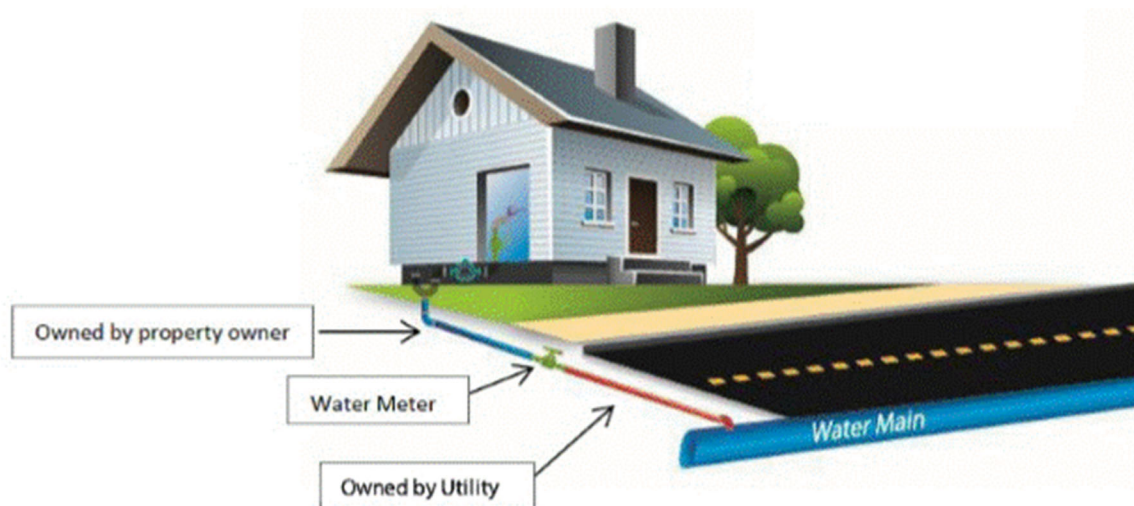
In California, **Senate Bill 1398** (2016) and subsequent additions in **Senate Bill 427** (2017), updated the California Health and Safety Code to require only community water systems to conduct an inventory of lead user service lines by July 1, 2018 and submit the user service line data to the State Water Board. As demonstrated in the diagram below, the California definition of a "user service line" is the portion of the service line and fittings that are owned by the water system, from the water main to the meter. In most cases, the homeowner owns the portion of the service line that extends from the water meter to the building inlet.

In contrast to the California definition, the **LCRR define** "service line" as a pipe, including the water meter, which connects the water main to the building inlet. A service line may be owned by the water system, owned by the property owner, or both. The LCRR require all community and non-transient non-community water systems to complete an inventory of service lines, regardless of ownership, by January 16, 2024<sup>1</sup>. Under the LCRR, water systems will need to determine if any portion of the service line and its fittings are: lead, galvanized, non-lead, or lead

<sup>1</sup> If the EPA extends the LCRR effective date to December 16, 2021, then it will likely extend the inventory compliance deadline to September 16, 2024.



status unknown. A water system may want to collect more specific data on the type of material, such as copper, plastic or steel.



**NOTE: Under SB 427 and previous California regulations, the sections of the service line titled “Owned by Utility” and the “Water Meter” are included in California’s definition of a “service line.” The EPA’s new LCRR expands the definition of “service line” to also include “Owned by property owner” such that the entire line, regardless of ownership, is required to be included in a water system’s inventory.**

Community water systems in California have already submitted service line inventories that include the portions of the service line from the Water Main to the Water Meter. The State Water Board intends to start collecting the additional data for the remainder of the entire “service line,” as defined by the LCRR, in the electronic annual report. Under the EPA’s LCRR, community water systems in California **will need to inventory the privately-owned portion (“Owned by property owner”) of the service line over the next three years.** Though the EPA is still currently taking public comment on its LCRR, and revisions may still happen to the LCR, its requirements regarding inventories will likely remain unchanged. California will update its regulations on required inventories so that they are consistent with the LCRR.

## Moving Forward

### Next Steps for water systems:

The LCRR specifically provides the following requirements to water systems to create an inventory:

A water system must use any information on lead and galvanized iron or steel that it has identified when conducting the inventory of service lines in its distribution system. The water system service line material must be categorized with the following: lead, galvanized, non-lead (including copper, plastic, or steel) or lead status unknown.

The water system must also review the sources of information listed below to identify service line materials for the inventory. The water system may use other sources of information not listed below, if approved by the State.

- All construction and plumbing codes, permits, and existing records or other documentation which indicates the service line materials used to connect structures to the distribution system.
- All water system records, including distribution system maps and drawings, historical records on each service connection, meter installation records, historical capital improvement or master plans, and standard operating procedures.
- All inspections and records of the distribution system that indicate the material composition of the service connections that connect a structure to the distribution system.

To comply with the LCRR, the State Water Board suggests starting with an evaluation of your system's records. The water system should then consider investigating County and City construction and plumbing codes, going back as far as the beginning of your water system's construction. Interviewing County and City building inspectors would also provide valuable information. Additionally, interviewing local building contractors and plumbers to determine what type of pipe is constructed in various parts of your distribution system is an option. Please document all evaluations and interviews. Other types of identification methods currently used are scratch testing and eddy currents. Predictive modeling has also shown success in various systems.

If you are a community water system with an approved replacement plan, you will need to continue to replace the water-system-owned lead pipes, lead fittings and unknown user service lines in addition to inventorying the remainder of the entire "service line," as defined by the LCRR.

**Non-Transient Non-Community** water systems will need to develop an inventory of all pipe and fittings material distributing water from the source of supply to the building inlets.

### **Helpful information sites:**

American Water Works Association (AWWA) held a webinar on what the LCRR rule changes mean for water systems in January 2021. It's free and available online here: [W210128 Final Lead and Copper Rule Revisions | GoToStage.com](#).

The Lead Service Line Replacement Collaborative is working on updating its website based on the LCRR changes. Their website is a great resource: [Preparing a Lead Service Line Inventory - LSLR Collaborative \(lslr-collaborative.org\)](#). Please note that this does not reflect rule-specific requirements at this time.

*(These Facts were last updated on April 20, 2021)*

**SAN JOSE WATER COMPANY**

**ADVICE LETTER NO. 595**

**ATTACHMENT B**

**SAN JOSE WATER COMPANY (U-168-  
W) ADVICE LETTER 595 SERVICE LIST**

Big Redwood Park Water	waldburford@gmail.com;
Brush & Old Well Mutual Water Company	BOWMWC@brushroad.com;
Cal Water	cwsrates@calwater.com;
City of Campbell	publicworks@cityofcampbell.com;
City of Cupertino City Attorney	cityattorney@cupertino.org;
City of Cupertino Director of Public Works	rogerl@cupertino.org;
City of Milpitas	<a href="mailto:tndah@ci.milpitas.ca.gov">tndah@ci.milpitas.ca.gov</a> ;
City of Milpitas	smachida@ci.milpitas.ca.gov;
City of Monte Sereno	steve@cityofmontesereno.org;
City of Monte Sereno	bmekechuk@cityofmontesereno.org;
City of Santa Clara	water@santaclaraca.gov;
City of San Jose	jeffrey.provenzano@sanjoseca.gov;
City of Saratoga	jcherbone@saratoga.ca.us;
County of Santa Clara	county.counsel@cco.sccgov.org;
DB Davis	dbdavis@rockwellcollins.com;
Dept. of Water Resources, Safe Drinking Water Office	sdwo@water.ca.gov;
Valley Water	dtaylor@valleywater.org;
Gillette Mutual Water Company	gapowerz@gmail.com;
Gillette Mutual Water Company	goldiey@pacbell.net;
Gillette Mutual Water Company	keyoung@pacbell.net;
Great Oaks Water	jroeder@greatoakswater.com;
Great Oaks Water	tguster@greatoakswater.com;
Cal Water	jpolanco@calwater.com;
James Hunter	j88hunter882@gmail.com;
City of Cupertino	KirstenS@cupertino.org;
Public Advocates Office	mukunda.dawadi@cpuc.ca.gov;
Public Advocates Office	PublicAdvocatesWater@cpuc.ca.gov;
Mountain Springs Mutual Water Co.	Lorenroy@icloud.com;
Mt. Summit Mutual Water Company	wshoefler@comcast.net;
Oakmount Mutual Water Company	gortiz12@comcast.net;
Patrick Kearns MD	pjk3@comcast.net;
Raineri Mutual Water Company	info@rainerimutual.org;
Ridge Mutual Water Company	pmantey@yahoo.com;
Rishi Kumar	rkumar@saratoga.ca.us;
San Jose Mercury News	progers@bayareanewsgroup.com;
Valley Water	afulcher@valleywater.org;
Valley Water	abaker@valleywater.org;
Saratoga Heights Mutual Water Company	sjw@shmwc.org;
SouthWest Water Company	kcarlson@swwc.com;
Stagecoach Mutual Water Company	stagecoachroadMWC@gmail.com;
Summit West	RJonesPE@aol.com;
Summit West	board@summitwest.org;
Town of Los Gatos Dir. of Public Works	ppw@losgatosca.gov;
WRATES	rita_benton@ymail.com;
Villa Del Monte	mntmom33@comcast.net;