



Great Lakes-St. Lawrence
Legislative Caucus

**Model Policy:
Reducing the Public's Exposure to Lead in Drinking Water**

Section 1. Findings.

- a) The [BODY] finds that lead is a toxic substance that serves no beneficial purpose in the human body, causes lifelong adverse health effects and developmental delays, and is not safe at *any* level of exposure.
- b) The [BODY] also finds that the greatest risk from lead exposure is to infants, young children, and pregnant women, with infants who drink formula prepared with lead-contaminated water being at higher risk because of the large amount of water they drink relative to their body size.
- c) The [BODY] also finds that lead is particularly dangerous to children because their growing bodies absorb more lead than adult bodies do, and their brains and nervous systems are more sensitive to the damaging effects of lead.
- d) The [BODY] also finds that exposure to lead in drinking water is a public health issue with the potential to affect *all* people, but most commonly afflicts children already disadvantaged by low socioeconomic status.
- e) The [BODY] also finds that the best way to eliminate the health hazard posed by exposure to lead in drinking water is to completely remove lead from drinking water delivery systems – from the source to the tap.
- f) The [BODY] also finds that it is in the best interest of the people of the State to require testing of drinking water in schools and licensed child care centers; short-term and permanent control measures to reduce the risk of exposure to lead in drinking water found in schools or licensed child care centers; and identification of any lead service lines in water delivery systems throughout the State.

Section 2. The [RELEVANT STATUTE] is amended by adding Section [X] as follows:

Section [X]. Reducing exposure to lead in drinking water in schools.

- 1) **Purpose.** The purpose of this Section is to reduce exposure of students, staff, and other occupants of school buildings to lead in drinking water by requiring that
 - a) All pre-kindergarten through grade 12 schools in the State, public or private, be tested for lead with the goal of providing school building occupants with an adequate supply of safe, potable water, and
 - b) The parents or legal guardians of enrolled students and building staff receive written notification of the sampling results from their respective school buildings.
- 2) **Definitions.** For the purposes of this Section:
 - a) “Community water system” has the meaning provided in [RELEVANT STATUTE].

- b) "School building" means any facility that may be occupied by more than 10 children or students, pre-kindergarten through grade 12, under the control of (a) a school district or (b) a public, private, charter, or nonpublic day or residential educational institution.
 - c) "Source of potable water" means the point at which non-bottled water that may be ingested by children or used for food preparation exits any tap, faucet, drinking fountain, wash basin in a classroom occupied by children or students under grade 1, or similar point of use; provided, however, that all (a) bathroom sinks and (b) wash basins used by janitorial staff are excluded from this definition.
- 3) **Responsibility for testing.** Each [RESPONSIBLE PARTY], shall test each source of potable water in a school building for total lead as required in this subsection.
- a) From each source of potable water located at each corresponding school building, the [RESPONSIBLE PARTY] shall, at a minimum, (a) collect or cause to be collected a first-draw 250 milliliter sample of water and (b) after flushing for 30 seconds, collect or cause to be collected a second-draw 250 milliliter sample; provided, however, that to the extent that multiple sources of potable water utilize the same drain, (i) the foregoing collection protocol is required for one such source of potable water, and (ii) only a first-draw 250 milliliter sample of water is required from the remaining such sources of potable water.
 - b) The water corresponding to the first-draw 250 milliliter sample from each source of potable water shall have been standing in the plumbing pipes for at least 8 hours, but not more than 18 hours, without any flushing of the source of potable water before sample collection.
 - c) The [RESPONSIBLE PARTY] shall submit or cause to be submitted (a) the samples to a state-accredited laboratory for analysis for total lead in accordance with the instructions supplied by the laboratory and (b) the written sampling results to the [AGENCY or SCHOOL, depending on the RESPONSIBLE PARTY] within 7 business days of receipt of the results.
- 4) **Immediate response and control measures.** If any of the samples taken in a school reveal total lead in excess of 5 parts per billion, the school district or chief school administrator, or the designee of the school district or chief school administrator, shall
- a) Respond immediately to prohibit the use of any problem outlet until such time as permanent control measures can be taken to eliminate the problem.
 - b) Promptly take short-term control measures to provide school occupants with an adequate supply of safe, potable water for drinking as required by rules and regulations of the [AGENCY] until future tests indicate that total lead levels are below 5 parts per billion.
 - c) Develop and implement permanent control measures to remediate the problem outlet(s) to eliminate the risk posed to students and staff from consuming water from such outlet(s).
- 5) **Notification.**
- a) If any of the samples taken in a school exceed 5 parts per billion for total lead, the school district or chief school administrator, or the designee of the school district or chief school administrator, shall promptly provide an individual notification of the sampling results, via written communication, to the parents or legal guardians of all enrolled students and to building staff. Such notification shall include, at a minimum,
 - i) For samples that exceeded 5 parts per billion for total lead, the actual testing result (in parts per billion) and the corresponding sampling location(s) within the school building.
 - ii) A statement that there is no safe level of exposure to lead.

- iii) Information on the immediate protective actions that will be taken to prohibit the consumption of water from any outlet(s) for which the sampling results exceeded 5 parts per billion, and the timeframe for taking such actions.
 - iv) Information on the short-term and permanent control measures that will be taken to eliminate the hazard posed by any outlet(s) for which the sampling results exceeded 5 parts per billion, and the timeframe for such remediation.
 - v) Reference to the United States Environmental Protection Agency's web site and telephone number where more information can be obtained regarding the health risks of lead in drinking water.
 - vi) Resources within the State where parents, guardians, and building staff can find information on testing for blood lead levels.
- b) In addition to the individual notification required in Subsection 5a, the school district or chief school administrator, or the designee of the school district or chief school administrator, shall post information on the results of testing on the school's web site, if one exists.
 - c) Within 90 days of the effective date of this Act, the [AGENCY] shall post on its web site guidance on mitigation actions for lead in drinking water in schools and ongoing water management practices. In preparing such guidance, the [AGENCY] may reference the United States Environmental Protection Agency's "3Ts for Reducing Lead in Drinking Water in Schools," as revised in October 2018.
- 6) **Reporting.**
- a) In addition to the individual notification to parents and general notification of the public required in Subsection 5, [RESPONSIBLE PARTY] shall provide [DEPARTMENT] with
 - i) The results of all testing, including, at a minimum, the following data for each sample:
 - (1) Type of sample taken (e.g., initial first-draw).
 - (2) Date and time of collection.
 - (3) Name of the sample collector.
 - (4) Name of laboratory performing the analysis of samples.
 - (5) Location of the sample site.
 - (6) Name of the outlet manufacturer and the outlet's model number, if known.
 - (7) Model number of faucets, valves, and other visible fixtures.
 - (8) Water treatment already in place in the building (i.e., point-of-entry (POE) devices) or filters (point-of-use (POU) devices).
 - (9) Total lead found, in parts per billion.
 - ii) If any samples exceed 5 parts per billion for total lead, the following data:
 - (1) Immediate response and control measures taken (including dates) for each problem outlet.
 - (2) The date(s) of notification(s) provided to parents, guardians, staff, and the public.
 - b) The data collected in Subsection 6a may be aggregated with similar data from other states and shared, as appropriate, for the purpose of researching the health hazards associated with exposure to lead in drinking water and effective measures to reduce exposure to lead in schools.
- 7) **Compliance dates.**
- a) Sampling and analysis required under this Section shall be initiated within one year of the effective date of this Act and completed within one year of initiation.

- b) Permanent control measures to remediate any problem outlet(s) to eliminate lead in drinking water shall be completed within two years of discovery of any samples that exceed 5 parts per billion.
- 8) **Retesting.** Retesting shall occur
- a) After any remediation, as required in Subsection 4, and prior to any modified outlet(s) being approved for use by students and staff.
 - b) After any change to the source water for the building.
 - c) After any change to the water treatment process applied to the source water for the building.
 - d) After the replacement of any lead service lines that serve the building.
 - e) After any sale or lease of the building for continued use as a public, private, or charter school as defined in this Act.
- 9) **Waivers.** A school district or chief school administrator, or the designee of the school district or chief school administrator, may seek a waiver of the requirements of this subsection from the [AGENCY], if, within two years prior to the effective date of this Act,
- a) The school district or chief school administrator, or the designee of the school district or chief school administrator, collected at least one 250 milliliter or greater sample of water from each source of potable water that had been standing in the plumbing pipes for at least 8 hours but not longer than 18 hours and that was collected without flushing the source of potable water before collection.
 - b) A [AGENCY]-accredited laboratory analyzed the samples.
 - c) Test results were submitted to the [AGENCY] within 120 days of the effective date of this Act.
- 10) **Financial and technical assistance.**
- a) [AUTHORIZATION UNDER APPROPRIATE EDUCATION STATUTE TO USE BUILDING AID OR OTHER FUNDS FOR TESTING AND REMEDIATION]
 - b) The owner or operator of a community water system may agree to pay for the cost of the collection and/or laboratory analysis of the samples required under this Section and may utilize the [APPROPRIATE FUND, citing APPROPRIATE STATUTE] or other available funds to defray said costs.
 - i) Lead sampling results obtained shall not be used for purposes of determining compliance with the rules that implement the national primary drinking water regulations for lead and copper.
 - c) County health departments may assist in the planning and/or conduct of testing, remediation, and/or reporting.

Section 3. The [RELEVANT STATUTE] is amended by adding Section [X] as follows:

Section [X]. Reducing exposure to lead in drinking water in child care facilities.

- 1) **Purpose.** The purpose of this Section is to reduce exposure of children, staff, and other occupants of child care facilities to lead in drinking water by requiring that
 - a) All licensed child care facilities in the State be tested for lead with the goal of providing building occupants with an adequate supply of safe, potable water, and
 - b) The parents or legal guardians of enrolled children and building staff receive written notification of the sampling results from their respective buildings.
- 2) **Definitions.** For the purposes of this section:

- a) "Child care facility" means [DEFINITION, citing STATUTE].
- 3) **Testing of drinking water.**
 - a) Each applicant for a new or continued license to operate a child care center under [STATUTE] or for a new or renewed certification under [STATUTE] shall, no sooner than 6 months prior to submitting the application, test the drinking water at the building to be used as a child care center for total lead. The applicant shall submit the test results to the [AUTHORITY] along with the application.
 - b) An applicant for a new or continued license under [STATUTE] or for a new or renewed certification under [STATUTE] shall ensure that the testing required under Subsection 3a is done in accordance with rules promulgated by the [AGENCY].
- 4) **Immediate response and control measures.** If any of the samples taken in a child care center reveal total lead in excess of 5 parts per billion, the applicant shall
 - a) Respond immediately to prohibit the use of any problem outlet(s) until such time as permanent control measures can be taken to eliminate the problem.
 - b) Promptly take short-term control measures to provide child care center occupants with an adequate supply of safe, potable water for drinking as required by rules and regulations of the [AGENCY] until future tests indicate that total lead levels are below 5 parts per billion.
 - c) Develop and implement permanent control measures to remediate the problem outlet(s) to eliminate the risk posed to children and staff from consuming water from such outlet(s). Permanent control measures to remediate any problem outlet(s) to eliminate lead in drinking water shall be completed within one year of discovery of any samples that exceed 5 parts per billion.
- 5) **Notification.**
 - a) If any of the samples taken in a child care center exceed 5 parts per billion for total lead, the applicant shall promptly provide an individual notification of the sampling results, via written communication, to the parents or legal guardians of all children under its care and supervision and to building staff. Such notification shall include, at a minimum,
 - i) For samples that exceeded 5 parts per billion for total lead, the actual testing result (in parts per billion) and the corresponding sampling location(s).
 - ii) A statement that there is no safe level of exposure to lead.
 - iii) Information on the immediate protective actions that will be taken to prohibit the consumption of water from any outlet(s) for which the sampling results exceeded 5 parts per billion for total lead, and the timeframe for taking such actions.
 - iv) Information on the short-term and permanent control measures that will be taken to eliminate the hazard posed by any outlet(s) for which the sampling results exceeded 5 parts per billion, and the timeframe for such remediation.
 - v) Reference to the United States Environmental Protection Agency's web site and telephone number where more information can be obtained regarding the health risks of lead in drinking water.
 - vi) Resources within the State where parents, guardians, and building staff can find information on testing for blood lead levels.
 - b) In addition to the individual notification required in Subsection 5a, the applicant shall post the results of testing on the day care center's web site, if one exists.
 - c) Along with its application, the applicant shall submit proof that it is compliant with Subsections 5a and 5b.

- d) The applicant shall submit to [AGENCY] the results of any retesting required in Subsection 7.

6) Amendments to statutes.

- a) [STATUTE] is created to read:
[X]. That all child care centers licensed under [STATUTE] comply with [NEW SECTION].
- b) [STATUTE] is created to read:
[X]. In establishing the requirements for certification of a child care provider under [PART], the [AUTHORITY] shall include a requirement that all child care providers certified under [STATUTE] comply with [NEW SECTION].
- c) [STATUTE] is created to read:
[X]. The [AGENCY] shall promulgate rules establishing procedures for testing drinking water in buildings used for child care for lead contamination under [NEW SECTION].

7) Retesting. Retesting shall occur

- a) After any remediation, as required in Subsection 4, and prior to any modified outlet(s) being approved for use by students and staff.
- b) After any change to the source water for the building.
- c) After any change to the water treatment process applied to the source water for the building.
- d) After the replacement of any lead service lines that serve the building.
- e) After any sale or lease of the building for continued use as a child care center as defined in this Act.

8) Initial applicability.

- a) This act first applies to an application for a new or continued license to operate a child care center under [STATUTE] or for a new or renewed certification under [STATUTE] submitted on the effective date of this [PART].
- b) After adoption of the rules required by Subsection 6a, and as part of an initial application or application for renewal of a license for day care centers, day care homes, and group day care homes, the [AGENCY] shall require proof that the applicant has complied with all such rules.

Section 4: The [STATUTE] is amended by adding Section [X] as follows:

Sec. [X]. Inventories of lead service lines and notifications regarding the potential for lead in drinking water.

- 1) **Purpose.** The purpose of this Section is to require the owners and operators of community water systems to
 - a) Create a comprehensive lead service line inventory, and
 - b) Provide notice to occupants of potentially affected residences of construction or repair work on water mains, lead service lines, or water meters.
- 2) **Definitions.** For the purposes of this Section:
 - a) "Community water system" has the meaning provided in [CODE].
 - b) "Potentially affected residence" means any residence where water service is or may be temporarily interrupted or shut off by or on behalf of an owner or operator of a community water system because construction or repair work is to be performed by or on behalf of the owner or operator of a community water system on or affecting a water main, service line, or water meter.

- c) "Small system" has the meaning provided in [CODE].
- 3) **Water distribution system material inventory.** The owner or operator of each community water system in the State shall develop a water distribution system material inventory that shall be submitted in written or electronic form to the Agency on an annual basis commencing on [DATE] and continuing on each [DATE] thereafter until the water distribution system material inventory is completed. In addition to meeting the requirements for water distribution system material inventories that are mandated by the United States Environmental Protection Agency, each water distribution system material inventory shall identify:
 - a) The total number of service lines within or connected to the distribution system, including privately owned service lines;
 - b) The number of all known lead service lines within or connected to the distribution system, including privately owned lead service lines; and
 - c) The number of lead service lines that were added to the inventory after the previous year's submission.
 - d) Nothing in this subsection shall be construed to require that service lines be unearthed.
- 4) **Audits.** Beginning on [DATE], when conducting routine inspections of community water systems as required under this Act, the [AGENCY] may conduct a separate audit to identify progress that the community water system has made toward completing the water distribution system material inventories required under Subsection 3 of this Section.
- 5) **Notice of potential impact of construction, maintenance, or repair work.** The owner or operator of the community water system shall provide notice of construction or repair work on a water main, service line, or water meter in accordance with the following requirements:
 - a) At least 14 days prior to beginning planned work to repair or replace any water mains or lead service lines, the owner or operator of a community water system shall notify, through an individual written notice, each potentially affected residence of the planned work. In cases where a community water system must perform construction or repair work on an emergency basis or where such work is not scheduled at least 14 days prior to work taking place, the community water system shall notify each potentially affected residence as soon as reasonably possible. When work is to repair or replace a water meter, the notification shall be provided at the time the work is initiated.
 - b) Such notification shall include, at a minimum:
 - i) A warning that the work may result in sediment, possibly containing lead, in the residence's water supply.
 - ii) A statement that there is no safe level of exposure to lead.
 - iii) Information concerning best practices for preventing the consumption of any lead in drinking water, including a recommendation to flush water lines during and after the completion of the repair or replacement work and to clean faucet aerator screens.
 - iv) Information regarding the dangers to children and pregnant women of exposure to lead.
 - c) To the extent that the owner or operator of a community water system serves a significant proportion of non-English speaking consumers, the notification must contain information in the appropriate language(s) regarding the importance of the notice, and it must contain a telephone number or address where a person served may contact the owner or operator of the community water system to obtain a translated copy of the notification or to request assistance in the appropriate language.
 - d) Notwithstanding anything to the contrary set forth in this Section, to the extent that

- i) Notification is required for the entire community served by a community water system,
 - ii) Notification is required for construction or repairs occurring on an emergency basis, or
 - iii) The community water system is a small system, public notification through a local media, social media, or other similar means, may be utilized in lieu of an individual written notification.
- e) If an owner or operator is required to provide an individual written notification to a residence that is a multidwelling building, posting a written notification on each entrance way to the building shall be sufficient.
- f) The notification requirements in this subsection do not apply to work performed on water mains that are used to transmit treated water between community water systems and have no service connections.
- g) The owner or operator of a community water system may seek a full or partial waiver, time-limited or permanent, of the requirements of this subsection from the Agency if all of the following apply:
- i) The community water system was originally constructed without lead.
 - ii) The residential structures were constructed under local building codes that categorically prohibited lead construction materials or the owner or operator of a community water system certifies that any residential structure/s requiring notification were constructed without lead.
 - iii) No lead sediment is likely to be present within the community water system or residential structures.
- h) The owner and operator of a community water system shall not be required to comply with this subsection to the extent that the corresponding water distribution system material inventory has been completed that demonstrates the water distribution system does not contain any lead.