



**State Education  
Department**

**Department  
of Health**

**To:** Superintendents of Public Schools  
District Superintendents of BOCES

**From:** New York State Department of Health  
New York State Education Department

**Date:** August 29, 2016

**Subject:** Required Testing, Reporting, and Remediating Lead in Drinking Water in Schools

### **Background**

The State Legislature (A.10740/S.8158) recently passed a bill that would require all school districts and boards of cooperative educational services (collectively, “schools”) to test all potable water outlets for lead contamination, to remediate contamination where found, and to notify parents of children and the public of test results.

In anticipation of the law’s enactment, the New York State Department of Health (DOH), in consultation with the State Education Department (SED) is preparing to publish and implement corresponding regulations, which would include requirements relating to monitoring, response, public notification, reporting, and waivers.

The purpose of this memo is to assist schools in preparing for the potential enactment of this legislation and subsequent regulations, and to encourage schools to proactively take steps to protect children from lead in drinking water now.

### **School Preparation**

Schools should prepare to immediately test all potable water outlets at school buildings that are, or could be, used for drinking water, unless the building’s plumbing and outlets have been determined to be lead-free in accordance with federal standards. If lead contamination is detected at an outlet, schools should be prepared to immediately discontinue use of that outlet, identify an alternate source of water, initiate remediation before bringing the outlet back into service, and notify parents and the public.

DOH anticipates publishing guidance based on the Environmental Protection Agency (EPA) publication titled “*3Ts for Reducing Lead in Drinking Water in Schools.*” Until such time that the DOH guidance is released, schools should refer to the EPA’s 3Ts program for guidance. The publication can be found at:

[http://www.epa.gov/sites/production/files/201509/documents/toolkit\\_leadschools\\_guide\\_3ts\\_leadschools.pdf](http://www.epa.gov/sites/production/files/201509/documents/toolkit_leadschools_guide_3ts_leadschools.pdf)

In particular, consistent with the 3Ts program, DOH recommends the following steps, which schools should implement immediately upon receipt of this memorandum:

- Determine which outlets are currently or potentially used for drinking water, and assign each outlet a unique identifier for purposes of tracking samples and test results.
- Review the 3Ts sampling protocol, which indicates that a first-draw sample volume shall be 250 milliliters (mL), collected from a cold water outlet before any water is used. The water shall be motionless in the pipes for a minimum of 8 hours, but not more than 18 hours, before sample collection.
- Identify a laboratory approved by the DOH's Environmental Laboratory Approval Program (ELAP) that can analyze the samples. A list of approved laboratories can be found on the ELAP website at: <http://www.wadsworth.org/labcert/elap/comm.html>.
- Review 3Ts remediation options and identify resources for performing any needed remediation.
- Plan to issue notifications to parents, the public, local health departments, and DOH, regarding test results. This may include posting information on the school's website.

### **Prior Testing**

Testing that has already been performed and that complies, or substantially complies, with the forthcoming regulations may satisfy the regulatory requirements. If your school district has recently performed this type of testing, you should compile and be prepared to report results.

### **Building Aid**

School districts will be eligible to receive Building Aid on testing activities undertaken as part of this law and on certain remediation activities, such as installation of filters, which were not previously eligible for aid. The cost of testing BOCES facilities will be allocated among the Board's component school districts and will be eligible to receive BOCES Aid. SED will issue separate guidance on the process for claiming this new aid.

### **Additional Guidance**

If you have questions about the 3Ts program, including 3Ts protocols for sampling, please refer to the 3Ts document referenced in this memo or contact your local health department. The following link provides contact information for local health departments:

[https://www.health.ny.gov/contact/contact\\_information/](https://www.health.ny.gov/contact/contact_information/).

Thank you for your continued assistance with this important work.