



The State of New Hampshire  
**Department of Environmental Services**

**Robert R. Scott, Commissioner**



January 20, 2022

The Honorable Rick Ladd  
Chairman, House Education Committee  
Legislative Office Building, Room 207  
Concord, NH 03301

**Re: HB 1421-FN - An Act relative to lead in school drinking water**

Dear Chairman Ladd and Members of the Committee:

Thank you for the opportunity to comment on HB 1421, which revises the current statutory language in RSA 485:17-a that serves to reduce exposure to lead in drinking water at schools and licensed childcare facilities. The bill adds detail on how notifications to parents and guardians must be made in the event of a detection of lead at concentrations greater than the US Environmental Protection Agency (USEPA) standard (currently 15 parts per billion [ppb]). The bill also establishes that schools and childcare facilities that fail to comply with the requirements of testing, remediation, or parental notification shall be subject to penalties. While not taking a position on this bill, the New Hampshire Department of Environmental Services (NHDES) provides the following testimony for your consideration in your deliberations.

NHDES oversees the implementation of the RSA 485:17-a, in conjunction with the New Hampshire Department of Education (NHDOE) and the New Hampshire Department of Health and Human Services (DHHS) Childcare Licensing program. Under the proposed revisions to the statute, NHDES would be charged with the additional responsibility of tracking and enforcing the required notifications. As indicated in the Fiscal Note prepared for this bill, a new full-time staff position at NHDES would be needed to cover this additional responsibility. Federal grant funding is available to cover the first two years for this position.

The bill would establish penalties, specifically misdemeanor and felony charges under RSA 485:17, for schools and childcare facilities that fail to comply with the statute. This statute is specifically applicable to scenarios where a person causes a water body that is used for drinking water to become contaminated. While NHDES is supportive of a measure to enforce the statute, it would be more appropriate to handle enforcement of non-compliance in the same manner that enforcement for similar non-compliance for regulated public water systems is handled pursuant to RSA 485:58.

In addition, should the Committee decide to pursue this course of action, NHDES encourages the committee to consider the following additional revisions to the statute to increase efficiency and effectiveness of the program and to take advantage of federal funding available to assist public schools

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and licensed childcare facilities. These revisions are included in SB 452 currently under consideration by the Senate Energy and Natural Resources Committee.

1. Approximately 23,000 results have been submitted to the NHDES database, representing samples from 566 schools and 461 active licensed childcare facilities (~90% and 60% of facilities reporting, respectively). The current statute does not require submission of data to NHDES, and these statistics are likely an under-reporting of the number of schools and childcare facilities that have completed their required testing. Should this bill move forward, NHDES suggests that language be added to HB 1421 that would require submission of all test results to the NHDES database, which would allow for more efficient and accurate tracking of samples.
2. In instances where corrective action or remediation is completed, such as replacing a faucet or installing filtration, NHDES recommends that a follow-up sample be collected to confirm that the remediation measures were effective. Similarly, NHDES suggests that language be added to HB 1421 that would require collection of post-remediation samples and that those results also be provided to the NHDES database.
3. Revisions to the timing of the required testing would provide financial support for public schools and licensed childcare facilities. The current statute requires testing every five years until three rounds of testing are less than the standard. Note that several schools completed voluntary testing in 2016 prior to the enactment of the statute and were allowed to count those results towards the required testing. NHDES has obtained funding from the USEPA Water Infrastructure Improvements for the Nation (WIIN) grant program to pay laboratory analytical costs for an estimated two rounds of testing for all public schools and licensed childcare facilities. To align with this funding, NHDES requests that the timing of the required sampling rounds be adjusted, such that three rounds are required to be completed by June 30, 2024, unless additional federal funding is provided that can be used beyond this date.

Thank you for the opportunity to comment on HB 1421. If you have any questions or require further information, please contact Lea Anne Atwell, Program Manager – Lead in Schools and Childcare Facilities, Drinking Water and Groundwater Bureau ([Lea.A.Atwell@des.nh.gov](mailto:Lea.A.Atwell@des.nh.gov) or (603) 271-6147) or Brandon Kernen, Administrator, Drinking Water and Groundwater Bureau ([Brandon.M.Kernen@des.nh.gov](mailto:Brandon.M.Kernen@des.nh.gov) or (603) 271-1168).

Sincerely,



Robert R. Scott  
Commissioner

ec: Representatives Grassie, Nelson, Woods, Meuse, Langley, Marsh, Knirk, Rung; Senator Watters.