



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



January 31, 2022

The Honorable Kevin Avard
Chairman, Senate Energy and Natural Resources Committee
State House Room 103
107 North Main Street
Concord, NH 03301

Re: SB 452-FN, AN ACT relative to lead in drinking water in schools and licensed childcare facilities.

Dear Chairman Avard and Members of the Committee:

Thank you for the opportunity to comment on SB 452, which would replace the current statutory language in RSA 458:17-a *Lead in Drinking Water in Schools and Licensed Childcare Facilities* with new, generally more stringent requirements. Most significantly, this bill would reduce the standard for lead in drinking water at schools and childcare facilities from the current U.S. Environmental Protection Agency (USEPA) level of 15 parts per billion (ppb) to 1 ppb. The New Hampshire Department of Environmental Services (NHDES) agrees with the need to prevent children's exposure to lead, but recommends evaluating the technical feasibility and cost to meet a 1 ppb threshold. While not taking a position on this bill, NHDES provides the following testimony for your consideration in your deliberations.

NHDES was supportive of the legislation that created RSA 485:17-a and works collaboratively with the Department of Education (NHDOE) and the Department of Health and Human Services' (DHHS') Childcare Licensing Unit to implement the law. Although lead in drinking water can be a source of lead exposure, childhood lead poisoning cases in New Hampshire are more likely to be the result of exposure to lead paint in older housing stock. When lead is detected in drinking water at schools and childcare facilities, NHDES promotes water treatment to avoid adding any burden of potential exposure from other, non-drinking water sources.

With regards to technical feasibility for implementing the 1 ppb standard, NHDES notes that the target remediation level of 1 ppb is the current reporting limit for most laboratories that are accredited to test for lead, and below the current reporting limit of 2 ppb for some certified laboratories. In general, it is industry practice to use a reporting limit that is half of the standard to ensure data accuracy for values close to the standard.

NHDES prepared a Fiscal Note for this bill and notes that lowering the standard from 15 ppb to 1 ppb would result in a significant increase in the number of locations requiring remediation and associated remediation costs. Approximately 23,000 results have been submitted to the NHDES database from the

first round of sampling, representing samples from 566 schools and 461 active licensed childcare facilities (~90% and 60% of facilities reporting, respectively). Approximately 40% of the results indicated some detection of lead at concentrations greater than 1 ppb.

Funding to support remediation efforts in schools include a NHDOE Lead Remediation Grant funded by the NH Drinking Water and Groundwater Trust Fund, which provides 50% reimbursement grants to schools to cover remediation of any fixture that produces drinking water with a concentration of lead of 5 ppb or higher. The Federal Infrastructure Law also authorized, but did not appropriate, additional grant funds for lead testing and remediation at schools and childcare facilities. It is possible in the upcoming months that the federal Fiscal Year 2022 budget will appropriate monies for the funding that has been authorized which could potentially fund additional testing and remediation activities.

NHDES is supportive of the following measures included in SB 452:

1. The requirement to submit all test results to the NHDES database would allow for more efficient and accurate tracking and reporting of results. The current statute does not require submission of data to NHDES, and the statistics provided above are likely an under-reporting of the number of schools and childcare facilities that have completed their required testing.
2. In instances where corrective action or remediation is completed, such as replacing a faucet or installing filtration, the requirement that a follow-up sample be collected is appropriate to confirm that the remediation measures were effective.
3. The revisions to the timing of the required testing would align with the availability of federal funding to 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. These funds must be used by June 30, 2024, unless additional federal funding is provided that can be used beyond this date.

Please note that there is a legislative proposal, House Bill 1421 (HB 1421), that is currently being deliberated in the House Education Committee. In its testimony for this bill on January 21, 2022, NHDES made the committee aware that SB 452 contains important provisions that are absent in HB 1421.

Thank you again for the opportunity to comment on SB 452. 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 or (603) 271-6147) or Brandon

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Kernen, Administrator, Drinking Water and Groundwater Bureau (Brandon.M.Kernen@des.nh.gov or
(603) 271-1168).

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott", with a long, sweeping horizontal flourish extending to the right.

Robert R. Scott
Commissioner