



**Department  
of Health**

# **Lead Testing in School Drinking Water**

**10 NYCRR Subpart 67-4**

**Program Review and Updates**

**Environmental Health Conference**

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# Acronyms and Definitions

**Action Level** – the concentration of lead in drinking water that when exceeded triggers actions to be taken.

**DOH** – Refers to the NYS Department of Health

**HCS** – Health Commerce System

**HERDS** – The HCS reporting application used for reporting lead test information

**HPN** – Health Provider Network ("old" HCS term; interchangeable with "HCS")

**LHD** – Local Health Department

**ppb** – parts per billion (same units as micrograms/liter; ug/L)

**SED** – State Education Department

**Tempered outlet**: an outlet that provides water temperature between 80°F - 110°F

**US EPA** – United States Environmental Protection Agency

# Background

- On September 6, 2016, Governor Cuomo signed into law a bill passed by the New York State Legislature (A10740/S8158).
- The law requires the New York State Department of Health (NYS DOH) to develop regulations to require all public school districts and Boards of Cooperative Educational Services (BOCES) - collectively, “schools” - to test all potable water outlets for lead contamination, and to take action if lead levels exceed 15 micrograms per liter.



# Regulation

- The NYS DOH established a regulation to conform with the law - introduced as an emergency regulation, effective on September 6, 2016
- Title: ***Lead Testing in School Drinking Water***
  - *10 NYCRR Subpart 67-4 (Subpart 67-4)*
- The regulation was adopted on May 9, 2018
- Public Health Law Section 1110 was amended by Governor Hochul on December 23, 2021, requiring changes to Subpart 67-4
- Revised 67-4 will go into effect on December 22, 2022





# Summary of Revisions

## Monitoring

- Action Level lowered from 15 ppb to **5 ppb**
- Compliance monitoring will be triennially (previously every 5 years)
- Exemptions for “Lead-free” buildings removed

## Response

- All water provided to school staff/students in response to an outlet being taken out of service must be free of charge

## Reporting

- Schools must now include copies of lab reports of the lead testing results on their websites

## “Lead-Free” Buildings *No Longer Exempt*

The original legislation for 67-4 had an exemption from sampling for any school building, facility, addition, or wing with **internal plumbing** that met the new definition of “lead-free” (as defined by Section 1417 of the Federal Safe Drinking Water Act) from sampling.



A building was deemed lead-free if:

- The building was built after January 4, 2014, - OR -
- A NYS Professional Engineer or Architect certifies the building to be lead-free.



- The revisions to 67-4 eliminates this exemption.
- All buildings will be required to conduct lead testing at all applicable outlets.

# Key elements of Subpart 67-4

- **Sampling**
- **Response**
- **Public Notification**
- **Reporting**
- **Recordkeeping**



# Compliance Period 2023 - 2025

Schools must complete *initial first-draw* sampling for  
Compliance Period 2023-2025 between:

January 1, 2023 – December 31, 2025





# Sampling Locations



"Applicable" sampling locations requiring sampling may be located anywhere on school property including external outlets (hose bibs) if the outlet may be used for drinking or cooking (including food preparation). Samples must be collected at all outlets used or potentially used for drinking or cooking.

## “Applicable” vs. “Non-applicable” outlets

Superintendents or their designees have the responsibility to identify which outlets on a school property meet the regulation requirements for sampling (“applicable outlets”).

If a Superintendent or their designee determines they have some “non-applicable” outlets, the school must develop a plan that details how those outlets will not be accessed and/or utilized for drinking or cooking purposes.

## Example "Applicable" Sampling Locations

- bubblers/drinking fountains
- classroom sinks
- classroom combination sinks and drinking fountains
- kitchen sinks
- kitchen kettle filler outlets
- ice machines
- bathroom sinks (non-tempered outlets)
- family and consumer sciences room sinks
- teachers' lounge sinks
- nurse's office sinks
- athletic field outlets
- Any other sink known to be or potentially used for consumption (e.g., used to make coffee in the office, etc.)

# “Non-applicable outlets”

## Rule of Thumb:

In general, any outlet in a room or office within a school that is not used by students (pre-kindergarten through grade 12) and does not provide water for drinking or cooking does not require sampling.

# Examples of possible “Non-applicable outlets”

- **Dishwashing sinks:** If an outlet is designated for dish washing only and involves no opportunity for drinking or cooking (including food preparation), the outlet does not require sampling
- **Bus garage:** Outlets in bus garage buildings do not require sampling for lead unless the building is occupied by students (e.g., BOCES classes)
- **Point of entry:** Samples from the point of entry are not required under Subpart 67-4. Point of entry is the location where water *enters* the building from the distribution system of a public water system
- **Science/Art sinks:** Typically, classrooms in these settings prohibit eating and/or drinking. The school Superintendent has the authority to determine whether these outlets may be used for drinking or cooking and whether they require sampling
- **Bathroom sinks with tempered outlets (requires proper signage or other controls in place)** (*example signage provided in Guidance Manual*)

# Guidance Concerning Tempered Outlets

## “Non-applicable outlets”

**Tempered outlet:** an outlet that provides water with a temperature between 80 -110°F; generally, applies to bathroom fixtures in schools, gymnasiums, hotels, airports, bus and railroad stations.

The DOH and the US EPA recommend that hot or tempered water ***not*** be used for drinking or cooking as warm or hot water increase the leaching of lead into the water.

**Tempered outlets are not required to be sampled.** However, all tempered water outlets should be clearly posted with signs (“Do Not Drink” or equivalent), education should be provided to the students and staff to ensure awareness, and the remedial action plan should address, document, and describe continued management of the controls in place for these outlets.

# “First-draw” Samples

Any sample collected for compliance under Subpart 67-4 must be a “first-draw” sample.

## First-draw sample:

- A water sample collected from a cold water outlet before any water is used from that outlet
- Water must be motionless in pipes for a minimum of 8 - 18 hours before sample collection
  - This timeframe represents water that would be consumed during normal operating conditions on any school day.
- Recommended sampling times
  - While school is in session; not during or immediately after weekends, vacations or routine flushing programs;
  - following normal operation of school (e.g. Tuesday – Saturday mornings)





# Lead Action Level



The action level for lead in school drinking water is **5 micrograms per liter** ( $\mu\text{g}/\text{L}$ ) or parts per billion (ppb).

- Lead test results  $\leq 5$  ppb do *not* exceed the lead action level, and therefore do not require further testing or remediation until the next compliance cycle.
- Lead test results  $> 5$  ppb (i.e., 5.1 ppb, or greater) *exceeds* the lead action level, and will require the outlet to be taken out of service and a remediation action plan to be implemented.



# Corrective Actions / Remediation Options

- Permanent removal of an outlet
- Outlet replacement with “lead-free” plumbing materials
- Pipe replacement with “lead-free” plumbing materials
- Remove other sources of lead (lead pipe, lead solder joints, and brass plumbing components with “lead-free” materials)
- Flushing (systematic flushing program)
- Point of Use (POU) Filters\*
- Supervision
- Engineering controls
- Education
- Signage

# If an outlet tested above the “action level”, can it still be used for cleaning and handwashing?

- Yes
- Signage must be placed at such outlets stating that the water should not be used for drinking (only handwashing and cleaning)
- Pictures should be used if there are small children using the water outlets, and staff should ensure the children understand what the signs mean and monitor the outlets to ensure they are not used for drinking



# Corrective Actions / Remediation Options

## Signage



# Post-Remediation Testing

- Follow-up samples collected after an outlet has been remediated must also be “first-draw” samples. Schools may choose to perform additional sampling (i.e., 30-second flush, etc.) to determine the contribution of lead from plumbing to guide remediation decisions.
- Post-remediation tests results need to be reported:
  - In the DOH’s HERDS application on HCS, and
  - On the school’s website within the same reporting timeframes/ requirements as specified for the initial sampling (*addressed in next section*).

# Public Notification Requirements

- Within 1 business day of receipt of laboratory reports:
  - ✓ Report all exceedances (lead result greater than 5 ppb) to the local health department
- Within 10 business days of receipt of laboratory reports:
  - ✓ Report all exceedances to all staff, parents, and guardians in writing.
  - ✓ Report test results (including post-remediation results) in the DOH's electronic reporting system, HERDS accessed through HCS. This information is posted on the DOH's website for the public
- Within 6 weeks of receipt of laboratory reports:
  - ✓ Post copies of lab reports of test results and information about remediation actions taken to address outlets where lead exceeded the action level on the school's website. This should remain posted on the school's website for the duration of the compliance period (i.e. 2023-25)



<http://www>



NEW

# Recordkeeping Requirements

- Per Subpart 67-4, schools must retain records for **10 years** following document creation.  
Note: other agencies may have additional records retention requirements (i.e., SED, NYS Department of Labor)
- Copies of documents must be provided to the DOH, the SED, or the local health department upon request



# Best Management Practices to Reduce Lead in Drinking Water

- Aerator cleaning
- Routine flushing practices (after vacations and long weekends)
- Use only certified lead-free materials when performing plumbing work
- Follow the manufacturer's recommendations for water softener settings to ensure an appropriate level of hardness
- Educating staff and students of the benefits of running water at a tap briefly prior to using it for drinking or food preparation. Letting the water run for 30-60 seconds or until the water feels cold can reduce the potential levels of lead in the drinking water

# Electronic Reporting in HCS/HERDS

- ✓ Within 10 business days of receipt of laboratory reports  
Summary of data and sampling information must be reported in the DOH's electronic reporting system, **HERDS**, accessed through HCS. Summary data includes:
  - General information, website address
  - Number of outlets sampled, sampling information
  - Summary of Lead analysis results
  - Response and remediation status
  
- ✓ A new HERDS reporting form for the 2023-2025 compliance period will be created





# Steps following an Action Level Exceedance

## Action Level Exceedance

### Immediately

- Take an outlet out of service
- Provide **free** alternate drinking water (if required by SED)



NEW

## Report & Notification

### Within 1 Day

- Report results to an LHD

### Within 10 Days

- Notify results to staff and parents

## Corrective Actions & Remediation

- Remove an outlet permanently
- Replace pipes & fixtures with lead-free
- Install Point-of-Use filter
- Flush an outlet systematically
- Post signage

## Post Remediation Sampling

- After remediation, collect 1<sup>st</sup> draw samples
- Report results to HERDS within a required timeframe

# HCS/HERDS Access and Roles

- **Creating an HCS Account**
- **Assigning Roles in HCS**
- **Accessing HERDS reporting form**
- **Reporting Guidance**

## New HCS User Account

### Need a Health Commerce System (HCS) account? Follow these steps (**Register only once**):

- A. Create your unique User ID and set up Security Questions.
- B. Go to your HCS Coordinator with your user ID and valid photo ID for verification.
- C. Set your password and login.

### FIRST—The New User will...

#### A. Create User ID & Set Up Security Questions

1. Go to <https://commerce.health.state.ny.us>
2. Click **Sign Up Here**
3. Click **No** (I am not a licensed medical professional)
4. Click 'Click here to **Register for an account**'
5. Create/Enter a unique User ID
6. Enter your First Name, Last Name and Email Address  
**NOTE: Name is same as it is on your Photo ID**
7. Click **Security and Use Policy (SAUP)** link and review
8. Check the box to confirm you read and understand the Security and Use Policy (SAUP)
9. Check "I'm not a robot" and complete CAPTCHA
10. Click **Continue**
11. Answer at least six Security Questions and click **Save**
12. Confirm: Step 1 Success message

You will receive two emails from [camu@health.ny.gov](mailto:camu@health.ny.gov):  
 "HCS Self Registration Account Created for <user ID>" and  
 "HCS security questions and answers have been changed for <user ID>."  
**Check junk mail if not received.**

13. **Go to your organization's HCS coordinator** with your <user ID> and a valid photo ID e.g. NYS DMV Driver's License, NYS DMV Non-driver Photo ID, Passport, Unexpired Foreign Passport, US Driver's license (out-of-state users), etc.

### SECOND—The HCS Coordinator will...

#### B. Affiliate you with the organization

1. Login the HCS
2. Click **Coord Account Tools - HCS** under My Applications
3. Scroll down to **Request an account for a... User**
4. Click **User**
5. Select your organization from the list
6. Enter the user's HCS ID and click **Next**  
**NOTE: Confirmation of user ID created was sent to the user via email with subject "HCS Self Registration Account Created for <user ID>"**
7. Select option: **NYS Photo ID** or **Non NYS Photo ID**  
**NOTE: The information must match exactly. If the ID is not a NYS driver license, please enter the out-of-state ID number in the Comments field.**
8. Complete user's information based on photo ID and click **Next**
9. Enter the user's business contact information and click **Submit**
10. Confirm confirmation message "**Registration Success**" displays
11. Instruct the *newly* enrolled user to look for "Congratulations! You are enrolled on the HCS" email. This contains their link to set their password. *Existing users do not need to reset password.*

### User Sets Password & Logs in...

**C. Set your password** upon receipt of "Congratulations! You are enrolled on the Health Commerce System (HCS)" email:

1. Click the link in your email **Note: Only newly enrolled users will receive an email; existing users will not.**
2. Enter your user ID
3. Check "I'm not a robot" and complete the CAPTCHA
4. Click **Continue**
5. From the Forgot your Password? screen, click one option e.g. [Reset my password using my NYS Driver License or NYS Non-Driver Photo ID](#) or for out-of-state users: [Reset my password using my security question answers](#)
6. **Login** to HCS.



# How To Assign Roles

Roles are used to identify staff, send targeted notifications, and grant access to role-based applications. Roles are managed by the organization's HCS Coordinator.

## Coordinator Steps to Assign a Role

1. Click **Coordinator's Update Tool**
  2. Select the appropriate organization
  3. Click **Select**
  4. Click **Manage Role Assignments** (blue tab)
  5. Click the **Modify** link located to right of a role name
  6. Locate the option to Add Role Assignment
  7. Select checkbox corresponding to user ID
  8. Click **Add Role Assignment**
- OR
7. Search for user by Last Name
  8. Click **Submit**
  9. Select the person from the list with a valid user ID
  10. Click **Add Role Assignment**.

**6** Choose from the options below to select a person for *Emergency Response Coordinator* at *Z TEST LHCS4*

If Users already assigned to this role. To remove one or more users from this role, check the checkbox next to their name and click Remove Role Assignments.

Remove Role Assignments

Remove Role Assignments

User already in role

- OR -

If Click on the check boxes next the names of the persons you wish to assign to this role, then click on the Add Role Assignments button to add them. This list contains individuals already entered in the Communication Directory and associated, or hold roles, with your organization.

Frederic Harte, Test X - 0188014	<input type="checkbox"/>
Garthie, Test 1 - 0110447	<input type="checkbox"/>
Shake-Dick, Valerie X - 1 au06b	<input type="checkbox"/>
Subanmer, Llicca X - 0120201	<input type="checkbox"/>
Uplander, Llicca X - 0120201	<input type="checkbox"/>

Add Role Assignments

- OR -

If user does not appear in your Manage People List, and you know this user has an HCS ID, then search by user's last name or first few letters of the last name only. This searches all the active users. Click Submit.

Scroll down the results on next page to find the person and their user ID. Select the user and click Add Role Assignment.

Search for Person(s) by Name:

Submit

Search by last name

## Remove User from Role

1. Click **Coordinator's Update Tool**
2. Select your organization > Click **Select**
3. Click **Manage Role Assignments**
4. Click **Modify** to the right of the role name
5. Check the box next to the name of the user you wish to remove from the role
6. Click **Remove Role Assignments**.

## Review Role Report

1. Go to <https://commerce.health.state.ny.us>
2. Click **Coordinator's Update Tool** from **My Applications** (left side panel)
3. Select your organization > Click **Select**
4. Select **Reports**
5. Select **Get Role Report**
6. **View** or **Download** report
7. As needed, proceed to **Remove User from Role** (instructions are below) or **Delete User** (right)
8. Click **Data Verified** when Manage People list and Role Report are up to date.

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# HCS/HERDS Tips/Reminders

Always select the “**Facility**” level  
(not “District level”) when:

- The HCS Coordinator is assigning roles in HCS
- The School Lead Reporter reports lead data in HERDS

# HCS/HERDS Tips/Reminders

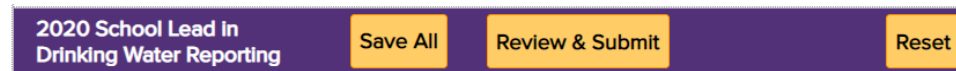
Data reported in HERDS can and should be changed/updated whenever there is a change in the information that is reported in HERDS.

*Reported data should always reflect the current status of a building's test results*

# HCS/HERDS Tips/Reminders

To submit your data in HERDS – it is 3 step submittal process to fully "submit" your information to the State.

1. Save all
2. Review & Submit
3. Submit Data



# What's next?

- Report lead data for the 2020-21 compliance period *if not already done*.
- Update data in HERDS to reflect the current status
- Update Roles in HCS to reflect current staff assignments for reporting Lead data:
  - School Lead in Drinking Water Reporter role
  - HPN/HCS Coordinator
- Begin planning for the next compliance period: **2023-2025**
- NYS DOH School Lead website:  
[https://www.health.ny.gov/environmental/water/drinking/lead/lead\\_testing\\_of\\_school\\_drinking\\_water.htm](https://www.health.ny.gov/environmental/water/drinking/lead/lead_testing_of_school_drinking_water.htm)
- Future webinars and outreach activities coming soon...



# Questions?

## Email Contact:

[lead.in.school.drinking.water@health.ny.gov](mailto:lead.in.school.drinking.water@health.ny.gov)

Phone: 518-402-7650