



Cheektowaga-Maryvale Union Free School District

Lead Testing and Reporting

S9-25-5 | July 2025

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Audit Results



Cheektowaga-Maryvale Union Free School District

Audit Objective

Audit Period

Did Cheektowaga-Maryvale Union Free School District (District) officials identify, report and implement needed remediation to reduce lead exposure in potable water outlets?

July 1, 2019 – September 30, 2024

Understanding the Program

Lead is a metal that was commonly used in plumbing and has since been identified as toxic to people, especially young children. Lead poisoning can cause neurological issues such as slowing children's growth, causing learning and behavioral issues or causing hearing and speech problems which can lead to greater difficulty performing well in school and beyond.¹ To aid in combating lead poisoning, New York State (NYS) requires all public school districts and Boards of Cooperative Educational Services (BOCES) to test potable (i.e., consumable) water for lead, report the results and implement necessary remediation. Testing and reporting for lead contamination began in 2016, and subsequent testing cycles have followed:

- Cycle One: September 6, 2016 to October 31, 2016.
- Cycle Two: January 1, 2020 to December 31, 2020 (extended to June 30, 2021 due to the COVID-19 pandemic).
- Cycle Three: January 1, 2023 to December 31, 2025.²

Audit Summary

District officials did not properly identify, report or implement needed remediation to reduce lead exposure in all potable water outlets as required by NYS Public Health Law and Department of Health (DOH) regulations.³ We determined 207 of the 567 (37 percent) water outlets we identified at select areas, that students, staff and the public may have access to and could consume water from, were not

¹ Lead Exposure Symptoms and Complications – <https://www.cdc.gov/lead-prevention/symptoms-complications/index.html>

² As of December 22, 2022, schools are now required to test for lead in the water every three years beginning January 1, 2023 for Cycle Three.

³ Public Health Law section 1110; 10 NYCRR subpart 67-4 – Lead Testing in School Drinking Water

sampled or properly exempted by District officials for Cycle Two. This occurred because District officials did not have a sampling plan to identify all water outlets for sampling or exemption.

District officials also did not have a remedial action plan that detailed which water outlets they exempted from sampling and how they would be secured against use, and what remedial actions were planned or enacted. Because there is no information on the lead levels of the 207 water outlets not sampled for testing, we were unable to determine whether officials identified and remediated all water outlets that would have required it. Additionally, District officials did not take appropriate remedial action for 22 of 39 water outlets we reviewed that exceeded the lead action level to prevent students or staff from drinking from these outlets.

Although District officials properly reported initial Cycle Two testing results to DOH in June 2021, they did not report the results to the local health department in a timely manner. In addition, District officials did not properly report the subsequent Cycle Two test results conducted in June 2022 to the local health department showing that six water outlets were still above the lead action level, did not report these results to the State through DOH's Health Electronic Response Data System (HERDS), and did not notify staff, parents and/or guardians of these results in writing, as required. Further, the District did not post the test results of their potable water outlet sampling on the District's website.

This final report includes seven recommendations to that effect. District officials disagreed with certain aspects of our findings and recommendations but indicated they have initiated corrective action. Appendix D includes our comments on issues raised in the District's response letter.

The Board of Education (Board) has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and provided to our office within 90 days, pursuant to Section 35 of the New York State General Municipal Law, Section 2116-a (3)(c) of the New York State Education Law and Section 170.12 of the Regulations of the Commissioner of Education. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The CAP should be posted on the District's website for public review.

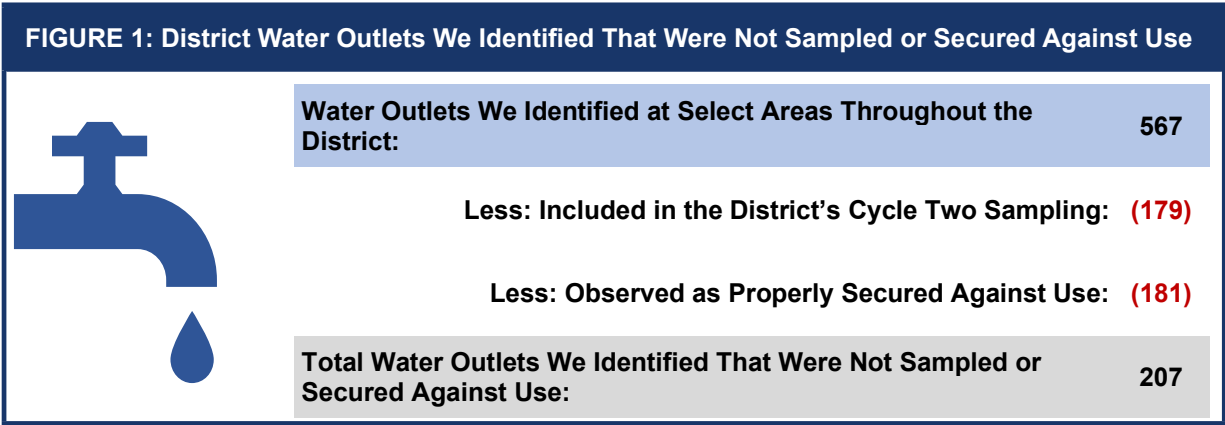
Lead Testing and Reporting: Findings and Recommendations

In accordance with NYS Public Health Law section 1110 and 10 NYCRR subpart 67-4 (regulations), all public school districts and BOCES (together “schools”), must test potable water outlets for lead contamination and take remedial action if the contamination exceeds the lead action level.⁴ The regulations also established requirements for how and when schools must report their test results to local health departments, school staff, students’ parents and/or guardians, DOH and NYS Education Department (NYSED), as well as the public. More details on the water outlet sampling, testing and reporting criteria used in this report, including testing cycles and DOH guidance, are included in Appendix A.

Finding 1 – District officials did not ensure all required potable water outlets were sampled and tested for lead contamination for Cycle Two.

The District conducted water sampling beginning May 15, 2021, for Cycle Two testing, collecting samples from 281 of the District’s water outlets, which were then tested at a laboratory certified through the NYS Environmental Laboratory Approval Program (ELAP). However, the District did not have a sampling plan to identify all water outlets for sampling or a remedial action plan that detailed which water outlets they exempted from sampling, how they would be secured against use, and what remedial actions were planned or enacted.

We identified 567 water outlets at select areas throughout the District to determine whether the District conducted required sampling of all water outlets for Cycle Two.⁵ Of the 567 water outlets we identified, 179 water outlets were included in the 281 water outlets sampled by the District for Cycle Two, and another 181 water outlets we observed as properly secured against use. Therefore, we determined that 207 of the 567 water outlets we identified were not exempted by the District and should have been sampled for testing (Figure 1).



⁴ We examined the Cycle Two testing period ending June 30, 2021, which had a lead action level of 15 parts per billion (ppb). Starting in Cycle Three the lead action level was lowered to five ppb. Schools should be aware that water outlets that were acceptable under the previous regulations could exceed the new lead action level and require remediation. Schools should account for this change in their sampling process and remediation efforts by prioritizing sampling water outlets that exceeded five ppb during the previous testing period.

⁵ See Appendix B for a complete list of water outlets we identified and their locations. See Appendix E for detailed information on our selection criteria for the water outlets selected.

Also, because the former Director of Facilities (Director) resigned and is no longer a District employee, and none of the District officials we spoke to could recall, there was no one who could tell us why these water outlets were not sampled or exempted. Officials' inability to recall what procedures were followed or why water outlets were not sampled and tested were exacerbated by the lack of sampling and remediation plans.

The District properly secured 181 water outlets against use by shutting off the outlets' water supply, signage (e.g., "Do Not Drink") combined with other physical or supervisory controls. However, because District officials did not identify all outlets to be sampled for testing, we were unable to determine whether the 207 unsampled or unsecured water outlets we identified were below the lead action level of 15 ppb. Of these, 106 were showerheads.

For example, a water fountain in an elementary classroom was not sampled and tested, and although the current Director told us that he believed it was shut off and that he placed a sign at a nearby sink, it was still on and functioning during our audit. Furthermore, while DOH guidance allows officials to exempt water outlets from testing and secure against use by using combinations of controls such as signs and supervision, that only applies to outlets that are not used for cooking or drinking. As such, this would not apply to a water fountain.

Finally, we reviewed the test results for all 281 water outlets the District sampled and determined whether District officials took appropriate remedial actions for water outlets that exceeded the lead action level. Of the 281 water outlets that the District sampled and tested, 60 water outlets (21 percent) were above the lead action level of 15 ppb. We reviewed 39 of these 60 water outlets to determine whether District officials took appropriate remedial action.

We determined that 17 of the 39 water outlets were either appropriately removed from service, had follow-up sampling and testing done after remediation showing that the lead levels were now below the lead action level, or had an adequate combination of controls securing the water outlet. However, the other 22 water outlets were not sampled and retested and did not have adequate controls in place to prevent students or staff from consuming water from them.

When we brought this issue to the attention of the Superintendent of Schools (Superintendent) and current Director, they placed a "Do Not Drink" sign at these locations. While signs can be used as a short-term control, the DOH guidance is explicit that to be considered an effective long-term control, signs need to be combined with other controls, such as continual education reinforcing to students and employees that the water outlet is not to be used or establishing and enforcing rules to prevent the water outlet's use.

The Superintendent told us that he relied on the former Director to oversee the lead testing program. However, a thorough review of the former Director's work was not completed. Therefore, the Superintendent was not aware that the District did not have sampling and remedial action plans, all water outlets were not sampled or properly secured, and all water outlets that exceeded the lead action level were not properly remediated.

Recommendations

District officials should:

1. Develop sampling and remedial action plans for all District water outlets that could be used for drinking and cooking, including details on which water outlets will be considered exempt from sampling and their controls to secure against use.
2. Sample all water outlets that could be used for drinking and cooking and properly secure any water outlets designated as exempt from sampling.
3. Remediate or implement effective long-term controls for all water outlets that exceed the lead action level.
4. Review all work related to the lead testing program for accuracy and completeness.

Finding 2 – District officials did not report the results of the lead testing properly or in the required time periods.

Although District officials reported the initial testing results conducted for Cycle Two in June 2021 to DOH within the required time period, they notified the local health department one business day late after receiving these test results showing 57 outlets were above the lead action level. In addition, they did not post the test results of all potable water outlet sampling on the District's website.

District officials also did not properly report any of the subsequent testing results through HERDS, including six water outlets above the lead action level, within the required time periods or to all required parties. Specifically:

- District officials did not notify the local health department about the three samples that tested above the lead action level for the first time and the three re-samples that were still above the lead action level.
- District officials did not notify staff, parents and/or guardians in writing within 10 business days after receiving the retesting results, which showed continued exceedance of the lead action level.

The results were not reported properly to all required parties because District officials did not ensure that the former Director understood the reporting requirements for water testing results and did not review his work. Additionally, the District did not develop a sampling plan that properly addressed potable water outlet sampling, testing and reporting for lead contamination. Developing clear procedures identifying all officials involved and their roles and responsibilities may lower the risk that the District will miss reporting deadlines during future testing cycles.

Recommendations

District officials should:

5. Develop procedures for all individuals involved in lead testing and reporting and their roles and responsibilities.
6. Notify all required parties in the required time periods after lead testing results are received.
7. Keep accurate records of all notification efforts performed.

Appendix A: Profile, Criteria and Resources

Profile

The District serves the Town of Cheektowaga in Erie County. The District has three school buildings, the Primary school, the Intermediate-Middle school and the High school.

The District is governed by an elected five-member Board responsible for managing and controlling the District's financial and educational affairs. The Superintendent is responsible, along with other administrative staff, for managing the District's day-to-day operations under the Board's direction.

Both the former and current Directors are responsible for sample collection and sending the samples to the labs. In 2021, the Superintendent designated the former Director as the person responsible for coordinating and reporting all lead testing, but he resigned in April 2023. In July 2023, the District hired the current Director whose responsibilities include the lead testing program. The current Director is planning to perform water testing in May 2025 for Cycle Three.

Criteria – Lead Testing and Reporting

To comply with DOH regulations, school officials should develop a sampling plan that properly addresses potable water outlet sampling, testing and reporting for lead contamination. Pursuant to Chapter 296 of the Laws of 2016, the first cycle of testing and reporting for lead contamination began in 2016, and subsequent testing cycles have followed:

- Cycle One: September 6, 2016 to October 31, 2016.
- Cycle Two: January 1, 2020 to December 31, 2020 (extended to June 30, 2021 due to the COVID-19 pandemic).
- Cycle Three: January 1, 2023 to December 31, 2025.

Sampling and Testing – Officials should identify all water outlets to be sampled, their location, and the order in which to collect samples. Water outlets may be located anywhere on school property including external water outlets. According to DOH guidance, the school's superintendent or their designee have the responsibility to identify which water outlets meet the regulation requirements for sampling. For any water outlets determined to fall outside the scope of the regulation, the school must have a remedial action plan that includes details on how those water outlets will not be accessed and/or used for drinking or cooking purposes and should be updated anytime conditions change. All samples must be sent to a laboratory certified by ELAP. When results from sampling of any fixture exceed the lead action level, the water outlet must be immediately taken out of service until remediation is performed to reduce the lead levels to below the action level.

Reporting – School officials must report their testing and remedial action through DOH's HERDS reporting program, which reports the results of all potable water testing for lead contamination to local

county health departments, DOH and NYSED. Importantly, if the school receives test results that show lead contamination exceeds the lead action level, school officials must report the exceedances directly to the local health department within one business day, and notify all school staff, parents, and guardians in writing within 10 days. School officials should coordinate with local health department officials ahead of the sampling and testing to confirm the health department's preferred method of reporting (e.g., email, an email and phone call, etc.) for test results that show lead contamination exceeds the lead action level. Finally, schools must post the results of all testing, including information about remedial actions taken, on their website.

To assist schools in their compliance with the regulations, the DOH developed the *Lead Testing in School Drinking Water Guidance Manual*.⁶ The manual describes in detail how schools should develop and implement their lead testing program, including templates on assigning roles, staff, parent and/or guardian letters, posting results on school websites, as well as documenting and tracking remedial actions.

To ensure a school's lead testing program is successful, the school should identify and document which individuals will be responsible for the following:

- Who will be the main contact for the program?
- Who will create the sampling plan?
- Who will collect the samples?
- Who will coordinate with the laboratory and manage the test results?
- Who will perform remediation?
- Who will communicate the results to the public?
- Who will report the data and information to the local health department and enter it into the NYS DOH reporting application (HERDS)?
- Who will keep records?

All potable water outlets at a school that could be used for cooking or drinking should be tested for lead. Examples include:

- Combination bottle fill stations and drinking fountains (both the fountain and bottle fill nozzles should be tested),
- Classroom sinks,
- Food washing sinks,
- Kitchen kettle filler outlets,

⁶ <https://www.health.ny.gov/environmental/water/drinking/lead/docs/leadtestinginschoolsguidancedocument.pdf>

-
- Ice machines,
 - Hand washing outlets, including those in bathrooms, and
 - Athletic field outlets and any other sink known to be or potentially used for consumption.

Water outlets that are not going to be tested need to be listed on the remedial action plan and actions must be taken to properly secure them to prevent them from being used for cooking or drinking. Actions such as turning the water off at the outlet not only prevent access but also prevent the water outlet from being used at all. If a water outlet still needs to be used, the following are examples of controls that should be combined with each other to prevent use:

- Using physical controls such as locks or requiring special tools that prevent physical access to the water outlet,
- Regularly informing students and staff which water outlets are not to be used,
- Placing signs that say “Do not Drink, Non-Potable Water” or similar.⁷ Signs must be clearly visible and in close proximity to the affected outlets. Placing a sign at a room entrance (i.e., lavatory entrance) is not acceptable.
- Establishing, and consistently enforcing, rules such as “No Eating or Drinking in the Science Lab.”

These controls are only considered effective if they are used together. For example, signs can be removed due to vandalism or accidents, but if students and staff are regularly told that bathrooms are not to be used for drinking it would reduce the risk that someone may use a bathroom sink. The remedial action plan should be updated whenever there is a change, including when new water outlets are designated, or old ones are removed, new test results become available, additional remediation is planned or completed, or controls are added or removed. Additionally, a maintenance and monitoring schedule should help ensure remediation efforts are still operating effectively.

Schools must report the results of their lead testing to NYS agencies, their local county health department, staff, parents and/or guardians, as well as posting their results and remediation actions on their website. Timing always starts once the school receives the results and there are different notification and timing requirements if any results exceed the lead action level. The reporting requirements are as follows:

Results Exceed the Lead Action Level – The school must notify their local health department within one business day, and staff, parents and guardians in writing within 10 business days. Importantly, posting this information on the school's website or through social media does not qualify as notification in this case.⁸

⁷ For examples of signage, see page 12 of the DOH's Guidance Manual: <https://www.health.ny.gov/environmental/water/drinking/lead/docs/leadtestinginschoolsguidancedocument.pdf#page=14>

⁸ See page 14 of DOH's Guidance Manual: <https://www.health.ny.gov/environmental/water/drinking/lead/docs/leadtestinginschoolsguidancedocument.pdf#page=16>

After Any Testing is Done (Regardless of Whether Results Exceed the Lead Action Level) – The school must notify the DOH, NYSED, and their local county health department. Reporting is done through the HERDS system and must be done within 10 business days after results are received. District officials must post on their website the results of all their testing, including any remediation efforts performed or planned, within six weeks of receiving results.

Schools should keep all records related to their lead testing program for at least 10 years after document creation, and it is recommended that all such records be kept on-site in a centrally accessible repository.

Additional DOH resources, guidance and publications on lead in drinking water can be found at:

<https://health.ny.gov/environmental/water/drinking/lead/>

In addition, our website can be used to search for other Lead Testing and Reporting audits:

<https://www.osc.ny.gov/local-government/audits>

Appendix B: District Water Outlets

Figure 2: District Water Outlets We Identified That Were Not Sampled or Secured Against Use For Cycle Two by Location

Location	Water Outlets We Identified at Select Areas Throughout the District	Less: Included in the District's Cycle Two Sampling	Less: Observed as Properly Secured Against Use	Total Water Outlets We Identified That Were Not Sampled or Secured Against Use
Hallways or Common Spaces	37	(17)	(3)	17
Bathroom	130	(66)	(14)	50
Staff Lounge or Office	4	(4)	0	0
Classroom	95	(38)	(51)	6
Janitor Space	0	0	0	0
Cafe/Kitchen/Food	34	(26)	(5)	3
Science or Art Room	102	(14)	(66)	22
Outside/Sports Areas	165	(14)	(42)	109
Totals	567	179	181	207

Appendix C: Response From District Officials



MARYVALE UNION FREE SCHOOL DISTRICT
1050 Maryvale Drive • Cheektowaga, NY 14225
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July 7, 2025

To Whom it May Concern,

The Maryvale UFSD appreciates the opportunity to review the Office of the State Comptroller (OSC) draft audit report and provide our response. We take the findings and recommendations outlined in the report seriously, as they highlight important reporting and paperwork practices where we can enhance what we already do to ensure the safety and well-being of our students, staff, and community.

Because the safety of our school community is our top priority, we welcome every opportunity to review best practices and strengthen what's working, even when we may not agree with every point. While we don't take any audit lightly, and agree on several safety priorities, we're conflicted by findings in this audit that run counter to communication we received from the NYS Department of Health that clearly stated that we are in compliance with Public Health Law 1110- Subpart 67-4.

See
Note 1
Page 14

Our understanding of compliance means that we have taken immediate action on all lead levels if there were exceedances, we have performed the mandatory testing, and we have notified the community of exceedances (July 1, 2021). However, we do value the audit's recommendations to improve our processes and protocols, and we have already taken steps to achieve that end.

See
Note 2
Page 14

Specifically:

1. Sampling Plan Development:

Although we had accurate sampling, we recognize the audit's findings regarding the absence of a detailed sampling plan. Moving forward, we have addressed this gap by ensuring that our sampling paperwork conforms to recommended formats. The current Director of Facilities has already created sampling and remediation plans that comply with the audit recommendations and used them in the current Cycle Three testing. All outlets that exceed the lead action level are remediated or have effective long-term controls.

See
Note 3
Page 14

2. Remedial Action Plan:

As previously mentioned, we are in compliance with Public Health Law 1110-Subpart 67-4, but because we value any opportunity to improve our systems and processes, we have improved our remediation documentation based on the audit recommendations. We have established a comprehensive remedial action plan in recommended formats. Such a plan will detail immediate actions for outlets exceeding the lead action level and ensure that the securing of exempt outlets is properly documented.

See Note 4 Page 14


3. Reporting and Communication:

The audit highlights areas where our reporting and notification processes need improvement. We acknowledge the importance of timely communication with all stakeholders, including parents, staff, and regulatory agencies. At the conclusion of Cycle Three testing, the District will comply with all water sampling requirements and report results to the Department of Health (DOH) and through the HERDS system. We will also adhere to all other notification requirements.

We have already implemented the recommendations contained in this audit, and we look forward to elaborating on these actions with the submission of the Corrective Action Plan.

The Maryvale UFSD is committed to ongoing improvement and transparency in our water safety practices. We appreciate the OSC's thorough review and recommendations and look forward to continuing to implement meaningful changes to safeguard our community's health and safety.

Sincerely,

 Joseph R. D'Angelo
Superintendent

Appendix D: OSC Comments on the District's Response

Note 1

While we asked District officials multiple times for documentation to support their statement that the DOH communicated to them that the District complied with Public Health Law 1110-subpart 67-4, officials were unable to support this statement during the audit and did not provide a copy of such communication with the District's official response.

Note 2

As stated in our report, District officials did not take immediate action during Cycle Two for all exceedances, perform all mandatory sampling and testing, or notify all required parties. See Findings 1 and 2.

Note 3

As stated in our report, we identified water outlets that should have been sampled for testing or exempted from testing. Therefore, District officials did not have accurate sampling as described in Finding 1. We have not assessed the work performed after our audit period to determine whether it conforms to formats as prescribed by the DOH guidance.

Note 4

See Note 1. Additionally, as stated in our report, the District did not have a remedial action plan or properly remediate all water outlets that exceeded the lead action level for Cycle Two. Therefore, District officials were not in compliance for Cycle Two; see Finding 1. We have not assessed the work performed after our audit period to determine whether it conforms to formats as prescribed by the DOH guidance.

Appendix E: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. We obtained an understanding of internal controls that we deemed significant within the context of the audit objective and assessed those controls. Information related to the scope of our work on internal controls, as well as the work performed in our audit procedures to achieve the audit objective and obtain valid audit evidence, included the following:

- We interviewed District officials and reviewed various records and reports to gain an understanding of the roles and responsibilities of the individuals involved in the process, and how individuals performed their duties for the period that closed June 30, 2021, and for Cycle Three which is still ongoing until December 31, 2025.
- We reviewed all available documentation that the District had for sampling and testing for Cycle Two that closed June 30, 2021, including District maps, laboratory chain of custody and result reports, and ELAP certifications. We supplemented this with our own observations of the District's current water outlets at each building and the surrounding sport and event fields. We identified the following as high-risk areas/outlets based on the DOH guidance:
 - Hallway drinking fountains and bottle-filling stations, outside and sporting event areas, kitchens, cafeterias, and cooking classrooms, as they could affect large numbers of individuals at the District, including visitors.
 - Elementary classrooms, as they could affect young students who are particularly vulnerable to lead exposure.
 - Bathrooms, or other areas where children would be unsupervised and able to access water from faucets.
 - Art and Science classrooms, as they were specifically mentioned in DOH's guidance.

Using this information, we selected 567 water outlets, including all water outlets located in areas that we determined could have a high risk of affecting individuals at the District based on the DOH guidance.⁹ We observed the controls present at each water outlet and whether they had been sampled for lead testing.

- For the 281 District tested water outlets in Cycle Two, we identified 60 samples with results that exceeded the lead action level. We selected a judgmental sample of 39 of these outlets that were in the same high risk areas as described above and were not part of new construction outside of our audit period. We then determined whether District officials took appropriate remedial actions or had a test result after the initial exceedance that was below the lead action level.
- We reviewed all available documentation that the District had for reporting the laboratory results including the former Director of Facilities' email receipts that he received the lab results, HERDS reporting, and uploads to the District's website as well as interviewing the Public Health Engineer overseeing Erie County school water testing.

⁹ <https://www.health.ny.gov/environmental/water/drinking/lead/docs/leadtestinginschoolsguidancedocument.pdf>

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

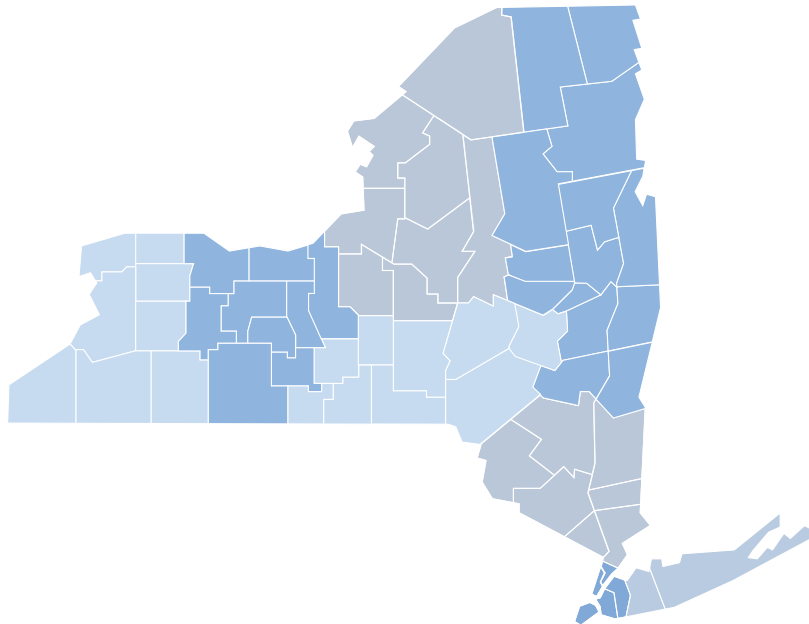
Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

Contact

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