

CHAPTER 183

AN ACT concerning the replacement of lead service lines and supplementing Title 58 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.58:12A-40 Findings relative to presence of lead in drinking water.

1. The Legislature finds that the presence of lead in drinking water represents a threat to the public health, especially the health and development of New Jersey's children; that pipes containing lead that connect water mains to homes and other buildings, often called lead service lines, are a primary source of lead in drinking water; and that, due in part to the age of New Jersey's housing, there does not exist a full and complete inventory of all lead service lines in the State.

The Legislature therefore declares that public water systems should fully inventory all service lines and gradually replace all lead service lines, portions of which may exist on private property; and that, given the risk to public health and the resulting social costs that lead exposure imposes upon society as a whole, it is in the public interest that each public water system be obligated to replace lead service lines, including those that exist on private property, and be authorized to recoup the costs of lead service line replacements from all subscribers of the public water system.

C.58:12A-41 Definitions relative to presence of lead in drinking water.

2. As used in this act:

“Board” means the Board of Public Utilities or any successor agency.

“Customer” means a property owner or lessee who receives, and is required to pay, a water utility bill for water being supplied to the property.

“Distributed System Improvement Charge” means a surcharge that is imposed by an investor-owned public community water system on its customers, with the approval of the board, to enable the system to recoup the costs of non-revenue producing infrastructure improvements outside the context of a base rate case.

“Gooseneck, pigtail, or connector” means the short section of flexible piping, usually one to two feet long, which is used to connect rigid sections of service line piping.

“Government-owned public community water system” means a public community water system established, pursuant to law, by a political subdivision of this State or an agency or instrumentality of one or more thereof.

“Investor-owned public community water system” means a public community water system that is a public utility, as defined in R.S.48:2-13, and which is subject to the jurisdiction of the board pursuant to Title 48 of the Revised Statutes.

“Lead service line” means a water supply connection that is made of, or lined with, a material consisting of lead, and which connects a water main to a building inlet. A lead pigtail, lead gooseneck, or other lead fitting shall be considered to be a lead service line, regardless of the composition of the service line or other portions of piping to which such piece is attached. A galvanized service line shall be considered to be a lead service line. A lead service line may be owned by the public community water system, a property owner, or both.

“Non-paying consumer” means the lessee or primary occupant of institutional, commercial, or residential space in a system's service area, who does not receive, and is not required to pay, a water utility bill for water supplied to the property.

“Off-site owner” means the owner of residential, commercial, or institutional property located within the service area of a public community water system, who resides at another property, outside the service area, and who does not receive, and is not required to pay, a water utility bill for water being supplied to the owner’s property in the service area.

“Partial replacement” means the act of replacing any service line component without replacing the entire service line.

“Property owner” means the owner of residential, commercial, or educational institution property located within the service area of a public community water system. “Property-owner side” means the portion of a service line that is owned by a property owner.

“Public community water system” or “system” means a public water system or the owner of a public water system, as that term is defined by section 3 of P.L.1977, c.224 (C.58:12A-3), which system either: has at least 15 service connections that are used by year-round residents; or regularly serves at least 25 year-round residents. "Public community water system" includes an investor-owned public community water system.

“Service line” means any piping, tubing, and fittings connecting a water main to a building that serves a customer of a public water system. “Service line” includes the property-owner side and the system side of a service line.

“System side” means the portion of a service line that is owned by a public community water system.

C.58:12A-42 Service line inventory.

3. a. Each public community water system in the State shall develop a service line inventory, in accordance with the requirements of this section, in order to determine the existence or absence of a lead service line at each service connection in its service area. The service line inventory shall include information about service line locations and the composition of service lines at each location. The department may prescribe data management means and methods to provide for the receipt of uniform submissions of the service line inventory by public community water systems.

b. No later than 60 days after the effective date of this act, a public community water system shall compile and submit, to the department, an initial count showing the number of lead service lines and the number of service lines of unknown composition that are known to be present in the system’s service area, as well as the number of lead service lines that are to be replaced annually, based on the replacement rate established pursuant to paragraph (1) of subsection b. of section 5 of this act.

c. No later than six months after the effective date of this act, a public community water system shall submit to the department an initial service line inventory. The inventory shall include:

- (1) the locations of all identified lead service lines;
- (2) an indication as to whether each identified lead service line is completely composed of lead or otherwise meets the definition of a lead service line;
- (3) the location of each service line that is suspected to be lead;
- (4) for each identified and suspected lead service line, an indication as to whether the line is owned by the public community water system, the property owner, or both;
- (5) the locations and compositions of all non-lead service lines; and
- (6) a separate list identifying all service lines of unknown composition.

d. The public community water system shall use historical building records and other available information, including data from the American Water Works Association or other

industry research groups, to determine the likelihood of the presence of lead service lines in all portions of its service area, as provided by this section.

e. Following the submission of the initial service line inventory pursuant to subsection c. of this section, each public community water system in the State shall continue the inventory process and utilize every reasonable method available to locate all lead service lines within its service area. This process shall include, but shall not be limited to:

(1) visual inspection during planned maintenance, meter replacement, and main replacement projects; and

(2) the solicitation and receipt of comments, complaints, and other input from customers and non-paying consumers in the service area.

f. (1) No later than one year after the effective date of this act, a public community water system shall submit, to the department, an updated inventory of service lines in its service area. The updated inventory shall contain the information required by subsection c. of this section, and shall additionally include:

(a) for each service line suspected of containing lead, supporting information detailing the reasons why each such service line is believed to contain lead; and

(b) for each service line identified as being of unknown composition, a description detailing the steps undertaken to determine whether the line contains lead.

(2) The public community water system shall keep the department informed of its progress pursuant to this subsection, through the annual reports submitted pursuant to the provisions of section 7 of this act. If a public community water system exhausts all other methods of identifying a service line, including the use of new technologies that become available, the department may require excavation, as necessary, to identify the service line.

g. Beginning two years after the effective date of this act, and until such time as all lead service lines have been replaced in accordance with this act, a public community water system shall annually submit to the department:

(1) an updated service line inventory that meets the requirements of subsection f. of this section; and

(2) a statement certifying that the public community water system is in compliance with the provisions of this act.

h. A public community water system shall provide its most recent service line inventory, upon request and at no cost, to appropriate State officials or to the local government officials of a municipality served by the public community water system. A public community water system shall make its most recent service line inventory available on its Internet website. For public community water systems serving fewer than 3,300 customers, whenever an Internet website is not available, the public community water system shall make its most recent service line inventory available in another publicly accessible location.

C.58:12A-43 Written notice of composition of service line.

4. a. No later than 30 days after submitting an initial service line inventory to the department pursuant to subsection c. of section 3 of this act, and periodically thereafter as the department may require, a public community water system shall send, to each customer and non-paying consumer served by a lead service line in the service area, and to any off-site owner of property served by a lead service line in the service area, written notice of the composition of the service line.

b. A notice provided pursuant to this section shall:

(1) be sent, by certified mail, to each residential, commercial, or institutional address affected by the known lead service line and addressed to the primary resident or commercial

or institutional occupant thereof, as appropriate. Notice shall be sent to all affected addresses, as provided in this paragraph, regardless of whether the resident or occupant is a system customer or is a non-paying consumer;

(2) be sent, by certified mail, to each off-site owner of property affected by the known lead service line and addressed to the property owner's last known address, as determined through the review of local property tax and other available records;

(3) be included in a mailing that is separate and distinct from the water bill that is issued for the property. The notice shall contain large, easily readable text and be presented on distinctly colored paper or other paper that is easily distinguishable from the water billing statement; and

(4) include, at a minimum: (a) a list of the lead service lines that are being used to serve the customer or non-paying consumer; (b) information describing the sources of lead in drinking water, including lead service lines and household plumbing; (c) a description of the health effects of lead exposure; and (d) the steps that system customers and non-paying consumers in the service area can take to reduce their exposure to lead in drinking water.

c. If the recipient of notice provided pursuant to this section is the owner or operator of an apartment building, group home, or other multi-family or multi-unit dwelling, such owner or operator shall provide a hard copy of the notice to each existing resident of the multi-family or multi-unit dwelling and shall additionally post a copy of the notice in a conspicuous location in a common area of the dwelling. The owner or operator shall also inform each new resident of the multi-family or multi-unit dwelling, prior to their residence, about the existence of the lead service line, and shall provide each new resident with a hard copy of the notice received pursuant to this section, upon the commencement of their residence. A notice posted in a common area of a multi-family or multi-unit dwelling, pursuant to this subsection, may be removed only after all of the lead service lines identified in the notice have been replaced and determined to be non-lead service lines.

d. If a public community water system serves a municipality in which the primary language of 10 percent or more of the residents is a language other than English, the public community water system shall provide the notice required pursuant to subsection a. of this section in both English and the other language spoken by residents.

C.52:12A-44 Submission of initial plan for replacing all lead service lines.

5. a. No later than 12 months after the effective date of this act, each public community water system shall submit, to the department, an initial plan for replacing all lead service lines within its service area. The plan shall be annually updated to be consistent with the annual updates to the system's service line inventory, which are required pursuant to section 3 of this act, and shall remain in effect until all lead services lines within the system's service area have been identified and replaced.

b. Each lead service line replacement plan and annual update thereto shall:

(1) provide for the average annual replacement of at least 10 percent of all lead service lines that were known to, and identified by, the public community water system on the date it submitted its initial service line replacement plan to the department, pursuant to subsection a. of this section;

(2) provide for the replacement of all lead service lines within the system's service area, no later than 10 years after the effective date of this act, regardless of whether the lines were known or unknown to the public community water system on the date that it submitted its initial plan to the department pursuant to subsection a. of this section. Each public community water system in the State shall be encouraged to complete the replacement of all

lead service lines in its service area within 10 years after the effective date of this act, as provided in the system's lead service line replacement plan; however, notwithstanding the provisions of this paragraph to the contrary, the public community water system shall be authorized to continue lead service line replacement activities for a maximum period of 15 years if necessary to enable the system to fully comply with the provisions of this act;

(3) include a plan for notifying consumers of health effects and steps they may take to reduce their exposure to lead before and after any lead service line replacement; and

(4) include any other information or certifications required by the department.

c. (1) Except during an emergency, such as a water main or service line break, or during a water main replacement, a public community water system shall not conduct a partial replacement of a lead service line. In all instances, the public community water system shall make a good faith effort to replace the entire lead service line and shall conduct a partial replacement only as a last resort. A partial replacement of a lead service line shall not count toward the public community water system's replacement requirements pursuant to subsection b. of this section.

(2) A public community water system shall not suspend the water service of a customer solely because of a denial of access to the property owner-side of a lead service line for the replacement of a lead service line pursuant to this act.

d. (1) A public community water system may apply for, and the department may approve, a reasonable extension of any target or deadline set forth in this section if the public community water system demonstrates to the department that the extension is necessary to meet a service reliability demand or public health need, not related to lead abatement, within the system.

(2) A government entity that owns a public community water system may apply for, and the department, in consultation with the Division of Local Government Services in the Department of Community Affairs, may approve, a reasonable extension of any target or deadline set forth in this section if the government-owned system demonstrates to the department that the extension is necessary because the system or the municipality is experiencing financial distress.

e. Notwithstanding the provisions of R.S.40:56-1 to the contrary, any costs incurred by a government-owned public community water system to assess or replace a lead service line pursuant to this act, excluding any portion funded by grants or other subsidies, may be borne by all of the customers of the government-owned public water system or may be assessed to a property of a property owner in the same manner as provided for the assessment of local improvements, pursuant to R.S.40:56-1 et seq., upon notice to the Director of the Division of Local Government Services in the Department of Community Affairs.

C.58:12A-45 Bearing of project costs.

6. a. Notwithstanding the provisions of any law, rule, regulation, or order to the contrary, 100 percent of the costs associated with undertaking and funding the replacement of lead service lines pursuant to this act, excluding any portion funded by grants or other subsidies, shall be borne by all of the customers, in the State, of an investor-owned public community water system and shall be included in the investor-owned public community water system's rate base or otherwise be recoverable from the system's customers, in a manner determined by the board. In making a determination under this subsection, the board shall stipulate that:

(1) the proportionate share of project costs for the replacement of the system side of a lead service line may be incorporated into the rate base as capital assets of the investor-

owned public community water system or may be recovered through the use of a Distributed System Improvement Charge as allowed under existing law; and

(2) the proportionate share of project costs for the replacement of the property-owner side of a lead service line, including the investor-owned public community water system's embedded cost of debt, as authorized in its most recent base rate case, shall be treated as an operation and maintenance cost, with no cost of equity additive. Costs for the replacement of property-owner side lead service lines incurred since the investor-owned public community water system's last base rate case and incurred until all property-owner side lead service lines have been eliminated from the investor-owned public community water system shall be recoverable on a semi-annual basis through a separate lead service line expense surcharge and not imbedded into base rates.

b. In order to recoup the costs of lead service line replacements from its customers, as provided by subsection a. of this section, an investor-owned public community water system shall submit to the board, for approval at its next general rate case proceeding, a petition that includes a proposal for cost recoupment. The proposal shall contain the following information:

(1) the estimated total cost to replace both the property-owner side and the system side of all lead service lines that lie within, or are connected to, the system's service area, including, but not limited to, the estimated total cost to evaluate service lines of unknown composition and to replace both the property-owner side and system side of any such lines that are determined to be lead service lines, and an estimated range for the annual cost to be incurred by the system under the system's current lead service line replacement plan;

(2) the availability of grants or low interest loans and whether the investor-owned public community water system plans to use available grants or low interest loans to help the system finance or reduce lead service line replacement costs, including a detailed description of any efforts made by the system to secure such financing;

(3) the investor-owned public community water system's proposed rate treatment of the replacement costs, including:

(a) any proposed deferred accounting treatment of the costs;

(b) the proposed rate base treatment of the costs, and whether and how the system is planning to effectuate system side cost recoupment through the use of a Distributed System Improvement Charge or alternate recoupment methodology approved by the board;

(c) the proposed operations and maintenance expense treatment of the costs; and

(d) the average monthly residential bill impact of the proposed rate treatment of the costs;

(4) a description of how the replacement of lead service lines will be accomplished in conjunction with other replacement projects in the system's service area;

(5) the estimated savings, per lead service line, that will be achieved by requiring the investor-owned public community water system, and not the property owner, to replace the property-owner sides of lead service lines in the service area; and

(6) the means and methods that will be used by the system to:

(a) inform all system customers and non-paying consumers in the system's service area about the system's lead service line replacement plan; and

(b) document each customer's consent, or lack of consent, to the replacement of a lead service line.

c. Before an investor-owned public community water system may be authorized by the board to recoup the costs of lead service line replacements from its customers, pursuant to this section, the board shall ensure that the department has received the system's inventory, as required by section 3 of this act.

C.58:12A-46 Report detailing progress in replacing lead service lines.

7. No later than December 31 of each year, a public community water system shall submit to the department, in a form and manner to be determined by the department, a report detailing the public community water system's progress in replacing lead service lines pursuant to this act. A public community water system shall make its report available on its Internet website. If an Internet website is not available, the public community water system shall make its report available in another publicly accessible location. If the department determines, based on the information provided by the public community water system pursuant to this section, that the system has completed the replacement of all lead service lines within the system's service area, the system shall no longer be required to submit a report pursuant to this section.

C.58:12A-47 Rules, regulations.

8. a. The Department of Environmental Protection may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of this act.

b. The Board of Public Utilities may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to implement the provisions of this act.

c. The Department of Environmental Protection and the Board of Public Utilities shall consult with one another and with the Division of Local Government Services in the Department of Community Affairs when adopting rules and regulations pursuant to this section.

9. This act shall take effect immediately.

Approved July 22, 2021.